



CITY OF WESTMINSTER

MINUTES

Licensing Sub-Committee (4)

MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (4)** held on **Thursday 7th August, 2014**, Rooms 5, 6 & 7 - 17th Floor, City Hall.

Members Present: Councillors Jean Paul Floru (Chairman), Peter Freeman and Aziz Toki

1 MEMBERSHIP

There were no changes to the Membership.

2 DECLARATIONS OF INTEREST

There were no declarations of interest.

3 LOBSTER ROLL DELI, MARANDA HOUSE, 26-28 BINNEY STREET, W1

LICENSING SUB-COMMITTEE No. 4

Thursday 7 August 2014

Membership: Councillor Jean-Paul Floru (Chairman), Councillor Peter Freeman and Councillor Aziz Toki

Legal Adviser: Kirsten Chohan
Policy Adviser: Chris Wroe
Committee Officer: Jonathan Deacon

Relevant Representations: Police Licensing Team, Environmental Health, Public Health Authority, 1 Ward Councillor and 11 residents.

Present: Mr Thomas O'Maoileoin (Solicitor, representing the Applicant), Ms Marcella De Benedictis (Applicant Company), Ms Maureen O'Grady (Environmental Health), PC Jim Sollars (Metropolitan Police), Councillor Glenys Roberts and Councillor Paul Church (Councillors for West End Ward – Councillor Church representing Mrs Sally Drewett), Mr Derek Stratton (Residents Society of Mayfair & St James's), Mr Dave Brookfield (Grosvenor Mayfair Residents Association), Mr Ernest

Poole (local resident) and Ms Liz McKay (witness called by Councillor Roberts).

Lobster Roll Deli, Maranda House, 26-28 Binney Street, W1 14/04951/LIPN	
1.	Sale of Alcohol: On and Off the premises
	Monday to Saturday 10:00 to 23:00 Sunday 12:00 to 22:00.
	Amendments to application advised at hearing: Mr O'Maoileoin, representing the Applicant, amended the proposed terminal hour for the sale of alcohol for consumption off the premises to 20:00 hours.
	Decision (including reasons if different from those set out in report): The Sub-Committee initially heard from Mr O'Maoileoin, representing the Applicant. He provided some background in respect of the premises. It had previously been a restaurant, Café Uno on the ground floor and a nightclub, Cork's Wine Bar on the first floor. There had been a redevelopment by Grosvenor Estates and the leases had come to an end. There had been major issues for residents in respect of Cork's Wine Bar. Mr O'Maoileoin wished to emphasise that the Applicant would ensure that the same issues would not arise at Lobster Roll Deli as had occurred in respect of Cork's Wine Bar. Following meetings with residents, the proposed terminal hours were reduced on Saturdays and Sundays. The Applicant had proposed conditions including that alcohol would at all times be ancillary to a table meal, delivery times would be limited between 08:00 and 20:00 hours and any queuing would be towards Oxford Street. He fully appreciated the residential nature of the locality. Mr O'Maoileoin explained the nature of the operation. Lobster Roll Deli was owned and operated by the same company responsible for the Burger and Lobster restaurants. The menu for Lobster Roll Deli would include four different types of lobster roll and chowda. The tables were in the middle of the floors and hung from the ceilings. Some of the tables had seating but the majority of customers would stand and eat. All alcohol would be sold ancillary to food, including off-sales. In respect of on-sales, alcohol would be served in the basement only (after being pre-purchased upstairs on the ground floor) and could only be consumed there with food. If one wanted to go and eat upstairs it would be possible to consume food and non-alcoholic drinks only. A lobster roll and French fries constituted a substantial table meal. The turnaround of each cover was intended to be approximately 30 minutes. Mr O'Maoileoin added that if the Sub-Committee was minded to grant the application his client would surrender the two existing premises licences for Café Uno and Cork's Wine Bar. In the case of the latter, there would be the advantage of removing a licence where alcohol was not ancillary to food. The

proposed hours were less than core hours and the establishment was outside the Council's designated stress areas. There would also be a reduction in the capacity as Cork's Wine Bar had a capacity of 350 and Café Uno an unofficial capacity of 100. It was intended that Lobster Roll Deli would have a capacity of 120, subject to confirmation by the District Surveyor. In response to questions from the Sub-Committee, Mr O'Maoileoin stated that his client was prepared to agree further conditions relating to queuing. It was proposed that any queuing would be directed to Oxford Street but he would be content that this would be supervised or roped off. The turnaround times would be quick so it was not expected that there would be significant queuing. A premises telephone number could also be provided to residents.

PC Sollars advised the Sub-Committee that the Police were content with the proposed conditions. A restaurant was replacing a nightclub which did not promote the licensing objectives. The Police had not demanded a full restaurant condition on the licence as Lobster Roll Deli was not located in a designated stress area. Alcohol would however be ancillary to food at all times. He was familiar with the Burger and Lobster restaurants and the Applicant had a history of co-operation with the Police.

Ms O'Grady advised that Environmental Health was content that the proposed conditions would prevent public nuisance. She was aware of the nuisance issues from the nightclub in the past. She believed that a capacity of 120 was likely to be suitable for the premises but this would be confirmed by the District Surveyor. The turnover would be quick and she did not have an issue with people standing up as they would not get drunk on the premises. Alternative conditions had been proposed as to whether alcohol would be for consumption ancillary to a table meal or to a person seated taking a table meal.

The Sub-Committee was addressed by two Members for West End Ward and a number of residents objecting to the application. Councillor Roberts stated that she had concerns about the premises being in close proximity to 600 flats. She also had specific concerns regarding takeaways being available until 23:00 hours and the potential for them to be consumed in residential gardens. She wished to limit the potential for queuing and requested that the Applicant use a telephone system where the customer was called back when the order was ready. If there was queuing this should be limited in numbers. She also sought that the number of smokers outside were limited to five and that everyone would be off the premises thirty minutes after the last sale of alcohol.

Councillor Church, representing Mrs Drewett, commented that the combination of takeaway food and drink was a nightmare for residents. There had been much anti-social behaviour in the past. Binney Street was mainly residential and there were problems with illegal parking.

Other residential concerns included the use of people's gardens for anti-social behaviour including urination, residents' parking bays being used, customers making a noise, particularly as a result of a high turnover of customers and the consumption of takeaways in the vicinity.

Mr O'Maoileoin responded to a number of these concerns. He would on behalf

of his client amend the application so that there were no off sales after 20:00 hours. He was also willing to agree conditions that all customers would leave the premises 30 minutes after the last sale of alcohol, that the area immediately outside the premises would be cleaned and swept, no queuing would be permitted after 21:00 hours and any queuing up until that time would be supervised and also that no more than five people at any one time would be permitted to leave the premises in order to smoke.

The Sub-Committee explored with Mr O'Maoileoin whether the Applicant would be able to make any concessions in respect of reducing the proposed terminal hour for takeaways. Mr O'Maoileoin made the point in response that commercially there was no leeway as takeaway was integral to the concept with it accounting for approximately 50% of sales. The clientele for takeaways would include office workers during the day. There was no evidence that takeaways would lead to public nuisance and it was important that the restaurant should not be tarred with the same brush as the nightclub which had adversely affected local residents. The Sub-Committee noted that the Applicant had not applied for takeaway of food as it is not a licensable activity until 23:00 hours. Mr O' O'Maoileoin informed Ms McKay that there would be some seating outside the premises as had existed at Café Uno.

The Sub-Committee granted the application, subject to conditions as set out below. Members considered that the combination of the conditions, many of which were proposed by the Applicant in order to prevent public nuisance and the application, particularly in its amended form, promoted the licensing objectives. The Sub-Committee, taking into account that Lobster Roll Deli was to be located in a very residential area, attached strict conditions to the premises licence. These included that there would be at least one permanent member of staff to supervise the outside area at all times when the restaurant is open, all customers leaving the restaurant would be asked to move away from the area, if there was outside queuing it would be supervised at all times and no more than 20 people would be allowed to queue at any one time. The Sub-Committee attached the conditions proposed by Mr O'Maoileoin that there would be no queuing after 21:00 hours, that the area immediately outside the premises would be swept and washed and litter removed and that there would be a limit of 5 smokers outside the premises at any one time as requested by Councillor Roberts.

The Sub-Committee noted that the condition surrendering the two existing premises licences for Lobster Roll Deli would remove the ability for a nightclub to operate there. Subject to confirmation from the District Surveyor, the capacity for the premises would potentially be reduced from approximately 450 people to 120.

2. Non Standard Timings & seasonal Variations

Sale of Alcohol for consumption on and off the premises

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

	<p>Amendments to application advised at hearing:</p> <p>None.</p>
	<p>Decision (including reasons if different from those set out in report):</p> <p>Granted, subject to conditions as set out below (see reasons for decision in Section 1).</p>
3.	Opening Hours
	<p>(i) Monday to Thursday 10:00 to 23:30 Friday to Saturday 10:00 to 00:00 Sunday 12:00 to 22:30</p> <p>(ii) From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.</p>
	<p>Amendments to application advised at hearing:</p> <p>None.</p>
	<p>Decision (including reasons if different from those set out in report):</p> <p>Granted, subject to conditions as set out below.</p>

Conditions attached to the Licence

Mandatory Conditions

1. No supply of alcohol may be made at a time when there is no designated premises supervisor in respect of this licence.
2. No supply of alcohol may be made at a time when the designated premises supervisor does not hold a personal licence or the personal licence is suspended.
3. Every supply of alcohol under this licence must be made or authorised by a person who holds a personal licence.
4. (1) The responsible person shall take all reasonable steps to ensure that staff on relevant premises do not carry out, arrange or participate in any

irresponsible promotions in relation to the premises.

(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises in a manner which carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance, or harm to children;

(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 (other than any promotion or discount available to an individual in respect of alcohol for consumption at a table meal, as defined in section 159 of the Act);

(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;

(d) provision of free or discounted alcohol in relation to the viewing on the premises of a sporting event, where that provision is dependent on;

(i) the outcome of a race, competition or other event or process, or

(ii) the likelihood of anything occurring or not occurring;

(e) 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.

5. The responsible person shall ensure that no alcohol is dispensed 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).

6. The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.

7. (1) The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.

(2) The 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 a holographic mark.

8. The responsible person shall ensure that;
- (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures;
 - (i) beer or cider: ½ pint;
 - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
 - (iii) still wine in a glass: 125 ml; and
 - (b) customers are made aware of the availability of these measures.

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.

9. (1) 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.
- (2) For the purposes of the condition set out in paragraph 9 (1)–
- (a) “duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979 (a)
 - (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 (b)
- (3) Where the permitted price given by Paragraph (b) of paragraph 9 (2) would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph rounded up to the nearest penny.
- (4) (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 9 (2) 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.

Additional Conditions

10. 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.
11. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises is open. This staff member must be able to provide a Police or authorised council officer copies of recent CCTV images or data with the absolute minimum of delay when requested.
12. An incident log shall be kept at the premises, and made available on request to an authorised officer of the City Council or the Police, which will record the

following:

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

13. No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
14. All sales of alcohol for consumption off the premises shall be in sealed containers only, and shall not be consumed on the premises.
15. Sales of alcohol for consumption off the premises shall only be supplied with, and ancillary to a take-away meal.
16. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
17. A direct telephone number for the manager at the premises shall be publicly available at all times the premises is open. This telephone number is to be made available to residents and businesses in the vicinity. The telephone number will be advertised in letters of not less than two inches high on the façade of the premises.
18. The licence holder shall ensure that any queue to enter the premises which 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. Any queue that may form will be directed towards Oxford Street.
19. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
20. No waste or recyclable materials, including bottles, shall be moved, removed from or placed in outside areas between 20:00 hours and 08:00 hours on the following day.
21. No collections of waste or recycling materials (including bottles) from the premises shall take place between 20.00 and 08.00 on the following day. No deliveries to the premises shall take place between 20:00 and 08:00 on the following day.
22. The number of persons permitted in the premises at any one time (excluding staff) shall not exceed **120** persons. (to be assessed by the District Surveyor)

23. The supply of alcohol for consumption on the premises shall only be to a person taking a table meal there and for consumption by such a person as ancillary to their meal.
24. The licence holder shall enter into an agreement with a hackney carriage and/or private carriage firm to provide transport for customers, with contact numbers made readily available to customers who will be encouraged to use such services.
25. Substantial food and non-intoxicating beverages, including drinking water, shall be available in all parts of the premises where alcohol is sold or supplied for consumption on the premises.
26. 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.
27. 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.
28. The Licence will have no effect until the Licensing Authority are satisfied that the premises is constructed or altered in accordance with the appropriate provisions of the District Surveyor's Association – Technical Standards for Places of Entertainment and the reasonable requirements of Westminster Environmental Health Consultation Team, at which time this condition will be removed from the Licence.
29. This licence shall not take effect until:
 - (i) Notice of surrender of licence number 05/09934/LIPC and 05/05580/LIPC [*i.e. the Corks Wine Bar and Café Uno licences*] (and any other licence as may be in force at the premises), accompanied by the premises licence, has been given by the premises licence holder to the Licensing Authority under section 28 of the Licensing Act 2003 (the Act)
 - (ii) A period of 28 days from the date of surrender has elapsed
 - (iii) No application by any person under section 42 of the Act for a transfer of the licence has been made within the period referred to in paragraph (ii) above, (or any such application has been withdrawn); and
 - (iv) the licence(s) has accordingly lapsed by virtue of section 28(3) (and section 50(6) if applicable) of the Act.
30. Patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, shall be limited to 5 persons at any one time.
31. Patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, shall not be permitted to take drinks or glass containers with them.
32. There will be no 'off' sales of alcohol after 20:00 hours.
33. There will be at least one permanent member of staff to supervise the outside

area at all times when the restaurant is open.

34. All customers leaving the restaurant will be asked to move away from the area.
35. If there is outside queuing it will be supervised at all times.
36. No queuing will be permitted after 21:00 hours.
37. No more than 20 people will be allowed to queue at any one time.
38. 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
39. All customers shall leave the premises 30 minutes after the last sale of alcohol.

4 STICKS N SUSHI, 11 HENRIETTA STREET, COVENT GARDEN, WC2

LICENSING SUB-COMMITTEE No. 4

Thursday 7 August 2014

Membership: Councillor Jean-Paul Floru (Chairman), Councillor Peter Freeman and Councillor Aziz Toki

Legal Adviser: Kirsten Chohan
Policy Adviser: Chris Wroe
Committee Officer: Jonathan Deacon

Relevant Representations: Environmental Health, 1 Ward Councillor and 1 resident.

Present: Mr James Anderson (Solicitor, representing the Applicant), Mr Andreas Karlsson (Operations Director, Applicant Company) and Mr Anil Drayan (Environmental Health)

Sticks N Sushi, 11 Henrietta Street, Covent Garden, WC2 14/03454/LIPV	
1.	Opening Hours:
	To extend the terminal opening hours:- Monday - Thursday to 00:00 Friday and Saturday to 00:30.
	Amendments to application advised at hearing:

None.

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

Granted, subject to conditions as set out below.

The application was to extend the terminal opening hours for the premises until midnight Monday to Thursday and 00:30 hours Friday and Saturday. The Applicant was no longer applying for an extension of hours for licensable activities. Mr Anderson and Mr Karlsson explained that the extension was sought so that diners at the Japanese restaurant would not be rushed into leaving the restaurant at 23:30 Monday to Thursday and midnight Friday and Saturday. The dwell time for customers was approximately one to two hours and as a result of the terminal hour the Applicant had been required to turn away theatregoers Monday to Thursday and those wishing to go out later on Fridays and Saturdays. Mr Anderson stated that his client was at a slight competitive disadvantage in comparison to other restaurants that were able to operate until later.

The Sub-Committee noted that the hours on the existing premises licence for licensable activities were in keeping with the Council's Core Hours policy and there is an expectation within the policy that customers will leave at that time. The Sub-Committee however granted the application on the basis of a number of concessions by the Applicant.

The first of these concessions was that Mr Anderson offered on behalf of his client a condition that no alcohol would be supplied or consumed by the "bar" users for the additional 30 minutes of the opening hours applied for. The Applicant was therefore providing an assurance that there would be no extension in bar use as the purpose of the application was to make the dining experience at Sticks N Sushi less rushed and more enjoyable. The extension would apply to the restaurant area only. Policy RNT2 for restaurants in a stress area applied and not therefore those relating to bars. As Mr Anderson said the policy for restaurants was less strict than for bars in the stress areas.

A second concession offered by Mr Anderson was that in the event the Sub-Committee was minded to grant the application his client would be willing to reduce the ground floor bar area capacity from 40 to 20 patrons. Alcohol was not ancillary to food in this area. Mr Anderson added that the focus of the business was very much on dining so this would not adversely affect the premises. The Sub-Committee in granting the application considered that 20 people in the bar area was more in keeping with a restaurant operation and less people consuming alcohol that was not ancillary to food further promoted the licensing objectives with less potential for public nuisance in particular.

Mr Anderson also offered a number of conditions. One was that customers who would be leaving half an hour later, would be required to leave via Maiden Lane rather than the more residential Henrietta Street. As referred to by Mr Drayan for Environmental Health Maiden Lane did contain more commercial premises

such as Jewel nightclub. A number of residents living in Henrietta Street had withdrawn their representations as a result of this condition being proposed by the Applicant. Further conditions offered were the Council's model conditions that 'all waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times' and 'no waste or recyclable materials, including bottles, shall be moved, removed from or placed in outside areas between 23:00 hours and 08:00 hours on the following day'.

Mr Drayan made the point that it was being proposed that the closing time for the premises would be increased by half an hour each day and this would add to cumulative impact in the West End Stress Area. He appreciated that the Applicant was no longer seeking to extend the hours for licensable activities. Mr Anderson responded that not all of the 170 capacity of the entire premises would be leaving at closing time. It was likely to be 50 to 70 people at most. The Sub-Committee considered that given what had been put forward by the Applicant overall the licensing objectives would be promoted by the application.

Conditions attached to the Licence

Mandatory Conditions

1. No supply of alcohol may be made at a time when there is no designated premises supervisor in respect of this licence.
2. No supply of alcohol may be made at a time when the designated premises supervisor does not hold a personal licence or the personal licence is suspended.
3. Every supply of alcohol under this licence must be made or authorised by a person who holds a personal licence.
4. (1) The responsible person shall take all reasonable steps to ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises in a manner which carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance, or harm to children;

(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 (other than any promotion or discount available to an individual in respect of alcohol for consumption at a table meal, as defined in section 159 of the Act);

(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;

(d) provision of free or discounted alcohol in relation to the viewing on the premises of a sporting event, where that provision is dependent on;

- (i) the outcome of a race, competition or other event or process, or
- (ii) the likelihood of anything occurring or not occurring;

(e) 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.

5. The responsible person shall ensure that no alcohol is dispensed 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).

6. The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.

7. (1) The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.

(2) The 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 a holographic mark.

8. The responsible person shall ensure that;

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

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

- (b) customers are made aware of the availability of these measures.

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.

Additional Conditions

9. A comprehensive CCTV system shall be installed that ensures that all areas of the licensed premises are monitored including all entry and exit points that enables frontal identification of every persons entering the premises, regardless of the level of illumination. All cameras shall continually record whilst the premises are open to the public and the video recordings shall be kept available for a minimum of 31 days with time and date stamping. Tape recordings shall be made available to an authorised officer or a Police officer together with facilities for viewing. The recordings for the preceding two days shall be made available immediately on request. Recordings outside this period shall be made available on 24 hours notice.
10. The licensee puts in place measures to ensure that staff are aware of the establishment's responsibilities under section 34 of the Environment Protection Act 1990 and that waste should only be put out at the appropriate time and that this includes both verbal instructions to staff and highly visible notices at all relevant places within the working areas of the premises.
11. All waste at the premises shall be paid for, properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection time.
12. The licensee shall ensure that the highway and public spaces in the vicinity of the premises are kept free of litter from the premises at all material times to the satisfaction of the Council.
13. No striptease, no nudity and all persons on the premises to be decently attired.
14. There shall be no payment made by or on behalf of the licensee to any person for bringing customers to the premises.
15. In all parts of the premises where intoxicating liquor is sold or supplied:
 - a) suitable beverages other than intoxicating liquor, including drinking water, shall be available during the whole of the permitted hours.
 - b) substantial food shall be available between the hours of, but not restricted to, 12:00 noon and 21:30 (Monday to Saturday) and 12:00 noon to 14:30 and 19:00 to 21:30 (Sundays, Christmas Day and Good Friday, when open).
16. The number of persons permitted in the premises at any one time (excluding staff) shall not exceed 170 persons with the following local restrictions:

- . Basement - 40
- . Ground Floor - 130

17. No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
18. The supply of alcohol at the premises shall be to a person seated taking a table meal there and for consumption by such a person ancillary to their meal, except in the ground floor bar area, a maximum of 20 persons will be allowed to:
- (i) Be supplied and consume alcohol either seated or standing prior to or after their meal;
 - (ii) Be supplied or consume alcohol either seated or standing without taking a table meal;
 - (iii) Be supplied or consume alcohol no later than 23:30 hours Monday to Thursday and midnight Friday and Saturday.
19. Seating for a minimum of 100 persons will always be provided whenever the premises are conducting licensable activities.
20. After 11.30 pm on Monday to Thursday and midnight on Friday and Sunday all customers will leave the premises via the exit on Maiden Lane only.
21. No waste or recyclable materials, including bottles, shall be moved, removed from or placed in outside areas between 23:00 hours and 08:00 hours on the following day.

Below is a new mandatory condition which will be added to the licence when re-issued

22. (1) 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.
- (2) For the purposes of the condition set out in paragraph 9 (1)–
- (a) “duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979 (a)
 - (b) “permitted price” is the price found by applying the formula–
- $$P = D + (D \times V)$$
- where –
- (iv) P is the permitted price,
 - (v) 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

- (vi) 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-
 - (iv) the holder of the premises licence,
 - (v) the designated premises supervisor (if any) in respect of such a licence, or
 - (vi) 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 (b)
- (3) Where the permitted price given by Paragraph (b) of paragraph 9 (2) would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph rounded up to the nearest penny.
- (4) (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 9 (2) 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.

5 189 PICCADILLY, W1

**189 Piccadilly, W1
14/04363/LIPV**

Granted under Delegated Authority prior to the hearing.

**6 TEMPORARY EVENT NOTICE - FRONT OUTSIDE AREA OF 39
HEREFORD ROAD**

LICENSING SUB-COMMITTEE No. 4

Thursday 7 August 2014

Membership: Councillor Jean-Paul Floru (Chairman), Councillor Peter
Freeman and Councillor Aziz Toki

Legal Adviser: Kirsten Chohan
Policy Adviser: Chris Wroe
Committee Officer: Jonathan Deacon

Relevant Representations: Environmental Health, Metropolitan Police

Present: Mr Dave Nevitt (Environmental Health) and PC Jim Sollars
(Metropolitan Police).

**Front Outside Area Of 39 Hereford Road, W2
Temporary Event Notice – 14/06357/LITENN**

Proposed licensable activities for 14/06357/LITENN:

- The sale by retail of alcohol (on & off sales)
- The supply of alcohol by or on behalf of a club to, or to the order of, a member of the club
- The provision of regulated entertainment
- The provision of late night refreshment.

Proposed period of event: 12:00 – 00:00 on Sunday 24th August and 12:00 – 00:00 on Monday 25th August 2014.

Decision (including reasons):

The Sub-Committee decided that a counter notice would be issued to the Premises User in respect of the Temporary Event Notice 12/11324/LITENN, in accordance with s.105 of the Licensing Act 2003 on the grounds that allowing the premises to be used in accordance with the notice would undermine the prevention of crime and disorder, prevention of public nuisance and public safety licensing objectives.

The Premises User, Mr Saaida, was not at the hearing. The Sub-Committee had noted from Mr Saaida's application and from his e-mail exchange with PC Sollars of the Metropolitan Police that he sought to play music outside of the restaurant in 39 Hereford Road whilst food was served from hot plates and a barbecue. Music would be played through a laptop and speakers. The sale by retail of alcohol for consumption on and off the premises and late night refreshment had also been applied for.

In issuing the counter notice, the Sub-Committee took into account the issues that would arise if Mr Saaida's proposed licensable activities were permitted. PC Sollars explained that there were no other sound systems in Hereford Road. The playing of the music would cause nuisance to local residents. The activities would stretch the footprint of Notting Hill Carnival. Applicants who had applied for a licence for recorded music for sound systems had agreed to conclude the playing of music at 19:00 hours. The Police objected to any extension beyond 19:00 hours for music being played from sound systems. The Premises User was seeking to play music until midnight. The planning for the Carnival had been concluded many months previously. The temporary event notice had been submitted too late to effectively plan for what was proposed in terms of its impact as part of the overall Carnival. Undertakings had been given by those who would be playing music from sound systems at the Carnival. Mr Saaida had not provided the undertakings which would give the Police confidence that the licensing objectives would not be undermined. PC Sollars confirmed that the Police objected to all aspects of the Temporary Event Notice.

The Sub-Committee noted that Mr Nevitt shared PC Sollars' concerns. He stated that Environmental Health sought to minimise public nuisance and ensure public safety at the Carnival. An application for the playing of music from a sound system until midnight on Sunday 24 August and Monday 25 August would be bound to have an adverse impact on local residents. The Council was seeking that people disperse during the evening in order to promote the prevention of public nuisance and public safety licensing objectives and this would not comply with this aim. Mr Nevitt added that the Premises User had not responded to Environmental Health's notice of objection to the temporary event notice.