



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 22nd October, 2015**, Rooms 5, 6 & 7 - 17th Floor, City Hall.

**Members Present:** Councillors Jean Paul Floru (Chairman), Susie Burbridge and Aziz Toki

#### 1 MEMBERSHIP

There were no changes to the Membership.

#### 2 DECLARATIONS OF INTEREST

The Chairman declared in respect of Duck & Rice, First Floor, 90-91 Berwick Street that he knows Mr Lord and Mr Murray as he was a former member of The Soho Society but had not discussed the application with them.

#### 3 DUCK & RICE, FIRST FLOOR, 90-91 BERWICK STREET, W1

##### LICENSING SUB-COMMITTEE No. 4

*Thursday 22nd October 2015*

Membership: Councillor Jean Paul Floru (Chairman), Councillor Susie Burbridge and Councillor Aziz Toki

Legal Adviser: Horatio Chance

Policy Adviser: Chris Wroe

Committee Officer: Jonathan Deacon

Relevant Representations: Environmental Health, 3 residents' associations and 2 local residents.

Present: Mr Gareth Hughes (Barrister, Representing the Applicant), Ms Linda Yau (Applicant Company), Mr Andrew McNulty (Designated Premises Supervisor), Mr Andrew Wong (Solicitor, on behalf of the Applicant), Mr Ian Watson (Environmental Health), Mr Richard Brown (Solicitor, Citizens Advice Bureau Licensing Advice Project, representing The Soho Society), Mr Tim Lord (local resident, witness on behalf of The Soho Society) and Mr

Andrew Murray (local resident and on behalf of Kemp House Residents' Association).

Declaration: The Chairman declared that he knows Mr Lord and Mr Murray as he was a former member of The Soho Society but had not discussed the application with them.

<b>Duck &amp; Rice, First Floor, 90-91 Berwick Street, W1 15/06480/LIPN</b>	
<b>1.</b>	<b>Late Night Refreshment (Indoors)</b>
	Monday to Sunday 23:00 to 01:00.
	Amendments to application advised at hearing:  None.
	Decision (including reasons if different from those set out in report):  The existing premises licence for 90-91 Berwick Street enables the premises to operate as a restaurant on the first floor and a bar on the ground floor with an outside area for tables and chairs. The Applicants sought a new premises licence to extend the proposed hours from Core Hours (23:30 Monday to Thursday, midnight Friday and Saturday and 22:30 on Sunday) to 01:00 Monday to Sunday for licensable activities and a closing time of 01:30. Mr Hughes explained on behalf of the Applicant that a new application had been submitted rather than a variation as the stipulation in the lease agreement with the landlord was for a ground floor public house. There were concerns that if the ground floor was part of the application a decision taken by the Sub-Committee could potentially affect its viability in a commercial sense.  Mr Hughes emphasised that Mr Alan Yau, the owner of Duck and Rice, was a long term investor and restaurateur in Westminster. It was a thriving restaurant on the first floor which had been operating for six months. The Endurance which had been the subject of a review of the premises licence had been replaced by a well-controlled public house on the ground floor. Mr Hughes stated that in relation to the Council's licensing policy, applications for restaurants in the West End Stress Area will be granted subject to other policies and subject to the relevant criteria in Policies CD1, PS1, PN1 and CH1, provided it can be demonstrated that they will not add to cumulative impact in the Stress Areas. Conditions had been proposed by Mr Watson of the Council's Environmental Health Department ("Environmental Health") and the Metropolitan Police with the Police withdrawing their representation. Mr Hughes referred to paragraph 2.5.9 of the Statement of Licensing Policy that 'when considering applications for the sale of alcohol after 01:00 where representations are made on the grounds of prevention of crime and disorder or public nuisance, the council will take into

account the increased likelihood of crime and disorder and the greater disturbance from activities late at night'. In the case of this application alcohol ceased at 01:00 hours.

Mr Hughes and Ms Yau explained that the reason for seeking an extension to the operating hours in the restaurant was to ensure that the last customers to be served had the same dining experience as previous customers and they were not rushed. There were three sittings in the evening and it was expected that each of these would be approximately two to two and a half hours. Mr Hughes made the point that customers would not all be leaving at the same time and the numbers would be reduced considerably by closing time. There would be an arrangement with a taxi firm so that people would be encouraged to wait inside the premises rather than hailing a taxi outside. Door supervisors would be able to direct customers as necessary away from the residential areas and towards Broadwick Street and onwards to Regent Street and Oxford Street.

Mr Hughes commented that his client was not aware of any complaints regarding noise or nuisance emanating from the premises. There were no issues with crime and disorder. There were conditions to prevent noise emanating from inside or outside the building, including managing smokers. There was no live music or dancing. When asked by the Sub-Committee how the application would not add to cumulative impact, Mr Hughes responded that in addition to the conditions agreed with the Responsible Authorities, there would be considerably fewer people leaving the premises nearing the end of closing than would be the case if patrons were leaving a vertical drinking bar or club.

The Sub-Committee heard from Mr Watson. He referred to the fact that there was a capacity of 120 on the ground floor and 100 on the first floor. The premises had previously only operated on the ground floor when it had been a public house. Whilst the new licence for the combined use of the ground and first floors had been granted in 2013, it had in fact opened in April 2015. Mr Watson confirmed that there had been no complaints regarding the operating of the premises since then. However, there had been one complaint in respect of drilling work by builders at the premises at 07:50 in the morning in July 2015. There had been five TENs at the premises where people had dined until 02:00 hours. Mr Watson advised that there were no off-sales and no outside use of the premises as a result of the application. He made the point that the conditions replicated the existing licence. The proposed later terminal hours would mean that people dispersing would need to be properly managed.

The Sub-Committee was then addressed by Mr Brown, representing The Soho Society. Mr Brown stated that in terms of whether the proposed conditions resulted in the Applicant being able to demonstrate that the application would not add to cumulative impact in the Stress Areas, it was the position of the objectors that they did not. The conditions were largely the same as those attached to the existing licence that were designed for a Core Hours licence and the proposed hours for the current application were significantly in excess of the Council's Core Hours policy. He specifically stated that the closing time on Sunday for instance was three hours more than the Core Hours on the existing licence. The conditions were not sufficient for an establishment which closed at

01:30 due to the issues these would cause.

Mr Brown explained that Core Hours on the first floor for the restaurant had been acceptable to local residents, even with the overall increase in capacity at the premises. The new application, if granted, would be confusing in terms of enforcement as there would then be two different terminal hours for the first floor. It would also result in a 'creep effect' and cumulative impact in the area. Whilst Yauatcha in 15-17 Broadwick Street had a terminal hour of 01:00 Monday to Sunday, the cluster of premises in Berwick Street such as The Blue Posts had an earlier terminal hour. The Bar Du Marche had a closing time of 01:00 Monday to Saturday but the sale of alcohol ceased at midnight.

Mr Brown added that the area was becoming increasingly residential. In addition to residential accommodation including at Kemp House and Ingestre Court, Trenchard House would soon be occupied. Cumulative impact was affected by concentration of premises and their operating until later hours. Core Hours were generally seen to be manageable. The later the hour the more of a hurdle the Applicant had to overcome. One of the particularly key issues was dispersal. At the moment customers would have more easily accessible public transport available. However, if the application was granted in full, there would be no underground trains available and customers would either have to use taxis or walk through Soho to reach the regular night buses. Whilst each case was decided on its merits, the Sub-Committee needed to look carefully at applications with a terminal hour of 01:00, particularly within the stress areas, as it was likely to encourage other licensed premises in an area to seek later hours. In the case of the current application, the policy tests could not be overcome due to the late hour, the location and the impact on residents in the vicinity.

Mr Lord spoke as a witness on behalf of The Soho Society, of which he is a member. He stated that there are four restaurants opposite Duck and Rice (two of which were due to open soon). Duck and Rice was twenty yards from his home in Broadwick Street. A specific problem was taxis being used by the various premises stopping on the corner of Broadwick Street and Berwick Street, picking up customers. This was leading to the traffic building up and drivers sounding their horns at night. In addition to the current residents in the vicinity, there would be more residents who would be adversely affected at Trenchard House when it opened. Mr Lord explained that comfort should not be found from the lack of reported noise complaints to the Council's Noise Team. He had made complaints in the past but there was little value in specifically complaining having been woken up as a result of noise from the dispersal of patrons. This was likely to have concluded by the time an officer had called back later at night.

Mr Lord made the point that at the moment he was experiencing noise nuisance until midnight. If the application at Duck & Rice was granted, it would change the area with a closing time of 01:30 Monday to Saturday and would adversely impact on the community. Whilst Alan Yau was an excellent restaurateur, it did not prevent the potential for noise nuisance at a later hour or that he might sell at a later date.

Mr Murray stated that the application with the extension of hours was a part of the 'creep' and transformation of the area which were gradually impacting on the

residents in the locality, particularly those to the north of Brewer Street and Walkers Court. Old Compton Street and Brewer Street had become the centre of nightlife in Soho. He commented that north of Walkers Court was a highly residential area which becomes quieter after Core Hours. In Berwick Street if there was noise after this time it had significantly more impact. Whilst Mr Murray had no concerns in the way Duck & Rice was currently operated, he did have concerns regarding the Applicant's plans for the premises where expansion in his view appeared to be taking place by stealth. These included that in the first instance the use of the first floor in the existing licence for Duck & Rice had been additional space for those who were drinking as well as eating. The Applicant was now coming forward with the case that the Core Hours that was granted previously was not sufficient because it had been calculated that there was not sufficient time to provide the necessary service to customers. Mr Murray did not believe that based on the hours the Applicant proposed to operate, a guarantee could be given that there would be no addition to cumulative impact. It could not be guaranteed that there would be no additional noise disturbance after the current operating hours. He also wished to add that in his view complaints received by the Noise Team were not representative of the whole picture in the area. A low level of public nuisance had a high impact on individual residents' lives.

In response to questions from the Sub-Committee, Mr Hughes advised that the Applicant was amenable to limiting the number of smokers outside to a maximum of five at any one time. His client was also content to agree a latest time after which there would be no admittance or re-admittance to the premises save for those wishing to smoke. This was first proposed as being no later than 23:30 hours.

The Sub-Committee, in reaching their decision, weighed up carefully the Applicant's proposals for the restaurant against the legitimate concerns of the residents. Members overall had concerns that to grant the application in full would add to cumulative impact and would adversely impact on the residents in the locality, particularly as a result of the dispersal of customers. However, Members were also keen to address Ms Yau's request for extra time to ensure that the customers' dining experience was not compromised on the first floor in a way that would not impact on local residents. This could best be achieved if the opening hours and proposed hours for late night refreshment were granted until thirty minutes beyond Core Hours except for Sundays to allow the meals not to be rushed. However, there would be no extension to the proposed hours for the sale of alcohol at the premises. The Sub-Committee attached conditions that there would be no admittance or re-admittance to the premises after Core Hours (23.30 Monday to Thursday, 00:00 Friday and Saturday and 22:30 Sunday) except for patrons permitted to temporarily leave the premises to smoke. Also, patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, would be limited to 5 persons at any one time.

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

Monday to Saturday 10:00 to 01:00  
 Sunday 12:00 to 01:00.

	<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 Core Hours for on-sales of alcohol (23.30 Monday to Thursday, 00:00 Friday and Saturday and 22:30 Sunday).</p>
<b>3.</b>	<b>Seasonal Variations</b>
	<p><u>Late Night Refreshment, Sale by Retail of Alcohol (On) and Opening Hours</u></p> <p>To extend authorised hours on New Year's Eve until the start of 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>
	<p>Monday to Saturday 10:00 to 01:30 Sunday 12:00 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>The Sub-Committee granted from the commencement hour until half an hour beyond Core Hours for the opening hours Monday to Saturday and Core Hours on Sunday (00.00 Monday to Thursday, 00:30 Friday and Saturday and 22:30 Sunday).</p>

## Conditions attached to the Licence

### **Mandatory Conditions**

1. No supply of alcohol may be made at a time when there is no designated premises supervisor in respect of this licence.
2. No supply of alcohol may be made at a time when the designated premises supervisor does not hold a personal licence or the personal licence is suspended.
3. Every supply of alcohol under this licence must be made or authorised by a person who holds a personal licence.
4.
  - (1) The responsible person 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. Substantial food and suitable beverages other than intoxicating liquor (including drinking water) shall be available during the whole of the permitted hours in all parts of the premises where intoxicating liquor is sold or supplied.
10. 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.
11. All waste should be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times save for the waste kept in sealed receptacles off the high way and no glass bottles at all should be placed outside the premises between 22:00 and 08:00
12. The pavement from the building line to the kerb edge immediately outside the premises, including gutter/channel at its junction with the kerb edge, is swept and or washed and litter and sweepings collected and stored in accordance with the approved refuse storage arrangements.
13. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and leave the area quietly.
14. 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.
15. As soon as possible and in any event within 1 month from the grant of this licence, the premises shall join the local pubwatch or local crime reduction scheme approved by the police and local radio scheme, if available.
16. No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
17. Signs to remind their customers to exit the premises very quietly and respect the residential neighbourhood when leaving the premises shall be put up very visibly inside the premises.
18. 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.
19. There shall be no payment made by or on behalf of the licence holder to any person for bringing customers to the premises.
20. During the hours of operation of the premises, the licence holder shall ensure sufficient measures are in place to remove and prevent litter or waste arising or accumulating from customers in the area immediately outside the premises, and that this area shall be swept and or washed, and litter and sweepings

collected and stored in accordance with the approved refuse storage arrangements by close of business.

21. All external doors and windows shall be kept closed after 21.00 hours except for the immediate access and egress of persons.
22. 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.
23. The licence holder shall enter into an agreement with a hackney carriage and/or private carriage firm to provide transport for customers, with contact numbers made readily available to customers who will be encouraged to use such services.
24. 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.
25. On each Wednesday, Thursday, Friday and Saturday, a SIA registered door supervisor shall be on duty on the ground floor entrance in use at the premises after 18.00 hours whilst the premises are open to the public.
26. The number of persons permitted in the premises at any one time (excluding staff) shall not exceed.

First Floor - 100

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

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

28. 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.

29. 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.
30. Licensable activities are permitted on the first floor only.
31. Patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, shall not be permitted to take drinks or glass containers with them.
32. The premises licence holder shall ensure that any patrons smoking outside the premises do so in an orderly manner and are supervised by staff so as to ensure that there is no public nuisance or obstruction of the public highway.
33. There shall be no admittance or re-admittance to the premises after 23.30 Monday to Thursday, 00:00 Friday and Saturday and 22:30 Sunday except for patrons permitted to temporarily leave the premises to smoke.
34. Patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, shall be limited to 5 persons at any one time.

#### **4 TOP DOG EATS, BASEMENT AND GROUND FLOOR, 48 FRITH STREET, W1**

##### **LICENSING SUB-COMMITTEE No. 4**

*Thursday 22nd October 2015*

Membership: Councillor Jean Paul Floru (Chairman), Councillor Susie Burbridge and Councillor Aziz Toki

Legal Adviser: Horatio Chance  
Policy Adviser: Chris Wroe  
Committee Officer: Jonathan Deacon

Relevant Representations: Environmental Health and The Soho Society.

Present: Mr Thomas O'Maoileoin (Solicitor, Representing the Applicant) and Mr Ian Watson (Environmental Health)

**Top Dog Eats, Basement And Ground Floor, 48 Frith Street, W1  
15/05492/LIPV**

1.	<b>Layout alteration</b>
	<p>The Applicant seeks to extend the licence to include an area outside the front of the premises. This area is owned by the licence holders and does not form part of the public highway.</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>This was a variation application to extend the existing licence in order to include an area outside the front of the premises. Mr O'Maoileoin, representing the Applicant, explained that an application had been submitted to vary the layout of the inside of the premises and this had been granted under delegated authority but had mistakenly not included the external area. The outside area is within the ownership of the licence holders and so does not form part of the public highway.</p> <p>Mr O'Maoileoin stated that the Applicant was proposing that the Council's model restaurant condition, which was attached to the existing licence for the internal area of Top Dog Eats, would also apply to the outside area. Alcohol would be ancillary to a table meal and served by waiter or waitress to seated customers. The Applicant had agreed the conditions proposed by the Metropolitan Police and Mr Watson of the Council's Environmental Health Department ("Environmental Health"). The conditions agreed with the Police were the Council's model CCTV and incident log conditions and that all tables and chairs would be removed by 23:00 hours. The Police had subsequently withdrawn their representation. The conditions agreed with Environmental Health were that the number of tables and benches permitted outside the premises would not exceed 2 tables and 4 benches. Mr O'Maoileoin and Mr Watson advised that the benches were less likely to be moved and impact on the highway than chairs. There was also a proposed condition to remove litter or waste outside the premises and ensure it was swept and / or washed. Mr Watson confirmed that he was content with the application, having visited the premises and having had his concerns addressed as a result of the Applicant agreeing the proposed conditions.</p> <p>Mr O'Maoileoin informed the Sub-Committee that he had attempted to contact representatives of The Soho Society but to no avail. He had not received any recent communications from them. He added that the original representation had expressed concerns that table meals would not be provided and there would be the potential for vertical drinking. However, the conditions which his client had agreed would require that substantial table meals were provided and that there could be no vertical drinking.</p>

The Sub-Committee asked Mr O'Maoileoin about the point made in the original Police representation that the Police Licensing Team had undertaken an inspection of the premises in July 2015 and identified breaches of the current licence. This had resulted in a Closure Notice being issued under Part 8 of the Licensing Act 2003. He replied that there had been some initial "teething issues" due to a lack of proper management, as a front door had been left open in the morning when it should have been closed and a child under fourteen had been eating a hot dog in the premises. The management had ensured that lessons were learnt and the Police had since visited and were now believed to be content. This was demonstrated by the withdrawal of their representation.

The Sub-Committee granted the application, considering that the application promoted the licensing objectives (the prevention of crime and disorder, public safety, the prevention of public nuisance, the protection of children from harm) as a result of the conditions being attached to the licence. In addition to the Council's model restaurant condition and the conditions agreed with the Responsible Authorities, the Applicant would be breaching a condition of the licence if noise emanated from the premises which gave rise to a public nuisance. Potentially this could lead to a review of the premises licence. An additional condition was attached to the licence so that the capacity of 12 in the outside area would be included within the existing total capacity of 42 throughout the premises.

### **Conditions attached to the Licence**

#### **Mandatory Conditions**

2. 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**

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

Notwithstanding this condition (a) customers are permitted to take from the premises part consumed and resealed bottles of wine supplied ancillary to their meal and (b) alcohol may be supplied to and/or consumed prior to their meal by customers in the basement up to a maximum, at any one time, of 16 persons dining at the premises.

36. The maximum number of persons accommodated at any one time (excluding

staff) shall not exceed

- Basement 18 persons
- Ground Floor 42 persons (including 12 in the outside area)
- First Floor 30 persons.

37. After 22:00 hours the entrance door shall be kept closed except for immediate access and egress of persons or at any time that regulated entertainment is provided.
38. 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.
39. Clearly legible notices shall be displayed at all exits from the premises requesting patrons to respect the needs of local residents and to leave the premises and area quietly.
40. 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.
41. No rubbish, including bottles, shall be moved, removed or placed in outside areas between 23:00 and 08:00 hours.
42. No deliveries to the premises shall take place between 23:00 and 08:00 hours.
43. 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.
44. 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.
45. 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.
46. 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 are open.
47. Children under the age of 14 will not be permitted to remain in the premises after 21:00 hours.
48. No noise shall emanate from the premises nor vibration be transmitted through the

structure of the premises which gives rise to a nuisance.

49. Loudspeakers shall not be located in the entrance lobby or outside the building of which the Premises form part.
50. Hours for licensable activities and opening may be extended from the end of trade on New Year's Eve to the beginning of trade on New Year's Day.
51. The variation of the Premises Licence 14/03927/LIPN 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. It will include the following works:
  - ground floor: minor changes to back-of-house areas
  - installation of counter/till area.
26. 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.
27. 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.
28. 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. It must be completed within 24 hours of the incident and 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
  - (f) any refusal of the sale of alcohol
  - (g) any visit by a relevant authority or emergency service.
29. The maximum number of tables and benches permitted outside at the front of the premises shall not exceed two tables and 4 benches.
30. All tables and benches shall be removed from the outside area by 23:00 hours each day.
31. 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.

**5 RUBY BLUE, GROUND FLOOR, QUEENS HOUSE, 1 LEICESTER PLACE, WC2**

**LICENSING SUB-COMMITTEE No. 4**

*Thursday 22nd October 2015*

Membership: Councillor Jean Paul Floru (Chairman), Councillor Susie Burbridge and Councillor Aziz Toki

Legal Adviser: Horatio Chance  
Policy Adviser: Chris Wroe  
Committee Officer: Jonathan Deacon

**Ruby Blue, Ground Floor, Queens House, 1 Leicester Place, WC2  
15/06429/LIPV**

Following amendments to the application and as a result of the withdrawal of all representations, the application was granted under delegated powers.

**6 CHINA EXCHANGE, GERRARD BUILDING, 32-35 GERRARD STREET, W1**

**LICENSING SUB-COMMITTEE No. 4**

*Thursday 22nd October 2015*

Membership: Councillor Jean Paul Floru (Chairman), Councillor Susie Burbridge and Councillor Aziz Toki

Legal Adviser: Horatio Chance  
Policy Adviser: Chris Wroe  
Committee Officer: Jonathan Deacon

**China Exchange, Gerrard Building, 32-35 Gerrard Street, W1  
15/07179/LIPN**

The application was granted under delegated powers following the withdrawal of all representations.