



CITY OF WESTMINSTER

MINUTES

Licensing Sub-Committee (4)

MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (4)** Committee held on **Tuesday 13th January, 2015**, Rooms 5, 6 & 7 - 17th Floor, City Hall.

Members Present: Councillors Jean Paul Floru (Chairman), Louise Hyams and Patricia McAllister

1 MEMBERSHIP

There were no changes to the Membership.

2 DECLARATIONS OF INTEREST

There were no declarations of interest.

3 HUSH, 8 LANCASHIRE COURT, W1

LICENSING SUB-COMMITTEE No. 4

Tuesday 13 January 2015

Membership: Councillor Jean-Paul Floru (Chairman), Councillor Louise Hyams and Councillor Patricia McAllister

Legal Adviser: Anita Sharman
Policy Adviser: Chris Wroe
Committee Officer: Jonathan Deacon

Relevant Representations: Metropolitan Police and Mayfair Residents Group.

Present: Alun Thomas (Solicitor, representing the applicant), Mr Mario Markoras and Ms Ines Jankowska (Applicants) and PC Jim Sollars (Metropolitan Police)

Hush, 8 Lancashire Court, W1
14/09685/LIPV

1. To add a temporary bar server in the external courtyard

	<p>Amendments to application advised at hearing:</p> <p>None</p>
	<p>Decision (including reasons if different from those set out in report):</p> <p>The Chairman on behalf of the Sub-Committee asked Mr Thomas, representing the applicant, if alcohol was currently being consumed on the terrace at the restaurant. Mr Thomas confirmed that it was and that the only variation applied for was the introduction of a mobile external structure to allow for the provision of alcohol without customers having to use the restaurant's inside bar. Mr Thomas confirmed that his clients sought approval for the variation until 31st March 2015.</p> <p>Mr Thomas advised Members of the Sub-Committee that he had discussed with a local resident, Ms Judy Kuttner, (who had not made a representation) her concerns that a temporary variation may allow the use of the outside area beyond 23:00 and / or encourage drinking by those who are not seated. As there is a current condition on the licence that states drinking outside shall be restricted to those who are seated at a table and to 23:00 only, Mr Thomas stated that the variation applied for would have no adverse effect. At 23:00 all outside tables and chairs are currently packed away and any mobile bar would be rendered similarly unusable.</p> <p>Mr Thomas advised that a compromise condition had been discussed with the Police that after 21:00 whilst the external bar was in use, the sale of alcohol would only be to persons dining and who are seated. He made the point that he was content with the condition being attached to the licence if Members considered it was necessary to promote the licensing objectives.</p> <p>The Sub-Committee asked for further clarification as to why the variation had been applied for until 31st March. Mr Thomas replied that, firstly, the applicants were sensitive to the needs of their neighbours and did not want to apply for an outside bar throughout the year. Secondly, the applicants were not sure whether this idea would be good for business and that when they applied in mid-November, 31st March seemed like a suitable trial period to test the business model. Mr Markoras explained further that it was his idea to create the feel of a winter ski-lodge in order to maximise usage of the outside area in winter and, as such, the applicants would have no need to do so in the summer when the area is already being used.</p> <p>PC Sollars, on behalf of the Metropolitan Police, was keen to point out that the proposed outside bar was more substantial than the wheeled trolley that the Sub-Committee may have envisaged. PC Sollars stated the Police had concerns about outside bars within Westminster. PC Sollars also commented that any outside bar advertising alcohol would likely be more wet-led than a typical restaurant bar and suggested the imposition of a condition that alcohol was ancillary to food after a specific time. However he was satisfied that Hush did not have any history of disorder and residents were reasonably satisfied with the way the business was currently being run. Following discussions with the</p>

Applicants, many of the Police's concerns had been addressed.

In reaching their decision in respect of the application, Members of the Sub-Committee considered that the conditions proposed by Mr Thomas prior to the hearing intended as a compromise with the Police's position were appropriate in promoting the licensing objectives. These included that after 9pm whilst the external bar was in use, the sale of alcohol would only be to persons dining and who are seated. The additional conditions proposed by the Police and Mayfair Residents Group were not considered proportionate at a location where there was not a history of the licensing objectives being undermined and that was outside the Council's designated stress areas. In particular it was noted that customers were already permitted as a result of the existing licence to drink outside the premises without it being ancillary to a meal so it was not proportionate to attach a condition requiring alcohol to only be served to customers dining at the customer tables. Members noted that Environmental Health had not made a representation against the application on the grounds of the prevention of public nuisance or public safety. The Sub-Committee attached Mr Thomas' proposed condition that the variation would only take effect for no more than 90 days within any one calendar year. The Police Licensing Team and Environmental Health Consultation Team would be notified 10 days prior to any occasion the variation takes effect. The Sub-Committee took the advice of Mr Wroe that the present application had been advertised as being restricted until 31 March 2015 only and that any future use of the outside bar would require a further application. Mr Thomas accepted that his clients would have to apply again after 31 March should they seek to use the temporary bar server in the external courtyard.

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. Alcohol shall not be sold to those under the age of 18.
10. There shall be no member of staff who is under the age of 18.
11. No regulated entertainment shall take place on the premises.
12. The management shall manage the premises so as not to cause public nuisance to the neighbourhood and request all departing patrons respect the neighbourhood.
13. Tables and chairs to be set out permanently in hatched areas shown on the plan.
14. The premises shall comply with all the requirements of the LFCDA and occupancy numbers determined by the LFCDA from time to time.
15. Substantial food and suitable beverages other than intoxicating liquor (including drinking water) shall be made available during the whole of the permitted hours in all parts of the premises where intoxicating liquor is sold or supplied.
16. Between the hours: Monday to Saturday 23:00 to 00:00 and Sunday 22:30 to 23:30 alcohol can only be served to persons taking table meals.
17. All drinking outside the premises shall be ancillary to a table meal after 21.00.
18. All waste is to be properly presented and placed outside for collection no earlier than 30 minutes before the scheduled collection times.

19. No rubbish including bottles will be moved, removed or placed in outside areas between 23:00 and 08:00.
20. Children to be off the premises by 21:00 unless accompanied by an adult and partaking of a table meal.
21. After 9pm whilst the external bar is in use, the sale of alcohol shall only be to persons dining and who are seated.
22. The variation (Ref: 14/09685/LIPV) to attached plans as shown on drawing number _____ shall only take effect for no more than 90 days within any one calendar year. The Police Licensing Team and Environmental Health Consultation Team shall be notified 10 days prior to any occasion the variation takes effect.

4 SHADOW LOUNGE, BASEMENT AND PART GROUND FLOOR, 3-7 BREWER STREET, W1

LICENSING SUB-COMMITTEE No. 4

Tuesday 13 January 2015

Membership: Councillor Jean-Paul Floru (Chairman), Councillor Louise Hyams and Councillor Patricia McAllister

Legal Adviser: Anita Sharman
 Policy Adviser: Chris Wroe
 Committee Officer: Jonathan Deacon

Relevant Representations: Environmental Health.

Present: Mr Alun Thomas (Solicitor, representing the Applicant) and Ms Louise Joyce (Environmental Health).

**Shadow Lounge, Basement And Part Ground Floor, 3-7 Brewer Street, W1
 14/08411/LIPN**

1.	Regulated Entertainment: Indoors
	<p>Performance of Dance Provision of facilities for Dancing Provision of facilities for Making Music Performance of Live Music Anything of a similar description to Live Music, Recorded Music or Performance of Dance Monday to Saturday 09:00 to 03:00 Sunday 09:00 to 23:00</p> <p><u>Playing of Recorded Music</u></p>

	<p>Private Entertainment consisting of dancing, music or other entertainment of a like kind for consideration and with a view to a profit Monday to Sunday 00:00 to 00:00</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> <p>The Applicant, Alan Poulton Limited, who is the leaseholder for Shadow Lounge, submitted a new application to apply for a secondary licence at the premises. Mr Thomas, representing the Applicant, confirmed at the hearing that the licensable activities and hours applied for mirrored those of the existing licence for the premises (14/03475/LIPV).</p> <p>Ms Joyce for Environmental Health advised that she had submitted a representation so that the Sub-Committee would consider the policy implications of the application. She did not have any specific concerns in respect of the application.</p> <p>The Sub-Committee accepted the points that there could be more than one premises licence and as had been determined in the Extreme Oyster case, the landlord had a right to apply for a shadow licence. Members of the Sub-Committee however were required to determine whether granting a further licence would promote the licensing objectives.</p> <p>The Sub-Committee granted the secondary licence application with exactly the same conditions attached as the existing licence for Shadow Lounge (14/03475/LIPV) apart from updated mandatory conditions. Members had no desire to make the conditions more restrictive or less restrictive than those on the existing licence. The proposed hours that were granted on the secondary licence reflected those on the primary one. The Sub-Committee granted the application as an exception to policy on the basis that as the existing licence for the premises was already in operation there would not be an adding to cumulative impact in the West End Stress Area.</p>
<p>2.</p>	<p>Late Night Refreshment: Indoors</p>
	<p>Monday to Saturday 23:00 to 03:30 Sunday 23:00 to 00:00</p>
	<p>Amendments to application advised at hearing:</p> <p>None.</p>

	<p>Decision (including reasons if different from those set out in report):</p> <p>Granted, subject to conditions as set out below (see reasons for decision in Section 1).</p>
3.	Sale of Alcohol: On the premises
	<p>Monday to Saturday 10:00 to 03:00 Sunday 12:00 to 23:30</p>
	<p>Amendments to application advised at hearing:</p> <p>None.</p>
	<p>Decision (including reasons if different from those set out in report):</p> <p>Granted, subject to conditions as set out below (see reasons for decision in Section 1).</p>
4.	Non Standard Timings/Seasonal Variations
	<p>New Year's Eve To extend the start of permitted hours on New Year's Day for performance of dance, anything of a similar description to live music, recorded music or performance of dance, late night refreshment, sale of alcohol and opening hours.</p> <p>On the morning that British Summer Time Begins To extend permitted hours by one hour for live music, performance of dance, anything of a similar description to live music, recorded music or performance of dance, late night refreshment, sale of alcohol and opening hours.</p>
	<p>Amendments to application advised at hearing:</p> <p>None.</p>
	<p>Decision (including reasons if different from those set out in report):</p> <p>Granted, subject to conditions as set out below (see reasons for decision in Section 1).</p>
5.	Opening hours
	<p>Monday to Saturday 09:00 to 03:30 Sunday 09:00 to 00:00</p>

	<p>Amendments to application advised at hearing:</p> <p>None.</p>
	<p>Decision (including reasons if different from those set out in report):</p> <p>Granted, subject to conditions as set out below (see reasons for decision in Section 1).</p>

Conditions attached to the Licence

Mandatory Conditions

1. No supply of alcohol may be made at a time when there is no designated premises supervisor in respect of this licence.
2. No supply of alcohol may be made at a time when the designated premises supervisor does not hold a personal licence or the personal licence is suspended.
3. Every supply of alcohol under this licence must be made or authorised by a person who hold a personal licence.
4. (1) The responsible person shall take all reasonable steps to ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
 - (2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises 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) 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 shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.
- (2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
- (3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either –
- (a) a holographic mark, or
 - (b) an ultraviolet feature.

7. The responsible person 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(6)

(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(7)

- 8(iii). Where the permitted price given by Paragraph 8(ii)(b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.
- 8(iv). (1) Sub-paragraph 8(iv)(2) below applies where the permitted price given by Paragraph 8(ii)(b) above on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.
(2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.
9. All persons guarding premises against unauthorised access or occupation or against outbreaks of disorder or against damage (door supervisors) must be licensed by the Security Industry Authority.

Additional Conditions

10. This licence is subject to all the former Rules of Management for Places of Public Entertainment licensed by Westminster City Council, in force from 4 September 1998 and incorporating amendments agreed by the Council on 25 October 1999, 30 June 2000, 16 January 2001 and 1 October 2001.
11. On New Year's Eve the premises can remain open for the purpose of providing regulated entertainment from the time when the provision of regulated entertainment must otherwise cease on New Year's Eve to the time when regulated entertainment can commence on New Year's Day (or until midnight on New Year's Eve where no regulated entertainment takes place on New Year's Day).
12. Notwithstanding the provisions of Rule of Management No. 6 the premises may remain open for the purposes of this licence from 11pm on each of the days Monday to Saturday to 3am on the day following.
- 13.* Notwithstanding Rule of Management No. 4 dancers may perform topless on the stage area or by table sides.
- 14.* The entertainment to be provided under this licence shall be limited to the type commonly known as discotheque, and to topless dancing by performers.
- 15.* The agreed activities shall take place only in the designated areas approved by the Council and the approved arrangements for access to the dressing room shall be maintained at all times whilst striptease entertainment is taking place and immediately thereafter.
- 16.* The striptease entertainment shall be given only by performers/entertainers and the audience shall not be permitted to participate.

17.*	There shall at the premises or in its immediate vicinity be no external advertising of the striptease entertainment.
18.*	Whilst striptease entertainment is taking place no person under the age 18 shall be on the licence premises and a clear notice shall be displayed at the entrance to the premises in a prominent position so that it can be easily read by persons entering the premises in the following terms: NO PERSONS UNDER 18 WILL BE ADMITTED
19.*	The licensee, performer and any person concerned in the organisation or management of the entertainment shall not encourage, or permit encouragement to be made, for the audience to throw money at or otherwise to give gratuities to the performers (except as permitted by condition (21) below).
20.*	Entertainment under this consent may be provided solely by topless dancers on the stage area and to customers seated at tables in the approved part of the premises. No audience participated shall be permitted.
21.*	There shall be no physical contact between customers and dancers except for the placing of money or tokens in a garter or into the hands of the dancer at the beginning or conclusion of the performance. The money or tokens shall not be placed in the G-string of the performers. Whilst the dancers are performing there shall be a minimum distance of three feet between the dancer and the seated customers. Notices to this effect shall clearly be displayed at each table and at the entrance to the premises.
22.*	There shall be no physical contact between dancers whilst performing.
23.*	The topless dancers shall at all times wear a G-string or similar piece of clothing on the appropriate part of the body.
24.*	Whilst table dancing takes place at least two door supervisors shall be employed in the part of the premises used for table dancing.
25.*	At least four registered door supervisors shall be employed at the premises at all times when the premises are in operation.
26.*	No entertainment involving nudity or partial nudity shall take place in any alcove area or in any area or in any area which is not monitored by the CCTV system.
27.*	All exterior doors shall be kept closed after midnight except for immediate entrance and exit.
28.*	A shower and changing room facilities for use by the performers shall be provided to the satisfaction of the Environmental Health Officer.

29.*	Only dancers engaged by or through Evernote Ltd for so long as James Alan Poulton and Jean-Pierre Foster remain directors thereof shall be permitted to perform striptease.
30.	Soundproofing to the satisfaction of the Environmental Health Officer shall be provided.
31.*.	An attendant shall be in duty in the cloakroom the whole time the premises is in use under this licence.
32.	All waste from the premises must be paid for, properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection time.
33.	The pavement from the building line to the kerb edge, so as to include the gutter/channel at its junction with the kerb edge, in the vicinity of the premises must be swept at regular intervals whilst customers are queuing to enter the premises. Litter and sweepings must be collected and stored in accordance with the approved refuse storage arrangements.
34.	At the close of business each day the premises are open for business, the licensee shall ensure that the pavement from the building line to the kerb edge immediately outside the premises, so as to include the gutter/channel at its junction with the kerb edge, is swept. Litter and sweepings must be collected and stored in accordance with the approved refuse storage arrangements.
35.	No unauthorised advertisements of any kind (including placard, poster, sticker, flyer, picture, letter, sign or other mark) that advertises or promotes the establishment, its premises, or any of its events, facilities, goods or services shall be distributed on the street to the public. No such advertisements shall be inscribed or affixed upon the surface of the highway, or upon any building, structure, works, street furniture, tree, or any other property.
36.	Food and drink purchased on the premises are not allowed to be taken away by customers on leaving the premises.
37.	The number of persons accommodated (excluding staff) at the premises shall not exceed 280.
38.	Substantial food and suitable beverages other than intoxicating liquor (including drinking water) shall be available during the whole of the permitted hours in all parts of the premises where intoxicating liquor is sold or supplied.
39.	There shall be no payment made by or on behalf of the licensees to any person for bringing customers to the premises.
40.	No gaming otherwise than by machines authorised under part III, Gaming Act, 1968.
41.*	No persons under the age of 18 years shall be allowed to enter or remain on

the licensed premises, and a clear notice shall be displayed, in the following terms, at the entrance to the premises in a prominent position so that it can be easily read by persons entering: NO PERSON UNDER 18 YEARS WILL BE ADMITTED.

42. A premises licence holder, or in the case of a company, an authorised representative, shall be present throughout the whole of the time the premises are operating.
43. On any evening where the premises are open for the purpose of music and dancing, intoxicating liquor shall not be sold or supplied to persons entering the premises or that part of the premises after 10.30pm except to:
- (a) persons who have paid or had paid on their behalf a minimum admission fee of £3 Mon-Thurs and £5 Fri-Sat, which shall not be credited against consumables; or
 - (b) artistes or persons employed at the premises;
 - (c) persons attending private functions at the premises;
 - (d) guests of the proprietor, a list of whom shall be kept for inspection by the appropriate authorities.
44. Save as provided in and subject to the provisions of condition 42 below, there shall be no striptease, no nudity and all persons shall be decently attired at all times.
45. Intoxicating liquor may be sold or supplied to the following persons:
- (a) persons paying a minimum annual admission fee of £150 payable in advance (not to be credited against consumables) for music, dancing and entertainment;
 - (b) persons paying a minimum admission fee of £10 (not to be credited against consumables) for music dancing and entertainment;
 - (c) bona fide guests of the proprietor specially invited prior to admission, a list of whom shall be kept at reception for inspection by the statutory authorities;
 - (d) artistes or persons employed at the premises;
 - (e) persons attending a private function on the premises, a list of whom shall be kept at reception for inspection by the statutory authorities.
- 46.* Only dancers engaged by or through Evernote Ltd for so long as James Alan Poulton and Jean-Pierre Foster remain directors thereof shall be permitted to perform striptease.
- 47.* Such striptease and topless performers shall be engaged subject to the rules the same as or similar to the Management Rules of Conduct deposited with the Licensing Justices. The striptease dancers shall be provided with copy of those rules.
- 48.* Striptease artistes shall only perform striptease on the designated stage area and to seated customers at a table.

49.*	There shall be no physical contact between customers and topless dancers except for placing cash/dance tokens in the garter or from the customers hands to the hands of the dancers at the beginning or conclusion of the performance.
50.*	There shall be a minimum distance of three feet to be kept between the striptease artiste and the customer whilst performing.
51.*	A notice outlining conditions 51 and 52 shall be clearly displayed at each table and at the entrance to the premises.
52.*	All striptease artistes are prohibited from removing their G strings.
53.*	There shall be no physical contact between the striptease artistes whilst performing.
54.*	There shall be a minimum fee of £10 per performance by striptease artiste, for the purpose of a topless dance, except for performances conducted on the designated stage.
55.*	Striptease artistes shall only perform striptease on the designated stage area and to seated customers at a table, except striptease shall be prohibited from all the alcove areas hatched brown on the deposited plan.
56.*	A minimum of four Westminster registered door supervisors will be employed on the premises during opening hours, at least two of whom shall be employed within the basement area monitoring striptease performance.
57.	<p>(a) Subject to the following paragraphs, the permitted hours on weekdays shall commence at 10.00 (12.00 on Christmas Day and Good Friday) and extend until 03.00 on the morning following, except that –</p> <ul style="list-style-type: none"> (i) the permitted hours shall end at 00.00 midnight on any day on which music and dancing is not provided after midnight; and (ii) on any day that music and dancing end between 00.00 midnight and 03.00, the permitted hours shall end when the music and dancing end; <p>(b) In relation to the morning on which summer time begins, paragraph (a) of this condition shall have effect-</p> <ul style="list-style-type: none"> (i) with the substitution of references to 04.00 for references to 03.00. <p>(c) On Sundays the permitted hours shall commence at 12.00 and extend until 23.30.</p> <p>(d) The sale of alcohol must be ancillary to the use of the premises for music and dancing and substantial refreshment.</p>

(e) The permitted hours on New Year's Eve will extend to the start of permitted hours on the following day, or if there are no permitted hours on 1 January, to 00.00 on New Year's Eve.

NOTE - The above restrictions do not prohibit:

- (a) during the first thirty minutes after the above hours the consumption of the alcohol on the premises;
- (b) during the first twenty minutes after the above hours, the taking of the alcohol from the premises unless the alcohol is supplied or taken in an open vessel;
- (c) the sale or supply of alcohol to or the consumption of alcohol by any person residing in the licensed premises;
- (d) the ordering of alcohol to be consumed off the premises, or the despatch by the vendor of the alcohol so ordered;
- (e) the sale of alcohol to a trader or registered club for the purposes of the trade or club;
- (f) the sale or supply of alcohol to any canteen or mess, being a canteen in which the sale or supply of alcohol is carried out under the authority of the Secretary of State or an authorised mess of members of her Majesty's naval, military or air forces;
- (g) the taking of alcohol from the premises by a person residing there;
- (h) the supply of alcohol for consumption on the premises to any private friends of a person residing there who are bona fide entertained by him at his own expense, or the consumption of alcohol by persons so supplied;
- (i) the supply of alcohol for consumption on the premises to persons employed there for the purposes of the business carried on by the holder of the licence, or the consumption of liquor so supplied, if the liquor is supplied at the expense of their employer or of the person carrying on or in charge of the business on the premises.

In this condition, any reference to a person residing in the premises shall be construed as including a person not residing there but carrying on or in charge of the business on the premises.

58. The terminal hour for late night refreshment on New Year's Eve is extended to 05:00 on New Year's Day.

**** Conditions indicated shall not apply when a Sexual Entertainment Licence is in effect at the premises***

59. 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.

60. 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.
61. 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.
62. No drinks shall be consumed outside the premises nor glasses/bottles removed from the premises by patrons when leaving.
63. The hours for licensable activities may be extended on no more than 15 occasions per calendar year subject to being in substitution of the 12 temporary events covered by the Licensing Act with ten working days' notice to the Police and the Police having power of veto for any such occasion and that the Licensing Authority also be given ten days' notice of any such occasion.
64. No persons aged under the age of 18 shall be allowed within the premises under any event.
65. Credit sales is allowed subject to them being accompanied with an itemised bill.

5 FRIENDS SUPERMARKET, 82 LUPUS STREET, SW1

LICENSING SUB-COMMITTEE No. 4

Tuesday 13 January 2015

Membership: Councillor Jean-Paul Floru (Chairman), Councillor Louise Hyams and Councillor Patricia McAllister

Legal Adviser: Anita Sharman
Policy Adviser: Chris Wroe
Committee Officer: Jonathan Deacon

Relevant Representations: Environmental Health and Metropolitan Police.

Present: Mr Anthony Edwards (Solicitor, representing the applicants) Mr MD Noor Uddin Ludi (Applicant), Ms Louise Joyce (Environmental Health Officer), Mr Dario Saracini (Licensing Inspector), Mr Frank King (Trading Standards) and PC Jim Sollars (Metropolitan Police Service).

Friends Supermarket, 82 Lupus Street, SW1 14/10384/LIPN	
1.	Sale of Alcohol: Off the Premises
	Monday to Saturday – 08:00 to 23:00 Sunday – 10:00 to 22:30.
	Amendments to application advised at hearing: None
	Decision (including reasons if different from those set out in report): This is a new application for the sale of alcohol for consumption off the premises Monday to Saturday 08:00 to 23:00 and Sunday 10:00 to 22:30 at the supermarket. A licence for the premises had previously been revoked at a review hearing in 11 September 2014, with a key factor in this decision being that excise duty had not been paid on substantial quantities of alcohol that had been stored in the basement. Mr Edwards, representing the Applicant, informed the Sub-Committee that following the revocation of the premises licence, Mr Ludi, a Director of the Applicant company had sold his restaurant elsewhere in London and acquired the leasehold for these premises. Mr Edwards stated that the business was currently operating under the terms of the licence which had been revoked by the Sub-Committee in September 2014 but was continuing to have effect because the decision had been appealed by the previous licence holders, Mr Razzique and Mr Rahman. Mr Edwards sought to assure the Sub-Committee that Mr Ludi was not connected or related to Mr Razzique and Mr Rahman, other than by virtue of them remaining as the landlords of the premises. Mr Ludi would not be used as a 'front' and Mr Razzique and Mr Rahman would have no stake in the business. It had originally been intended that a brother of Mr Razzique and Mr Rahman, Mr Abdus Subhan would be a director of the

Applicant Company, Lupus 82 Ltd. However, he had resigned as a director and the plan was for him to be an employee at Friends Supermarket. Mr Edwards asserted that it would be unreasonable to prevent Mr Subhan being employed at the premises as he had not been involved in any wrongdoing. Mr Edwards produced evidence of the business being transferred to Mr Ludi in a business assignment document dated 2 January 2015.

Mr Edwards also addressed the Sub-Committee briefly on the proposed conditions. His client, Mr Ludi, had no issue with operating a Challenge 25 scheme. He was requesting that single cans could be sold at the premises on the basis that there had not been street drinking issues caused by the premises previously. He was also asking that a notice on the tills would suffice and that his client was not required to have tills which automatically prompt staff to ask for age verification identification when presented with an alcohol sale due to the cost of implementing the software. Finally he requested that the Police proposed condition that no more than 15% of the sales area be used at any time for the sale or display of alcohol was not attached to the licence as the business would not be viable.

The Sub-Committee asked the Applicant a number of questions. In response to the questions, Mr Ludi stated that he owned 50% of the Applicant Company and a business partner the other 50%. There was no link between the business partner and the previous owners. Mr Ludi confirmed that Mr Subhan was no longer a director of the Applicant Company and only wished to continue to work in the supermarket. In response to the question as to why Mr Subhan had been retained as an employee, Mr Ludi explained that, having no experience in running an off licence, he needed Mr Subhan's assistance so that he could get to grips with his new business as soon as possible. Mr Ludi stated that he was willing to employ Mr Subhan unless the Sub-Committee objected. When asked how it had been the case that he had been able to set up the limited company so soon after the revocation of the premises licence Mr Ludi replied that he had heard about the opportunity via word of mouth. The purchase of the lease which was due to run over a fifteen year period had been good value.

Ms Joyce for Environmental Health advised that she had maintained her representation particularly due to the previous history of the premises and that there were concerns about links between the leaseholders and previous operators to the Applicant Company. She added that Mr Razzique and Mr Rahman had continued to operate the premises after appealing the Sub-Committee's decision and on 13 November a further visit was carried out by customs officers who found alcohol on the premises with no duty paid.

Mr Saracini and Mr King emphasised the seriousness of the vast quantities of alcohol which had been seized by HMRC and then the further find of 13 November 2014. The quantities were beyond those which one could expect to find in a large supermarket storeroom. The current application had been submitted only seven days after the find. Mr Saracini referred to the fact that Mr Subhan had the same address as the previous DPS and owner of the premises. Mr King advised the Sub-Committee that the original find on 17 May had only taken place because trading standards had suspicions that the previous licence holders were holding counterfeit cigarettes.

PC Sollars, representing the Metropolitan Police, stated that it would send the wrong signal if the application was granted. The landlords, who were the operators when the licence was revoked, still owned the premises and would benefit from the premises being licensed for the sale of alcohol. Serious crime had taken place and the review had a deterrent effect. He viewed the role of Mr Subhan, including at first being a director of the Applicant Company, with some cynicism and had no confidence in the operation at Friends Supermarket going forward.

In response to a question from the Sub-Committee, officers were not able to confirm whether or not Mr Subhan had been working with his brothers at the supermarket when the inspection had taken place on 13 November.

After careful consideration of all the information provided in writing and at the hearing, Members concluded that there was no definitive evidence that Mr Ludi or his partner were related to or had any direct links to Mr Razzique and Mr Rahman other than the relationship between tenant and landlord. Members could not reach the decision based on the evidence that the licensing objectives would be undermined if Mr Ludi operated the premises. The Sub-Committee also concluded that there was no definitive evidence that Mr Subhan had been involved with his brothers in excise duty not being paid on substantial quantities of alcohol that had been stored in the basement. He could not be declared guilty by association, he was no longer a director of the Applicant Company and it was not proportionate to prevent him from being employed at Friends Supermarket in the future.

The Sub-Committee granted the application, considering that the proposed conditions attached to the licence would promote the licensing objectives. Included within the conditions was the requirement that Mr Razzique and Mr Rahman would not be involved in any way in any business at the premises. The Sub-Committee did consider it necessary to attach conditions that all tills would automatically prompt staff to ask for age verification when presented with an alcohol sale and that no single cans or bottles of beer or cider or spirit mixtures would be sold at the premises. This was on the grounds that there is a known street drinking issue in the locality. Members noted that the premises had not previously had a limit in terms of the sales area to be used for the sale or display of alcohol and decided that to reduce this to 50% would be proportionate. The model condition was attached to prevent sales of super strength alcohol apart from premium beers and ciders sold in glass bottles.

2. Opening Hours

Monday to Saturday – 08:00 to 23:00
 Sunday – 10:00 to 22:30.

Amendments to application advised at hearing:

None

	<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	
<u>Mandatory Conditions</u>	
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.	<p>(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.</p> <p>(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.</p> <p>(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 -</p> <p style="margin-left: 40px;">(a) a holographic mark, or</p> <p style="margin-left: 40px;">(b) an ultraviolet feature.</p>
5(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.
5(ii)	For the purposes of the condition set out in paragraph 5(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.
- 5(iii). Where the permitted price given by Paragraph 5(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.
- 5(iv). (1) Sub-paragraph 5(iv)(2) below applies where the permitted price given by Paragraph 5(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.

Additional Conditions

6. No super-strength beer, lagers or ciders of 5.5% ABV (alcohol by volume) or above shall be sold at the premises except for premium beers and ciders sold in glass bottles.

7. There shall be no self-service of spirits on the premises, save for spirit mixtures less than 5.5% ABV.
8. A Challenge 25 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport or proof of age card with the PASS Hologram.
9. A record shall be kept detailing all refused sales of alcohol. The record should include the date and time of the refused sale and the name of the member of staff who refused the sale. The record shall be available for inspection at the premises by the police or an authorised officer of the City Council at all times whilst the premises is open.
10. The premises licence holder shall ensure that any patrons drinking and/or smoking outside the premises do so in an orderly manner and are supervised by staff so as to ensure that there is no public nuisance or obstruction of the public highway.
11. 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.
12. 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.
13. Outside of the hours authorised for the sale of alcohol, all alcohol within the trading area is to be secured behind locked grilles/screens or secured behind locked cabinet doors so as to prevent access to the alcohol by both customers and staff.
14. No single cans or bottles of beer or cider or spirit mixtures shall be sold at the premises.
15. Licensable activity shall only be carried out on the ground floor of the premises
16. There shall be a personal licence holder on duty on the premises at all times when the premises are authorised to sell alcohol.
17. All sales of alcohol for consumption off the premises shall be in sealed containers only, and shall not be consumed on the premises.

18. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and leave the area quietly.
19. No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
20. 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.
21. No rubbish, including bottles, shall be moved, removed or placed in outside areas between 2300 hours and 0800 hours.
22. The Licence will have no effect until the premises have been assessed as satisfactory by the Environmental Health Consultation Team and this condition has been removed from the Licence.
23. All tills shall automatically prompt staff to ask for age verification identification when presented with an alcohol sale.
24. No more than 50% of the sales area to be used at any one time for the sale, exposure for sale, or display of alcohol.
25. Prominent signage indicating the permitted hours for the sale of alcohol shall be displayed so as to be visible before entering the premises, where alcohol is on public display, and at the point of sale.
26. Abdur Razzique and Abdur Rahman shall not be involved in any way in any business at the premises.