

# Licensing Sub-Committee Report

Item No:	
Date:	22 <sup>nd</sup> June 2017
Licensing Ref No:	17/04470/LIPN - New Premises Licence
Title of Report:	Hard Rock Cafe Ground and Lower Floor 225-229 Piccadilly London W1J 9HR
Report of:	Director of Public Protection and Licensing
Wards involved:	St James's
Policy context:	City of Westminster Statement of Licensing Policy
Financial summary:	None
Report Author:	Miss Heidi Lawrance Senior Licensing Officer
Contact details	Telephone: 020 7641 2751 Email: hlawrance@westminster.gov.uk

## 1. Application

1-A Applicant and premises			
<b>Application Type:</b>	New Premises Licence, Licensing Act 2003		
<b>Application received date:</b>	28 April 2017		
<b>Applicant:</b>	Hard Rock Cafe (UK) Limited		
<b>Premises:</b>	Hard Rock Cafe		
<b>Premises address:</b>	Ground and Lower Floor 225-229 Piccadilly London W1J 9HR	<b>Ward:</b>	St James's
		<b>Cumulative Impact Area:</b>	West End
<b>Premises description:</b>	The premises intend to operate as a Restaurant, Bar, Hotel and Shop.		
<b>Premises licence history:</b>	<p>This is an application for a new premises for the Hard Rock Cafe.</p> <p>The premises will be situated from 225-229 Piccadilly and will be part of a new development.</p>		
<b>Applicant submissions:</b>	The applicant has submitted an information bundle as part of their application and this can be found attached at Appendix 2.		

1-B Proposed licensable activities and hours							
<b>Late Night Refreshment:</b>				<b>Indoors, outdoors or both</b>			Indoors
<b>Day:</b>	<b>Mon</b>	<b>Tues</b>	<b>Wed</b>	<b>Thur</b>	<b>Fri</b>	<b>Sat</b>	<b>Sun</b>
<b>Start:</b>	23:00	23:00	23:00	23:00	23:00	23:00	23:00
<b>End:</b>	01:00	01:00	01:00	01:00	02:00	02:00	01:00
<b>Seasonal variations/ Non-standard timings:</b>			From the end of permitted hours on new years eve until the start of permitted hours on new years day.				

<b>Live Music:</b>				<b>Indoors, outdoors or both</b>			Indoors
<b>Day:</b>	<b>Mon</b>	<b>Tues</b>	<b>Wed</b>	<b>Thur</b>	<b>Fri</b>	<b>Sat</b>	<b>Sun</b>
<b>Start:</b>	10:00	10:00	10:00	10:00	10:00	10:00	10:00
<b>End:</b>	01:00	01:00	01:00	01:00	02:00	02:00	01:00
<b>Seasonal variations/ Non-standard timings:</b>			From the end of permitted hours on new years eve until the start of permitted hours on new years day.				

<b>Recorded Music:</b>				<b>Indoors, outdoors or both</b>			Indoors
<b>Day:</b>	<b>Mon</b>	<b>Tues</b>	<b>Wed</b>	<b>Thur</b>	<b>Fri</b>	<b>Sat</b>	<b>Sun</b>
<b>Start:</b>	10:00	10:00	10:00	10:00	10:00	10:00	10:00
<b>End:</b>	01:00	01:00	01:00	01:00	02:00	02:00	01:00
<b>Seasonal variations/ Non-standard timings:</b>			From the end of permitted hours on new years eve until the start of permitted hours on new years day.				

<b>Sale by retail of alcohol</b>				<b>On or off sales or both:</b>			On Sales
<b>Day:</b>	<b>Mon</b>	<b>Tues</b>	<b>Wed</b>	<b>Thur</b>	<b>Fri</b>	<b>Sat</b>	<b>Sun</b>
<b>Start:</b>	10:00	10:00	10:00	10:00	10:00	10:00	10:00
<b>End:</b>	00:30	00:30	00:30	00:30	01:30	01:30	00:30
<b>Seasonal variations/ Non-standard timings:</b>			From the end of permitted hours on new years eve until the start of permitted hours on new years day.				

<b>Hours premises are open to the public</b>							
<b>Day:</b>	<b>Mon</b>	<b>Tues</b>	<b>Wed</b>	<b>Thur</b>	<b>Fri</b>	<b>Sat</b>	<b>Sun</b>
<b>Start:</b>	10:00	10:00	10:00	10:00	10:00	10:00	10:00
<b>End:</b>	01:30	01:30	01:30	01:30	02:30	02:30	01:30
<b>Seasonal variations/ Non-standard timings:</b>			From the end of permitted hours on new years eve until the start of permitted hours on new years day.				
<b>Adult Entertainment:</b>			Not applicable.				

## 2. Representations

<b>2-A Responsible Authorities</b>	
<b>Responsible Authority:</b>	PC Toby Janes
<b>Representative:</b>	Metropolitan Police Service
<b>Received:</b>	9 <sup>th</sup> May 2017

With reference to the above application, I am writing to inform you that the Metropolitan Police, as a Responsible Authority, make a representation against the above application.

It is our belief that if granted the application would undermine the licensing objectives in relation to the prevention of crime and disorder.

The conditions offered within the application do address some of our concerns. However the venue is situated in the West End cumulative impact area, a locality where there is traditionally high crime and disorder. The hours sought are well beyond core

hours as set out in the Westminster Policy and we have concerns that this application may cause further policing problems in an already demanding area.

**Responsible Authority:** Licensing Authority

**Representative:** Mr David Sycamore

**Received:** 25<sup>th</sup> May 2017

I write in relation to the application submitted for a new Premises Licence for the above premises.

As a responsible authority under section 13 (4) of the Licensing Act 2003 as amended under the Police and Social Responsibility Act 2011 the Licensing Authority have considered your application in full. The Licensing Authority has concerns in relation to this application and how the premises would promote the Licensing Objectives:

- Public Nuisance
- Prevention of Crime & Disorder
- Public Safety

Whilst we acknowledge the substantial proposed investment, we must make a representation as the application exceeds many parts of the Westminster Statement of Licensing Policy 2016. The hours sort currently exceed those set out in our core hours (HRS1) and the premises is located in the Cumulative impact area and whilst the majority of the premises will operate like a restaurant, (RNT1) some of it will operate as bar and still must show it does not add to cumulative impact. Due to the hours sort and licensable activities this application is contrary to CIP1, therefore please accept this as a formal representation.

With a capacity in excess of 400, it is for the applicant to demonstrate how this premises will not add to cumulative impact in the area, with the addition that there could be queuing outside the premises. The people queuing could become victims of crime and we note there is only the offer of a single SIA staff member after 18:00hrs. We are particularly concerned that the Bar area will allow 65 people to drink prior to and post any meal and we would prefer this to be prior to meals only and limited to 30 minutes prior to the booked meal time. We would suggest a last admittance time of no later than core hours would go some way to demonstrate an adjustment and consideration of policy CIP1.

I would like to attend a site meeting to get a better understanding of the premises if this can be arranged prior the hearing. I look forward to receiving any additional information you may wish to submit to address the concerns raised.

<b>2-B Other Persons</b>	
<b>Name:</b>	Emma Hammond
<b>Address and/or Residents Association:</b>	McKinsey & Company - Real Estate 1 Jermyn Street London SW1Y 4UH
<b>Received:</b>	24 <sup>th</sup> May 2017
<p>We refer to the above licence application (the 'Application').</p> <p>We occupy the premises known as 1 Jermyn Street, which are located immediately above the premises which are the subject of the Application (the 'Application Premises'). We occupy as offices and operate on a 24/7 basis. We have occupied our office for over 20 years and around ~900 of our staff regularly use this office. The first floor, immediately above the Application Premises, are used as meeting space for client meetings, training, events and other internal meetings and, as such, are sensitive to noise and other disturbance.</p> <p>We have, together with our advisors, reviewed the supporting materials available on Westminster's website. We hereby object to the grant of a licence pursuant to the Application on the grounds that the risk of noise transfer from the Application Premises has not been properly addressed. The acoustic report submitted in support of the Application assumes that the structural slab separating our premises and the Application Premises are sufficient to prevent the transfer of noise. However, no supporting evidence is provided to confirm the assumption that the construction of, or acoustic properties, of the structural slab are sufficient in the context of the proposed future use of the Application Premises.</p> <p>We kindly request that the Applicant is required to provide evidence that the necessary level of protection is in place to prevent noise transfer disturbing the enjoyment of our premises before any licence is granted.</p>	

### 3. Policy & Guidance

The following policies within the City Of Westminster Statement of Licensing Policy apply:	
<b>Policy CIA1 applies</b>	<p>(i) It is the Licensing Authority's policy to refuse applications in the Cumulative Impact Areas for: pubs and bars, fast food premises, and premises offering facilities for music and dancing; other than applications to vary hours within the Core Hours under Policy HRS1.</p> <p>(ii) Applications for other licensable activities in the Cumulative Impact Areas will be subject to other policies, and must demonstrate that they will not add to cumulative impact in the Cumulative Impact Areas.</p>

<b>Policy HRS1 applies:</b>	<p>(i) Applications for hours within the core hours set out below in this policy will generally be granted, subject to not being contrary to other policies in the Statement of Licensing Policy.</p> <p>(ii) Applications for hours outside the core hours set out below in this policy will be considered on their merits, subject to other relevant policies.</p>
<b>Policy RNT2 applies:</b>	Applications will be granted subject to other policies in this Statement and subject to the relevant criteria in Policies CD1, PS1, PN1 and CH1, provided it can be demonstrated that they will not add to cumulative impact in the Cumulative Impact Areas.
<b>Policy PB2 applies:</b>	It is the Licensing Authority's policy to refuse applications in the Cumulative Impact Areas other than applications to vary hours within the Core Hours under Policy HRS1.

#### 4. Appendices

<b>Appendix 1</b>	Premises plans
<b>Appendix 2</b>	Applicant supporting documents
<b>Appendix 3</b>	Premises history
<b>Appendix 4</b>	Proposed conditions
<b>Appendix 5</b>	Residential map and list of premises in the vicinity

<b>Report author:</b>	Miss Heidi Lawrance Senior Licensing Officer
<b>Contact:</b>	Telephone: 020 7641 2751 Email: hlawrance@westminster.gov.uk

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

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

<b>1</b>	Licensing Act 2003	N/A
<b>2</b>	City of Westminster Statement of Licensing Policy	7 <sup>th</sup> January 2016
<b>3</b>	Amended Guidance issued under section 182 of the Licensing Act 2003	March 2015
<b>4</b>	Application Form	28 <sup>th</sup> April 2017
<b>5</b>	Representation – MET Police	9 <sup>th</sup> May 2017
<b>6</b>	Representation – Licensing Authority	25 <sup>th</sup> May 2017
<b>7</b>	Representation – McKinsey & Company	24 <sup>th</sup> May 2017

**Premises Plans**

**FIRE DETECTION**  
**MCP** Combined manual call points/bounders (system must be installed in accordance with BS 5832 Part 1)

**FIRE EXTINGUISHERS**  
**FEA** Fire extinguisher pairs, either:  
 -21A power fire extinguisher, or  
 -21A wetter & 2kg CO2 fire extinguishers

**LICENSING NOTES**  
 Denotes Whole Demise of Premises activities.  
 Note: Locations of movable furniture for indicator purposes only.

NO.	DESCRIPTION	AREA	NO.	DESCRIPTION	AREA
1	STAIRS	STAIRS	1	STAIRS	STAIRS
2	STAIRS	STAIRS	2	STAIRS	STAIRS
3	STAIRS	STAIRS	3	STAIRS	STAIRS
4	STAIRS	STAIRS	4	STAIRS	STAIRS
5	STAIRS	STAIRS	5	STAIRS	STAIRS
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**00 Basement - Proposed Licensing Plan**  
 Scale - 1:100@A1

**LICENSING**

**fuse**

**LICENSING**

**00**

**LICENSING**



**FIRE DETECTION**

Combined manual call points/bounders system must be installed in accordance with BS 5838: Part 1

**MCP** Manual Call Point/Bounder

**FIRE EXTINGUISHERS**

Fire extinguisher point, water, 21A powder fire extinguisher, or 21A water & 2kg CO2 fire extinguishers

**FEA** Fire Extinguisher Area

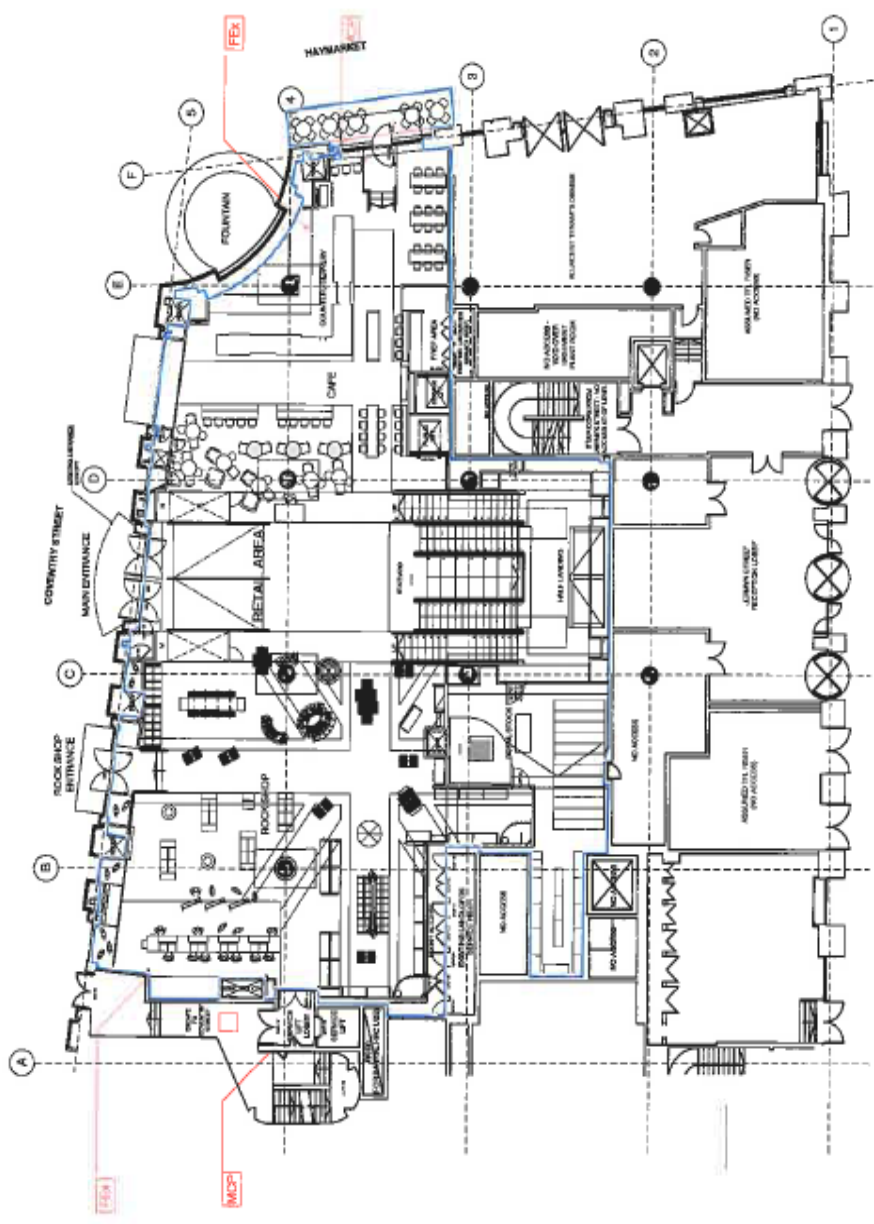
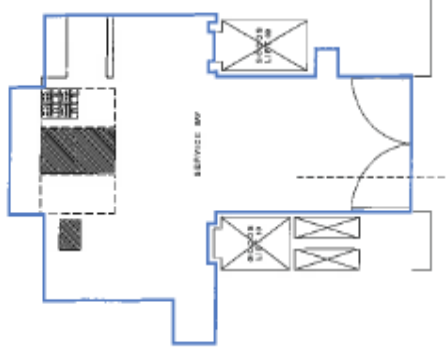
**LICENSING NOTES**

Denotes Whole Denotes of Premises activities.

Note: Locations of moveable furniture for indicative purposes only.

ROOM	FLOOR AREA (sqm)	PERMITTED USE
RETAIL AREA	100	RETAIL
OFFICE	50	OFFICE
RECEPTION	20	RECEPTION
STAIRS	10	STAIRS
TOILETS	5	TOILETS
<b>TOTAL</b>	<b>185</b>	<b>RETAIL</b>

**GROUND FLOOR**  
Publicly accessible for > 1 hour  
Designated for use as a place of public assembly  
Note: 100% of area for public assembly  
100% accessible for all disabled persons (100% Access)



**00 Ground Floor - Proposed Licensing Plan**  
Scale - 1:1000(AN)

PROPOSED LICENSING PLAN  
 PROJECT NO: 11000001  
 DATE: 11/01/2024  
 DRAWN BY: [Name]  
 CHECKED BY: [Name]  
 APPROVED BY: [Name]

**L I C E N S I N G**

**fuse**  
 CONSULTANTS  
 11000001  
 11/01/2024  
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## Applicant Supporting Documents

### Hard Rock Café (the "Applicant")

#### Application for a New Premises Licence

This is an application for a new premises licence pursuant to section 17 of the Licensing Act 2003 for Ground and Lower Floor, 225 – 229 Piccadilly, London W1J 9HR (the "Premises").

#### The Applicant

The 'brainchild' of two Americans, the first Hard Rock Café was opened in London in 1971 by Isaac Tigrett and Peter Morton in an old Rolls Royce dealership on Old Park Lane. From there it has grown to become an international brand, encompassing hotels, casinos and live venues around the world.

The group has an international reputation for its celebration of Americana. Its venues are known for their:

- retail sales (in particular T-shirts which account for 40% of total worldwide sales);
- live music;
- down-home American cooking; and
- an extensive memorabilia collection.

A brochure outlining the full history of the group which formed part of the planning application is at **appendix 1**. Please note that since the brochure was prepared the layout has been tweaked and up-to-date Licensing Act 2003 compliant plans are with the application.

#### Why the Premises?

Hard Rock has for many years been looking for a new international flagship venue. Given the history of the company, London's status as the premier visitor destination in the world, and the known consumer demand in London for the Hard Rock brand, London is the obvious choice.

Given the nature of the Applicant's operation, there are only a few sites in any given city that offer the size and tourist footfall that can support the high quality, and extremely expensive, fit-out and running costs. A site that 'worked' in the 1970s would not work now. The Applicant has considered many London locations. However, Piccadilly Circus is the only location in London which has the necessary footfall and proximity to both hotels and tourist attractions. Had it been economically viable to open a new café outside of the West End Stress area permission would have been sought many years ago.

#### Pre-Consultation

This application has been carefully thought through. As the City of Westminster will be aware, a planning application has been granted for the appropriate change of use and, as one would expect for a proposal of this nature, considerable pre-application consultation was undertaken. Given that the issues raised by planning and licensing applications overlap to a considerable degree, such pre-

application consultation has not been duplicated unnecessarily. Nevertheless, the Applicant did use the formal Licensing Pre-Application Advice Service (Large). Whilst a full report has not been received from the officer dealing (Mr David Nevitt) he has emailed his views. Please see copy email attached at **appendix 2**. Furthermore, if the Metropolitan Police (or any other responsible authority or other person) would like a site visit, this can easily be arranged.

### **The Proposed Layout**

The Premises comprises a ground and lower ground floor to be arranged as follows:

#### **Ground Floor**

Hard Rock have thought very carefully about the use of the main, ground floor, trading area and its hoped-for pavement licence. Although it was originally considering the sale of alcohol as part of a café use at ground floor level, it has decided that the ground floor will be alcohol-free at all times. This is intended to accentuate the family-friendly feel of the venue at this heart of London location. No alcohol sale or consumption will be visible to passers-by or even those shopping or enjoying the café at ground floor level.

The main entrance to the Premises is to be from Piccadilly through two double doors. On the right as one walks in it will be a large, purely A1 retail space of approximately 2,700 sq. ft. Artist impressions of this space can be found at **appendix 3**. It is anticipated that this retail area will responsible for **50%** of total sales at the Premises.

To the left, a café **unlicensed for the sale of alcohol** is proposed. This area will sell teas, coffees, soft drinks and light food. An indicative food and drink menu for this area is at **appendix 4**. Subject to obtaining the necessary tables and chairs licence, the applicant wishes to have 5 tables and 20 chairs on the pavement of Haymarket for the consumption of food and non-alcoholic beverages served from the ground floor café.

A plan of the proposed ground floor is at **appendix 5**.

#### **Basement Floor**

A very unusual feature of the basement is that it has a direct entrance/exit directly into the concourse of Piccadilly Circus Underground Station. This means that customers who want to can enter and leave the Premises without having to go above ground. While of course many customers will go above ground, the applicant anticipates that particularly at night a large percentage will leave by going straight into the underground station without going into the Stress Area. Many others will go out into the Stress Area in any event because they are staying in central London hotels and would be visiting the West End whether the applicant is there or not.

A large staircase goes from the ground floor to the basement. The proposal is to licence the basement with a dedicated bar area, restaurant area and a dedicated function room. Provision has been made for a total of four male W.Cs, six urinals and twelve female W.Cs spread over two locations next to the restaurant and bar areas respectively. The proposal is to have a separate disabled W.C. adjacent to the bar.

The large 'back of house' area will incorporate new, state of the art, equipment with full separate male and female staff areas with showers and toilets.

A plan of the proposed basement floor is at **appendix 6**.

### **Hours & Licensable Activities Sought**

The Applicant wishes to apply for the following hours and activities:

#### On-Sale of Alcohol only, Live Music and Recorded Music

10.00 to 00.30 Sunday to Thursday

10.00 to 01.30 Friday to Saturday

#### Late Night Refreshment

23.00 to 01.00 Sunday to Thursday

23.00 to 02.00 Friday to Saturday

#### Opening Hours

10.00 to 01.00 Sunday to Thursday

10.00 to 02.00 Friday to Saturday

#### Non-Standard Timings

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

### **Guardianship of Piccadilly Circus**

The anticipated capital spend on the venue will be £8,000,000.

The applicant will be entering a 20 year lease at an annual rental of £3,100,000 and an annual rates commitment of approximately £1,300,000.

It is of paramount importance to the applicant that its effect on its environs will be positive, making Piccadilly Circus safer, and feel safer, for the benefit of tourists, visitors, residents and workers.

The applicant is therefore intending, subject to the consent of the Council, to make a positive contribution to the guardianship of the space.

First, in collaboration with Westminster City Council, Heart of London Business Licence and the Metropolitan Police, it will fund the maintenance of CCTV in the Piccadilly Circus area to the extent of £5,000, or such other sum as may be negotiated.

Second, in collaboration with the above bodies it will provide or fund the provision of "Ambassadors" in Piccadilly Circus for all the hours of its operation. The function of the role is for negotiation, but the applicant anticipates that it will include providing natural guardianship, welcoming visitors, giving directions, helping those in need of assistance, litter-picking and maintaining radio contact with the authorities for use when necessary. Similar roles were performed by volunteers at the London Olympics and the applicant wishes to work with others to recreate that spirit.

#### Operating Schedule Proffered Conditions

The Applicant is happy to proffer conditions which go far beyond those proffered with similar applications or are on existing premises licences in the City of Westminster.

The proffered conditions, with an explanation (in **bold**) as to why they are being proffered, if required, are as follows:

1. The Premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Viewing of recordings shall be made available immediately upon the request of police or authorised officer throughout the entire 31 day period.
2. 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 to Police or authorised council officer copies of recent CCTV images or data with the absolute minimum of delay when requested.
3. The Premises shall make an annual contribution of up to £5,000 to the City of Westminster (due on the 1 January) to the operation of CCTV in Piccadilly Circus and the immediate surrounding area.

**The Applicant has been made aware that, whilst the City of Westminster has many CCTV cameras it is difficult to always fund their operation. The applicant is willing to make an ongoing financial contribution (in much the same way as a section 106 planning agreement) to allow the full-time operation of existing CCTV cameras, not only adjacent to the Premises but covering Piccadilly Circus and surrounding area.**

4. There shall be a personal licence holder on duty on the premises at all times when the Premises are authorised to sell alcohol.
5. A minimum of 1 SIA licensed door supervisors shall be on duty at the Premises from 18.00 until close.

6. A noise limiter must be fitted to the musical amplification system set at a level determined by and to the satisfaction of an authorised officer of the Environmental Health Service, so as to ensure that no noise nuisance is caused to local residents or businesses. The operational panel of the noise limiter shall then be secured by key or password to the satisfaction of officers from the Environmental Health Service and access shall only be by persons authorised by the Premises Licence holder. The limiter shall not be altered without prior agreement with the Environmental Health Services. No alteration or modification to any existing sound system(s) should be effected without prior knowledge of an authorised Officer of the Environmental Health Service. No additional sound generating equipment shall be used on the premises without being routed through the sound limiter device.
7. 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.
8. All outside tables and chairs shall be rendered unusable by 22:00 each day.
9. There shall be no admittance or re-admittance to the premises after 01.00 except for patrons permitted to temporarily leave the premises to smoke.
10. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
11. 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.
12. 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.
13. There shall be no self-service of spirits on the Premises, save for spirit mixtures less than 5.5% ABV.
14. At all times there shall be promotions of non-alcoholic drinks.
15. Every supply of alcohol under the premises licence shall be at not less than the minimum price calculated in accordance with the following or as varied in accordance with this condition.
  - Bottle / 330 ml of beer, lager, cider, perry or similar: £3.50
  - Pint glass of beer, lager, cider, perry or similar: £3.50
  - 125 ml of wine or similar: £3.50
  - 175 ml of wine or similar: £4.00
  - 250 ml of wine or similar: £4.50
  - Bottle/750 ml of wine or similar: £14.00
  - Measure/25 ml of spirits, liqueurs or similar: £3.50
  - Measure/50 ml of spirits, liqueurs or similar: £4.50
  - Measure/50 ml of fortified wine or similar: £3.50

Where alcohol is supplied under the premises licence of a type not expressly referred to above, the minimum price applicable to the supply shall be the minimum price for the type of alcohol referred to above that is most similar to that supplied.

The minimum price shall be varied every two years following discussion with the premises licence holder as follows, unless the licensing authority considers it appropriate not to do so.

The "retail price index" shall be as defined in section 989 of the Income Tax Act 2007 (being currently "the general index of retail prices (for all items) published by the Statistics Board or, if that index is not published for a relevant month, any substituted index or index figure published by the Board).

The first variation shall take place on the 5<sup>th</sup> April 2020 and each subsequent variation shall take place every two years thereafter.

The varied minimum price shall be the sum produced by multiplying the minimum price then applicable by a figure expressed as a decimal and determined by the formula:

$$1 + (RD - RI) / RI$$

Where RD is the retail prices index for the 5<sup>th</sup> April 2020 or each subsequent second anniversary thereof and RI is the retail prices index for 5<sup>th</sup> April 2018 or each subsequent second anniversary thereof.

The figure determined in accordance with this formula is rounded to the nearest third decimal place.

If in relation to any two period RD is equal to or less than RI, the figure determined in accordance with the formula shall be 1 and there shall be no change in the minimum price for that year.

The varied minimum price shall after application of the formula be rounded up or down to the nearest £0.05.

Before 5<sup>th</sup> April 2020 and each second anniversary thereof the premises licence holder shall give notice to the licensing authority of its calculation of the varied minimum price calculated in accordance with this condition unless otherwise agreed.

16. No waste or recyclable materials, including bottles, shall be moved, removed from or placed in outside areas between 23:00 hours and 08:00 hours on the following day.
17. The number of persons permitted in the licensed Premises at any one time (including staff) shall not exceed 419 persons.
18. Substantial food and non-intoxicating beverages, including drinking water, shall be available in all parts of the premises where alcohol is sold or supplied for consumption on the premises.

19. Waiter or waitress service shall always be available in the licensed Premises.
20. There shall be no striptease or nudity, and all persons shall be decently attired at all times.
21. A Challenge 21 or Challenge 25 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport or proof of age card with the PASS Hologram.
22. 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.
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. It must be completed within 24 hours of the incident and will record the following:
  - a) all crimes reported to the venue;
  - b) all ejections of patrons;
  - c) any complaints received concerning crime and disorder;
  - d) any incidents of disorder;
  - e) all seizures of drugs or offensive weapons;
  - f) any faults in the CCTV system, searching equipment or scanning equipment;
  - g) any refusal of the sale of alcohol; and
  - h) any visit by a relevant authority or emergency service.
24. No licensable activities shall take place at the Premises until the licensing authority are satisfied that the Premises is constructed or altered in accordance with the appropriate provisions of the District Surveyor's Association – Technical Standards for Places of Entertainment and the reasonable requirements of Westminster Environmental Health Consultation Team, at which time this condition shall be removed from the licence by the licensing authority.
25. The licence holder shall enter into an agreement with a hackney carriage and/or private carriage firm to provide transport for customers, with contact numbers made readily available to customers who will be encouraged to use such services.
26. Queuing outside the Premises shall be restricted to a designated area as hatched on the attached plan
27. The premises licence shall not be transferrable save to subsidiaries or group companies of Hard Rock Café (UK) Limited.

**Whilst this condition significantly reduces the value of any reversion of the leasehold interest in the Property, the applicant is willing to proffer this as a sign of commitment to operating from the Premises long-term and to negate any concerns that a premises licence could be granted without a restaurant condition applying to all parts and for outside of Core Hours and then transferred to a less responsible operator.**



28. Notwithstanding condition 29 alcohol may be supplied and consumed prior or post their meal at the premises in the bar area (designated on the plan), by up to a maximum at any one time, of 65 persons.

29. The Premises shall only operate as a restaurant:

- a) in which customers are shown to their table;
- b) where the supply of alcohol is by waiter or waitress service only;
- c) 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;
- d) which do not provide any take away service of food or drink for immediate consumption;
- e) which do not provide any take away service of food or drink after 23:00; and
- f) 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.

#### Conclusion

This Application has been years in the making. We would suggest that, should the Application be granted as sought, there will be no adverse effect on cumulative impact: quite the opposite. A Hard Rock Café in Piccadilly Circus would prove to be a 'civilising influence' and provide London, in these uncertain economic times, with a tourist destination that the city can be truly proud of rather than the tired examples that exist at present.

**Joelson JD LLP**

**Premises History**

There is no licence or appeal history for the premises.

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

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

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

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

### **Mandatory Conditions**

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

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

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

- 8(i) A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.
- 8(ii) For the purposes of the condition set out in paragraph 8(i) above -
- (a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;
- (b) "permitted price" is the price found by applying the formula -
- $$P = D + (D \times V)$$
- Where -
- (i) P is the permitted price,
- (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
- (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
- (c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence -
- (i) the holder of the premises licence,
- (ii) the designated premises supervisor (if any) in respect of such a licence, or
- (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;
- (d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
- (e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.
- 8(iii). Where the permitted price given by Paragraph 8(ii)(b) above would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.
- 8(iv). (1) Sub-paragraph 8(iv)(2) below applies where the permitted price given by Paragraph 8(ii)(b) above on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.
- (2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

## Conditions consistent with the operating schedule

9. The Premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Viewing of recordings shall be made available immediately upon the request of police or authorised officer throughout the entire 31 day period.
10. A staff member from the Premises who is conversant with the operation of the CCTV system shall be on the Premises at all times when the Premises is open. This staff member must be able to provide to Police or authorised council officer copies of recent CCTV images or data with the absolute minimum of delay when requested.
11. The Premises shall make an annual contribution of up to £5,000 to the City of Westminster (due on the 1 January) to the operation of CCTV in Piccadilly Circus and the immediate surrounding area.

The Applicant has been made aware that, whilst the City of Westminster has many CCTV cameras it is difficult to always fund their operation. The applicant is willing to make an ongoing financial contribution (in much the same way as a section 106 planning agreement) to allow the full-time operation of existing CCTV cameras, not only adjacent to the Premises but covering Piccadilly Circus and surrounding area.

12. There shall be a personal licence holder on duty on the premises at all times when the Premises are authorised to sell alcohol.
13. A minimum of 1 SIA licensed door supervisor shall be on duty at the premises from 18:00 until close.
14. A noise limiter must be fitted to the musical amplification system set at a level determined by and to the satisfaction of an authorised officer of the Environmental Health Service, so as to ensure that no noise nuisance is caused to local residents or businesses. The operational panel of the noise limiter shall then be secured by key or password to the satisfaction of officers from the Environmental Health Service and access shall only be by persons authorised by the Premises Licence holder. The limiter shall not be altered without prior agreement with the Environmental Health Services. No

alteration or modification to any existing sound system(s) should be effected without prior knowledge of an authorised Officer of the Environmental Health Service. No additional sound generating equipment shall be used on the premises without being routed through the sound limiter device.

15. No noise generated on the premises, or by its associated plant or equipment, shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
16. All outside tables and chairs shall be rendered unusable by 22:00 each day.
17. There shall be no admittance or re-admittance to the premises after 01.00 except for patrons permitted to temporarily leave the premises to smoke.
18. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
19. Notices shall be prominently displayed at any area used for smoking requesting patrons to respect the needs of local residents and use the area quietly.
20. 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.
21. There shall be no self-service of spirits on the premises, save for spirit mixtures less than 5.5% ABV.
22. At all times there shall be promotion of non-alcoholic drinks.
23. Every supply of alcohol under the premises licence shall be at not less than the minimum price calculated in accordance with the following or as varied in accordance with this condition.
  - Bottle / 330 ml of beer, lager, cider, perry or similar: £3.50
  - Pint glass of beer, lager, cider, perry or similar: £3.50
  - 125 ml of wine or similar: £3.50
  - 175 ml of wine or similar: £4.00
  - 250 ml of wine or similar: £4.50
  - Bottle/750 ml of wine or similar: £14.00
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Where alcohol is supplied under the premises licence of a type not expressly referred to above, the minimum price applicable to the supply shall be the minimum price for the type of alcohol referred to above that is most similar to that supplied.

The minimum price shall be varied every two years following discussion with the premises licence holder as follows, unless the licensing authority considers it appropriate not to do so.

The “retail price index” shall be as defined in section 989 of the Income Tax Act 2007 (being currently “the general index of retail prices (for all items) published by the Statistics Board or, if that index is not published for a relevant month, any substituted index or index figure published by the Board).

The first variation shall take place on the 5<sup>th</sup> April 2020 and each subsequent variation shall take place every two years thereafter.

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Where RD is the retail prices index for the 5<sup>th</sup> April 2020 or each subsequent second anniversary thereof and RI is the retail prices index for 5<sup>th</sup> April 2018 or each subsequent second anniversary thereof.

The figure determined in accordance with this formula is rounded to the nearest third decimal place.

If in relation to any two period RD is equal to or less than RI, the figure determined in accordance with the formula shall be 1 and there shall be no change in the minimum price for that year.

The varied minimum price shall after application of the formula be rounded up or down to the nearest £0.05.

Before 5<sup>th</sup> April 2020 and each second anniversary thereof the premises licence holder shall give notice to the licensing authority of its calculation of the varied minimum price calculated in accordance with this condition unless otherwise agreed.

24. No waste or recyclable materials, including bottles, shall be moved, removed



from or placed in outside areas between 23:00 hours and 08:00 hours on the following day.

25. The number of persons permitted in the licensed Premises at any one time (including staff) shall not exceed 419 persons.
26. Substantial food and non-intoxicating beverages, including drinking water, shall be available in all parts of the premises where alcohol is sold or supplied for consumption on the premises.
27. Waiter or waitress service shall always be available in the licensed Premises.
28. There shall be no striptease or nudity, and all persons shall be decently attired at all times.
29. A Challenge 21 or Challenge 25 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport or proof of age card with the PASS Hologram.
30. 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.
31. An incident log shall be kept at the Premises, and made available on request to an authorised officer of the City Council or the police. It must be completed within 24 hours of the incident and will record the following:
  - a) all crimes reported to the venue;
  - b) all ejections of patrons;
  - c) any complaints received concerning crime and disorder;
  - d) any incidents of disorder;
  - e) all seizures of drugs or offensive weapons;
  - f) any faults in the CCTV system, searching equipment or scanning equipment;
  - g) any refusal of the sale of alcohol; and
  - h) any visit by a relevant authority or emergency service.
32. No licensable activities shall take place at the Premises until the licensing authority are satisfied that the Premises is constructed or altered in accordance with the appropriate provisions of the District Surveyor's Association – Technical Standards for Places of Entertainment and the reasonable requirements of Westminster Environmental Health Consultation Team, at

which time this condition shall be removed from the licence by the licensing authority.

33. The licence holder shall enter into an agreement with a hackney carriage and/or private carriage firm to provide transport for customers, with contact numbers made readily available to customers who will be encouraged to use such services.
34. Queuing outside the Premises shall be restricted to a designated area as hatched on the attached plan.
35. The premises licence shall not be transferrable save to subsidiaries or group companies of Hard Rock Café (UK) Limited.
36. Notwithstanding condition 37 alcohol may be supplied and consumed prior or post their meal at the premises in the bar area (designated on the plan), by up to a maximum at any one time, of 65 persons.
37. The Premises shall only operate as a restaurant:
  - a) in which customers are shown to their table;
  - b) where the supply of alcohol is by waiter or waitress service only;
  - c) 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;
  - d) which do not provide any take away service of food or drink for immediate consumption;
  - e) which do not provide any take away service of food or drink after 23:00; and
  - f) 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.

#### **Conditions proposed by the Police**

None submitted.

#### **Conditions proposed by the Licensing Authority**

None Submitted.

**Residential Map and List of Premises in the Vicinity**

