

# Licensing Sub-Committee Report

Item No:	
Date:	22 March 2018
Licensing Ref No:	18/00740/LIPN - New Premises Licence
Title of Report:	The Paint Room Room B47 Basement New Wing Somerset House Strand
Report of:	Director of Public Protection and Licensing
Wards involved:	St James's
Policy context:	City of Westminster Statement of Licensing Policy
Financial summary:	None
Report Author:	Mrs Shannon Pring Senior Licensing Officer
Contact details	Telephone: 020 7641 3217 Email: <a href="mailto:spring3@westminster.gov.uk">spring3@westminster.gov.uk</a>

# 1. Application

1-A Applicant and premises			
<b>Application Type:</b>	New Premises Licence, Licensing Act 2003		
<b>Application received date:</b>	22 January 2018		
<b>Applicant:</b>	Makerversity Ltd		
<b>Premises:</b>	The Paint Room		
<b>Premises address:</b>	Room B47 Basement New Wing Somerset House Strand London	<b>Ward:</b>	St James's
		<b>Cumulative Impact Area:</b>	No
<b>Premises description:</b>	According to the application the premises is a café/bar in the basement of Somerset House.		
<b>Premises licence history:</b>	This is a new premises licence and therefore no history exists.		
<b>Applicant submissions:</b>	<p>The Paint Room is to be a café/bar for the exclusive use of members of the Somerset House Trust. Based in the basement of Somerset House, it will be a social space for the exclusive use of Somerset House tenants.</p> <p>As such, there will be no access to members of the public at any time. Anyone wishing to access the premises will only be able to do so if they have membership card permitting them entry to the private areas of Somerset House, and also a membership card permitting them entry to the premises itself. The grant of this application will therefore attract no new footfall to the area, it will simply be a space for tenants already utilising and with access to Somerset House.</p> <p>Somerset House has the benefit of a premises licence (no. 16/03016/LIPVM), which permits licensable activities to be carried out until 01:00 daily (01:30 for late night refreshment).</p>		
<b>Plans</b>	Plans are available to view upon request to the Licensing Authority and they will be made available at Licensing Committee.		

1-B Proposed licensable activities and hours							
<b>Provision of Regulated Entertainment: Live Music and Recorded Music (Withdrawn)</b>				<b>Indoors, outdoors or both</b>			Indoors
<b>Day:</b>	<b>Mon</b>	<b>Tues</b>	<b>Wed</b>	<b>Thur</b>	<b>Fri</b>	<b>Sat</b>	<b>Sun</b>
<b>Start:</b>	10:00	10:00	10:00	10:00	10:00	10:00	10:00
<b>End:</b>	01:00	01:00	01:00	01:00	01:00	01:00	01:00
<b>Seasonal variations/ Non-standard timings:</b>			From the start time on New Year's Eve to the terminal hour for New Year's Day.				

<b>Late Night Refreshment:</b>				<b>Indoors, outdoors or both</b>			Indoors
<b>Day:</b>	<b>Mon</b>	<b>Tues</b>	<b>Wed</b>	<b>Thur</b>	<b>Fri</b>	<b>Sat</b>	<b>Sun</b>
<b>Start:</b>	23:00	23:00	23:00	23:00	23:00	23:00	23:00
<b>End:</b>	01:30	01:30	01:30	01:30	01:30	01:30	01:30
<b>Seasonal variations/ Non-standard timings:</b>			From the start time on New Year's Eve to the terminal hour for New Year's Day.				

<b>Sale by retail of alcohol</b>				<b>On or off sales or both:</b>			On sales
<b>Day:</b>	<b>Mon</b>	<b>Tues</b>	<b>Wed</b>	<b>Thur</b>	<b>Fri</b>	<b>Sat</b>	<b>Sun</b>
<b>Start:</b>	09:00	09:00	09:00	09:00	09:00	09:00	09:00
<b>End:</b>	01:00	01:00	01:00	01:00	01:00	01:00	01:00
<b>Seasonal variations/ Non-standard timings:</b>			From the start time on New Year's Eve to the terminal hour for New Year's Day.				

Hours premises are open to the public							
<b>Day:</b>	<b>Mon</b>	<b>Tues</b>	<b>Wed</b>	<b>Thur</b>	<b>Fri</b>	<b>Sat</b>	<b>Sun</b>
<b>Start:</b>	09:00	09:00	09:00	09:00	09:00	09:00	09:00
<b>End:</b>	01:30	01:30	01:30	01:30	01:30	01:30	01:30
<b>Seasonal variations/ Non-standard timings:</b>			From the start time on New Year's Eve to the terminal hour for New Year's Day.				

## 2. Representations

2-A Responsible Authorities	
<b>Responsible Authority:</b>	Metropolitan Police Service
<b>Representative:</b>	PC Reaz Guerra
<b>Received:</b>	13 February 2018
<p>With reference to the above application I am writing to inform you that the Police, as a Responsible Authority, object to your application for a New Premises Licence as it is our belief that if granted the application would undermine the Crime Prevention Objective.</p> <p>There is insufficient detail in the operating schedule to address the Crime Prevention Objective.</p> <p>It is for this reason that we are objecting to the application.</p>	
<b>Responsible Authority:</b>	Environmental Health Consultation Team
<b>Representative:</b>	Mr Dave Nevitt
<b>Received:</b>	26 January 2018
<p>I wish to make Representations on the following grounds:</p> <p>Representation is made in relation to the application, as the proposals are likely to increase Public Nuisance and may impact upon Public Safety.</p> <p><b>Further correspondence between EH and the Applicant:</b></p> <p><u>I had a helpful meeting on site on 6<sup>th</sup> February to view the location of the site and to discuss the proposed operation with the applicant and I make the following comments:</u></p> <p>The area in question has been suitably fitted out and is provided with all the necessary Public Safety equipment (emergency lighting, signage means of escape etc). The area is physically suitable for Licensable activities.</p> <p><u>In order to make the application less controversial in terms of the City Council's Licensing Policy I suggest that the applicant considers the following:</u></p> <p>The hours <u>sought</u> are beyond the City Council's 'Core Hours' as defined by the Licensing Policy. Perhaps the applicant could clarify whether or not such late hours are really essential to the operation or whether they could be amended so as to not exceed the Core Hours.</p> <p>In addition, would ask the applicant to consider whether or not <u>Recorded Music</u> is essential to the operation or whether simply 'background music' would be sufficient. If the hours sought were to be reduced it may also be possible that the application for '<u>Live Music</u>' may not be needed as this can be provided up to 2300hrs as a non-licensable activity.</p>	

In order to clarify how the Licence will be operated and to enable the applicants to do what they say they would like to do the following needs some clarification:

The plans show a red line around the area to be licensed and I understand that the applicant seeks the Sale of Alcohol 'On' the premises only. During the site meeting it was said that they might want the flexibility to allow patrons to take drinks outside the red line to consume their drinks in parts that are open to the fresh air. If this is the case it would appear that such sales would constitute 'Off' Sales which might fall outside the authority of the Licence if granted as presented. The applicant may wish to consider whether the plans should be amended to show the red line differently or at least discuss this aspect with the Licensing Service to see how the application could be amended, if at all, to allow this activity.

I would like to propose some Conditions, including one which requires that the sale of alcohol is only to persons who are members of a named club or organisation (as stated during the site meeting) and X number of their bona fide guests. Before I propose any conditions I would be grateful if more information could be supplied about the name of the club/organisation that would benefit from the use of the Licence. In addition, I would like some clarification about the points I raise above about Regulated Entertainment and the location of the red line/use of the external areas etc to be clarified first so that I can consider suitable Conditions.

I am aware that the Police have submitted a Representation and that they may not have yet had the opportunity to carry out a site visit. I am quite happy to visit the site with the Police in order to clarify the above issues. I will send a copy of these comments to PC Guerra.

#### **Further correspondence between the Applicant and EH:**

I write further to the below email, and following the end of the consultation period in relation to the above.

I can respond to the various queries raised as follows:

##### **1. Hours**

Our client would ideally like to seek to retain the hours applied for in terms of the sale of alcohol and late night refreshment. These reflect the hours of the licence granted for Somerset House, in which this premises is located. As such, the hours will not extend beyond those already permitted in the immediate vicinity. Somerset House Trust would rather retain uniformity in terms of the licences granted across their estate. Trust members do have 24/7 access to the working space, and therefore it would be proposed for these hours to be utilised.

Furthermore, given the location of the premises in the basement of the building, and given that access is restricted to trust members only (more detail in respect of which is below), we are confident that these hours will not cause an issue in this area.

However, my client is happy to withdraw live and recorded music from the application and rely solely on the Live Music Act exemptions.

## **2. Off sales**

As you mention Dave, our clients initially instructed us to seek on sales only. However, you discussed that they would actually want the flexibility to allow patrons to take drinks into some external areas. We appreciate that we cannot amend our application during the consultation period, or now after it.

As such, we confirm that should the licence be granted, we would then seek to vary it to add off sales but only for consumption in specified areas. I attach the plan that we would propose to lodge to show these areas. Perhaps you can confirm what your views would be on this, if we were to obtain a licence and then vary it?

However, for the purpose of this application, as we only applied for on-sales at the outset, we understand that this cannot form part of the discussion.

## **3. Membership**

I would refer to the condition proposed in the operating schedule lodged with our application:

'The premises shall only be accessible to members of the Somerset House Trust with both a pass permitting them access to the private areas of Somerset House, and a further pass permitting them access to the premises itself. There shall be no access permitted to members of the public.'

You have requested further information with regards to the club/organisation permitted access to the venue – can you confirm what further detail you required?

We should highlight that it is not possible to access the premises without travelling through 3 card activated doors.

If you require any further information on this, please do let me know.

### **Further correspondence between EH and the Applicant:**

Thanks for your comments.

- I note that you are happy to withdraw the part of the application for Regulated Entertainment.
- With respect to hours: what is sought is significantly beyond the Core Hours – this will need to be adjudicated at a Hearing of the Licensing Sub Ctee unless the hours are within Core.
- With respect to 'Off' Sales – I agree that it would be best to seek a Variation separately.
- I think the capacity of 150 is too large given the small size of the unit.

### 3. Policy & Guidance

The following policies within the City Of Westminster Statement of Licensing Policy apply:	
Policy HRS1 applies	(i) Applications for hours within the core hours set out below in this policy will generally be granted, subject to not being contrary to other policies in the Statement of Licensing Policy.  (ii) Applications for hours outside the core hours set out below in this policy will be considered on their merits, subject to other relevant policies.
Policy PB1 applies	Applications will only be granted if it can be demonstrated that the proposal meets the relevant criteria in Policies CD1, PS1, PN1 and CH1.

### 4. Equality Implications

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

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

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

## 5. Appendices

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

<b>Report author:</b>	Mrs Shannon Pring Senior Licensing Officer
<b>Contact:</b>	Telephone: 020 7641 3217 Email: spring3@westminster.gov.uk

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

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

<b>1</b>	Licensing Act 2003	N/A
<b>2</b>	City of Westminster Statement of Licensing Policy	7 <sup>th</sup> January 2016
<b>3</b>	Amended Guidance issued under section 182 of the Licensing Act 2003	March 2015
<b>4</b>	Application	22 January 2018
<b>5</b>	Environmental Health Service	26 January 2018
<b>6</b>	Metropolitan Police Service	14 February 2018



There are no supporting documents from the Applicant

There is no licence or appeal history for the premises.

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

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

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

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

**Mandatory Conditions**

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

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

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

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

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

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

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

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

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

Where -

(i) P is the permitted price,

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

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

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

(i) the holder of the premises licence,

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

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

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

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

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

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

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

## Conditions consistent with the operating schedule

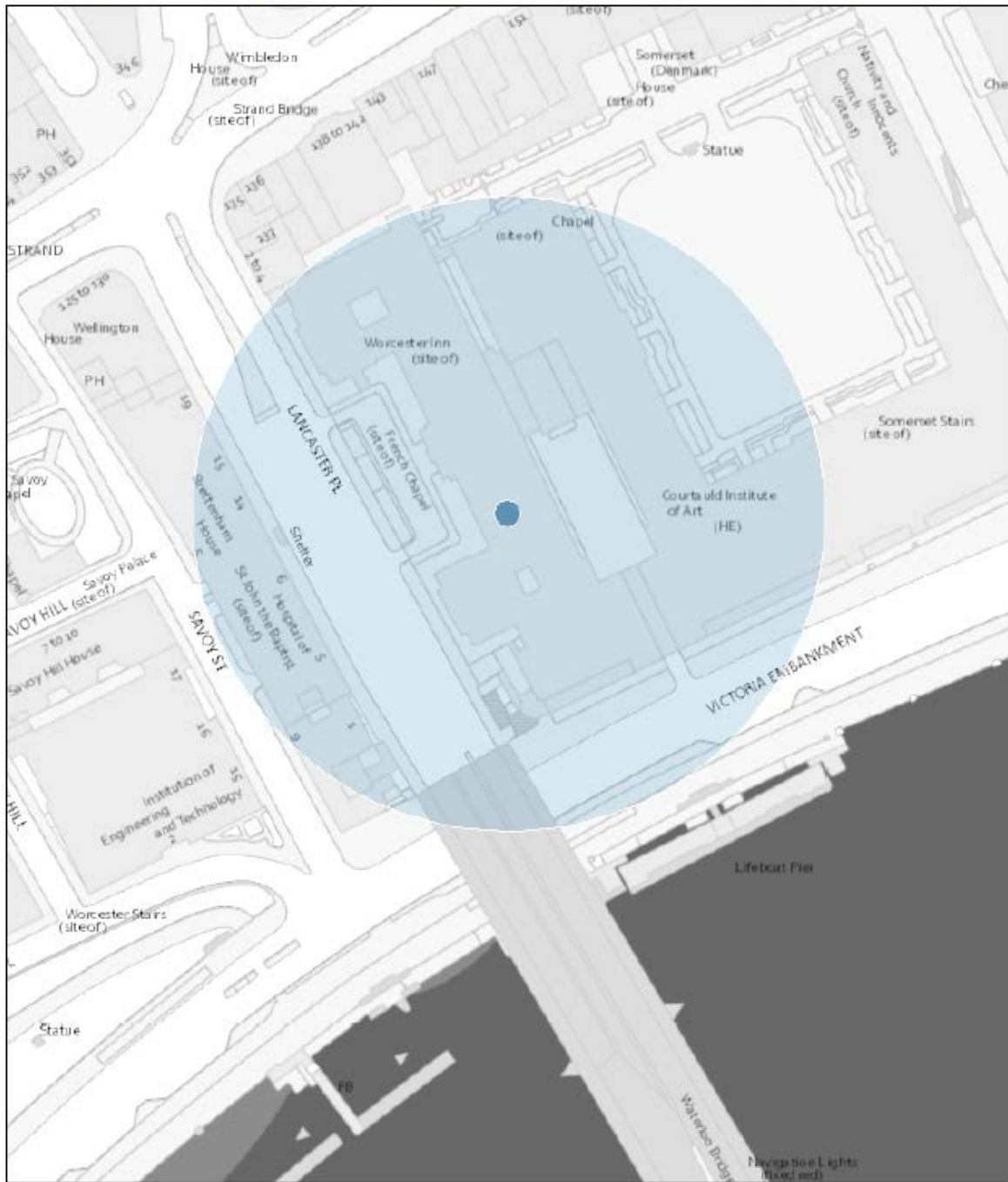
9. The premises shall only be accessible to members of the Somerset House Trust with both a pass permitting them access to the private areas of Somerset House, and a further pass permitting them access to the premises itself. There shall be no access permitted to members of the public.
10. The number of persons accommodated in the premises at any one time shall not exceed 150.
11. The premises shall maintain a comprehensive CCTV system that ensures all areas of the premises are monitored including all entry and exit points into the premises and which enable frontal identification of every person entering. All cameras shall continually record while the premises are open for trade, and the video recordings shall be kept available for a minimum of thirty-one days with date and time stamping.
12. At any time the premises is open to the public a person shall be available who is trained in the use of any such CCTV equipment, and who will be able to produce CCTV images to an officer from a responsible authority upon request.
13. SIA registered door staff shall be employed at the premises, in accordance with a risk assessment, to be carried out by the DPS. When employed, door staff will wear high visibility armbands.
14. When employed, a register of those door staff employed shall be maintained at the premises and shall include:
  - i) the number of door staff on duty;
  - ii) the identity of each member of door staff;
  - iii) the times the door staff are on duty.
15. Staff will be trained in the laws relating to under age sales, and that training shall be documented and repeated at 6 monthly intervals.
16. A refusals book will be maintained at the premises, and made available to an officer of a responsible authority upon request.
17. Between the hours of 09:00 and 10:00 the supply of alcohol shall be as ancillary to food only.
18. A first aid box will be available at the premises at all times.
19. Regular safety checks shall be carried out by staff.
20. Management shall liaise with the Fire Authority as necessary to ensure compliance with all necessary fire regulations.
21. The premises shall maintain an Incident Log and public liability insurance.
22. Noise from amplified music or voices shall not be such as to cause a noise nuisance to occupants of nearby premises.
23. No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
24. Notices will be positioned at the exits to the premises requesting customers to leave the building in a quiet manner.

25. A "Challenge 25" Policy shall be implemented in full and appropriate identification sought from any person who appears to be under the age of 25. The only acceptable forms of identification shall be photographic driving licences, passports, HM forces cards, or a form of identification with the "PASS" hologram.
26. Staff training will include the Challenge 25 Policy and its operation. In particular, staff shall be trained to take such action as is necessary to prevent the sale of alcohol to persons over the age of 18 where those customers are engaged in the distribution of alcohol to persons under the age of 18. The training must be given to a new member of staff before they commence employment and all staff must receive refresher training every 6 months.
27. Notices advising what forms of ID are acceptable must be displayed.
28. Notices must be displayed in prominent positions indicating that the Challenge 25 policy is in force.

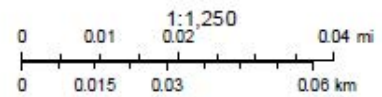
### **Conditions proposed by the Environmental Health**

29. Licensable activities shall, at all times, only be available to Members of The Somerset House Trust and their bona fide guests (up to a maximum of 3 guests per member).
30. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the entire 31-day period.
31. 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.
32. An incident log shall be kept at the premises, and made available on request to an authorised officer of the City Council or the Police. It must be completed within 24 hours of the incident and will record the following:
  - (a) all crimes reported to the venue
  - (b) all ejections of patrons
  - (c) any complaints received concerning crime and disorder
  - (d) any incidents of disorder
  - (e) all seizures of drugs or offensive weapons
  - (f) any faults in the CCTV system, searching equipment or scanning equipment
  - (g) any refusal of the sale of alcohol
  - (h) any visit by a relevant authority or emergency service.

### The Paint Room - The Basement, New Wing, Somerset House



March 8, 2018



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Resident Count: 0



DISTANCE	OBJECTID	Licence Number	Trading Name	Address	Premises Type	Time Period
49.1942535	70032	15/03655/LIPDPS	Spring	Somerset House Strand London WC2R 1LA	Restaurant	Monday to Sunday; 09:00 - 01:00
49.1942535	8749	13/09679/LIPDPS	Basement Gallery Cafe	North Wing Courtauld Institute Of Art Somerset House Strand London WC2E 7EA	Educational	Monday to Saturday; 10:00 - 23:30   Sunday; 12:00 - 23:00
49.1942535	70029	14/07802/LIPN	Pennethorne Cafe	Somerset House Strand London WC2R 1LA	Shop within another property	Monday to Sunday; 08:00 - 23:30
49.1942535	70070	17/13340/LIPVM	Somerset House Trust	Somerset House Strand London WC2R 1LA	Shop within another property	Monday to Sunday; 09:00 - 01:00   Friday to Saturday; 09:00 - 02:30
49.1942535	70027	14/05112/LIPN	The Dead House	Somerset House Strand London WC2R 1LA	Shop within another property	Monday to Sunday; 09:00 - 01:30
49.1942535	70028	14/05204/LIPN	The New Wing	Somerset House Strand London WC2R 1LA	Shop within another property	Monday to Sunday; 09:00 - 01:30

49.1942535	70051	13/09684/LIPDPS	Courtauld Gallery Cafe	Somerset House Strand London WC2R 1LA	Miscellaneous	Monday to Thursday; 10:00 - 00:00   Friday to Saturday; 10:00 - 00:30   Sunday; 12:00 - 23:00
61.7717978	53009	17/10870/LIPCHD	One Embankment	8 Victoria Embankment London WC2R 2AB	Night clubs and discos	Friday to Saturday; 09:00 - 05:00   Sunday to Thursday; 09:00 - 04:00