



CITY OF WESTMINSTER

# MINUTES

## Licensing Sub-Committee (1)

### MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (1)** Committee held on **Thursday 24th September, 2015**, Rooms 5, 6 & 7 - 17th Floor, City Hall.

**Members Present:** Councillors Tim Mitchell (Chairman), Susie Burbridge and Jan Prendergast

#### 1 MEMBERSHIP

There were no changes to the membership.

#### 2 DECLARATIONS OF INTEREST

There were no declarations of interest.

#### 3 CUMBERLAND FOOD & WINE, 11 GREAT CUMBERLAND PLACE, W1

##### LICENSING SUB-COMMITTEE No. 1

*Thursday 24th September 2015*

Membership: Councillor Tim Mitchell (Chairman), Councillor Susie Burbridge and Councillor Jan Prendergast

Legal Adviser: Barry Panto  
Committee Officer: Jonathan Deacon

Relevant Representations: Environmental Health.

Present: Mr Thomas O'Maoileoin (Solicitor, Representing the Applicant), Mr Shezad Hussain Shah (Owner of premises), and Mr Ian Watson (Environmental Health)

**Cumberland Food & Wine, 11 Great Cumberland Place, W1  
14/09194/LIPV**

1. **Sale by Retail of Alcohol (On)**

Monday to Saturday: 10:00 to 23:00

	<p>Sunday: 12:00 to 22:30</p>
	<p>Amendments to application advised at hearing:</p> <p>This application had previously been adjourned at a Sub-Committee hearing on 18 December 2014 in order to ascertain whether the outside area, where the Applicant wished to have a small café with tables and chairs, was part of the premises' demise. Prior to the hearing an officer in the Council's Highways Planning Department had contacted the Licensing Service to advise that the frontage on Great Cumberland Place was part of the Applicant/Licence Holder's demise but that the Bryanston Street side of the building was not.</p> <p>Having received this information, Mr O'Maoileoin, representing the Applicant, informed the parties that his client was amending the application so that the licensable area applied for would only include the agreed private forecourt area on Great Cumberland Place. It would no longer include the Bryanston Street side of the building which was withdrawn from the application and this was shown in an updated plan submitted by the Applicant.</p>
	<p>Decision (including reasons if different from those set out in report):</p> <p>Cumberland Food and Wine currently operates as a convenience store providing off-sales. The Applicant's amended application sought on-sales of alcohol in an outside area with tables and chairs between 10:00 and 23:00 Monday to Saturday and 12:00 to 22:30 on Sundays in the private forecourt on Great Cumberland Place. Mr O'Maoileoin stated that the hours sought were less than the Council's Core Hours and were in keeping with the terminal opening hours of the premises. His client was seeking a maximum of 23 covers.</p> <p>Mr O'Maoileoin referred to the fact that the Police had withdrawn their application, as they had agreed conditions including the updated CCTV model conditions. He confirmed that on-sales would be restricted to the outside area as no consumption of alcohol or food took place in the store due to its restricted space. There was no intention to change the layout on the ground floor. Alcohol in the outside area would only be available to seated customers served by waiter or waitress and ancillary to a table meal there.</p> <p>Mr O'Maoileoin explained that there were kitchen facilities in the basement but no primary cooking would take place on the premises. The food was pre-prepared off site which could be pre-heated in the oven in the kitchen. In response to a question from the Sub-Committee, he clarified that the food provided in the outside area would be different from what was sold within the store. The food available inside was limited to five or six products such as sausage rolls which could be heated in a microwave. The food available outside was predominantly Mediterranean like lasagne but also included middle eastern food. This would be brought from the basement kitchen area either directly outside to the café area via waiter or waitress or via the ground floor and through the service hatch where it would be collected by waiter or waitress. Mr</p>

O'Maoileoin stated that the basement area had male and female toilets. He added that considerable work over a number of months would need to be carried out to improve the facilities in the basement which was currently being used as a storage area and this would be need to be signed off by Environmental Health if the application was granted as required by the proposed work condition.

Mr O'Maoileoin also addressed the Sub-Committee on the concerns raised by three local residents in their representations. There was a condition on the licence that no noise would be permitted to emanate from the premises which would mean that if there was a public nuisance resulting from the external café area the Applicant would be breaching the condition. His client did not accept that there had been noise created outside the premises by people buying alcohol and there were no known complaints to the Council's Noise Team. There were also a number of conditions on the existing premises licence that dealt with preventing underage drinking as off-sales were currently sold at the convenience store.

Mr Watson for Environmental Health advised that he had objected on the grounds of public safety and public nuisance. He had visited the premises the week prior to the hearing and confirmed Mr O'Maoileoin's description of how the premises were operating and how it was intended they would operate in the future. He commented that the Applicant did intend to use the outside area until 23:00 hours and it was important that the tables and chairs did not remain on the public highway after that time (Mr O'Maoileoin stated that he was content with the condition that tables and chairs would be removed from outside the premises by 23:00 hours). The use of the premises was limited by the weather as there was no seating inside. The small fire escape which led to Bryanston Street from the ground floor shop or the basement needed to be maintained. This could be used in the event of emergency by either staff or the public using the basement toilets (Mr O'Maoileoin informed those present that it would be also used as a public access to the basement which Mr Watson considered acceptable provided that the necessary works were carried out). Mr Watson confirmed that he had sought a works condition as there was considerable work which needed to be carried out in the basement including renovation of the kitchen and toilets. Adequate signage for the public was required in the event of emergency and access/egress. The basement was currently used by staff only. The food hatch on the ground floor was currently blocked by advertising. Mr Watson suggested an alternative condition being attached to the licence to replace the condition that 'alcohol shall not be sold in an open container or be consumed in the licensed premises' rather than it being removed from the licence as otherwise it could be consumed in the shop (Mr O'Maoileoin confirmed that the only on-sales would be in the outside hatched area of the plan and all other sales of alcohol would be off-sales with sealed containers). In response to a question from the Sub-Committee, he advised that he was not aware of any noise nuisance complaints in respect of the premises or that the store was being monitored in terms of test purchases. There was a proof of age scheme and till prompts conditions on the licence.

The Sub-Committee granted the application, without prejudice to the planning position. Members considered that the conditions attached to the licence promoted the licensing objectives. These included alcohol in the outside area

only being available to seated customers served by waiter or waitress and ancillary to a table meal there, no noise being permitted to emanate from the premises and the conditions on the existing licence limiting the strength of the alcohol sold. The Sub-Committee noted that the Applicant had the ability in any event to place tables and chairs on the private forecourt in Great Cumberland Place. The application did provide the Sub-Committee with the opportunity to condition its use, albeit with the consumption of alcohol that was ancillary to a table meal being permitted there.

Members considered that there were a number of premises which combined retail and an ancillary café style operation but it was unusual to have an external café use for a convenience store that otherwise was only allowed to sell alcohol for consumption off the premises. The Sub-Committee emphasised to the Applicant that whilst Cumberland Food and Wine was located just outside the Edgware Road Stress Area, this was a very congested part of the city and there was a tree that was adjacent to the outside area. There should be minimal restriction on pedestrian movement on the pavement. The area would need to be managed well and respect the needs of residents or it would potentially give rise to a review of the premises licence.

The Sub-Committee decided also to attach conditions that clarified the situation. This included that alcohol would not be sold in an open container within the retail convenience store operated within the building itself. Also, the sale and / or consumption of alcohol in the external area hatched black on the plan would not be permitted until the capacity of that area has been determined by the Environmental Health Consultation Team and the licensing authority had replaced this condition with a condition detailing the capacity so determined. Mr O'Maoileoin also stated that he was content for the condition that was on the existing licence requiring the premises to have a Challenge 21 or Challenge 25 proof of age scheme to be amended so that there was only a Challenge 25 scheme in place which was in keeping with how the premises operated.

**2. Opening hours**

To extend to the outside area – in keeping with the opening hours of the store.

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):

Granted, subject to conditions as set out below (see reasons for decision in Section 1).

<p><b>3. Conditions attached to the licence</b></p>	<table border="1"> <tr> <td data-bbox="252 241 826 1081"> <p><u>From</u></p> <p>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.</p> </td> <td data-bbox="831 241 1409 1081"> <p><u>To</u></p> <p>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.</p> </td> </tr> <tr> <td data-bbox="252 1088 826 1491"> <p>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 must be able to show a Police or authorised council officer recent data or footage with the absolute minimum of delay when requested.</p> </td> <td data-bbox="831 1088 1409 1491"> <p>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.</p> </td> </tr> </table>		<p><u>From</u></p> <p>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.</p>	<p><u>To</u></p> <p>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.</p>	<p>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 must be able to show a Police or authorised council officer recent data or footage with the absolute minimum of delay when requested.</p>	<p>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.</p>
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<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 Sub-Committee granted this aspect of the application as the amended proposed conditions sought by the Police and agreed by the Applicant reflect the Council's updated model conditions.</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 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**

9. Alcohol shall not be sold in an open container within the retail convenience store operated within the building itself.
10. All sales of alcohol for consumption off the premises shall be in sealed containers only, and shall not be consumed on the premises.
11. A direct telephone number for the manager at the premises shall be publicly available at all times the premises is open. This telephone number is to be made available to residents and businesses in the vicinity.
12. No more than 15% of the sales area shall be used at any one time for the sale, exposure for sale, or display of alcohol.
13. All cashiers shall receive refresher training on the relevant alcohol laws and the licence holder's policy on challenging for ID. Such training shall take place at least twice a year. Records shall be maintained at the premises containing information about the training of any person who may make a sale of alcohol including the date of their training and the nature of the training undertaken. The relevant documentation shall be produced on request to a police officer or relevant officer of a responsible authority.
14. The licence holder shall ensure that all cashiers are trained to ask any customers attempting to purchase alcohol, who appears under the age of 25 years (or older if the licence so elects) for evidence of age. This evidence shall be photographic, such as passport or photographic driving licence until other effective identification technology (for example thumb print or pupil recognition) is introduced. All cashiers shall be instructed, through training, that a sale shall not be made unless this evidence is produced.
15. 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
16. The sale and / or consumption of alcohol in the external area hatched black on the plan shall not be permitted until the capacity of that area has been determined by the Environmental Health Consultation Team and the licensing authority has replaced this condition with a condition detailing the capacity so determined.
17. The sale of alcohol for consumption on the premises shall not commence until 10:00 Monday to Saturday and 12:00 on Sunday.
18. Sales of alcohol for consumption on the premises shall be limited to the area hatched black on the plan.
19. 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.

20. 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.
21. The supply of alcohol for consumption on the premises shall only be to a person seated taking a table meal there and for consumption by such a person as ancillary to their meal.
22. The supply of alcohol for consumption on the premises shall be by waiter or waitress service only.
23. Substantial food and non-intoxicating beverages shall be available in all parts of the premises where alcohol is sold or supplied for consumption on the premises.
24. No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
25. The entrance door shall be kept closed after 21:00 hours, except for the immediate access and egress of persons.
26. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and leave the area quietly.
27. 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.
28. All tables and chairs shall be removed from outside the premises by 23.00 hours.
29. The pavement from the building line to the kerb edge immediately outside the premises, including gutter/channel at its junction with the kerb edge, shall be swept and or washed, and litter and sweepings collected and stored in accordance with the approved refuse storage arrangements.
30. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
31. No rubbish, including bottles, shall be moved, removed or placed in outside areas between 2300 hours and 0800 hours.

32. The variation of this premises licence will have no effect until the premises have been assessed as satisfactory by the Environmental Health Consultation Team at which time this condition shall be removed from this licence by the licensing authority
33. There shall be no self service of spirits on the premises, save for spirit mixtures less than 5.5% ABV.
34. No super-strength beer, lagers, ciders or spirit mixtures of 5.5% ABV (alcohol by volume) or above shall be sold at the premises, except for premium beers and ciders supplied in glass bottles.
35. All tills shall automatically prompt staff to ask for age verification identification when presented with an alcohol sale.
36. 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.
37. 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.

#### **4 UNIT 2.10 AND 2.11 KINGLY COURT, W1**

##### **LICENSING SUB-COMMITTEE No. 1**

*Thursday 24th September 2015*

Membership: Councillor Tim Mitchell (Chairman), Councillor Susie Burbridge and Councillor Jan Prendergast

Legal Adviser: Barry Panto  
Committee Officer: Jonathan Deacon

Relevant Representations: 3 x local residents and the Soho Society.

Present: Mr Alun Thomas (Solicitor, Representing the Applicant), Ms Shelly Webb (Portfolio Manager, Shaftesbury for Kingly Court), Mr Ed Brunet (Executive Head Chef, Le Bab) and Mr Richard Brown (Solicitor, Citizens Advice Bureau Licensing Advice Project, representing Mrs Liz Callingham, local resident).

**Unit 2.10 and 2.11 Kingly Court, W1**  
**15/06161/LIPN**

1.	<b>Late Night Refreshment (Indoors)</b>
	Monday to Thursday:                    23:00 to 23:30 Friday to Saturday:                    23:00 to 00:00
	Amendments to application advised at hearing:  None.
	Decision (including reasons if different from those set out in report):  Mr Thomas and Ms Webb provided some brief background to Kingly Court. It was a purpose built retail centre and no residents lived in Kingly Court itself. There were a number of restaurants there with licensable activities within core hours. Shaftesbury, the Applicant, owned over 250 buildings with licensed premises. There was some control over tenants, over 40 CCTV cameras and 24 hour security within Kingly Court. Shaftesbury's plan was to have different restaurants in Kingly Court reflecting cuisines from across the world.  Mr Thomas next addressed the Sub-Committee on the premises that was the subject of the application, Unit 2.10 and 2.11 / Le Bab. Concerns had been expressed in the representations objecting to the application that customers would be required to use the communal toilets. Mr Thomas confirmed it had initially been proposed that customers would use them as they were within a matter of yards from the units. However, following discussions with the parties, including Environmental Health, it had been decided to install toilets within Le Bab. Mr Thomas made the point that as part of the discussions with Environmental Health a capacity of 40 people had been agreed based on the two toilets. It was a matter for the Sub-Committee to consider whether the capacity would be set out now or following an inspection by Environmental Health. It was likely that a further application would be required to slightly change the layout.  Mr Brunet, the Executive Head Chef who had previously worked at Le Gavroche in Mayfair, explained the concept behind Le Bab. He had travelled with his business partner to the Middle East and they had tasted kebabs there which were very different from those consumed in many high street premises. Their aim was to combine ethnic and national kebab influences with Michelin star style gastronomic thinking. Mr Brunet stated that the kebabs would be a substantial and refined meal. The kebabs would be a dining experience with grilled meat, garnish and sauce and no wraps. It would deliver on quality and be in the mid-range bracket cost wise. The team would be looking to attract a restaurant crowd rather than a takeaway crowd. It would be food led which was prepared fresh with an open kitchen. Customers were shown to their table and were served by waiter or waitress. Drinks could not be taken outside. The bar could not be used purely as a drinking area. Customers would have to eat there and be seated so that there was no vertical drinking.

Mr Thomas stated he believed that the policy position that the Sub-Committee needed to consider was whether another restaurant with licensable activities during core hours in Kingly Court would add to cumulative impact. Mr Thomas had submitted the decision sheet for the application which had been granted for Soho Grind, Beak Street as an example of an additional food-led establishment being granted in this part of the West End Stress Area. He disputed the idea in the representations that the additional licensed premises were having an adverse impact on the area. He expressed the view that there had been a major improvement with the locality having a range of restaurants rather than bars or nightclubs and there had been no issues in Kingly Court during the previous two years whilst there was an intensification of premises. If Environmental Health and Metropolitan Police had concerns they would have maintained their representations.

Mr Brown addressing the Sub-Committee advised that Mrs Callingham was of the view that Shaftesbury's use of Kingly Court had been a great success. This area however is particularly busy. Local residents had experienced issues from the nightclubs in the area which had now gone and these had been replaced by a significant number of premises, mainly restaurants, which produced different causes of concern. There had been an increased footfall in the West End Stress Area and residents had become sensitive to further new premises licences being applied for. Mr Brown stated that should the premises licence be granted, Members were requested to examine the hours, the capacity and the nature of the premises.

Mr Brown stated that Mrs Callingham was keen that there was not a general move towards bar use in the premises in the locality. There had been a grey area with the application for Soho Grind, Beak Street in terms of what amounted to a table meal. In the case of Le Bab, a substantial table meal condition had been agreed by the Applicant. Mr Brown added that he was not making any strong arguments with this application that the menu would not be compatible with the Council's model restaurant condition, MC66. There would be fewer concerns overall if the premises closed within core hours rather than thirty minutes later. On the issue of capacity, Mr Brown commented that each incremental increase would not necessarily be seen to add demonstrably to cumulative impact. However, it was whether the totality of the increases in capacities, bringing an additional footfall on each occasion to the area, impacted on the licensing objectives. Mr Brown advised that it would be useful for residents to know that the maximum capacity of forty people was included as a condition on the premises licence in the event the application was granted. He believed that it was helpful to have the toilets available on site.

Mr Thomas responded to some of the points raised by Mr Brown. As a result of restaurants replacing nightclubs and bars, there was a de-intensification of use in the Stress Area after core hours. If there was a greater footfall in the earlier part of the evening, was this a negative impact on the area? More people in the area visiting restaurants did not result in licensing objectives being undermined. Mr Thomas also made the point that the closing time for Le Bab was consistent with other premises in Kingly Court. It was not necessarily the case that restaurant customers were expected to leave at the same time as licensable

	<p>activities concluded which was more applicable to a nightclub or bar.</p> <p>The Sub-Committee granted the application, considering that the establishment was a small food led operation and not a bar. The Applicant had agreed the Council's model restaurant condition and the bar area could not be used purely as a drinking area. Customers would have to eat in this area and be seated so that there was no vertical drinking. As a restaurant it was less likely to undermine the licensing objectives than a bar or nightclub. The Sub-Committee noted that the Applicant had taken measures, including the addition of the two toilets on site, which addressed the Responsible Authorities' concerns and they had withdrawn their representations. Members gave careful consideration to whether the premises should be permitted to open for half an hour beyond licensable activities. In permitting this, Members noted the Applicant's evidence that this was consistent with other licensed premises in Kingly Court.</p> <p>Members attached a works condition to the licence which specified a maximum capacity of 40 people.</p>						
<b>2.</b>	<b>Sale by retail of alcohol (On)</b>						
	<table border="0"> <tr> <td>Monday to Thursday:</td> <td>10:00 to 23:30</td> </tr> <tr> <td>Friday to Saturday:</td> <td>10:00 to 00:00</td> </tr> <tr> <td>Sunday:</td> <td>12:00 to 22:30</td> </tr> </table>	Monday to Thursday:	10:00 to 23:30	Friday to Saturday:	10:00 to 00:00	Sunday:	12:00 to 22:30
Monday to Thursday:	10:00 to 23:30						
Friday to Saturday:	10:00 to 00:00						
Sunday:	12:00 to 22:30						
	<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>						
<b>3.</b>	<b>Non-standard timings</b>						
	<p>From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.</p>						
	<p>Amendments to application advised at hearing:</p> <p>None.</p>						
	<p>Decision (including reasons if different from those set out in report):</p> <p>Granted, subject to conditions as set out below.</p>						
<b>4.</b>	<b>Opening Hours</b>						

	Monday to Thursday: 10:00 to 00:00 Friday to Saturday: 10:00 to 00:30 Sunday: 12:00 to 23:00
	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.

<b>Conditions attached to the Licence</b>	
<b><u>Mandatory Conditions</u></b>	
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**

9. No licensable activities shall take place at the premises until the premises has been assessed as satisfactory by the Environmental Health Consultation Team at which time this condition shall be removed from the Licence by the licensing authority
10. The premises shall only operate as a restaurant
- (i) in which customers are shown to their table,
  - (ii) where the supply of alcohol is by waiter or waitress service only,
  - (iii) which provide food in the form of substantial table meals that are prepared on the premises and are served and consumed at the table using non disposable crockery,
  - (iv) which do not provide any take away service of food or drink for immediate consumption,
  - (v) which do not provide any take away service of food or drink after 23.00, and
  - (vi) where alcohol shall not be sold or supplied, otherwise than for consumption by persons who are seated in the premises and bona fide taking substantial table meals there, and provided always that the consumption of alcohol by such persons is ancillary to taking such meals.
- Notwithstanding this condition customers are permitted to take from the premises part consumed and resealed bottles of wine supplied ancillary to their meal.
11. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
12. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when

customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the entire 31 day period.

13. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises 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.
14. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
15. No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
16. 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) any faults in the CCTV system, searching equipment or scanning equipment
  - (f) any refusal of the sale of alcohol
  - (g) any visit by a relevant authority or emergency service.
17. 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.
18. No collections of waste or recycling materials (including bottles) from the premises shall take place between 23.00 and 08.00 on the following day
19. No licensable activities shall take at the premises until the capacity of the premises has been determined by the Environmental Health Consultation Team and the licensing authority has replaced this condition on the licence with a condition detailing the capacity so determined, such capacity not to exceed 40 persons in any event.
20. 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.
21. 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.
22. 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.

23. No deliveries to the premises shall take place between 23:00 and 08:00 on the following day.
24. 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.
25. The toilets located on the 2<sup>nd</sup> floor of Kingly Court shall be available to patrons at all times free of charge when the premises is open for business.
26. A clearly visible and legible sign shall be maintained on the premises at all times to advise patrons that the 2<sup>nd</sup> floor toilets are freely available for them to use.