



CITY OF WESTMINSTER

MINUTES

Licensing Sub-Committee (4)

MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (4)** Committee held on **Thursday 25th June, 2015**, Rooms 5, 6 & 7 - 17th Floor, City Hall.

Members Present: Councillors Jean Paul Floru (Chairman), Peter Freeman and Shamim Talukder

1 MEMBERSHIP

There were no changes to the Membership.

2 DECLARATIONS OF INTEREST

Councillor Floru stated in respect of application 2 that Ms Virginia Chichester, who had originally submitted a representation against the application, is a friend of his. However, she had now withdrawn her representation.

3 SIMPSONS IN THE STRAND, 100-102 STRAND, WC2

LICENSING SUB-COMMITTEE No. 4

Thursday 25th June 2015

Membership: Councillor Jean-Paul Floru (Chairman), Councillor Peter Freeman and Councillor Shamim Talukder

Legal Adviser: Barry Panto
Policy Adviser: Chris Wroe
Committee Officer: Jonathan Deacon

Relevant Representations: Environmental Health, Metropolitan Police and Covent Garden Community Association.

Present: Mr Mark Browning (Solicitor, representing the Applicant), Mr Vincent McGrath (Senior Manager, Savoy), Ms Louise Joyce and Mr Ian Watson (Environmental Health) and PC Sandy Russell (Metropolitan Police)

**Simpsons In The Strand, 100-102 Strand, WC2
15/03287/LIPV**

1. Regulated Entertainment - Performance of Live Music

<u>From</u>	<u>To</u>
Monday to Saturday: 07:30 to 01:00 Sunday: 07:30 to 23:30 (subject to condition 13 in Appendix B)	Monday to Tuesday: 07:30 to 01:00 Wednesday to Saturday: 07:30 to 03:00 Sunday: 07:30 to 23:30 Sundays before bank holidays: 07:30 to 01:00

Amendments to application advised at hearing:

None.

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

The Sub-Committee initially heard from Mr Browning, representing the Applicant. He explained that the premises had been operating approximately 150 years and comprised four floors. There were extensive kitchens in the basement, the Bishop's Room was on the lower ground floor and the main restaurant known as the Grand Divan was on the ground floor. On the first floor there were 2 functions rooms known as The West Room and The Regency Room and also The Knight's Bar. Mr Browning stated that his client was seeking extended hours for licensable activities from Wednesday to Saturday and also for Sundays before bank holidays. The proposed conditions of the Police including those relating to CCTV and two SIA licensed door supervisors being on duty for the extended hours had been agreed as had Environmental health conditions that there would be a personal licence holder on duty at the premises at all times when the premises were authorised to sell alcohol, noise prevention measures and limits on when waste or recyclable materials could be moved or deliveries made from the front of the premises. Maximum capacities had also been agreed for the different areas of the premises.

Mr Browning made the point that there were no known previous complaints about noise emanating from the premises. There were no residents in the immediate vicinity. There were Savoy Hotel residents in terms of guests and those living in the Savoy Flats and there was therefore a vested interest in there being no disturbance from regulated entertainment being played.

Mr Browning's interpretation of Mr Kaner's representation on behalf of the Covent Garden Community Association was that it was not an objection but it

also did not support the application. He added that Mr Kaner had stated 'that whilst the premises remain part of the hotel it is unlikely to cause a public nuisance. However, the fact of being connected to the Hotel and the nature of the premises would need to be fully conditioned within the licence. If they are not then the premises could, in the future, change its nature and a nuisance could arise without any requirement for a variation in the licence being applied for'. Mr Browning explained that the premises were directly connected to the Savoy. However, the exit door was used for the transfer of staff and not the public. It was possible for the public to exit on to the alleyway/passageway to the Embankment. Simpsons In The Strand would always remain integrated with the Savoy. The Savoy owned the freehold of both buildings. It was in the interest of the Savoy that Simpsons In The Strand was well run.

The Sub-Committee asked Mr Browning questions relating to the application. He was asked whether there was any intention to vary the restaurants or change the usage within the premises. Mr Browning replied that the application did take into account that the nature of entertainment had changed. There was no intention to change the style of the restaurants. Mr Browning was also asked whether the entertainment would include in-house DJs. He replied that the typical entertainment would be live cabaret with a grand piano. There would not be a nightclub at the establishment as it did not fit with the Simpsons style and that would not in any event be acceptable to the Savoy.

The Sub-Committee next heard from the Police and Environmental Health. PC Russell stated that the type of entertainment had been a concern of the Police but this had been addressed following a visit to the premises. The Police were content that the premises would not be associated with crime and disorder. There was a policing issue in The Strand and two SIA licensed door supervisors being on duty for the extended hours after 01:00 were therefore sought in the form of a condition. The Applicant had agreed all of the Police's proposed conditions, including in respect of the additional SIA staff. The Police had maintained their representation due to the late hours being sought by the Applicant.

Ms Joyce advised that Environmental Health had maintained their representation because of the proposed hours being in excess of the Council's Core Hours policy. She was requesting that a condition that 'there shall be no admittance or re-admittance to the premises after 01:00 (save for existing smokers). She was satisfied with a Challenge 21 proof of age scheme being operated at the premises rather than Challenge 25. She was also content that the nature of the live music would not cause a public nuisance. She no longer sought to have conditions attached to the licence that all licensable activities in the Bishop's Room and the Knight's Bar for the extended hours would be only during a private pre-booked event.

In granting the application, the Sub-Committee took into account that there had been no instances of public nuisance and that they had been advised that there was no intention for Simpsons to change the way it operated. There was no reason to believe that Simpsons In The Strand would, as a result of the application being granted, become an establishment that would not be able to promote the licensing objectives. The key concerns of Environmental Health

	<p>and the Police had been addressed, particularly as a result of specific proposed conditions having been agreed. As a result of these conditions, there would be two SIA door supervisors on duty from 01:00 and no customers would be able to enter the premises after that time. The Responsible Authorities were content that the style of regulated entertainment would ensure that neither the prevention of crime and disorder nor the prevention of public nuisance licensing objectives would be undermined. Simpsons In The Strand was not located in one of the Council's designated stress areas. There was therefore no policy presumption against it and the application could be granted on its merits.</p>	
2.	Late Night Refreshment	
	<p><u>From</u></p> <p>Monday to Saturday: 23:00 to 01:30 Sunday: 23:00 to 00:00</p>	<p><u>To</u></p> <p>Monday to Tuesday: 23:00 to 01:30 Wednesday to Saturday: 23:00 to 03:30 Sunday: 23:00 to 00:00 Sundays before bank holidays: 23:00 to 01:30</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>	
3.	Sale of Alcohol: On and Off the premises	
	<p><u>From</u></p> <p>Monday to Saturday: 07:30 to 01:00 Sunday: 07:30 to 10:00 Sunday: 12:00 to 23:30</p>	<p><u>To</u></p> <p>Monday to Tuesday: 07:30 to 01:00 Wednesday to Saturday: 07:30 to 03:00 Sunday: 07:30 to 23:30 Sundays before bank holidays: 07:30 to 01:00</p> <p>Note: the variation (i.e. Wednesday to Saturday from 01:00 to 03:00 is for On sales only)</p>

	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 (see reasons for decision in Section 1).				
4.	Opening Hours				
	<table border="0"> <thead> <tr> <th style="text-align: left;"><u>From</u></th> <th style="text-align: left;"><u>To</u></th> </tr> </thead> <tbody> <tr> <td>Monday to Saturday: 07:30 to 01:30 Sunday: 07:30 to 00:00</td> <td>Monday to Tuesday: 07:30 to 01:30 Wednesday to Saturday: 07:30 to 03:30 Sunday: 07:30 to 00:00 Sundays before bank holidays: 07:30 to 01:00</td> </tr> </tbody> </table>	<u>From</u>	<u>To</u>	Monday to Saturday: 07:30 to 01:30 Sunday: 07:30 to 00:00	Monday to Tuesday: 07:30 to 01:30 Wednesday to Saturday: 07:30 to 03:30 Sunday: 07:30 to 00:00 Sundays before bank holidays: 07:30 to 01:00
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	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 (see reasons for decision in Section 1).				

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.
 - (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
 - (2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises -
 - (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to;
 - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
 - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
 - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
 - (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
 - (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).
5. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
6.
 - (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
 - (2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.

(3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either -

- (a) a holographic mark, or
- (b) an ultraviolet feature.

7. The responsible person must ensure that -

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

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

(b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and

(c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

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

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

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

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

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

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

Where -

- (i) P is the permitted price,

- (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
 - (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
- (c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence -
- (i) the holder of the premises licence,
 - (ii) the designated premises supervisor (if any) in respect of such a licence, or
 - (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;
- (d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
- (e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.

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

- 8(iv). (1) Sub-paragraph 8(iv)(2) below applies where the permitted price given by Paragraph 8(ii)(b) above on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.
- (2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

Additional Conditions

Conditions related to the Sale of Alcohol on Sunday to Tuesday

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

In this condition, permitted hours mean:

- (a) On Mondays and Tuesdays, other than Christmas Day or New Year's Eve, 7:30 to 23:00;
- (b) On Sundays, other than (i) Sundays before a bank holiday Monday; (ii) Christmas Day or (iii) New Year's Eve, 07:30 to

22:30;

- (c) On Sundays before a bank holiday Monday, 07.30 to midnight;
 - (d) On Christmas Day, 12:00 to 15:00. and 19:00 to 22:30
 - (e) On New Year's Eve, except on a Sunday, 10:00 to 23:00
 - (f) On New Year's Eve on a Sunday, 12:00 to 22:30
 - (g) On New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day.
- (ii) Alcohol may be sold or supplied for one hour following the hours set out above and on Christmas day, between 15.00 and 19.00, to persons taking table meals in the premises in a part of the premises usually set apart for the service of such persons and for consumption by such a person in that part of the premises as an ancillary to his meal. For other purposes or in other parts of the premises the hours set out above shall continue to apply.
- (iii) (a) Alcohol may be sold or supplied until 01:00 in the morning following weekdays to persons taking table meals in the premises in a part of the premises usually set apart for the service of such persons and for consumption by that person in that part of the premises as an ancillary to his meal.
- (b) The alcohol must be sold or supplied at a time before (i) the provision of entertainment by persons present and performing or (ii) the provision of substantial refreshment has ended. For other purposes or in other parts of the premises the hours set out above shall continue to apply.
- (c) This condition does not authorise any sale or supply to any person admitted to the premises either after midnight or less than half an hour before the entertainment is due to end, except in accordance with condition number 9 (ii) above.

NOTE - The above restrictions do not prohibit:

- (i) during the first twenty minutes after the above hours the consumption of the alcohol on the premises;
- (ii) 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;
- (iii) during the first thirty minutes after the above hours the consumption of the alcohol on the premises by persons taking table meals there if the alcohol was supplied for consumption as ancillary to the meals;
- (iv) the sale or supply of alcohol to or the consumption of alcohol by any person residing in the licensed premises;

- (v) the ordering of alcohol to be consumed off the premises, or the despatch by the vendor of the alcohol so ordered;
- (vi) the sale of alcohol to a trader or registered club for the purposes of the trade or club;
- (vii) 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;
- (viii) the taking of alcohol from the premises by a person residing there;
- (ix) 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;
- (x) 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.

Conditions related to the Sale of Alcohol on Wednesday to Saturday

10. Alcohol shall not be sold, supplied, consumed in or taken from the premises except during permitted hours.

In this condition, permitted hours mean:

- (a) On Wednesdays, Thursdays Fridays and Saturdays, other than New Year's Eve, 07:30 to 03:00 on the following day;
- (b) On New Year's Eve, 10:00 to 23:00;
- (c) On New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day.

11. No person under fourteen shall be in the bar of the licensed premises during the permitted hours unless one of the following applies:

- (a) He is the child of the holder of the premises licence.
- (b) He resides in the premises, but is not employed there.
- (c) He is in the bar solely for the purpose of passing to or from some part of the premises which is not a bar and to or from which there is no other convenient means of access or egress.
- (d) The bar is in railway refreshment rooms or other premises constructed,

fitted and intended to be used bona fide for any purpose to which the holding of the licence is ancillary.

In this condition "bar" includes any place exclusively or mainly used for the consumption of intoxicating liquor. But an area is not a bar when it is usual for it to be, and it is, set apart for the service of table meals and alcohol is only sold or supplied to persons as an ancillary to their table meals.

12. The terminal hour for late night refreshment on New Year's Eve is extended to 05:00 on New Year's Day.
13. Notwithstanding condition 9, Annex 1 of this licence, the sale or supply of alcohol is permitted with the service of breakfast only between 07:30 and 10:00. The alcohol is restricted to wines or champagnes (but not other alcoholic beverages) served by waiter or waitress to seated customers and the service of such alcohol to be ancillary to the supply of alcohol.
14. Regulated entertainment, in the form of live music in the Knight's Bar, is permitted but is limited to up to three live musicians/ performers.
15. 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.

Conditions that relate to the premises as a whole

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. No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
18. Loudspeakers shall not be located in the entrance lobby or outside the premises building.
19. All windows and external doors shall be kept closed after 22.00 hours at any time when regulated entertainment takes place, except for the immediate access and egress of persons.
20. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and business and leave the area quietly.
21. Notices shall be prominently displayed at any area used for smoking requesting patrons to respect the needs of local residents and use the area quietly.
22. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
23. 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.

24. 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.
25. 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.
26. No deliveries shall be made to the front of the premises between 23.00 and 08.00 on the following day.
27. The approved arrangements at the premises, including means of escape provisions, emergency warning equipment, the electrical installation and mechanical equipment, shall at all material times be maintained in good condition and full working order.
28. The means of escape provided for the premises shall be maintained unobstructed, free of trip hazards, be immediately available and clearly identified in accordance with the plans provided.
29. All emergency exit doors shall be available at all material times without the use of a key, code, card or similar means.
30. All emergency doors shall be maintained effectively self-closing and not held open other than by an approved device.
31. The edges of the treads of steps and stairways shall be maintained so as to be conspicuous.
32. Curtains and hangings shall be arranged so as not to obstruct emergency safety signs or emergency equipment.
33. All fabrics, curtains, drapes and similar features including materials used in finishing and furnishing shall be either non-combustible or be durably or inherently flame-retarded fabric. Any fabrics used in escape routes (other than foyers), entertainment areas or function rooms, shall be non-combustible.

Conditions relating to the Grand Divan - Simpson's Restaurant

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

by persons who are seated in the premises and bona fide taking substantial table meals there, and provided always that the consumption of alcohol by such persons is ancillary to taking such meals.

35. The number of persons permitted in the Grand Divan - Simpson's Restaurant at any one time (excluding staff) shall not exceed 110 persons and is to be assessed by District Surveyor from the Environmental Health Consultation Team

Condition relating to the Bishop's Room

36. The number of persons permitted in the Bishop's Room at any one time (excluding staff) shall not exceed 100 persons and is to be assessed by District Surveyor from the Environmental Health Consultation Team.

Conditions relating to The West Room &The West Room Ante Bar

37. All licensable activities after Midnight in the West Room &The West room Ante Bar shall only be during a private pre-booked event.
38. The number of persons permitted in the West Room &The West room Ante Bar at any one time (excluding staff) shall not exceed 180 persons and is to be assessed by District Surveyor from the Environmental Health Consultation Team.

Condition relating to The Knight's Bar

39. The number of persons permitted in the Knight's Bar at any one time (excluding staff) shall not exceed 50 persons and is to be assessed by District Surveyor from the Environmental Health Consultation Team.

Conditions relating to The Regency Room

40. All licensable activities after Midnight in the Regency Room shall only be during a private pre-booked event.
41. The number of persons permitted in the Regency Room at any one time (excluding staff) shall not exceed 250 persons and is to be assessed by District Surveyor from the Environmental Health Consultation Team.

Conditions that relate to the premises as a whole

42. The premises shall install and maintain a 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.

43. 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.
44. A minimum of 2 SIA licensed door supervisors shall be on duty on the premises between 01.00hrs and 03.30hrs on Wednesday, Thursday, Friday and Saturday nights when the premises are trading.
45. 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.
46. 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.
47. The Licence will have no effect until the Police are satisfied that the premises have upgraded the current CCTV system in accordance to the wording of conditions 41 and 42 shown above.
48. There shall be no admittance or re-admittance to the premises after 01:00 (save for existing smokers).
49. There shall be no sale of alcohol for consumption off the premises from 01.00 to 03.00.

4 AURA, 48-49 ST JAMES'S STREET, SW1

LICENSING SUB-COMMITTEE No. 4

Thursday 25th June 2015

Membership: Councillor Jean-Paul Floru (Chairman), Councillor Peter Freeman and Councillor Shamim Talukder

Legal Adviser: Barry Panto
Policy Adviser: Chris Wroe
Committee Officer: Jonathan Deacon

Relevant Representations: St James's Conservation Trust and local resident x 4.

Present: Mr Craig Baylis (Solicitor, representing the Applicant).

Declaration: Councillor Floru stated that Ms Virginia Chichester, who had originally submitted a representation against the application, is a friend of his. However, she had now withdrawn her representation.

Aura, 48-49 St James's Street, SW1 15/03326/LIPN	
1.	Regulated Entertainment
	Performance of Dance Monday to Sunday: 09:00 to 03:00
	Exhibition of a Film Monday to Sunday: 09:00 to 03:00
	Performance of Live Music Monday to Sunday: 09:00 to 03:00
	Playing of Recorded Music Monday to Sunday: 09:00 to 03:00
	Anything of a similar description to Live Music or Recorded Music Monday to Sunday: 09:00 to 03:00.
	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 Applicant, Vevil International Limited, who is the landlord of the property, submitted a new application to apply for a secondary licence at the premises. It was noted that the licensable activities and hours applied for mirrored those of the existing licence for the premises (14/07530/LIPT).

The Sub-Committee accepted 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 secondary licence. Members of the Sub-Committee however were required to determine whether granting a further licence would promote the licensing objectives.

The Sub-Committee granted the secondary licence application with exactly the same conditions attached as the existing licence for Aura (14/07530/LIPT) apart from slight updates to some conditions that had existed under the old licensing regime. 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 considered that there was no reason to believe that the licensing objectives would not be promoted. Environmental Health had withdrawn their representations following confirmation that the Applicant was not seeking different hours or conditions from those on the primary licence and the Metropolitan Police had not made a representation at all. The Applicant was seeking to protect its commercial interest in the property and in the event the premises licence was used in order to conduct licensable activities, it was highly likely that the landlord would be submitting a transfer application with the Police being able to assess any future tenant's suitability. In granting the application, the Sub-Committee considered that both the primary and secondary licences were now in effect so as to leave the potential option of reviewing both licences in the event that the licensing objectives were undermined at 48-49 St James's Street.

The Sub-Committee fully appreciated the concerns of residents in respect of the issues which had been raised in relation to how the premises had been operated under the primary licence. Action had been taken in the form of a review in August 2012. The landlord was fully aware of the review mechanism should the conditions on the licence not be complied with and the licensing objectives not be promoted. Mr Baylis, representing the Applicant, had emailed objectors to explain the nature of the application and that his client was not seeking hours or licensable activities which were already permitted at the premises.

2. Late Night Refreshment

Monday to Saturday:	23:00 to 03:30
Sunday:	23:00 to 03:00
Sundays before Bank Holidays:	23:00 to 03:30.

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 (see reasons for decision in Section 1).
3.	Sale by Retail of Alcohol (On and Off)
	Monday: 09:00 to 00:00 Tuesday to Saturday: 09:00 to 03:00 Sunday: 12:00 to 02:30 Sundays before Bank Holidays: 12:00 to 03:00
	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 (see reasons for decision in Section 1).
4.	Opening Hours
	Monday to Saturday: 09:00 to 03:30 Sunday: 09:00 to 03:00 Sundays before Bank Holidays: 09:00 to 03:30.
	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 (see reasons for decision in Section 1).

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 must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
 - (2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises—
 - (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to;
 - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
 - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
 - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
 - (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
 - (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).

5. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
6.
 - (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
 - (2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
 - (3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either—
 - (a) a holographic mark, or
 - (b) an ultraviolet feature.
7. The responsible person must ensure that—
 - (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—
 - (i) beer or cider: ½ pint;
 - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
 - (iii) still wine in a glass: 125 ml;
 - (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
 - (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

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

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

8(ii) For the purposes of the condition set out in paragraph 9(i) above –

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

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

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

Where –

(i) P is the permitted price,

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

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

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

(i) the holder of the premises licence,

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

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

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

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

8(iii). Where the permitted price given by Paragraph 9(ii)(b) above would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

8(iv). (1) Sub-paragraph 9(iv)(2) below applies where the permitted price given by Paragraph 9(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.

10. Admission of children to the premises must be restricted in accordance with the film classification recommended by the British Board of Film Classification or recommended by this licensing authority as appropriate.

Additional Conditions

11. 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.
12. 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).
13. 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 3.30am on the day following and from 11pm on Sunday to 3am on the day following (3.30 am on a Monday bank holiday).
14. The provision of public entertainment under this licence shall remain as an ancillary part of the lawful Class A3 use of the premises.
15. Licensable entertainment shall not be provided in the entrance lobby.
16. At least two registered door supervisors shall be stationed at the entrance to the premises from 11pm on each night when the premises remain open beyond 11pm, so as to ensure that customers enter and exit the premises in a quiet and orderly manner.
17. No external doors or windows shall be fixed open after 11pm on any day of the week.
18. A sound limiter device shall be fitted to the sound system and shall be set and maintained at levels agreed by the Environmental Health Officer. The operational panel shall then be secured and the system will not be altered without the approval of the Environmental Health Officer.
19. The sound system shall not be altered or modified without the approval of the Environmental Health Officer.
20. No additional sound generation equipment shall be used on the premises without being routed through the sound limiter device.
21. Notices shall be provided at the premises requesting patrons to leave quietly. Similar reminders shall be made over the loud speakers and by door supervisors at the door.
22. The CCTV system shall be maintained and operated correctly to the satisfaction of the Metropolitan Police Crime Prevention Officer. The tapes from the system shall be retained for a period of 28 days.
23. The iron gate at the foot of the external entrance staircase shall be locked back in an open position while the premises are in use under this licence.
24. The final double leaf wooden doors on the alternative escape route shall be locked back in an open position while the premises are in use under this licence.

25. No unauthorised advertisements of any kind (including placard, poster, sticker, flyer, picture, letter, sign or other mark) is inscribed or affixed upon the surface of the highway, or upon any building, structure, works, street furniture, tree, or any other property, or is distributed on street to the public, that advertises or promotes the establishment, its premises, or any of its events, facilities, good or services.
26. Substantial food and non-intoxicating beverages (including drinking water) shall be available during the whole of the permitted hours in all parts of the premises where intoxicants are provided.
27. On any evening where the premises or part of the premises are open for the purpose of music, dance and entertainment, alcohol may not be sold or supplied to persons admitted to the premises after 11pm other than to:
 - (a) Persons who have paid a minimum admission fee of at least £5 Monday to Thursday and £7 Friday and Saturday for music, dance and entertainment. (Not to be credited against consumables).
 - (b) Any person attending a private function at the premises, details of the type of function, host and list of persons attending having been provided to police at least 24 hours previously.
 - (c) Artistes or persons employed on the premises.
 - (d) Bona fide guests of the proprietor, a list of whom shall be kept at reception for inspection by appropriate authorities.
 - (e) Persons taking a full table meal.
 - (f) Members of the proprietary club operating at these premises.
28. No striptease, no nudity and all persons to be decently attired at all times.
29. The terminal hour for late night refreshment on New Year's Eve is extended to 05:00 on New Year's Day.
30. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of a Metropolitan Police Crime Prevention Officer. 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. Recordings shall be made available immediately upon the request of Police or authorised officer throughout the preceding 31 day period.
31. 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 to the public. This staff member shall be able to show Police recent data or footage with the absolute minimum of delay when requested.
32. The hours permitted for the sale of alcohol are:
 - (a) Monday 09:00 to 00:00

- (b) Tuesday to Saturday 09:00 to 03:00
 - (c) Sunday 12:00 to 02:30
 - (d) Sunday before Bank Holiday 12:00 to 03:00
 - (e) In relation to the morning on which summer time begins, paragraph (b) of this condition shall have effect with the substitution of references to 04.00 for references to 03.00
 - (f) The permitted hours for the sale of alcohol on New Year's Eve are from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day (or, if there are no permitted hours on the following day, 00.00 midnight on 31st December
33. No payment shall be made by or on behalf of the licensee to any person for bringing customers onto the premises directly from the street.
34. When a customer chooses to pay by credit card, he/she will be presented with an itemised bill on final payment, showing details of all drinks and food purchased.
35. Where the sale of alcohol takes place after 00:30 on the day following Sundays (other than the Sundays before Bank Holidays) this will be only to persons attending private pre-booked functions at the premises or to members of the private club operating at the premises and their guests.
36. No external promoters will be used to organise the private functions on Sundays referred to in condition 37 above, such private functions to be organised by the premises licence holder/designated premises supervisor.
37. Where a private function takes place at the premises on Sundays (other than Sundays before Bank Holidays) where alcohol is to be sold after 00:30 the following day, a full guest list must be produced by the premises at least 24 hours prior to the function together with a booking sheet for each function regarding the following information as a minimum - name of the individual who has hired the premises together with contact details; date of hiring and purpose of event. The guest list and booking sheet will be made available to the police or an authorised officer of the Council upon request at the premises on the night of the function and for a period of 14 days thereafter.
38. Where alcohol is being sold on Sundays (other than Sundays before Bank Holidays) after 00:30 the day following to members of the private club operating at the premises, members shall be permitted to have no more than 4 guests accompanying them, and all members must have been accepted as members of the private club no later than 24 hours beforehand.
39. The number of persons accommodated at the premises shall not exceed 210 persons (exclusive of staff).
40. There shall be no admittance to the premises after 00:00.
41. Patrons permitted to temporarily leave and then re-enter the premises, eg to smoke, shall not be permitted to take drinks or glass containers with them.
42. Every member of staff will undergo documented responsible server training within a

month of the decision and (for new staff) within 3 months of starting employment.

43. All staff will receive refresher responsible server training once per year.
44. The licensee shall maintain further CCTV cameras outside the premises so as to both south and north in St James's Street.
45. All staff engaged outside the entrance to the premises, or supervising or controlling queues shall wear high visibility yellow jackets or vests.
46. There shall be a personal licence holder on duty on the premises at all times when the premises are authorised to sell alcohol.
47. The licence holder shall ensure that any queue to enter the premises which forms outside the premises is orderly and supervised by door staff so as to ensure that there is no public nuisance or obstruction to the public highway.
48. No drinks shall be served in glass containers at any time.
49. Exterior door staff shall be equipped with "body cams".
50. Should the CCTV system develop a significant fault, the premises licence holder will inform the Police of the fault and of the proposed time for rectification.
51. The premises licence holder shall install and use a clubscan or similar device at the entrance to the premises.
52. All door staff shall work for a contractor who is a member of the Security Industry Authority's Approved Contractor Scheme.
53. There shall be one door supervisor for every thirty customers, with a number of four door supervisors at all times.
54. All door staff shall wear distinctive clothing so that they can be readily identified at the premises.
55. A member of the door staff shall patrol on both sides of St James' Street between Piccadilly and Jermyn Street.
56. The Licensee will give local residents who want it a dedicated hotline telephone number which will always be manned during trading hours and for 30 minutes thereafter.
57. A Management Plan requiring the Licensee to use their best endeavours to manage customers, external to the premises, including arrival, departure and dispersal of customers quickly, quietly and towards Piccadilly shall be submitted to Environmental Health for approval and the Licensee shall thereafter implement and maintain the said Plan.