



CITY OF WESTMINSTER

MINUTES

Licensing Sub-Committee (5)

MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (5)** held on **Thursday 26th October, 2017**, Room 3.1, 3rd Floor, 5 Strand, London, WC2 5HR.

Members Present: Councillors Peter Freeman (Chairman) and Jan Prendergast.

1 MEMBERSHIP

1.1 There were no changes to the membership.

2 DECLARATIONS OF INTEREST

2.1 There were no declarations.

3 CAFE PUSHKIN, 20 BERKELEY STREET, W1

LICENSING SUB-COMMITTEE No. 5

Thursday 26th October 2017

Membership: Councillor Peter Freeman (Chairman) and Councillor Jan Prendergast.

Legal Adviser: Barry Panto
Policy Adviser: Chris Wroe
Committee Officer: Toby Howes
Presenting Officer: Yolanda Wade

Relevant Representations: Environmental Heath, 1 Ward Councillor, the Mayfair Residents Group and 10 local residents.

Present: James Rankin (Barrister, representing the Applicant Company), Mr Thomas O'Maoileoin (Solicitor, representing Applicant Company), Mr Alexander Zaitsev (Company Director, Applicant Company), Mr Anil Drayan (Environmental Health) and Mr Richard Brown (Solicitor, Citizens Advice Bureau, representing Mrs Jaleh Zand, a local resident).

**Café Pushkin, 20 Berkeley Street, W1
17/08117/LIPV**

1. Late night refreshment

Existing Hours

Monday to Wednesday 23:00 to 23:30
Thursday, Friday and Saturday
23:00 to 00:00

Proposed Hours

Monday to Saturday 23:00 to 00:30

Amendments to application advised at hearing:

None.

Decision (including reasons if different from those set out in report):

Mr James Rankin (Barrister, representing the Applicant Company) began by stating that the premises already had planning permission granted on 18th September 2017 to provide late night refreshment and sell alcohol until 00:30 Monday to Saturday and this application intended to mirror these hours. He stated that the premises was not in a cumulative impact area and it was to operate as a restaurant. As such, he referred to paragraph 2.5.14 of the Council's Statement of Licensing Policy that recognised that restaurants remained open for later hours than some other types of premises in order to provide sufficient time for customers to enjoy their dining experience. Furthermore, Mr Rankin asserted that there was no assumption in the Policy to refuse applications from restaurants that sought to provide alcohol up until 01:00, and this application only sought hours up until 00:30. Mr Rankin added that prior to the Licensing Act 2003, the Licensing Act 1964 had also recognised restaurants remaining open to later hours.

Mr Rankin advised that the premises was to be a high end Russian restaurant and he stated that it was on course to be rated 2 Michelin stars. The target audience was the over 40s who will be well versed in quality dining and it was anticipated that customers would be paying around £150 per head. Mr Rankin referred to the Dr Phil Hadfield report that had been commissioned by the Council to provide an independent study to consider cumulative impact areas in Westminster. The report had stated that the area the premises was located in was suitable to become a cumulative impact area. However, Mr Rankin stated that the report had highlighted premises that had dancing facilities and DJs and operated as, or like, nightclubs later in the evening as those that were causing public nuisance and not the restaurants that were located in the area. He therefore felt that it was appropriate for this premises to be granted later hours. Notwithstanding the Dr Hadfield report, Mr Rankin emphasised the need to consider the application on its own merits and he stated that the granting of this application would not set a precedent in compelling the Council to grant other such applications.

Mr Rankin advised that although the premises licence had been granted in 2014, the premises was yet to open due to issues concerning underground water that was in the process of being resolved. The restaurant was due to open in late spring 2018 and would employ around 100 staff, including a maitre d', that would ensure a high staff to customer ratio. The Applicant Company only intended to offer 2 evening sittings for dinner to include both a pre and post theatre clientele, hence the need for later hours. Mr Rankin confirmed that the opening times would mirror those for licensable activities and he advised the Sub-Committee to ignore his reference to a 01:00 closing time in the Applicant Company's supporting documents in appendix 1 of the report and he confirmed that planning permission limited opening hours to 00:30 Monday to Saturday and 23:00 Sunday. Mr Rankin referred to the pre-application advice that the Applicant Company had obtained from Environmental Health, whose stance to the application had remained neutral. They were, he asserted, maintaining their representation due to concerns raised by residents in their representations. Mr Rankin confirmed that the Applicant Company was happy to agree with all conditions requested by Environmental Health as set out in pages 38 and 39 of the report, apart from proposed condition 32, which duplicated existing condition 24 and would help address concerns raised by Councillor Jonathan Glanz on behalf of 17 Berkeley Street Residents Association. Mr Rankin felt that the entrance to the premises along Hay Hill would help reduce public nuisance as it would avoid dropping off and picking up of customers along Berkeley Street where there were a number of residential properties. It was anticipated that around 99% of customers would have pre-booked.

Mr Rankin then concluded his initial submission by stating that the hours requested were modest compared to other licensed premises in the area and he felt that the application was consistent with policy. There were already a number of restricting conditions imposed on the premises through its planning permission and additional conditions had been agreed with Environmental Health. The layout of the premises meant there were no blind spots and there was to be no vertical drinking or drinks offers. The Applicant Company had made attempts to engage with local residents and Councillor Glanz and Mr Thomas O'Maoileoin (Solicitor, representing Applicant Company) had played a role in undertaking this on behalf of the Applicant Company. Mr Rankin stated that the Applicant Company was willing to co-operate and co-exist with local residents and he referred to a photograph in the report of the interior of the Applicant Company's restaurant in Moscow which he described as lavish and luxurious and a similar interior was planned for these premises. There was also a Noise Management Policy in place as set out in pages 30-31 of the report. Finally, Mr Rankin suggested amending proposed condition 27 by deleting the date at the end.

Mr Alexander Zaitsev (Company Director, Applicant Company) then addressed the Sub-Committee. Mr Zaitsev began by stating that the Applicant Company had a significant presence in both Russia and France and had an abundance of international experience. The Applicant Company had supplied food for the 2014 Winter Olympics held in Sochi, Russia, however its main business was restaurants. The Applicant Company had a restaurant operating in central Paris and there were huge opportunities for the Applicant Company to make a Worldwide impact. The Applicant Company had spent the last 20 years building

up its business in providing high end restaurants and it had been careful not to disturb local communities in all locations where premises operated and showed respect to residents, customers and its staff. Mr Zaitsev stated that when these premises opened in London, this would be the second restaurant the Applicant Company had in Europe and it would help its business model. He added that the delays to the opening of the premises had been challenging and expensive.

Members asked what the total number of covers and the timings for the 2 dinner sittings would be. Mr Barry Panto (Legal Adviser) asked in relation to proposed condition 30 whether the Berkeley Street Best Practice Policy was now in place.

In reply, Mr Rankin stated that the Applicant Company would be capable of complying to the Berkeley Street Best Practice Policy, however it was awaiting further details of the Policy before it could be fully implemented. He confirmed that the premises would have 125 covers. Mr Zaitsev advised that the first dinner sitting would take place from around 19:00 to 22:00 and the second sitting from 22:30 to closing time.

Mr Anil Drayan (Environmental Health) then addressed the Sub-Committee and confirmed his relatively neutral stance to the application. He stated that he did not anticipate that the proposed activities within the premises would disturb local residents. Checks had been carried out in respect of ventilation plants and other potential noise sources and it was not expected that there would be a risk of noise breakout, nor excessive disturbance caused by customers arriving and leaving the premises. Mr Drayan confirmed that he had no particular concerns with the hours proposed. In respect of problems in the area highlighted in the Dr Hadfield report, Mr Drayan suggested that these could be addressed by the Applicant Company adhering to the Berkeley Street Best Practice Policy and also to the Community Accreditation Scheme that was monitored by the Metropolitan Police. He added that problems generally in the area could be reduced if more premises participated in such schemes and he added that if in future the area did become a cumulative impact area, it would only help prevent new premises opening at later hours.

Mr Richard Brown (Solicitor, Citizens Advice Bureau) addressed the Sub-Committee and confirmed that he was representing Mrs Jaleh Zand, a local resident. Mr Brown informed Members that Mrs Zand had been involved in addressing problems experienced in Berkeley Street that were attributable to licensed premises operating in the area and that she objected to any premises applying for later hours because of the noise and public nuisance already being experienced. Mr Brown acknowledged that as the premises was conditioned as a restaurant, it was less likely to be a source of problems than other types of premises such as bars and nightclubs. In respect of the Dr Hadfield report that had referred to nearby Green Park London Underground station being well connected, Mr Brown stated that a number of people coming and going from the area at night did not use this and they were more likely to use private cars and taxis, adding to noise and traffic on the roads.

Mr Brown referred to the additional representation made by Mrs Zand that had been circulated to the Sub-Committee and all relevant parties which stated that the number of licensed premises operating in the area had led to a considerable

increase in nuisance being experienced by local residents. He felt that the problems identified by Mrs Zand in her representation were of the nature that were experienced in cumulative impact areas and the Dr Hadfield report had not only recommended that this area become a cumulative impact area, but that there was also scope to include restaurants as being subject to cumulative impact area policies in this particular area. Notwithstanding this, Mr Brown acknowledged that the area was not currently a cumulative impact area and the application should be considered in the context of its individual merits. However, although policy HRS1 stated that there was a general presumption to grant applications from restaurants up to core hours, any granting of an application beyond core hours, which this application sought on some days, was dependent upon the individual merits of the application. Mr Brown stated that, in accordance with guidance under section 182 of the Licensing Act 2003 (paragraph 14.33), residents could raise concerns about cumulative impact even if the premises in question was not located in a cumulative impact area. Mr Brown concluded his submission by stating that the planning permission approval should not be a factor in considering this application as it was a separate piece of legislation.

Mr Rankin, in his final submission, felt that it would not be good practice to refuse the application on the grounds that the premises may be in a cumulative impact area in future and it should be considered under the current policy. He reiterated his earlier point that the Dr Hadfield report had identified premises with DJs and dancing facilities as the main sources of noise and disturbance in the area at later hours.

The Sub-Committee, after careful consideration, refused the application. In determining the application, the Sub-Committee noted that the premises licence already allowed for licensable activities beyond core hours on Thursdays and Sundays and the hours sought in this application would mean the premises operating beyond core hours 7 days a week. As such, it felt that approving the application for such hours was not appropriate in view of the number of residents living within the vicinity of the premises and the number of objections raised by residents living in Berkeley Street.

The Sub-Committee noted that the residents had raised significant concerns about permitting any new applications that would allow premises to operate at later hours because of the high concentration of establishments in this area already operating at these later times. Furthermore, the Sub-Committee considered that residents had themselves provided evidence that the area was already experiencing the effects of cumulative impact, even though the area was currently not in a designated cumulative impact area. This evidence, and particularly the detailed submission from Mrs Zand, expressed similar concerns to the evidence produced by Mr Hadfield which, it is understood, suggested that restaurants in the area could potentially be included in any new policy measures for the area. The Sub-Committee did recognise that this was an application for a restaurant that was not licensed for any regulated entertainment but nevertheless considered that the application for later hours beyond core hours for this premises in this particular location, would potentially add to the cumulative impact already being experienced by residents in Berkeley Street. In particular, the application would allow later hours for the consumption of alcohol

and the evidence suggested that many customers attracted to premises in this area would be using black cabs and private vehicles rather than using public transport. The extension of hours was also to accommodate a second sitting after 22.30 so there was the potential for most of the customers to leave the premises at the same later hour which coincided with the time that customers left other premises in the area. The application was accordingly refused.

The Sub-Committee emphasised that in reaching its decision, the application had been considered on its own merits and under the Council's existing policy.

2. Sale by retail of alcohol: On and off sales

Existing Hours

Proposed Hours

Monday to Wednesday 07:00 to 23:30
Thursday, Friday and Saturday
07:00 to 00:00
Sunday 08.00 to 23.00

Monday to Saturday 07:00 to 00:30
Sunday – No Change

Amendments to application advised at hearing:

None.

Decision (including reasons if different from those set out in report):

Refused (see reasons for decision in Section 1).

3. Hours premises are open to the public

Existing Hours

Proposed Hours

Monday to Wednesday 07:00 to 23:30
Thursday, Friday and Saturday
07:00 to 00:00
Sunday 08.00 to 23.00

Monday to Saturday 07:00 to 00:30
Sunday – No Change

Amendments to application advised at hearing:

None.

Decision (including reasons if different from those set out in report):

Refused (see reasons for decision in Section 1).

4.	Conditions proposed to be added
	<p>30. The licensee shall operate the premises in accordance with a Berkeley Street Best Practice Policy which shall be created to promote the four licensing objectives. The best practice policy will be reviewed from time to time with the Licensing Authority and the local licensing police. The best practice policy shall cover the following:-</p> <ul style="list-style-type: none"> a) The arrival and gradual dispersal of customers to minimise any noise and disturbance from both Berkeley Street and Hay Hill entrances/exits b) The Taxi and Valet parking provision c) Delivery and collections d) Smoking policy <p>The best practice policy shall be available for inspection at any time and a copy shall be provided to the police or licensing authority or local resident upon request.</p> <p>31. The licensee shall meet with local residents not less than once every 3 months (if necessary) to review the best practice policy. The licensee shall advertise the meeting on their group website and notice will be given to the 17 Berkeley Street Residents Association and Mayfair Residents Group by email.</p> <p>32. There shall be no queues outside the premises.</p> <p>33. The licence holder will support any neighbourhood monitoring scheme that may exist (from time to time) including contributing financially to any paid for policing scheme on Berkeley Street.</p> <p>34. No person on behalf of the premises or on behalf of a person carrying or attempting to carry on a licensable activity shall cause, permit, employ or allow, directly or indirectly, whether on payment or otherwise, any person(s) to importune, solicit or tout members of the public on any public highway within the specified area outlined below for the purpose of bringing customers to the premises. The distribution of leaflets or similar promotional material is also prohibited within the specified area.</p> <p>For the purpose of this section, 'Directly' means:- employ, have control of or instruct. 'Indirectly' means allowing / permitting the service of or through a third party.</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>

Refused as, having decided to refuse the variation application in respect of the hours for the licensable activities, it was not considered appropriate to impose new conditions (see full reasons for decision in Section 1).

4 BLANCA, GROUND FLOOR FRONT, 37 DUKE STREET

LICENSING SUB-COMMITTEE No. 5

Thursday 26th October 2017

Membership: Councillor Peter Freeman (Chairman) and Councillor Jan Prendergast.

Legal Adviser: Barry Panto
 Policy Adviser: Chris Wroe
 Committee Officer: Toby Howes
 Presenting Officer: Yolanda Wade

Relevant Representations: The Licensing Authority, Environmental Health, Metropolitan Police and 1 local resident.

Present: Mr Craig Baylis (Solicitor, representing the Applicant Company), Mr Wahid Mekhail (Applicant Company), Mr Anil Drayan (Environmental Health and also speaking on behalf of the Licensing Authority) and PC Bryan Lewis (Metropolitan Police).

**Blanca, Ground Floor Front and Basement, 37 Duke Street, W1U 1LN
 17/08201/LIPV**

1. Sale by retail of alcohol: On and Off Sales

Existing Hours

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

Proposed Hours

Monday to Saturday: 10:00 to 06:00
 Sunday 12:00 to 03:00

Amendments to application advised at hearing:

Commencement of sale of alcohol to be 23:00 Monday to Sunday, along with all other permitted licensable activities.

On that basis, the amended hours for the sale of alcohol, the performance of dance, the performance of live music and anything of a similar description to the performance of dance or the performance of live music would be:

Monday to Saturday: 23:00 to 06:00 on the following day
 Sunday: 23:00 to 03:00 on the following day

No changes would be made to the unrestricted hours for recorded music and private entertainment as the applicant did not propose a terminal hour for those activities.

The applicant also indicated that it was prepared to reduce the opening time of the premises from 09.00 to 22:00 on Monday to Sunday.

The amended opening times for the premises would therefore be:

Monday to Saturday: 22:00 to 06:00 on the following day

Sunday: 22:00 to 03:00 on the following day

Decision (including reasons if different from those set out in report):

Mr Craig Baylis (Solicitor, representing the Applicant Company) began by stating that the intention of the application was not to change what the premises offered, but to re-format the way things were done. The premises was a nightclub that had a small, young, gay clientele who tended not to arrive until later hours. The premises was permitted licensable activities up until 06:00 on the day following Monday to Saturday and to 03:00 on the day following Sunday, apart from the sale of alcohol which was only permitted up until 03:00 on the day following Monday to Saturday and 00:30 on the day following Sunday. This had the effect of customers bulk buying alcohol just before the closure of sales that could encourage potential binge drinking and customers were permitted to consume alcohol up until closing time. Mr Baylis stated that therefore the application to extend the hours for sale of alcohol was intended to spread the sale of alcohol throughout the opening times, thus preventing bulk buying and potential binge drinking. Mr Baylis felt that the proposed restaurant model condition would address the licensing objectives in respect of sale of alcohol beyond 03:00. He stated that it should also be taken into account that the premises had a light recent complaints history. Mr Baylis concluded his initial submission by confirming that if the Sub-Committee was minded to grant the application, the Applicant Company had indicated that they would be satisfied with a condition restricting the commencement of all permitted licensable activities from 23:00 Monday to Sunday.

Mr Anil Drayan (Environmental Health and also speaking on behalf of the Licensing Authority) then addressed the Sub-Committee and he confirmed that Environmental Health had no particular concerns regarding noise break out from the premises and public safety. He acknowledged that the proposed hours for sale of alcohol were well beyond core hours, however he welcomed a commencement hour of 23:00 for licensable activities as proposed by Mr Baylis on behalf of the Applicant Company at the hearing. Mr Drayan confirmed that Environmental Health had agreed all conditions with the Applicant Company.

Mr Drayan then spoke on behalf of the Licensing Authority who requested that the Sub-Committee take into account policy MD1 of the Council's Statement of Licensing Policy regarding premises that have facilities for music and dancing and other policies associated with crime and disorder and public nuisance when considering this application. In addition, the Licensing Authority asked the Sub-

Committee to note that policy HRS1 recognised that licensable activities at later hours increased the risk of the licensing objectives being undermined.

PC Bryan Lewis (Metropolitan Police) addressed the Sub-Committee and stated that he was familiar with the premises which had operated over a number of years. In respect of crime and disorder, there had been very few incidents in the last 12 months and this represented a considerable improvement to previous years. PC Lewis felt that as most customers did not arrive at the premises until later hours, the hours the premises operated to and the extension of hours for the sale of alcohol was not of particular concern to him.

Members sought further confirmation from PC Lewis that he had no concerns about the application and in his view would the additional 3 hours sought for sale of alcohol exacerbate any problems being experienced in the area.

In reply, PC Lewis confirmed that he had no particular concerns about the premises and it was already trading at later hours without problems. He felt that the proposed restaurant model condition after 03:00 would reduce the risk of any problems in respect of selling alcohol after this time and he was confident that the Applicant Company would effectively monitor alcohol consumption of its customers.

With the approval of the Chairman, Mr Baylis circulated the premises menu to the Sub-Committee and responsible authorities present.

Members asked if most of the customers were UK nationals. Mr Chris Wroe (Policy Adviser) sought further details with regard to the condition proposing a club membership scheme, including at what time would the club membership take effect after submission of application and he commented that under the existing membership scheme, customers did not have to be members to enter the premises. Mr Barry Panto (Legal Adviser) sought clarification of the wording in respect of proposed condition 37. In view of the fact that the Applicant Company would be content for all permitted licensable activities to commence at 23:00 as offered by Mr Baylis on behalf of the Applicant Company during the course of the hearing, Mr Panto also sought clarification as to the Applicant Company's proposed opening times.

In reply, Mr Baylis stated that the customer base was approximately 50% UK nationals / 50% non UK nationals. He advised that there was already a membership scheme in place which included membership rules, albeit that they were not referred to in the licence itself. He indicated on behalf of the Applicant Company that they would be satisfied in applying a 48 hour rule between applying for membership and in becoming a member. Mr Baylis advised that the Applicant Company was requesting that condition 37 begin with the wording "On Monday to Thursday, the last entry to the premises will be 2.45am...". Mr Baylis confirmed on behalf of the Applicant Company that an opening time of 22:00 Monday to Sunday would be acceptable.

In reply to a query from Mr Wroe, Mr Baylis confirmed on behalf of the Applicant Company that the correct address for the premises, was 'Ground Floor Front and Basement, 37 Duke Street, W1'.

The Sub-Committee noted the written representation from 1 local resident who was not present at the hearing.

The Sub-Committee granted the application, subject to an amended opening hour of 22:00 and commencement of all permitted licensable activities at 23:00 accordingly, as offered by Mr Baylis on behalf of the Applicant Company at the hearing. The Sub-Committee also amended and deleted a number of conditions to ensure their relevance and appropriateness. In determining the application, the Sub-Committee noted that there was only 1 resident objection, whilst both Environmental Health and the Metropolitan Police had indicated that they had no particular concerns about the application. Furthermore, apart from some isolated issues identified during a visit to the premises on 13th October 2017, there had been no recent problems associated with the premises and the Applicant Company had agreed conditions with Environmental Health. In respect of alcohol being sold after 03:00, the Sub-Committee noted that this would be subject to the restaurant model condition and this would assist the licensing objectives being met. The Sub-Committee also noted that the premises was not located in a cumulative impact area.

The Sub-Committee did not impose any further conditions regarding the club membership scheme on the basis that club membership was not something that the Sub-Committee felt would make that much difference as to how the premises was actually operated so as to ensure compliance with the licensing objectives. Ideally, the Sub-Committee would expect any genuine club to operate on the basis that there should be an interval of at least 48 hours between the nomination or application for membership and admission to the club but it was not going to impose that as a condition on the licence.

The Sub-Committee therefore considered that there were insufficient reasons to refuse the application, whilst the conditions added to the premises licence and the amended later hours for opening of the premises and commencement of licensable activities would help the Applicant Company to uphold the promotion of the licensing objectives (prevention of crime and disorder, prevention of public nuisance, public safety, and protection of children from harm).

2. Conditions proposed to be added

- (a) Alcohol may only be sold for consumption by members of the private club and their bona fide guests (not exceeding (4) guests per member). No person shall be admitted to membership of the private club or be entitled to take advantage of any of the privileges of membership without their ID being verified.
- (b) Between 03.00 and 06.00 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

	<p>table using non disposable crockery,</p> <ul style="list-style-type: none"> (iv) which do not provide any take away service of food or drink for immediate consumption, (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, 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. <p>(c) The licensee shall provide induction and refresher training in relation to the Licensing Act 2003 and the associated requirements and responsibilities which arise under it together with the premises' specific policies and procedures to persons employed by the premises where such training is relevant to the persons role. The training shall be delivered at least every 6 months and by a person who holds a personal licence or other equivalent accredited qualification. When members of staff have received training in relation to the selling of alcohol and company policy, a record of the training and a sample copy of the training pack/document shall be attached to staff records, which shall be available for inspection by authorised licensing or police officer on reasonable request.</p> <p>(d) A Queuing and Dispersal Policy shall be operated by the venue. Such policy shall be adhered to at all times the premises are operating under the premises licence, accepting that the policy may have different requirements for different periods of the day and different uses of the premises. This policy should also contain a staggered dispersal strategy in order to minimise the potential for disruption and anti-social behaviour within the surrounding area.</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>Granted, subject to conditions as set out below (see reasons for decision in Section 1).</p>		
<p>3.</p>	<p>Condition proposed to be varied</p>		
	<table border="0" style="width: 100%;"> <tr> <td style="width: 50%; vertical-align: top;"> <p>Condition 37</p> <p>On Sunday to Wednesday, the last entry to the premises will be 2.45am</p> </td> <td style="width: 50%; vertical-align: top;"> <p>Condition 37</p> <p>Amend condition 37 to refer to a closing time of 03:00 on Sundays and</p> </td> </tr> </table>	<p>Condition 37</p> <p>On Sunday to Wednesday, the last entry to the premises will be 2.45am</p>	<p>Condition 37</p> <p>Amend condition 37 to refer to a closing time of 03:00 on Sundays and</p>
<p>Condition 37</p> <p>On Sunday to Wednesday, the last entry to the premises will be 2.45am</p>	<p>Condition 37</p> <p>Amend condition 37 to refer to a closing time of 03:00 on Sundays and</p>		

	<p>and the premises will close at 4.00am, when all persons will be off the premises.</p> <p>06:00 on Mondays to Wednesdays inclusive.</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>Granted, subject to the condition being amended to read “On the mornings following Sunday to Wednesday, the last entry to the premises will be 2.45am”. All references to the closing hours were removed from the condition so as to avoid any confusion as the closing hours were set out at the front of the licence. Reasons for the overall decision are set out in Section 1.</p>

Conditions attached to the Licence	
<u>Mandatory Conditions</u>	
<ol style="list-style-type: none"> 1. 2. 3. 4. 	<p>No supply of alcohol may be made at a time when there is no designated premises supervisor in respect of this licence.</p> <p>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>Every supply of alcohol under this licence must be made or authorised by a person who holds a personal licence.</p> <p>(1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.</p> <p>(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises—</p> <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</p>

otherwise);

- (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
- (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
- (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
- (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).

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

6. (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.

(2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.

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

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

7. The responsible person must ensure that—

(a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—

- (i) beer or cider: ½ pint;
 - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
 - (iii) still wine in a glass: 125 ml;
- (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
- (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

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

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

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

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

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

Where -

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

- (d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
- (e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.

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

- 8(iv). (1) Sub-paragraph 8(iv)(2) below applies where the permitted price given by Paragraph 8(ii)(b) above on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.
- (2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

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

Additional Conditions

10. 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 11pm on each of the days Monday to Saturday to 6am on the day following and from 11pm on Sunday to 3am on the day following.
13. The number of persons permitted in the premises at any one time (excluding staff) shall not exceed 90 persons.
14. Substantial food and suitable beverages other than intoxicating liquor (including drinking water) shall be available during the whole of the permitted hours in all parts of the premises where intoxicating liquor is sold or supplied.

15. 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.
15. With the exception of the bar area, the area hatched on the deposited plan shall be permanently laid out to tables and chairs to a minimum capacity of 90 covers.
16. (a) Subject to the following paragraphs, the permitted hours for the sale of alcohol shall commence at 23:00 Mondays to Saturdays and extend until 06.00 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 06.00, the permitted hours shall end when the music and dancing end
- (b) The permitted hours on Sundays shall commence at 23.00 and extend until 03:00 on the morning following, except that-
- (i). the permitted hours shall end at 00.00 midnight on any Sunday on which music and dancing is not provided after midnight;
 - (ii) Where music and dancing end between 00.00 midnight on any Sunday and 03:00, the permitted hours shall end when the music and dancing end
- (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:

- (b) of the the sale or supply of alcohol to or the consumption of alcohol by any person residing in the licensed premises;
- (c) the ordering of alcohol to be consumed off the premises, or the despatch by the vendor of the alcohol so ordered;
- (d) 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.

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.

16. 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.

17. If any entertainment is provided for children or if an entertainment is provided at which the majority of persons attending are children, then, if the number of children attending the entertainment exceeds 100, it shall be the duty of the holder of this premises licence / club premises certificate:
- (a) to station and keep stationed wherever necessary a sufficient number of adult attendants, properly instructed as to their duties, to prevent more children or other persons being admitted to the building, or to any part thereof, than the building or part can properly accommodate,
 - (b) to control the movement of the children and other persons admitted while entering and leaving the building or any part thereof, and
 - (c) to take all other reasonable precautions for the safety of the children.
18. The terminal hour for late night refreshment on New Year's Eve is extended to 05:00 on New Year's Day.
19. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the preceding 31 day period.

20. 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.
21. There shall be a personal licence holder on duty on the premises at all times when the premises are authorised to sell alcohol.
22. 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.
23. 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) the 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.
24. All management at the premises shall undergo crime scene management training given by Westminster City Council. All SIA staff shall be given training from management on current licensing issues twice yearly including input of premises licence conditions.
25. All staff training records will be properly maintained by way of a log or record and will be available for inspection on request of Police or other responsible authority. These records will include dates of first aid/crime scene/licensing training and an outline of roles and responsibilities of each staff member working at the premises during licensable hours including SIA staff.
26. A record shall be kept detailing all refused sales of alcohol. The record should include the date and time of the refused sale and the name of the member of staff who refused the sale. The record shall be available for inspection at the premises by the police or an authorised officer of the City Council at all times whilst the premises is open.
27. The premises licence holder shall ensure that any patrons queuing/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.
28. A minimum of three (3) SIA licensed door supervisors shall be on duty when

the premises are open on Sunday to Wednesday.

29. A minimum of four (4) SIA licensed door supervisors shall be on duty when the premises are open on Thursday, Friday & Saturday.
30. At least (2) SIA licensed door supervisors shall be on duty at the entrance of the premises at all times whilst it is open for business.
31. On the mornings following Sunday to Wednesday, the last entry to the premises will be 2.45am.
32. On the mornings following Thursday, Friday and Saturday there shall be no admittance or re-admittance to the premises after 04:30am, save for those persons leaving the premises temporarily to smoke.
33. All door supervisors engaged outside the entrance to the premises and ground floor reception area, or supervising or controlling queues, shall wear high visibility yellow jackets or tabards.
34. In the event that a serious assault is committed on or immediately outside the premises (or appears to have been committed) to the managements knowledge, the management will immediately ensure that:
 - (a) The police (and where appropriate, the London Ambulance service) are called without delay, using telephone number 999;
 - (b) All measures that are reasonable practicable are taken to apprehend any suspects pending the arrival of the Police;
 - (c) As far as is reasonably practicable, the crime scene is preserved so as to enable a full forensic investigation to be carried out by the Police; and
 - (d) Such other measures are taken (as appropriate) to fully protect the safety of all persons present on the premises.
35. No taxi drivers, minicab drivers or chauffeurs shall be permitted to enter the premises at any time.
36. All SIA door supervisors working at the premises will be employed by an external independent SIA contractor.
37. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
38. Doorstaff shall remind patrons leaving the premises of the residential nature of the area and to keep noise to a minimum.
39. (a) All customers entering the premises will have their ID scanned on entry. The details recorded by the ID scanner system. The ID scanner system shall be made available to Police or Licensing Authority upon request; with the exception of the following:
A maximum of 10 guests per night who may be admitted at Manager's discretion if their details are recorded through the ID scanner system. A legible record of these people's names shall be retained on the premises for

inspection by the Licensing Authority and Police for 31 days.

- (b) Notwithstanding paragraph (a) above, bona fide members of the
- (i) a list of the names and current addresses of members of the club shall be kept on the premises at all times. The list shall be produced on demand for the inspection of Police or the Licensing Authority.
 - (ii) Members will show their ID upon being granted membership and this will be recorded and checked on an annual basis with a current portrait photo of the member attached.
 - (iii) Members will sign in on each visit to the premises and there will be a legible log showing all members attending on any day the premises is open.
 - (iv) All records are to be comprehensive and clearly legible.

- (c) Notwithstanding paragraph (a) above each member will be allowed up to 2 guests who will not be required to have their ID scanned on entry subject to the following:
- (i) The guest must be previously known to the member and the member shall be present on the premises.
 - (ii) Members will sign in each guest at the time of the visit to the premises and must remain on the premises while the guest remains. The guest must present legitimate ID before being signed in.
 - (iii) There will be a legible log showing all members' guests attending on any day, the premises is open.
 - (iv) The log will show the full names of the members and guests and shall be retained on the premises for inspection by the Licensing Authority and Police for 31 days.

- (d) Club rules to be established and maintained and each such rule should be available at the premises for inspection by the Licensing Authority and Police.

- (e)
- (i) Clubscan and the current records contained will be used as the current membership file
 - (ii) Any new members will have their details entered on the Clubscan equipment for future reference.

40. Alcohol may only be sold for consumption by members of the private club and their bona fide guests (not exceeding (4) guests per member). No person shall be admitted to membership of the private club or be entitled to take advantage of any of the privileges of membership without their ID being verified.

41. Between 03.00 and 06.00 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.

42. The licensee shall provide induction and refresher training in relation to the Licensing Act 2003 and the associated requirements and responsibilities which arise under it together with the premises' specific policies and procedures to persons employed by the premises where such training is relevant to the persons role. The training shall be delivered at least every 6 months and by a person who holds a personal licence or other equivalent accredited qualification. When members of staff have received training in relation to the selling of alcohol and company policy, a record of the training and a sample copy of the training pack/document shall be attached to staff records, which shall be available for inspection by authorised licensing or police officer on reasonable request.
43. A Queuing and Dispersal Policy shall be operated by the venue. Such policy shall be adhered to at all times the premises are operating under the premises licence, accepting that the policy may have different requirements for different periods of the day and different uses of the premises.

This policy should also contain a staggered dispersal strategy in order to minimise the potential for disruption and anti-social behaviour within the surrounding area.
44. 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.
45. Loudspeakers shall not be located in the entrance lobby or outside the premises building.
46. There shall be no sales of alcohol for consumption off the premises after 03:00 hours.
47. All sales of alcohol for consumption off the premises shall be in sealed containers only, and shall not be consumed on the premises.
48. After 23:00 hours, patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, shall be limited to 5 persons at any one time.
49. 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.
50. 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.
51. 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.

52. The licence holder shall ensure that any queue to enter the premises which forms outside the premises is orderly and supervised by door staff so as to ensure that there is no public nuisance or obstruction to the public highway.
53. The approved arrangements at the premises, including means of escape provisions, emergency warning equipment, the electrical installation and mechanical equipment, shall at all material times be maintained in good condition and full working order.
54. The means of escape provided for the premises shall be maintained unobstructed, free of trip hazards, be immediately available and clearly identified in accordance with the plans provided.
55. All emergency exit doors shall be available at all material times without the use of a key, code, card or similar means.
56. All emergency doors shall be maintained effectively self-closing and not held open other than by an approved device.
57. The edges of the treads of steps and stairways shall be maintained so as to be conspicuous.

5 BASEMENT AND GROUND FLOOR, 16 IRVING STREET, WC2

LICENSING SUB-COMMITTEE No. 5

Thursday 26th October 2017

Membership: Councillor Peter Freeman (Chairman) and Councillor Jan Prendergast

Legal Adviser: Barry Panto
 Policy Adviser: Chris Wroe
 Committee Officer: Toby Howes

Basement and Ground Floor, 16 Irving Street, WC2
17/09529/LIPN

Application granted by delegated authority following withdrawal of all representations prior to the hearing.

The Meeting ended at 1.41 pm

CHAIRMAN: _____

DATE _____