



CITY OF WESTMINSTER

# MINUTES

## Licensing Sub-Committee (2)

### MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (2)** Committee held on **Thursday 12th October, 2017**, Room 3.1, 3rd Floor, 5 Strand, London, WC2 5HR.

**Members Present:** Councillors Tim Mitchell (Chairman), Murad Gassanly and Rita Begum

#### 1 MEMBERSHIP

1.1 There were no changes to the membership.

#### 2 DECLARATIONS OF INTEREST

2.1 There were no declarations of interest.

#### 1 G-A-Y LATE, GROUND FLOOR, 5 GOSLETT YARD, WC2

#### LICENSING SUB-COMMITTEE No. 2

*Thursday 12<sup>th</sup> October 2017*

Membership: Councillor Tim Mitchell (Chairman), Councillor Murad Gassanly and Councillor Rita Begum

Legal Adviser: Barry Panto

Policy Adviser: Chris Wroe

Committee Officer: Tristan Fieldsend

Presenting Officer: Heidi Lawrance

Relevant Representations: Environmental Health, The Metropolitan Police, The Licensing Authority, Councillors Paul Church and Jonathan Glanz (West End Ward Councillors), Amy Lane (Night Czar), The Covent Garden Community Association, The Soho Society, one local resident and one interested party.

Present: Mr Craig Bayliss (Solicitor representing the applicant), Mr Jeremy Joseph (Applicant), Mr Anil Drayan (Environmental Health), Mr David Sycamore (Licensing Authority), PC Bryan Lewis (Metropolitan Police), Mr Richard Brown (Solicitor, Citizens Advice Bureau Licensing Advice Project –

representing The Soho Society and the Covent Garden Community Association), Mr Tim Lord (The Soho Society) and Mrs Doyle and Mr Tyler Thorne (local residents).

<b>G-A-Y Late, Ground Floor, 5 Goslett Yard, London, WC2H 0EE 17/08651/LIPV</b>	
<b>1. Exhibition of Films</b>	
<u>Current</u>	<u>Proposed</u>
Monday to Saturday: 09:00 to 03:00 Sunday: 12:00 to 03:00	Monday to Saturday: 09:00 to 04:00 Sunday: 12:00 to 04:00
Amendments to application advised at hearing:  None.	
Decision (including reasons if different from those set out in report):  The Sub-Committee considered an application by G-A-Y Group Limited for a variation of a premises licence in respect of G-A-Y Late, 5 Goslett Yard, London, WC2H 0EE.  The Licensing Officer provided an outline of the application to the Sub-Committee.  All parties were invited to make representations to the Sub-Committee in relation to the application. The parties responded to members' questions and were given an opportunity to ask questions of each other.  Mr Bayliss, representing the applicant, explained that the application before the Sub-Committee had primarily been made for commercial reasons. The premises was facing a rent and rate increase of approximately £100,000 which would have to be paid or the business would close. The applicant, Mr Jeremy Joseph, currently operated three licenced premises including G-A-Y Bar situated in Old Compton Street which acted as a feeder bar to G-A-Y Late. Allowing the premises to operate for an additional hour would generate extra income and help meet its financial commitments. It was recognised that commercial reasons were not usually considered reasons to make an application an exception to policy. However, the circumstances surrounding the premises were unique due to the nature of the operation and the importance of preserving LGBT venues in London. Since 2006 sixteen LGBT venues had closed within Westminster itself and the importance of ensuring the remaining venues were preserved was stressed so that they could continue to provide a safe environment for the LGBT community. Mr Baylis stressed the importance of the Equality Act when the Sub-Committee was making its decision as it was central to this application. He stated that it required local authorities to have regard to advancing equality of opportunity between persons and take steps to protect persons who share a relevant protected characteristic and persons who do not share it. Mr Bayliss advised that the Act also required local authorities to have a positive bias to	

people with protected characteristics and this would include preserving LGBT venues.

Mr Bayliss recognised the premises was located within a Cumulative Impact Area (CIA) but highlighted why the venue could be considered an exception to policy. G-A-Y Late was closely associated with Mr Joseph's other two venues and if one closed the other two would also have to. There was nothing to suggest that the premises was causing any problems and Environmental Health (EH) had received no noise complaints relating to the venue. Therefore, if there were no specific concerns the Sub-Committees overriding concern had to be the huge reduction in LGBT venues and it should therefore look at the application before it with a positive bias. If the request for an additional hour for licensable activities still caused concern, then the applicant would be willing to reduce the hours for licensable activities at G-A-Y Bar located in Old Compton Street by one hour.

PC Bryan Lewis, representing the Metropolitan Police, supported the CIA policy and stressed its importance. The crime figures for the premises were considered acceptable compared to similar types of operations and it was not considered a problem premises. Permitting the additional hour for opening and licensable activities was a cause for concern as Police resources were limited at this time and granting the application would make it more difficult to protect customers of the venue.

Mr Drayan, representing Environmental Health (EH), acknowledged the offer to reduce the hours at G-A-Y Bar in Old Compton in exchange for granting the additional hour at G-A-Y Late. Mr Drayan was unaware of the capacity at G-A-Y Bar but felt this concession made the application more acceptable in policy terms. G-A-Y Bar was located in a residential area whilst G-A-Y Late was located within a less residential area. With regards to noise breakout the premises was adequately soundproofed and the playing of music until 04:00 hours was not a concern. The main areas of concern related to managing the outside area of the premises and ensuring there was adequate dispersal of customers.

The Licensing Authority, represented by Mr Sycamore, maintained its representation as the application was contrary to MD2 of the Council's Licencing Policy. The premises was already operating outside core hours and extending this even further for seven days would increase levels of disturbance to residents, especially on Sundays where the Policy states they can expect reduced hours. Clarification was requested on why the hours requested for Sundays were so extensive. The application if granted would result in customers being on the street at potentially 04.45 hours seven days a week. How the CIA would be managed at this time was a concern. It was acknowledged that the premises was operated well but this was to be expected of any licenced premises within Westminster and was not a reason to be considered an exception to policy. The proposed reduction in hours at G-A-Y Bar was noted but the application for this reduction had not yet been received. The Sub-Committee had to decide if this reduction was enough to allow the extended hours at G-A-Y Late bearing in mind the CIA policy looked at the global and accumulative effects of a licence and not at just an individual premises.

Mr Brown from the Westminster Citizens Advice Bureau, representing The Soho

Soho Society and The Covent Garden Community Association, addressed the Sub-Committee. Both amenity societies acknowledged that G-A-Y Late provided a valuable service to the LGBT community and enhanced the diversity of nightlife within Soho. They recognised that the premises was well run and also noted the significant rent increase it faced. The application was however contrary to the Council's licensing policy. The applicant had stated that it required the additional hour in order for the operation to be viable yet very little evidence had been provided that this was the case. No business plans or financial figures had been provided to highlight what impact the rent increase would have and whether any alternative business models had been assessed. It was proposed to reduce hours for the premises at Old Compton Street in return for allowing the additional hour at G-A-Y Late. It was queried however how this would work in practice, especially as the policy recognised that problems resulting from licenced premises were more severe after 00:00, and also how this represented an exception to policy. Paragraph 2.4.1 of the policy set out the reasons why there was a CIA policy and the applicant had to address these reasons to be regarded as an exception within the specific policy context.

Mr Brown brought the Sub-Committee's attention to an application made by the same operator in 2016 when a proposed extension to hours was refused by the Sub-Committee. This application did not appear to be any different from the 2016 application. The amenity societies were not unsympathetic to the applicant's situation but did not regard the variation as a genuine exception to policy. If the Sub-Committee was minded to grant the application the reasons why it was granted need to be very specific as it would set a precedent and have a wider impact on the local community as more applications for extended hours could be expected.

Mr Lord, representing The Soho Society, had sympathy over the loss of LGBT venues but expressed concern that if the application was granted future applications requesting hours until 05:00 or more could be expected. Granting the additional hour would also have a significant impact on the amenity of local residents. Concern was also expressed that in the future a new operator could take over the licence and change the nature of the premises. The proposed reduction in hours at G-A-Y Bar was noted but as this offer had only been made at the hearing Mr Lord would not have the opportunity to inform the members of the Soho Society and gather their opinions.

Mr Thorne, a local resident, described how the area surrounding the premises was of a residential nature. Mr Thorne only lived thirty metres away from the entrance to the venue and other residents also lived nearby but within the borough of Camden. Mr Thorne expressed concern that granting the application would permit 400 people to be in the area until 04:00 potentially causing public nuisance. In March 2016 the applicant had submitted a similar application which had been refused by the Sub-Committee as it was contrary to the CIA policy. This application was virtually identical except commercial reasons had been cited this time as making it an exception. Levels of noise were a concern and it was stressed that the night tube did not operate midweek resulting in people staying in the area with subsequent associated increases in crime and public nuisance.

Mr Bayliss stressed the main reason the application had to be considered an exception to policy was that local authorities had a duty under the Equalities Act to have a positive bias to LGBT venues. The Police and EH were content with how the premises was operated, no noise complaints had been received including from local residents.

Mr Joseph, the applicant, addressed the Sub-Committee and explained how extra SIA staff had been employed to manage queues outside the venue. Alternative business models had been assessed including increasing the price of drinks and charging an entrance fee but these would not cover the £100,000 increase in rent and rates. It was not expected that customers would stay out longer than 04:00 so therefore it was not expected that any requests for additional hours in the future would be required. If G-A-Y Late had to close doubt was expressed that it would be replaced by another LGBT operation. It would also probably result in the applicant's other two venues having to close which would result in a total of two hundred employees losing their jobs. G-A-Y Late considered itself an integral part of the Soho community and hoped to remain so for the foreseeable future.

The Council's Legal Adviser clarified the Council's Licensing Policy and highlighted how the policy identified these types of premises as being likely to add to cumulative impact in the area. Therefore, for the Sub-Committee to grant the application clarity was requested on why granting an additional hour to this premises would not add to cumulative impact? Mr Bayliss explained that the Sub-Committee had to look at the individual application on its own merits. It had to take into account the evidence provided on how the premises operated and its likely effect on policy. The evidence was clear it was unlikely to add to the issues that gave rise to the adoption of the policy and would be less likely to add to cumulative impact.

The Council's Policy Adviser explained that if the application was dependent on reducing the hours at G-A-Y Bar it was suggested that this would be dealt with by a condition. The condition would require that the variation would have no effect until the application to reduce the hours at G-A-Y Bar had been granted. Mr Bayliss confirmed that if the application before the Sub-Committee was granted a minor variation for G-A-Y Bar would be submitted immediately.

In summary Mr Bayliss confirmed that the application was being made purely for commercial reasons and this shouldn't be considered a bar to considering it as an exception to policy.

In response to a question from the Sub-Committee Mr Joseph was unsure if the rent and rate increase would result in the venue closing. Different options on how to operate were being explored and it was possible that even if the Sub-Committee granted the additional hour it may not be used every night depending on how busy the venue was.

The Sub-Committee very carefully considered the application and spent significant time assessing whether granting the additional hour would add to cumulative impact in the area. When making its decision the Sub-Committee had regard to the Equalities Act but was mindful of its primary duty which was to

uphold and promote the licensing objectives. The Sub-Committee also had regard to the Council's Licensing Policy and was of the opinion that commercial reasons did not constitute a suitable reason for making a licenced premises an exception to policy. That was the main thrust of the case presented to the Licensing Sub-Committee.

Mr Baylis has placed considerable weight on the implications of the public sector equality duty under section 149 of the Equality Act 2010. This duty had already been highlighted in the report to the Sub-Committee. It was not considered that the LGBT community was being discriminated against in any way by the licensing process under the Licensing Act 2003. There were concerns about the number of LGBT premises that had closed but that did not mean that the LGBT community was being treated unfavourably. Many operators were in financial difficulty and it was important not to give an unfair commercial advantage to the operator of these premises. The sub-committee had regard to the Equalities Act and concluded that it was neither appropriate or necessary to treat the LGBT community more favourably than other users of licensed premises in determining this application under the Licensing Act. Indeed, the Licensing Sub-Committee noted the main drivers of closure of LGBT premises identified in the Urban Laboratory document presented by the applicant (at page 26 of the report). Most of those drivers could apply to any premises and especially any concerns about increases in rent and rates.

In the final analysis, the key issue for the Licensing Sub-Committee was whether the application could be granted as an exception to the Council's licensing policy so as to promote rather than undermine the licensing objectives. Those objecting to the application were clearly of the view that granting the applicant an additional hour for licensable activities would add to cumulative impact and would therefore undermine the licensing objectives. At no point did the applicant suggest that the LGBT community would behave differently when leaving the premises at 4 am than any other persons attending licensed venues.

The Sub-Committee acknowledged the premises was a unique LGBT venue and recognised the significant and positive contribution it played in the local LGBT community and the cultural life of Westminster. The applicant, Mr Joseph, was an experienced and well-respected operator and the premises was not a venue which caused concern as evidenced by the Police and EH. However, all premises were expected to be well run and not to cause problems within the immediate neighbourhood. The key issue was whether this application could be granted on the basis that it would not add to cumulative impact. The risk of closure of the premises did not meet that test even though such closure would add to the ever increasing numbers of LGBT premises that had closed. The only potentially valid reason that was given in that regard was the reduction in hours for licensable activities that was offered at the hearing in respect of the G-A-Y Bar in Old Compton Street.

The Sub-Committee considered that the applicant's offer to reduce the hours by one hour at the premises' nearby sister venue, G-A-Y Bar, located on Old Compton Street would ensure that the additional hour granted for these premises would not add to cumulative impact in the area. It was recognised that a

	<p>reduction in hours from 1 am to midnight might not be equivalent to a one-hour increase from 3.30 am to 4.30 am but the capacity at the G-A-Y Bar was 400 and it was described as a feeder bar for G-A-Y Late. There was a serious concern that the offer to reduce the hours at G-A-Y Bar had only been presented at the hearing as it hadn't given the objectors the opportunity to fully consider the potential implications. The Licensing Sub-Committee wanted to stress that this decision was a very marginal one but it was entirely based on the reduction in hours for the sister premises. It was not accepted that the use of the premises by the LGBT community contributed in any way to the conclusion that the application would not add to cumulative impact.</p> <p>The conditions on the licence, including an additional condition suggested by the applicant regarding the managing of the outside area, were considered appropriate and stringent enough to ensure the licensing objectives were upheld and promoted and minimise any impact to local residents.</p> <p>The Sub-Committee was concerned that granting the application would then allow any future operator to change the nature of the premises. Although it was not a factor in the decision reached, the members did note the concern expressed by the applicant regarding the continued use of the premises by the LGBT community. Therefore, to ensure it remained a LGBT venue contributing to the diverse Soho night life a condition would be attached to the licence to the effect that the provision of licensable activities at the premises was only allowed whilst the premises operated as a LGBT venue. A condition would also be placed on the licence stating that the variation would have no effect until the application to reduce the hours at the G-A-Y Bar had been submitted and granted.</p> <p>Having heard all the evidence, the Sub-Committee was satisfied that the application, as amended, would uphold and promote the licensing objectives. It was therefore agreed to grant the application accordingly.</p>				
<p><b>2.</b></p>	<p><b>Performance of Live Music</b></p> <table data-bbox="260 1397 1388 1552"> <thead> <tr> <th data-bbox="260 1397 821 1462"><u>Current</u></th> <th data-bbox="829 1397 1388 1462"><u>Proposed</u></th> </tr> </thead> <tbody> <tr> <td data-bbox="260 1469 821 1552">Monday to Saturday: 09:00 to 03:00 Sunday: 12:00 to 03:00</td> <td data-bbox="829 1469 1388 1552">Monday to Saturday: 09:00 to 04:00 Sunday: 12:00 to 04:00</td> </tr> </tbody> </table>	<u>Current</u>	<u>Proposed</u>	Monday to Saturday: 09:00 to 03:00 Sunday: 12:00 to 03:00	Monday to Saturday: 09:00 to 04:00 Sunday: 12:00 to 04:00
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Monday to Saturday: 09:00 to 03:00 Sunday: 12:00 to 03:00	Monday to Saturday: 09:00 to 04:00 Sunday: 12:00 to 04:00				
	<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>The application was granted, the reason for the decision is detailed in section 1.</p>				
<p><b>3.</b></p>	<p><b>Performance of Dance</b></p> <table data-bbox="260 1951 1388 1993"> <thead> <tr> <th data-bbox="260 1951 821 1993"><u>Current</u></th> <th data-bbox="829 1951 1388 1993"><u>Proposed</u></th> </tr> </thead> </table>	<u>Current</u>	<u>Proposed</u>		
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	Monday to Saturday: 09:00 to 03:00 Sunday: 12:00 to 03:00	Monday to Saturday: 09:00 to 04:00 Sunday: 12:00 to 04:00
	Amendments to application advised at hearing:  None.	
	Decision (including reasons if different from those set out in report):  The application was granted, the reason for the decision is detailed in section 1.	
<b>4.</b>	<b>Late Night Refreshment</b>	
	<u>Current</u>	<u>Proposed</u>
	Monday to Saturday: 23:00 to 03:30 Sunday: 23:00 to 03:00	Monday to Sunday: 23:00 to 04:30
	Amendments to application advised at hearing:  None.	
	Decision (including reasons if different from those set out in report):  The application was granted, the reason for the decision is detailed in section 1.	
<b>5.</b>	<b>Sale by Retail of Alcohol – On and Off Sales</b>	
	<u>Current</u>	<u>Proposed</u>
	Monday to Saturday: 10:00 to 03:00 Sunday: 12:00 to 03:00	Monday to Saturday: 10:00 to 04:00 Sunday: 12:00 to 04:00
	Amendments to application advised at hearing:  None.	
	Decision (including reasons if different from those set out in report):  The application was granted, the reason for the decision is detailed in section 1.	
<b>6.</b>	<b>Hours Premises Are Open to the Public</b>	
	<u>Current</u>	<u>Proposed</u>
	Monday to Saturday: 09:00 to 03:30 Sunday: 12:00 to 03:30	Monday to Saturday: 09:00 to 04:30 Sunday: 12:00 to 04:30
	Amendments to application advised at hearing:  None.	



	Decision (including reasons if different from those set out in report): The application was granted, the reason for the decision is detailed in section 1.	
<b>2.</b>	<b>Conditions Being Varied, Added or Removed</b>	
	<b>Current:</b>  <b>Condition 22</b>  There is to be no entry to the premises after 01:00 on Sundays except for Sundays immediately preceding a bank holiday and the Sunday when the Gay Pride Festival takes place.	<b>Proposed:</b>  To be deleted
	<b>Condition 27</b>  There shall be no entry after 03:00.	To be added.
	Amendments to application advised at hearing:  None.	
	Decision (including reasons if different from those set out in report):  The application was granted, the reason for the decision is detailed in section 1.	

<b>Conditions attached to the Licence</b>
<p><b><u>Mandatory Conditions</u></b></p> <p>1. No supply of alcohol may be made at a time when there is no designated premises supervisor in respect of this licence.</p> <p>2. No supply of alcohol may be made at a time when the designated premises supervisor does not hold a personal licence or the personal licence is suspended.</p> <p>3. Every supply of alcohol under this licence must be made or authorised by a person who holds a personal licence.</p> <p>4. (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.</p> <p>(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of</p>

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 subparagraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

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

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

9. Admission of children to the premises must be restricted in accordance with the film classification recommended by the British Board of Film Classification or recommended by this licensing authority as appropriate.

10. 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.

**Conditions Attached After a Hearing by the Licensing Authority**

11 This licence is subject to all the former Rules of Management for Places of Public Entertainment licensed by Westminster City Council, in force from 4 September 1998 and incorporating amendments agreed by the Council on 25 October 1999, 30 June 2000, 16 January 2001 and 1 October 2001

12. On New Year's Eve the premises can remain open for the purpose of providing regulated entertainment from the time when the provision of regulated entertainment must otherwise cease on New Year's Eve to the time when regulated entertainment can commence on New Year's Day (or until midnight on New Year's Eve where no regulated entertainment takes place on New Year's Day).

13. The number of people accommodated at any one time (excluding staff) shall not exceed 300.

14. Substantial food and suitable non-intoxicating beverages, including drinking water shall be available throughout permitted hours in all parts of the premises where intoxicating liquor is sold or supplied.

15. 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.

16. No payment to be made by or on behalf of the premises for distribution of flyers or tickets within public areas in the Licensing Districts of Westminster.

17. No person under fourteen shall be in the bar of the licensed premises during the permitted hours unless one of the following applies:

- (a) He is the child of the holder of the premises licence.
- (b) He resides in the premises, but is not employed there.
- (c) He is in the bar solely for the purpose of passing to or from some part of the premises which is not a bar and to or from which there is no other convenient means of access or egress,
- (d) The bar is in railway refreshment rooms or other premises constructed, fitted and intended to be used bona fide for any purpose to which the holding of the licence is ancillary.

18. If any entertainment is provided for children or if an entertainment is provided at which the majority of persons attending are children, then, if the number of children attending the entertainment exceeds 100, it shall be the duty of the holder of the premises licence:

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

19. The terminal hour for late night refreshment on New Year's Eve is extended to 05:00 on New Year's Day. On the week-end of the Gay Pride Festival, the terminal hour for the provision of late night refreshment is extended to 04.30 on the Sunday morning.

20. 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.

21. 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 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.

22. An incident log shall be kept at the premises, and made available on request to an authorised officer of the City Council or the Police, which will record the following:

- (a) all crimes reported to the venue
- (b) all ejections of patrons
- (c) any complaints received
- (d) any incidents of disorder

- (e) 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.

23. Admission for or by members shall be gained by use of a police approved scan system.

24. (a) Subject to the following paragraphs, the permitted hours for the sale of alcohol on weekdays shall commence at 10.00 and extend until 04.00 on the morning following except that –

- (i) the permitted hours shall end at 00.00 midnight on any day on which music and dancing is not provided after midnight; and
- (ii) on any day that music and dancing end between 00.00 midnight and 04.00 the permitted hours shall end when the music and dancing end.

- (a) On Sunday the permitted hours shall commence at 12:00 and extend until 04:00 on the following day.
- (b) The sale of alcohol must be ancillary to the use of the premises for music and dancing and substantial refreshment.
- (c) The permitted hours on New Year's Eve will extend to the start of permitted hours on the following day.

NOTE - The above restrictions do not prohibit:

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

expense, or the consumption of alcohol by persons so supplied;

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

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

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

26. Queuing outside the premises shall be restricted to a designated area located behind the barriers erected for this purpose.

27. Patrons permitted to temporarily leave and re-enter the premises to smoke shall be restricted to a designated smoking area behind the barriers erected for this purpose.

28. There shall be no entry to the premises after 03:00.

29. A minimum of 2 SIA door staff or management will patrol Goslett Yard and for 10 metres either side of the junction with Charing Cross Road in hi-visibility jackets and body worn video cameras in order to disperse patrons for 30 minutes after the terminal hour for licensable activities.

30. Licensable activities shall only be authorised under this licence whilst the premises operates as a LGBT venue.

30. Variation 17/08651/LIPV shall have no effect until the licencing hours at G-A-Y Bar located on Old Compton Street have been reduced by one hour (from 01.00 to midnight) and this condition will then be removed from the licence.

**2 KAZU RESTAURANTS 1 LTD, BASEMENT AND GROUND FLOOR, 61-63 BEAK STREET, W1 (VARIATION APPLICATION)**

**LICENSING SUB-COMMITTEE No. 2**

*Thursday 12<sup>th</sup> October 2017*

Membership: Councillor Tim Mitchell (Chairman), Councillor Murad Gassanly and Councillor Rita Begum

Legal Adviser: Barry Panto

Policy Adviser: Chris Wroe

Committee Officer: Tristan Fieldsend

Presenting Officer: Heidi Lawrence

Relevant Representations: Environmental Health, The Licensing Authority, Councillor Glenys Roberts, the Soho Society and six local residents.

Present: Mr Alan Thomas (Solicitor representing the Applicant), Mr Benjamin Goldkorn (Managing Director), Mrs Sally Fabbriatore (Environmental Health), Mr David Sycamore (The Licensing Authority), Mr Patrick Franco, Ms Liz Harold and Mr Bijan Seghatchian (local residents) and Mr Richard Brown (Solicitor, Citizens Advice Bureau Licensing Advice Project – representing local residents).

**Kazu restaurants 1 Ltd, Basement and Ground Floor, 61-63 Beak Street, London, W1F 9SL  
17/08781/LIPV**

**1. Layout Alteration**

The application seeks to vary the existing premises licences to incorporate the changes of layout. The changes include:

Ground Floor:

- Reposition access to the basement level
- Reconfiguration of fixed seating booths
- Removal of central staircase
- Inclusion of dispense bar counter and theatre kitchen counter
- Reconfiguration of kitchen layout

Basement:

- Reposition of WC facilities
- Reconfiguration of fixed seating booths
- Reconfiguration of back-of-house areas
- Inclusion of theatre kitchen and counter
- Inclusion of private dining room



	<p>Amendments to application advised at hearing:</p> <p>None.</p>
	<p>Decision (including reasons if different from those set out in report):</p> <p>The Sub-Committee considered an application by Kazu Restuarants 1 Ltd for a variation of a premises licence in respect of Basement and Ground Floor, 61-63 Beak Street, London, W1F 9SL.</p> <p>The Licensing Officer provided an outline of the two applications submitted to the Sub-Committee, one for a new premises licence (17/06730/LIPN) and the second for a variation (17/08781/LIPV).</p> <p>Following a discussion with all parties the Sub-Committee agreed to discuss both applications concurrently as the change in layout proposed in the variation application was the same for both applications.</p> <p>Mr Thomas, representing the applicant, provided details of the layout change to the Sub-Committee. With regards to the variation Mr Thomas explained that it had not been dealt with by way of a minor variation due to objections received. If it was granted however the hours, capacity and all the current conditions on the licence would remain unchanged.</p> <p>In terms of the new application, Mr Thomas highlighted that the change in layout proposed was exactly the same as the variation application. The application also proposed to extend the sale of alcohol and late night refreshment to core hours. It had originally been sought to permit a thirty minutes 'drinking up' time with regards to the opening hours but this had now been reduced in order to reflect the same hours permitted for licensable activities. If the application was granted the capacity of the premises would be reduced from 150 to 120 customers split over two floors. 60 customers would be located in the basement (an increase in capacity of 10 persons compared to the existing licence) and 60 on the ground floor (a decrease in capacity of 40 persons compared to the existing licence). Part of the application sought to refine the current conditions on the licence with no significant changes proposed. Several conditions had already been agreed with Environmental Health (EH) including the installation of a sound limiter at the premises and the surrender of the existing licence if the application was granted. The premises was not currently trading but a concept had been developed and the refurbishment works had commenced. The founder of the applicant company was Robin Lee a very experienced and renowned figure in the restaurant industry.</p> <p>Mr Goldkorn, the Managing Director of the premises, highlighted how the restaurant would offer high-end Japanese cuisine where it was envisaged customers would spend approximately £60-£80 per person. It was not a casual, takeaway style operation and all customers would be seated at all times. The premises was situated on Beak Street which Mr Thomas explained had recently seen a significant increase in the number of restaurants operating in this area with, conversely, a notable reduction in the number of bars. The operation would provide customers with waiter/waitress service and the premises had been</p>

granted A3 planning permission. It would operate as a restaurant however restaurant model condition 66 did not fit into the style of operation intended as the ground floor area would allow customers to drink alcohol without food. As the plans highlighted however the premises would not resemble a bar. The applicant was just seeking to operate as a restaurant whilst allowing a degree of flexibility on the ground floor, as was currently permitted on the existing licence. Substantial sound proofing had been undertaken at the venue and efforts had been made to engage with stakeholders to discuss the application. Issues raised in the representations about the building works undertaken were planning issues and were not a matter for the Sub-Committee. The application was not seeking to change the hours the extract and plant equipment was in use which was currently permitted until 00:00 under the planning permission.

Mr Thomas highlighted that a representation had not been received from the Police and he addressed some of the concerns raised by the residents. The premises had been licenced for at least twenty years representing a historic licencing footprint. The previous operation had been a loud bar and this application constituted an improvement to residents as the nature of the premises would minimise any noise disruption experienced by them. Concerns over the change in the staircase had also been raised however the application was not seeking to change its location. Also any issues of odour would be controlled through the conditions proposed. The application was seeking to operate within core hours and due to the restaurant nature of the operation was less likely to add to cumulative impact. The Council's Licensing Policy recognised that restaurants would have less impact on an area than bars or pubs. As the premises was proposing to vary its hours within core hours it was not necessary to prove the premises was an exception to Policy and its positive impact was reinforced through the proposed reduction in capacity and subsequent reduction in customers consuming alcohol.

Regarding the variation Mrs Fabbriatore, representing EH, stated that she was content with the toilet provision proposed. She had conducted a site visit and was satisfied with the means of escape available and the controls in place to ensure public safety. In terms of the new premises licence application the existing conditions and those proposed by EH, including a sound limiter condition, were considered appropriate. The reduction in capacity and the number of toilets proposed was also considered satisfactory. The premises had a full height extract system and no complaints had been received regarding this in the previous two years though it was recognised the premises had not been operating during this period. Proposed condition 26 prevented any odours emitting from the premises and this would help ensure it did not become a nuisance to residents. Once the premises did start operating if the extract proved a source of nuisance to residents then appropriate action would be taken by EH.

The Licensing Authority, represented by Mr Sycamore, confirmed the variation application was considered acceptable. In terms of the new premises licence application Mr Sycamore acknowledged that the basement area would have model restaurant condition 66 imposed on it and was therefore content that this aspect of the application was Policy compliant. However, the bar area on the ground floor which would allow customers to consume alcohol without food for a

longer period of time was a concern and had been considered to come under Policy PB2. The Sub-Committee therefore had to decide whether reducing the capacity of the premises, bearing in mind it would allow sixty people to consume alcohol on the premises for longer, constituted an exception to Policy.

Mr Brown from the Westminster Citizens Advice Bureau, represented local residents many of which had been living in the area for twenty years. The premises was located below these residential properties and several areas of the application were a cause for concern. It was felt repositioning access to the basement next door to the residential staircase could create disturbance and it was queried whether the removal of the central staircase could result in more customers using the basement area. The plans detailed that there would be two theatre kitchens on the premises and this raised concerns over odours emanating from the extract. Clarification was also requested on whether the seating would be fixed as the plans stated that it was not fixed and indicative only. The application for the new licence was said to benefit residents as even though the hours of operation would increase the capacity would actually decrease, unfortunately the residents affected did not consider that this was a benefit. Noise disturbance was of particular concern; a sound limiter condition had been agreed with EH however it was questioned why if the premises was going to operate as a high class restaurant would such a condition be required.

In terms of policy Mr Brown explained the residents view that although the ground floor could currently operate as a bar it would have to cease operating by 23:00 hours which provided some comfort. If the hours were extended, then the churn of customers to a later hour could create the potential for more disturbance. Mr Brown outlined the main policy areas which were relevant to the application (and specifically drew the members' attention to policy PN1 and paragraph 2.2.11 of the policy statement) and how the playing of music could cause nuisance. Smoking was also highlighted as a potential nuisance and no conditions had been proposed regarding this. In summary if the Sub-Committee was minded to grant the change in layout the residents requested that the extension in hours be refused.

Mr Seghatchian, a local resident, explained how he had lived above the premises for a significant period of time. He detailed the challenges of living in Soho with a young family due to the noise from deliveries, noise from extract equipment and customers standing in the street talking until late in the evening. Currently there was comfort that customers would have to leave the premises by 23:30 but if this was extended, even by thirty minutes, would have a significant effect on residential amenity. With regards to the plans there was ambiguity over the existing stairwell and whether it would create more floor space for customers to congregate at the front of the building. Larger extract and plant equipment would be required to service the premises and this would be located close to Mr Seghatchian's bedroom window which would cause disturbance, especially if the premises also opened at 08:00 hours. If the Sub-Committee was minded to grant the application a condition restricting customers smoking outside the premises was requested. Mr Seghatchian wanted the premises to succeed but the applicant had to appreciate the concerns of local residents.

Mr Franco, a local resident, was of the opinion that reducing the capacity of the

premises did not mitigate the longer hours requested. People were the primary causes of noise at licenced premises and by allowing them to access the premises and congregate until later in the evening would increase disturbance to residents. The expected increase in odours and noise from extract equipment would also have a negative effect on residents' amenity as their bedrooms were situated close to where the extract was located. If the Sub-Committee was minded to grant the application a condition ensuring all plant equipment met the Council's noise guidelines should be imposed. The change in layout was also of concern as it moved the nexus of the restaurant closer to the residential communal areas. Mr Franco provided examples of the severe disturbance residents had already experienced from workmen refurbishing the premises.

Ms Harold, a local resident, informed the Sub-Committee that she had lived at the property for eighteen years. Ms Harold had formed a good relationship with the previous licence holders but since the current applicant had taken over she had experienced many problems, especially since the refurbishment of the premises had commenced. The longer hours requested would create further problems and the Sub-Committee was requested to refuse both applications.

The Council's Policy Adviser noted that the current capacity of the venue was one hundred and fifty customers including staff; however, the proposed capacity was one hundred and twenty customers excluding staff. The proposed reduction was therefore potentially not as large as first appeared and the applicant was asked to address this issue. Mr Thomas explained that there would be no more than twenty staff on the premises so this was still considered a significant reduction in capacity.

Mr Thomas, highlighted how the original hours requested for the premises to be open had been reduced in recognition of the representations received and these hours were now compliant with the Council's core hours' policy. The applicant had invested significantly in modernising the premises and whilst the sensitivities of the disruption caused by the building works was acknowledged these were irrelevant to the application before the Sub-Committee. The development of the staircase would simply provide a new entrance to the basement and with the acoustic work undertaken would not provide any disturbance to residents. Concerns over the plant equipment was noted however discussions regarding this were still on-going and any changes would eventually have to be approved by EH who would ensure they met all relevant criteria. A condition had also been proposed which would prevent any odours emanating from the premises extract equipment. It was confirmed that all seating on the premises would be fixed and the applicant was content for this to be conditioned on the licence. What was proposed would benefit residents as the premises was moving away from being a noisy bar to becoming a high class restaurant. It was recognised that the ground floor could operate as a bar area, however the nature of the premises would mean disturbance to residents would decrease. With regards to customer churn it was expected that customers would spend approximately two hours at the premises and it was not envisaged that this would be an issue. Mr Goldkorn provided further information on the concept of the premises and explained that if the hours requested were not granted then it would struggle to operate financially. The recent building works had obviously been frustrating to residents but it was hoped the premises would become a good neighbour in the local area.

Mr Thomas explained the problem of introducing a smoking condition on to the licence. The pavement outside the premises was narrow and the street was very busy making it difficult to distinguish if smokers were customers of the premises. Also, as the premises would operate as restaurant customers tended to smoke less than those frequenting pubs or bars. In terms of noise levels experienced by residents the premises should generate less noise than the previous operator but the premises was located in a very busy area and residents were already subject to high ambient noise levels. Mr Goldkorn informed the Sub-Committee that the nature of the premises would not encourage any loitering or queuing of customers outside and would actually improve the current streetscape. Mr Goldkorn presented the Sub-Committee with pictures and drawings of the proposed design of the premises.

The Sub-Committee carefully considered both applications before it. Sympathy was expressed to the residents over the on-going disruption they had experienced over the last two years whilst the premises was being refurbished. Concerning the application for a new premises licence the Sub-Committee noted that in terms of the hours requested what was being proposed was an additional thirty minutes to the current licence to allow the sale and consumption of alcohol on Mondays to Thursdays and an additional hour on Fridays and Saturdays. This was in line with the Council's core hours' policy which also identified restaurants as having less cumulative impact in an area than bars and pubs. The Sub-Committee considered this acceptable for the area bearing in mind also that the capacity of the premises was being reduced (albeit by not as many persons as had originally been envisaged).

With regard to the application for a new licence, it was recognised by the Licensing Sub-Committee that there was an existing licence and it was therefore prepared to interpret policy CP1 on the basis that this new application was equivalent, in actual terms, to an application to vary hours within core hours which meant that there was not a policy to refuse the application.

The conditions proposed by the applicant were considered appropriate to uphold and promote the licensing objectives. In particular, the conditions preventing any noise or odour to be generated from the premises provided reassurance that this would address residents' concerns on these matters. To provide further protection to residents' model condition 11 was added to the licence, as agreed with EH, to ensure a sound limiter was installed at the premises. Model condition 41 was also imposed to ensure a substantial food offer was available where alcohol was sold. Finally, a model condition relating to smoking was added so that the applicant would have to ensure any customers leaving the premises to smoke would not cause any disturbance or obstruct the public highway. The Sub-Committee was of the opinion that these would put controls in place to ensure there was no loss of amenity to residents. The local residents were reminded that if they did experience any nuisance or disturbance from the premises that they could always instigate review proceedings. Having heard all the evidence, the Sub-Committee was satisfied that the application for a new premises licence would not add to cumulative impact in the area and would uphold and promote the licensing objectives. The Sub-Committee therefore granted the application accordingly.

	<p>Following the granting of the new premises licence, which included the change in layout, the applicant agreed to withdraw the variation application (17/08781/LIPV).</p>
<b>2.</b>	<p><b>Conditions Being Added</b></p> <p>The variation of this premises licence (17/08781/LIPV) will have no effect until the premises have been assessed as satisfactory by the Environmental Health Consultation Team at which time this condition shall be removed from this licence by the licensing authority.</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 application was withdrawn by the applicant, see reasons for decision in Section 1.</p>

**3 KAZU RESTAURANTS 1 LTD, BASEMENT AND GROUND FLOOR, 61-63 BEAK STREET, W1 (NEW APPLICATION)**

**LICENSING SUB-COMMITTEE No. 2**

*Thursday 12<sup>th</sup> October 2017*

Membership: Councillor Tim Mitchell (Chairman), Councillor Murad Gassanly and Councillor Rita Begum

Legal Adviser: Barry Panto

Policy Adviser: Chris Wroe

Committee Officer: Tristan Fieldsend

Presenting Officer: Heidi Lawrence

Relevant Representations: Environmental Health, The Licensing Authority, Councillor Glenys Roberts, the Soho Society and six local residents.

Present: Mr Alan Thomas (Solicitor representing the Applicant), Mr Benjamin Goldkorn (Managing Director), Mrs Sally Fabbriatore (Environmental Health), Mr David Sycamore (The Licensing Authority), Mr Patrick Franco, Ms Liz Harold and Mr Bijan Seghatchian (local residents) and Mr Richard Brown (Solicitor, Citizens Advice Bureau Licensing Advice Project – representing local residents).

<b>Kazu restaurants 1 Ltd, Basement and Ground Floor, 61-63 Beak Street, London, W1F 9SL 17/06730/LIPN</b>	
<b>1.</b>	<b>Late Night Refreshment – Indoors</b>  Monday to Thursday: 23:00 to 23:30 Friday to Saturday: 23:00 to 00:00  <b>Seasonal Variations/Non-Standard Timings:</b>  From the end of permitted hours on New Year’s Eve to the start of permitted hours on New Year’s Day.  On Sundays immediately prior to Bank Holidays to 00:00.
	Amendments to application advised at hearing:  None.
	Decision (including reasons if different from those set out in report):  The Sub-Committee considered an application by Kazu Restuarants 1 Ltd for a new premises licence in respect of Basement and Ground Floor, 61-63 Beak Street, London, W1F 9SL.

The Licensing Officer provided an outline of the two applications submitted to the Sub-Committee, one for a new premises licence (17/06730/LIPN) and the second for a variation (17/08781/LIPV).

Following a discussion with all parties the Sub-Committee agreed to discuss both applications concurrently as the change in layout proposed in the variation application was the same for both applications.

Mr Thomas, representing the applicant, provided details of the layout change to the Sub-Committee. With regards to the variation Mr Thomas explained that it had not been dealt with by way of a minor variation due to objections received. If it was granted however the hours, capacity and all the current conditions on the licence would remain unchanged.

In terms of the new application, Mr Thomas highlighted that the change in layout proposed was exactly the same as the variation application. The application also proposed to extend the sale of alcohol and late night refreshment to core hours. It had originally been sought to permit a thirty minutes 'drinking up' time with regards to the opening hours but this had now been reduced in order to reflect the same hours permitted for licensable activities. If the application was granted the capacity of the premises would be reduced from 150 to 120 customers split over two floors. 60 customers would be located in the basement (an increase in capacity of 10 persons compared to the existing licence) and 60 on the ground floor (a decrease in capacity of 40 persons compared to the existing licence). Part of the application sought to refine the current conditions on the licence with no significant changes proposed. Several conditions had already been agreed with Environmental Health (EH) including the installation of a sound limiter at the premises and the surrender of the existing licence if the application was granted. The premises was not currently trading but a concept had been developed and the refurbishment works had commenced. The founder of the applicant company was Robin Lee a very experienced and renowned figure in the restaurant industry.

Mr Goldkorn, the Managing Director of the premises, highlighted how the restaurant would offer high-end Japanese cuisine where it was envisaged customers would spend approximately £60-£80 per person. It was not a casual, takeaway style operation and all customers would be seated at all times. The premises was situated on Beak Street which Mr Thomas explained had recently seen a significant increase in the number of restaurants operating in this area with, conversely, a notable reduction in the number of bars. The operation would provide customers with waiter/waitress service and the premises had been granted A3 planning permission. It would operate as a restaurant however restaurant model condition 66 did not fit into the style of operation intended as the ground floor area would allow customers to drink alcohol without food. As the plans highlighted however the premises would not resemble a bar. The applicant was just seeking to operate as a restaurant whilst allowing a degree of flexibility on the ground floor, as was currently permitted on the existing licence. Substantial sound proofing had been undertaken at the venue and efforts had been made to engage with stakeholders to discuss the application. Issues raised in the representations about the building works undertaken were planning issues and were not a matter for the Sub-Committee. The application was not seeking



to change the hours the extract and plant equipment was in use which was currently permitted until 00:00 under the planning permission.

Mr Thomas highlighted that a representation had not been received from the Police and he addressed some of the concerns raised by the residents. The premises had been licenced for at least twenty years representing a historic licencing footprint. The previous operation had been a loud bar and this application constituted an improvement to residents as the nature of the premises would minimise any noise disruption experienced by them. Concerns over the change in the staircase had also been raised however the application was not seeking to change its location. Also any issues of odour would be controlled through the conditions proposed. The application was seeking to operate within core hours and due to the restaurant nature of the operation was less likely to add to cumulative impact. The Council's Licensing Policy recognised that restaurants would have less impact on an area than bars or pubs. As the premises was proposing to vary its hours within core hours it was not necessary to prove the premises was an exception to Policy and its positive impact was reinforced through the proposed reduction in capacity and subsequent reduction in customers consuming alcohol.

Regarding the variation Mrs Fabbriatore, representing EH, stated that she was content with the toilet provision proposed. She had conducted a site visit and was satisfied with the means of escape available and the controls in place to ensure public safety. In terms of the new premises licence application the existing conditions and those proposed by EH, including a sound limiter condition, were considered appropriate. The reduction in capacity and the number of toilets proposed was also considered satisfactory. The premises had a full height extract system and no complaints had been received regarding this in the previous two years though it was recognised the premises had not been operating during this period. Proposed condition 26 prevented any odours emitting from the premises and this would help ensure it did not become a nuisance to residents. Once the premises did start operating if the extract proved a source of nuisance to residents then appropriate action would be taken by EH.

The Licensing Authority, represented by Mr Sycamore, confirmed the variation application was considered acceptable. In terms of the new premises licence application Mr Sycamore acknowledged that the basement area would have model restaurant condition 66 imposed on it and was therefore content that this aspect of the application was Policy compliant. However, the bar area on the ground floor which would allow customers to consume alcohol without food for a longer period of time was a concern and had been considered to come under Policy PB2. The Sub-Committee therefore had to decide whether reducing the capacity of the premises, bearing in mind it would allow sixty people to consume alcohol on the premises for longer, constituted an exception to Policy.

Mr Brown from the Westminster Citizens Advice Bureau, represented local residents many of which had been living in the area for twenty years. The premises was located below these residential properties and several areas of the application were a cause for concern. It was felt repositioning access to the basement next door to the residential staircase could create disturbance and it

was queried whether the removal of the central staircase could result in more customers using the basement area. The plans detailed that there would be two theatre kitchens on the premises and this raised concerns over odours emanating from the extract. Clarification was also requested on whether the seating would be fixed as the plans stated that it was not fixed and indicative only. The application for the new licence was said to benefit residents as even though the hours of operation would increase the capacity would actually decrease, unfortunately the residents affected did not consider that this was a benefit. Noise disturbance was of particular concern; a sound limiter condition had been agreed with EH however it was questioned why if the premises was going to operate as a high class restaurant would such a condition be required.

In terms of policy Mr Brown explained the residents view that although the ground floor could currently operate as a bar it would have to cease operating by 23:00 hours which provided some comfort. If the hours were extended, then the churn of customers to a later hour could create the potential for more disturbance. Mr Brown outlined the main policy areas which were relevant to the application (and specifically drew the members' attention to policy PN1 and paragraph 2.2.11 of the policy statement) and how the playing of music could cause nuisance. Smoking was also highlighted as a potential nuisance and no conditions had been proposed regarding this. In summary if the Sub-Committee was minded to grant the change in layout the residents requested that the extension in hours be refused.

Mr Seghatchian, a local resident, explained how he had lived above the premises for a significant period of time. He detailed the challenges of living in Soho with a young family due to the noise from deliveries, noise from extract equipment and customers standing in the street talking until late in the evening. Currently there was comfort that customers would have to leave the premises by 23:30 but if this was extended, even by thirty minutes, would have a significant effect on residential amenity. With regards to the plans there was ambiguity over the existing stairwell and whether it would create more floor space for customers to congregate at the front of the building. Larger extract and plant equipment would be required to service the premises and this would be located close to Mr Seghatchian's bedroom window which would cause disturbance, especially if the premises also opened at 08:00 hours. If the Sub-Committee was minded to grant the application a condition restricting customers smoking outside the premises was requested. Mr Seghatchian wanted the premises to succeed but the applicant had to appreciate the concerns of local residents.

Mr Franco, a local resident, was of the opinion that reducing the capacity of the premises did not mitigate the longer hours requested. People were the primary causes of noise at licenced premises and by allowing them to access the premises and congregate until later in the evening would increase disturbance to residents. The expected increase in odours and noise from extract equipment would also have a negative effect on residents' amenity as their bedrooms were situated close to where the extract was located. If the Sub-Committee was minded to grant the application a condition ensuring all plant equipment met the Council's noise guidelines should be imposed. The change in layout was also of concern as it moved the nexus of the restaurant closer to the residential communal areas. Mr Franco provided examples of the severe disturbance

residents had already experienced from workmen refurbishing the premises.

Ms Harold, a local resident, informed the Sub-Committee that she had lived at the property for eighteen years. Ms Harold had formed a good relationship with the previous licence holders but since the current applicant had taken over she had experienced many problems, especially since the refurbishment of the premises had commenced. The longer hours requested would create further problems and the Sub-Committee was requested to refuse both applications.

The Council's Policy Adviser noted that the current capacity of the venue was one hundred and fifty customers including staff; however, the proposed capacity was one hundred and twenty customers excluding staff. The proposed reduction was therefore potentially not as large as first appeared and the applicant was asked to address this issue. Mr Thomas explained that there would be no more than twenty staff on the premises so this was still considered a significant reduction in capacity.

Mr Thomas, highlighted how the original hours requested for the premises to be open had been reduced in recognition of the representations received and these hours were now compliant with the Council's core hours' policy. The applicant had invested significantly in modernising the premises and whilst the sensitivities of the disruption caused by the building works was acknowledged these were irrelevant to the application before the Sub-Committee. The development of the staircase would simply provide a new entrance to the basement and with the acoustic work undertaken would not provide any disturbance to residents. Concerns over the plant equipment was noted however discussions regarding this were still on-going and any changes would eventually have to be approved by EH who would ensure they met all relevant criteria. A condition had also been proposed which would prevent any odours emanating from the premises extract equipment. It was confirmed that all seating on the premises would be fixed and the applicant was content for this to be conditioned on the licence. What was proposed would benefit residents as the premises was moving away from being a noisy bar to becoming a high class restaurant. It was recognised that the ground floor could operate as a bar area, however the nature of the premises would mean disturbance to residents would decrease. With regards to customer churn it was expected that customers would spend approximately two hours at the premises and it was not envisaged that this would be an issue. Mr Goldkorn provided further information on the concept of the premises and explained that if the hours requested were not granted then it would struggle to operate financially. The recent building works had obviously been frustrating to residents but it was hoped the premises would become a good neighbour in the local area.

Mr Thomas explained the problem of introducing a smoking condition on to the licence. The pavement outside the premises was narrow and the street was very busy making it difficult to distinguish if smokers were customers of the premises. Also, as the premises would operate as restaurant customers tended to smoke less than those frequenting pubs or bars. In terms of noise levels experienced by residents the premises should generate less noise than the previous operator but the premises was located in a very busy area and residents were already subject to high ambient noise levels. Mr Goldkorn informed the Sub-Committee that the nature of the premises would not encourage any loitering or queuing of

	<p>customers outside and would actually improve the current streetscape. Mr Goldkorn presented the Sub-Committee with pictures and drawings of the proposed design of the premises.</p> <p>The Sub-Committee carefully considered both applications before it. Sympathy was expressed to the residents over the on-going disruption they had experienced over the last two years whilst the premises was being refurbished. Concerning the application for a new premises licence the Sub-Committee noted that in terms of the hours requested what was being proposed was an additional thirty minutes to the current licence to allow the sale and consumption of alcohol on Mondays to Thursdays and an additional hour on Fridays and Saturdays. This was in line with the Council's core hours' policy which also identified restaurants as having less cumulative impact in an area than bars and pubs. The Sub-Committee considered this acceptable for the area bearing in mind also that the capacity of the premises was being reduced, albeit by not as many persons as had originally been envisaged.</p> <p>With regard to the application for a new licence, it was recognised by the Licensing Sub-Committee that there was an existing licence and it was therefore prepared to interpret policy CP1 on the basis that this new application was equivalent, in actual terms, to an application to vary hours within core hours which meant that there was not a policy to refuse the application.</p> <p>The conditions proposed by the applicant were considered appropriate to uphold and promote the licensing objectives. In particular, the conditions preventing any noise or odour to be generated from the premises provided reassurance that this would address residents' concerns on these matters. To provide further protection to residents' model condition 11 was added to the licence, as agreed with EH, to ensure a sound limiter was installed at the premises. Model condition 41 was also imposed to ensure a substantial food offer was available where alcohol was sold. Finally, a model condition relating to smoking was added so that the applicant would have to ensure any customers leaving the premises to smoke would not cause any disturbance or obstruct the public highway. The Sub-Committee was of the opinion that these would put controls in place to ensure there was no loss of amenity to residents. The local residents were reminded that if they did experience any nuisance or disturbance from the premises that they could always instigate review proceedings. Having heard all the evidence, the Sub-Committee was satisfied that the application for a new premises licence would not add to cumulative impact in the area and would uphold and promote the licensing objectives. The Sub-Committee therefore granted the application accordingly.</p> <p>Following the granting of the new premises licence, which included the change in layout, the applicant agreed to withdraw the variation application (17/08781/LIPV).</p>
<p><b>2.</b></p>	<p><b>Sale by Retail of Alcohol – On and Off Sales</b></p> <p>Monday to Thursday: 10:00 to 23:30  Friday to Saturday: 10:00 to 00:00  Sunday: 12:00 to 22:30</p>

	<p><b>Seasonal Variations/Non-Standard Timings:</b></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>On Sundays immediately prior to Bank Holidays to 00:00.</p>
	<p>Amendments to application advised at hearing:</p> <p>None.</p>
	<p>Decision (including reasons if different from those set out in report):</p> <p>The Sub-Committee granted the application, see reasons for decision in Section 1.</p>
<p><b>3.</b></p>	<p><b>Hours Premises Are Open to the Public</b></p> <p>Monday to Thursday: 10:00 to 00:00  Friday to Saturday: 10:00 to 00:30  Sunday: 12:00 to 23:00</p> <p><b>Seasonal Variations/Non-Standard Timings:</b></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>On Sundays immediately prior to Bank Holidays to 00:00.</p>
	<p>Amendments to application advised at hearing:</p> <p>The Sub-Committee was advised by the applicant that the hours the premises were open to the public had been amended to 10:00 to 23:30 Monday to Thursday, 10:00 to 00:00 Friday and Saturday and 12:00 to 22:30 on Sunday.</p>
	<p>Decision (including reasons if different from those set out in report):</p> <p>The Sub-Committee granted the application, see reasons for decision in Section 1.</p>
<p><b>4.</b></p>	<p><b>Layout Alteration</b></p> <p>The application seeks to vary the existing premises licences to incorporate the changes of layout. The changes include:</p> <p>Ground Floor:</p> <ul style="list-style-type: none"> <li>• Reposition access to the basement level</li> <li>• Reconfiguration of fixed seating booths</li> <li>• Removal of central staircase</li> </ul>

	<ul style="list-style-type: none"> <li>• Inclusion of dispense bar counter and theatre kitchen counter</li> <li>• Reconfiguration of kitchen layout</li> </ul> <p>Basement:</p> <ul style="list-style-type: none"> <li>• Reposition of WC facilities</li> <li>• Reconfiguration of fixed seating booths</li> <li>• Reconfiguration of back-of-house areas</li> <li>• Inclusion of theatre kitchen and counter</li> <li>• Inclusion of private dining room</li> </ul>
	<p>Amendments to application advised at hearing:</p> <p>None.</p>
	<p>Decision (including reasons if different from those set out in report):</p> <p>The Sub-Committee granted the application, see reasons for decision in Section 1.</p>

<b>Conditions attached to the Licence</b>
<p><b><u>Mandatory Conditions</u></b></p> <p>1. No supply of alcohol may be made at a time when there is no designated premises supervisor in respect of this licence.</p> <p>2. No supply of alcohol may be made at a time when the designated premises supervisor does not hold a personal licence or the personal licence is suspended.</p> <p>3. Every supply of alcohol under this licence must be made or authorised by a person who holds a personal licence.</p> <p>4. (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.</p> <p>(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises—</p> <p>(a) games or other activities which require or encourage, or are designed to require or encourage, individuals to;</p> <p>(i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or</p> <p>(ii) drink as much alcohol as possible (whether within a time limit or otherwise);</p> <p>(b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or</p>

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 subparagraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

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

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



### **Conditions Consistent With the Operating Schedule**

9. The basement of the premises shall only operate as a restaurant: -

- (i) in which customers are shown to their table,
- (ii) where the supply of alcohol is by waiter or waitress service only,
- (iii) which provide food in the form of substantial table meals that are prepared on the premises and are served and consumed at the table using non-disposable crockery,
- (iv) which do not provide any take away service of food or drink after 23.00, and
- (v) where alcohol shall not be sold or supplied for consumption on the premises, otherwise than for consumption by persons who are seated in the premises and bona fide taking substantial table meals there, and provided always that the consumption of alcohol by such persons is ancillary to taking such meals.

Notwithstanding this condition customers are permitted to take from the premises part consumed and resealed bottles of wine supplied ancillary to their meal.

10. No speakers shall be located in the entrance area.

11. 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.

12. Notices shall be prominently displayed at exits requesting the public to respect the needs of local residents and to leave the premises and the area quietly.

13. 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.

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

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

16. There shall be no sales of alcohol for consumption off the premises after 23.00 hours.

17. 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.

18. Patrons temporarily leaving the premises, such as for the purposes of smoking shall not take any drinks with them outside the premises.
19. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
20. No rubbish, including bottles, will be moved, removed or placed in outside areas between 23:00 and 08:00 hours.
21. No collections, including refuse and recyclable food waste, shall take place between 23:00 and 08:00 hours.
22. No deliveries shall take place between 22:00 and 07:00 hours.
23. During the hours of operation 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 the aforementioned 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.
24. All sales of alcohol for consumption off the premises shall be in sealed containers only, and shall not be consumed on the premises.
25. The number of persons permitted in the premises at any one time (excluding staff) shall not exceed:
- Ground floor 60 persons;  
Basement 60 persons.
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. 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.
28. 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.
29. 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.

30. No licensable activities shall take place at the premises until premises licence 15/11655/LIPT (or such other number subsequently issued for the premises) has been surrendered.

31. 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.

32. A noise limiter must be fitted to the musical amplification system set at a level determined by and to the satisfaction of an authorised officer of the Environmental Health Service, so as to ensure that no noise nuisance is caused to local residents or businesses. The operational panel of the noise limiter shall then be secured by key or password to the satisfaction of officers from the Environmental Health Service and access shall only be by persons authorised by the Premises Licence holder. The limiter shall not be altered without prior agreement with the Environmental Health Service. No alteration or modification to any existing sound system(s) should be effected without prior knowledge of an authorised Officer of the Environmental Health Service. No additional sound generating equipment shall be used on the premises without being routed through the sound limiter device.

33. 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.

34. The licence holder shall ensure all customers smoking outside the premises do so without causing any public nuisance or obstruction to the public highway.

#### 4 MIABELLA LONDON, BASEMENT, 12-13 GREEK STREET, W1

##### LICENSING SUB-COMMITTEE No. 2

Thursday 12<sup>th</sup> October 2017

Membership: Councillor Tim Mitchell (Chairman), Councillor Murad Gassanly and Councillor Rita Begum

Legal Adviser: Barry Panto

Policy Adviser: Chris Wroe

Committee Officer: Tristan Fieldsend

Presenting Officer: Heidi Lawrance

Relevant Representations: Environmental Health and The Licensing Authority.

Present: Mr Alun Thomas (Solicitor representing the Applicant), Mr Wren (Architect, on behalf of the applicant), Mrs Sally Fabbicatore (Environmental Health) and Mr David Sycamore (Licensing Authority).

<b>Miabella London, Basement, 12-13 Greek Street, London, W1D 4DL 17/09067/LIPV</b>	
<b>1.</b>	<b>Layout Alteration</b>  This application seeks to include the ground floor and basement in the licensable area and alter the layout of the basement, including: <ul style="list-style-type: none"><li>• relocation of WCs (including reduction in number of male urinals &amp; female toilets)</li><li>• change of kitchen prep and partial beer store to general storage</li><li>• change of cloakroom, kitchen dispense and partial beer store to front of house with fixed seating</li><li>• increase in main staircase footprint</li><li>• relocation and increase in size of kitchen</li><li>• removal of some booth seating</li><li>• removal of staff room and WC</li></ul>
	Amendments to application advised at hearing:  None.
	Decision (including reasons if different from those set out in report):  The Sub-Committee considered an application by Soho Estates Limited for a variation of a premises licence in respect of Miabella London, Basement, 12-13 Greek Street, London, W1D 4DL.  The Licensing Officer provided an outline of the application and confirmed that amended floor plans of the premises had been circulated to all parties. Mr Thomas, representing the applicant, informed the Sub-Committee that the

premises was currently closed but held an existing premises licence. The application was simply to change the layout of the premises and the Sub-Committee noted that no changes to permitted hours or activities were sought. Mr Thomas provided details of the proposed layout changes including utilising the ground floor space, introducing an acoustic lobby and increasing the size of the main staircase. Due to the changes there would be no direct access to the premises from the street and the capacity of 243 would remain the same. Allowing the use of the ground floor would ensure a wider distribution of customers throughout the venue and would also provide additional space for seating. On that basis Mr Thomas suggested the application did not constitute an intensification of use. The application had been submitted following constructive discussions with Environmental Health (EH) and the addition of a works condition.

Mrs Fabbricatore, representing Environmental Health, confirmed that pre-application meetings had been held with the applicant. Appropriate toilet provision for the premises had been agreed including the addition of a disabled access WC. The changes in layout were considered satisfactory and raised no concerns in terms of public safety.

Mr Sycamore, representing the Licensing Authority, maintained its representation as paragraph 2.4.22 of the Council’s Licensing Policy highlighted that such premises caused concern when there was direct access to the establishment from the street. Clarification was requested on what the front of the premises would look like and whether it would appear to be a bar. Mr Thomas explained that paragraph 2.4.22 applied to shops and cafes rather than bars or restaurants. Mr Thomas confirmed that it would resemble a bar on the basis that the Council’s planning department had requested that the premises front should resemble an active shop front.

The Council’s Policy Adviser advised that if the Sub-Committee was minded to grant the application condition 20 could be replaced by model condition 44; conditions 22 and 23 could be deleted as they weren’t applicable and condition 18 could be amended to that as proposed by the applicant.

After hearing all the evidence, the Sub-Committee agreed to grant the application. The conditions attached to the licence, as amended, were considered appropriate and would ensure the licensing objectives were promoted. It was noted that there was to be no change to the permitted hours, activities or capacity and as such would not add to cumulative impact in the area. The installation of an acoustic lobby provided reassurance that any noise disturbance would be minimised and the updating of the shop front would constitute an improvement on the current situation. The Sub-Committee was satisfied that the premises would uphold and promote the licensing objectives and therefore granted the application accordingly.

**2. Conditions Being Varied, Added or Removed**

<b>Current:</b>	<b>Proposed:</b>
<b>Condition 18</b>	<b>Condition 18</b>

	The number of persons accommodated (excluding staff) shall not exceed 243.	The number of persons accommodated (excluding staff) shall not exceed:  Basement: 220 Ground Floor: 38
	Amendments to application advised at hearing:  None.	
	Decision (including reasons if different from those set out in report):  The application was granted, the reason for the decision is detailed in section 1.	

<b>Conditions attached to the Licence</b>
<p><b><u>Mandatory Conditions</u></b></p> <ol style="list-style-type: none"> <li>1. No supply of alcohol may be made at a time when there is no designated premises supervisor in respect of this licence.</li> <li>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.</li> <li>3. Every supply of alcohol under this licence must be made or authorised by a person who holds a personal licence.</li> <li>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— <ol style="list-style-type: none"> <li>(a) games or other activities which require or encourage, or are designed to require or encourage, individuals to; <ol style="list-style-type: none"> <li>(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</li> <li>(ii) drink as much alcohol as possible (whether within a time limit or otherwise);</li> </ol> </li> <li>(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;</li> <li>(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</li> </ol> </li> </ol>

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 subparagraph 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.



**Conditions Which Reproduce the Effect of any restriction Imposed on the Use of the Premises by Specified Enactments**

10. This licence is subject to all the former Rules of Management for Places of Public Entertainment licensed by Westminster City Council, in force from 4 September 1998 and incorporating amendments agreed by the Council on 25 October 1999, 30 June 2000, 16 January 2001 and 1 October 2001.

11. On New Year's Eve the premises can remain open for the purpose of providing regulated entertainment from the time when the provision of regulated entertainment must otherwise cease on New Year's Eve to the time when regulated entertainment can commence on New Year's Day (or until midnight on New Year's Eve where no regulated entertainment takes place on New Year's Day).

12. Notwithstanding the provisions of Rule of Management No. 6 the premises may remain open for the purposes of this licence from 23:00 on each of the days Monday to Saturday to 03:00 on the day following.

13. Whilst the premises are in use under this licence:

- (a) The entertainment shall be limited to a type commonly known as discotheque and to background music;
- (b) No live performances shall be used.

14. The sound limiter is to be set to the satisfaction of officers from the Environmental Regulation Service. The operational panel shall then be secured and the system shall not be altered without prior agreement with this Department.

15. No alteration or modification to any existing sound system(s) should be effected without prior knowledge of an authorised officer of the Environmental Regulation Service.

16. Any additional sound generating equipment shall not be used on the premises without being routed through the sound limiter device.

17. All doors giving access/egress to the premises shall not be fixed open after 23:00.

18. All openable windows shall be closed after 23:00.

19. The number of persons accommodated (excluding staff) shall not exceed:

- Basement: 220
- Ground Floor: 38
- With no more than 243 at any one time.

20. Substantial food and suitable beverages other than intoxicating liquor (including drinking water) shall be available during the whole of the permitted hours in all parts of the premises where intoxicating liquor is sold or supplied.

21. 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.

22. There shall be no payment made by or on behalf of the licensees to any person for bringing customers to the premises.

23. Intoxicating liquor may only be sold or supplied to persons admitted to the premises as follows:

- (a) On Monday to Thursday after 23:30 by payment of an admission fee of not less than £3 for music, dancing and entertainment;
- (b) On Friday and Saturday after 23:30 by payment of an admission fee of not less than £5 for music, dancing and entertainment;
- (c) Persons who are specially invited guests of the management listed by name at reception prior to admission, such list to be available for inspection by the relevant authorities;
- (d) By private invitation to a bona fide private function held at the premises of which 24 hours' notice has been given to the Police;
- (e) Artistes and persons employed on the premises.

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

Monday to Saturday

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

NOTE - The above restrictions do not prohibit:

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

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

Sundays:

In this condition, permitted hours means:

- (a) On Sundays, other than Christmas Day or New Year's Eve, 12:00 noon to 22:30;
- (b) On New Year's Eve on a Sunday, 12:00 to 22:30;
- (c) On New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day (or, if there are no permitted hours on the following day, 00:00 midnight on 31st December).

NOTE - The above restrictions do not prohibit:

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

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

25. If any entertainment is provided for children or if an entertainment is provided at which the majority of persons attending are children, then, if the number of children attending the entertainment exceeds 100, it shall be the duty of the holder of the premises licence:

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

entering and leaving the building or any part thereof, and

(c) take all other reasonable precautions for the safety of the children.

26. No person under fourteen shall be in the bar of the licensed premises during the permitted hours unless one of the following applies:

(a) He is the child of the holder of the premises licence.

(b) He resides in the premises, but is not employed there.

(c) He is in the bar solely for the purpose of passing to or from some part of the premises which is not a bar and to or from which there is no other convenient means of access or egress.

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

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

27. The terminal hour for late night refreshment on New Year's Eve is extended to 05:00 on New Year's Day.

**Conditions consistent with the operating Schedule**

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

29. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises is open to the public. This staff member shall be able to show Police recent data or footage with the absolute minimum of delay when requested.

30. An incident log shall be kept at the premises, and made available on request to an authorised officer of the City Council or the Police, which will record the following:

(a) all crimes reported to the venue

(b) all ejections of patrons

(c) any complaints received 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.

31. 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.

32. All SIA staff engaged at the premises shall wear high visibility yellow jackets or vests. SIA licences worn by door staff, shall be clearly displayed and visible at all times.

33. A daily Door Supervisor Log shall be correctly maintained at the premises and signed at the end of each day by the Duty Manager. This will include: The printed name of the Door Supervisor/Badge Number/Expiry date of SIA Licence and a signature of the Door Supervisor.

34. A log shall be maintained to ensure that the capacity limit set for the premises is recorded hourly and can be properly monitored. Information regarding the capacity will be given to an authorised officer or Police Officer on request.

35.

(a) All drinking vessels used in the venue shall be polycarbonate. All drinks in glass bottles are to be decanted into polycarbonate containers or polycarbonate carafes prior to be served, with the exception of champagne or bottles of spirits with a minimum size of 70cl supplied by waiter/waitress service to tables. Staff shall clear all empty champagne and spirit bottles promptly from the tables. Customers shall not be permitted to leave their table carrying any such glass bottles or drink from the table.

(b) Notwithstanding 36(a) above, with the written agreement of the Westminster Licensing Police, a copy of which will be held at the premises reception, glass drinking vessels may be used for private or pre-booked events within the lounge/club area.

36. All customers entering the premises will have their ID scanned on entry. All records shall be stored for a minimum period of 31 days with date and time stamping. These records shall be made available immediately upon request of the police or authorised officer throughout the preceding 31-day period.

37. All persons entering or re-entering the premises shall be searched by an SIA-trained member of staff and monitored by the premises CCTV system. The searching will be supplemented by the use of two functional metal detecting wands operated by a male and female door supervisor dedicated to that duty either until the end of the permitted hours or until there is no further admissions.

38. Whenever the premises are open for licensable activities an attendant shall be on duty in any designated male and female toilets.

***Conditions attached after a hearing by the licensing authority***

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

**5 PILGRIM HOTEL, 25 LONDON STREET, W2**

The application was withdrawn from the agenda.

**6 STAYCITY APARTMENTS, 73-75 STRAND, WC2**

The application was adjourned to a future Licensing Sub-Committee meeting.

**7 55 FRITH STREET, W1**

**LICENSING SUB-COMMITTEE No. 2**

*Thursday 12<sup>th</sup> October 2017*

Membership: Councillor Tim Mitchell (Chairman), Councillor Murad Gassanly and Councillor Rita Begum

Legal Adviser: Barry Panto

Policy Adviser: Chris Wroe

Committee Officer: Tristan Fieldsend

Presenting Officer: Heidi Lawrence

Relevant Representations: Environmental Health, The Licensing Authority and The Soho Society.

Present: Mr James Burbridge and Mr Mouaiad Chbith (Applicants), Mr Anil Drayan (Environmental Health) and Mr David Sycamore (The Licensing Authority).

<b>55 Frith Street, London, W1D 4SJ</b> <b>17/07932/LIPN</b>	
<b>1.</b>	<b>Sales by Retail of Alcohol – On Sales</b>  Monday to Saturday: 10:00 to 23:00 Sunday: 10:00 to 22:00
	Amendments to application advised at hearing:  Following the Licensing Authority's suggestion, the applicant agreed to amend sales of alcohol on Sundays from 12:00 to 22:00 hours.
	Decision (including reasons if different from those set out in report):  The Sub-Committee considered an application by Street Food London Ltd for a new premises licence in respect of 55 Frith Street, London, W1D 4SJ.

The Licensing Officer provided an outline of the application to the Sub-Committee and confirmed that the applicant had reduced the initial hours requested for the sale of alcohol. Following the reduction in hours and the agreement of conditions the Police had withdrawn their representation.

The applicant, Mr Burbridge, informed the Sub-Committee that a short lease had been taken out on the premises which would expire in July 2018. The restaurant had been set up to create a casual dining restaurant which would test concepts for healthy eating. The restaurant had been operating for three months and it was now hoped to supplement the food offer by allowing customers to consume a glass of wine with their meal. Conditions had been agreed with the Police and several of these had already been implemented.

Mr Drayan, representing Environmental Health (EH), explained that there had been initial concerns over the application. However, since the applicants had agreed to operate within core hours and removed the provision of recorded music from the licence EH were now generally satisfied with the application. It was suggested further conditions could be added to the licence to ensure the application promoted the licensing objectives and these had been circulated to the Sub-Committee. Mr Drayan was of the opinion however that the premises was operating contrary to its planning permission. The premises currently had A1 use but if the proposed conditions were accepted this would constitute A3 use therefore putting it into conflict with planning enforcement and policy. It had been noted that the entire building which the premises was located within did have planning permission to include a restaurant. The applicants had been advised that this matter needed clarifying with the owners of the building when any extension to the lease was considered. The applicants had also been informed that they could apply for temporary permission to use the premises under A3 use if the premises was within a certain size.

Mr Drayan informed the Sub-Committee that there was also the potential for odour nuisance. Under its previous operation the premises had an extract above the door level but immediately below residential windows which had the potential to cause nuisance. The operation however was simply to reheat food brought to the premises from a different location therefore no additional conditions to those already proposed were suggested. The Sub-Committee noted that the toilet provision was considered acceptable.

Another concern raised by Mr Drayan was that the Council's model restaurant condition had been agreed between the Police and the applicant. This could cause operational issues though as this would prevent the applicant from selling food for takeaway. Currently food was sold to customers allowing them to take it away and consume it in their offices. The condition may therefore require amending which EH would be satisfied with. Mr Burbridge clarified that boxed salads or wrapped sandwiches were served to local office workers who could then take them away to consume at their desks.

In summary, Mr Drayan stated that if the applicant was willing to accept the conditions proposed then EH would find the application acceptable.

Mr Sycamore, representing the Licensing Authority, confirmed that two areas of



	<p>concern remained. Firstly, the premises was located in a Cumulative Impact Area (CIA), and the Sub-Committee had to be satisfied permitting an additional twenty-five people into the CIA would not add to add to cumulative impact. Secondly, it was proposed to allow the sale of alcohol on Sundays from 10:00 hours. This was considered excessive and the Licensing Authority would prefer this to be changed to 12:00 hours. Mr Burbridge confirmed that this could be amended as alcohol was currently only sold from 12:00 hours.</p> <p>After careful consideration the Sub-Committee agreed to grant the application without any prejudice to the planning permission outlined by EH. The conditions proposed by the Police and EH and agreed by the applicant were considered balanced and proportionate and would ensure the licensing objectives were promoted. With respect to imposing the model restaurant condition on the licence its intent was to prevent people from eating food on the street. This was clearly not the style of operation being proposed by the applicant as food would be served in closed containers and consumed by office workers at their desks. It was therefore considered appropriate to keep the model condition, unamended, on the licence. The nature of the operation, the small size of the premises and the fact sales of alcohol were within core hours would ensure it would not add to cumulative impact in the area. Having heard all the evidence, the Sub-Committee was satisfied that the premises would uphold and promote the licensing objectives and therefore granted the application accordingly.</p>
<b>2.</b>	<p><b>Hours Premises Are Open to the Public</b></p> <p>Monday to Thursday: 10:00 to 23:30  Friday to Saturday: 10:00 to 23:59  Sunday: 10:00 to 22:00</p>
	<p>Amendments to application advised at hearing:</p> <p>Following the Licensing Authority's suggestion, the applicant agreed to amend the hours the premises are open to the public on Sundays from 12:00 to 22:00 hours.</p>
	<p>Decision (including reasons if different from those set out in report):</p> <p>The Sub-Committee granted the application, see reasons for decision in Section 1.</p>

<b>Conditions attached to the Licence</b>
<p><b><u>Mandatory Conditions</u></b></p>
<p>1. No supply of alcohol may be made at a time when there is no designated premises supervisor in respect of this licence.</p>
<p>2. No supply of alcohol may be made at a time when the designated premises</p>

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 subparagraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

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

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

#### **Conditions Consistent with the Operating Schedule**

9. The premises shall only operate as a restaurant

- (i) in which customers are shown to their table,
- (ii) where the supply of alcohol is by waiter or waitress service only,
- (iii) which provide food in the form of substantial table meals that are prepared on the premises and are served and consumed at the table using non disposable crockery,
- (iv) which do not provide any take away service of food or drink for immediate consumption,
- (v) which do not provide any take away service of food or drink after 23.00, and
- (vi) where alcohol shall not be sold or supplied, otherwise than for consumption by persons who are seated in the premises and bona fide taking substantial table meals there, and provided always that the consumption of alcohol by such persons is ancillary to taking such meals.

Notwithstanding this condition customers are permitted to take from the premises part consumed and resealed bottles of wine supplied ancillary to their meal.

10. 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.

11. 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.

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. No more than 15% of the sales area shall be used at any one time for the sale, exposure for sale, or display of alcohol.

15. 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.

16. A Challenge 21 or 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.

17. An incident log shall be kept at the premises, and made available on request to an authorised officer of the City Council or the Police. It must be completed within 24 hours of the incident and will record the following:

- (a) all crimes reported to the venue
- (b) all ejections of patrons
- (c) any complaints received concerning crime and disorder
- (d) any incidents of disorder
- (e) all seizures of drugs or offensive weapons
- (f) any faults in the CCTV system,
- (g) any refusal of the sale of alcohol
- (h) any visit by a relevant authority or emergency service.

18. The premises licence holder shall ensure that any patrons drinking and/or smoking outside the premises do so in an orderly manner and are supervised by staff so as to ensure that there is no public nuisance or obstruction of the public highway.

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

20. All relevant staff will receive refresher training on relevant alcohol laws and the licence holder's policy on challenging for ID. Such training to take place at least twice a year. Records will be maintained at the premises containing information about the training of any person who is authorised to make a sale of alcohol, including the date of their training and the nature of the training undertaken. The relevant documentation shall be produced on reasonable request to a police officer

or a relevant officer of a responsible authority.

21. The maximum number of persons permitted on the premises at any one time (excluding staff) shall not exceed 25.

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

23. No collections of waste or recycling materials (including bottles) from the premises shall take place between 23:00 hours and 08:00 hours on the following day or as specified on the Council's website for Commercial Waste collection times for the street.

24. No deliveries to the premises shall take place between 23.00 and 08.00 on the following day.

25. During the hours of operation of the premises, the licence holder shall ensure sufficient measures are in place to remove and prevent litter or waste arising or accumulating from customers in the area immediately outside the premises, and that this area shall be swept and washed, and litter and sweepings collected and stored in accordance with the approved refuse storage arrangements by close of business.

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

28. 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.

29. 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.

30. 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 Premises Licence by the Licensing Authority. If there are minor changes to the layout during the course of construction new plans shall be submitted when requesting removal of this condition.

The Meeting ended at 4.00 pm

**CHAIRMAN:** \_\_\_\_\_

**DATE** \_\_\_\_\_