

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

63. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the preceding 31 day period.
64. 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.
65. An incident log shall be kept at the premises, and made available on request to an authorised officer of the City Council or the Police, which will record the following:
- (a) all crimes reported to the venue
  - (b) all ejections of patrons
  - (c) any complaints received concerning crime and disorder
  - (d) any incidents of disorder
  - (e) all seizures of drugs or offensive weapons
  - (f) any faults in the CCTV system or searching equipment or scanning equipment
  - (g) any refusal of the sale of alcohol
  - (h) any visit by a relevant authority or emergency service.
66. No drinks shall be consumed outside the premises nor glasses/bottles removed from the premises by patrons when leaving.

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

67. The hours for licensable activities may be extended on no more than 15 occasions per calendar year subject to being in substitution of the 12 temporary events covered by the Licensing Act with ten working days notice to the Police and the Police having power of veto for any such occasion and that the Licensing Authority also be given ten days notice of any such occasion.
68. No persons aged under the age of 18 shall be allowed within the premises under any event.
69. Credit sales is allowed subject to them being accompanied with an itemised bill.

Annex 4 – Plans

Attached



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

Schedule 12  
Part B

WARD: West End  
UPRN: 010033540855

Premises licence  
summary

Regulation 33, 34

Premises licence number:

14/01266/LIPV

**Part 1 – Premises details**

**Postal address of premises:**

Shadow Lounge  
Basement And Part Ground Floor  
3 - 7 Brewer Street  
London  
W1F 0RD

Telephone Number: 020 7287 8389

**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 Saturday: 09:00 to 03:00  
Sunday: 09:00 to 23:00  
Non-standard Timings: See condition 67

**Performance of Live Music**

Monday to Saturday: 09:00 to 03:00  
Sunday: 09:00 to 23:00  
Non-standard Timings: See condition 67

**Playing of Recorded Music**

Unrestricted

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

Monday to Saturday: 09:00 to 03:00  
Sunday: 09:00 to 23:00  
Non-standard Timings: See condition 67

**Late Night Refreshment**  
Monday to Saturday: 23:00 to 03:30  
Sunday: 23:00 to 00:00  
Non-standard Timings: See condition 67

**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 23:30  
Non-standard Timings: See condition 67

*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 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:**

A3D2 Limited  
Clareville House  
26-27 Oxendon Street  
London  
SW1Y 4EL

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

3506401

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

Daniel Zac Gibbison

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

Prohibited

Date: 10 June 2014  
Signed: pp Operational Director - Premises Management



Schedule 12  
Part A

WARD: St James's  
UPRN: 010033537486

# City of Westminster

64 Victoria Street, London, SW1E 6QP

Premises licence

Regulation 33, 34

Premises licence number:

15/03988/LIPRW

Original Reference:

05/04939/LIPCV

## Part 1 – Premises details

Postal address of premises:

Ku Bar  
29-30 Lisle Street  
London  
WC2H 7BA

Telephone Number: 020 7479 7981

Where the licence is time limited, the dates:

Not applicable

Licensable activities authorised by the licence:

Performance of Dance  
Exhibition of a Film  
Indoor Sporting Event  
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 Saturday:

09:00 to 03:00 (Basement)

Sunday:

09:00 to 00:00 (Basement)

Exhibition of a Film

Monday to Saturday:

09:00 to 03:00 (Basement)

Monday to Thursday:

10:00 to 23:30 (Ground and First Floors)

Friday to Saturday:

10:00 to 00:00 (Ground and First Floors)

Sunday:

09:00 to 00:00 (Basement)

Sunday:

12:00 to 22:30 (Ground and First Floors)

Sundays before Bank Holidays:

12:00 to 00:00 (Ground and First Floors)

Indoor Sporting Event

Monday to Saturday:

10:00 to 03:00 (Basement)

Sunday:

10:00 to 00:00 (Basement)

**Performance of Live Music**

Monday to Saturday: 09:00 to 03:00 (Basement)  
Sunday: 09:00 to 00:00 (Basement)

**Playing of Recorded Music**

**Anything of a similar description to Live Music, Recorded Music or Performance of Dance**  
Monday to Saturday: 09:00 to 03:00 (Basement)  
Sunday: 09:00 to 00:00 (Basement)

**Late Night Refreshment**

Monday to Saturday: 23:00 to 03:30 (Basement)  
Monday to Saturday: 23:00 to 23:30 (Ground and First Floors)  
Sunday: 23:00 to 00:30 (Basement)

**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**

Monday to Saturday: 10:00 to 03:00 (Basement)  
Monday to Thursday: 10:00 to 23:30 (Ground and First Floors)  
Friday to Saturday: 10:00 to 00:00 (Ground and First Floors)  
Sunday: 12:00 to 00:00 (Basement)  
Sunday: 12:00 to 22:30 (Ground and First Floors)  
Sundays before Bank Holidays: 12:00 to 00:00 (Ground and First Floors)

*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  
Monday to Thursday: 10:00 to 23:30  
Friday to Saturday: 10:00 to 00:00  
Sunday: 09:00 to 00:30  
Sunday: 12:00 to 22:30  
Sundays before Bank Holidays: 12:00 to 00:00

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

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

**Part 2**

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

Allied Promotions Limited  
245 Caledonian Road  
London  
N1 1ED  
Telephone Number : Not Supplied

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

03723921

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

Name: Gary Henshaw

*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: PERS-LIC/704  
Licensing Authority: London Borough Of Camden

Date: 24<sup>th</sup> July 2015

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



## Annex 1 – Mandatory conditions

1. No supply of alcohol may be made at a time when there is no designated premises supervisor in respect of this licence.
2. No supply of alcohol may be made at a time when the designated premises supervisor does not hold a personal licence or the personal licence is suspended.
3. Every supply of alcohol under this licence must be made or authorised by a person who holds a personal licence.
4.
  - (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
  - (2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises -
    - (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to;
      - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
      - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
    - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
    - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
    - (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
    - (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).
5. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
6.
  - (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
  - (2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
  - (3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either -

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

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

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

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

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

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

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

Where -

- (i) P is the permitted price,
  - (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
  - (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
- (c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence -
- (i) the holder of the premises licence,
  - (ii) the designated premises supervisor (if any) in respect of such a licence, or
  - (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;
- (d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
- (e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.

- 8(iii). Where the permitted price given by Paragraph 8(ii)(b) above would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.
- 8(iv). (1) Sub-paragraph 8(iv)(2) below applies where the permitted price given by Paragraph 8(ii)(b) above on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.
- (2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.
9. Admission of children to the premises must be restricted in accordance with the film classification recommended by the British Board of Film Classification or recommended by this licensing authority as appropriate.

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

**Conditions relating to regulated entertainment: Basement Floor**

10. This licence is subject to all the former Rules of Management for Places of Public Entertainment licensed by Westminster City Council, in force from 4 September 1998 and incorporating amendments agreed by the Council on 25 October 1999, 30 June 2000, 16 January 2001 and 1 October 2001.
11. 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 Monday to Saturday to 03:00 on the day following and from 23:00 to midnight Sundays.
12. The sound system(s) used or installed on the premises shall not be operated without being set and governed to the satisfaction of an authorised officer from the Environmental Health Department.
13. No alteration or modification to any existing sound system should be effected without prior knowledge of the Environmental Health Department.
14. No doors giving access/egress to the premises shall be fixed open after 11pm unless the sound limiter has been set with the doors open.
15. No additional sound generating equipment shall be used on the premises without being routed through the sound limiter device.

**All Floors:**

16. The exhibition of films is restricted to films not involving the use of real film (e.g. Video) where exhibitions are incidental or subsidiary to the main use of the premises.

**Conditions for Sale of Alcohol**

17. On any event where the premises or part of the premises are open for the purpose of Music and Dancing and a Special Hours Certificate is being operated, intoxicating liquor shall not be sold or supplied after 22:30, to persons entering that part of the premises except: a) persons who have paid or had paid on their behalf, a minimum admission fee, such fee to be specified when the Special Hours Certificate is granted, and such fee not to be credited against intoxicating liquor or consumables; or b) artistes or persons employed at premises; or c) persons attending a private function on the premises.
18. No striptease, no nudity and all persons on the premises to be decently attired.

19. There shall be no payment made by or on behalf of the licensees to any person for bringing customers to the premises.
20. Substantial food and non-intoxicating beverages shall be equally available throughout the permitted hours.

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

For the Basement Floor:

21. (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 between 00.00 midnight and 03.00, the permitted hours shall end when the music and dancing end;
- (b) In relation to the morning on which summer time begins, paragraph (a) of this condition shall have effect.
  - (i) with the substitution of references to 04.00 for references to 03.00
- (c) Except on Sundays immediately before bank holidays (apart from Easter Sunday), the permitted hours on Sundays shall commence at 12.00 and extend until 00.00 on the morning following, except that -
  - (i) the permitted hours shall end at 00:30 on those days where there are private functions
- (d) On Sundays immediately before bank holidays (other than Easter Sunday), the permitted hours shall commence at 12.00 and extend until 03.00 on the morning following, except that -
  - (i) the permitted hours shall end at 00.00 midnight on any Sunday on which music and dancing is not provided after 00.00 midnight;
  - (ii) where music and dancing end between 00.00 midnight on any Sunday and 03.00, the permitted hours on that Sunday shall end when the music and dancing end.
- (e) The sale of alcohol must be ancillary to the use of the premises for music and dancing and substantial refreshment.
- (f) The permitted hours on New Years 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.

22. 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 this premises licence / club premises certificate:

- (a) to station and keep stationed wherever necessary a sufficient number of adult attendants, properly instructed as to their duties, to prevent more children or other persons being admitted to the building, or to any part thereof, than the building or part can properly accommodate,
- (b) to control the movement of the children and other persons admitted while entering and leaving the building or any part thereof, and
- (c) to take all other reasonable precautions for the safety of the children.

23. This licence (or certificate) will be subject to any restrictions imposed on the use of the premises by any of the provisions contained in the former Cinematograph (Safety) Regulations 1955 as amended by the Cinematograph (Safety) Regulations 1958, the Cinematograph (Safety) Regulations 1965, the Cinematograph (Safety) (Amendment) Regulations 1976, the Cinematograph (Safety) (Amendment) Regulations 1982 and the Cinematograph (Safety) (Amendment) Regulations 2002.

24. 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

25. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of a Metropolitan Police Crime Prevention Officer. 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. Recordings shall be made available immediately upon the request of Police or authorised officer throughout the preceding 31 day period.
26. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises is open to the public. This staff member shall be able to show Police recent data or footage with the absolute minimum of delay when requested.
27. An incident log shall be kept at the premises, and made available on request to an authorised officer of the City Council or the Police, which will record the following:
  - a) all crimes reported to the venue
  - b) all ejections of patrons
  - c) any complaints received
  - d) any incidents of disorder
  - e) any faults in the CCTV system or searching equipment or scanning equipment
  - f) any refusal of the sale of alcohol
  - g) any visit by a relevant authority or emergency service.
28. The number of persons permitted in the premises at any one time (excluding staff) shall not exceed the following:

Basement: 150 persons  
Ground Floor: 200 persons  
First Floor: 100 persons

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

29. Ground and First Floors: Alcohol shall not be sold, supplied, consumed in or taken from the premises except during permitted hours.

In this condition, permitted hours means:

- (a) Monday to Thursday 10.00 to 23.30.
- (b) Friday to Saturday 10:00 to 00:00.
- (c) Sundays 12.00 to 22.30.
- (d) Sundays immediately prior to Bank Holidays 12:00 to 00:00
- (e) 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) the sale or supply of alcohol to or the consumption of alcohol by any person residing in the licensed premises;
- b) the ordering of alcohol to be consumed off the premises, or the despatch by the vendor of the alcohol so ordered;
- c) the sale of alcohol to a trader or registered club for the purposes of the trade or club;
- d) 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;
- e) the taking of alcohol from the premises by a person residing there;
- f) 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;
- g) 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.

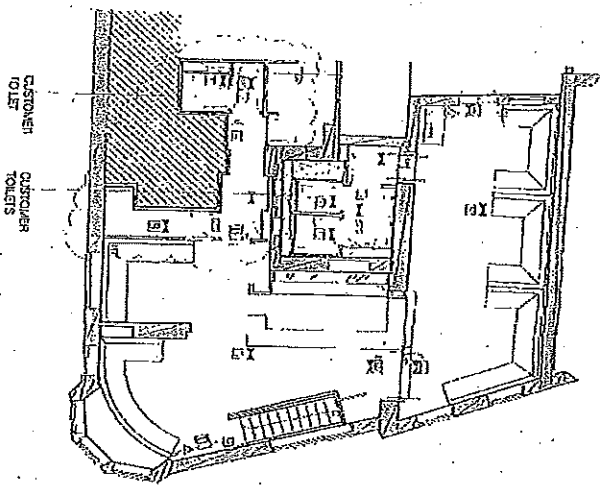
30. On the Ground and First Floors, customers to be off the premises by 23:30 Monday to Thursday, 00:00 Friday and Saturday, 22:50 on Sunday and 00:00 on Sunday immediately prior to Bank Holidays.
31. On the Basement Floor, customers to be off the premises by 03:30 Monday to Saturday and 00:30 on Sunday.
32. Credit card sales to be allowed, subject to the proviso that customers are to be presented with an itemised bill.
33. All persons under the age of 14 shall be accompanied at all times by an adult. No person under 14 shall be allowed to remain in the bar area after 21:00 (21:30 if taking a table meal accompanied by an adult).







Bar Area= 111 m²



1:500  
1:100  
1:50  
1:20  
1:10  
1:5  
1:2  
1:1

5. AREA IN DEVELOPMENT  
1. AREA WITH EXISTING PERMITS  
2. AREA WITH EXISTING PERMITS  
3. AREA WITH EXISTING PERMITS  
4. AREA WITH EXISTING PERMITS  
5. AREA WITH EXISTING PERMITS  
6. AREA WITH EXISTING PERMITS  
7. AREA WITH EXISTING PERMITS  
8. AREA WITH EXISTING PERMITS  
9. AREA WITH EXISTING PERMITS  
10. AREA WITH EXISTING PERMITS

**KU**  
KONINKLIJK UNIVERSITEIT  
UTRECHT

**CUU**  
CONINKLIJK UNIVERSITEIT  
UTRECHT

UNIVERSITY OF KANSAS SECURITY

- 1. The University of Kansas Security Program is designed to provide a secure and safe environment for the University of Kansas community.
- 2. The University of Kansas Security Program is designed to provide a secure and safe environment for the University of Kansas community.
- 3. The University of Kansas Security Program is designed to provide a secure and safe environment for the University of Kansas community.

NOTES:

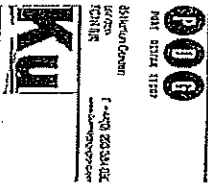
- 1. The University of Kansas Security Program is designed to provide a secure and safe environment for the University of Kansas community.
- 2. The University of Kansas Security Program is designed to provide a secure and safe environment for the University of Kansas community.
- 3. The University of Kansas Security Program is designed to provide a secure and safe environment for the University of Kansas community.

THE UNIVERSITY OF KANSAS

- 1. The University of Kansas Security Program is designed to provide a secure and safe environment for the University of Kansas community.
- 2. The University of Kansas Security Program is designed to provide a secure and safe environment for the University of Kansas community.
- 3. The University of Kansas Security Program is designed to provide a secure and safe environment for the University of Kansas community.

NOTES

- 1. The University of Kansas Security Program is designed to provide a secure and safe environment for the University of Kansas community.
- 2. The University of Kansas Security Program is designed to provide a secure and safe environment for the University of Kansas community.
- 3. The University of Kansas Security Program is designed to provide a secure and safe environment for the University of Kansas community.



Billing Center  
 1-400-823-3100  
 KU  
 1400 S. Lincoln Ave.  
 Lawrence, KS 66044-0100  
 Fax: 785-843-1100  
 Email: [ku@ku.edu](mailto:ku@ku.edu)  
 Website: [www.ku.edu](http://www.ku.edu)  
 AA,07LP A



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

Schedule 12  
Part B

WARD: St James's  
UPRN: 010033637486

Premises licence  
summary

Regulation 33, 34

Premises licence number:

15/03988/LIPRW

**Part 1 – Premises details**

**Postal address of premises:**

Ku Bar  
29-30 Lisle Street  
London  
WC2H 7BA

**Telephone Number: 020 7479 7981**

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

Not applicable

**Licensable activities authorised by the licence:**

Performance of Dance  
Exhibition of a Film  
Indoor Sporting Event  
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:**

<b>Performance of Dance</b>	
Monday to Saturday:	09:00 to 03:00 (Basement)
Sunday:	09:00 to 00:00 (Basement)
<b>Exhibition of a Film</b>	
Monday to Saturday:	09:00 to 03:00 (Basement)
Monday to Thursday:	10:00 to 23:30 (Ground and First Floors)
Friday to Saturday:	10:00 to 00:00 (Ground and First Floors)
Sunday:	09:00 to 00:00 (Basement)
Sunday:	12:00 to 22:30 (Ground and First Floors)
Sundays before Bank Holidays:	12:00 to 00:00 (Ground and First Floors)
<b>Indoor Sporting Event</b>	
Monday to Saturday:	10:00 to 03:00 (Basement)

Sunday:	10:00 to 00:00 (Basement)
<b>Performance of Live Music</b>	
Monday to Saturday:	09:00 to 03:00 (Basement)
Sunday:	09:00 to 00:00 (Basement)
<b>Playing of Recorded Music</b>	
<b>Anything of a similar description to Live Music, Recorded Music or Performance of Dance</b>	
Monday to Saturday:	09:00 to 03:00 (Basement)
Sunday:	09:00 to 00:00 (Basement)
<b>Late Night Refreshment</b>	
Monday to Saturday:	23:00 to 03:30 (Basement)
Monday to Saturday:	23:00 to 23:30 (Ground and First Floors)
Sunday:	23:00 to 00:30 (Basement)
<b>Private Entertainment consisting of dancing, music or other entertainment of a like kind for consideration and with a view to profit</b>	
<b>Sale by Retail of Alcohol</b>	
Monday to Saturday:	10:00 to 03:00 (Basement)
Monday to Thursday:	10:00 to 23:30 (Ground and First Floors)
Friday to Saturday:	10:00 to 00:00 (Ground and First Floors)
Sunday:	12:00 to 00:00 (Basement)
Sunday:	12:00 to 22:30 (Ground and First Floors)
Sundays before Bank Holidays:	12:00 to 00:00 (Ground and First Floors)
<i>For times authorised for Christmas, New Year and Good Friday see conditions at Annex 1</i>	

<b>The opening hours of the premises:</b>	
Monday to Saturday:	09:00 to 03:30
Monday to Thursday:	10:00 to 23:30
Friday to Saturday:	10:00 to 00:00
Sunday:	09:00 to 00:30
Sunday:	12:00 to 22:30
Sundays before Bank Holidays:	12:00 to 00:00

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

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

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

Allied Promotions Limited  
245 Caledonian Road  
London  
N1 1ED

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

03723921

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

**Name:** Gary Henshaw

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

Restricted

**Date:** 24<sup>th</sup> July 2015

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

[Jump to content](#) | [Change font size and colours](#)

Search this site

[Southwark Council](#)

- [Home](#)
- [Your council](#)
- [What's on](#)
- [News](#)
- [Jobs](#)
- [In my area](#)
- [A-Z](#)
- [Maps](#)
- [Do it online](#)
- [My Southwark](#)

- [Home](#)
- [Licensing Register](#)

## Licensing Register - Premises licences and club registrations - licences granted for licence number: 841928

Further Information on Licence Number: 841928

**Licence number:** 841928  
**Trading name and address:** Pulse  
1-4 Blackfriars Arches  
SE1 9UF  
**Ward:** Cathedrals

**Applicant's name:** A. & M Leisure Limited  
**Designated Premises Supervisor name:** Vladimir Kovacevski

**Licence type:** Premises  
**Date granted:** July 17 2013

**Opening hours:** Monday 24hrs.  
Tuesday 24hrs.  
Wednesday 24hrs.

Thursday 24hrs.  
Friday 24hrs.  
Saturday 24hrs.  
Sunday 24hrs.

**Granted licensable activities:**

**Boxing or wrestling - indoors**

Monday 24hrs.  
Tuesday 24hrs.  
Wednesday 24hrs.  
Thursday 24hrs.  
Friday 24hrs.  
Saturday 24hrs.  
Sunday 24hrs.

**Entertainment similar to live/recorded music  
- indoors**

Monday 24hrs.  
Tuesday 24hrs.  
Wednesday 24hrs.  
Thursday 24hrs.  
Friday 24hrs.  
Saturday 24hrs.  
Sunday 24hrs.

**Films - indoors**

Monday 24hrs.  
Tuesday 24hrs.  
Wednesday 24hrs.  
Thursday 24hrs.  
Friday 24hrs.  
Saturday 24hrs.  
Sunday 24hrs.

**Indoor sporting event**

Monday 24hrs.  
Tuesday 24hrs.  
Wednesday 24hrs.  
Thursday 24hrs.  
Friday 24hrs.  
Saturday 24hrs.  
Sunday 24hrs.

**Late night refreshment - indoors**

Monday 23:00 to 05:00  
Tuesday 23:00 to 05:00  
Wednesday 23:00 to 05:00  
Thursday 23:00 to 05:00  
Friday 23:00 to 05:00  
Saturday 23:00 to 05:00  
Sunday 23:00 to 05:00

**Live music - indoors**

Monday 24hrs.



Tuesday 24hrs.  
Wednesday 24hrs.  
Thursday 24hrs.  
Friday 24hrs.  
Saturday 24hrs.  
Sunday 24hrs.

**Performance of dance - indoors**

Monday 24hrs.  
Tuesday 24hrs.  
Wednesday 24hrs.  
Thursday 24hrs.  
Friday 24hrs.  
Saturday 24hrs.  
Sunday 24hrs.

**Plays - indoors**

Monday 24hrs.  
Tuesday 24hrs.  
Wednesday 24hrs.  
Thursday 24hrs.  
Friday 24hrs.  
Saturday 24hrs.  
Sunday 24hrs.

**Recorded music - indoors**

Monday 24hrs.  
Tuesday 24hrs.  
Wednesday 24hrs.  
Thursday 24hrs.  
Friday 24hrs.  
Saturday 24hrs.  
Sunday 24hrs.

**Sale by retail of alcohol to be consumed off premises**

Monday 24hrs.  
Tuesday 24hrs.  
Wednesday 24hrs.  
Thursday 24hrs.  
Friday 24hrs.  
Saturday 24hrs.  
Sunday 24hrs.

**Sale by retail of alcohol to be consumed on premises**

Monday 24hrs.  
Tuesday 24hrs.  
Wednesday 24hrs.  
Thursday 24hrs.  
Friday 24hrs.  
Saturday 24hrs.

Sunday 24hrs.

**Conditions:**100 - No supply of alcohol may be made under the Premises Licence - (a). At a time when there is no Designated Premises Supervisor in respect of the Premises Licence; or (b). At a time when the Designated Premises Supervisor does not hold a Personal Licence or his Personal Licence is suspended.

101 - Every supply of alcohol under the Premises Licence must be made, or authorised by, a person who holds a Personal Licence.

102 - The admission of children to films given under this licence must be restricted in accordance with the recommendations of the British Board of Film Classification or of the licensing authority itself.

107 - Any individual carrying out security activities at the premises must be. (a) be authorised to carry out that activity by a licence granted under the Private Security Industry Act 2001; or (b) be entitled to carry out that activity by virtue of section 4 of that Act.

174 - Where free drinking water is provided for the public, it shall, except with the consent of the Council, only be provided in a supervised area.

241 - Overcrowding shall not be allowed on any part of the premises

341 - That a security log is maintained, detailing the hours of duty of all staff employed in security roles, this is to include SIA badge numbers

342 - That a written policy shall be implemented for dealing with drunk people. Staff shall be trained in all aspects of the Licensing Act in order to be able to recognise underage people as well as the early signs of drunkenness.

343 - That all events held at the premises shall be staged under direct supervision of senior management including ALL bar areas. A bar supervisor shall be employed under the control of the premises licence holder at each bar.

344 - The premises shall operate with polycarbonate glassware and all bottled products will be decanted. The only exception will be the provision of champagne by waiter / waitress service to patrons at the premises.

345 - Door staff are to wear High Vis waistcoats whilst in the main areas of the venue. This will create customer awareness of security staff on the premises.

346 - That signs shall be displayed in the entrance to the premises that state "Drug Free Zone" and "No Search, No Entry  Management Reserve the Right to Refuse Entry"

347 - : The toilets will checked at least one per hour by staff who will be trained to look out for any suspicious events taking place. Records shall be kept and made available to authorised officers.

348 - That all staff will be trained to look out for any signs of drug use or sale

349 - That a drugs drop box, which must be secure and have a tamper proof entrance,

shall be fixed to the wall in the foyer of all entrances to the premises. An agreement must be established with the local Police over the emptying and collection of any drugs deposited in the box.

350 - That all matters relating to drugs shall be in accordance with the Metropolitan Police Best Practice Guide on the handling of drugs in pubs and clubs

351 - The emergency exit doors onto Invicta Plaza from Area 5 to be electronically linked to the amplification system sound limiter circuit to reduce sound if opened during performance of amplified music.

352 - That a designated chill out area shall be established with access from each area when entertainment is being provided

354 - . The heating, cooling and ventilation system provide for air changes (to be confirmed by H&S) and cooling in each area of the venue to meet the technical standards for entertainment and be certified and in operation by the CIBSE approved engineer.

355 - That risk assessments (including a fire risk assessment) will be carried out and following such risk assessment an action plan will be prepared and any additional action required will be implemented. This will be reviewed annually

356 - That all entrances are lobbied to prevent any noise escape in order to comply with noise management conditions. The entrances shall be operated by management staff to ensure that external and internal doors are not open simultaneously when amplified music is being performed.

357 - That drinking water is available to customers of the premises in each arch area

358 - The L<sub>max</sub> noise level from amplified music and speech shall be no greater than the existing L<sub>90</sub> one metre from the facade of the nearest noise sensitive premises at octave bands between 38Hz and 19kHz.

359 - That staff will be responsible for ensuring the exterior of the premises is kept clean and tidy and that no customers are loitering or causing a disturbance

360 - That door supervisors will encourage patrons to arrive and leave quietly with due regard neighbours.

361 - That all audio and musical equipment on the premises shall be played through the approved sound limiting /cut-out device in order to comply with noise management conditions.

362 - That suitable notices shall be displayed requesting people to leave the premises in a quiet and orderly manner so as not to disturb local residents

363 - Before 23:00hrs Monday to Sunday the noise climate of the surrounding area shall be protected such that that the L<sub>eq</sub> in any octave band between 63 and 500Hz as measured 1 metre from the facade of any noise sensitive property over any 5 minute period with music based entertainment taking place shall not increase by more than 3db as compared to the same measure from the same position and over a comparable period with no entertainment taking place.

364 - After 23:00hrs Monday to Sunday the noise climate of the surrounding area shall be protected such that the Leq in any octave band between 63 and 500Hz as measured 1 metre from the facade of any noise sensitive property over 5 minute period with music based entertainment taking place shall not increase by more than 3dB as compared to the same measure from the same position and over a comparable period with no entertainment taking place.

367 - That signs within the premises shall be erected directing patrons to the use of the services of the dedicated taxi company.

368 - That taxi drivers of the dedicated taxi company and local firms shall be instructed not to sound car horns to attract customer attention

369 - That there shall be no movement of musical or amplification equipment from the premises between the hours of 12 midnight and 8am

373 - That SIA registered door supervisors, both male and female (except for single sex events), shall be employed at all times (unless with prior consent from the Police, in which case the licensing service must be given written notification at least 14 days in advance) that the premises are in use under this licence and provided with hand held metal detection units in order to ensure that searches are carried out in respect of all admissions and re-admissions to the premises whether staff, members of the public or performers and their assistants. Mechanical counting devices shall be used to ensure that the maximum accommodation limit of the premises is not exceeded

374 - That a CCTV system be installed at the premises and be maintained in good working order and be continually recording at all times the premises are in use under the licence. The CCTV system must be capable of capturing a clear facial image of all that enter the premises.

375 - That all CCTV footage shall be kept for a period of thirty one (31)days and shall, upon request, be made immediately available to officers of the Police and the Council

377 - That a personal licence holder is on the premises and on duty at ALL times that intoxicating liquor is supplied

380 - That completed Metropolitan Police risk assessment (Venue hire agreement form 696) shall be provided to the Police and Council's Licensing Service for all performers and promoters for all events a minimum of fourteen (14) days prior to the date of hire.

381 - That an accurate record shall be kept of the number of persons admitted to each part of the premises, such records shall be retained for 6 months and made available to the responsible authorities

382 - That there shall be a suitable number of adequately trained staff to prevent overcrowding in parts of the premises, keep exit routes clear and to ensure safe evacuation of people from the premises. In the event of an emergency such staff will have been issued with specific duties in the event of an emergency

383 - That all staff shall have received training on the safe evacuation of the premises

in the event of an emergency and such training shall be repeated at least annually. A record of the training provided shall be kept at the premises for at least 12 months and shall be made available to the Fire Service or Council upon request

384 - That adequate arrangements will be made in the Fire Evacuation Plan to ensure the safe evacuation of any disabled persons in the event of an emergency

385 - That all escape doors and escape routes will be checked before the premises open for trading to the public and records of the check shall be maintained

386 - That all fire exit doors shall be available and shall be capable of opening without the use of any key, card, code or similar means

387 - That fire doors will be self closing and shall not be held open other than by devices approved by the Fire Service

388 - That edges to steps and stairways shall be maintained so as to be conspicuous

389 - That notices detailing the action to be taken in the event of fire or other emergency will be prominently displayed in the premises

390 - That fire alarm/fire evacuation/emergency lighting tests will be carried out at least monthly and a record maintained of those tests. Such records to be kept at the premises for at least 12 months and made available to the Fire Service and the Council

393 - That the licensee shall make available and display externally and on premises run websites telephone number of the premises so they can be contacted immediately by neighbours disturbed by noise.

397 - That the licensee shall instruct either SIA door supervisors or a staff member to inspect the neighbourhood at one hour intervals for any sound escape from the premises. Where sound from this premises is audible in the neighbourhood, the licensee shall take all reasonable steps to ensure that a noise nuisance will not be caused to local residents. Records shall be made available to authorised officers.

398 - Prior to any event, SIA doorstaff shall conduct a thorough search of the premises and equipment brought to into the premises by promoters for weapons and/or drugs.

399 - a) The premises overall occupant capacity is set at 1591 plus staff as per Drawing titled Pulse nightclub, Invicta Plaza, Southwark Drawing title: Capacities, Drawing no: b9-1007/31, Revision: A, Dated: 01/05/12 by Block 9 architects and the Technical Standard for places of entertainment Rev 2009. . To prevent localised overcrowding the occupant capacity for each area shall not exceed as follows: AREA 1 Capacity Dancefloor 104.2sqm @ 0.5/sqm = 208 Bar Queue 19.0sqm @ 0.3/sqm = 63 AREA 2 Capacity Dancefloor 113sqm @ 0.5/sqm = 226 Bar Queue 19sqm @ 0.3/sqm = 63 AREA 3 Capacity Persons in foyer 83 AREA 4 Capacity Dancefloor 175.4 sqm @ 0.5p/sqm = 350 Bar Queue 27.0 sqm @ 0.3p/sqm = 90 AREA 5 Capacity Dancefloor 196.3sqm @ 0.5p/sqm = 392 Raised stage area 58sqm @0.5p/sqm = 116 b) A suitable and auditable occupant capacity monitoring method shall be established for each of the above stated area and the premises overall capacity. c) Suitable sanitary accomodation shall be provided in accordance with

Technical Standard for places of entertainment Rev 2009, Section G1: Sanitary accommodation, Table 24. d) As a minimum, the premises shall operate and show overall compliance in accordance with the recommendations contained within the 'Technical Standard for places of entertainment Rev 2009'

400 - All staff involved in the sale of alcohol shall be trained in the agecheck challenge 25 policy. A record of their training, including the dates that each member of staff is trained, shall be available for inspection at the premises on request by the Council's authorised officers or the police.

401 - Agecheck or challenge 25 signage shall be displayed at entrances to the premises, areas where alcohol is displayed for sale and at points of sale to inform customers that an agecheck challenge 25 policy applies a proof of age may be required.

485 - (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, 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 carries a significant risk of undermining a licensing objective; (d) selling or supplying alcohol in association with promotional poster 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; and (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 disability).

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

488 - (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.

489 - The responsible person shall 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: 1/2 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,

491 - 1. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price. 2. For the purpose of the condition set out in paragraph (1): (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; (iv) "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 (v) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994. 3. Where the permitted price given by paragraph (b) of paragraph 2 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. 4. (1) Sub-paragraph (2) applies where the permitted price given by paragraph (b) of paragraph 2 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.

4AA - The premises shall operate an age check 'Challenge 25' policy whereby customers purchasing alcohol who look or appear to be under 25 years of age will be asked for an approved form of proof of age to verify their age. Approved forms shall include a driving licence, passport or a PASS approved proof of age card such as the Southwark Proof of Age (SPA) card.

Southwark Licensing Team  
Hub 2, 3rd Floor  
PO BOX 64529  
London  
SE1P 5LX  
020 7525 5748  
[licensing@southwark.gov.uk](mailto:licensing@southwark.gov.uk)

Telephone:  
E-mail:

[⌂ Back to list](#) [↶ new search](#) [↷ top of page](#)

## Choose a topic...

Select a category

## Contact us

Southwark Council  
PO BOX 64529  
London SE1P 5LX

020 7525 5000

[csc@southwark.gov.uk](mailto:csc@southwark.gov.uk)

[More contacts...](#)

## Get involved

- [Give your feedback](#)
- [Consultations](#)
- [Meetings and minutes](#)

## Follow us What is this?



[↑ Back to the top](#)

[Site map](#) | [Terms & Privacy](#) | [Website statistics](#) | [Freedom of information](#) | © 2010 Southwark Council



Our determination in the matter of an appeal against the decision of the Leicestershire licensing authority relating to a premises licence by Sainsburys Supermarkets Ltd.

1. As experienced licensing Magistrates we are aware that this hearing should be looked at as a new application.
2. The application is for premises within a Cumulative Impact Zone (CIZ), which in itself does not preclude an application, but we must assess the possible impact that the premises would have on the area.
3. Sainsburys are proposing that the premises at 146 London road, formerly the Varsity pub, are converted to a local supermarket with off licence.
4. The issue is to determine the effect of this development on street drinking, which was the reason for the creation of the CIZ.
5. We recognise the beneficial effect that the multi-agency approach taken has had on substantially reducing the problem of street drinking. In particular, the imposition of a limit on the strength of beers, lagers and ciders within the CIZ has undoubtedly been a major contributory factor.
6. We have heard considerable evidence, agreed by all parties, that Sainsburys is a reputable and responsible organisation who can provide effective training, systems and support to a high level in the pursuit of good practice.
7. Sainsburys have agreed to implement a long list of conditions, which were suggested and agreed by the interested parties, if a grant of the licence were to be made.
8. In addition to this list, Sainsbury's have agreed to move the starting hour for the sale of alcohol to 8am.
9. We heard evidence of the problem of street drinking in the full length of London Road and that it is now under control to the extent that only three reportable issues occurred in the nine month period preceding this hearing.
10. We have also heard evidence that alcohol consumed by street drinkers, determined by higher strengths is currently purchased outside of the CIZ.
11. Whilst we fully understand and approve the implementation of the CIZ, we are strongly persuaded that this application will have no adverse effect on the objectives of the CIZ, the licensing policy and the overall situation in the area.
12. We endorse the conditions that have been submitted, along with the starting hour of 8am. We consider that the condition relating to security staff should read 'The license holder shall employ security guards at the premises if, in consultation with the police, it considers it appropriate'
13. We have therefore decided to grant the appeal.

# <sup>the publicans</sup> Morning Advertiser

## Leading licensing barrister slams councils over "iron-rule" approach to cumulative impact zones

By Noli Dinkovski, 28-Oct-2013

Related topics: General News

A leading licensing barrister has slammed local councils for their "iron-rule" approach to cumulative impact zones (CIZs) after helping Sainsbury's win a court appeal against a refusal of a premises licence.

Phillip Kolvin QC said councils were using cumulative impact policies as an excuse against granting further licences. He argued that instead, such policies should do nothing more than give councils the right to ask applicants to demonstrate that the licence will not impact negatively on the CIZ.

Kolvin said: "Councils can't refuse licences simply on the basis that a cumulative impact policy is in place. In this most recent case, we successfully argued on the basis that it is not an iron-rule - all it does is compel the applicant to demonstrate that their proposal will not have a negative impact on the area."

### Irrelevance

Sainsbury's won the appeal against Leicester City Council after it successfully argued that the issue of street drinking in the zone had been addressed through licence reviews and dealing directly with street drinkers.

Kolvin explained: "The council's case was that its progress ought not to be threatened by yet more licensed premises, even if it was a well-run operator such as Sainsbury's.

"However, any impact they were talking about had long since vanished. They hadn't reviewed their policy, and we successfully argued that the policy had become an irrelevance."

Kolvin expressed his surprise that there were so many CIZs across the country - estimated to be around 150 at the moment.

He believed the latest ruling should give encouragement to any business wishing to apply for a licence to sell alcohol in a CIZ.


### Merits

Kolvin said: "This case demonstrates the critical importance of giving individual consideration to the merits of applications and appeals, even when an application is contrary to a directly applicable cumulative impact policy."

"We have moved the argument a little, to show that you can win convincingly in a stressed area, if you present the right case - as we did for BrewDog in Leeds last year."

He added: "Any licensed premises applicant should think through what impact it is going to have, and think through what procedures and management policies they are going to put in place to ensure it don't add to that impact."

Copyright - Unless otherwise stated all contents of this web site are © 2014 - William Reed Business Media Ltd - All Rights Reserved  
- For permission to reproduce any contents of this web site, please email [robert.jones@wrbm.com](mailto:robert.jones@wrbm.com) - Full details for the use of materials on this site can be found in the Terms & Conditions

William Reed 

© William Reed Business Media Ltd 2014. All rights reserved

IN THE LEEDS MAGISTRATES COURT

BETWEEN :-

BROWDOG BARS LIMITED

Appellant

- and -

LEEDS CITY COUNCIL

Respondent

NOTE OF DECISION OF  
DISTRICT JUDGE ANDERSON  
6<sup>th</sup> SEPTEMBER 2012

No doubt when the 2003 Licensing Act came into being, no-one foresaw the emergence of an operation such as Browdog. They are a A Scottish company specialising in craft beers with a devoted clientele. They do not operate large public houses selling cheap lager or cheap food. They have outlets in other cities including in cumulative impact areas where they operate well and without police objection. Now they seek to come to Leeds.

The company takes a didactic approach, with books on brewing, and customers invited to watch instructional videos playing at their premises. Their customers could be described as "alcohol geeks." They are not run of the mill or everyone's cup of tea, but there is a demand for outlets selling a good quality of beer.

If they had identified a site outside the City's Cumulative Impact Policy area, there is absolutely no doubt that they would already have their licence. They are an intelligent, well-run company, and in a short space of time they have shown themselves to be an effective operator.

However, this site does fall foul of the Cumulative Impact Policy which was introduced with the best possible motives to control the grant of licences to new premises. There is a presumption within it that new applications shall not be granted, unless the applicant can discharge the reverse burden in establishing that they will not add to the cumulative impact, and that is the issue in this case.

I can deal with one conclusion briefly, the issue of noise and nuisance. The Court heard evidence from Miss Ludford that she had gone to the trouble of circulating a letter to all residents in the neighbouring block of flats but received no objections. Against that was the more general evidence of Mr Kenny, which showed noise complaints to the Council. But most of those complaints were amplified music and Browdog does not seek to be able to provide amplified music and so there is no risk of noise from regulated entertainment emanating from the premises. The capacity is small and any noise generated as people leave the premises will be very marginal indeed. It seems to me that the premises of this public house would not be a significant impact on the Cumulative Impact area regarding public nuisance and so I do not intend to mention this further.

That leaves the more important objection of the Police and the potential impact of another premises on the levels of crime in the area. There are a number of clubs around the Corn Exchange and the late

hours they trade, the marketing operations and the type of customer they attract means that there is regular disorder and violence. They run with late hours, attracting a different sort of customer. Their presence causes violence. That is a sad fact of modern life. The situation cannot be assisted by the sort of promotion I saw advertised by Chill White with cheap vodka and free vodka, but they have their licence.

It cannot be the policy of the Cumulative Impact Policy to bring the iron curtain crashing down to allow such clubs to continue to trade while shutting out Browdog which attracts more discerning customers who do not engage in binge drinking, though I do accept the requirement of the Cumulative Impact Policy is to ascertain specifically whether there will be impact.

If I accept, as I do, that the enterprise sells expensive beers in expensive measures, then I think I can conclude that the people likely to be attracted are not "get it down your neck" drinkers but rather better heeled customers. The type of clientele a premises attracts has a material part to play in the decision, because if I am not worried about their clientele and am impressed by the running of their bar elsewhere, it follows that it is unlikely that their clientele will have any adverse impact on the area here.

The Police argued that customers may accidentally cause impact. Their argument that customers could get caught up in a melee caused by others is not a valid one. A simple increase in football isn't a rational reason to refuse entry to Leeds by Browdog.

I have listened carefully but have heard nothing which causes me to believe that the application should not be granted. I am satisfied that the appellants have discharged the burden of proof placed on them.

I accept that the Committee and the Police did their best but their application of the Policy was too rigid. They seemed to take the view that man was made for the Policy, when the Policy should be made for man.

The appeal is upheld, and the licence granted in the terms set out in the bundle served on the Court.



Neutral Citation Number: [2008] EWHC 838 (Admin)

Case No: CO/5533/2006

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

Royal Courts of Justice  
Strand, London, WC2A 2LL

Date: 06/05/2008

Before:

**THE HONOURABLE MRS JUSTICE BLACK**

Between:

Daniel Thwaites Plc	<b>Claimant</b>
- and -	
Wirral Borough Magistrates' Court	<b>Defendant</b>
- and -	
The Saughall Massie Conservation Society	<b>1<sup>st</sup> Interested Party</b>
- and -	
Wirral Metropolitan Borough Council	<b>2<sup>nd</sup> Interested Party</b>

David MW Pickup (instructed by Naphens plc) for the Claimant  
 The Defendant did not appear and was not represented  
 David Flood (instructed by Messrs Klynns) for the 1<sup>st</sup> Interested Party  
 Matthew Copeland (instructed by Wirral MBC) for the 2<sup>nd</sup> Interested Party

Hearing date: 10<sup>th</sup> March 2008

**Approved Judgment**

I direct that pursuant to CPR PD 39A para 6.1 no official shorthand note shall be taken of this Judgment and that copies of this version as handed down may be treated as authentic.

Approved Judgment

Block 1

1. This is an application by Daniel Thwaites Plc ("the Claimant") for judicial review of a licensing decision made by the Wirral Magistrates' Court ("the Magistrates' Court") on 5 April 2006 and that court's decision on 21 April 2006 concerning the costs of the proceedings. The Claimant seeks an order quashing both decisions. Permission to apply for judicial review was granted by Mr Justice Pitchford on 2 November 2006.

The factual background

2. The Claimant owns the Saughall Hotel in Saughall Massie, Wirral which it operates as licensed premises ("the premises"). It originally held a licence under the Licensing Act 1964. In June 2005, it commenced an application to the Licensing Sub-Committee of the Metropolitan Borough of Wirral ("the licensing authority") for the existing licence to be converted to a premises licence under the Licensing Act 2003 and for the licence to be varied simultaneously.
3. In essence, the Claimant was seeking to conduct business at the premises for longer hours than were permitted under the original licence. The police did not support the extension of the hours to the extent that the Claimant initially proposed. The Claimant agreed to restrict the hours to those that were acceptable to the police. Accordingly, the licensing authority was asked to grant a licence that would permit music and dancing to 11 p.m. and alcohol sales until midnight on all nights except Friday and Saturday and, on Friday and Saturday nights, music and dancing to midnight and alcohol sales until 1 p.m., with the doors closing one hour after the last alcohol sale every night.
4. The police withdrew their representations against the modified proposals and did not appear before the licensing authority when the matter was heard on 23 August 2005. No representations were made by the Wirral Environmental Health Services either. However, there was opposition to the proposals at the hearing from the Saughall Massie Conservation Society ("the First Interested Party") and other Saughall Massie residents.
5. The Claimant told the licensing authority at the hearing that the hours of operation at the premises would not vary significantly from the existing hours of operation and that the application for extended hours was to allow flexibility to open later "on special occasions" This was a matter of which the licensing authority took note as is recorded in the minutes of their determination.
6. The licence was granted in the modified terms requested together with an additional hour for licensable activities and an extra 30 minutes for the hours the premises were to be open to the public over Christmas and at the major bank holidays.

Special arrangements were also permitted for New Year's Eve. The licensing authority removed certain conditions that had been imposed on the old licence (requiring all alcohol to be consumed within 20 minutes of the last alcohol sale and banning children under 14 from the bar) and imposed other conditions which were obviously aimed at controlling noise, namely that the area outside must be cleared by 11 p.m., that the premises must promote the use of taxi firms which use a call-back system, that all doors and windows must be kept closed when regulated entertainment was provided and that prominent notices should be placed on the premises requiring customers to leave quietly.

7. The Saughall Massie Conservation Society and "others" appealed against the licensing decision to the Magistrates' Court on the ground that the licensing authority's decision "was not made with a view to promotion of and in accordance with the licensing objectives pursuant to Section 4, Part 2 of the Licensing Act 2003".
8. The appeal occupied the Magistrates' Court from 3 - 5 April 2006. The respondents to the appeal were the licensing authority and the Claimant which both defended the licensing authority's decision. Witnesses were called including Saughall Massie residents, Police Sergeant Yohya who dealt with the stance of the Merseyside police, and Mr Miller, the manager of the premises.
9. The justices granted the appeal. Their Reasons run to 3 pages of typescript, one page of which is entirely taken up with setting out the new hours of operation they imposed. These permitted entertainment until 11 p.m. and alcohol sales until 11.30 p.m. on all nights except Friday and Saturday when entertainment would be permitted until 11.30 p.m. and alcohol sales until midnight. The premises could remain open to the public until midnight on all nights except Friday and Saturday when they could close at 1 a.m.. Similar provisions were imposed to those imposed by the licensing authority in relation to later opening at Christmas and major bank holidays and the provisions relating to New Year's Eve and the conditions of the licence remained unaltered.
10. The new licence had come into effect on 24 November 2005 so the new arrangements had been running for several months by the time of the hearing before the Magistrates' Court. There had been no formal or recorded complaints against the premises under the old or the new regime as the justices acknowledged in their Reasons. The residents who gave evidence were fearful of problems if the extended hours were allowed in the summer. The Chairman of the Conservation Society, who gave oral evidence, spoke of people urinating in the gardens and a problem with litter. It appears from the statement filed by the Chairman of the Bench for these judicial review proceedings that evidence was also given of interference with machinery on nearby Diamond Farm. The justices' Reasons make no reference at all to these matters. As to the statements of the "Witnesses of the Appellant", they say simply that they have read and considered them but attached little or no weight to them.



11. The justices and their legal advisor have filed a considerable amount of material in response to the judicial review proceedings, in all 31 closely typed pages. These comprise their Response to the Claim, statements from Alistair Beere (who was the chairman of the bench), Mary Woodhouse (another of the bench) and Stephen Pickstock (the legal advisor), and what is said in the Index to be a document by Mr Beere from which he prepared his statement. There was limited argument before me as to the status of these documents and the weight that I should give to them. It was not submitted that I should decline to have *any* regard to them although I think it is fair to say that it was common ground between the parties, rightly in my view, that I should concentrate principally on the Reasons. It is established by authorities such as R v Westminster City Council ex p Ermakov [1996] 2 All ER 302 that the court can admit evidence to elucidate or, exceptionally, correct or add to the reasons given by the decision maker at the time of the decision but that it should be very cautious about doing so. The function of such evidence should generally be elucidation not fundamental alteration, confirmation not contradiction. In the circumstances, I have read carefully what the magistrates have provided but approached its role in the judicial review proceedings cautiously.

#### The broad nature of the claim in relation to the licensing decision

12. The Claimant argues that the Magistrates' Court decision is unlawful for a number of reasons. It is argued that the decision was not in line with the philosophy of the Licensing Act 2003 ("the Act") and imposed restrictions on the Claimant's operation which were not necessary to promote the licensing objectives set out in that Act, that it was based on speculation rather than evidence, that it took into account irrelevant considerations and failed to take into account proper considerations, and that it was a decision to which no properly directed magistrates' court could have come on the evidence. In so far as the court imposed conditions as to the time at which the premises must close, it is submitted that this was not a matter which can be regulated under the Act. It is further argued that the magistrates failed to give adequate reasons for their decision.

#### The legal background

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.
14. Note 12 of the explanatory notes to the Act gives an indication of the approach to be taken under the Act. It reads:

"12. In contrast to the existing law, the Act does not prescribe the days or the opening hours when alcohol may be sold by retail for consumption on or off premises. Nor does it specify when other licensable activities may be carried on. Instead, the applicant for a premises licence or a club premises certificate will be able to choose

the days and the hours during which they wish to be authorised to carry on licensable activities at the premises for which a licence is sought. The licence will be granted on those terms unless, following the making of representations to the licensing authority, the authority considers it necessary to reject the application or vary those terms for the purpose of promoting the licensing objectives."

15. Section 1 of the Act provides:
- "S1(1) For the purposes of this Act the following are licensable activities—
- (a) the sale by retail of alcohol,
  - (b) [clubs]
  - (c) the provision of regulated entertainment, and
  - (d) the provision of late night refreshment."
16. To carry on a licensable activity, a premises licence granted under Part 3 of the Act is generally required, section 2. Application for a premises licence must be made to the relevant licensing authority, section 17(1).
17. By virtue of section 4, the licensing authority must carry out all its functions under the Act (including its functions in relation to determining an application for a premises licence or an application for a variation of a premises licence) with a view to promoting the "licensing objectives". These are set out in section 4 as follows:
- "S 4(2) The licensing objectives are—
- (a) the prevention of crime and disorder;
  - (b) public safety;
  - (c) the prevention of public nuisance; and
  - (d) the protection of children from harm."
18. In carrying out its licensing functions, by virtue of section 4(3) the licensing authority must also have regard to its licensing statement published under section 5 and any guidance issued by the Secretary of State under section 182.
19. Section 182 obliges the Secretary of State to issue guidance to licensing authorities on the discharge of their functions under the Act. Guidance was issued in July 2004 ("the Guidance"). It was updated in June 2007 but it is the original guidance that is relevant in this case. In any event, none of the changes made are material to the issues I have to determine.
20. The Foreword says that the Guidance
- "is intended to aid licensing authorities in carrying out their functions under the 2003 Act and to ensure the spread of best practice and greater consistency of approach. This does not

mean we are intent on eroding local discretion. On the contrary, the legislation is fundamentally based on local decision-making informed by local knowledge and local people. Our intention is to encourage and improve good operating practice, promote partnership and to drive out unjustified inconsistencies and poor practice."

21. As the Guidance says in paragraph 1.7, it does not replace the statutory provisions of the Act or add to its scope. Paragraph 2.3 says:

"Among other things, section 4 of the 2003 Act provides that in carrying out its functions a licensing authority must have regard to guidance issued by the Secretary of State under section 182. The requirement is therefore binding on all licensing authorities to that extent. However, it is recognised that the Guidance cannot anticipate every possible scenario or set of circumstances that may arise and so long as the Guidance has been properly and carefully understood and considered, licensing authorities may depart from it if they have reason to do so. When doing so, licensing authorities will need to give full reasons for their actions. Departure from the Guidance could give rise to an appeal or judicial review, and the reasons given will then be a key consideration for the courts when considering the lawfulness and merits of any decision taken."

22. An application to the licensing authority for a premises licence must be accompanied by an operating schedule in the prescribed form including a statement of the matters set out in section 17(4) which are as follows:

- (a) the relevant licensable activities,
- (b) the times during which it is proposed that the relevant licensable activities are to take place,
- (c) any other times during which it is proposed that the premises are to be open to the public,
- (d) where the applicant wishes the licence to have effect for a limited period, that period,
- (e) where the relevant licensable activities include the supply of alcohol, prescribed information in respect of the individual whom the applicant wishes to have specified in the premises licence as the premises supervisor,
- (f) where the relevant licensable activities include the supply of alcohol, whether the supplies are proposed to be for consumption on the premises or off the premises, or both,
- (g) the steps which it is proposed to take to promote the licensing objectives,
- (h) such other matters as may be prescribed."

23. Section 18 deals with the determination of an application for a premises licence. Section 35 deals in very similar terms with the determination of an application to vary a premises licence. It will be sufficient only to set out here the provisions of s 18.

24. Section 18(2) provides that, subject to subsection (3), the authority must grant the licence in accordance with the application subject only to:

- "(a) such conditions as are consistent with the operating schedule accompanying the application,
- and
- (b) any conditions which must under section 19, 20 or 21 be included in the licence."

25. Section 19 deals with premises licences which authorise the supply of alcohol. Such licences must include certain conditions ensuring that every supply of alcohol is made or authorised by a person who holds a personal licence and that no supply of alcohol is made when there is no properly licensed designated premises supervisor. Sections 20 and 21 are not relevant to this claim.
26. Section 18(3) provides that where relevant representations are made, the authority has certain specified obligations. In so far as is relevant to this appeal "relevant representations" are defined in section 18(6) as follows:
- "(6) For the purposes of this section, "relevant representations" means representations which—
- (a) are about the likely effect of the grant of the premises licence on the promotion of the licensing objectives;
  - (b) meet the requirements of subsection (7);
  - (c) ...."
27. Subsection (7) provides:
- (7) The requirements of this subsection are—
- (a) that the representations were made by an interested party or responsible authority within the period prescribed under section 17(5)(e),
  - (b) that they have not been withdrawn, and
  - (c) in the case of representations made by an interested party (who is not also a responsible authority), that they are not, in the opinion of the relevant licensing authority, frivolous or vexatious.
28. Where relevant representations are made, the authority must hold a hearing to consider them unless the authority, the applicant and each person who has made representations agrees that a hearing is unnecessary. By virtue of section 18(3)(b), the authority must also:
- "(b) having regard to the representations, take such of the steps mentioned in subsection (4) (if any) as it considers necessary for the promotion of the licensing objectives."
29. Section 18(4) provides:
- "(4) The steps are—
- (a) to grant the licence subject to—
    - (i) the conditions mentioned in subsection (2)(a) modified to such extent as the authority considers necessary for the promotion of the licensing objectives, and
    - (ii) any condition which must under section 19, 20 or 21 be included in the licence;
  - (b) to exclude from the scope of the licence any of the licensable activities to which the application relates;
  - (c) to refuse to specify a person in the licence as the premises supervisor;
  - (d) to reject the application."
30. Conditions are modified for the purposes of subsection (4)(a)(i) if any of them is altered or omitted or any new condition is added.

Approved Judgment

31. During the currency of a premises licence, by virtue of section 51, an interested party (broadly speaking, a local resident or business) or a responsible authority (police, fire, environmental health etc.) may apply to the relevant licensing authority for a review of the licence on a ground which is relevant to one or more of the licensing objectives. By virtue of section 52, a hearing must be held to consider the application and any relevant representations and the authority must take such steps from a specified list as it considers necessary for the promotion of the licensing objective. The steps range from modifying the conditions of the licence to suspending it or revoking it completely.
  
32. The Act makes provision in Part 5 for "permitted temporary activity" which, loosely speaking, is a form of ad hoc licensing to cover licensable activities which are not covered by a more general licence. The system involves proper notification of an event to the licensing authority and the police. Provided the applicable number of temporary event notices has not been exceeded and the police do not intervene, the event is automatically permitted. Temporary event notices can only be given in respect of any particular premises 12 times in a calendar year and the period for which each event lasts must not exceed 96 hours.
  
33. Section 181 provides for appeals to be made against decisions of the licensing authority to a magistrates' court which is, of course, how the decisions in relation to which judicial review is sought in this case came to be made.

The detail of the claim

34. The Claimant submits that in making its decision to allow the appeal in relation to the premises licence, the Magistrates' Court failed in a number of respects to take account of the changes that the new licensing regime has made and failed to adopt the approach required by the Act. It is further submitted that the magistrates failed properly to consider and take into account the Guidance.
  
35. There is no doubt that the Guidance is relevant in the magistrates' decision making. As I have set out above, section 4(3) requires the licensing authority to "have regard" to the Guidance. By extension, so must a Magistrates' Court dealing with an appeal from a decision of the licensing authority. The Guidance says:
 

"10.8 In hearing an appeal against my decision made by a licensing authority, the magistrates' court concerned will have regard to that licensing authority's statement of licensing policy and this Guidance. However, the court would be entitled to depart from either the statement of licensing policy or this Guidance if it considered it is justified to do so because of the individual circumstances of any case."
  
36. Mr Pickup submits that although the Guidance is not binding and local variation is expressly permitted, it should not be departed from unless there is good reason to do so.

37. Mr Flood for the First Interested Party submits that the Guidance simply serves to provide information for the magistrates and provided that they have had regard to it, that is sufficient. He also points out that, in some respects (as is clear from the wording of the Guidance), the Guidance is a statement of Government belief rather than proved fact, inviting attention to the judgment of Beatson J in J. D. Weatherspoon plc v Guildford Borough Council [2006] EWHC 815 (Admin), he identifies that different policy elements in the Guidance may pull in different directions in a particular case, flexibility and customer choice potentially conflicting with the need to prevent crime and disorder. He submits that provided that the magistrates consult the Guidance, they do not need to use it as "a decision making matrix that the deciding Court has to sequentially address in making its decision in the manner it would if considering a section of a statute".
38. There is no doubt that regard must be had to the Guidance by the magistrates but that its force is less than that of a statute. That is common ground between the parties. The Guidance contains advice of varying degrees of specificity. At one end of the spectrum, it reinforces the general philosophy and approach of the Act. However, it also provides firm advice on particular issues, an example being what could almost be described as a prohibition on local authorities seeking to engineer staggered closing times by setting quotas for particular closing times. I accept that any individual licensing decision may give rise to a need to balance conflicting factors which are included in the Guidance and that in resolving this conflict, a licensing authority or magistrates' court may justifiably give less weight to some parts of the Guidance and more to others. As the Guidance itself says, it may also depart from the Guidance if particular features of the individual case require that. What a licensing authority or magistrates' court is not entitled to do is simply to ignore the Guidance or fail to give it any weight, whether because it does not agree with the Government's policy or its methods of regulating licensable activities or for any other reason. Furthermore, when a magistrates' court is entitled to depart from the Guidance and justifiably does so, it must, in my view, give proper reasons for so doing. As paragraph 2.3 of the Guidance says in relation to the need for licensing authorities to give reasons:
- "When [departing from the Guidance], licensing authorities will need to give full reasons for their actions. Departure from the Guidance could give rise to an appeal or judicial review, and the reasons given will then be a key consideration for the courts when considering the lawfulness and merits of any decision taken."
- This is a theme to which the Guidance returns repeatedly and is a principle which must be applicable to a magistrates' court hearing an appeal as it is to a licensing authority dealing with an application in the first instance. I agree with Mr Flood for the First Interested Party that the magistrates did not need to work slavishly through the Guidance in articulating their decision but they did need to give full reasons for their decision overall and full reasons for departing from the Guidance if they considered it proper so to do.
39. In this case, Mr Pickup submits that proper attention to the Guidance would have helped the magistrates to come to a correct and reasonable decision and that they

have failed to adhere to it without proper reason and failed to carry out their licensing function in accordance with the Act.

40. The foundation of the Claimant's argument is that the Act expects licensable activities to be restricted only where that is *necessary* to promote the four licensing objectives set out in section 4(2). There can be no debate about that. It is clearly established by the Act and confirmed in the Guidance. For example, in the Act, section 18(3)(b), dealing with the determination of an application for a premises licence, provides that where relevant representations are made the licensing authority must "take such of the steps mentioned in subsection (4) (if any) as it considers necessary for the promotion of the licensing objectives" (the steps in subsection (4) include the grant of the licence subject to conditions). Section 34(3)(b), dealing with the determination of an application to vary a premises licence, is in similar terms. The Guidance repeatedly refers, in a number of different contexts, to the principle that regulatory action should only be taken where it is *necessary* to promote the licensing objectives. In particular, it clearly indicates that conditions should not be attached to premises licences unless they are necessary to promote the licensing objectives, see for example paragraph 7.5 and also paragraph 7.17 which includes this passage:

"Licensing authorities should therefore ensure that any conditions they impose are only those which are necessary for the promotion of the licensing objectives, which means that they must not go further than what is needed for that purpose."

41. The Guidance also refers a number of times to the need for regulation to be "proportionate". This is not a term contained in the Act but if a regulatory provision is to satisfy the hurdle of being "necessary", it must in my view be confined to that which is "proportionate" and one can understand why the Guidance spells this out.
42. Mr Pickup submits, and I accept, that the Act anticipates that a "light touch bureaucracy" (a phrase used in paragraph 5.99 of the Guidance) will be applied to the grant and variation of premises licences. He submits that this means that unless there is evidence that extended hours will adversely affect one of the licensing objectives, the hours should be granted. A prime example of this arises when an application for a premises licence is made and there are no relevant representations made about it. In those circumstances, s 18(2) obliges the licensing authority to grant the licence and it can only impose conditions which are consistent with the operating schedule submitted by the applicant. Mr Pickup says that such a light touch is made possible, as the Guidance itself says, by providing a review mechanism under the Act by which to deal with concerns relating to the licensing objectives which arise following the grant of a licence in respect of individual premises. He invites attention also to the existence of other provisions outside the ambit of the Act which provide remedies for noise, for example the issue of a noise abatement notice or the closure of noisy premises under the Anti-Social Behaviour Act 2003. The Guidance makes clear that the existence of other legislative provisions is relevant and may, in some cases, obviate the need for any further conditions to be imposed on a licence. Paragraph 7.18 from the section of the Guidance dealing with attaching conditions to licences is an illustration of this approach:

"7.18 It is perfectly possible that in certain cases, because the test is one of necessity, where there are other legislative provisions which are relevant and must be observed by the applicant, no additional conditions at all are needed to promote the licensing objectives."

43. The Guidance includes a section dealing with hours of trading which the Claimant submits further exemplifies the philosophy of the Act. It begins with paragraph 6.1 which reads:

"This Chapter provides guidance on good practice in respect of any condition imposed on a premises licence or club premises certificate in respect of hours of trading or supply."

44. It continues:

"6.5 The Government strongly believes that fixed and artificially early closing times promote, in the case of the sale or supply of alcohol for consumption on the premises, rapid binge drinking close to closing times; and are a key cause of disorder and disturbance when large numbers of customers are required to leave premises simultaneously. This creates excessive pressures at places where fast food is sold or public or private transport is provided. This in turn produces friction and gives rise to disorder and peaks of noise and other nuisance behaviour. It is therefore important that licensing authorities recognise these problems when addressing issues such as the hours at which premises should be used to carry on the provision of licensable activities to the public.

6.6 The aim through the promotion of the licensing objectives should be to reduce the potential for concentrations and achieve a slower dispersal of people from licensed premises through longer opening times. Arbitrary restrictions that would undermine the principle of flexibility should therefore be avoided. We will monitor the impact of the 2003 Act on crime and disorder and the other licensing objectives. If necessary in the light of these findings, we will introduce further legislation with the consent of Parliament to strengthen or alter any provisions."

45. The Claimant submits that in imposing shorter hours than it requested for the supply of alcohol and for entertainment, the magistrates went beyond that which was necessary for these premises and failed to take into account that, as the Guidance explains, longer opening times would in fact reduce the potential for problems arising from licensed premises whereas curtailing operations could run counter to the licensing objectives.
46. The magistrates' Reasons record their acceptance that there had been no reported complaint in regard to public nuisance and that the extended hours had operated without any incidents. The magistrates also record in the Reasons, as I have already said, that they had attached little or no weight to the statements from witnesses of the appellant. Nothing is said about difficulties mentioned in evidence by the witnesses. As it was clearly incumbent on the magistrates at least to advert in broad terms to those matters that they took into account, it is fair to conclude in the circumstances that they proceeded upon the basis that there was no reliable evidence of actual problems linked to the premises either under the old licence or under the



new revised licence. This was in line with the oral evidence of Police Sergeant Yohyn (as recorded in the rather truncated notes of the legal advisor):

"I reported incident for the site. No other incidents or complaints have been received. There are none in my file. There are no incidents we can directly link to the Saughall Hotel since previously open. There have been incidents locally but not linked to these premises."

47. To judge by the Reasons therefore, what led the magistrates to impose restricted hours of operation was their forecast as to what would occur in the future in association with the premises, notwithstanding the absence of reliable evidence of past problems. The First Interested Party observes that the manager of the premises had given evidence that he intended in the summer to "make hay while the sun shines" and submits, correctly in my view, that the magistrates were entitled to take this apparent change of emphasis into account. However, Mr Flood further submits that the evidence of what had happened in the winter months was therefore of "little evidential value" in determining what was likely to happen in the future and I cannot wholly agree with him about this. Undoubtedly the fact that the Claimant intended in future to make more use of the extended hours reduced the value of the premises' past record as a predictor of the future but it could not, in my view, be completely discarded by the magistrates. They still had to take into account that there had been extended hours for some months without apparent problems.
48. It is plain that the magistrates' particular concern was "migration" rather than problems generated by those coming directly to the premises for their evening out. Under the heading "The Four Licensing Objectives", they say that they accept that there have been no formal or recorded complaints against the premises "but feel that because of the concept of migration that public nuisance and crime and disorder would be an inevitable consequence of leaving the hours as granted by the Local Authority". Under the heading "Migration/Zoning" they begin:
- "The Saughall Hotel due to its location and the fact that a number of licensee premises in the surrounding area have reduced hours to that of the Saughall Hotel we believe that as a consequence of this would be that customers would migrate from those premises to the Saughall Hotel. [sic]"
- and end:
- "We appreciate that the extended hours have been in operation for several months without any incidents but have taken into consideration this was during the Winter months and movable numbers will increase in the Summer causing nuisance/criminality."
49. They reiterate their concern under the heading "Nuisance (Existing/Anticipated)" saying that they "feel that public nuisance will be inevitable".
50. The Claimant complains that the magistrates' treatment of the issue of "migration" was fundamentally flawed on a number of grounds.

51. Firstly, it submits that there was no evidence on which the magistrates could find that customers *would* come to the premises when other premises in the vicinity closed or cause trouble and their concerns were no more than inappropriate speculation. The Claimant's position was that there was no evidence of migration to their premises. There were no recorded complaints of any kind about the premises let alone specifically about migration. Ms Lasley Spence who lives opposite the premises and is the Secretary of the Saughall Massie Conservation Society gave evidence of her fear that customers would migrate but said that she did not think there had been any migration.
52. Apart from their own local knowledge, the only material on which the magistrates could possibly have formed their views about migration was what Police Sergeant Yehya said in evidence. According to the legal advisor's notes, whilst being cross-examined by Mr Kirwan, the sergeant gave evidence about the other licensed premises operating in the vicinity (which I have seen marked on a local map and which were within walking distance of the premises) and their closing hours and said that there were three assaults each week at one of the premises. The legal advisor records that he also said,

"We have staggered closing. This could cause problems it has the potential to cause difficulties in the area. I have a list of considerations but none would rank as high as crime, not even noise. No complaints have been made to me even regarding noise. One concern was dispersal. We gave people one hour to disperse and therefore reduced from 2.00 a.m. to 1.00 a.m., 1.00 a.m. closing at 2. 280 people leaving premises. Other premises subject to high levels of crime migration not an issue." [my italics]

53. I appreciate that this evidence acknowledged that staggered closing *could* cause problems but, had migration been a significant issue as opposed to a mere possibility, one can, I think, assume that the police would have made representations on that score, particularly given that they had plainly considered the impact of trading hours specifically and *had* initially objected to the even longer hours originally proposed by the Claimant. It is noteworthy that even when they were in opposition to the plans, it was never on the basis of migration of disruptive characters from other licensed premises and always simply on the basis of late noise from ordinary customers of the premises dispersing. The absence of police objections before either the licensing authority or the Magistrates' Court seems to have surprised the magistrates who said so in their Reasons, commenting:

"We were surprised that the Police originally objected to the application but withdrew that objection after a slight variation of the terms."

In so saying, they convey, in my view, not only their surprise about the Police approach but also their disagreement with it.

54. It was not open to the magistrates, in my view, to elevate what Sergeant Yehya said in the witness box to evidence that a problem with migration could reasonably be expected, nor do they say anything in their reasons which suggests that they did rely on his evidence in this way. The only concerns about migration were therefore the

Approval Submittal

magistrates' own with perhaps some fears expressed by local residents though not on the basis of firm historical examples of migration to the premises.

55. It is clear from the Guidance that drawing on local knowledge, at least the local knowledge of local licensing authorities, is an important feature of the Act's approach. There can be little doubt that local magistrates are also entitled to take into account their own knowledge but, in my judgment, they must measure their own views against the evidence presented to them. In some cases, the evidence will require them to adjust their own impression. This is particularly likely to be so where it is given by a responsible authority such as the police. They must also scrutinise their own anxieties about matters such as noise and other types of public nuisance particularly carefully if the responsible authorities raise no objections on these grounds. These magistrates did recognise the absence of police objections which caused them surprise and they chose to differ from the police in reliance on their own views. The Claimant submits that in so doing they departed into the realms of impermissible speculation not only in concluding that there would be migration but also in concluding that in this case it would generate nuisance and disorder. The First Interested Party is correct in submitting that the Guidance accepts a link between migration and a potential breach of the licensing objectives but it is also clear from the Guidance that each case must be decided on its individual facts so the magistrates could not simply assume that if people came from other premises, there would be trouble.

56. The Claimant complains that the magistrates' treatment of the migration issue also flies in the face of the Guidance because firstly it was an improper attempt to implement zoning and secondly it ignored the general principle of longer opening hours.

57. Zoning is the setting of fixed trading hours within a designated area so that all the pubs in a given area have similar trading hours. The problem created by it, as demonstrated by experience in Scotland, is that people move across zoning boundaries in search of pubs opening later and that causes disorder and disturbance. The Guidance says, at paragraph 6.8:

"The licensing authority should consider restricting the hours of trading only where this is necessary because of the potential impact on the promotion of the licensing objectives from fixed and artificially-early closing times."

It stresses that above all, licensing authorities should not fix predetermined closing times for particular areas.

58. I am not convinced that the magistrates' limiting of the Claimant's operational hours can properly be described as implementing zoning which, in my view, is a term that is more appropriate to describe a general policy imposed by a licensing authority for a defined area than an individual decision of this type, albeit made with reference to the opening hours of other premises in the vicinity and having the effect of imposing the same hours as those premises.

59. What has more weight, however, is the Claimant's submission that the magistrates failed to give proper weight to the general principle of later opening hours and to the intention that the approach to licensing under the Act would be to grant the hours sought for the premises unless it was necessary to modify them in pursuit of the licensing objectives. The Reasons include a heading "Flexibility" under which the magistrates say simply:

"We have considered the concept of Flexibility."

In so saying, they may be referring to the sort of flexibility to which reference is made, for example, in paragraph 6.6 of the Guidance (see above) but their shorthand does not enable one to know to what conclusions their consideration of the concept led them in this case nor whether they had reliably in mind that the starting point should be that limitations should not be imposed upon the licence sought unless necessary to promote the licensing objectives rather than that the licensing authority or the court should form its own view of what was necessary for the premises and only grant that.

60. The Claimant was seeking to have the freedom to open later on certain occasions when the trade justified it or, as the magistrates put it, "the application for extended hours was to allow flexibility to open later on certain occasions". As the First Interested Party would submit, the magistrates may have inferred from Mr Miller's comment about making hay that the premises would often be open late rather than this happening only infrequently in accordance with the picture presented to the licensing authority. If this was their inference, however, it is odd that they considered that the Claimant could deal with the position by applying for a temporary certificate because this would have allowed the premises to open later on only a limited number of occasions. They make no express finding in their Reasons as to the frequency on which they considered the Claimant intended to keep the premises open late. This was material not only to the degree of disturbance that might be caused generally by late opening but also specifically to the issue of whether there would be migration. It would seem unlikely that customers from nearby pubs would bother to walk or even drive to the Saughall Hotel in search of another drink at the end of their evenings unless the Saughall Hotel was open late sufficiently frequently to lead them to a reasonable expectation that their journey would be worthwhile.
61. The magistrates' comment about the temporary certificate also seems to me to be an example of a failure by them to adopt the lighter approach that the Act dictated and to allow flexibility to those operating licensed premises unless the licensing objectives required otherwise. Temporary certificates would be a cumbersome and restricted means of achieving flexibility, not responsive to the day to day fluctuations in business, only available a limited number of times, and not in line with the philosophy of the Act.
62. There is no consideration in the magistrates' decision of whether the imposition of conditions to control noise or other nuisance (which were going to be imposed)

Approved Judgment

would be sufficient to promote the licensing objectives without reducing the operating hours of the premises. Given that the Act dictates that only such steps as are necessary should be taken with regard to the variation of the terms of operation sought, such consideration was required.

My overall conclusions

63. It would be wrong, in my judgment, to say that the magistrates failed to take account of the licensing objectives. At the outset of their Reasons, they correctly identify those which are relevant. Similarly, as the First Interested Party submits, whilst they did not *articulate* that the curtailment of the hours sought was "necessary" to promote those objectives, it is implied in their decision that they did take this view and it can also be inferred from their comment that because of the concept of migration, public nuisance and crime and disorder would be "an inevitable consequence" of leaving the hours as granted by the Local Authority. However, in my view their approach to what was "necessary" was coloured by a failure to take proper account of the changed approach to licensing introduced by the Act. Had they had proper regard to the Act and the Guidance, they would have approached the matter with a greater reluctance to impose regulation and would have looked for real evidence that it was required in the circumstances of the case. Their conclusion that it was so required on the basis of a risk of migration from other premises in the vicinity was not one to which a properly directed bench could have come. The fact that the police did not oppose the hours sought on this basis should have weighed very heavily with them whereas, in fact, they appear to have dismissed the police view because it did not agree with their own. They should also have considered specifically the question of precisely how frequently the premises would be likely to be open late and made findings about it. They would then have been able to compare this to the winter opening pattern in relation to which they accepted there had been no complaints and draw proper conclusions as to the extent to which the summer months would be likely to differ from the winter picture. Having formed a clear view of how frequently late opening could be anticipated, they would also have been able to draw more reliable conclusions about the willingness of customers from further afield to migrate to Saughall Massie. They proceeded without proper evidence and gave their own views excessive weight and their resulting decision limited the hours of operation of the premises without it having been established that it was necessary to do so to promote the licensing objectives. In all the circumstances, their decision was unlawful and it must be quashed.
64. I have said little so far about what appears in the magistrates' response for the judicial review proceedings. The various documents comprising the response did nothing to allay my concerns about the magistrates' decision. Indeed quite a lot of what was said reinforced my view that the magistrates had largely ignored the evidence and imposed their own views. They refer in their response to incidents about which the residents had given evidence and to the residents not having complained formally for various reasons, for example because it was Christmas or because there was thought to be no point. If the magistrates considered these matters to be relevant, it was incumbent on them to say so clearly in their reasons whereas

they there recorded their acceptance that there had been no formal or recorded complaints, that the extended hours had been in operation for several months without incidents and that they had attached little or no weight to the statements of the witnesses of the appellant. They also refer extensively in their response to their thoughts on migration, including that people may come from further afield than the pubs in the vicinity in cars. Particularly concerning is that they refer repeatedly to a perceived issue over police resources which is not something that, as far as I can see, had been raised by Sergeant Yehya or explored with him in evidence. Mr Beere says in his statement for example, "...there is also the question of Police resources and their ability to effectively police this area especially at weekends with already stretched resources being deployed in Hoyalake".

65. Reference is made in the response documents to the court feeling that the Brewery's proposed opening hours contradicted the acceptable activities of a family pub and that the Snughall Hotel is "a village pub and not a night spot in the centre of town". For the court to take matters such as this into account seems to me to be an interference with the commercial freedom of the premises of a type that was not permissible under the Act unless it was necessary to promote the licensing objectives. I appreciate that the magistrates' response seems to suggest that they feared that a different type of customer was being courted or would invite themselves once it got too late for families but this does not seem to have been founded on anything that was given in evidence so was really not much more than speculation.
66. Mr Beere's statement ends with a reference to the Brewery wanting to make hay while the sun shines, of which he says, "I believe that this statement was indicative of the Brewery's attitude to local residents and to the general management of the premises.". Given that problems with or in the vicinity of the premises had been almost non-existent and that the magistrates had not seen fit to make reference in their Reasons to any difficulties caused by the Hotel, it is hard to see how this belief could be justified but it does perhaps exemplify the approach of the magistrates.
67. I have considered quite separately the argument as to whether the hours of opening can be regulated as part of the licensing of premises as opposed to the hours during which licensable activities take place. It was suggested during argument that there was no power to regulate the time by which people must leave the premises. I cannot agree with this. Clearly keeping premises open (as opposed to providing entertainment or supplying alcohol there) is not a licensable activity as such. However, the operating schedule which must be supplied with an application for a premises licence must include a statement of the matters set out in section 17(4) and these include not only the times when it is proposed that the licensable activities are to take place but also "any other times during which it is proposed that the premises are to be open to the public". On a new grant of a premises licence, where there are no representations the licensing authority has to grant the application subject only to such conditions as are consistent with the operating schedule. I see no reason why, if it is necessary to promote the licensing objectives, these conditions should not include a provision requiring the premises to be shut by the time that is specified in the operating schedule. If representations are made and the licensing authority

ultimately grants the application, it can depart from the terms set out in the operating schedule when imposing conditions in so far as this is necessary for the promotion of the licensing objectives. It must follow that it can impose an earlier time for the premises to be locked up than the applicant wished and specified in its operating schedule. It is important to keep in mind in this regard that the role of the licensing authority and, if there is an appeal, the court, has two dimensions: the fundamental task is to license activities which require a licensee and the associated task is to consider what, if any, conditions are imposed on the applicant to ensure the promotion of the licensing objectives. A requirement that the premises close at a particular time seems to me to be a condition just like any other, such as keeping doors and windows closed to prevent noise. I see no reason why a condition of closing up the premises at a particular time should not therefore be imposed where controlling the hours of the licensable activities on the premises (and such other conditions as may be imposed) is not sufficient to promote the licensing objectives.

The costs argument

68. In the light of my conclusion that the magistrates' decision is unlawful and therefore must be quashed, it is not appropriate for me to consider the arguments in relation to their costs order further. The appellants had given an undertaking to the Licensing Authority that they would not seek costs against the Licensing Authority and they sought the entirety of their costs of the appeal from the Claimant. The magistrates granted that order and the Claimant submits that that was not an order that was open to them. Whatever the merits of that argument, the magistrates' order in relation to costs cannot now stand. The basic foundation for the order for costs was that the appeal had succeeded and the Claimant had lost. That position has now been overturned and the costs order must go along with the magistrates' main decision. The magistrates would have had no reason to grant costs against the Claimant if the appeal had been dismissed.



*Description*



03/04/2015 13:13:41

StampThePhoto from ArvanSoft