

Licensing Sub-Committee Report

Item No:	
Date:	15 February 2018
Licensing Ref No:	17/14879/LIPN - New Premises Licence
Title of Report:	Le Bab 4 Mercer Walk London WC2H 9FA
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:	Ms Daisy Gadd Senior Licensing Officer
Contact details	Telephone: 0207 641 2737 Email: dgadd@westminster.gov.uk

1. Application

1-A Applicant and premises			
Application Type:	New Premises Licence, Licensing Act 2003		
Application received date:	19 December 2017		
Applicant:	Avant Restaurants Limited		
Premises:	Le Bab		
Premises address:	4 Mercer Walk London WC2H 9FA	Ward:	St James's
		Cumulative Impact Area:	West End
Premises description:	According to the application, the premises intends to operate as a Middle Eastern restaurant with fine dining and a chef's table.		
Premises licence history:	This is a new premises licence and therefore no history exists.		
Applicant submissions:	None		
Plans:	Plans are available to view upon request to the Licensing Authority and they will be made available at Licensing Committee.		

1-B Proposed licensable activities and hours							
Late Night Refreshment:				Indoors, outdoors or both			Both
Day:	Mon	Tues	Wed	Thur	Fri	Sat	Sun
Start:	23:00	23:00	23:00	23:00	23:00	23:00	
End:	23:30	23:30	23:30	23:30	00:00	00:00	
Seasonal variations/ Non-standard timings:			New Years Eve all activities are permitted throughout the night until the start of the permitted hours on New Years Day.				

Sale by retail of alcohol				On or off sales or both:			Both
Day:	Mon	Tues	Wed	Thur	Fri	Sat	Sun
Start:	10:00	10:00	10:00	10:00	10:00	10:00	12:00
End:	23:30	23:30	23:30	23:30	00:00	00:00	22:30
Seasonal variations/ Non-standard timings:			New Years Eve all activities are permitted throughout the night until the start of the permitted hours on New years Day.				

Hours premises are open to the public							
Day:	Mon	Tues	Wed	Thur	Fri	Sat	Sun
Start:	10:00	10:00	10:00	10:00	10:00	10:00	10:00
End:	00:00	00:00	00:00	00:00	00:30	00:30	23:00
Seasonal variations/ Non-standard timings:	New Years Eve all activities are permitted throughout the night until the start of the permitted hours on New Years Day.						
Adult Entertainment:	None						

2. Representations

2-A Responsible Authorities	
Responsible Authority:	Licensing Authority
Representative:	Ms Shannon Pring
Received:	15 January 2018
<p>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:</p> <ul style="list-style-type: none"> • Public Nuisance • Prevention of Crime & Disorder • Public Safety <p>The premises is located within the West End Cumulative Impact Area and as such a number of policy points must be considered.</p> <p>The premises currently falls within RNT2 but must demonstrate how the additional people will not add to cumulative impact within the cumulative impact area. No additional information has been received which addresses the policy concerns and we ask that you provide further information to address the above concerns.</p> <p>Furthermore, we acknowledge that the licensable activities that you have applied for, fall within core hours; however we note that the opening hours that you have applied for go beyond the council's core hours and as such would also ask that you consider reducing the closing times to match core hours. Specifically, Monday to Thursday 10:00 – 23:30, Friday to Saturday 10:00 – 00:00 (midnight) and Sunday 10:00 – 22:30.</p> <p>Please accept this as a formal objection and we look forward to receiving your further submissions as soon as possible.</p>	

Responsible Authority:	Environmental Health Consultation Team
Representative:	Mr Ian Watson
Received:	16 January 2018
<p>The premises are located within the West End Cumulative Impact Area.</p> <p>The applicant has submitted plans of the Ground and Basement floors dated November 2017.</p> <p>This representation is based on the plans and operating schedule submitted.</p> <p>The applicant is seeking the following</p> <ol style="list-style-type: none"> 1. To provide for the Supply of Alcohol 'On' and 'Off' the premises Monday to Thursday 10.00 to 23.30 hours, Friday and Saturday between 10.00 and 00.00 hours and Sunday between 12.00 to 22.30 hours. New Year's Eve to New Year's Day. 2. To provide Late Night Refreshment 'Indoors' and 'Outdoors' Monday to Thursday 23.00 to 23.30 Friday and Saturday between 23.00 and 00.00 hours. <p>I wish to make the following representation</p> <ol style="list-style-type: none"> 1. The hours requested for the Supply of Alcohol will have the likely effect of causing an increase in Public Nuisance within the West End CI area. 2. The hours requested to permit the provision of late night refreshment will have the likely effect of causing an increase in Public Nuisance and impact on Public Safety within the West End CI area. <p>Whilst the applicant has provided conditions with the application these will need to be checked to ensure they address residential objections and concerns. Additional conditions may be proposed.</p> <p>Should you wish to discuss the matter further please do not hesitate to contact me.</p>	

2-B Other Persons**Received:** 2 January 2018

We fear this will cause a public nuisance for the surrounding residents unless the new restaurant is required to close at 23.00 as per the planning condition; that some control needs to be included to manage queuing since we understand there are long queues at the existing branch of this restaurant; and finally that customers should be encouraged to leave the restaurant via Langley Street rather than Mercer Street late at night.

Received: 12 January 2018

The restaurant will be extremely close to our residential property and I am concerned that late licensing hours will directly impact us. We already have considerable problems with our doorway being used as a toilet and I'm terribly worried that late night drinking will make this horrible situation even worse. I would also be worried about the noise situation

Received: 12 January 2018

I wish to object to this application as it fails to fulfil the licensing objective of the prevention of public nuisance. The planning permission for the Mercer Walk development stated that restaurants should not be used after 11pm, yet this application in the Westminster cumulative impact area flies in the face of this commitment.

Overlooking Monmouth Street in Seven Dials, I am a neighbour to this increasingly sprawling development, and revellers often disperse through Seven Dials. This operator should stick to the planning permission commitment of an 11pm close.

Received: 15 January 2018

We have two very young children (the youngest being just 3 months old). We are therefore very much against restaurants being open late in the evening. It brings more people and noise to our residential street and will result in families, including us, being forced to move away.

Sleep and comfortable upbringing without noise at night - that normality - is vital for my children.

Received: 16 January 2018

I wish to make a representation as a local resident. My flat is situated on the opposite side of Mercer Street from the premises. Mercer Street is mainly a residential area, and has no licensed premises at present.

I am concerned that noise coming from inside the premises and the noise from people queuing to enter, and also to leave the premises, will harm the Licensing Objective of the prevention of public nuisance.

I am also concerned about the possibility of cooking smells and am not clear how this will be dealt with.

I think it would be reasonable to suggest that the licence should require the premises to close at 23:00. The doors and windows should be closed at 21:00.

There should be a condition added to manage queuing, as I understand that Le Bab already has another premises where queuing time can be up to 2 hours.

The servicing should be made consistent with the management plans for the development.

Received: 16 January 2018

We'd like to object strongly to any application to extend the licensing hours of this premise to beyond those stated in the planning permissions.

We live on the ground floor around the corner on Shelton Street, which is a quiet residential area, and not capable of sustaining the noise of dozens of diners and drinkers leaving late at night. It also cannot take anymore noise from the cleaning up and recycling involved in running a large establishment.

We have 3 children all under the age of 13 who deserve to be able to sleep undisturbed. The public nuisance of up to 100 diners after the time of 11pm is just unacceptable, especially as the restaurant will not be able to control where the diners migrate to after they leave their establishment.

Covent Garden has traditionally been a shopping and theatre district which close at 8pm and 10:30pm respectively. Eateries have been small in the past, meaning that groups of diners/drinkers have been small in their numbers and manageable.

The opening such a large establishment and so late is going to increase the incidence of public nuisance which in turn is going to increase the risk of harm to my children.

Received: 16 January 2018

The hours requested in this Licence application are unacceptable for residents - balance needs to be made between the need for bars & restaurants in the neighbourhood and the lives of the residents who live here. The hours requested with this application are not, in my opinion, resident friendly.

Received: 16 January 2018

I am very concerned about the public nuisance that granting this late opening to Le Bab. The nature of this type of restaurant will encourage late night trade in what was once a relatively peaceful part of Covent Garden the noise from people exiting these premises so late in the evening will definitely affect the noise levels and disruption where I live which is just on the corner of Mercer and Shelton.

It is inevitable that people using the premises will leave the area via Mercer St. and create considerable noise.

The applied for opening hours are considerably longer and later than was highlighted in the planning permission for this development and it should not be granted.

Please do not chip away at the peace of Covent Garden!

Received: 16 January 2018

I am very concerned about the public nuisance that granting this late opening to Le Bab. As the owner of 25 Mercer Street, I am concerned by the growing number of restaurants that seem to be opening up around my area. The latest one, Le Bab, has the potential for creating unnecessary late night disturbances through queuing and the potential volume of people visiting it. The opening hours therefore need to be in line with other restaurants in the area and should not extend beyond this. Another concern I

have is the capacity of the restaurant which does not appear to be mentioned. I believe it is somewhere in the region of 120 which will most certainly add to public nuisance what with queuing and noise disturbances. Unlike other premises around this area patrons arriving and leaving Le Bab will use Mercer Street and Shelton Street thus bringing late night activity into a residential area.

I strongly object to this latest episode licence application.

Received: 16 January 2018

We live in a third-floor flat at the top of a building on Shelton Street, around the corner from Mercer Street and Mercer Walk. At night we can experience disturbance from incredible racket emanating from drunken people in the street below. It's a narrow street, and the sound of their singing, bawling, fighting, howling, cursing, yelling and screaming echoes dramatically, bouncing off the walls and up to our windows. Shelton Street is not a main thoroughfare, but an otherwise quiet street where there are few other passersby to temper their behaviour. Although there is a certain appeal to having a faster food source in a neighbourhood otherwise dominated by more formal restaurants, we cannot help but feel a licensed take-away would be a real magnet for people who just want to continue drinking, and that people will be more likely to congregate in the street outside and around a kebab take-away outlet, and that they will inevitably stumble onto and down Shelton Street as they try to find their way home, contributing even more to the nuisance of late-night revellers in our patch of Covent Garden.

Received: 16 January 2018

I write with regards to licence application 17/14879/LIPN submitted by Avant Restaurants Ltd and pertaining to their premises 'Le Bab' at 4 Mercer Walk, London WC2H 9FA.

I am the owner and resident of a property on Shelton Street, and I would like to register my objection to this licence application on the grounds of prevention of public nuisance. I believe that the nature of this restaurant, being a kebab restaurant, and based on the precedent of their other premises at Kingly Court, will lead to excessive numbers of people queuing outside the restaurant and therefore excessive noise in what is a largely residential area.

I also believe that planning permission for the Mercer Walk development was granted on the specific condition that no premises would be open later than 23:00, however this application allows for the restaurant to be open until 00:00, a full hour later than this condition permits. As a parent with young children I do not wish to have large numbers of people exiting a restaurant late into the night, right opposite my property, especially after consuming alcohol, as this will undoubtedly cause unacceptable levels of noise.

Received: 16 January 2018

I write with comments on the licensing application for Le BAB at Mercers Walk

I am generally concerned with the intensification of restaurant uses on Mercer Street with the newly licensed Temper, as well as the potential Le Bab combined with additional units under application for change of use yards away inside St Martins Courtyard. Mercer Street is heavily residential and only more so with the recent additions within the new development at Mercers Walk.

Covent Garden is a high stress environment with a high intensity of retail, restaurant

and bar uses. The presence of quiet cross streets (Mercer St for example) perform the critical role of the release valve for the community of residents but for the tourists as well. Clearly developers will wish to increase frontage and footfall wherever possible to serve their commercial interests however this is rarely compatible with a healthy use mix and useable environment for those who work and reside locally.

The crime associated with the Cambridge circus environments is spreading South and East with daily occurrences of criminal and antisocial behaviour on Mercer Street and Shelton Street.

It is for the reasons above that I would ask you to limit hours per the planning consent. These reasons all relate to the key policy areas for determining these considerations:

- Prevention of crime and disorder,
- Public safety,
- Prevention of public nuisance, and
- Protection of children from harm

I would echo the CGCA and urge that the following amendments be made.

- The licence should require that the premises close at 23:00 (mirroring the Planning condition).
- The servicing conditions should be made consistent with the servicing and management plan for the development.
- The doors and windows should be closed from 21:00 (rather than 23:00 as proposed).
- A condition is added to manage any queuing at the premises.

If the Licensing Committee is minded to grant a licence until a time later than the planning permission time we would ask for the following additional conditions:

Last entry to be 60 minutes before the end of licensable activities to ensure that dispersal is gradual.

After 23:00 the premises operate a dispersal policy requiring them to use their best endeavours to encourage customers to leave the area using Langley Street and not Mercer Street.

Received:	16 January 2018
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This representation is being made by the Covent Garden Community Association (CGCA). The CGCA is recognised by both Camden and Westminster as the Amenity Society for the Covent Garden area (defined as the area bounded by High Holborn, New Oxford Street, Charing Cross Road, St. Martin's Place, Northumberland Avenue, Victoria Embankment, Lancaster Place, Aldwych and Kingsway) and so represents the interests of those who live and work in this area. The CGCA's Licensing Subcommittee is authorised by the Association to make Representations on any Licensing Applications which the Subcommittee believes may have an effect on local residents or other members of the community through likely impact on one or more of the Licensing Objectives. This authorisation was last renewed at a meeting of the Executive Committee of the CGCA on 5th December 2017.

This Representation is being made regarding the Application for a New Premises

Licence for Le Bab which trades as a kebab restaurant, albeit of a premium nature. This is situated in a newly constructed A3 unit on Mercer Walk which is a new development situated between Langley Street and Mercer Street. The application is for a restaurant under MC66 conditions to operate during Core Hours with the premises closing 30 minutes later than this. The unit is situated under newly built flats. It is on the Western side of the new development and has a frontage onto Mercer Street. It is opposite Temper, a new restaurant in a similar unit on the South Side of Mercer's Walk.

We understand that the applicant already operates a very successful restaurant in Kingly Court. We note that the Trip Advisor reviews are very positive but that customers frequently note that it is very busy and that queuing times are up to 2 hours. Kingly Court is a very different environment the Seven Dials area and this needs to be taken into account in the operation and management of the premises.

CGCA View

The Mercer's Walk development is situated between Langley Street and Mercer Street. Langley Street is broadly commercial in nature and has 3 existing Licensed Premises. Mercer Street is in residential/commercial mixed use and has only 1 small Licensed Premise (Crazy Bear) which has been closed for more than 2 years. A unit in Mercer Walk due to be operated by Temper has also been granted a licence. The CGCA is concerned about the impact of the people arriving and leaving Le Bab in the later part of the evening on residents living in the area, as well noise coming from inside the premises themselves and from people outside either smoking or queuing. We believe that these will harm the Licensing Objective of the Prevention of Public Nuisance.

We note that the Planning Permission which granted permission for the whole development includes a condition which requires that no customers use these premises after 23:00 Monday to Saturday and 22:30 on Sunday. This application wishes to allow customers to remain on the premises for 90 minutes longer than this. We believe that 23:00 remains appropriate time for the licence to end and the premises to close to prevent public nuisance being caused in the area. We have confirmed with Westminster's Planning Department that this condition was intended by them to be the time that the Premises close and that customers are off the premises. Residents who were involved in the planning application have a legitimate expectation that the hours will be limited to 23:00. It is unfair and inappropriate to grant longer hours.

We note that Licensing Policy CIP1 Paragraph 2.4.26 states as follows:

It should be noted that the council employs a range of mechanisms to prevent or limit cumulative impact relating to the problems arising from premises, and their customers behaving badly or unlawfully once away from the premises. See Revised Guidance (paragraph 13.40). The measures currently available to the council are given as examples such as:

- Planning policies

We therefore regard the fact that Planning have restricted the opening hours of a premises by condition to be a material consideration for this Application, even though Planning and Licensing are separate regimes. This is particularly important now that the Licensing Authority has seen fit to grant a licence to Core Hours for the adjacent premises to this one. Far from being a precedent which might allow Le Bab to operate

until the same time this is a reason why the Licensing Authority should consider carefully whether granting an application to the same hours is capable of demonstrating that it will not add to Cumulative Impact in a very sensitive part of the CIA as required by Policy CIP1.

As well as the Cumulative Impact we are concerned about the impact of noise from the operation of the premises on the environment of Mercer Walk (which has residential on the upper floors) and also echoing out into Mercer Street. This noise will be generated by noise escape from the premises or by any customers outside the premises, whether smoking or queuing. We ask therefore that proposed condition 10 (regarding doors and windows) be amended so that all doors and windows are closed at 21:00 rather than 23:00. We would also ask that MC26 (or similar) is added to manage any queuing at the premises namely:

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

The servicing condition (Condition 13) proposed in the application is that no deliveries shall take place between 23:00 and 07:00 hours the following day. There is no reference to collections (including waste). The premises are required (by their landlord) to comply with a servicing plan where all deliveries are made from the public realm area within the development between 07:00 and 10:00 each day and all waste is to be stored in the commercial waste area provided by the Landlord. These conditions are intended to minimise the public nuisance which could be caused if deliveries and waste collections were made directly from Langley or Mercer Streets. These conditions should be reflected in the conditions on the Licence in order to ensure that there is no possibility of confusion.

The application includes provision for Late Night Refreshment and the Sale of Alcohol to be for consumption both on and off the premises. The proposed condition 1 states that this is not for immediate consumption and will cease after 23:00. It also does not permit sale of alcohol off the premises as 1 (iv) states that alcohol can only be sold or supplied "by customers who are seated in the premises and bona fide taking substantial table meals there"

We assume therefore that the sale of alcohol can be limited to "on the premises only" as off sales would breach the proposed condition. As providing hot food is not licensable before 23:00 this can also be restricted to on the premises only (if the Licensing Authority permits the premises to open after 23:00) because after 23:00 the applicant's proposed condition would be breached.

In summary we are asking for the following changes:

- The licence should require that the premises close at 23:00 (mirroring the Planning condition)
- The servicing conditions should be consistent with the servicing and management plan for the development.
- The doors and windows should be closed from 21:00 (rather than 23:00 as proposed)

- A condition is added to manage any queuing at the premises.
- Off sales are removed from the Licence

We are aware that by offering MC66 the applicant wishes to take advantage of the fact that restaurants are seen as less likely to cause a public nuisance than more alcohol led premises and so the Licensing Authority is less likely to restrict their hours. Our view is that the premises remain open after 23:00 then we believe that there is a significant risk of increased public nuisance even if the premises are operating solely as a restaurant. This risk arises from people arriving at and leaving the premises, especially if they use Mercer Street which, after the theatre closes, is quiet. If the premises are busy then a large number of people could be exiting into a quiet street after a time when many people will have gone to bed. Unlike the flats above the premises many of the homes on Mercer Street are single glazed and noise risks disturbing residents. We therefore believe that the hours should be restricted to 23:00 to prevent this nuisance occurring.

If, despite this, the Licensing Committee is minded to grant a licence until a time later than 23:00 we would ask for the following additional conditions to be imposed in order to reduce the impact from later hours.

- ***Last entry to be 60 minutes before the end of licensable activities.***

This will ensure that any dispersal is gradual and that the number of people using the premises in the later part of the evening is lower and so less nuisance will be caused as they leave. We see that the information on dwell time from Google suggests that people usually spend 1-2 hours at Le Bab and so 60 minutes would be a reasonable last entry time.

- **Management will operate a dispersal policy which includes the requirement that they use their best endeavours to ensure dispersal via Langley Street and all staff will be trained in its implementation.**

This will, if the best endeavours are successful, reduce (but not eliminate) the impact on residents on Mercer Street. We understand that the landlord for the premises is committed to keep a security presence in Mercer Walk during the period for which these premises are open. An appropriate dispersal policy, if properly implemented and coordinated with the Landlord and with Temper (opposite) will improve the situation.

Received:	16 January 2018
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I reside at No.17 Shelton Street, which is quite a short distance from the above Licence application site. A lot of residents live around here, and I and others are concerned at the rise in the number of local late night licensed premises, which has resulted in a noticeable increase in rowdiness and noise late at night in recent years.

I am therefore writing to OBJECT to the granting of a licence as requested by this applicant on the grounds of prevention of public nuisance.

In particular I request firstly that there should be an amendment to the proposed licence such that the premises should close no later than 23.00 hrs as in the planning permission for the Mercer Walk development.

Secondly, I understand that the premises in this case are to be a kebab restaurant, which might involve external queues of patrons and therefore potentially more noise and disturbance. I am not clear whether the licensing authority has the power to forbid external queuing, but if not, I would request that some conditions on the extent of queuing should be applied.

Finally, please could the licence stipulate that the windows and external doors of these premises should always be shut from 21,00 hrs.

Received:	16 January 2018
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As the residents' association representing more than 20 dwellings not far from these premises, five of which belong to families with children, we ask you to refuse this application. Our grounds are largely related to public nuisance, but also to protect our children from harm.

The building in which Le Bab will be situated has its only entrance and exit door at the western end of Mercer Walk, very close to Mercer Street. The unit is on a corner and has two glass sides, one of which faces onto Mercer Street. Our dwellings are situated on the north side of the junction of Mercer Street and Shelton Street, only a short distance from the premises which are in clear view from many of our flats.

When the premises were given Planning Permission we expressed concern about the impact of A3 uses in the late evening in this location, and a restriction was imposed on the hours to end at 11pm. We continue to believe that this restriction is the very least that we need. What the applicant now proposes (11.30pm during the week, and Midnight at the weekend) is far too late. But, more importantly, we do not think that it is appropriate to have any more licenced premises at any time in our very quiet, densely residential corner of Covent Garden. The mix of uses would become too skewed towards licenced premises, which we believe would prevent our community from flourishing.

Our streets are narrow - with high, old brewery buildings which echo to every sound. The area has little ambient noise after the theatre closes (shortly after 10pm), and very little traffic - so any sound acts as a peak which disturbs residents. If you grant a licence, the customers leaving this venue will have been drinking alcohol as well as eating, so they will speak loudly even if they are otherwise behaving well. And noise will emanate from the premises themselves. Noise from Mercer's Walk echoes around the hard surfaces and carries particularly badly; we can hear it from over a block away, so we will not be able to escape this.

We believe that in order to protect residents around Ching Court (and our neighbours who live closer to the premises on Mercer Street) from cumulative impact generated by another licensed unit, you should refuse this.

If, despite our appeal to you, you are minded to grant some form of licence, please do not allow the terminal hour to go beyond 11pm at the very latest.

You granted a later licence to another unit in Mercer Walk - 'Temper' at number 5 - but at least number 5 has its exit onto Langley Street after 11pm, from which customers can go directly to the tube station. This unit at number 4, by contrast, has only one exit and this is very close to Mercer Street which is entirely quiet at this time. As you can see

from this picture, customers leaving would definitely contribute to cumulative impact, contrary to your policy.



Number 5 does, in fact, have a second door close to Mercer Street and very close to the door of this unit at number 4. However, you require that second door of number 5 be closed after 11pm for exactly the reasons that we have outlined. To be consistent, use of this door at number 4 cannot be permitted after 11pm either, which requires the business to be closed to the public by then. This photograph, taken from the other side, illustrates the situation:



Doorways of 5 Mercer Walk that you require to remain closed after 11pm.

Mercer Street.

Doorway of 4 Mercer Walk that should remain closed at the same time.

In addition, we would like to see no off sales allowed at any time, for obvious reasons given the lack of police resources to deal with antisocial behaviour in the area.

It is worth noting that we supported the aspects of this new development that increased the number of residential flats in the area – some of which are situated directly above the premises in question. However, these flats are not yet home to long-term residents, but are being used as corporate apartments for guest workers at the moment. These guest workers have just arrived and have not engaged with the local community. However, we are very keen that the flats should in future become homes for people who can become long-term members of our community. For this to happen the environment needs to be favourable to families, and we believe that any increase in licensed premises works against this.

Our community is already under a lot of pressure, as you know, with families finding it difficult to remain. We appeal to you to refuse this application.

Received:	16 January 2018
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This representation is being made by Seven Dials Housing Co-Op Since 1972 Seven Dials Housing Co-op has managed permanent and short-life properties on behalf of landlords in the Covent Garden area. Our tenants have been members of the community for many generations.

Mercer Street is a residential/commercial mixed use and has only 1 licensed premise, which is the Crazy Bear which has been closed for nearly two years.

We have residents on Mercer St and on the corner of Mercer and Shelton Street who would be directly affected by any noise nuisance, public nuisance e.g. servicing etc. Having seats outside will definitely be a public nuisance and will attract other forms of crime to the area.

Our tenants are already struggling with the servicing to the restaurants and bars in this area. We will not accept deliveries between the hours of 23.00 and 08.00.

Where is your waste going to be stored and when will it be collected this massively impacts our residents with noise and with the parking of their cars.

Mercer and Shelton Street are both already heavily congested with traffic at various points of the day due to deliveries, which creates a nuisance for residents trying to leave or enter the area with their cars.

Many of our residents on both Shelton St and Mercer St have young children and are very concerned about the added danger to these roads with large vehicles dropping off or picking up deliveries. The roads in the vicinity are extremely narrow which then leads to many of these delivery vans parking up on to the pavements where mothers are forced on to the road as they cannot get round the vehicles safely. These parked delivery vans also force other vehicles to mount the pavement in order to get round, which again creates a extremely dangerous environment for pedestrians and young children.

We see this as a danger to our children and public safety issue.

We are requesting that:

- The license should be that the premises close at 23.00
- There are no tables and chairs outside after 20.00
- The appropriate servicing conditions are in line with the servicing and management plan for the development and the factors above are taken into consideration.

We do hope you take on-board our concerns and requests.

3. Policy & Guidance

The following policies within the City Of Westminster Statement of Licensing Policy apply:

Policy CIA1 applies:	<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>
Policy HRS1 applies:	<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>
Policy RNT2 applies:	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.

4. Equality Implications

The Council in its capacity as Licensing Authority has a duty to have regard to its public sector equality duty under section 149 of the Equality Act 2010. In summary, section 149 provides that a Public Authority must, in the exercise of its functions, have due regard to the need to:

- eliminate discrimination harassment, victimisation and any other conduct that is prohibited by or under this Act;
- advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and

(c) foster good relations between persons who share a relevant protected characteristics and persons who do not share it.

Section 149 (7) of the Equality Act 2010 defines the relevant protected characteristics as age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.

5. Appendices

Appendix 1	Applicant supporting documents
Appendix 2	Premises history
Appendix 3	Proposed conditions
Appendix 4	Residential map and list of premises in the vicinity
Appendix 5	Pre-application advice report

Report author:	Ms Daisy Gadd Senior Licensing Officer
Contact:	Telephone: 0207 641 2737 Email: dgadd@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

1	Licensing Act 2003	N/A
2	City of Westminster Statement of Licensing Policy	7 th January 2016
3	Amended Guidance issued under section 182 of the Licensing Act 2003	April 2017
4	Representation Environmental Health	15 January 2018
5	Representation Licensing Authority	16 January 2018
6	Representation resident	2 January 2018
7	Representation resident	12 January 2018
8	Representation resident	12 January 2018
9	Representation resident	15 January 2018
10	Representation resident	16 January 2018
11	Representation resident	16 January 2018
12	Representation resident	16 January 2018
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19	Representation resident	16 January 2018
20	Representation resident	16 January 2018
21	Representation resident	16 January 2018

Please see below the following (appended accordingly):

1. Dispersal Policy;
2. Email to David Kaner, Chair of the Covent Garden Community Association dated 25th January 2018;
3. Email to Mrs Rigby dated 25th January 2018;
4. Letter to residents dated 25th January 2018;
5. Letter to Miss Havers dated 26th January 2018;
6. Emails to David Kaner, Chair of the Covent Garden Community Association dated 31st January 2018;
7. Letter to Miss Havers dated 31st January 2018;
8. Letter to residents dated 1st February 2018;
9. Letter to Michelle Zini, Chair of Seven Dials Housing Co-Op dated 1st February 2018;
10. Email to Mrs Rigby dated 2nd February 2018;
11. Case of Miah v Secretary of State for the Environment and Another (1985);

DISPERSAL POLICY

Le Bab, 4 Mercer Walk, London, WC2H 9FA

The dispersal procedure is dedicated to make the maximum contribution by exercising proactive measures towards and at the end of trading to move customers away from the venue and its immediate area in such a way as to cause minimum disturbance or nuisance to neighbours, both residential and business, and to make the minimum impact upon the neighbourhood.

The dispersal procedure is subject to review and will address concerns identified in order to establish a permanent reduction or elimination of any noise concerns for the neighbouring residents.

1. Liaising with Neighbours

A dedicated telephone number will be made available to the residents in the immediate vicinity of the premises and, should the need arise, the licence holder will arrange a meeting with the residents to discuss their concerns and to address any matters raised by the residents in that meeting.

The residents will be provided with contact details for the premises and its management.

2. End of Evening Operational Policies:

The premises do not intend to play loud music. Music will be at an ambient background level only in keeping with the restaurant style of operation.

As required by the premises licence, customers will not be permitted in any external area of the premises after 22:00 hours save for those that temporarily leave the premises to smoke.

Customers permitted to temporarily leave and then re-enter the premises, e.g. to smoke, shall not be permitted to take drinks or glass containers with them.

Staff will actively encourage customers that wish to smoke to do so away from Mercer Street to minimise disturbance to residents.

3. Notices

The premises will provide notices at the entrance/exit of the premises asking patrons to leave quietly and to respect neighbours in the area.

Staff will be trained to advise customers to leave quietly and to respect neighbours in the area.

4. General dispersal

The premises will trade as a restaurant and therefore there will be a gradual dispersal of customers. The licence holder is confident that this gradual dispersal, together with the further measures set out in the policy which will ensure that there will be no late night disturbance to local residents.

Staff will actively encourage customers to disperse on to Langley Street rather than Mercer Street to minimise disturbance to residents.

5. Security Guarding

The Mercers Company operate a security office from Old Brewers Yard within Block D. The office is staffed by a qualified security officer on a 24/7 basis. In addition, a further qualified security officer will patrol all buildings within the Mercers' Company Covent Garden ownership.

The Mercers Company will provide:-

- There will be two security guards on duty 24-hours a day.
- One of the security guards will watch the CCTV, the other will patrol the estate.
- From 7 p.m. to 1 a.m. the patrolling security guard will supervise patrons leaving the two restaurants, ensuring that they leave by the correct exit.
- From 7 a.m. to 10.00 a.m. the patrolling security guard will manage the servicing of the estate.

Email to David Kaner, Chair of the Covent Garden Community Association dated 25th January 2018;

Dear David,

Thank you so much for meeting with myself, Kevin and my client Ed Brunet on Tuesday.

As discussed, I attach:-

1. Amended and further conditions that we wish to offer prior to the hearing on 15th February.
2. The brochure we discussed, providing details of the company, those persons involved with the company and with the restaurant and the whole ethos of the food and drink that is proposed to be provided at the premises.
3. Our dispersal policy.

We are very grateful for the input that you have provided and the immense knowledge that you bring to the application in view of your role with the Association and your knowledge of nearby residents and premises.

You will see that I have drafted a further condition acknowledging that the premises should close within Westminster's core hours, save for 10 guests in the private dining area of the Chef's Table, together with staff.

I have addressed the dispersal point as we have discussed and also the discussion regarding the fact that we will not be having a queue at the premises. As Ed explained at our meeting, the premises have a dining app, which means that customers are asked to go and have a drink in the area and are sent details 15 minutes before their table is ready, so that they can come back and have their meal. This is the system we operate at le Bab in Kingley Court and Ed has confirmed that they have never had any problems with queues at the premises, nor any complaints of noise disturbance.

I am sending all this information, as you can see, to Licensing, requesting that they disseminate this to all those who have made representations and I will also write directly to the resident who lives very nearby, as the resident has written in by post.

I have also added on my email to all the residents that they are to contact myself or Kevin direct if they wish to meet up, so we can arrange for them to meet with Ed and ourselves, so that we can personally deal with their concerns.

As you know I am away from the office the week commencing 5th February. I will return on 12th February. Please do copy me in on all emails and I will of course make contact upon my return.

Best Wishes.

Lisa

Email to Mrs Rigby dated 25th January 2018;

Dear Mrs Rigby,

I am instructed by Avant Restaurants Limited in respect of their application for a premises licence for the premises Le Bab at 4 Mercer Walk.

I have been provided with a copy of your letter of representation dated 16th January.

I would very much like to arrange a meeting with yourself and my client to discuss your concerns. I would be grateful if you could telephone me to arrange a convenient time and date to meet.

In the interim, I attach:-

1. Amended and further conditions which we wish to offer in respect of the application.
2. A copy of my client's brochure providing details of the company, all those persons involved with the company and restaurant and my client's ethos of the food and drink that is proposed to be provided.
3. A copy of my client's dispersal policy.

Please may I assure you that my clients take your concerns extremely seriously and would very much like to meet with you to discuss their operation in more detail.

Kind regards.

Lisa

PopplestonAllen

Resident

Date: 25 January 2018
Our ref: LMI/MRO/L12133-2
Doc Ref: 2146265690
Your ref:
E-mail: l.inzani@popall.co.uk
Direct line: 0203 859 7755

4 Mercer Walk, London WC2H 9FA – New licence application

I have been passed a copy of your representation from the Licensing Authority.

My clients have taken on board all your comments and I attach further documentation in relation to my client's application:-

1. Amended and further conditions.
2. My client's brochure.
3. My client's dispersal policy.

My clients and I would very much like to meet with you and discuss your concerns. Please may I assure you that my clients take your concerns extremely seriously and would very much like to meet with you to discuss their operation in more detail.

I look forward to hearing from you.

Kind regards.

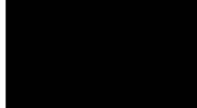
Yours sincerely



Lisa Inzani
Poppleston Allen

PopplestonAllen

Miss J A Havers



Date: 26 January 2018
Our ref: LMI/MRO/L12133-2
Doc Ref: 2146265690
Your ref:
E-mail: l.inzani@popall.co.uk
Direct line: 0203 859 7755

Dear Miss Havers,

Re: 4 Mercer Walk, London WC2H 9FA – New licence application

I have been passed a copy of your representation from the Licensing Authority.

My clients have taken on board all your comments and I attach further documentation in relation to my client's application:-

1. Amended and further conditions.
2. My client's brochure.
3. My client's dispersal policy.

My clients and I would very much like to meet with you and discuss your concerns. Please may I assure you that my clients take your concerns extremely seriously and would very much like to meet with you to discuss their operation in more detail.

I look forward to hearing from you.

Kind regards.

Yours sincerely

A handwritten signature in black ink that reads "Lisa Inzani".

Lisa Inzani

Poppleston Allen

cc. WCC Licensing Authority

Emails to David Kaner, Chair of the Covent Garden Community Association dated 31st January 2018

Dear David,

Many thanks for your response.

I attach a consolidated list of all conditions.

Kind Regards

Lisa

From: CGCA Licensing **Sent:** 31 January 2018 14:49

To: Lisa Inzani

Cc: 'licensing licensing'; Kevin Jackaman; Kerry McGowan

Subject: RE: 4 Mercer Walk, London WC2 - New premises licence application - Hearing 15th February

Dear Lisa,

This is to confirm receipt of the email and to confirm that these are all agreed save for Conditions 6 and 7 which are in your list of outstanding issues. I would also point out that in condition 7 a “private dining area” sounds rather noisy and you might prefer to remove a “n”.

I assume that for the sake of clarity you will send a consolidated list of agreed conditions to WCC encompassing any others already agreed with the MPS, EH and Licensing.

Regards

David Kaner

Volunteer Chair - CGCA Licensing Sub-Committee

Dear David,

Many thanks for your email dated 26th January 2018.

I attach:-

1. The additional conditions which incorporate your amendments as set out below. Please note, my clients have taken on board all of the comments you have made on behalf of the Residents and the conditions have been amended accordingly.
2. Amended Dispersal Policy.

I have discussed with my clients the remaining issues in relation to hours of operation, doors and windows and last entry and they agree that these are the ‘outstanding issues’ that will need to be determined by Westminster Licensing Committee at the Hearing on 15th February 2018.

I would be grateful if you could please confirm safe receipt of this email and the attached documents and confirm that as far as these are concerned they are agreed.

Kind Regards

Lisa

From: CGCA Licensing

Sent: 26 January 2018 14:43

To: Lisa Inzani

Cc: Kevin Jackaman; Kerry McGowan; 'licensing licensing'

Subject: RE: 4 Mercer Walk, London WC2 - New premises licence application - Hearing 15th February

Dear Lisa,

Thank you for these documents, which I have also received from Daisy Gadd.

I am grateful that you have taken on board the points we discussed. As expected we are not going to agree on everything and there will still be things on which we will need the Licensing Committee to make a determination. I have, as you might expect, some comments/suggestions on the documents

Additional Conditions.

Dispersal

I would like the dispersal policy condition to include the part of it which is most important to residents, namely that "Staff will actively encourage customers to disperse on to Langley Street rather than Mercer Street to minimise disturbance to residents."

This could be worded as follows in an amended condition

A written dispersal policy shall be retained at the premises and made available for inspection by authorised officers upon request. It will include the requirement that staff will actively encourage customers to disperse via Langley Street rather than Mercer Street in order to minimise the disturbance to residents.

I appreciate that this is included in the Dispersal Policy itself but this document could be modified and does not have to be reviewed with WCC or residents. In order to "futureproof" the licence I would like at least this minimum requirement to be on the face of the licence. This is a particular concern for most of those who have made representations and so having it on the face of the licence will help to reassure them.

Deliveries and Waste

You have not reflected the lease or planning requirements regarding deliveries and waste in your amended conditions. This would, I hope, be something we could agree in advance of the hearing thus reducing the need for the Committee to consider it.

Queuing

Could we amend this condition as follows:

The licence holder will operate a virtual queuing system to encourage customers waiting for a table to leave the immediate area of the premises. The licence holder will ensure that any queue to enter the premises which, despite this, forms outside the premises is orderly and supervised by staff so as to ensure that there is no public nuisance or obstruction to the public highway.

Again this is about future-proofing the licence so a subsequent operator needs to operate a similar system to the one which Le Bab intend to operate.

Management Plan and Dispersal Policy

The document is very focussed on dispersal and does not cover all of the management issues which we discussed (eg HOW you *will ensure that...Delivery drivers do not congregate in the vicinity of the premises, obstruct the highway or cause nuisance outside the premises*). I would suggest that you change the title to avoid confusion.

The formatting of the document is confusing with all of the points appearing to come under a subheading called "liaising with neighbours". Perhaps you could revise this.

If you agree with these items then I think that the outstanding issues are:

Hours of operation

We continue to believe that the planning hours are appropriate to prevent public nuisance and will continue to ask the Licensing Committee to restrict the hours for the main part of the restaurant. We have no objection to allow an additional period for the private dining area BUT note that in your proposed condition you have not fixed this additional period. We believe that it should be no more than 60 minutes later than the rest of the premises (if the premises close at 23:00). We believe 30 minutes is appropriate if you are successful in persuading the Committee to allow you to remain open until the end of Core Hours.

Door and Windows

We continue to believe that 21:00 is later enough for doors and windows to be closed to attenuate noise

Last Entry

We discussed a last entry condition 60 minutes before the end of Licensable activities based on the statement that the usual evening dwell time was 90 minutes. We see that you have not included this. If you are successful in convincing the Committee to let you open later we will certainly ask that they impose this condition in order to encourage a gradual dispersal.

I hope that this is clear. If you have any questions please contact me.

Regards

David Kaner

Volunteer Chair - CGCA Licensing Sub-Committee

From: Lisa Inzani [<mailto:L.Inzani@popall.co.uk>]

Sent: 25 January 2018 16:16

To: 'David Kaner'

Cc: 'licensing@westminster.gov.uk'; 'iwatson@westminster.gov.uk'; Kevin Jackaman; Kerry McGowan

Subject: 4 Mercer Walk, London WC2 - New premises licence application - Hearing 15th February

Dear David,

Thank you so much for meeting with myself, Kevin and my client Ed Brunet on Tuesday.

As discussed, I attach:-

1. Amended and further conditions that we wish to offer prior to the hearing on 15th February.
2. The brochure we discussed, providing details of the company, those persons involved with the company and with the restaurant and the whole ethos of the food and drink that is proposed to be provided at the premises.
3. Our dispersal policy.

We are very grateful for the input that you have provided and the immense knowledge that you bring to the application in view of your role with the Association and your knowledge of nearby residents and premises.

You will see that I have drafted a further condition acknowledging that the premises should close within Westminster's core hours, save for 10 guests in the private dining area of the Chef's Table, together with staff.

I have addressed the dispersal point as we have discussed and also the discussion regarding the fact that we will not be having a queue at the premises. As Ed explained at our meeting, the premises have a dining app, which means that customers are asked to go and have a drink in the area and are sent details 15 minutes before their table is ready, so that they can come back and have their meal. This is the system we operate at le Bab in Kingley Court and Ed has confirmed that they have never had any problems with queues at the premises, nor any complaints of noise disturbance.

I am sending all this information, as you can see, to Licensing, requesting that they disseminate this to all those who have made representations and I will also write directly to the resident who lives very nearby, as the resident has written in by post.

I have also added on my email to all the residents that they are to contact myself or Kevin direct if they wish to meet up, so we can arrange for them to meet with Ed and ourselves, so that we can personally deal with their concerns.

As you know I am away from the office the week commencing 5th February. I will return on 12th February. Please do copy me in on all emails and I will of course make contact upon my return.

Best Wishes.

Lisa

PopplestonAllen

Miss J A Havers


Date: 31 January 2018
Our ref: KM/KM/L12133-2
Doc Ref: 2146273020
Your ref:
E-mail: l.inzani@popall.co.uk
Direct line: 020 3859 7755

Dear Miss Havers,

Re: 4 Mercer Walk, London, WC2H 9FA – New Licence Application

Many thanks for your telephone call.

I have been in discussions with David Kaner, Chair of the Covent Garden Community Association, in relation to my clients new premises licence application and we have amended some of the conditions which were in our original document sent to you on 26 January 2018. We have also included 2 additional conditions in relation to waste collection and deliveries.

There has also been a slight change to the Dispersal Policy document.

I attach:-

1. Composite List of Conditions including the conditions set out in the operating schedule and our additional conditions;
2. Dispersal Policy.

If you have any further queries in relation to the above documents or our application then please do contact me on 07831 649 788.

Kind Regards

Yours Sincerely



Lisa Inzani
Poppleston Allen

Copied to: Westminster Licensing

PopplestonAllen

Resident

Dear

Date: 1st February 2018
Our ref: KM/KM/L12133-2
Doc Ref: 2146273250
Your ref:
E-mail: l.inzani@popall.co.uk
Direct line: 020 3859 7755

Re: 4 Mercer Walk, London, WC2H 9FA – New Licence Application

Further to my letter to you dated 25 January 2018, on behalf of my client I have been in discussion with David Kaner, Chair of the Covent Garden Community Association.

We have amended some of the conditions which were provided in our original additional conditions document and have included 2 additional conditions in relation to waste collection and deliveries.

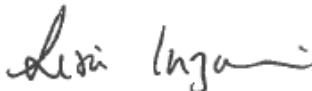
There has also been a slight change to the Dispersal Policy document.

I attach:-

1. Composite List of Conditions including the conditions set out in the operating schedule and our additional conditions;
2. Dispersal Policy.

Kind Regards

Yours Sincerely



Lisa Inzani
Poppleston Allen

PopplestonAllen

Michelle Zini
Chair
Seven Dials Housing Co-Op

Date: 1st February 2018
Our ref: KM/KM/L12133-2
Doc Ref: 2146273215

Dear Ms Zini,

Your ref:

Re: 4 Mercer Walk, London, WC2H 9FA – New Licence Application

l.inzani@popall.co.uk

020 3859 7755

Direct line:

I have been passed a copy of your representation yesterday from Westminster Licensing Authority.

I have reviewed your comments with my client and we have taken on board your concerns.

In relation to your concerns regarding outside seating we have not made an application to place seating outside our premises.

I have been in discussions with David Kaner, Chair of the Covent Garden Community Association, and we have agreed on further additional conditions which may alleviate your concerns with regards to deliveries.

I attach:-

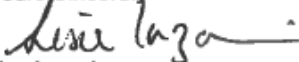
1. Composite List of Conditions including conditions set out in the operating schedule and our additional conditions;
2. Dispersal Policy;
3. My client's brochure.

My clients and I would very much like to meet with you and discuss your concerns or if it is more convenient please call me on my direct line: 020 3859 7755.

Please may I assure you that my clients take your concerns extremely seriously and would very much like to meet with you to discuss their operation in more detail.

Kind Regards

Yours Sincerely



Lisa Inzani
Poppleston Allen
Copied: Westminster Licensing

Email to Mrs Rigby dated 2nd February 2018

Dear Mrs Rigby,

Further to my email to you dated 25 January 2018, on behalf of my client I have been in discussion with David Kaner, Chair of the Covent Garden Community Association.

We have amended some of the conditions which were provided in our original additional conditions document and have included 2 additional conditions in relation to waste collection and deliveries.

There has also been a slight change to the Dispersal Policy document.

I attach:-

1. Composite List of Conditions including the conditions set out in the operating schedule and our additional conditions;
2. Dispersal Policy.

Please do not hesitate to call me.

Kind Regards

Lisa

Case of Miah v Secretary of State for the Environment and Another (1985)

Miah v Secretary of State for the Environment and Another

[1985] Lexis Citation 1810

The Times 4 November 1985, [1986] JPL 756

CO/506/85, (Transcript:Marten Walsh Cherer)

QUEEN'S BENCH DIVISION (CROWN OFFICE LIST)

WOOLF J

29 OCTOBER 1985

29 October 1985

T Comyn for the Appellant; R Griffiths for the First Respondent; the Second Respondent did not appear and was not represented

William Heath & Co; the Treasury Solicitor

WOOLF J

This is an appeal under section 246 of the Town and Country Planning Act 1971. On the face of it, it raised a very short and very simple point, but, as sometimes happens on closer examination, with the considerable assistance that I have had from counsel in this case, the point is not as straightforward as it first appears.

The background to the case is that the appellant, Mr Kadar Miah, operates a restaurant at 110 High Street, Northwood, Middlesex. The premises are operated subject to a planning permission which is dated 31st March 1978, which granted permission for the change of use of those premises from a shop to a restaurant and made that permission subject to a condition which was in these terms: "The restaurant shall not be open to the public after 12 midnight or before 9.00 am Monday to Saturday inclusive or on Sundays". The reason for the imposition of the condition was stated to be to protect the amenities enjoyed by the occupants of adjoining residences. Quite clearly, Mr Miah, on any view of the facts, did not comply with that condition and because of that the Enforcement Notice was issued on 23rd March 1984 by the Local Planning Authority, which is the Hillingdon London Borough Council, which was anxious to restrict inconvenience caused to persons living in the vicinity of the restaurant

and the Enforcement Notice set out that the breach of planning control was that the restaurant was opened to the public after 12 midnight and before 9 am and was also open to the public on Sundays.

An appeal was entered against that Enforcement Notice and the appeal was on two grounds, first of all, on the ground that planning permission ought to be granted to permit what was not permitted by the permission already given -- that is under section 88(2)(a) of the Act of 1971 -- and in addition on ground (b) of the same subsection; that being that the steps required by the Notice to be taken exceeded what was necessary to remedy any breach of planning control. With regard to that, the requirements of the Notice were that the appellant should ensure the restaurant was closed between the hours of 12 midnight and 9 am on Monday to Saturday of each week and it was closed to the public at all times on Sunday of each week.

The appeal was heard by an Inspector and he heard a considerable amount of evidence. That evidence included evidence from the Local Authority and persons who lived in the locality. The Inspector visited the site and, having done so and having heard the evidence, set out his conclusions in his report in terms which dismissed Mr Miah's appeal.

In setting out his conclusions, he started off by stating that in his opinion the principal issue to decide is whether the opening of the restaurant outside the hours permitted by the condition attached to the existing permission is unacceptably detrimental to the residential amenities of the neighbourhood by reason of noise and general disturbance. Having stated that as the principal issue, he went on eventually to say that he took the view that the normal interpretation of the condition as a whole is that the public should not be on the premises during the stated hours when opening is prohibited. "On that basis, customers would have to leave no later than midnight. In my opinion that is not an unreasonable restriction to impose on this restaurant which is so closely associated with dwellings". He added that in his opinion the opening of the restaurant outside the hours permitted by the condition attached to the existing permission is unacceptably detrimental to the residential amenities of the neighbourhood by reason of noise and general disturbance. He came to the conclusion that the appeal on the grounds contained in subsection 2(a) and (g) failed.

In relation to that decision, there is a right of appeal provided by section 246 of the Town and Country Planning Act. Subsection 1 of which reads: "Where the Secretary of State gives a decision in proceedings on an appeal . . . against an enforcement notice . . . the appellant or the local planning authority or any other person having interest in the land to which the Notice relates may, according as rules of court may provide, either appeal to the High Court against the decision on a point of law . . ." Although that right of appeal refers to a decision of the Secretary of State there is no dispute that it also applies to a decision such as we have here by an Inspector on behalf of the Secretary of State.

The section then goes on to indicate the powers of this court on such an appeal. The basic power which is contained in the rules made pursuant to that section is to remit the matter to the Secretary of State with the opinion or direction of the court for rehearing and determination by the Secretary of State. It is apparent on reading the Inspector's decision in this case that his conclusions were based entirely on the fact that he took the view that protection of the sort provided by this condition was needed for the protection of the public. The ground of appeal which is made to this court depends on the statement by the Inspector that the public by virtue of the condition should not be on the premises during the stated hours when opening is prohibited. Mr Comyn on behalf of Mr Miah submits that this amounts to a misinterpretation of the condition and the effect of the condition is not that indicated by the Inspector. The correct effect is one which prevents the restaurant allowing the public to have access to the premises after the periods laid down in the condition but does not prevent customers who are already on the premises remaining on the premises after the permitted hours for the purpose, for example, of finishing a meal which they had already started.

Having regard to the reasoning of the Inspector, the point immediately arises that the issue as to the proper interpretation of the condition would not have affected and could not have affected the decision which the Inspector in fact came to. If he had adopted the interpretation of the condition which Mr Comyn submits is the correct one, he would have been even more firmly of the view that the condition imposed was not unreasonable since on that interpretation the condition is less restrictive than the interpretation in fact adopted by the Inspector. This being so, there is no basis for suggesting that this appeal should properly result in a conclusion which requires the decision to be remitted for redetermination. If the Inspector was in error on his interpretation, that did not in any way affect the outcome of his decision.

Mr Griffiths on behalf of the Secretary of State submits, that being the situation, that this whole appeal is misconceived and should be dismissed at the outset without the court expressing any view about the proper interpretation of the condition, that being a matter which could be resolved, if it was necessary to do so, in the event of enforcement proceedings being taken in the Magistrates' Court as a result of the non-compliance of the Enforcement Notice.

I fully accept the force of Mr Griffiths' submission and I recognise that it is undesirable for this court to allow the procedure under section 246 to be used as a vehicle for testing the validity of reasoning of inspectors or the Secretary of State on appeals conducted by them of this nature, when the points which are in issue do not affect their decision. The wording of subsection (1) of 246 provides an appeal against the decision and it is not an appeal against the decision if it cannot affect the decision. So in the ordinary way I would be inclined to accede to Mr Griffiths' submission and I would defer from adding to my reasons for dismissing the appeal anything over and above that which I have already stated in this judgment. However, quite clearly, there is now an issue as to what is the correct

interpretation of this condition as a matter of law. It is obviously important for Mr Miah to know what is the proper manner in which he should conduct his business.

If there had been an application to the Court for a declaration it could be -- I put the matter no higher than that -- that the court would consider it appropriate to grant a declaration, this is not being a case where there is any pending criminal proceedings which it could be suggested are being interfered with by the court taking that course. It is very desirable that the court should not unnecessarily put the parties to expense merely because the correct procedure had not been adopted. From the practical point of view, there is no embarrassment at all to Mr Griffiths by the court proceeding to consider the merits of the argument which was advanced by Mr Comyn. Indeed, he was very quickly able to persuade me that the answer to the question was not as easy as I had hitherto thought and in these circumstances it does seem to me right that I should go on to indicate my view of what is the proper interpretation of this condition.

There were cited certain 19th Century licensing decisions on similar phrases in licensing statutes and other references were made to situations where the court has considered similar phrases to those contained in this condition, however, I find those authorities of really no assistance at all. I was, however, also referred to a decision of the Court of Appeal as to the general approach to conditions in planning permissions. That is the case of *Crisp from the Fens, Ltd v Rutland County Council* [1950] 114 JP 105, and that authority did provide useful guidance.

In the judgment of Lord Justice Singleton, he indicated at page 57 that it was proper to look at the reason given for a condition and he also went on to say that he considered the argument that had been submitted that all the matters in the Order should be construed against the local planning authority, in other words, that the *contra proferentes* rule should apply was wrong. He added, "The local planning authority are given the duty of determining applications under this Act. When the Court is construing a permission which the authority have given, it must have regard to the document and to the subject matter of the case. I do not see why it should be construed against those who grant it in particular, for there is another class of persons altogether to be considered, namely, the general public."

Lord Justice Denning, as he then was, in the same case, at page 59, added: "I think it is very important that a condition of this kind should be expressed in plain language so that any layman can understand it without having to look up the statutory instrument and interpret the terms of an Order. This condition was ambiguous, but I cannot see that the company have in any way been misled." He added later: "It has to be remembered that the Planning Acts are intended to protect amenities. Owners of property cannot in these days use their property to their own private advantage without regard to the amenities of the neighbourhood. When the Planning Authority gave this permission, they clearly intended to protect the amenities. The reasons said so. It would be unfortunate if the

amenities of a small country town like Oakham came to be taken away owing to a slip in omitting the word 'other' in the wording of a condition when the parties knew perfectly well that the amenities were intended to be preserved."

With the guidance provided by that authority, I would therefore return to the proper interpretation of this condition. Mr Griffiths points out that the great advantage to approaching the matter in the way that the Inspector approached it was that the position was clear beyond peradventure: members of the public should not be on the premises during the stated hours when opening is prohibited. In those circumstances, the condition is clearly capable of ready enforcement and furthermore there is no question of the obvious intent of the planning authority being overridden by persons who are already on the premises being allowed to remain on those premises for a substantial time.

Mr Comyn, on the other hand, contends that, if that was what the authority was seeking to do, they could easily have used words which had that effect and the words which were used only mean that the restaurant is prohibited from giving access to the premises after the hours stated in the condition.

My conclusion as to the proper interpretation is one which is easier to state by explaining how the condition is intended to work than being expressed in terms different from those actually used in the condition.

I do not think it is helpful -- as Mr Comyn would submit it would be -- to interpret this condition by examining whether doors are closed or secured in some other way. That is an unrealistic approach to a restaurant. Equally, I do not think it is right to regard this condition as having the effect of preventing any member of the public being on the premises one minute after midnight. What is intended by this condition is that the premises should be closed at midnight. That is to say that the restaurant should cease to be open to the public for the serving of meals after that time. However, if, when midnight strikes, there are persons in the restaurant who are already fully engaged in eating a meal, that does not mean that they forthwith -- rather like Cinderella -- have to leave the restaurant irrespective of the state of the table at that moment. The restaurant is not open to the public within the meaning of the condition if those persons have a reasonable time in which to finish their meal. I am not reading into the condition any implied term, I am merely giving effect to the words "open to the public". In the same way as after a store is closed some members of the public will take a little while to leave the premises and the premises are not open to the public, so a restaurant is not open to the public if it allows those persons a short time in which to finish their meal upon which they are engaged when midnight strikes.

I do, however, emphasize that the effect of what I have decided does not permit what was happening in these premises to occur, where there were still members of the public present, making a noise,

between 2 am and 3 am. That is something wholly different. The general effect of the condition is to require the premises to close at 12 o'clock on weekdays and not to be open at all on Sundays.

Although I take a different interpretation from that of the Inspector and take the view that if the interpretation the Inspector adopted was to be the correct one the condition would have to be in much more restrictive terms than it was, for the reasons I gave at the outset of this judgment the appeal is dismissed.

Appeal dismissed



le
BAB

Our business in 2018

INTRODUCTION

WHO WE ARE & WHAT YOU'RE ABOUT TO READ

The Team



Stephen Tozer: Co-Founder

Stephen was inspired to enter the hospitality sector through his experience running two Oxford University halls. After graduating from Oxford with a 1st class degree in PPE, Stephen worked on in-portfolio strategy for Hanover investors for 2 years. In May 2014 he left to set up Le Bab, with a deferred position at Bain



Ed Brunet: Co-Founder

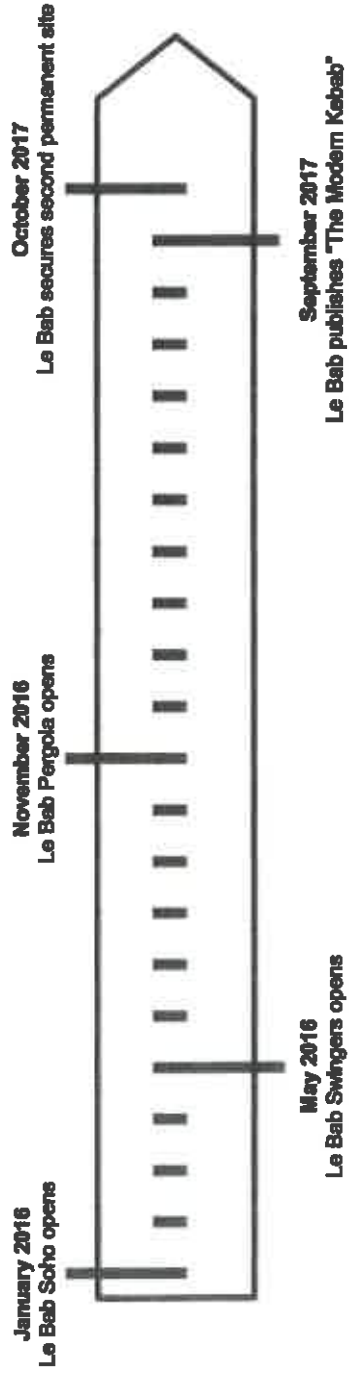
Since graduating from Oxford University with a masters degree in Engineering, Ed pursued his dream of becoming a chef. Ed has worked in some of the UK's leading restaurants, amassing 11 Michelin stars of experience. Ed worked most recently at the renowned 2 Michelin starred Le Gavroche in Mayfair



Iqbal Wahhab: Advisor

Iqbal is a pioneer and leading figure within the London hospitality industry. As the founding CEO of Roast and the Cinnamon restaurant group, Iqbal is one of London's foremost restaurateurs. He is an official mentor and advisor to Le Bab, giving ongoing strategic advice and support



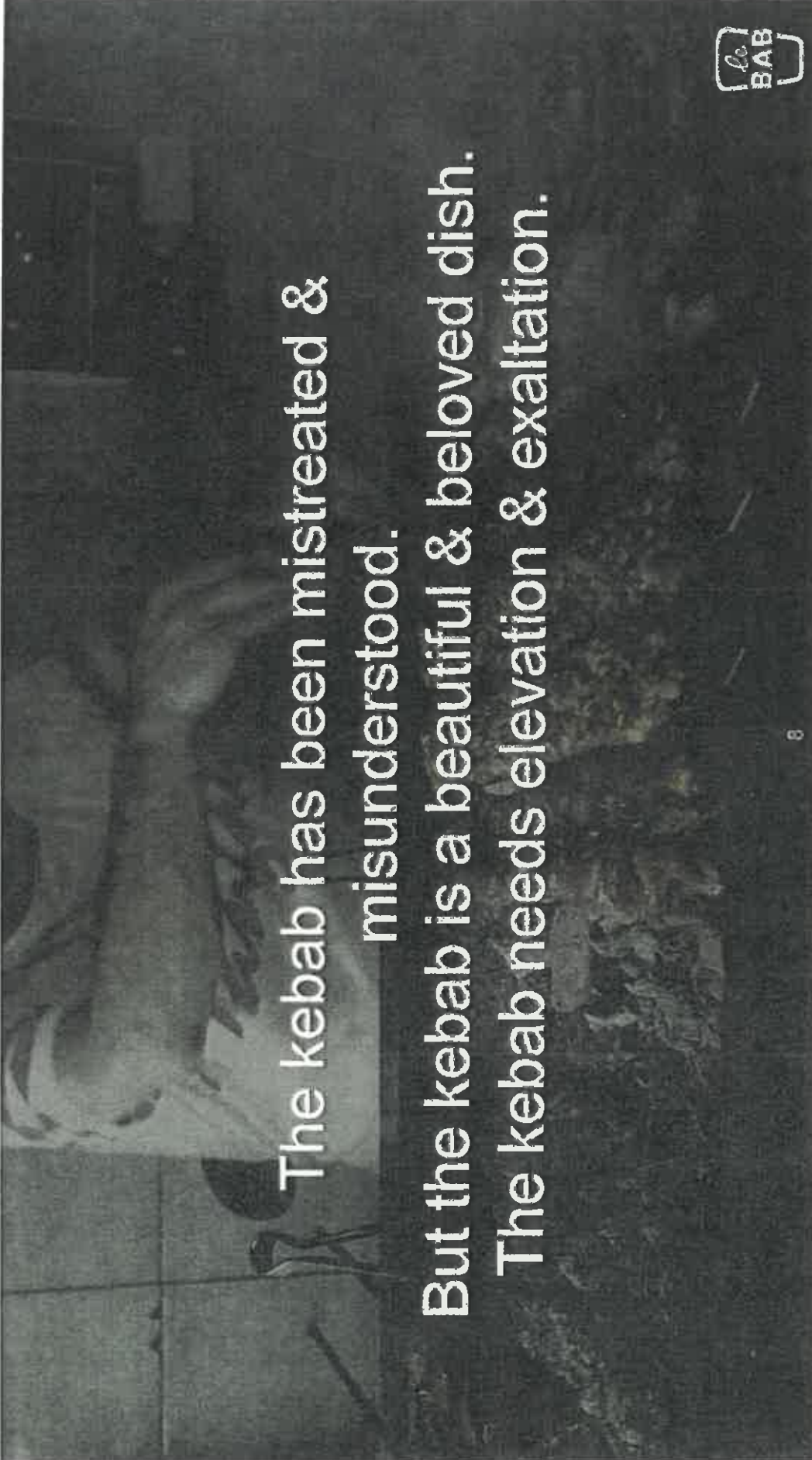


OUR timeline



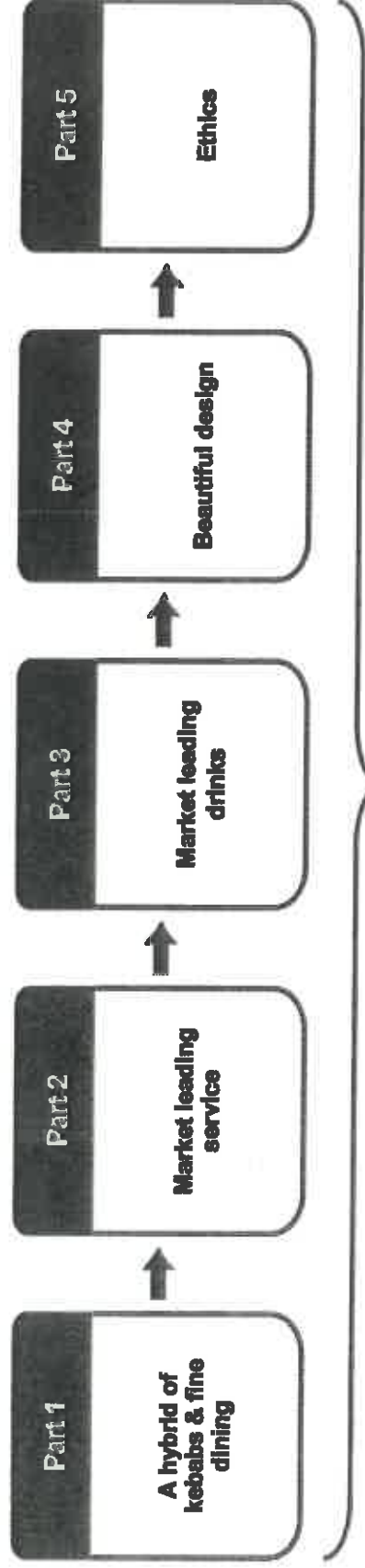
Our concept

WHAT LE BAB IS



The kebab has been mistreated &
misunderstood.
But the kebab is a beautiful & beloved dish.
The kebab needs elevation & exaltation.

Le bab: kebab elevation & exaltation



**An affordable experience:
you can eat & drink for <£18**



A HYBRID OF KEBABS

We serve the best kebabs in London

& FINE DINING





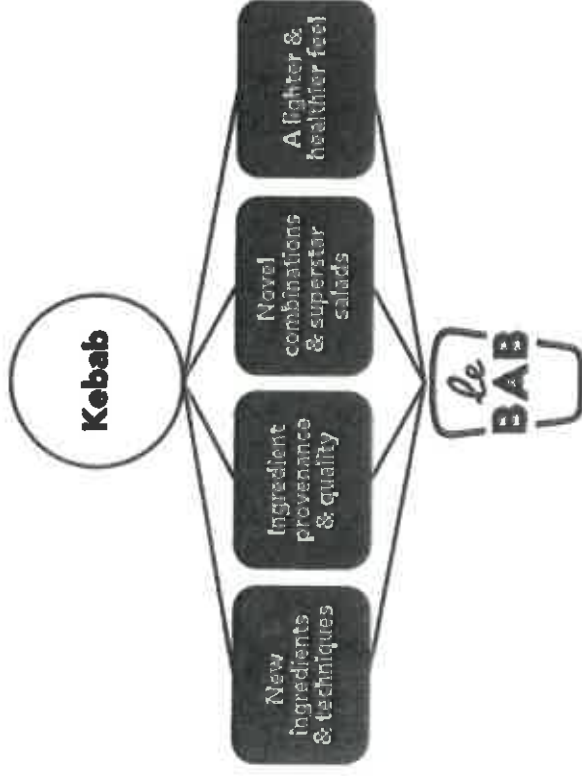
we respect authentic kebabs & kebab houses.
But we think modern approaches can improve
them.

Hybrid of kebabs &
fine dining



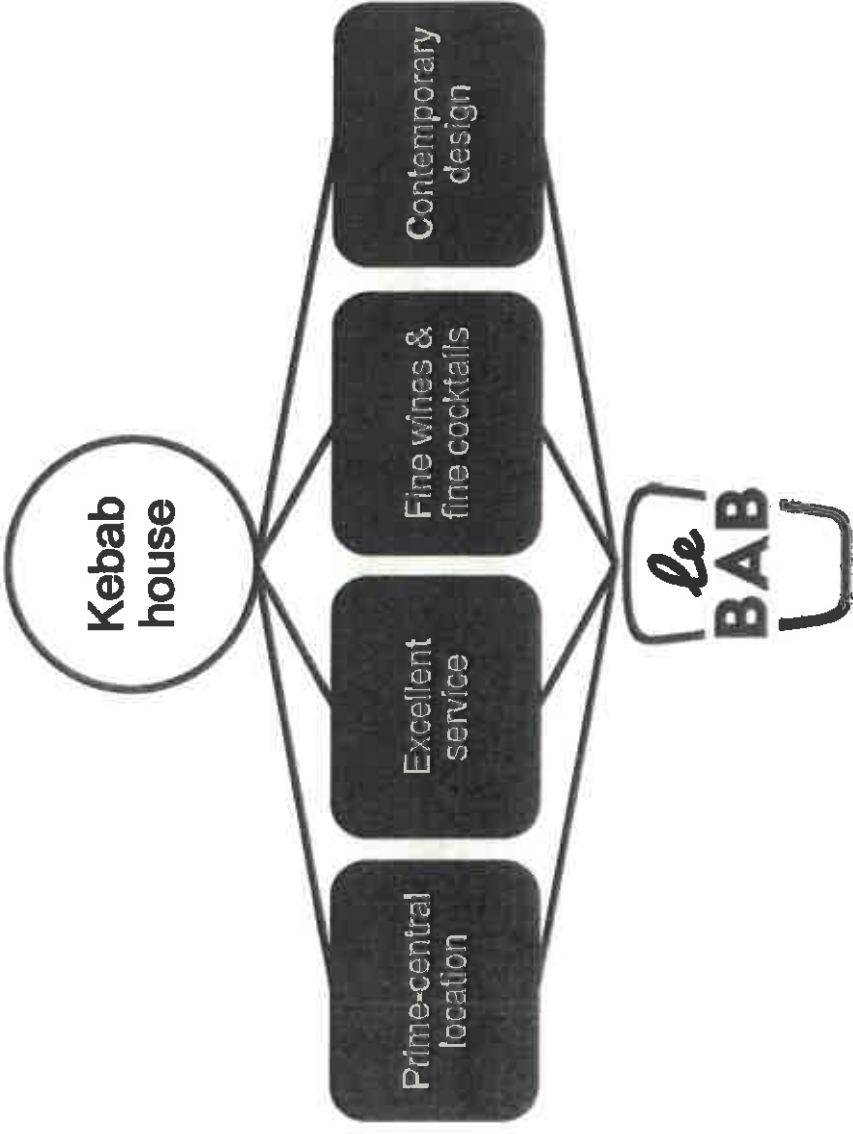
Elevating the kebab

Typical kebabs are flawed & homogenous, lacking top ingredients & gastronomic thought.
Le Bab brings serious gastronomy to this under-loved dish



Hybrid of kebabs & fine dining





BBQ paneer, beetroot puree, crispy onion, burnt chard stem, curry mayo

“Paneer”



“the best vegetarian option in London”



THE SUNDAY TIMES

Hybrid of kebabs &
fine dining

14



The Mail

ON SUNDAY

"The pork shawarma is a magnificent mouthful"

"Pork shawarma"

Free range organic pork shoulder, water bathed for 15 hours & charcoal grilled

Hybrid of kebabs &
fine dining



Falafel-coated beef shin & lamb shoulder

"meatlafel"

Hybrid of kebabs &
fine dining

"Mind-blowingly delicious (meatlafel)"

TimeOut



MARKET LEADING

Service is paramount & we don't compromise

SERVICE



We do What Customers Value

Consolidating around what customers want; outstanding service at a low price point

Charm

We believe casual dining customers want friendly, "extra mile" service without regimented formality

Passion

Our staff convey our huge passion for our food and drink through knowledge & recommendation

Proficiency

Customers want fast attentive service, but not silver service. We target speed & regular contact

Market leading service

18



YOUR RESTAURANT MANAGER,

JAMES joined Le Bab from the very beginning. He joined to pursue his love of hospitality after graduating from Oxford University in 2015. He embodies our front of house culture, priding himself on customer interaction and intricate knowledge of our menu



tripadvisor
★★★★★

"Impressive service from James"

"James provided us with amazing service"

"James, our waiter, was extremely knowledgeable"

"James is an amazing host going to great lengths to please"

Market leading service

19



MARKET LEADING

We're as passionate about drinks as we are about food

DRINKS

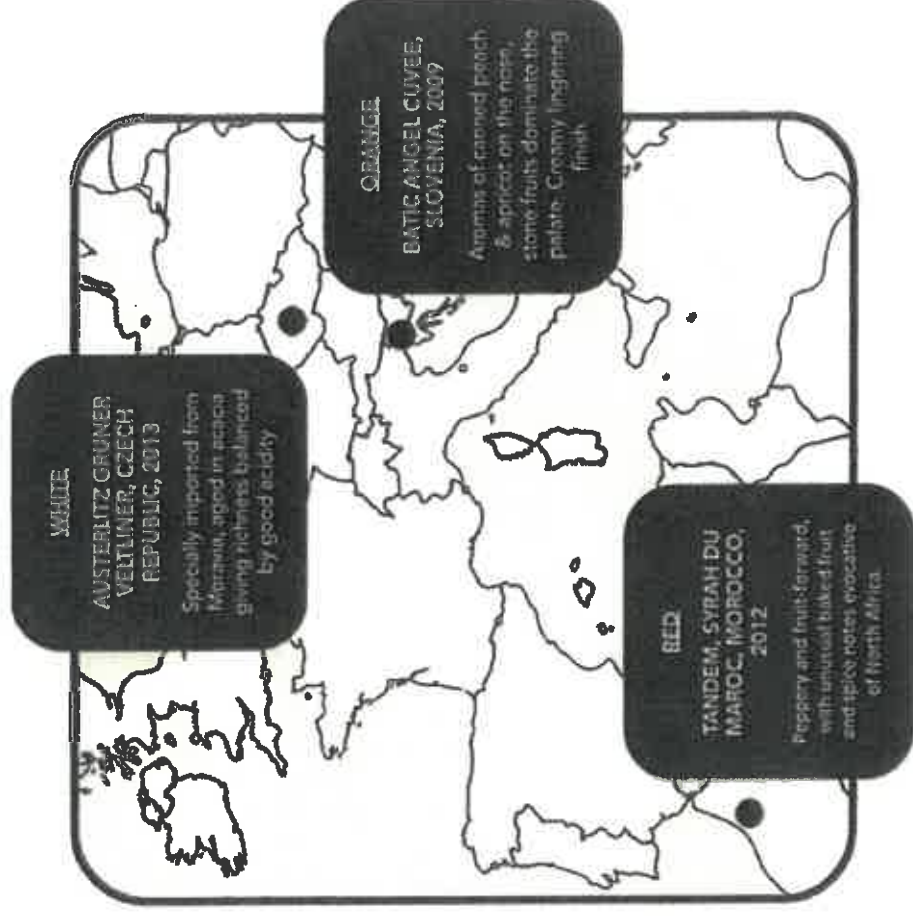


Our Wines: Value in

Innovation enable us to
bring value to our customers in two
key ways:

Emerging territory wines are very
well priced, meaning affordable
quality

They're also interesting and
otherwise inaccessible, justifying
the restaurant price point



Market leading drinks

21



The Mail

ON SUNDAY

"a cocktail of rare class"

The "Smoky Sour"

Vida Mezcal, Laphroaig, lime, agave

Market leading drinks

22





THE SUNDAY TIMES

"you should probably be drinking their estimable Nero d'Avola from the Zisola estate...it is the ideal kebab wine"

ZISOLA

A Sicilian Nero D'avola. Smooth, complex & fruit forward

Market leading drinks



BEAUTIFUL DESIGN

Crucial to re-inventing the kebab house





• T H E •
L O N D O N E R

"A home that screams interiors goals"

Bright Simplicity

Avoiding visual distraction, evoking a sense of peace and calm

Beautiful design

25



Placing our food and our grill at the heart of the restaurant

Theatre kitchen

Julia Martini Specht/Time

SQUAREMEAL

Beautiful design

26



Wallpaper*

"The square Middle-Eastern wall tiles... are a dead giveaway to the menu"

A Nod to Our Roots

Our food is modern but originates in the Near East; subtle nods in our design reflect this

Beautiful design



ETHICS

We care about how we do things



An Ethical approach to business

We try to utilise our restaurant to positively influence the world around us

Social Enterprise

We support various charities & we work with several organisations to recruit & support ex-offenders who are looking for their first job

Animal Welfare

We refuse to use intensively reared meat & choose only free-range animals farmed by trusted suppliers

Sustainability

In using local, seasonal and organic produce we minimise our impact on the environment & support proper farming practices



CRAFTING A VISION

To grow our brand



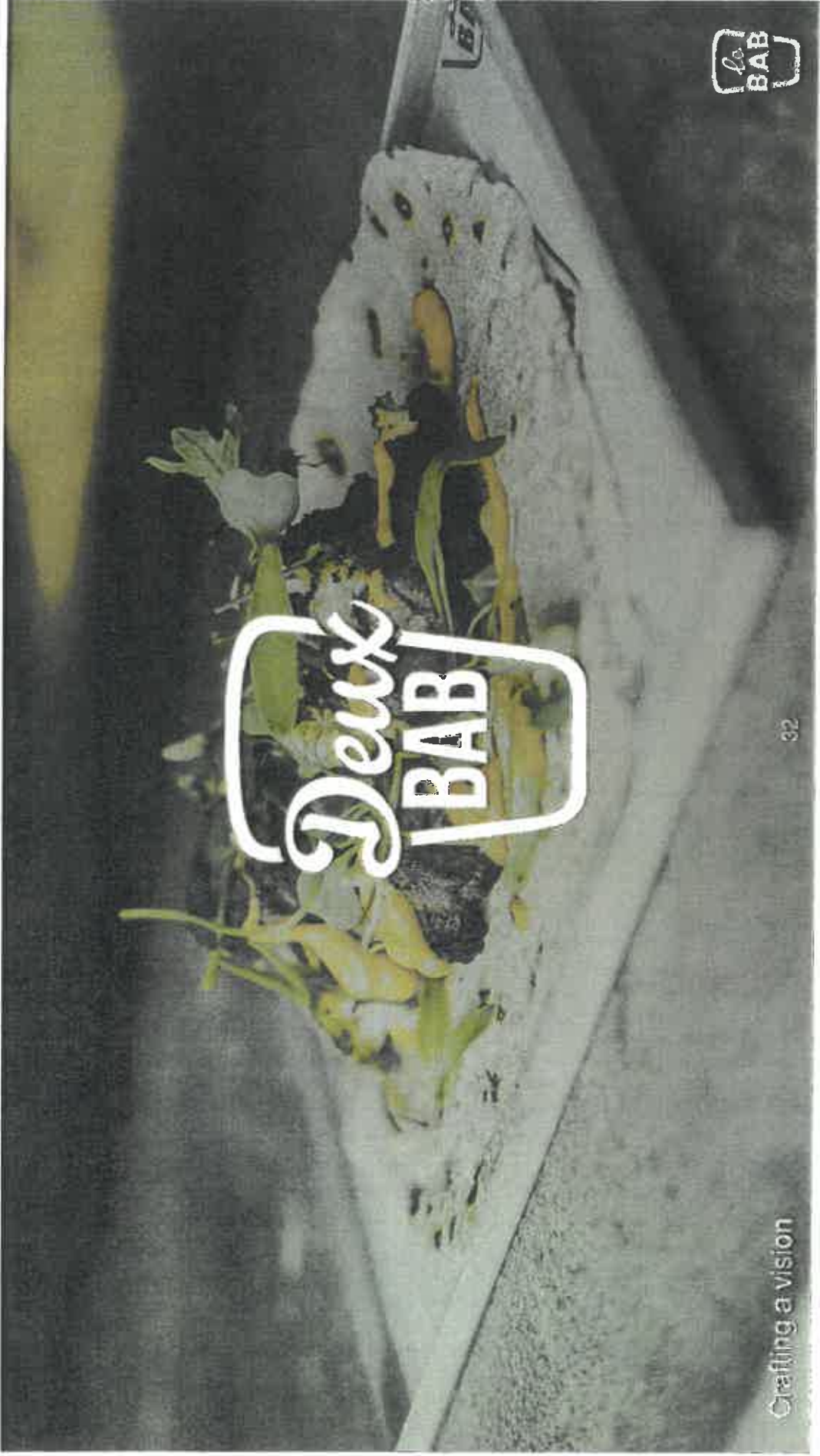


We have a concept to propel our brand & market.
It unites two ideas & experiences in one
restaurant.

It's disruptive and utterly unique within london.

Crafting a vision

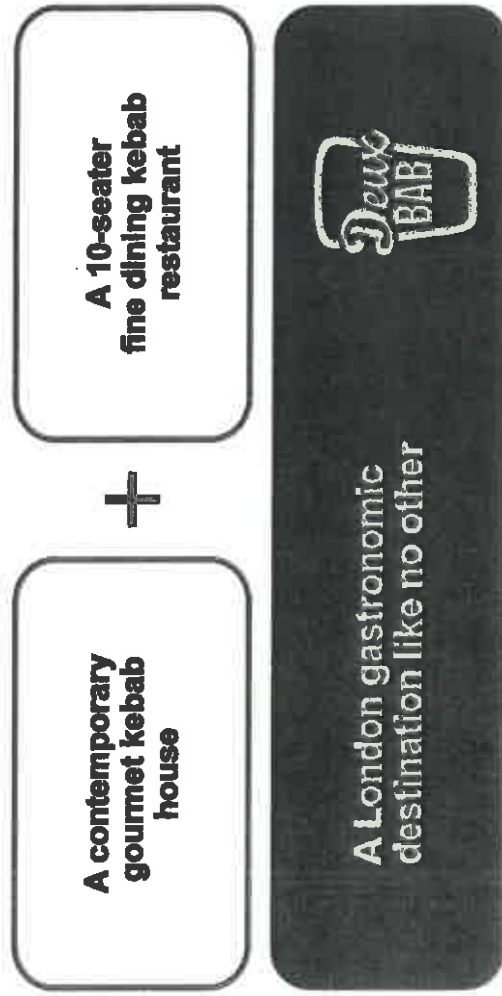




for
BABY

32

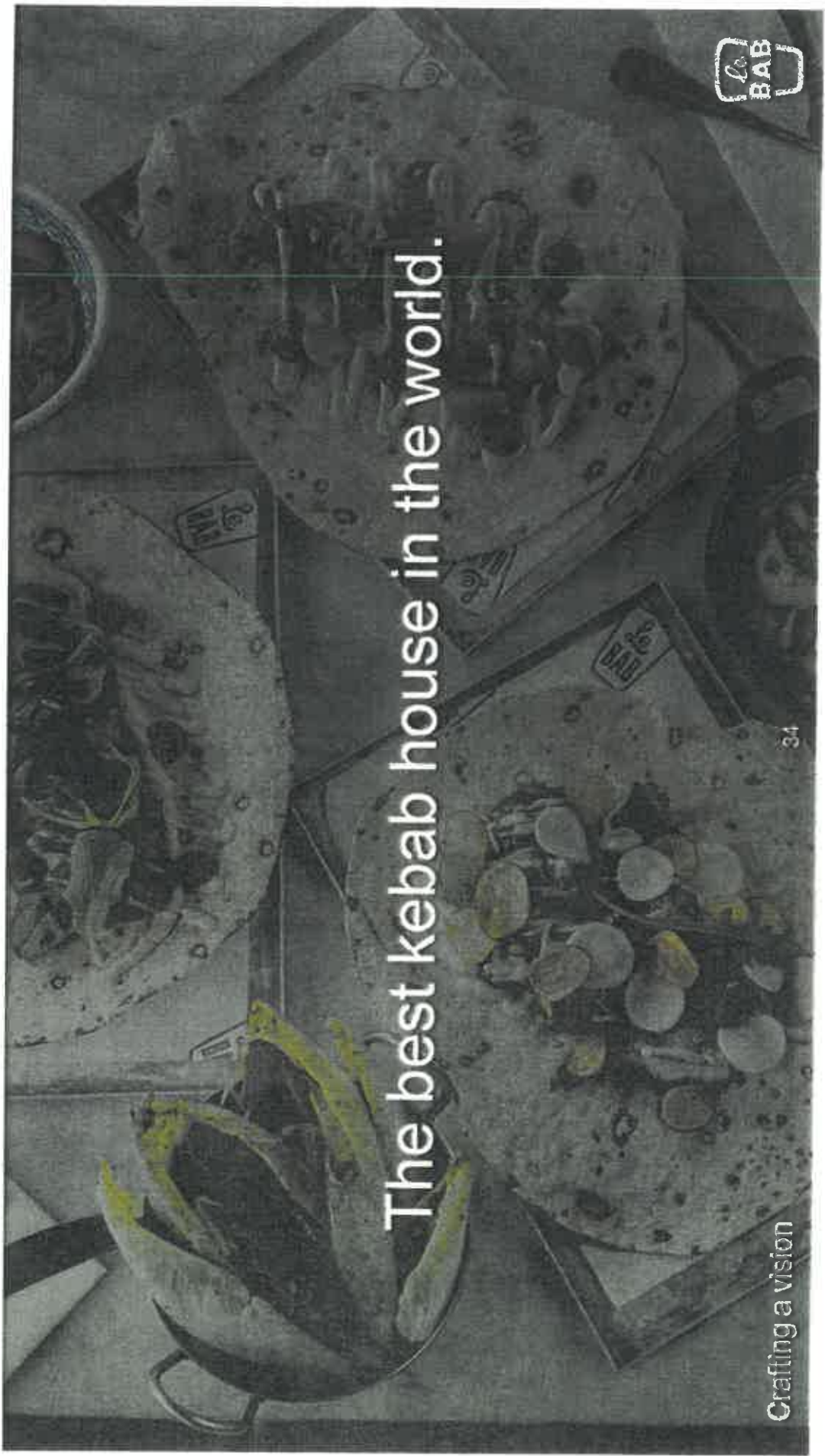
Crafting a vision



$$1 + 1 = 3$$

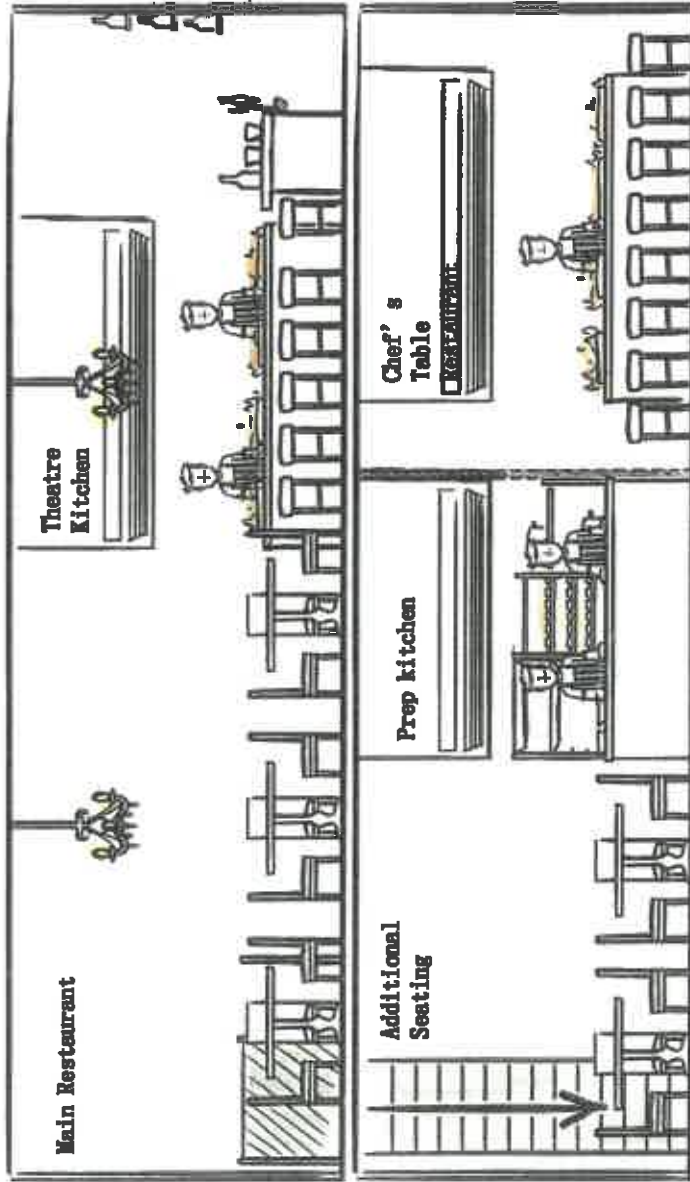
2 separate but conceptually unified components comprise a venue better than the sum of its parts. Their interaction is synergistic. They confer value on each other & their coalescence is utterly unique





The best kebab house in the world.

Crafting a vision



the main restaurant

A contemporary wood-fired kebab house, serving inexpensive rustic gourmet kebabs <£10 and modern mezze while you wait. With opulent interiors & cocktails



Creating a vision



HOUSE

MEZE SHARERS

DEVILLED EGGS 4

Smoked aubergine, chilli & walnuts

SPICED DUCK RAGU 4.5

With a house-made date sauce

MUTTON MEATBALLS 4.5

With an Arabic spiced tomato sauce

LOBSTER KATI ROLLS 9

With spiced cauliflower & lime mayo

MEATLAFEL 5

Falafel filled with braised lamb shoulder & beef shin, tzatziki

LEVANTINE CAPRESE 5.5

Heritage tomatoes, sheeps curd, za'atar

KEBABS

BROCCOLI & CAULIFLOWER 8.5

Char grilled broccoli & cauliflower, barrel aged feta, aioli

15-HOUR FREE RANGE PORK

SHAWARMA KEBAB 9.5

Charred & soured cabbage, chermoula mayonnaise

CORN FED CHICKEN SHISH 9.5

Burnt broccoli pickle, house harrisa aioli

CHAR-GRILLED SQUID 9.9

Squid ink flatbread, parsley puree, harrisa, burnt red pepper

HERDWICK LAMB ADANA 9.5

Curry parsnip puree, parsnip crisps, burnt pickled onion

VENISON SIKH 9.9

Cavolo nero kimchi, blackberry & chilli jam, game mayo

Kebabs are served with a house-made flatbread.

SIDES

ENDIVE AND POMEGRANATE SALAD 3.5

Lincolnshire endive, Iranian pomegranate, shallot dressing

DOUBLE COOKED FRIES 3

WITH FONDUE (a homage to the humble kebab van)
4.5

HOUSE BREAD 2

WITH GARLIC & MEAT BUTTER (from resting juices)
3



the chef's table restaurant

The world's first fine dining kebab, seeking a Michelin star, inside our kebab house
Hidden behind the kitchen, an intimate restaurant showcasing Manu Canales' talent

Crafting a vision

38





TABLE

TASTING MENU - £55PP

1. CANAPÉS

The season's salted pickles – Whipped lentil falafel

2. CRAB ISKENDER

Dorset crab, Iskender sauce, Smoked corn mayo

3. "BACON & EGG" CUSTARD

Black cardamom crème moulée, Herdwick lamb's tongue jerky, Ottoman Spices

4. SECRETO SUSHI

Nigiri of mangalitsa secretó & spiced bulgur wheat

5. TROUT TIKKA

Charcoal-cooked fresh water trout fillet, Caviar, Preserved lemon puree, Crunchy lentils

6. DUCK SHISH FESENJAN

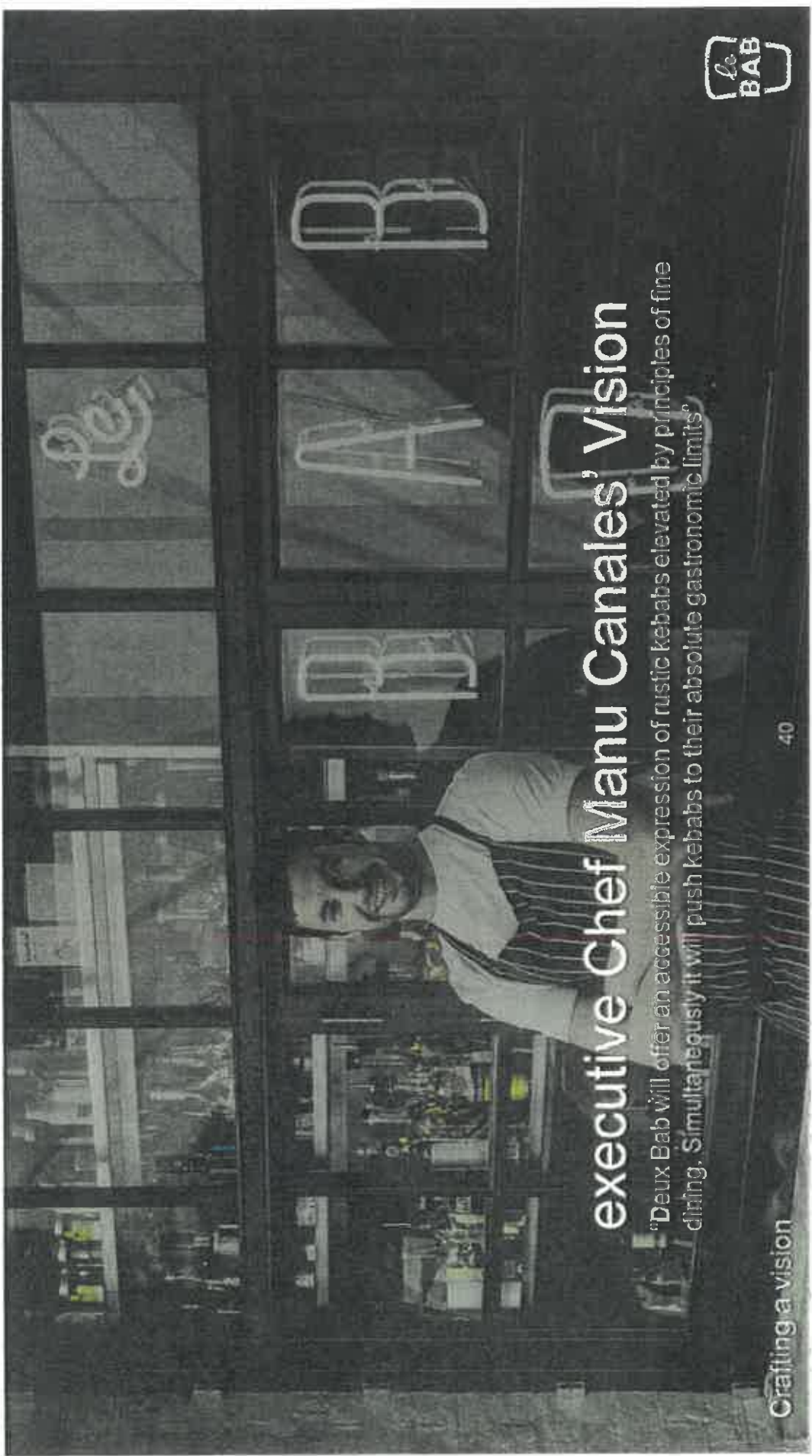
Charcoal Grilled Goosnargh duck breast, Duck jus & molasses, Walnut praline

7. TURBAN SQUASH TESTI KEBAB (for 2)

Herdwick mutton ragu inside a Lincolnshire turban squash

8. TZATZIKI PANNACOTTA

English cucumber panna cotta, Nut granola



executive Chef Manu Canales' Vision

"Deux Bab will offer an accessible expression of rustic kebabs elevated by principles of fine dining. Simultaneously it will push kebabs to their absolute gastronomic limits"

Crafting a vision

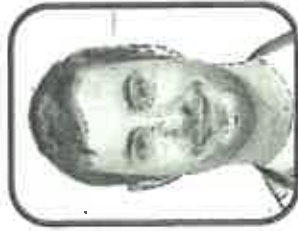


DELIVERING

Our vision



Our plan is hugely ambitious.
But we've always risen to
challenges.
we're confident in our ability.



Manuel Canales Garcés:
Head Chef
As a biology graduate, Manu deploys scientific knowledge in his technical approach to cookery. Manu rose from commis to sous chef at Le Gavroche, after a spell in Ireland



Angus Bell:
Sous Chef
Angus was senior chef de partie at Le Gavroche, where he worked since 2013. Angus joined Le Gavroche from Michelin starred "The Star" at Harome, staying there until August 2015

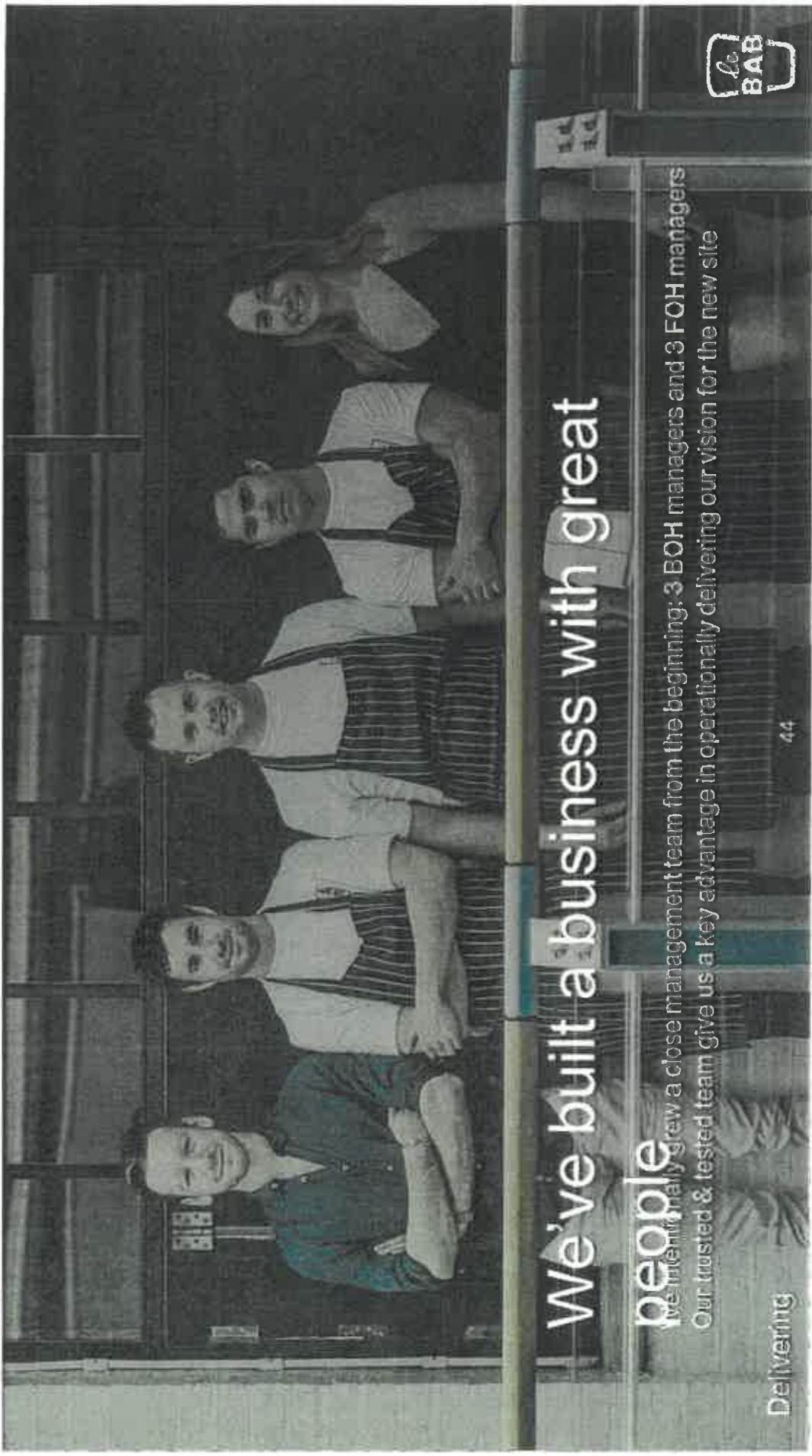


Ed Brunet:
Chef-patron
Ed has worked in some of the UK's leading restaurants, amassing 11 Michelin stars of experience. Ed worked most recently at Le Gavroche before leaving to found Le Bab with Stephen

Outstanding chefs

The beating heart of our operations: a close team with exceptional pedigree from 2 Michelin starred Le Gavroche. They can & will deliver





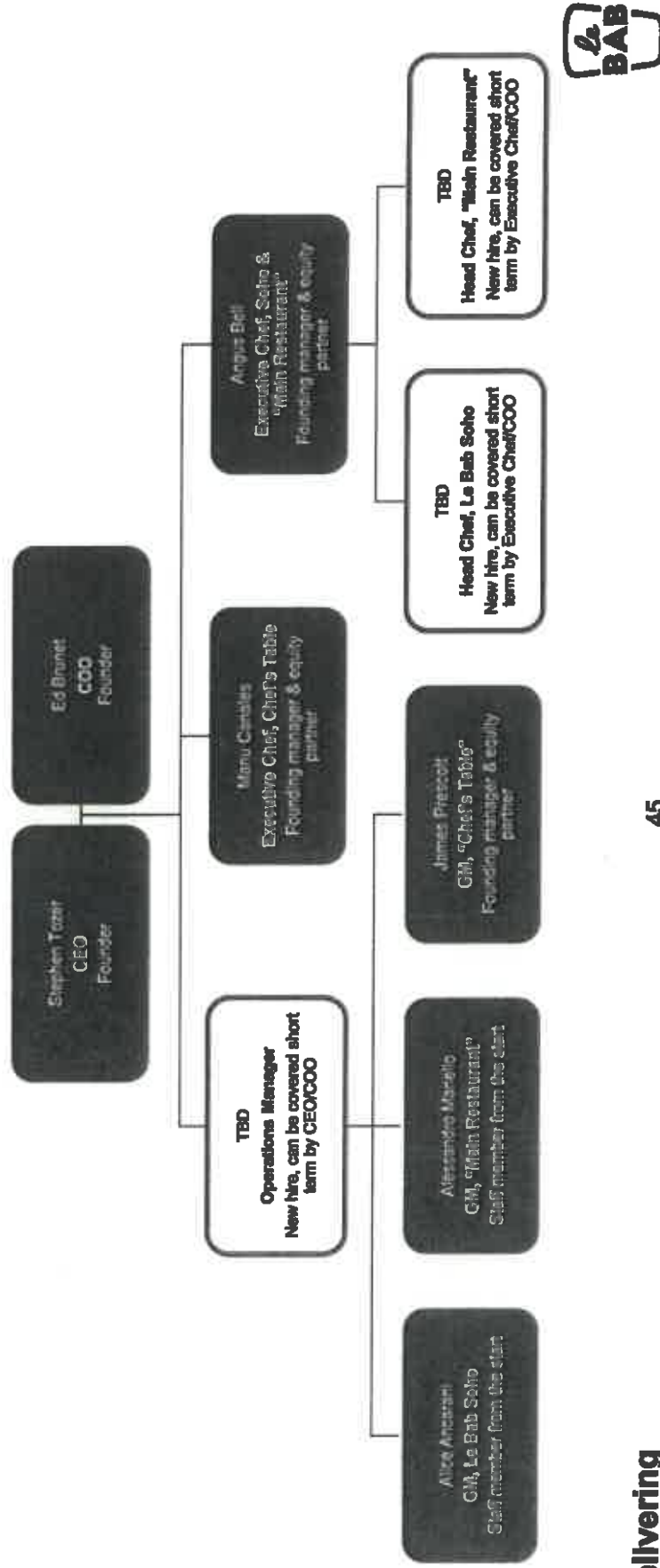
We've built a business with great people

we intentionally grew a close management team from the beginning: 3 BOH managers and 3 FOH managers. Our trusted & tested team give us a key advantage in operationally delivering our vision for the new site

Delivering



A home grown management structure



THANKS.



Premises History

Appendix 2

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

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

- 10. There shall be no sales of hot food or hot drink for consumption 'Off' the premises after 23.00 hours.
- 11. The maximum number of persons permitted in the premises at any one time (excluding staff) shall not exceed:-
 - Ground floor (x)
 - Basement (x)
- 12. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team. All entry

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

13. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises are open. This staff member must be able to provide a Police or authorised council officer copies of recent CCTV images or data with the absolute minimum of delay when requested.
14. A Challenge 21 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport or proof of age card with the PASS Hologram.
15. Where the provision of food and/or drink includes delivery to the customer, the licence holder shall ensure that specific procedures are in place and that the activity does not cause nuisance at or near to the premises.
16. No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
17. Loudspeakers shall not be located in the entrance lobby or outside the premises building.
18. All sales of alcohol for consumption off the premises shall be in sealed containers only and shall not be consumed on the premises.
19. There shall be no striptease or nudity, and all persons shall be decently attired at all times, except when the premises are operating under the authority of a Sexual Entertainment Venue licence.
20. The means of escape provided for the premises shall be maintained unobstructed, free of trip hazards, be immediately available and clearly identified in accordance with the plans provided.
21. All emergency exit doors shall be available at all material times without the use of a key, code, card or similar means.
22. An incident log shall be kept at the premises, and made available on request to an authorised officer of the City Council or the Police, which will record the following:
 - (a) all crimes reported to the venue
 - (b) all ejections of patrons
 - (c) any complaints received concerning crime and disorder
 - (d) any incidents of disorder
 - (e) all seizures of drugs or offensive weapons

- (g) any refusal of the sale of alcohol
 - (h) any visit by a relevant authority or emergency service.
23. During the hours of operation of the premises, the licence holder shall ensure sufficient measures are in place to remove and prevent litter or waste arising or accumulating from customers in the area immediately outside the premises, and that this area shall be swept and or washed, and litter and sweepings collected and stored in accordance with the approved refuse storage arrangements by close of business.
 24. Patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, shall not be permitted to take drinks or glass containers with them.
 25. Before the premises open to the public, the plans as deposited will be checked by the Environmental Health Consultation Team to ensure they are an accurate reflection of the premises constructed. Where the premises layout has changed during the course of construction new plans shall be provided to the Environmental Health Consultation Team and the Licensing Authority.
 26. A written dispersal policy shall be retained at the premises and made available for inspection by authorised officers upon request. It will include the requirement that staff will actively encourage customers to disperse via Langley Street rather than mercer Street in order to minimise the disturbance to residents.
 27. All staff shall be trained in the implementation of the dispersal policy.
 28. The licence holder shall use reasonable endeavours to ensure that:-
 - a) delivery drivers do not congregate in the vicinity of the premises, obstruct the highway or cause nuisance outside the premises;
 - b) the use of bicycles for deliveries is to be encouraged.
 29. The licence holder will operate a virtual queuing system to encourage customers waiting for a table to leave the immediate area of the premises. The licence holder will ensure that any queue to enter the premises which, despite this, forms outside the premises is orderly and supervised by staff so as to ensure that there is no public nuisance or obstruction to the public highway.
 30. A direct telephone number for the manager at the premises shall be made publicly available at all times the premises is open. This telephone number is to be made available to residents in the vicinity and circulated to the local residents association.
 31. All waste will be managed in accordance with the landlord's requirements.
 32. All deliveries shall be made between 07:00 hours to 10:00 hours Monday to Sunday and will take place within the public realm area.
 33. All windows and external doors shall be kept closed after 22:00 hours except for the immediate access and egress of persons.

The Covent Garden Community Association has proposed to amend condition 33 to the following:

All windows and external doors shall be kept closed after 21:00 hours except for the immediate access and egress of persons.

34. Customers shall be required to vacate the premises at 23:30 Monday to Thursday inclusive, at 00:00 Friday and Saturday and at 22:30 on Sunday save for those customers in the private dining area marked "chef's table" as indicated on the licensing layout drawing, up to a maximum of 10 persons at any one time (excluding staff).

Conditions proposed by the Environmental Health

None

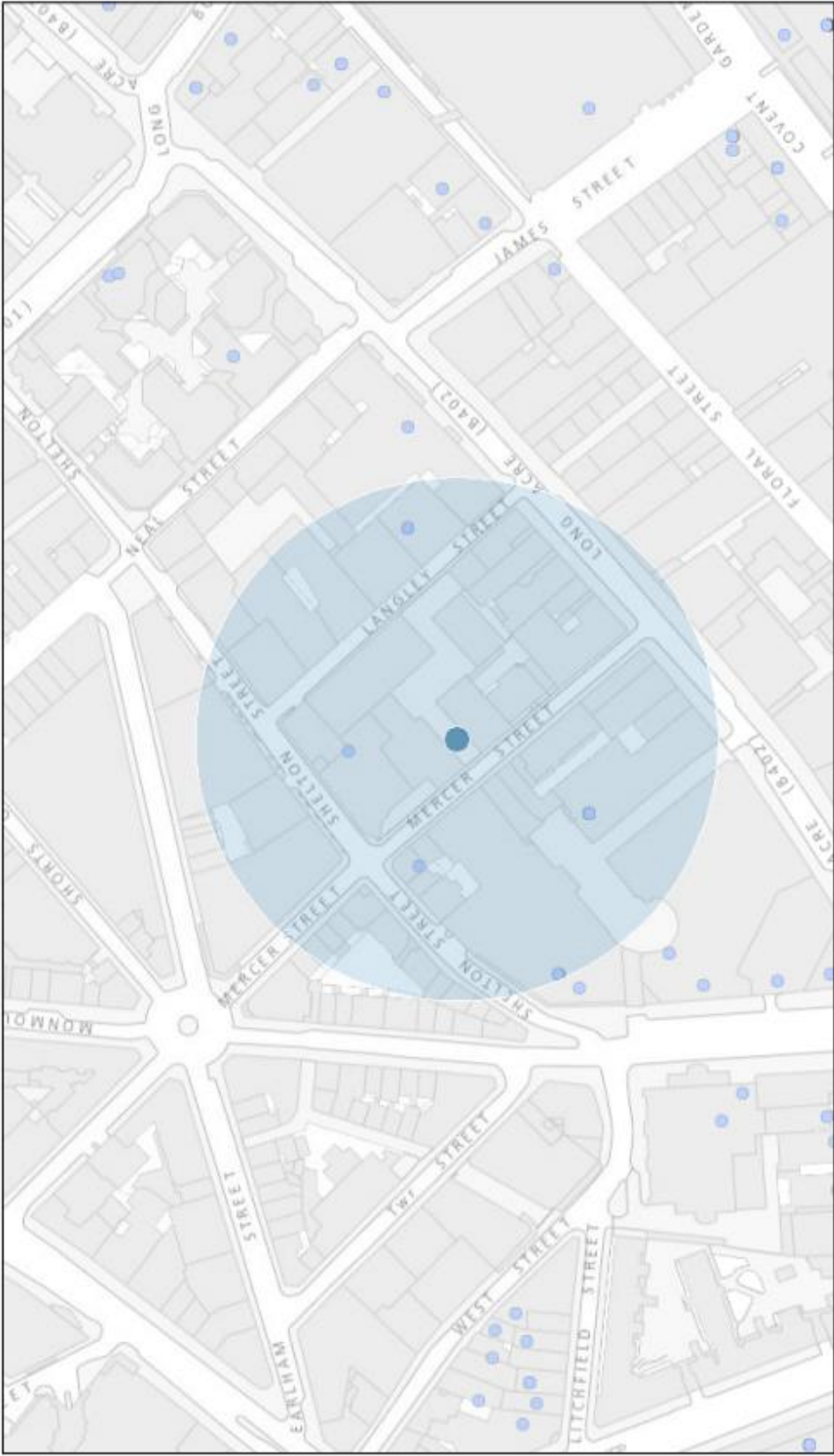
Conditions proposed by Kester Robinson

28. Last entry to be 60 minutes before the end of licensable activities to ensure that dispersal is gradual.
29. After 23:00 the premises operate a dispersal policy requiring them to use their best endeavours to encourage customers to leave the area using Langley Street and not Mercer Street.

Conditions proposed by Covent Garden Community Association

30. The licence holder shall ensure that any queue to enter the premises which forms outside the premises is orderly and supervised by door staff so as to ensure that there is no public nuisance or obstruction to the public highway
31. Last entry to be 60 minutes before the end of licensable activities.
32. Management will operate a dispersal policy which includes the requirement that they use their best endeavours to ensure dispersal via Langley Street and all staff will be trained in its implementation.

Le Bab



January 31, 2018
● Live Licensing Act

Resident count = 143

Licence Number	Trading Name	Address	Premises Type	Time Period
15/11563/LIPDPS	Hawksmoor	11 Langley Street London WC2 9JG	Restaurant	Monday to Thursday; 10:00 - 00:30 Friday to Saturday; 10:00 - 01:00 Sunday; 12:00 - 23:30
15/01045/LIPDPS	Crazy Bear	17 Mercer Street London WC2H 9QJ	Restaurant	Monday to Saturday; 10:00 - 01:30 Sunday; 12:00 - 01:00
17/08537/LIPDPS	Bills Produce	13 Slingsby Place London WC2E 9AB	Shop	Monday to Thursday; 08:00 - 23:30 Friday to Saturday; 08:00 - 00:00 Sunday; 08:00 - 22:30
17/02740/LIPDPS	Suda	23 Slingsby Place London WC2E 9AB	Restaurant	Monday to Thursday; 08:00 - 23:30 Friday to Saturday; 08:00 - 00:00 Sunday; 08:00 - 22:30
16/01741/LIPN	Department Of Coffee	19 Slingsby Place London WC2E 9AB	Cafe	Monday to Sunday; 08:00 - 21:00
14/09844/LIPDPS	Dalla Terra	25 Slingsby Place London WC2E 9AB	Cafe	Monday to Thursday; 10:00 - 23:30 Friday to Saturday; 10:00 - 00:00 Sunday; 12:00 - 22:30
17/12541/LIPDPS	Foundation	Basement 5 Langley Street London WC2H 9JA	Restaurant	Monday to Saturday; 09:00 - 01:30 Sunday; 09:00 - 01:00
16/03158/LIPDPS	Cafe Pacifico	Ground Floor 5 Langley Street London WC2H 9JA	Restaurant	Monday to Saturday; 10:00 - 00:30 Sunday; 12:00 - 00:00
17/00999/LIPCH	The Convenience Store	Ground Floor 8 Upper St Martin's Lane London WC2H 9DL	Shop	Monday to Sunday; 00:00 - 00:00
14/10096/LIPT	Subway	2 Upper St Martin's Lane London WC2H 9NY	Takeaway food outlet	Monday to Saturday; 10:00 - 00:00 Sunday; 10:00 - 22:00



Office Name: Ian Watson
 Designation: Senior Practitioner
 Environmental Health
 Date: 25/10/17
 Contact number: 020 7641 3183
 Email: iwatson@westminster.gov.uk
 Signed: Ian Watson
 Uniform Ref Number: 17/10525/PREAPM

Trading name of business and Address: 4 Mercer Walk, WC2H 9FA Reference Number if Applicable: 17/10525/PREAPM		
Licence: No	Applicant/Solicitor: Lisa Inzani. Poppleston Allen	Cumulative Impact Area: Yes.
Type of Business: Restaurant/Bar Proposed Licensed Area: Ground and Basement Floor Proposed Activities: Supply of Alcohol and Late Night Refreshment Proposed Alcohol Hours: Monday to Thursday 10.00 to 23.30 hours. Friday and Saturday 10.00 to 00.00 hours and Sunday 10.00 to 22.30 hours.		
<p>Pre application advice purpose: To assess the proposal to licence a new business located within the West End Cumulative Impact area. The premises will generally operate as a restaurant (RNT2) but wish to have some flexibility around the ground floor bar area. Advise on technical suitability and policy implications in advance of the appropriate application.</p> <p>Issues discussed and actions taken:</p> <p>Inspection carried out by Alan Lynagh (District Surveyor Licensing - DS) and Ian Watson (Environmental Health – EH) of the Ground and basement floors and proposed layout plans. The findings are detailed below.</p> <p><u>District Surveyor Comments</u></p> <p>Means of Escape:</p> <p>The current proposal is for a ground floor and basement linked by an accommodation staircase with a protected exit from the rear of the basement and a single exit direct to the front of the premises at ground floor level. As long as the alternative exit at basement level and the main entrance/exit at ground floor level are at least 750mm clear width, then the basement and ground floor capacities can be set at 60 on each floor.</p> <p>It is also recommended that the desire to have a chef's table at basement level is acceptable subject to a suitable management plan being in place for patrons entering the Chef's table area taking into</p>		

account separation of any kitchen risk, slips trips and falls and any other appropriate risks. In addition we would recommend that an alternative exit is provided from the rear of the chef's table area linking into or delivering adjacent to the protected rear basement exit route as this will help limit the travel distance for patrons in this area to a protected exit route. If the distance is less than 18m to a protected route then this requirement would not be necessary.

In addition the following general points should be considered as part of any refurbishment:

- All protected exit routes to be provided with a minimum of 30 minutes fire separation to other parts of the premises.
- All Fire doors protecting escape routes will be provided with intumescent strips and smoke seals and all fire doors will comply with the relevant provisions of Table B1 of ADB.
- Every escape route (other than those in ordinary use) will be marked by emergency exit signs complying with BS 5499: Part 1 and these will be located in accordance with the recommendations of BS 5499: Part 4.

Licensing Policy:

The premises are located within the West End Cumulative Impact area and revised guidance paragraph 13.34 continues to recognise that different types of premises have different impacts.

A new restaurant would fall within policy RNT2 which states, applications will be granted subject to other policies and subject to relevant criteria in policies CD1, PS1, PN1 and CH1, provided it can be demonstrated that they will not add to cumulative impact in the CIA. Other applicable policies will be CIP1 and HRS1.

Restaurants have very little association with crime and disorder or nuisance especially at the opening times restricted by this proposed application.

The earlier hours for the supply of alcohol on a Sunday are outside of HRS1 but generally policy is concerned with later hours and that any additional hours will increase the likelihood of nuisance or crime & disorder and dispersal of people from the area. The policy does not directly address additional earlier hours with regard to nuisance or disorder.

Policy 2.5.3 states that the council is particularly concerned that restaurant premises in the cumulative impact area do not, even in part, come to operate as bars and particularly not as vertical drinking premises. The council is not minded to relax conditions for restaurants where alcohol may only be consumed by persons as an ancillary to their substantial table meal.

Therefore any relaxation of model condition 66 for limited bar use will need to be argued that such a small seated number will not add to nuisance or disorder.

Licensing Position:

A new application is to be submitted for the following times and activities.

The proposed hours and activities are
Supply of Alcohol 'On' and 'Off'
Monday to Thursday 10.00 – 23.30 hours.
Friday and Saturday 10.00 - 00.00 hours. (Midnight)
Sunday 10.00 – 22.30 hours.
Sunday before a Bank Holiday 10.00 – 00.00 (Midnight)

Late Night Refreshment 'Indoors'
Monday to Thursday 23.00 – 00.00 hours. (Midnight)
Friday and Saturday 23.00 – 00.30 hours
Sunday before a Bank Holiday 23.00 – 00.30 hours

Licensable activities can be provided from the end of permitted hours on New Year's Eve to start of permitted hours on New Year's Day.

Public Nuisance:

The premises will generally provide seating for persons eating and drinking. Therefore BS 6465 2006 table 10 will be referenced.

The proposed provision is 1 x WC female, 1 x WC plus 1 urinal male plus 1 disabled toilet. A separate staff toilet will be provided. This provision would support a capacity up to 80 persons excluding staff.

It is advised that the capacity be maximised to future proof the licence and that a safe capacity of 120 persons could be accommodated with 60 persons on each floor. To support this capacity a minimum of 2 x WC's female, 1 x WC plus 1 urinal male, 1 x disabled plus a separate staff WC would need to be provided.

Conditions

To address the licensing objectives with regard to the Licensing Policy and the West End Cumulative Impact area the following conditions are proposed.

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

Notwithstanding this condition up to 10 customers are permitted to consume alcohol without taking a substantial table meal. Such customers are restricted to a shaded area on the ground floor, must be seated and served by waiter/waitress or bar staff.

- The number of persons accommodated at any one time, (excluding staff) shall not exceed:
 - Ground Floor – xx persons
 - Basement – xx persons
- There shall be no sales of hot food or hot drink for consumption off the premises after 23.00 hours.
- There shall be no sales of alcohol for consumption 'Off' the premises after 23.00 hours.
- Where the provision of food and/or drink includes delivery to the customer, the licence holder shall ensure that specific procedures are in place and that the activity does not cause nuisance at or near to the premises.
- A Challenge 21 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport or proof of age card with the PASS Hologram.
- Patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, shall not be permitted to take drinks or glass containers with them.
- There shall be no striptease or nudity, and all persons shall be decently attired at all times, except when the premises are operating under the authority of a Sexual Entertainment Venue licence.
- 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.
- All sales of alcohol for consumption 'Off' the premises shall be in sealed containers only, and shall not be consumed on the premises, except for 'Off' sales provided to the external tables and chairs.
- All outside tables and chairs shall be rendered unusable by 23:00 hours every day.
- 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.

- A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises are open. This staff member must be able to provide a Police or authorised council officer copies of recent CCTV images or data with the absolute minimum of delay when requested.
- An incident log shall be kept at the premises, and made available on request to an authorised officer of the City Council or the Police, which will record the following:
 - (a) all crimes reported to the venue
 - (b) all ejections of patrons
 - (c) any complaints received concerning crime and disorder
 - (d) any incidents of disorder
 - (e) all seizures of drugs or offensive weapons
 - (f) any faults in the CCTV system
 - (g) any refusal of the sale of alcohol
 - (h) any visit by a relevant authority or emergency service.
- The means of escape provided for the premises shall be maintained unobstructed, free of trip hazards, be immediately available and clearly identified in accordance with the plans provided.
- All emergency exit doors shall be available at all material times without the use of a key, code, card or similar means.
- All emergency doors shall be maintained effectively self-closing and not held open other than by an approved device.
- During the hours of operation of the premises, the licence holder shall ensure sufficient measures are in place to remove and prevent litter or waste arising or accumulating from customers in the area immediately outside the premises, and that this area shall be swept and or washed, and litter and sweepings collected and stored in accordance with the approved refuse storage arrangements by close of business.
- Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
- No licensable activities shall take place at the premises until the premises have been assessed as satisfactory by the Environmental Health Consultation Team at which time this condition shall be removed from the Licence by the Licensing Authority.
- Before the premises open to the public, the plans as deposited will be checked by the Environmental Health Consultation Team to ensure they are an accurate reflection of the premises constructed. Where the premises layout has changed during the course of construction new plans shall be provided to the Environmental Health Consultation Team and the Licensing Authority.

Conclusion

The application sits within hour's policy HRS1 except for the earlier Sunday hours but not within policy RNT2 for the provision of alcohol without it being ancillary to food.

Licensing policy is generally concerned that any additional hours will increase the likelihood of nuisance or crime and disorder (later hours) and dispersal of people from the area but does not directly address additional earlier hours. Policy also addresses the use of bars in restaurant led premises and any deviation to MC66 would be in conflict with policy 2.5.3.

As part of the application process it is advised that the other responsible authorities will also need to assess the proposals and may wish to make additional comments.

Please note that any advice given will not guarantee that your application will be granted by the Licensing Service and the Environmental Health Consultation Team may still choose to make a representation to the application submitted.