



CITY OF WESTMINSTER

MINUTES

Licensing Sub-Committee (3)

MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (3)** Committee held on **Thursday 10th August, 2017**, Room 3.1, 3rd Floor, 5 Strand, London, WC2 5HR.

Members Present: Councillors Melvyn Caplan (Chairman), Murad Gassanly and Aziz Toki

Apologies for Absence: Councillor Louise Hyams

1 MEMBERSHIP

There were no changes to the membership.

2 DECLARATIONS OF INTEREST

In respect of application 1 on the agenda, Sophie's in Great Windmill Street, during the hearing Mr Thomas referred to the Applicant's previous premises in Wellington Street and the current premises in Fulham Road. Councillor Caplan declared that he had dined in the Wellington premises in the last twelve months. This did not in any way affect his ability to consider the current application impartially.

3 SOPHIE'S, 42-44 GREAT WINDMILL STREET, W1

LICENSING SUB-COMMITTEE No. 3

Thursday 10th August 2017

Membership: Councillor Melvyn Caplan (Chairman), Councillor Murad Gassanly and Councillor Aziz Toki

Legal Adviser: Barry Panto

Policy Adviser: Chris Wroe

Committee Officer: Jonathan Deacon

Presenting Officer: Heidi Lawrance

Relevant Persons Objecting: Environmental Health, Metropolitan Police, the Licensing Authority, 5 local residents, an amenity society and one local Councillor.

Present: Mr Alun Thomas (Solicitor, representing the Applicant), Mr Rupert Power (Director and Co-owner, Applicant Company), Mr Ian Watson (Environmental Health), PC Bryan Lewis (Metropolitan Police), Mr David Sycamore (Licensing Authority), Mr Richard Brown (Solicitor, Citizens Advice Bureau Licensing Advice Project, representing Ms Anna Moscato, Ms Katarzyna Bera and Mr Piotr Cybulak), Mr Piotr Cybulak, Ms Katarzyna Bera and Mrs Jane Doyle (local residents) and Mr Slawomir Kosmider (representing Ms Katarzyna Bogatek, local resident).

Declaration: During the hearing Mr Thomas referred to the Applicant's previous premises in Wellington Street and the current premises in Fulham Road. Councillor Caplan declared that he had dined in the Wellington premises in the last twelve months. This did not in any way affect his ability to consider the current application impartially.

Sophie's, 42-44 Great Windmill Street, W1 17/06235/LIPN	
1.	Regulated Entertainment (Indoors) - Live Music, Recorded Music, Performances of Dance, Anything of a similar description, Recorded Music, Performances of Dance – BASEMENT
	<p>Monday to Saturday 10:00 to 02:00 Sunday 12:00 to 23:30</p> <p><u>Seasonal Variations / Non-standard Timings</u></p> <p>From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.</p> <p>02:00 (the following day) on Sundays immediately before Bank Holiday Mondays.</p> <p>An additional hour when British Summertime commences.</p>
	<p>Amendments to application advised at hearing:</p> <p>None.</p>
	<p>Decision (including reasons if different from those set out in report):</p> <p>The Sub-Committee heard from Mr Thomas, representing the Applicant. He explained that there was an existing premises licence for 42-44 Great Windmill Street which permitted the sale of alcohol for consumption on the premises and music and dancing until 01:00 and late night refreshment until 01:30 on Monday to Saturday. There was a capacity of 975 people (Ground Floor 325 and</p>

Basement 650). The Applicant was now offering, as part of the application, for there to be a capacity of 400 people on both floors, which was an overall reduction in numbers of 175 people. Mr Thomas added that if the Sub-Committee was minded to grant, there would be a further reduction in the basement after 01:30 (the closing time on the existing premises licence) to 325 people. The Applicant was seeking an additional hour in terms of licensable activities and the opening hours to the public in the basement. It was Mr Thomas' case that the application, with the additional hour applied for in the basement, constituted an exception to policy in the West End Cumulative Impact Area because of the proposed reduced capacities. It was also his case that there would not be a detrimental impact as a result of the additional hour in the basement.

Mr Thomas wished to emphasise that Sophie's would be nothing like Grace Bar which was its predecessor and had been a major issue for residents as set out in residents' objections for the current application. He expressed the view that Grace Bar had largely been a vertical drinking establishment with noise issues. There would be what he described as a substantially different offer and clientele and significant change to the entrance arrangements at Sophie's. The location of the smoking area had changed. The noise issue would be addressed with conditions for the current application. Mr Thomas stated he was not aware of any objections to the layout changes for the current application and he would therefore focus on the concerns regarding the additional hour sought in the basement. Mr Thomas' interpretation of residents' representations on this point was that having more people on the streets at 02:00 outweighed the benefit of having less people on the street before 01:30 when there were proposed reductions in the capacity. However, he said that the acoustic evidence was that the ambient noise levels and footfall were virtually identical around the 70 decibel level between midnight and 03:00. What he believed would make a difference was significantly less people on the street at an earlier hour.

Mr Thomas commented that this was not the quietest part of Soho and that Sophie's was unlikely to have a negative impact on local amenity. There was an office directly above the premises. He referred to other premises in the area operating until a late hour including Piccadilly Institute (late night bar) at 1 Piccadilly Circus operating until 03:00 and The Windmill International in Great Windmill Street closing after 05:00. He questioned the representations from residents living next door at St James Tavern on the grounds it is a rival licensed premises.

Mr Thomas said that another advantage of the current application was that there would be the replacement of historical licence conditions on the existing premises licence with up to date Council model conditions. He believed the limited conditions on the existing licence had played a part in the problems at Grace Bar.

Mr Thomas stated that there had been a Sophie's premises in Wellington Street for approximately ten years and there was currently a Steakhouse and Bar located in Fulham Road, Chelsea which had been operating for approximately fifteen years. He wished to bring to the attention of the Sub-Committee that there had been a capacity of 400 people at Wellington Street which operated

until 01:00 with a bar area. He had been advised by PC Lewis that there had not been a crime and disorder issue in Wellington Street. There had been some issues in relation to Grace Bar.

Mr Power spoke on behalf of the Applicant Company. He made the points that Sophie's specialised in steaks and there would be a restaurant / bar on the ground floor with background music. Mr Thomas provided the additional information that there would be some live music at the premises but this would be at a much lower level of decibels than when the premises had been operated as Grace Bar. The ground floor would be predominantly seated with waiter and waitress service. Mr Power commented that many of the tables would be booked in advance. Mr Power and Mr Thomas explained it was intended to have a cocktail bar in the basement of the premises with a Jack Solomons, British boxing promoter theme. There would not be signage with Jack Solomons on the front of the premises. There would be no price promotions unlike Grace Bar. Mr Power clarified that there would be the option for people to hold events in the basement such as early evening drinks after a work conference. The basement would generally not operate during the daytime.

Mr Thomas referred to the proposed conditions. He requested that the Metropolitan Police's conditions requiring a minimum of at least four door supervisors from 18:00 daily, six door supervisors from 22:00 on Thursday, Friday and Saturday and that they wear yellow high visibility arm bands were not attached to the licence in the event the Sub-Committee was minded to grant the application. This was on the grounds that it could give the premises an image of notoriety. The Applicant was offering two door supervisors and if it was intended to hold an event then this number would be increased. Mr Thomas made the point that there would be sufficient managers to oversee the operation. He also requested that the Police proposed condition requiring bags of customers to be searched after 23:00 was not attached to the licence.

Mr Thomas said that he could understand that residents had set out in their written representations that their quality of life had improved since Grace Bar had closed. However, the premises were likely to re-open as licensed premises at some stage and he believed Sophie's would better support the licensing objectives than a premises operating similarly to Grace Bar.

The Sub-Committee was addressed by Mr Watson, on behalf of Environmental Health. Mr Watson referred to alcohol being ancillary to substantial refreshment and music and dancing on the existing premises licence. He made the point that whilst the Applicant was keen to indicate that Sophie's would be a different style of operation in terms of being more restaurant led and less alcohol led than Grace's Bar it was not clearly shown to be the case in terms of the proposed conditions. He believed the conditions gave the impression that the premises would be entertainment led albeit with more seating than for the previous operation. Mr Watson also wished to provide some context in respect of the Sophie's premises that had operated in Wellington Street until 01:00, making the point that the bar area with up to 100 people was not ancillary to food but for the remainder of the premises, alcohol was ancillary to food.

Mr Watson clarified that the Applicant had agreed his proposed conditions. He

requested that whilst the overall suggested reduced capacity of 800 was acceptable to Environmental Health, the specific capacities for the two floors were finalised once he and the Senior Licensing Surveyor had assessed matters such as the floor space and the means of escape.

Mr Watson queried what the Applicant's arrangements would be for vacating the ground floor at 01:00 in the event the basement was able to operate until 02:00. This included whether the ground floor could be used for consumption of alcohol until 02:00. Would it be conditioned in terms of patrons leaving the ground floor of the venue at 01:00? Mr Watson recommended that in the event the application was granted, a condition was attached to the premises licence that there would be no drinking outside the premises. This he believed would promote the licensing objective of preventing public nuisance and take into account that the pavement width outside the premises was limited.

Mr Watson expressed the view that the Soho Society had in their written representation accurately reflected where the nearby residential areas are, including in Great Windmill Street and Lisle Street. He didn't dispute the Applicant's acoustic report findings that it is a noisy area whether this involved traffic, people or extractor fans.

Mr Watson explained to the Sub-Committee that there had been discussions with the Applicant regarding customers smoking in Ham Yard but the allocated area was now proposed for Great Windmill Street. The Applicant had put forward a condition that the maximum number of 20 at any one time would come into effect at 01:00.

The Sub-Committee heard from Mr Sycamore, on behalf of the Licensing Authority. He drew Members' attention to paragraph 2.4.7 of the Council's Statement of Licensing Policy that stated that the reduction in capacity 'might' be a reason for granting an application as an exception to policy. Mr Sycamore added that it was not a 'given'. It was the Licensing Authority's case that there would still be a lot of customers leaving the premises later into the night in the West End Cumulative Impact Area and that this made the Applicant's argument for an exception to policy questionable. It was a new application for a public bar in the Cumulative Impact Area and the policy was to refuse the application.

The Licensing Authority shared Environmental Health's concerns about the potential for patrons in the basement being able to take their drinks upstairs after 01:00.

PC Lewis advised the Sub-Committee that the Police were maintaining their representation on policy grounds. He described the area surrounding the premises as being heavily saturated with late night time economy establishments and the application if granted would create further demands on Police resources. He was concerned particularly about alcohol not being ancillary to food so that there could potentially be vertical drinking throughout the premises. He also had concerns about two different closing times for the basement and ground floor including that unless it was correctly conditioned, patrons could leave both floors at 02:30.

PC Lewis commented that he had no specific objections to the operator and the way that the Sophie's in Wellington Street was run. However, it had predominantly operated as a restaurant as reflected in the conditions on the licence. He spoke of objecting to the application due to his lack of confidence in the conditions that were currently on the operating schedule for the 42-44 Great Windmill Street application. An example of this was that the Applicant was offering two SIA qualified doormen as an alternative. He took the view that two doormen plus a risk assessment as to whether there should be more security personnel employed was clearly not appropriate for a capacity of 800 people. He was seeking re-assurance about the ability of the Applicant to monitor that number of people and he was not satisfied that the Applicant had seriously taken security measures into consideration, including the guarding of the different entrances/exits. PC Lewis recommended a minimum of 1 doorman to 100 patrons. He did not believe that a risk assessment was needed as to whether further security staff should be employed because the risks were in his view reasonably obvious. These included patrons being able to drink without food up until 02:30. PC Lewis was also concerned about the narrow footpaths outside the premises and the ability of the smokers to obstruct the pavement. He was requesting doormen to wear high visibility jackets to monitor the street. He brought to the Sub-Committee's attention that this and four other conditions of the seven he had proposed had not been accepted by the Applicant.

One of the conditions proposed by the Police had been that bag searches should take place inside the premises after 23:00. PC Lewis commented on there being a high level threat from terrorism as evidenced by recent incidents in London.

The Sub-Committee then heard from Mr Brown representing Ms Anna Moscato, Ms Katarzyna Bera and Mr Piotr Cybulak. Mr Brown said that he would keep his comments on Grace Bar to a minimum given that the Applicant accepted residents' written submissions on this point. However, he wished to bring to Members' attention that the flats above St James Tavern faced on to Great Windmill Street and the issues with the Grace Bar licence operating until 01:00 for residents were internal noise transmission, smokers outside, queuing outside and dispersal. Mr Brown said that limiting the number of smokers to a maximum of 20 after 01:00 would not address residents' concerns on the grounds that it only took a small number of people smoking outside to cause nuisance. He did not see any evidence that queuing would be a problem but pointed out that there were no proposed conditions designed to prevent it. He added that the key ongoing concern of residents was dispersal.

Mr Brown stated that the issues arising from the noise of patrons leaving the Grace Bar causing a public nuisance were exacerbated by the 'honeypot effect' in a very prominent location of the patrons attracting pedicabs, buskers and beatboxers. It also attracted shady characters. He referred to the Council's policy regarding the prevention of crime and disorder and the risk of patrons/customers being the victims of crime. The later the hour the premises were able to operate the greater the risk to patrons/customers. He also referred to Mrs Doyle's concerns regarding drug dealing in the area and the greater risks caused by a 02:00 terminal hour for sale of alcohol and music and dancing and a 02:30 closing time in the basement.

Mr Brown emphasised that residents were very clear in their view that the reduction in the overall capacity did not mitigate the increase in the operating hours for the basement. He made the point that even if it was accepted that there was a reduction in capacity of 175 patrons before 01:00, there was potentially up to 800 people at the premises after 01:00. Given the impact of an operation after 01:00, it was the residents' view that the extra hour should not be granted in the basement. He wished to differentiate between the Sophie's in Wellington Street and the current application. The overall capacity was approximately 360 at Wellington Street whereas it was proposed to have a capacity of 800 in Great Windmill Street. He added that if it was fair to give Sophie's the opportunity to operate then this should be until 01:00.

Mr Brown expressed the view that the application was exactly the type that the Council's policy seeks to prevent. It was not a restaurant in terms of the conditions being offered and could operate as a vertical drinking bar. He questioned the worth of the Applicant's overall offer as he doubted that there would be a capacity of 975 in the premises every night. Mr Brown spoke about the statistics in the Council's licensing policy and in particular that violence against the person offences rose significantly the later the terminal hour after midnight. There was greater impact for premises which are not restaurants and the operating schedule did not require 42-44 Great Windmill Street to operate as a restaurant.

Mr Brown wished to address the Sub-Committee on Mr Thomas' point that the premises would be better conditioned if the application was granted. He raised the matter that there was a 'no noise shall emanate' condition on the existing premises licence but this had not prevented noise from emanating from the premises and disturbing residents. He did appreciate that the Applicant was offering to reduce the level of noise and play music through a noise limiter.

The Applicant's acoustic report was referred to by Mr Brown. He said that the testing of the premises had taken place a few days before Grace Bar had closed down so it was possible that it may not have been as busy as when it was fully operational. Mr Brown believed that the acoustic report supported the view of residents in that it had found that 'the noise climate is mainly affected by the patron noise from the surrounding public houses and restaurants'.

Mr Brown concluded with the comments that residents recognised the existence of a 01:00 premises licence for the premises. They were seeking better conditions than were present on the existing licence. Any extension to the operating time in the basement was directly contrary to policy and should be refused.

The Sub-Committee heard from local residents. Mrs Doyle supported the comments of the Police and Mr Brown and stated that there was a huge anti-social behaviour problem, including drug related behaviour in Soho as opposed to the Leicester Square Impact Zone. She added that it was not possible to reduce the impact when patrons dispersed from the premises.

Mr Kosmider, representing Ms Bogatek, stated that since Grace Bar had closed

there had been an average decrease of 15 decibels in noise levels. He also made the point that he and residents he had spoken to had not received the letters from the Applicant which had been referred to in the Applicant's representations. He strongly objected to the proposed additional hour in the basement. There were concerns the premises could still operate as a nightclub and there would still be significant numbers of people on the premises. Mr Kosmider concurred with Mr Brown's comments that there was considerable noise nuisance after 01:00 at Grace Bar which had been exacerbated by the likes of pedicabs, buskers, beatboxers coming to the area, seeking financial gain. Pedicabs had caused obstruction to traffic and extra noise in the area. There was also anti-social behaviour by patrons after closing time. His daughter had been woken up during the night when Grace Bar had operated. His family had been able to live normal lives since Grace Bar had shut. Mr Kosmider had additional concerns with the current application that his flat was not far from the smoking area.

Mr Cybulak did not believe that the proposed reduction in capacity in the basement would assist as the greater issues were caused by noise from patrons on the ground floor. He expressed concerns about the noise from taxis and the potential for queuing at the premises.

Ms Bera stated that she had been woken up many times during the night when Grace Bar had been open. There had been noise from patrons dispersing and anti-social behaviour such as fighting taking place. The area was now more peaceful and she was more able to get an adequate level of sleep.

Mr Thomas was given the opportunity by the Sub-Committee to respond to the points made by the objectors. Mr Thomas wished to clarify, in response to questions from the Sub-Committee, that there would be no additional patrons on the ground floor after 01:30 (he was content for this to be the subject of a condition) and there would be 325 in the basement from 01:30 to 02:30. On sales and music and dancing in the basement would cease at 02:00. He added that the ground floor would be closed off to customers and it would not be staffed after 01:30.

Mr Thomas, in response to Police concerns about security arrangements, advised that the Applicant would potentially be willing to accept three security staff after 23:00. The Applicant would also be more willing to have security staff with high visibility jackets overseeing the smoking area but not at the entrance/exit because it would give the impression of a problem premises. The Applicant did not want to encourage the pedicabs, buskers and beatboxers.

Mr Thomas described the ground floor as a restaurant with a bar area. He had not offered an alcohol being ancillary to food condition as there was not one on the existing premises licence. The Applicant was potentially willing to accept a minimum number of seats being situated on the ground floor. He also made the point that the same food offer would be available in the basement as the ground floor.

The Sub-Committee was also informed by Mr Thomas that the Applicant would be willing to accept a maximum of 20 smokers outside the premises at all times

in the event the application was granted. The Applicant was also content for the capacities on the two floors to be assessed at a later date as requested by Mr Watson. The Applicant was proposing that the maximum capacity in the basement could not exceed 325 for the final hour of trading.

Mr Thomas continued to question the representations from residents in St James Tavern on the grounds that whilst they lived there, they also worked there. They also had patrons dispersing from and smoking outside their pub. He requested that the Sub-Committee give due weight to the fact that those who live next door also operate a pub.

Mr Thomas said that he could not give a cast iron guarantee that there would never be any queuing but that it would not be anything like Grace Bar. He also expressed the view that it was conjecture to suggest that the capacity did not reach 925 during weekdays at Grace Bar. It was potentially the case that there would not be 325 in the basement after 01:30 at Sophie's.

Mr Thomas sought to counter Mr Brown's point regarding the statistics in the Council's licensing policy showing that violence against the person offences rose significantly the later the terminal hour after midnight with the point that there would be reduced capacities in the basement prior to 01:00 which would mean fewer people being victims of crime then.

In response to a question from the Sub-Committee, Mr Thomas confirmed that there would be no off sales and no drinks taken outside.

Mr Brown wished to clarify that the objections were from residents who lived above the licensed area in St James Tavern. It was not an objection from the St James Tavern business.

The Sub-Committee read and listened carefully to all the representations and submissions received in respect of the application. Members initially made a judgement as to whether the application constituted an exception or not. The new application was contrary to policy but the case had been made by the Applicant that it should be considered an exception because the additional hour in the basement was offset by a reduction in the overall capacity from 975 to 800. The existing premises licence already enabled the Applicant to sell alcohol until 01:00 and close the premises at 01:30.

The Sub-Committee decided not to grant the additional hour in the basement as an exception to policy. The reason for this was that the Sub-Committee considered that there would still be up to 325 people at this location in the West End Cumulative Impact Area until 02:30. These customers would be able to drink alcohol without that consumption being ancillary to any other activity and this would more than likely undermine the licensing objectives. In reaching this decision, Members had noted the objections of residents and three Responsible Authorities. It was a concern to the Sub-Committee that whilst Mr Thomas was indicating that the ground floor in particular would operate as a restaurant with a bar and that food would be available in the basement, no conditions were being offered at any time requiring alcohol to be ancillary to food. The Sub-Committee appreciated that the existing premises licence did not require the Applicant to

	<p>provide alcohol ancillary to food. However, the Applicant in this case was asking for an exception to policy and the Sub-Committee had to assess the overall impact of patrons potentially drinking without food for an additional hour at the premises and then dispersing from the premises at 02:30. Members accepted the view of residents and articulated by Mr Brown that the reduction in the overall capacity did not mitigate the increase in the operating hours for the basement.</p> <p>The Sub-Committee gave thought to refusing the application given that it was a new application seeking late hours for licensable activities in a designated cumulative impact area with the application being contrary to policy. However, Members noted that the existing premises licence permitted the premises to provide on sales and music and dancing until 01:00 and late night refreshment until 01:30. Members took the view that it would be beneficial to all parties if the conditions on the premises licence were updated, including incorporating the Council's model conditions. The Sub-Committee therefore decided to grant the same hours for licensable activities on the ground and basement floors as were permitted on the existing premises licence. The Sub-Committee appreciated that it would be the Applicant's choice whether to operate the existing premises licence or operate the new one. It was the Members' assessment that the existing premises licence restricted the Applicant in terms of the style of operation that could be provided and it would be advantageous to have the new licence with the same hours as the existing one. In seeking to achieve the right balance, the Sub-Committee did not reduce the overall capacity from 975 to 800 which had been proposed by the Applicant in the event the Sub-Committee was minded to grant the basement operating until 02:30. The respective capacities for the two floors would be assessed by Environmental Health and the Senior Licensing Surveyor at a later date.</p> <p>The Sub-Committee also sought to strike the right balance on the conditions attached to the premises licence. Members did not impose many of the more restrictive proposed conditions on the Applicant. They did consider it necessary given the potential security and terrorist risks, to attach the Applicant's proposed condition that 'after 11pm, a minimum of 2 SIA licensed door supervisors shall be on duty at the premises when the basement is open for business. Any additional security shall be subject to a risk assessment'. Members were of the view that it was particularly important that the Applicant carried out the risk assessment. The Sub-Committee also decided it was necessary to attach the conditions that 'all door staff shall display their SIA licenses in yellow high visibility arm bands. All Door Staff engaged in guarding the entrances shall wear yellow high visibility jackets or tabbards after 22:00 hours or during the hours of darkness' and that 'all bags of persons entering the premises shall be searched by Security after 23:00 hours daily' as requested by the Police.</p>
2.	<p>Regulated Entertainment (Indoors) - Live Music, Recorded Music, Performances of Dance, Anything of a similar description, Recorded Music, Performances of Dance – GROUND FLOOR</p>
	<p>Monday to Saturday 10:00 to 01:00 Sunday 12:00 to 22:30</p>

	<p><u>Seasonal Variations / Non-standard Timings</u></p> <p>From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.</p> <p>02:30 (the following day) on Sundays immediately before Bank Holiday Mondays.</p> <p>An additional hour when British Summertime commences.</p>
	<p>Amendments to application advised at hearing:</p> <p>None.</p>
	<p>Decision (including reasons if different from those set out in report):</p> <p>The Sub-Committee granted the general hours sought on the ground floor as they were in keeping with the proposed hours for the existing premises licence. The proposed conditions were updated. The Sub-Committee did not grant the seasonal variations for the same reasons as they did not extend the operating hour in the basement.</p>
3.	Late Night Refreshment (Indoors) - BASEMENT
	<p>Monday to Saturday 23:00 to 02:30 Sunday 23:00 to 00:00</p> <p><u>Seasonal Variations / Non-standard Timings</u></p> <p>From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.</p> <p>02:30 (the following day) on Sundays immediately before Bank Holiday Mondays.</p> <p>An additional hour when British Summertime commences.</p>
	<p>Amendments to application advised at hearing:</p> <p>None.</p>
	<p>Decision (including reasons if different from those set out in report):</p> <p>The Sub-Committee granted the same hours as for the existing premises licence (Monday to Saturday 23:00 to 01:30). The proposed conditions were updated. See the reasons for decision in Section 1.</p>

4.	Late Night Refreshment (Indoors) – GROUND FLOOR
	<p>Monday to Saturday 23:00 to 01:30</p> <p><u>Seasonal Variations / Non-standard Timings</u></p> <p>From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.</p> <p>02:30 (the following day) on Sundays immediately before Bank Holiday Mondays.</p> <p>An additional hour when British Summertime commences.</p>
	<p>Amendments to application advised at hearing:</p> <p>None.</p>
	<p>Decision (including reasons if different from those set out in report):</p> <p>The Sub-Committee granted the general hours sought on the ground floor as they were in keeping with the proposed hours for the existing premises licence. The proposed conditions were updated. The Sub-Committee did not grant the seasonal variations for the same reasons as they did not extend the operating hour in the basement.</p>
5.	Sale by retail of alcohol (On and Off) - BASEMENT
	<p>Monday to Saturday 10:00 to 02:00 Sunday 12:00 to 23:30</p> <p><u>Seasonal Variations / Non-standard Timings</u></p> <p>From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.</p> <p>02:00 (the following day) on Sundays immediately before Bank Holiday Mondays.</p> <p>An additional hour when British Summertime commences.</p>
	<p>Amendments to application advised at hearing:</p> <p>Mr Thomas clarified that off sales had been withdrawn.</p>
	<p>Decision (including reasons if different from those set out in report):</p>

	<p>The Sub-Committee granted the same hours for on sales as for the existing premises licence (Monday to Saturday 10:00 to 01:00 and Sunday 12:00 to 22:30). The proposed conditions were updated. See the reasons for decision in Section 1.</p>
6.	<p>Sale by retail of alcohol (On and Off) – GROUND FLOOR</p>
	<p>Monday to Saturday 10:00 to 01:00 Sunday 12:00 to 22:30</p> <p><u>Seasonal Variations / Non-standard Timings</u></p> <p>From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.</p> <p>02:00 (the following day) on Sundays immediately before Bank Holiday Mondays.</p> <p>An additional hour when British Summertime commences.</p>
	<p>Amendments to application advised at hearing:</p> <p>None.</p>
	<p>Decision (including reasons if different from those set out in report):</p> <p>The Sub-Committee granted the general hours sought on the ground floor as they were in keeping with the proposed hours for the existing premises licence. The proposed conditions were updated. The Sub-Committee did not grant the seasonal variations for the same reasons as they did not extend the operating hour in the basement.</p>
7.	<p>Hours premises are open to the public</p>
	<p>Monday to Saturday 08:00 to 02:30 Sunday 08:00 to 00:00</p> <p><u>Seasonal Variations / Non-standard Timings</u></p> <p>From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.</p> <p>02:30 (the following day) on Sundays immediately before Bank Holiday Mondays.</p> <p>An additional hour when British Summertime commences.</p>

	<p>Amendments to application advised at hearing:</p> <p>None.</p>
	<p>Decision (including reasons if different from those set out in report):</p> <p>The Sub-Committee granted the closing time for the public as for the existing premises licence (Monday to Saturday 09:00 to 01:30 and Sunday 09:00 to 23:00). The proposed conditions were updated.</p>

Conditions attached to the Licence

Mandatory Conditions

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

5. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
6.
 - (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
 - (2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
 - (3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either—
 - (a) a holographic mark, or
 - (b) an ultraviolet feature.
7. The responsible person must ensure that—
 - (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—
 - (i) beer or cider: ½ pint;
 - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
 - (iii) still wine in a glass: 125 ml;
 - (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
 - (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

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

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

price.

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

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

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

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

Where -

(i) P is the permitted price,

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

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

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

(i) the holder of the premises licence,

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

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

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

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

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

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

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

9. All persons guarding premises against unauthorised access or occupation or against outbreaks of disorder or against damage (door supervisors) must be licensed by the Security Industry Authority.

Additional Conditions

10. Substantial food and non-intoxicating beverages, including drinking water, shall be available in all parts of the premises where alcohol is sold or supplied for consumption on the premises.
11. There shall be no sales of hot food or hot drink for consumption off the premises after 23.00 hours.
12. 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.
13. 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.
14. An incident log shall be kept at the premises, and made available on request to an authorised officer of the City Council or the Police. It must be completed within 24 hours of the incident and will record the following:
- (a) all crimes reported to the venue
 - (b) all ejections of patrons
 - (c) any complaints received concerning crime and disorder
 - (d) any incidents of disorder
 - (e) all seizures of drugs or offensive weapons
 - (f) any faults in the CCTV system
 - (g) any refusal of the sale of alcohol
 - (h) any visit by a relevant authority or emergency service.
15. No noise generated on the premises, or by its associated plant or equipment, shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
16. Loudspeakers shall not be located in the entrance lobby or outside the premises building.
17. All windows and external doors shall be kept closed after 23:00 hours, or at any time when regulated entertainment takes place, except for the immediate access and egress of persons.

18. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
19. Notices shall be prominently displayed at any area used for smoking requesting patrons to respect the needs of local residents and use the area quietly.
20. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
21. No waste or recyclable materials, including bottles, shall be moved, removed from or placed in outside areas between 23.00 hours and 07.00 hours on the following day.
22. No deliveries to the premises shall take place between 23.00 and 07.00 on the following day.
23. No collections of waste or recycling materials (including bottles) from the premises shall take place between 23.00 and 07.00 on the following day.
24. During the hours of operation of the premises, the licence holder shall ensure sufficient measures are in place to remove and prevent litter or waste arising or accumulating from customers in the area immediately outside the premises, and that this area shall be swept and or washed, and litter and sweepings collected and stored in accordance with the approved refuse storage arrangements by close of business.
25. A Challenge 21 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport or proof of age card with the PASS Hologram.
26. Patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, shall not be permitted to take drinks or glass containers with them.
27. No licensable activities shall take place at the premises until the premises has been assessed as satisfactory by the Environmental Health Consultation Team at which time this condition shall be removed from the Licence by the licensing authority.
28. No licensable activities shall take place at the premises until premises licence 17/00087/LIPT (or such other number subsequently issued for the premises) has been surrendered.
29. No licensable activities shall take at the premises until the capacity of the premises has been determined by the Environmental Health Consultation Team and the licensing authority has replaced this condition on the licence with a condition detailing the capacity so determined
30. There shall be no striptease or nudity, and all persons shall be decently attired

at all times, except when the premises are operating under the authority of a Sexual Entertainment Venue licence.

31. All emergency doors shall be maintained effectively self-closing and not held open other than by an approved device.
32. The edges of the treads of steps and stairways shall be maintained so as to be conspicuous.
33. Curtains and hangings shall be arranged so as not to obstruct emergency safety signs or emergency equipment.
34. All fabrics, curtains, drapes and similar features including materials used in finishing and furnishing shall be either non-combustible or be durably or inherently flame-retarded fabric. Any fabrics used in escape routes (other than foyers), entertainment areas or function rooms, shall be non-combustible.
35. Flashing or particularly bright lights on or outside the premises will not be permitted to cause a nuisance to nearby properties.
36. All door staff shall display their SIA licenses in yellow high visibility arm bands. All Door Staff engaged in guarding the entrances shall wear yellow high visibility jackets or tabbards after 22:00 hours or during the hours of darkness.
37. All bags of persons entering the premises shall be searched by Security after 23:00 hours daily.
38. The premises shall participate in PubWatch or other local crime reduction scheme approved by the Police.
39. Patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, shall be limited to 20 persons.
40. Save for emergencies, there shall be a personal licence holder on duty on the premises at all times when the premises are authorised to sell alcohol.
41. After 23.00 hours, a minimum of 2 SIA licensed door supervisors shall be on duty at the premises when the basement is open for business. Any additional security shall be subject to a risk assessment.
42. The sale of alcohol must be ancillary to the use of the premises for music and dancing or substantial refreshment.
43. There shall be no payment made by or on behalf of the licence holder to any person for bringing customers to the premises.
44. The premises licence holder shall ensure that any patrons queuing or smoking outside the premises do so in an orderly manner and are supervised by staff.
45. The approved arrangements at the premises, including means of escape

provisions, emergency warning equipment, the electrical installation and mechanical equipment, shall at all material times be maintained in good condition and full working order.

46. The means of escape provided for the premises shall be maintained unobstructed, free of trip hazards, be immediately available and clearly identified in accordance with the plans provided.
47. All emergency exit doors shall be available at all material times without the use of a key, code, card or similar means.

4 CAFE DYLAN DOG, 7 CRAVEN ROAD, W2

LICENSING SUB-COMMITTEE No. 3

Thursday 10th August 2017

Membership: Councillor Melvyn Caplan (Chairman), Councillor Murad Gassanly and Councillor Aziz Toki

Legal Adviser: Barry Panto
Policy Adviser: Chris Wroe
Committee Officer: Jonathan Deacon
Presenting Officer: Heidi Lawrance

Relevant Persons Objecting: Environmental Health, 4 local residents and 1 Residents' Association.

Present: Mr Fatih Gaygusuz (Applicant), Mr Dave Nevitt (Environmental Health), Mr Richard Brown (Solicitor, Citizens Advice Bureau Licensing Advice Project, representing South East Bayswater Residents' Association) and Mr John Zamit (South East Bayswater Residents' Association).

Café Dylan Dog, 7 Craven Road, W2 17/03167/LIPN

1.	Sale by retail of alcohol (On)
	Monday to Sunday 10:00 to 23:00
	Amendments to application advised at hearing: Mr Gaygusuz, the Applicant, amended the application so that on-sales on Sundays would be in keeping with the Council's Core Hours policy (midday to 22:30).
	Decision (including reasons if different from those set out in report):

	<p>The Sub-Committee granted the application, subject to conditions as set out below.</p> <p>Members of the Sub-Committee in granting the application took into account that the Applicant had agreed a number of measures with the parties who had submitted objections to the application which resulted in the application promoting the licensing objectives. These included Mr Gaygusuz amending the proposed hours on Sunday from 12:00 to 22:30 so that they were within the Council's Core Hours policy. He was also content to agree conditions with Environmental Health and the Police including that alcohol would be ancillary to table meals at the café. The Police had withdrawn their representation and Mr Nevitt advised that he had only maintained his representation in order to be able to assist the Sub-Committee should residents raise any concerns. When asked by the Sub-Committee, Mr Gaygusuz stated that he was content for alcohol to be ancillary to substantial table meals.</p> <p>Mr Gaygusuz had agreed to the South East Bayswater Residents' Association's request for restrictions on the delivery hours and that there should be no draft beer sold at the premises. These conditions along with the application being entirely within Core Hours addressed Mr Zamit's concerns. The Sub-Committee also noted the concerns expressed by the local residents, all of whom lived in Conduit Mews, but felt that the comments expressed generic concerns about the area (all of which were understandable). It was not considered that the granting of this application would add to the problems that they were experiencing simply because it would authorise the sale of alcohol. If the premises did cause any problems there was always the potential to review the licence.</p> <p>In response to a question from the Sub-Committee, Mr Gaygusuz clarified that there would be no alcohol sold in the external area.</p>
2.	Hours premises are open to the public
	Monday to Sunday 08:00 to 23:00
	<p>Amendments to application advised at hearing:</p> <p>None.</p>
	<p>Decision (including reasons if different from those set out in report):</p> <p>Granted, subject to conditions as set out below.</p>

Conditions attached to the Licence

Mandatory Conditions

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

(other than where that other person is unable to drink without assistance by reason of a disability).

5. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
6.
 - (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
 - (2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
 - (3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either—
 - (a) a holographic mark, or
 - (b) an ultraviolet feature.
7. The responsible person must ensure that—
 - (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—
 - (i) beer or cider: ½ pint;
 - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
 - (iii) still wine in a glass: 125 ml;
 - (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
 - (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

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

- 8(i) A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.
- 8(ii) For the purposes of the condition set out in paragraph 8(i) above -
- (a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;
 - (b) "permitted price" is the price found by applying the formula -

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

Where -

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

14 days beginning on the second day.

Additional Conditions

9. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition.
The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the entire 31 day period.
10. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises is open. This staff member must be able to provide a Police or authorised council officer copies of recent CCTV images or data with the absolute minimum of delay when requested.
11. A Challenge 21 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport or proof of age card with the PASS Hologram.
12. 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) any faults in the CCTV system (f) any refusal of the sale of alcohol (g) any visit by a relevant authority or emergency service.
13. The supply of alcohol at the premises shall only be to a person seated taking a substantial table meal there and for consumption by such a person as ancillary to their meal.
14. The supply of alcohol shall be by waiter or waitress service only.
15. Patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, shall not be permitted to take drinks or glass containers with them.
16. No noise generated on the premises, or by its associated plant or equipment, shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
17. Loudspeakers shall not be located in the entrance lobby or outside the premises building.
18. Notices shall be prominently displayed at all exits requesting patrons to respect

the needs of local residents and businesses and leave the area quietly.

19. No waste or recyclable materials, including bottles, shall be moved, removed from or placed in outside areas between 23.00 hours and 08.00 hours on the following day.
20. The number of persons permitted in the premises at any one time (excluding staff) shall not exceed 24 persons.
21. No licensable activities shall take place at the premises until the premises has been assessed as satisfactory by the Environmental Health Consultation Team at which time this condition shall be removed from the Licence by the licensing authority.
22. No deliveries to the premises shall take place between 21.00 and 07.00 on the following day.
23. There shall be no draft beer sold at the premises.

5 CHICK'N, 134 BAKER STREET, W1

LICENSING SUB-COMMITTEE No. 3

Thursday 10th August 2017

Membership: Councillor Melvyn Caplan (Chairman), Councillor Murad Gassanly and Councillor Aziz Toki

Legal Adviser: Barry Panto
Policy Adviser: Chris Wroe
Committee Officer: Jonathan Deacon
Presenting Officer: Heidi Lawrance

Relevant Persons Objecting: Environmental Health, Metropolitan Police and 1 local resident.

Present: Mr Jack Spiegler (Solicitor, representing the Applicant), Mr Paul Lester (Applicant Company). Mrs Sally Fabbriatore (Environmental Health) and PC Bryan Lewis (Metropolitan Police)

CHICK'N, 134 Baker Street, W1 17/06233/LIPN	
1.	Late Night Refreshment (Indoors and Outdoors)
	Monday to Sunday 23:00 to 23:30
	Amendments to application advised at hearing:

	None.
	<p>Decision (including reasons if different from those set out in report):</p> <p>Mr Lester, in response to a question from the Sub-Committee, clarified that it was now intended to open the premises at 07:00 rather than 06:00 in order to serve breakfasts.</p> <p>Mr Spiegler, representing the Applicant, advised that all of the conditions proposed by Environmental Health had been agreed by his client. The Applicant had also put forward the condition that alcohol would be ancillary to a table meal. He was requesting that aspects of the Council's model restaurant condition, MC66, were not applied to the premises licence because they were not in keeping with the style of premises envisaged and it would have a serious impact on the business operation. It was not intended, for instance, that there would be waiter or waitress service. Mr Spiegler placed emphasis on the establishment not being located in one of the Council's designated cumulative impact areas.</p> <p>Mr Spiegler also requested that the Police's proposed condition that there would be no further entry to customers after 23:30 and all customers would be off the premises by midnight was not attached to the premises licence. It was his understanding that the Police was content with the conditions proposed by Environmental Health but had also requested this additional condition.</p> <p>Mr Spiegler stated that the hours applied for were broadly consistent with the Council's Core Hours policy although there was an additional hour applied for on Sundays beyond Core Hours. He referred to there being no objections specifically on the hours applied for, including on Sundays. He also sought to address the matters raised by the local resident, Mr Spruzen, in his objection to the application. The Applicant had proposed Model Condition 42 which put an onus on the operator to 'remove and prevent litter or waste arising or accumulating from customers in the area immediately outside the premises, and that this area shall be swept and or washed, and litter and sweepings collected and stored in accordance with the approved refuse storage arrangements by close of business'. Mr Lester had also written to Mr Spruzen about the state of the art extract system being used which would prevent food odours emanating from the premises. The Applicant had offered Model Condition 87 that 'no fumes, steam or odours shall be emitted from the licensed premises so as to cause a nuisance to any persons living or carrying on business in the area where the premises are situated'.</p> <p>Mrs Fabbriatore confirmed that all of Environmental Health's proposed conditions had been agreed by the Applicant. She had maintained her representation in order to assist the Sub-Committee and the local resident in the event he had been in attendance at the hearing.</p> <p>PC Lewis stated that the Police had requested the condition that there would be</p>

	<p>no further entry to customers after 23:30 and all customers would be off the premises by midnight because of the added risk that intoxicated football supporters might attempt to enter the premises later in the evening. He did not have any specific concerns about the operation of the premises.</p> <p>In response to a question from Mr Wroe, Mr Spiegler agreed that there should be a condition that any alcohol sold in the external area where there were tables and chairs would be ancillary to a table meal in the event that the Sub-Committee was minded to grant the application.</p> <p>The Sub-Committee decided to grant the application, subject to conditions as set out below. Members noted that the establishment is located outside of the Council's designated cumulative impact areas. Alcohol would be ancillary to food and the Sub-Committee decided that it was appropriate and would not cause the Applicant any difficulties in terms of the style of the operation if the alcohol was ancillary to a substantial table meal. The Sub-Committee took the view that the Applicant would be able to operate the premises for the hours applied for and promote the licensing objectives. The Applicant had agreed conditions which promoted the licensing objectives, including those proposed by Environmental Health. Members had given some thought to whether to keep Sunday operations within Core Hours but had decided against this, particularly as there had been no representations objecting to this aspect. Members decided against attaching the Police condition as the operator would not be providing any licensable activities after 23:30 and were required to ensure that all customers would be off the premises by midnight. In the event of any problems the Police and the Applicant would be able to discuss alternative arrangements.</p> <p>The Applicant accepted that the external area was not to be conditioned as being part of the premises. It was agreed that the Applicant would submit new plans reflecting that the external area would be excluded from being part of the premises. All sales of alcohol to the outside area would be off-sales and subject to a condition that the consumption of the alcohol is ancillary to the taking of a substantial table meal. A capacity was put on the ground floor of 24 persons (excluding staff). The original condition proposed had included the external area.</p>
2.	Sale by retail of alcohol (On and Off)
	Monday to Sunday 10:00 to 23:30
	<p>Amendments to application advised at hearing:</p> <p>None.</p>
	<p>Decision (including reasons if different from those set out in report):</p> <p>Granted, subject to conditions as set out below (see reasons for decision in Section 1).</p>

3.	Hours premises are open to the public
	Monday to Sunday 06:00 to 00:00
	<p>Amendments to application advised at hearing:</p> <p>Mr Lester clarified to the Sub-Committee that it was now intended to open the premises to the public at 07:00 rather than 06:00 in order to serve breakfasts.</p>
	<p>Decision (including reasons if different from those set out in report):</p> <p>The Sub-Committee granted the application including the amended commencement hour, subject to conditions as set out below.</p>

Conditions attached to the Licence	
<u>Mandatory Conditions</u>	
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.	<p>(1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.</p> <p>(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises—</p>

- (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.

Additional Conditions

9. The supply of alcohol at the premises shall only be to a person taking a substantial table meal there and for consumption by such a person as ancillary to their meal.
10. Substantial food and non-intoxicating beverages, including drinking water shall be available in all parts of the premises where alcohol is sold or supplied for consumption on the premises.
11. The sale and supply of alcohol for consumption off the premises shall be restricted to (i) sales of alcohol in a sealed container ancillary to a takeaway meal or (ii) sales of alcohol for consumption by persons who are seated in an area appropriately authorised for the use of tables and chairs on the highway and bona fide taking a substantial table meal there, and where the consumption of alcohol by such persons is ancillary to taking such a meal.
12. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
13. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.

14. No waste or recyclable materials, including bottles, shall be moved, removed from or placed in outside areas between 23:00 and 08:00 hours on the following day.
15. During the hours of operation of the premises, the licence holder shall ensure sufficient measures are in place to remove and prevent litter or waste arising or accumulating from customers in the area immediately outside the premises and that this area shall be swept and or washed and litter and sweeping collected and stored in accordance with the approved refuse storage arrangements by close of business.
16. There shall be no striptease or nudity, and all persons shall be decently attired at all times, except when the premises are operating under the authority of a Sexual Entertainment Venue licence.
17. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team. All entry 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.
18. 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.
19. 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
 - (g) any refusal of the sale of alcohol
 - (h) any visit by a relevant authority or emergency service.
20. Before the premises opens to the public, the plans as deposited will be checked by the Environmental Health Consultation Team to ensure they are an accurate reflection of the premises constructed. Where the premises layout has changed during the course of construction new plans shall be provided to the LFEPA, Environmental Health Consultation Team, the Police and the Licensing Authority.

21. The Licence will have no effect until the works shown on the plans appended to the application (or subsequently substituted plans) have been assessed as satisfactory by the Environmental Health Consultation Team and this condition has been removed from the Licence.
22. There shall be no self-service of alcohol.
23. The number of persons consuming alcohol on the ground floor (excluding staff) shall not exceed 24 persons.
24. All outside tables and chairs shall be rendered unusable by 23.00 each day.
25. No noise generated on the premises, or by its associated plant or equipment, shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
26. No fumes, steam or odours shall be emitted from the licensed premises so as to cause a nuisance to any persons living or carrying on business in the area where the premises are situated.
27. A Challenge 25 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport or proof of age card with the PASS Hologram.

6 BURGER & LOBSTER, BASEMENT AND GROUND FLOOR, 6 LITTLE PORTLAND STREET, W1

LICENSING SUB-COMMITTEE No. 3

Thursday 10th August 2017

Membership: Councillor Melvyn Caplan (Chairman), Councillor Murad Gassanly and Councillor Aziz Toki

Legal Adviser: Barry Panto

Policy Adviser: Chris Wroe

Committee Officer: Jonathan Deacon

Presenting Officer: Heidi Lawrance

Relevant Persons Objecting: 1 local resident and 1 residents' association.

Present: Mr Thomas O'Maoileoin (Solicitor, representing the Applicant), Mr Stuart Matthew (Applicant Company), Mr Richard Brown (Solicitor, Citizens Advice Bureau Licensing Advice Project, representing Mr Yoram Blumann and Fitzrovia Neighbourhood Association) and Mr Yoram Blumann (local resident)

**Burger & Lobster, Basement And Ground Floor, 6 Little Portland Street, W1
17/05448/LIPV**

1.	Conditions being varied, added or removed						
	<table border="0"> <thead> <tr> <th data-bbox="268 241 352 280"><u>From</u></th><th data-bbox="842 241 884 280"><u>To</u></th></tr> </thead> <tbody> <tr> <td data-bbox="268 315 794 461"><u>Condition 17</u> – The number of persons permitted in the premises at any one time (excluding staff) shall not exceed 110.</td><td data-bbox="842 315 1377 499">The number of persons permitted in the premises at any one time (excluding staff) shall not exceed 110 persons, with no more than 25 persons within the hatched bar area.</td></tr> <tr> <td data-bbox="268 537 794 721"><u>Condition 29</u> – Notwithstanding conditions 11 and 12 alcohol may be supplied and consumed in the area hatched black by customers who are waiting to dine or who have dined.</td><td data-bbox="842 537 1366 683">After 19:00 alcohol may only be supplied and consumed in the area hatched black by customers who are waiting to dine or who have dined.</td></tr> </tbody> </table>	<u>From</u>	<u>To</u>	<u>Condition 17</u> – The number of persons permitted in the premises at any one time (excluding staff) shall not exceed 110.	The number of persons permitted in the premises at any one time (excluding staff) shall not exceed 110 persons, with no more than 25 persons within the hatched bar area.	<u>Condition 29</u> – Notwithstanding conditions 11 and 12 alcohol may be supplied and consumed in the area hatched black by customers who are waiting to dine or who have dined.	After 19:00 alcohol may only be supplied and consumed in the area hatched black by customers who are waiting to dine or who have dined.
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	<p>Amendments to application advised at hearing:</p> <p>See below.</p>						
	<p>Decision (including reasons if different from those set out in report):</p> <p>The Sub-Committee granted the application, subject to conditions as set out below.</p> <p>The original application was to allow the hatched area of the premises to be drink led up to 19.00 hours but for not more than 25 persons at any one time. Members of the Sub-Committee noted that there had been agreement between Mr O'Maoileoin, representing the Applicant and Mr Blumann, local resident. This had followed an e-mail being sent by Mr Brown, who was representing Mr Blumann and the Fitzrovia Neighbourhood Association, earlier in the week and discussions taking place between the parties on the morning of the hearing. As requested by Mr Blumann, Mr O'Maoileoin was offering to reduce the maximum number within the hatched bar area from 25 customers (in the proposed amendment to condition 17) to 20.</p> <p>Mr Blumann had also had concerns about vertical drinking in the hatched bar area at weekends when the street and surrounding area was less busy than during weekdays. Mr O'Maoileoin offered that there would be no use of the bar on Sundays and that on Saturdays the supply of alcohol to customers would be by waiter or waitress service only to customers who are seated. Mr Brown and Mr Blumann confirmed that this was acceptable to them. The aspect of the Applicant's proposed amendment to condition 29 would remain that 'after 19:00 alcohol may only be supplied and consumed in the area hatched black by customers who are waiting to dine or who have dined'.</p>						

The Applicant had also agreed with Mr Blumann and Mr Brown that two of the Council's model conditions would be attached to the premises licence. These were MC13 that 'loudspeakers shall not be located in the entrance lobby or outside the premises building' and MC24 that 'a direct telephone number for the manager at the premises shall be publicly available at all times the premises is open. This telephone number is to be made available to residents and businesses in the vicinity.

The Sub-Committee considered in granting the application that there had been no representations from the Responsible Authorities. The premises were located outside of the designated cumulative impact areas. There were also now no further objections from local residents. The Applicant had offered amendments to the proposed conditions and also two additional model conditions which promoted the licensing objectives. The intention of the existing condition 29 on the premises licence was to allow customers who were waiting to dine or who had already dined to consume alcohol in the area hatched black even though they would not be taking their table meal within that area. However, due to the drafting of that condition, its effect was to permit customers to have a drink without it being ancillary to food at all. The amendments offered by the Applicant provided some restrictions to the vertical drinking. The amended condition 17 attached by the Sub-Committee to the licence reflected that there would be a maximum of 20 customers in the hatched bar area at any one time. The amended condition 29 attached by the Sub-Committee to the licence reflected that 'after 19:00 on Monday to Saturday in the area hatched black on the premises plan alcohol may only be supplied to and consumed by customers who are waiting to dine or have dined at the premises, and on Saturday the supply of alcohol to those customers shall be by waiter or waitress service only to customers who are seated'. The hatched area could be used for the consumption of alcohol without a meal before 19.00 apart from on a Sunday. On Saturdays the supply of alcohol to customers throughout the premises would be by waiter or waitress service and only to customers who are seated.

In the final version of the conditions attached to this decision, condition 29 has been moved and appears as a new condition 13. Conditions 11 to 13 now collectively reflect how the premises can be used for the sale of alcohol.

Conditions attached to the Licence

Mandatory Conditions

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

request to customers where it is reasonably available.

6.
 - (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
 - (2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
 - (3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either—
 - (a) a holographic mark, or
 - (b) an ultraviolet feature.
7. The responsible person must ensure that—
 - (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—
 - (i) beer or cider: ½ pint;
 - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
 - (iii) still wine in a glass: 125 ml;
 - (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
 - (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

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

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

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

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

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

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

Where -

(i) P is the permitted price,

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

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

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

(i) the holder of the premises licence,

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

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

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

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

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

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

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

Additional Conditions

9. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of a Westminster Police Licensing Team. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Viewings of recordings shall be made available immediately upon the request of Police or authorised officer throughout the preceding 31 day period.
10. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises are open. This staff member shall be able to provide a Police or authorised officer copies of recent CCTV images or data with the absolute minimum of delay when requested.
11. Subject to conditions 12 and 13 below, the supply of alcohol at the premises shall only be by waiter or waitress service to a person seated taking a table meal there and for consumption by such a person as ancillary to their meal.
12. Condition 11 does not apply to the area hatched black before 19.00 on Monday to Saturday.
13. Notwithstanding condition 11, after 19:00 on Monday to Saturday in the area hatched black on the premises plan alcohol may be supplied to and consumed by customers who are waiting to dine or have dined at the premises, and on Saturday the supply of alcohol to those customers shall be by waiter or waitress service only to customers who are seated.
14. 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.
15. When open to patrons for the purpose of licensable activities, at least one personal licence holder (or a person with a letter of delegation) to be present at the premises.
16. All staff involved in the sale of alcohol shall receive training by the premises licence holder in relation to licensing law and a record shall be kept at the premises.

17. Substantial food and non-intoxicating beverages shall be available in all parts of the premises where alcohol is sold or supplied for consumption on the premises.
18. The number of persons permitted in the premises at any one time (excluding staff) shall not exceed 110 persons, with no more than 20 persons within the hatched bar area.
19. There shall be no striptease or nudity, and all persons shall be decently attired at all times.
20. No entertainment, performance, service, or exhibition involving nudity or sexual stimulation which would come within the definition of a sex establishment in Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 as amended by the Greater London Council (General Powers) Act 1986 (whether or not locally adopted), shall be provided.
21. No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
22. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and leave the area quietly.
23. Notices shall be prominently displayed at any area used for smoking requesting patrons to respect the needs of local residents and use the area quietly.
24. All windows and external doors shall be kept closed after 21:00 hours, or at any time when regulated entertainment takes place, except for the immediate access and egress of persons.
25. The pavement from the building line to the kerb edge immediately outside the premises, including gutter/channel at its junction with the kerb edge, shall be swept and or washed, and litter and sweepings collected and stored in accordance with the approved refuse storage arrangements.
26. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
27. No rubbish, including bottles, shall be moved, removed or placed in outside areas between 2300 hours and 0800 hours.
28. A proof of age scheme, such as Challenge 21, shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence or passport.
29. There shall be no take-away of hot food or hot drinks after 23.00 hours.
30. Loudspeakers shall not be located in the entrance lobby or outside the premises building.

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

7 BASEMENT, 86 QUEENSWAY, W2

LICENSING SUB-COMMITTEE No. 3

Thursday 10th August 2017

Membership: Councillor Melvyn Caplan (Chairman), Councillor Murad Gassanly and Councillor Aziz Toki

Legal Adviser: Barry Panto
Policy Adviser: Chris Wroe
Committee Officer: Jonathan Deacon
Presenting Officer: Heidi Lawrance

Relevant Persons Objecting: Environmental Health and Metropolitan Police.

Present: Mr Adam Gonna (Premises User and Event Manager), Mr Damian Gayle (Site Manager), Mr Wayne Thomas (Safety Officer and employee of Security Firm being used by Premises User), Mrs Sally Fabbricatore (Environmental Health) and PC Bryan Lewis (Metropolitan Police).

**Basement, 86 Queensway, W2
17/07842/LITENN (Temporary Event Notice)**

Proposal: The sale by retail of alcohol (on and off)

Event Period: 10:30 on 27th August to 20:00 on 28th August 2017

Decision:

The Premises User, Mr Gonna, had submitted a Temporary Event Notice for sale by retail of alcohol from 10:30 on 27 August until 20:00 on 28 August. Mr Gonna advised during the hearing that he was willing to address Environmental Health's and the Police's concerns regarding the proposed hours for the sale of alcohol. The hours would now be 10:30 to 19:00 on 27th August and 28th August. This would mean, as requested by the Responsible Authorities, that the licensable activity would cease at the same time as the closing time of 19:00 for the Carnival across the Bank Holiday weekend. Mr Gonna also informed the Sub-Committee that only off sales

would be provided. The original TEN had been for both on and off sales.

The Premises User had provided the documentation requested by Environmental Health and the Police, including the event management plan. Mr Gonna gave assurances that trading would take place on the private forecourt of the property (the frontage), there would be a maximum of 20 customers in front of the bar at any one time and that there would be at least two security staff on duty at any one time during trading hours.

The Sub-Committee does not have the power to amend the hours stated on TENS under the legislation. Modification is potentially possible if all the parties agree to it, including the Premises User, but that agreement has to be achieved before the hearing when the agreement then results in all objections being withdrawn. It was therefore agreed that the Premises User would withdraw the current TEN and submit a new TEN that would accurately reflect the agreement reached with the Police and Environmental Health. Mrs Fabbriatore and PC Lewis advised the Sub-Committee they would not object to the new TEN when it was due to be submitted the following day.

8 40 LEAMINGTON ROAD VILLAS, W11

LICENSING SUB-COMMITTEE No. 3

Thursday 10th August 2017

Membership: Councillor Melvyn Caplan (Chairman), Councillor Murad Gassanly and Councillor Aziz Toki

Legal Adviser: Barry Panto
Policy Adviser: Chris Wroe
Committee Officer: Jonathan Deacon
Presenting Officer: Heidi Lawrance

Relevant Persons Objecting: Environmental Health and Metropolitan Police.

Present: Mrs Mabel Akabah (Premises User) and Ms Angella Akabah (Daughter of Mrs Mabel Akabah), Mrs Sally Fabbriatore (Environmental Health) and PC Bryan Lewis (Metropolitan Police).

40 Leamington Road Villas, W11 17/07975/LITENN (Temporary Event Notice)

Proposal: The sale by retail of alcohol (off)

Event Period: 12:00 on 27th August 2017 to 19:00 on 28th August 2017.

Times of Licensable Activities: 12:00 to 19:00 on 27th August 2017 and 12:00 to 19:00 on 28th August 2017

Decision:

The Sub-Committee permitted the proposal for off-sales to be sold from a table in front of the property to proceed, noting that Environmental Health's and the Police's concerns had been addressed as the necessary documentation, including the Event Management Plan, had been provided by the Premises User, Mrs Akabah, with the Temporary Event Notice when it had been submitted. It was confirmed by the Responsible Authorities that they did not object to the proposed hours as they were in keeping with the closing time of 19:00 for the Carnival across the Bank Holiday weekend.

The Sub-Committee also noted, in allowing the off sales, that the Premises User and her family had sold alcohol at the premises over a number of years during the Notting Hill Carnival without any reported problems.

9 UNIT B, 118 WESTBOURNE GROVE, W11

LICENSING SUB-COMMITTEE No. 3

Thursday 10th August 2017

Membership: Councillor Melvyn Caplan (Chairman), Councillor Murad Gassanly and Councillor Aziz Toki

Legal Adviser: Barry Panto

Policy Adviser: Chris Wroe

Committee Officer: Jonathan Deacon

Presenting Officer: Heidi Lawrance

Relevant Persons Objecting: Environmental Health and Metropolitan Police.

Present: Mrs Sally Fabbricatore (Environmental Health) and PC Bryan Lewis (Metropolitan Police).

Unit B, 118 Westbourne Grove, W11 17/08504/LITENN (Temporary Event Notice)

Proposal: The sale by retail of alcohol (off)

Event Period: 10:00 on 27th August to 21:00 on 28th August 2017

Decision:

The Sub-Committee determined that the Licensing Authority would issue a counter notice to the Premises User, in accordance with Section 105 of the Licensing Act 2003.

The Sub-Committee had received a report which indicated that the Premises User had been notified of Environmental Health's and the Metropolitan Police's objections to the Temporary Event Notice. Whilst Mr Zainudini, the Premises User, had provided some information about the event such as advising Mrs Fabbricatore that he would be selling alcohol for consumption off the premises from an area of private

forecourt in front of his café, he had not addressed a number of the Responsible Authorities' concerns. They had therefore maintained their objections to the Temporary Event Notice ('TEN'). The objections included not providing an Event Management Plan which had been requested by Environmental Health and the Police and continuing to seek a terminal hour for off-sales of 21:00 on Sunday 27 August and Monday 28 August 2017.

Mrs Fabbriatore and PC Lewis explained to the Sub-Committee that they were making strong representations to all those who submitted TENs that they provide an Event Management Plan and also that they comply with licensable activities ceasing at the same time as the closing time of 19:00 for the Carnival across the Bank Holiday weekend.

The Sub-Committee noted that the Premises User had applied for and operated Temporary Event Notices at the premises during Notting Hill Carnival in previous years. However, the Premises User had not been forthcoming in responding to the security and public safety concerns of the Responsible Authorities. There was evidence in the report that Mr Zainudini had made a decision not to attend the Licensing Sub-Committee hearing and he chose not to represent himself or be represented at the hearing despite the concerns about the TEN. The Licensing Service informed the Sub-Committee that he had been advised of the hearing on Friday 4 August. The Sub-Committee considered that a hearing would have been a good opportunity for Mr Zainudini to fully appreciate the level of concerns and assess these concerns accordingly.

The Sub-Committee decided in determining that the Licensing Authority would issue a counter notice that it was necessary for Mr Zainudini to provide the correct documentation including the Event Management Plan and that in the event that the documentation was satisfactory to the Responsible Authorities, he then reduced the terminal hour for licensable activities to 19:00 on both 27 and 28 August 2017. It was also noted that the TEN presented to the Sub-Committee did not correctly identify the specific dates and times when the licensable activities were going to take place. As drafted it would have permitted licensable activities to take place between 21:00 hours on the Sunday evening and 10:00 hours on the Monday morning which was clearly unacceptable. The Sub-Committee did not have the power to amend the hours stated on the TEN. The Sub-Committee took into account that the Carnival presents a huge operational challenge for the Responsible Authorities and their request for a full Event Management Plan reflected heightened security and public safety, including crowd management, concerns.

The Sub-Committee had given consideration to whether the hearing should be adjourned given that Mr Zainudini was not present. However, Members decided that this was not an appropriate step as Mr Zainudini had clearly chosen not to attend and there was no indication that he would do so at a future date. Also there was a limited timeframe for TENs to be heard prior to the Notting Hill Carnival. Mr Zainudini might still have the opportunity to submit a late TEN but he would need to ensure that both the Police and Environmental Health Service were content with the notice in all respects (including the hours specified for licensable activities to take place and the provision of an acceptable Event Management Plan) as any objection to a late TEN would mean that the event could not take place.

10 ST JOHNS CHURCH, KILBURN LANE, W10 - 17/07192/LITENP

LICENSING SUB-COMMITTEE No. 3

Thursday 10th August 2017

Membership: Councillor Melvyn Caplan (Chairman), Councillor Murad Gassanly and Councillor Aziz Toki

Legal Adviser: Barry Panto

Policy Adviser: Chris Wroe

Committee Officer: Jonathan Deacon

Presenting Officer: Heidi Lawrance

Relevant Persons Objecting: Environmental Health and Metropolitan Police.

Present: Ms Laura McBean (Premises User for application 17/07192/LITENP) and Mr Edward Lee (Premises User for application 17/08146/LITENN), Mrs Sally Fabbriatore (Environmental Health) and PC Bryan Lewis (Metropolitan Police).

St John's Church, Kilburn Lane, W10

17/07192/LITENP and 17/08146/LITENN (2 Temporary Event Notices)

17/07192/LITENP

Proposal: The sale by retail of alcohol (on and off)

Event Period: 12:00 on 27th August 2017 to 19:00 on 28th August 2017

17/08146/LITENN

Proposal: Regulated Entertainment

Event Period: 12:00 on 27th August 2017 to 19:00 on 28th August 2017

Decision:

It was confirmed at the hearing that the Premises Users for the two Temporary Event Notices ('TENS') had responded to the Responsible Authorities' concerns. They had advised Environmental Health and the Police that the proposed hours for the sale of alcohol and regulated entertainment would be from 12:00 to 19:00 on 27th August and 28th August rather than for 31 hours continuously. This would mean, as requested by the Responsible Authorities, that the licensable activities would cease at the same time as the closing time of 19:00 for the Carnival across the Bank Holiday weekend. The Premises Users had provided an Event Management Plan and also had agreed undertakings in correspondence with Environmental Health.

The Sub-Committee does not have the power to amend the hours stated on TENS under the legislation. Modification is potentially possible if all the parties agree to it,

including the premises user, but that agreement has to be achieved before the hearing when the agreement then results in all objections being withdrawn. Mrs Fabbriatore and PC Lewis confirmed that they were content with the documentation that they received. It was agreed at the hearing that the two current TENs would be withdrawn and that one TEN for both the sale of alcohol and regulated entertainment would be submitted with the revised hours, event management plan and undertakings. Mrs Fabbriatore and PC Lewis advised the Sub-Committee they would not object to the new TEN when it was due to be submitted the following day.

11 ST JOHNS CHURCH, KILBURN LANE, W10 - 17/08146/LITENN

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