



CITY OF WESTMINSTER

MINUTES

Licensing Sub-Committee (6)

MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (6)** Committee held on **Thursday 15th June, 2017**, Room 23.1 - 23rd Floor, Portland House, Bressenden Place, Westminster, London SW1E 5RS.

Members Present: Councillors Melvyn Caplan, Peter Freeman and Shamim Talukder

1 MEMBERSHIP

There were no changes to the membership.

2 DECLARATIONS OF INTEREST

There were no declarations of interests from any of the members present.

3 MORTIMER HOUSE, 37-41 MORTIMER STREET, W1

LICENSING SUB-COMMITTEE No. 6

Thursday 15th June 2017

Membership: Councillor Melvyn Caplan (Chairman), Councillor Peter Freeman and Councillor Shamim Talukder

Legal Adviser: Barry Panto

Policy Adviser: Chris Wroe

Committee Officer: Tristan Fieldsend

Presenting Officer: Heidi Lawrance

Relevant Representations: Environmental Health, All Saints Margaret Street Parochial Church, four Local Residents and the Fitzrovia Neighbourhood Association,

Present: Mr Julian Skeens (Solicitor, representing the applicant), Mr Guy Ivesha (Applicant), Mr Anil Drayan (Environmental Health), Mr Richard Brown (Solicitor, Citizens Advice Bureau Licensing Advice Project, representing the Fitzrovia Neighbourhood Association), Mr Linus Rees (Fitzrovia Neighbourhood Association) and Mr Alan Moses and Mrs Theresa Moses (local residents).

**Mortimer House, 37-41 Mortimer Street, London, W1T 3JH
17/03516/LIPN**

1. Late Night Refreshment – Indoors

Monday to Sunday: 23:00 to 01:30

Seasonal Variations/Non-Standard Timings:

Supply of Late Night Refreshment to members of the public in the restaurant until 00:00 only (23:30 on Sundays).

Supply of Late Night Refreshment to members and their guests and at private pre-booked events as shown.

From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.

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 37-41 Mortimer Opcc Ltd for a new premises licence in respect of Mortimer House, 37-41 Mortimer Street, London, W1T 3JH.

The Licensing Officer provided an outline of the application to the Sub-Committee. The Sub-Committee was advised that the Metropolitan Police had withdrawn their representation based on the conditions agreed with the applicant.

Mr Skeens, representing the applicant, introduced the application and informed the Sub-Committee that planning permission had been granted to use the premises as office space with a restaurant located on the ground floor. The Sub-Committee was advised that the section of the application requesting the use of the basement for licensable activities had now been withdrawn. The basement would now be operated as ancillary to the office space. The floors above the restaurant would all contain office space aside from floor 6 which was an event space. The concept of the premises was designed to offer a space to suit changing business circumstances and specifically cater for entrepreneurs. People would apply for a membership to use the office space and they would have to abide by the rules and conditions of the premises. It was a new concept which would allow the premises to not only act as a work space but an area for entrepreneurs to exchange and develop ideas. The 6th floor event space would mostly be reserved for members and guests and would provide the premises some commercial flexibility. The basement section of the application had been withdrawn along with the proposal for off sales. Also, the suggestion that any music would be played outside had also been withdrawn and it was confirmed that no speakers would be located on the balcony area.

Mr Skeens explained that the new premises licence had first been applied for on 12 December 2016 during which time the concept of the premises had changed. Constructive discussions had taken place with Environmental Health (EH) to ensure relevant conditions were added to the licence. These included limiting the number of guests allowed in to the premises per member to eight. It was envisaged that members may want to consume alcoholic drinks after a meeting and the application would allow this to take place in any of the meeting rooms. The applicants were requesting some flexibility in the use of the premises and Mr Skeens explained that not all the information relating to the application had been forwarded on to the Sub-Committee for commercial reasons. These reasons included preventing commercial rivals from stealing the concept.

Mr Skeens brought the Sub-Committee's attention to the premises plans submitted. Details regarding the 6th floor were provided and it was explained that it was available for use depending on the member's category of membership. The ground floor had a reception area which would restrict access to any of the floors above. Details on the office facilities available on floors 1, 2 3 and 4 were provided. Floor 5 was an open area which was not reserved and which also had a bar facility controlled by staff. It would act as a flexible, comfortable area consisting of a high level design.

The Sub-Committee questioned how the restaurant on the ground floor would operate as no restaurant conditions had been proposed therefore allowing it to be used for consuming alcohol only. Mr Skeens advised that the applicant would be happy for a limit to be imposed on the number of patrons using the restaurant. It was suggested a capacity of 125 could be enforced with a maximum number of people drinking alcohol only without food restricted to 30. The applicant was requesting some flexibility in this area but was willing to accept limitations on its capacity. Access to the restaurant would be through a separate door to the office space. Most customers would be seated although a limit on the number of customers able to stand and drink alcohol could be introduced. An approximate maximum number of ten customers being able to stand was suggested.

The Sub-Committee requested further clarification with regards to the bar located on the 5th floor. Mr Skeens advised that alcohol would be available from 07:00 to 01:30 in this area by waiter/waitress service only. This facility would be equally available to floors 1 to 4 also. Mr Drayan, representing EH, clarified that between 07:00 to 10:00 in the restaurant alcohol would be by waiter/waitress service only to customers taking a table meal.

In response to a question from the Sub-Committee Mr Skeens advised that the 6th floor would hold events primarily for members but it could also be booked for private events. If a private event was being held office workers in the premises would not be allowed access to it but would still have access to the facilities on the 5th floor. It was anticipated however that most events would be booked by members of the premises. There would be no self-service of alcohol and it would always be by waiter/waitress service. Events would have to be pre-booked with at least 24 hours' notice provided and a guest list would also have to be submitted.

To provide further clarity to the Sub-Committee Mr Skeens confirmed that floors 1 to 4 would provide office space for rent. The 5th floor would act as a member's lounge where one member could invite up to 8 guests who would have to provide their name and address on entry. The 6th floor would function as an event space. Different levels of membership would be available which would offer different levels of access. No passer-by's would be able to use any of the facilities.

Mr Ivesha, the applicant, explained that he was trying to create a modern office experience. It was envisaged that the premises would mainly be utilised by established, modern entrepreneurs working in creative industries but it would not be restricted to this sector. Also, any potential members would have to submit an application for approval before they could use any of the facilities.

Mr Drayan, representing Environmental Health, confirmed that the basement section of the application had been withdrawn along with any regulated entertainment outside. A condition requiring the sale of alcohol between 07:00 and 10:00 in the restaurant to be ancillary to a table meal had been agreed. Several conditions were missing from the original application regarding regulated entertainment but the addition of these had also been agreed. Concern was expressed though that the proposed conditions on the licence did not adequately define what facilities were available to members and which were to the public and therefore several conditions had been proposed by EH to address this. The Sub-Committee was also informed of several other changes to the conditions now the basement area did not form part of the application.

Mr Rees addressed the Sub-Committee on behalf of the Fitzrovia Neighbourhood Association. He provided details on the residential nature of the area and how the proposals could impact on local residents. The main concern centred on the late hours requested and it was suggested core hours should be imposed instead. Allowing the premises to sell alcohol until 01:30 had the potential to increase noise nuisance in the area through the increased use of taxis and due to members leaving the premises having consumed alcohol. It was also proposed to restrict the sale of alcohol in the restaurant to customers taking a table meal. The application would allow the whole building to be licenced for the sale of alcohol and it was considered this was very open-ended. Concern was expressed over the bar located on the 5th floor as no food provision was available there and this could lead to potential problems. Other aspects of the application which were a cause for concern included the timing of deliveries and the disposal of bottles. Hours restricting these were suggested to limit these to not before 07:00 and none after 22:00. The application made no mention of potential smokers and how they would be managed. Issues over smoke effecting nearby residences or smokers taking drinks outside with them needed addressing.

Mr Brown, from the Westminster Citizens Advice Bureau, remarked that the hours for the sale of alcohol requested went significantly beyond core hours. The premises was permitted to be open 24 hours a day and concern was expressed over the danger of guests potentially stockpiling drinks. The issue over dispersal was an important one as the premises was located in a residential area with may

residences only having single paned windows therefore making them susceptible to any noise disturbance. The premises was not located in a Cumulative Impact Area (CIA) but it was however situated very close to one. People leaving the premises had the potential to very easily enter the CIA and create disturbance. Further clarity was requested on which floors actually had physical bars located on them? There was still uncertainty and it was questioned how alcohol would be provided to floors 1, 2, 3, and 4. The 6th floor would act as an event space but the conditions also made reference to floor 5 acting as an area which could service pre-booked private events. Live and recorded music had been requested until 01:30 and Mr Brown queried why this had been requested and what events it was envisaged to hold? Finally, the Sub-Committee's attention was drawn to the fact that the licence could be transferred at a later date and this needed to be borne in mind with regards to how the premises could operate in the future.

Mr Moses, Vicar of the parish of All Saints, Margaret Street and a local resident, addressed the Sub-Committee. Mr Moses expressed his concern over the dispersal of people using the premises late at night. A number of nightclubs already operated in the local area causing significant disturbance. As the building was open twenty four hours a day, seven days a week it had the potential to create, along with the nightclubs, continuous disturbance to residents. It was recognised that people on the premises could be controlled however once they left the premises they could not and this could add to the existing problems. Mr Moses stressed he had no problems with the applicants and wished their business venture well; however the concern over the event space and the hours requested remained.

Mr Skeens agreed it was difficult to manage the behaviour of people outside the premises. It was explained though that the premises targeted clientele were those who would not cause a nuisance and would be aware of the appropriate behaviour expected. If any inappropriate behaviour did occur though the applicants had the ability to withdraw their membership. They had the ability to affect the behaviour of members leaving the premises and dispersal of them would be staggered throughout the day. It was confirmed that the premises was not a nightclub and members of the premises would be those interested in ensuring the upkeep of the local environment. The membership scheme in place also helped exert strong controls over the behaviour of its members. The Sub-Committee's attention was drawn to proposed condition 11 which prohibited the premises from creating any noise nuisance. The residents' concerns over potential disturbance outside the premises were accepted however the applicants also had a vested interest in ensuring their members behaved and they would use their best endeavours to ensure no disturbance occurred. This could be controlled through the conditions proposed including the CCTV condition suggested. The applicant had listened to the concerns over smokers outside the building and was happy for controls to be conditioned. Concern had also been raised over the fact the premises was open 24 hours a day. This was because the business was aimed at providing office space to international travellers and all sales of alcohol would cease at 01:30 hours. The applicant was also willing to accept conditions limiting the hours for deliveries and disposal of waste to ensure there was no noise disturbance to residents. With regards to the proposal to allow live music until 01:30 it was explained this was to allow, for

	<p>example, a three piece orchestra to entertain members and their guests during a private event. All music played at the premises would be transmitted through a sound limiter to minimise any impact it would have. Floors 1 to 4 did not have any physical bars and the service of alcohol to these floors would be undertaken by staff using the bars located on the 5th or 6th floors.</p> <p>The Council's Policy Adviser requested clarity on the number and nature of pre-booked events envisaged for the 5th and 6th floors and what type of organisations might hold the events? Mr Ivesha stated that it would predominantly host events for members but there could be situations for large companies based in the local area to hire the space to hold meetings, workshops or Christmas parties.</p> <p>The Council's Legal Adviser requested clarification on when private, pre-booked events were held whether this would include both floors 5 and 6. Mr Drayan explained that some facilities such as the toilets were located on the 5th floor and these would be utilised by people attending an event held on the 6th floor. Mr Skeens confirmed that the 5th floor toilets could act as an overflow. Mr Ivesha also explained that the 5th floor could also act as a pre-function room used in conjunction with the event space on the 6th floor.</p> <p>After careful consideration the Sub-Committee advised that it was not currently in a position to make a decision on the application. It was recognised that a number of the aspects of the application were not in dispute including the operation of the restaurant. However it had become evident that the number of amendments to the conditions which would be required to make the application acceptable would be very substantial. In the interests of equity and fairness to all parties the Sub-Committee was of the opinion therefore that making the substantial changes required would not be fair for all parties as this would involve seeing the amendments for the first time and not having an opportunity to comment on them. The Sub-Committee therefore determined to adjourn the hearing of the application to allow further work to be undertaken by the applicant to address and clarify matters with regards to the operation of the premises which only became clear during the course of the hearing. This would allow more appropriate and relevant conditions to be proposed for attachment to the licence and allow the Sub-Committee to make specific decisions with regards to the application. The applicant was requested to submit the revised application in good time to allow all parties to comment on the proposed conditions. The Sub-Committee confirmed that best endeavours would be made to complete the hearing of the application within the next three weeks with the same Sub-Committee membership.</p>
<p>2.</p>	<p>Plays - Indoors</p> <p>Monday to Sunday: 07:00 to 01:30</p> <p>Seasonal Variations/Non-Standard Timings:</p> <p>Plays for members and guest or private pre-booked events on 6th Floor.</p> <p>From the end of permitted hours on New Year's Eve to the start of permitted</p>

	hours on New Year' Day.
	Amendments to application advised at hearing: None.
	Decision (including reasons if different from those set out in report): The application was adjourned; the reason for the decision is detailed in section 1.
3.	<p>Films - Indoors</p> <p>Monday to Sunday: 07:00 to 01:30</p> <p>Seasonal Variations/Non-Standard Timings:</p> <p>Films for members and guest or private pre-booked events on 6th Floor.</p> <p>From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year' Day.</p>
	Amendments to application advised at hearing: None.
	Decision (including reasons if different from those set out in report): The application was adjourned; the reason for the decision is detailed in section 1.
4.	<p>Live Music - Indoors</p> <p>Monday to Sunday: 07:00 to 01:30</p> <p>Seasonal Variations/Non-Standard Timings:</p> <p>Live Music for members and guest or private pre-booked events throughout.</p> <p>From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year' Day.</p>
	Amendments to application advised at hearing: None.
	Decision (including reasons if different from those set out in report): The application was adjourned; the reason for the decision is detailed in section 1.

5.	<p>Recorded Music – Indoors and Outdoors</p> <p>Monday to Sunday: 07:00 to 01:30</p> <p>Seasonal Variations/Non-Standard Timings:</p> <p>Recorded Music for members and guest or private pre-booked events throughout.</p> <p>From the end of permitted hours on New Year’s Eve to the start of permitted hours on New Year’ Day.</p>
	<p>Amendments to application advised at hearing:</p> <p>The Sub-Committee was informed that the proposal to allow the playing of recorded music outdoors had now been withdrawn.</p>
	<p>Decision (including reasons if different from those set out in report):</p> <p>The application was adjourned; the reason for the decision is detailed in section 1.</p>
6.	<p>Sale by Retail of Alcohol – On Sales</p> <p>Monday to Sunday: 07:00 to 01:30</p> <p>Seasonal Variations/Non-Standard Timings:</p> <p>Supply of alcohol to members of the public in the restaurant until 00:00 only (23:00 on Sundays).</p> <p>Supply of alcohol to members and their guests and at private pre-booked events as shown.</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>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 adjourned; the reason for the decision is detailed in section 1.</p>
7.	<p>Hours Premises are Open to the Public</p> <p>Monday to Sunday: 00:00 to 00:00</p>

	<p>Seasonal Variations/Non-Standard Timings:</p> <p>The building will be open to members and their guests and for private pre-booked events 24 hours a day. The restaurants will be open to members of the public from 07:00 to 00:00 Monday to Saturdays and from 07:00 to 23:30 on Sundays.</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 adjourned; the reason for the decision is detailed in section 1.</p>

4 MUBAO BEAUTY LTD, 26 WARDOUR STREET, W1

The application was withdrawn and would be rescheduled to a future Sub-Committee meeting.

5 THE UNION, 88-90 GEORGE STREET, W1

LICENSING SUB-COMMITTEE No. 6

Thursday 15th June 2017

Membership: Councillor Melvyn Caplan (Chairman), Councillor Peter Freeman and Councillor Shamim Talukder

Legal Adviser: Barry Panto

Policy Adviser: Chris Wroe

Committee Officer: Tristan Fieldsend

Presenting Officer: Heidi Lawrance

Representations: Environmental Health, the Licensing Authority and one local resident.

Present: Mr Richard Brown (Solicitor, Citizens Advice Bureau Licensing Advice Project representing the Applicants), Mrs Rosemary Hook and Mr Robert Hook (Applicant and her husband), Mr Maxwell Koduah and Mr Anil Drayan (Environmental Health), Mr Steven Rowe (Licensing Authority), Mr Glyn Franks (Licensing Inspector), Mr Tim Shield (Solicitor, representing the premises) and Mr Renato Pelizza and Ms Katarina Perera (representing the premises company).

<p>The Union, 88-90 George Street, London, W1U 8PA 17/04023/LIREVP</p>

An application was submitted by Mrs Rosemary Hook for a review of the premises on 18 April 2017 on the grounds of Public Safety and Prevention of Public Nuisance. The main concern related to noise emanating from the outside area to the rear of the premises in which patrons congregated to drink and smoke. A photograph at page 103 of the report, taken at 18.40 hours in March 2017, was a recent example of the problem being experienced. The Environmental Health Service and the Licensing Authority supported the review application on the grounds of Public Safety and the Prevention of Public Nuisance.

Decision:

The Sub-Committee carefully considered the review application, the various statements that had been made by the applicant and supporting neighbours and all of the material received from the parties involved. The Sub-Committee also heard submissions and evidence at the hearing prior to Members retiring to reach a decision.

Mr Brown, from the Westminster Citizens Advice Bureau, addressed the Sub-Committee on behalf of the applicant. It was explained the application had been submitted in April 2017 after a number of years of noise nuisance experienced by residents. The main issue was in fact very narrow in scope and centered on three areas at the rear of the premises, i) the terrace area, ii) the narrow pavement area and iii) the car park. Large numbers of customers congregated in these rear areas generating lots of noise. Uncontrolled use of these areas had therefore given rise to noise disturbance to local residents which included preventing them from enjoying the use of their balconies. Due to the 'canyon effect' of the area noise levels were greatly increased for neighbours, particularly for those living in the higher flats. With regards to the car park there were two main reasons why the licence holder would not want customers congregating in this area. Firstly due to public safety as the car park was used by large lorries to drop off deliveries. Secondly, residents had been working with the Police to combat drug dealing in the area. Therefore what the applicants were requesting were conditions added to the licence prohibiting the use of the rear area after 21:00 hours in line with another nearby licenced premises, Carousel.

Mr Brown provided the Sub-Committee with a background to the review application. The Sub-Committee's attention was drawn to photos providing a snapshot of the large number of customers who often drank at the rear of the premises. The generation of excessive noise would generally start in the early evening and carry on until late in the evening. During that time the number of customers using the rear area would reduce but their levels of intoxication would increase. The issues were generally weather dependant with disturbance increasing usually towards the end of the week. Issues of noise disturbance had even been recorded in March and this was exacerbated through lots of the nearby residential properties only having windows consisting of single pane glass.

The Sub-Committee was informed by Mr Brown that what distinguished this review from others was that this premises had an outside area located at the front where tables and chairs were situated allowing customers to drink outside until 23:00

hours. Restricting the use of the rear area would therefore not prevent customers from drinking in the outside area at the front of the premises. The noise generated at the rear terrace was negatively impacting on the residents' ability to sleep on an evening, especially young child who went to bed earlier. Evidence provided in the form of emails from the applicant to Environmental Health (EH) and the photos circulated supported the claims of the residents. In 2016 the residents had experienced a summer of disruption but had given the premises an opportunity to improve. Unfortunately these improvements had not been forthcoming this year. The evidence provided by noise officers corroborated the issues experienced by residents. It was recognised that the licence holders had introduced some 'patio rules' (set out at page 137 of the report) but it was apparent these were not working and therefore it would be appropriate to add conditions to the licence. The Sub-Committee noted that the rules did not ban the use of the car park until 10 pm, though evidence provided by Mr Franks did indicate that the premises did agree to prevent the use of the car park entirely a few weeks later. A visit from the Council's noise officer recorded in excess of eighty customers using the rear area one evening in May 2016 and therefore it was requested that the use of the car park be prohibited with restrictions also imposed on the rear terrace.

Mr Brown updated the Sub-Committee on recent events which highlighted that, despite assurances from the licence holder that more control had been imposed, unfortunately the same levels of disruption were being experienced. The applicant had made numerous attempts to engage with the licence holder before a review application was submitted. This had not reduced noise levels and the previous Designated Premises Supervisor (DPS) had even used threatening behaviour towards the applicant. Concern was expressed that the owner of the premises would hire this type of DPS. The Sub-Committee was cautioned against evidence submitted by the licence holder stating that a significant food offer was provided at the rear terrace area. There were currently no tables and chairs located in the terrace and it was predominantly used for drinking alcohol. The conditions proposed by the licence holder were deficient in that they did not address the use of the car park. Restricting the use of the terrace after 23:00 did not take into account the evidence provided that the disturbance generally started from 17:30. It was suggested that any potential conditions should restrict use of the terrace after 21:00 and limit the number of customers able to use it to twelve. A condition could also be added to the licence to ensure the area was constantly supervised. It was recognised that more control over the area had been exerted recently however it was of concern that it had taken until this stage for this to happen.

Mrs Hook, the applicant, described the extensive level of noise disturbance experienced by residents. It was explained that the rear terrace normally had a couple of tables at lunch times but on an evening it was purely for customers standing, drinking alcohol. The premises was not frequented by local residents and the residents who had supported the application lived in the area permanently with many having young children. The lack of engagement from the licence holders had been very disappointing despite frequent attempts by residents to discuss the issues. The 'patio rules' previously mentioned had not been introduced until May 2017 and these were considered more effective in controlling the noise but something more permanent was required as noise disturbance was still a big issue. Concern was expressed that the customer notice on the terrace apologised to customers for asking them to be quiet but it should be expected for the premises to be a good neighbour.

Stronger controls were required to control the terrace area and it was not until the review application had been brought that noticeable changes had been instigated. Her application clearly stated that she was not averse to customers drinking outside, even to the rear of the premises, provided that was to a reasonable time and in reasonable numbers.

Mr Koduah, representing Environmental Health, confirmed that on 26 May 2016 a City Inspector had visited the premises and reported noise levels that were considered excessive. Discussions had been undertaken with the DPS with regards to how to reduce the noise but another noise complaint had been made the very next day. Again it was reported that there were lots of patrons outside the premises generating substantial levels of noise. EH therefore had no confidence that the premises was managed in an appropriate and effective manner and subsequently supported the review application. Mr Koduah then provided the Sub-Committee with an overview of the complaints received regarding the premises. These mainly related to dates in May and June 2016 and all but one was on a Friday night. Concern was also expressed over the frequent DPS changes at the premises and how this would impact on any continuity with regards to managing the establishment. The conditions proposed by the applicant were supported and it was also suggested that model conditions 12, 21, 22 and 57 be also added to the licence to provide further control over the rear terrace area.

Mr Rowe, representing the Licensing Authority, supported the review application in order to allow the applicant an opportunity to review their resources with regards to the premises history and any enforcement actions that had been undertaken. Mr Franks, a Licensing Inspector, was also present to provide any information on enforcement history if any parties required it.

In response to a question Mrs Hook advised that the terrace area was not widely used at lunch times. The problems started in the evening and were largely dependent on the weather. On the day prior to the hearing thirty-eight customers had congregated at the rear of the premises but they had been well-contained and had been made to re-enter the premises at 22:00 hours. Even though this was an improvement it was still regarded as a lot of people and the noise disturbance was still significant. This highlighted that even when the problems had been contained it still posed issues to residents.

Mr Shields, representing the premises, explained that the review could be split into three sections, i) the history of the premises, ii) May-June 2016 and iii) 2017 and the review application. Mr Shields confirmed that the licence holder was not in opposition to conditions being added to the licence. The premises had been operating for forty years and no one was aware for how long the rear area had been in use. The current owner purchased the property in 2001 during which time an external rear terrace area with the same current dimensions had always been in continual operation. There was also a private car park to the rear, adjacent to which was a House of Fraser Store. Many people using the car park were staff from the House of Fraser and they often congregated in it which generated noise. The licence holder had no control over these people or the use of the car park. In 2016 residents had made noise complaints and it was suggested that the DPS at the time had been rude and threatening. The owner had not been aware of these allegations until the review application had been brought but the company did not condone such behaviour and

would have taken action if they had been notified.

Mr Shields brought to the Sub-Committee's attention that in summer 2016 complaints had been made in May and June however no complaints had been received in July and August. It was in this context that he asked the Sub-Committee to look at this review as complaints were not being made every day or week or month of the year. The record submitted of the complaints made stopped in June 2016. It was acknowledged that there had been instances of noise disturbance however the introduction of the 'patio rules', the erection of a barrier and improved supervision had been introduced in May/June 2016. Once it had bedded in no complaints had been received after June 2016. It would therefore be unfair to suggest the premises ignored any complaints and carried on regardless. The complaint received on 6 May 2016 was not clear on whether any disturbance was being created. The visit on 9 June 2016 states any noise was not excessive. The area at the front of the premises was not part of the review and no complaints had been received against it. It was a separate area and it would be impossible to say what impact restricting the use of the rear terrace would have on this area. The complaint received on 12 August 2016 appeared to relate to employees from the House of Fraser. A visit undertaken on 24 June 2016 by the Licensing Inspector confirmed that thirty customers were drinking at the rear patio area without the creation of any disturbance. The car park was not being used.

Mr Shields advised that a new DPS was now in place and the premises did attract local residents. Food was provided at the rear terrace, mainly during the day, and later in the evening it would comprise mostly of customers standing, drinking alcohol. The DPS had had no contact from residents since he took over on 1 December 2016 and was unaware of any complaints having been made. Therefore to suggest there had been wilful inaction was incorrect. The photos of people congregating at the rear of the premises drinking was not an issue with a long history and the photos mainly appeared to be from the same evening. Noise disturbance may have been an issue at one point but it was wrong to suggest no action had been taken. In fact the issues raised had now basically been resolved. Two local residents had submitted representations supporting the review. It was stressed that neither wanted to prohibit the use of the rear terrace but to impose restrictions on it and it was unclear if any had made a complaint to the Council.

The Sub-Committee was interested in why the licence holder was willing to accept extra conditions on the licence but none restricting the use of the car park? Mr Shields advised the Sub-Committee that there were concerns over the imposition of any conditions regarding the car park as it was private and therefore they could not control the area. Measures had been imposed to provide greater control over the rear terrace but it would be difficult to control people in the car park when it was often used by people who were not customers of the premises.

Mr Pelizza, the Designated Premises Supervisor, highlighted how House of Fraser employees often congregated in the car park with glasses of alcohol. It was not just customers of the premises and therefore this was why there was concern over the potential to impose conditions on the licence with regards to the car park. Mr Shields confirmed that the use of the barrier at the rear of the premises had been very successful in controlling people trying to use the car park area.

Mr Brown suggested that it was wrong to assert that this was not an issue with a long history. Complaints had been received in 2015 and just because there was a lack of complaints prior to 2015 this did not mean there were no concerns. It was not the residents' experience that the premises had attempted to adequately resolve any issues. The photos circulated reflected the levels of disturbance generated throughout the year and not just May and June last year. A new DPS had been introduced in December 2016 but this was the eighth change in DPS since 2014. Residents would be unaware of any changes and the lack of continuity was resulting in complaints being inadequately resolved. The nearby premises Carousel had its rear terrace restricted to 21:00 hours. Mrs Hook also did not recognise the claim that it was often House of Fraser staff congregating in the car park at evenings. Mrs Hook stated that she was only aware of one instance of House of Fraser staff using the car park. Mr Brown finally brought to the Sub-Committees attention that there was a detailed log of City Inspectors visiting the premises when excessive noise was being generated. The instances where they did attend the premises but found the noise not excessive was hard to assess as it may not have been excessive to them but it would be to a person trying to sleep.

Mr Shields concluded that it was obvious that the different parties were at odds. It was highlighted that the residents were obviously aware of how to make complaints. Recorded complaints were important statistics and these showed that after June 2016 they virtually stopped suggesting any issues had now been resolved. It was acknowledged some issues had been encountered in May to June 2016 but it was difficult to use as evidence suggestions that complaints had been made but not recorded. The Sub-Committee could impose conditions on the licence to limit the numbers of customers able to use the rear terrace but the City Inspector's visits highlighted how thirty-five people could use this area in a safe and considerate manner. As long as the area was properly supervised it would not create a noise disturbance. Written submissions proposed a number of other conditions that the licence holder was prepared to agree, including the clearing of the external patio after 23.00 hours. Mr Shields stated that the Sub-Committee had to be proportional in making its decision and was reminded only one complaint against the premises had been recorded in 2017.

After carefully considering the application the Sub-Committee stressed the importance, going forward, to ensure there was regular engagement between all parties. It was obvious problems had arisen through the high turnover in DPSs and it was vital for the owner of the premises to ensure any future DPS holders conduct in constructive dialogue with residents if any further issues arose. There was also an onus on local residents to engage as well, not only with the licence holders but, if they had a complaint, with the Council. Complaints statistics were important and if residents did not log complaints with the Council then it would be difficult for them to provide evidence of the issues arising. It was recognised by all parties, including the licence holder, that problems had arisen in the past and conditions could be added to the licence to ensure there was a greater level of control over the rear external area. As such all the options available to the Sub-Committee had been considered and it had reached the decision that imposing additional conditions on the licence was the most proportionate and appropriate step to take. These included ensuring that a telephone number of the manager at the premises be publically available to aid with the process of engagement. It was considered the use of the rear terrace could be used for the consumption of alcohol however a condition would be added to prevent

any customers from overspilling into the adjoining car park. It was felt this would help in bringing a higher degree of control into the area and also ensure that all customers could be properly supervised. A limit on the number of customers allowed to use the terrace was not imposed as the Sub-Committee considered it was proportional to restrict the time it could be used instead. Most of the issues arising were related to what time the noise disturbance was created rather than the numbers involved and it was therefore felt prohibiting the use of the area after 21:00 struck the right balance. Further conditions would be added to ensure there was no nuisance or obstruction on the public highway and ensuring all external windows and doors to the rear of the premises should be kept closed after 21:00 hours. Finally model conditions twelve and twenty-one would also be included to minimise noise disruption and ensure signs were prominently displayed at the rear terrace requiring customers to respect local residents.

The Sub-Committee was of the opinion that the additional conditions would minimise the impact of the rear terrace and help alleviate any noise disruption to local residents. The additional conditions were considered proportionate and would help ensure the premises promoted and upheld the licensing objectives.

Conditions attached to the Licence

Mandatory Conditions

1. No supply of alcohol may be made at a time when there is no designated premises supervisor in respect of this licence.
2. No supply of alcohol may be made at a time when the designated premises supervisor does not hold a personal licence or the personal licence is suspended.
3. Every supply of alcohol under this licence must be made or authorised by a person who hold a personal licence.
4. (1) The responsible person shall take all reasonable steps to 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 shall 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 shall ensure that an age verification policy applies to 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 shall ensure that;

8. The responsible person shall ensure that;

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

- (i) beer or cider: ½ pint
- (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
- (i) Still wine in a glass: 125 ml; and

- (b) these measure 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 measure are available.

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

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

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

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

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

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

Where –

(i) P is the permitted price,

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

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

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

(i) the holder of the premises licence,

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

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

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

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

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

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

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

Conditions Which Reproduce the Effect of any Restriction Imposed on the use of the Premises by Specified Enactment

9. (1) Alcohol shall not be sold, supplied, consumed in or taken from the premises except during permitted hours.

In this condition, permitted hours means:

- (a) On weekdays, other than Christmas Day, Good Friday or New Year's Eve, 10:00 to 23:00.
- (b) On Sundays, other than Christmas Day or New Year's Eve, 12:00 to 22:30.
- (c) On Good Friday, 12:00 to 22:30.
- (d) On Christmas Day, 12:00 to 15:00 and 19:00 to 22:30.
- (e) On New Year's Eve, except on a Sunday, 10:00 to 23:00.
- (f) On New Year's Eve on a Sunday, 12:00 to 22:30.
- (g) 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, midnight on 31 December).

Ground Floor Only

(2) Alcohol may be sold or supplied for one hour following the hours set out above (other than Christmas Day and New Year's Eve), and on Christmas Day, between 15:00 and 19:00, to persons taking table meals in the premises in a part of the premises usually set apart for the service of such persons and for consumption by such a person in that part of the premises as an ancillary to his meal. For other purposes or in other parts of the premises the hours set out above shall continue to apply.

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.

10. 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

11. Under 18s shall not be permitted to enter the premises after 21:00 unless accompanied by an adult and attending a private function.

Conditions Attached After a Hearing by the Licensing Authority

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

13. Consumption of alcohol to the rear of the premises shall be restricted to the terrace area immediately adjacent to the rear door. Patrons must not be permitted to overspill into the adjoining car park.
14. Patrons shall not be permitted to use the terrace area to the rear of the premises for any purpose after 21:00.
15. 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 or private land.
16. All external windows and doors to the rear of the premises shall be kept closed after 9pm, except for emergency ingress and egress.
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 nuisance.
18. Notices shall be prominently displayed at the rear terrace requesting patrons to respect the needs of local residents.

The Meeting ended at 1.54 pm

CHAIRMAN: _____

DATE _____