



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 28th April, 2016**, Rooms 5, 6 & 7 - 17th Floor, Westminster City Hall, 64 Victoria Street, London, SW1E 6 QP.

**Members Present:** Councillors Tim Mitchell (Chairman), Louise Hyams and Shamim Talukder

#### 1 MEMBERSHIP

There were no changes to the Membership.

#### 2 DECLARATIONS OF INTEREST

There were no declarations of interest.

#### 3 THE WINDSOR CASTLE PUBLIC HOUSE, 98 PARK ROAD, NW1

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

*Thursday 28th April 2016*

Membership: Councillor Tim Mitchell (Chairman), Councillor Louise Hyams and Councillor Shamim Talukder

Legal & Policy Adviser: Barry Panto  
Committee Officer: Andrew Palmer

**Review of the premises licence for The Windsor Castle Public House, 98 Park Road, NW1 4SH  
15/12075/LIREVP**

Application adjourned until a later meeting.

**4 7 SEAS GROCERY STORE (PREVIOUSLY TRADING AS ONE NATION),  
332 KILBURN LANE, W9**

**LICENSING SUB-COMMITTEE No. 1**

*Thursday 28th April 2016*

Membership: Councillor Tim Mitchell (Chairman), Councillor Louise Hyams  
and Councillor Shamim Talukder

Legal and Policy Adviser: Barry Panto  
Committee Officer: Andrew Palmer  
Presenting Officer: David Sycamore

Relevant Representations: The Metropolitan Police and one local resident.

Present: Mr Leroy Adedeji (City Inspector), Mrs Maria Johnson (Senior City  
Inspector), Ms Debra Silvester (Licencing Consultant on behalf of the  
Licensee), Mr Shabir Hussain Gillani (Designated Premises Supervisor) Mr  
Syed Faiz Ul Hassan Shah (Employee at the premises).

**Review of the premises licence for 7 Seas Grocery Store (previously trading as  
One Nation), 332 Kilburn Lane, W9 3EF  
16/02038/LIREVP**

**Summary of application**

An application had been made by the Westminster Licensing Authority to review the premises licence for 7 Seas Grocery Store (previously trading as One Nation), 332 Kilburn Lane, W9 3EF, which operated as an off-licence/convenience store for the sale by retail of alcohol. The sale of alcohol was permitted from Monday to Saturday – 08:00hrs to 23:00hrs and Sunday from 10:00hrs to 22:00hrs.

The application for review related to several alleged breaches of license conditions and selling alcohol past the terminal hour. Late documentation submitted to all parties reported that the premises had continued to sell alcohol after the terminal hours permitted after the review papers had been received.

An application to transfer the premises licence and to change the Designated Premises Supervisor (DPS) was submitted on 11 April 2016, but were both deemed to be invalid.

The review had been supported by the police and a local resident.

**Decision**

Mr Adedeji addressed the Sub-Committee on behalf of the licensing authority, and referred to the history on non-compliance at the premises.

On 7 December 2007 an application for a review of the licence was submitted by the

Metropolitan Police on the grounds of the Prevention of Crime and Disorder and Protection of Children from Harm. The main issues had had related to the sale of alcohol to a person under 18 Years of age as part of a test purchase, sales after hours and alcohol exposed for sale after the permitted hours. The decision after the hearing was that additional conditions be attached to the premises licence. Despite the Police review, the premises had continued to trade unlawfully, and the Licensee and DPS had been formally cautioned for the offence of providing licensable activities otherwise than in accordance with a Premises Licence on 6 December 2008, 2 May 2009 and 4 July 2009.

Despite the history of non-compliance, efforts had been made with the operator to ensure he was aware of his responsibilities. Further instances on non-compliance through the sale and display of alcohol after the permitted hours had been witnessed by City Inspectors on 22 May 2015, 25 May 2015 and 10 June 2015. Under caution, Mr Gillani had advised that he was the owner of the premises and the DPS, and had blamed his staff for the non-compliance. Although Mr Gillani had advised that he was aware of the Police Review, and had admitted that he had been lax in his management of the premises, three further instances of non-compliance through the display and sales of alcohol after permitted hours had been witnessed by City Inspectors on 4 July and 2 August 2015 and 23 January 2016.

In addition, a number of licence conditions had been breached, which included the licence condition relating to the installation and maintenance of CCTV; the sale of beer or cider above 5.5% alcohol by volume; the failure to ensure that alcohol was secured behind locked screens or grilles outside of permitted hours and the sales of alcohol not being supervised by a personal licence holder at all times.

A further statement had been submitted by the licensing authority regarding an inspection on 23 April 2016, this being after the date that the review application had been submitted. On that date, a test purchase of alcohol was undertaken and alcohol was sold by a Mr Shah at 23.12 when the terminal hour for the sale of alcohol was 23.00. As CCTV footage was not available for viewing on that date (as is should have been), the inspectors re-visited the premises on 26 April 2016 and noted that Mr Shah was once again serving at the counter. He was still unable to produce the CCTV footage of the incident on 23 April and indicated that he did not know how to use the system. He didn't even appear to know who the manager of the premises was and said that he did not understand the conditions attached to the licence and was unaware that a review application had been submitted.

Mr Adedeji considered Mr Gillani had been given every opportunity to comply with the conditions of the premises licence and the licensing objectives.

Ms Johnson also addressed the Sub-Committee on behalf of the licensing authority and confirmed that a transfer application and variation had been received naming Mr Syed Faiz Ul Hassan Shah as the new Licensee and DPS, but neither had been valid. Ms Johnson also commented that the authority had no expectation to trust Mr Shah in view of the ongoing problems that had occurred. Ms Silvester confirmed that Mr Sayad Miah and Mr Jawad Hussein who were the named licence holders no longer worked at the premises, which was why they were trying to transfer the premises licence and DPS to Mr Shah. In response to a request for clarification from the Sub-Committee, Ms Silvester confirmed that this was the same Mr Shah that the

City Inspectors had witnessed selling alcohol after the permitted hours on 23 April 2016.

Witness statements relating to all of the above incidents were included in the report to the Licensing Sub-Committee. All of the alleged breaches constituted a breach of sections 136 or 137 of the Licensing Act 2003 (unauthorised licensable activities and exposing alcohol for unauthorised sale).

Ms Silvester addressed the Sub-Committee on behalf of the Licensee, and confirmed that Mr Gillani understood that there had been problems and that the license should have been transferred some time ago, but he had been unwell for several years. Ms Silvester informed the Sub-Committee that Mr Shah had been working in the shop for 5 years, and had been distressed to learn that he had inadvertently sold alcohol 12 minutes after the terminal hour. Ms Silvester also informed the Sub-Committee that on a previous occasion several years ago, Mr Shah had refused to sell alcohol to a customer late at night and had been slashed with a knife, which had resulted in the attacker receiving a prison sentence.

Mr Gillani had fully realised the intention that the premises licence be revoked, so had suggested that the licence be suspended for three months to enable the broken shutters to be repaired and made fully secure so no-one could access alcohol after 23.00hrs. If the Sub-Committee was minded to suspend the premises licence for 3 months, Mr Gillani would request two weeks in which to dispose of the alcohol, after which only groceries would be sold until the suspension came to an end. Mr Gillani still wished to transfer the licence and DPS to Mr Shah, who had worked at the premises for 5 years and was considered reliable.

Ms Silvester also confirmed that high strength alcohol had not been sold at the premises for several months.

The Sub-Committee sought clarification of the training that had been given to the staff at the premises, and Ms Silvester confirmed that Mr Shah and Mr Gillani had personal licences, while other members of staff had not received training. The Sub-Committee noted that the two licence holders were not present at the hearing.

The Sub-Committee also sought clarification of how the Licensee could be trusted to comply with conditions in view of what had happened in the past, and Mr Gillani confirmed that after the three month suspension, no customers would be let into the shop after 23:00hrs, with all shop sales would be made by window service. Mrs Johnson commented that Mr Gillani had previously made this promise when being interviewed under caution in August, but had not put it into effect. A further licensing directive had been broken when CCTV records had been requested and found to be unavailable. Mrs Johnson noted that Mr Gillani had applied for the transfer of the licence and DPS, and suggested that he would still be effectively in control of the premises. Mrs Johnson also suggested that Mr Shah had little understanding of CCTV or the premises' obligations.

Having taken into account all of the evidence, supporting submissions and representations, the Sub-Committee considered the grounds upon which the application for a review of the premises licence had been made.

The Sub-Committee noted that the review in 2007 had been followed by a number of further incidents, which had led to an interview under caution in 2015. The Sub-Committee also noted the suggestion that the licence be suspended for three months while works were undertaken at the premises. In view of the evidence that had been given, the findings of the most recent inspections that had taken place and lack of availability of CCTV information, the Sub-Committee was not confident that the licence holder was a fit person to hold a premises licence or be connected with a licenced premises; and was similarly not confident that Mr Shah would be a responsible Licensee. The Sub-Committee accordingly agreed that a temporary suspension of the license would not be appropriate or proportionate, and further agreed that the premises licence should be revoked.

The Sub-Committee confirmed that the revocation would leave the licence holder or a successor open to apply for a new licence at a future date, and offered informal advice that the licensing authority would need to see evidence of an understanding of the responsibilities of a licence holder; together with evidence of very thorough training for all the people connected with the sale of alcohol on the premises, which would include staff, the DPS and the Licensee.

## **5 CHARLIE BERKELEY, 15-16 BERKELEY STREET, W1**

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

*Thursday 28th April 2016*

Membership: Councillor Tim Mitchell (Chairman), Councillor Louise Hyams and Councillor Shamim Talukder

Legal and Policy Adviser: Barry Panto

Committee Officer: Andrew Palmer

Presenting Officer: David Sycamore

Relevant Representations: The Metropolitan Police, and five local residents.

Present: Sergeant Paul Hoppe (Metropolitan Police), Mr Richard Brown (Solicitor, Citizens Advice Bureau Licensing Advice Project - representing Ms Jaleh Zand, local resident), Mr Grant Bowler (local resident). Mr Philip Kolvin (QC – on behalf of the Licensee), Ms Lana Tricker (Solicitor – on behalf of the Licensee), Mr Paul Smith (Designated Premises Supervisor - and General Manager), Mr Jimmy Mann (Chief Executive, Licensee) and Mr Paul Chung (Managing Director, Licensee).

**Review of the premises licence for Charlie Berkeley, 15-16 Berkeley Street,  
W1J 8DY  
16/02361/LIREVP**

**Summary of application**

An application had been submitted by Sergeant Paul Hoppe of the Metropolitan Police on 3 March, to review the premises licence for Charlie Berkeley, 15-16 Berkeley Street, W1J 8DY on the grounds of Prevention of Crime and Disorder and Public Safety. The review related to an incident on New Year's Eve 2015 going into 1 January 2016. The Police allege that a female had entered the premises sober and had left highly intoxicated, which had made her extremely vulnerable. She left in the company of a male who appeared to know at least one of the door supervisors and who took her to some other nearby premises, falsely claiming to be a door supervisor himself. The male left the female at the premises but she was later taken to some other premises by another male and was allegedly subject to a serious sexual assault. The Police had met with the premises, and talks had ensued about a number of conditions that the Police were seeking to add to the Licence by way of a minor variation with a view to preventing a similar incident from happening again in the future. As no agreement had been reached between the police and the previously instructed solicitor who had been engaged by the premises, the Police had submitted a review which had been supported by a number of local residents.

Late documents had been received from the Police, Ms Lana Tricker and Mr Richard Brown, which had been submitted to all relevant parties. A variation submitted by the Licensee shortly after the application for review had been submitted had been adjourned, and was being dealt with as a separate matter.

### **Decision**

Sergeant Hoppe made an application for a private hearing, on the grounds that a very serious crime investigation that related to the premises was ongoing and that there could be a breach of confidentiality prejudicial to the case if the evidence were to be heard in public. Mr Panto advised the Sub-Committee that the evidence relating to the alleged assault would not need to include details of the persons involved. Mr Panto also advised that although the default position was for review hearings to be held in public, Members had discretion as to whether it would be more appropriate for some evidence to be given in closed session. Sergeant Hoppe informed the Committee that his submission included CCTV recordings which could show the people involved in the criminal proceedings, and that further evidence could come to light that could be prejudicial. Sergeant Hoppe was also concerned for the victim, and over issues of reputation for Charlie Berkeley and other clubs in the area.

Mr Kolvin supported the showing of the CCTV recordings, and considered that the evidence could assist the Licensee's submission in showing the victim's level of inebriation while she was in the club.

The Sub-Committee considered Sergeant Hoppe's application, and agreed that the events that had happened after the victim had left the premises were not a material consideration for the licence review itself. It was decided that the hearing should proceed in public, subject to the hearing moving into private session during the viewing of the CCTV footage. This was to protect the identity of the victim and to ensure that nothing prejudicial to the investigation might inadvertently be seen by members of the public.

The Sub-Committee accordingly agreed that, in accordance with Regulation 14(2) of the Licensing Act 2003 (Hearings) Regulations 2005, the public and press be

excluded from the meeting for the showing of the CCTV recordings, as it was considered that the public interest in excluding the public from that part of the hearing outweighed the public interest in that part of the hearing taking place in public.

After the press and public had left the hearing, Sergeant Hoppe continued his submission with the support of the CCTV footage. The Police considered that a number of licence breaches had occurred, and that the venue had failed in its responsibility to protect its customers. The Sub-Committee noted that an unauthorised male, who was a flatmate of one of the door men, had entered the venue on the evening of 31 December without any screening or checks. The door staff at the venue had appeared to know the unauthorised male but had not informed the management of his presence, which the Police considered to be a counter terrorism issue. The unauthorised male had also taken it upon himself to help the vulnerable female from the venue and take her to other premises, where they were admitted in response to his claim that he was a door supervisor from Charlie Berkeley. After being left at the other premises, she had been picked up by another male and violently assaulted.

Sergeant Hoppe confirmed that following the incident, the member of door staff who had brought the unauthorised male into the premises had been dismissed by the security company.

Following the incident, the Police had carried out a proportionate licensing investigation on the night of the incident, and had found that breaches had occurred in respect of 5 other conditions attached to the Licence:

- Staff outside the premises should wear high visibility jackets or vests
- All persons entering the premises should have their identification scanned
- All persons entering or re-entering the premises should be searched
- SIA staff should remain outside the premises for 1 hour after the permitted terminal hour
- CCTV cameras must be left clear and not obscured.

In response to the incident and breaches of licensing conditions, a number of meetings had taken place between the Police, the venue management, the Designated Premises Supervisor and their licensing advisor, which had been supported by correspondence. The Police had suggested a number of conditions which they thought to be proportionate and appropriate in the circumstances. In doing so, they sought to promote the licensing objectives and improve the management of the venue. These conditions included the need to establish a written process for dealing with 'vulnerable people'; ensuring that staff are trained in how 'vulnerable people' can be identified; and that the venue should enter into an agreement for providing customers with transport home. The Police also suggested that consideration should be given to reducing the terminal hour for all licensable activities in order to lessen the time in which customers could become intoxicated.

Sergeant Hoppe informed the Sub-Committee that although the venue had been initially helpful in providing CCTV footage of the vulnerable female and of the door supervisors who were working on the evening in question, the premises had taken no measurable action, despite repeated requests made by the Police for a response. He indicated that the legal adviser involved at the time wanted to submit a variation

application that dealt with other conditions on the licence whereas the Police wanted to simply attach a number of very specific conditions to deal with the incident that had taken place on New Year's Eve. The Sub-Committee noted that if the lack of response was to continue and a similar incident was to take place, the Police would have no other option than to pursue enforcement action.

Sergeant Hoppe confirmed that following the submission of the application for review, the venue had appointed a new licencing solicitor, who had understood the seriousness of the incident and recognised the problems, and had been working with the Police to find a solution.

Mr Brown addressed the Sub-Committee on behalf of local residents who were in support of the review, and were allegedly being affected by nuisance which regularly occurred outside of the premises. Local residents supported the proposals for a reduction in hours, and also supported a number of model conditions which included no re-admittance; the management of queueing, smoking and drinking outside of the premises; and the management of taxis. The local residents also considered that the premises added to the cumulative impact in the Berkeley Street area, which was against licensing objectives.

Mr Bola addressed the Sub-Committee as a local resident, and endorsed the comments made by the Police and Mr Brown. The Sub-Committee noted his assertion that Berkeley Street had changed from being an area with a predominantly office and residential use, to an area that focussed on night clubs and entertainment, which had led to nuisance arising from customers and taxis. The intimidation of local residents by customers of the venues and associated security concerns had led to the initiation of the Berkeley Street monitoring group, which included licence holders and proactively sought to improve the quality and standard of living in the street. The Sub-Committee noted that Mr Bola also welcomed the proposed restriction on hours.

Mr Panto advised the Sub-Committee on the definition and cause of cumulative impact, and commented that the hours of a given venue could not be reduced in response to general, collective effect that may not relate directly to the premises. In response, Mr Bola considered that the taxi and noise issues were clearly linked with the venue, and would be less if the premises was not used as a night club. Mr Brown also suggested that the issue of cumulative impact should be considered in the context of what was acceptable within a wider area.

Mr Kolvin addressed the Sub-Committee on behalf of the Licensee, and emphasised that nothing within his submission would seek to diminish the seriousness of the crime that had taken place after the victim had left Charlie Berkeley. Mr Kolvin also wished to apologise to Sergeant Hoppe, as it was clear that he had initially wanted conditions added to the licence as a prompt response to the events that had taken on New Year's Eve, and had not wanted the drawn-out process of tidying the licence as a whole. The Sub-Committee noted that the venue had been advised by its previous legal advisor that it was sufficient to carry on under the revised management practice while an application for a variation was being processed. The Licensee had, however, recognised that this stance had caused an unnecessary rupture in its relations with the Police, and had accordingly changed its legal representative. Relations had now been restored, and the Licensee's only desire was to work constructively with all of the responsible authorities. Mr Kolvin also apologised for the



Licensee having to be brought before the Sub-Committee.

Mr Kolvin confirmed that the Licensee was broadly in agreement with all of the conditions suggested by Sergeant Hoppe, subject to some minor changes to drafting. The venue had also received the further submissions and conditions from Mr Brown, and was similarly willing to add most of his proposed conditions to the licence. Mr Kolvin emphasised that relations with neighbours were extremely important to the club; and that the Licensee was an active member of the Pubwatch scheme and a supporter of the Berkeley Street monitoring group, which sought to identify issues in the vicinity and to resolve them. The Sub-Committee noted that the Licensee would, however, resist the proposed reduction in hours, as it was considered that problems of nuisance could be dealt with by the additional conditions.

Mr Kolvin commented on the problems associated with the previous operation of the premises (when it operated as Funky Buddha), and on the improvements that had been made by the current Licensee. Funky Buddha had closed in April 2015 and the premises were not used for 5 months. Charlie Berkeley had opened in September 2015. The Sub-Committee noted that the work had been undertaken on the strength of the hours and conditions of the existing licence, and that the Licensee would do all it could to retain the asset of hours without harming interests of acknowledged importance.

Mr Kolvin highlighted the good record of the venue during its 7½ months of operation, with no police or ambulance call-outs, and no complaints received from the responsible authorities, the monitoring group or local residents. Mr Kolvin considered that there were good reasons for this record, as Charlie Berkeley was a relatively small club which aimed at the top end of the market. Cocktails cost £16 and the cheapest champagne was £360 a bottle. The venue had a capacity of 220 customers and had 55 members of staff, of which 17 controlled and processed customers entering the premises, and 39 (including 5 security staff) were in the basement. The staff to customer ratio was very high. Waiters provided for each table also ensured that clients did not become drunk, and two members of staff had been deputed to liaise with customers who could be vulnerable. At closing time, 13 staff members were stationed outside and inside the premises to ensure a smooth dispersal; and a documented training regime had been put in place supported by daily staff briefings.

Mr Kolvin suggested that the daily disturbance that had been referred to by local residents was not being caused by Charlie Berkeley, as it only operated on Thursday, Friday and Saturday. Mr Kolvin also confirmed that although none of the residents who had made representations attended the meetings of the monitoring group, the Licensee would be willing to enter into further dialogue with them if needed. The Licensee had attended all meetings of the monitoring group which was very active and included all the relevant stakeholders.

With regard to the incident that had instigated the review, Mr Kolvin informed the Sub-Committee that the victim had been having soft drinks during the 45 minutes before leaving the premises, and had spoken to staff and been responsive. The operator had not known that she had left with the unauthorised male, and had been unable to take appropriate steps to ensure her safety. The venue had, however, given maximum assistance to the Police, and 11 actions had been taken in connection with the unauthorised entry. The door supervisor involved was not a

police suspect but had been dismissed from the premises and the actual suspect had never been in Charlie Berkeley at any time. The other person involved who had entered the premises when it had been closed to the public was not a random individual as he was known to the premises.

Mr Kolvin referred to the reasons given to support the request for reduced hours, which concerned intoxication and nuisance, and confirmed that other than the single incident, there had been no allegation of general intoxication by the Police or any regulatory official since the venue had opened. Soft drinks and water were supplied to each table as part of the service. Contact telephone numbers for the venue had been provided to residents, and the Licensee was happy to respond to the issues of nuisance that had been raised. Mr Kolvin also considered that the issue of cumulative impact related to the concentration of a number of premises, and did not provide grounds for a reduction in hours of operation at Charlie Berkeley. He wanted it noted that the Berkeley Street Residents' Association had never raised any concerns about nuisance at Charlie Berkeley via the monitoring group.

As a final submission, Mr Kolvin confirmed that the Licensee had acknowledged the warning that had been given, and considered that the proposed conditions had been an adequate response and reflected good management practice.

In response, Mr Brown commented that the non-attendance at the monitoring group by local residents should not reflect on the validity of their complaints, as it could be difficult for them to attend day-time meetings. Mr Brown also suggested that it was incorrect to say that issues had not been raised with the management. Mr Bowler confirmed that as both he and Ms Zand were private individuals, they did not have time to attend numerous meetings.

Sergeant Hoppe confirmed that the Police were happy with the conditions that had been proposed by the Licensee, but maintained his belief that the victim had become vulnerable while at the premises.

The Sub-Committee joined with the Police and other parties in acknowledging the very serious nature of the criminal offence, and considered that apart from the victim, there was no apparent connection between the assault and the premises. The Sub-Committee did, however, agree that the incident had highlighted concerns about the management of the premises.

Having taken into account all of the evidence, supporting submissions and representations (including detailed written submissions from both the licensee and Ms Zand), the Sub-Committee considered the grounds upon which the application for a review of the premises licence had been made.

With regard to the need to support the licensing objective relating to crime and disorder, the Sub-Committee had considered the concerns raised by the Police in connection the management of the premises, and agreed that sufficient conditions needed to be put in place that would to mitigate the possibility of a similar incident occurring in the future, in which a vulnerable person could become a victim of crime.

With regard to the licensing objective relating to public nuisance, the Sub-Committee noted the evidence received from local residents and the Police regarding queueing, smoking and taxis, and similarly agreed that appropriate conditions should be added that would mitigate the impact of public nuisance on the local community.

With regard to the request by the Police to reduce the terminal hour, the Sub-Committee had not seen sufficient evidence to warrant a reduction in the hours of the premises. The Sub-Committee similarly did not consider it was appropriate to impose the model condition concerning the prohibition of re-entry after a certain hour, but agreed that conditions should be imposed relating to queueing and smoking.

The Sub-Committee thanked all parties for attending the hearing, and commended local residents for highlighting the need for licenced premises to be proactive in working with the local community. The Sub-Committee reminded the local residents that the premises could be subject to further review if matters were not resolved to their satisfaction.

The revised conditions that would be attached to the Licence are set out below.

### **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.

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

10. All persons guarding premises against unauthorised access or occupation or against outbreaks of disorder or against damage (door supervisors must be licensed by the Security Industry Authority).

### **Conditions reproducing the effect of conditions subject to which the relevant existing licences have effect**

### **Conditions relating to Regulated Entertainment**

#### Monday to Saturday

11. This licence is subject to all the former Rules of Management for Places of Public Entertainment licensed by Westminster City Council, in force from 4 September 1998 and incorporating amendments agreed by the Council on 25 October 1999, 30 June 2000, 16 January 2001 and 1 October 2001.

12. On New Year's Eve the premises can remain open for the purpose of providing regulated entertainment from the time when the provision of regulated entertainment must otherwise cease on New Year's Eve to the time when regulated entertainment can commence on New Year's Day (or until midnight on New Year's Eve where no regulated entertainment takes place on New Year's Day).

13. Notwithstanding the provisions of Rule of Management No. 6 the premises may remain open for the purposes of this licence from 11pm on each of the days Monday to Saturday to 03:00 on the day following

14. An attendant shall be on duty in the vicinity of the cloakroom during the whole time that it is in use.
15. The licensee will meet with the Radisson Edwardian Hotel Management on a monthly basis to identify any issues.
16. A member of the management team shall be present outside the premises at all times that the premises are in use under this licence and will undertake a review of procedures taken to monitor the area outside the premises to ensure that there is proper supervision of door staff} valet staff and mini-cab staff and that any potential disturbance is addressed.
17. All refuse sacks containing bottles or glass shall be placed on the highway in a manner which does not cause a disturbance to local residents or hotel guests.
18. A member of staff shall be employed to monitor the CCTV system and report any disturbance to the duty manager.
19. The number of persons accommodated (excluding staff) shall not exceed 220.

### **Conditions related to the Sale of Alcohol**

Monday to Sunday

20. Substantial food and suitable non intoxicating beverages, including drinking water, shall be available throughout permitted hours in all parts of the premises where intoxicating liquor is sold or supplied.
21. On any evening where the premises are open for music, dance or entertainment and in which the sale of alcohol must be ancillary to the use of the premises for music and dancing and substantial refreshment, intoxicating liquor may not be sold or supplied to persons admitted to the premises after 23:00 other than to:
  - a) Persons who have paid a minimum admission fee of at least 25 Sunday to Thursday, and E7 Friday and Saturday for admission (not to be credited against consumables); OR
  - b) Persons who have paid a minimum annual admission fee of at least E 150 payable in advance (not to be credited against consumables). A list of all persons who have paid an annual admission fee will be held for inspection b the relevant authority; OR
  - c) Any person attending a private function at the premises, details of the type of function, host and list of persons attending having been provided to Police at least 24 hours previously: OR
  - d) Artistes or persons employed on the premises; OR
  - e) Bona fide guests of the proprietor (not exceeding 10% of the total capacity for the premises as specified in the Public Entertainment Licence for the premises), a list of whom shall be kept at reception for inspection by appropriate authorities
  - f) Persons taking full table meals a list of whom are held for inspection by the relevant authorities.
22. No striptease, no nudity and all persons to be decently attired.
23. No payment to be made by or on behalf of the premises for distribution of

flyers or tickets within public areas in the Licensing Districts of Westminster.

24. No persons under 18 years of age except those taking a table meal and for those chaperoned by an adult over the age of 21 years those minors not to exceed two persons per adult.

**Conditions which reproduce the effect of any restriction imposed on the use of the premises by specified enactments**

Conditions related to the Sale of Alcohol

25. (i) Monday to Saturday:
- (a) Subject to the following paragraphs, the permitted hours on weekdays shall commence at 10.00 and extend until 03.00 on the morning following, except that -
    - (i) the permitted hours shall end at 00.00 midnight on any day on which music and dancing is not provided after midnight; and
    - (ii) on any day that music and dancing end between 00.00 midnight and 03.00, the permitted hours shall end when the music and dancing end;
  - (b) In relation to the morning on which summer time begins, paragraph (a) of this condition shall have effect -
    - (i) with the substitution of references to 04.00 for references to 03.00.
  - (c) The sale of alcohol must be ancillary to the use of the premises for music and dancing and substantial refreshment;
  - (d) The permitted hours on New Year's Eve will extend to the start of permitted hours on the following day, or if there are no permitted hours on 1 January, to 00.00 on New Year's Eve.
- (ii) Sunday
- (a) On Sundays, other than Christmas Day or New Year's Eve, 12.00 noon to 22.30;
  - (b) On Christmas Day, 12.00 to 15.00 and 19.00 to 22.30;
  - (c) On New Year's Eve on a Sunday, 12.00 to 22.30;
  - (d) On New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day (or, if there are no permitted hours on the following day, 00.00 midnight on 31st December).

NOTE - The above restrictions do not prohibit:

- (a) during the first thirty minutes, twenty minutes on a Sunday after the above hours the consumption of the alcohol on the premises;
- (b) during the first twenty minutes after the above hours, the taking of the alcohol from the premises unless the alcohol is supplied or taken in an open vessel;
- (c) during the first thirty minutes on a Sunday after the above hours the consumption of the alcohol on the premises by persons taking table meals



there if the alcohol was supplied for consumption as ancillary to the meals;

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

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

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

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

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

27. This licence (or certificate) will be subject to any restrictions imposed on the use of the premises by any of the provisions contained in the former Cinematograph (Safety) Regulations 1955 as amended by the Cinematograph (Safety) Regulations 1958, the Cinematograph (Safety) Regulations 1965, the Cinematograph (Safety) (Amendment) Regulations 1976, the Cinematograph (Safety) (Amendment) Regulations 1982 and the Cinematograph (Safety)

(Amendment) Regulations 2002.

28. If any entertainment is provided for children or if an entertainment is provided at which the majority of persons attending are children, then, if the number of children attending the entertainment exceeds 100, it shall be the duty of the holder of the premises licence (or the holder of the club premises certificate):
- (a) to station and keep stationed wherever necessary a sufficient number of adult attendants, properly instructed as to their duties, to prevent more children or other persons being admitted to the building, or to any part thereof, than the building or part can properly accommodate;
  - (b) to control the movement of the children and other persons admitted while entering and leaving the building or any part thereof; and
  - (c) to take all other reasonable precautions for the safety of the children.
29. The terminal hour for late night refreshment on New Year's Eve is extended to 05:00 on New Year's Day.

#### **Annex 2 — Conditions consistent with the operating Schedule**

30. 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.
31. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises is open. 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.
32. All staff engaged outside the entrance to the premises, or supervising or controlling queues, shall wear high visibility yellow jackets or vests.
33. An incident log shall be kept at the premises, and made available on request to an authorised officer of the City Council or the Police, which will record the following:
- (a) all crimes reported to the venue;
  - (b) all ejections of patrons;
  - (c) any complaints received concerning crime and disorder;
  - (d) any incidents of disorder;
  - (e) all seizures of drugs or offensive weapons;
  - (f) any faults in the CCTV system or searching equipment or scanning equipment;
  - (g) any refusal of the sale of alcohol;
  - (h) any visit by a relevant authority or emergency service.
34. a). All drinking vessels used in the venue shall be polycarbonate. All alcohol in glass bottles are to be decanted into polycarbonate containers or polycarbonate carafes prior to being served, with the exception of champagne

or bottles of spirits with a minimum size of 70cl supplied by waiter/waitress service to tables. Staff shall clear all empty champagne and spirit bottles promptly from the tables. Customers shall not be permitted to leave their table carrying any such glass bottles or drink directly from the bottle.

b). Notwithstanding a) above, with the written agreement of the Westminster Licensing Police, a copy of which will be held at the premises reception, glass drinking vessels may be used for private or pre-booked events within the lounge/club area.

35. No drinks shall be consumed outside the premises nor glasses/bottles removed from the premises by patrons when leaving.
36. All customers entering the premises shall have their ID scanned on entry, save for a when biometric scanning system is in place (when fingerprint scanning will be required for all customers who have previously shown identification at the premises.), with the exception of a maximum number of 10 guests per night who may be admitted at the managers' discretion without ID being scanned. A legible record of those persons' full names, date of birth and address shall be retained at the premises available for inspection for a period of not less than 31 days together with the name of the manager authorising the admittance which shall also be recorded. The details recorded by the ID scanner system shall be made available to the Police upon reasonable request.
37. All persons entering or re-entering the premises shall be searched as stipulated by Westminster Police Licensing Team, by an SIA trained member of staff and monitored by the premises CCTV system.
38. All persons with the exception of staff, shall have left the premises no later than 30 minutes after the permitted terminal hour for the retail by sale of alcohol.
39. A minimum of two SIA security and a member of management will remain outside the premises for one hour after the permitted terminal hour for the sale by retail of alcohol.
40. All promoted nights shall be notified to the Metropolitan Police Service and a form 696 completed and submitted within 14 days prior to the event, or such less time as agreed with the Police from time to time. Upon a reasonable request by Police the venue will not run any such event.
41. Refuse shall not be placed on Berkeley Street at anytime.
42. All staff engaged outside and in the entrance lobby to the premises, or supervising or controlling queues shall wear high visibility yellow jackets or vests.
43. In the event that a serious assault is committed on or immediately outside the premises (or appears to have been committed) to the managements knowledge, the management will immediately ensure that:
  - (a) The police (and where appropriate, the London Ambulance service) are called without delay, using telephone number 999;
  - (b) All measures that are reasonable practicable are taken to apprehend any suspects pending the arrival of the Police;
  - (c) As is reasonably practicable, the crime scene is preserved so as to enable a full forensic investigation to be carried out by the Police; and

- (d) Such other measures are taken (as appropriate) to fully protect the safety of all persons present on the premises.

Serious assault includes (but is not limited to) any assault in which emergency medical treatment is required and any assault in which a weapon is used.

44. The variation of the Premises Licence (15/05793/LIPV) to include (vary the basement layout as per drawing 1649-LOI Rev d comprising a re-arrangement of the fixed seating in the main floor area and repositioning of the bar in the Haig Club) 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.

### **Annex 3 — Conditions attached after a hearing by the licensing authority**

45. The hours for the sale of alcohol on Sundays are extended on Sundays before a Bank Holiday by four hours and thirty minutes from 22:30 to 03:00 the day following for private pre-booked functions, with prior notification of the functions to be given to the proper officer at Westminster City Council and the Metropolitan Police Service 7 days in advance of the requested function; Westminster City Council and the Metropolitan Police shall have absolute right of veto to a function.
46. Late Night Refreshment is permitted on Sundays before a Bank Holiday from 23:00 to 03:00 the day following for private pre booked functions, with prior notification of the functions to be given to the proper officer at Westminster City Council and the Metropolitan Police Service 7 days in advance of the requested function; Westminster City Council and the Metropolitan Police shall have absolute right of veto to a function.
47. All operational staff (including any contracted staff such as security) are to be trained in identifying 'vulnerable people'. A record of this training is to be signed by each member of staff, a copy of which will be retained at the venue for inspection by the Police or an authorised officer of the Council.
48. All door supervisors are to present their personal SIA identification badge to the Duty Manager before starting work. All door supervisors will personally enter their details (name, and SIA identification badge number) into the door supervisor's log sheet and sign the log sheet, a copy of which will be retained for a minimum of 31 days for inspection by the Police or an authorised officer of the Council.
49. All CCTV cameras will be fully functional as per Annex 2 Condition 30. Prior to opening the venue the Duty Manager will ensure that nothing obstructs the full recording angle of every camera.
50. The licence holder shall ensure that all persons entering the premises outside of its trading period are verified and can be accounted for by a written entry in the premises' sign in log/diary/memo and/or by a work order/invoice and that a legible record be retained for 31 days for inspection by the Police or an authorised officer of the Council.

51. There shall be a written training document/policy for dealing with 'vulnerable people'. This document/policy shall be reviewed every year on or before 1<sup>st</sup> April and signed each year as current by the DPS.
52. All persons signed in by the management team (as per condition 36) shall provide the following information to the countersigning manager who shall clearly record:-
- First name
  - last name
  - date of birth
  - address
  - time of entry
  - full name of their host (if any)
- A legible record of this information shall be retained for 31 days for inspection by the Police or an authorised officer of the Council.
53. 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. The venue shall record every attempt to obtain transport home for patrons on their behalf through this hackney carriage and/or private firm. For the avoidance of doubt, there is no requirement for the licence holder to record transport provided to patrons who are utilising the hackney carriage service which is located immediately outside the front door of the premises unless the patron using that service is identified as a 'vulnerable person' in which case a record of the transport shall be kept by the licence holder.
54. Support shall be given to the Berkeley Street monitoring scheme including material financial contribution to any paid enforcement scheme.
55. 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. If the manager changes then the name and contact number shall be distributed as soon as possible.
56. The licence holder shall ensure that any queue to enter the premises which forms outside the premises is orderly and supervised by door staff so as to ensure that there is no public nuisance or obstruction to the public highway.
57. No fumes, steam or odours shall be emitted from the licensed premises so as to cause a nuisance to any persons living or carrying on business in the area where the premises are situated.
58. Patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, shall be limited to 15 persons at any one time.
59. Patrons permitted to temporarily leave and then re-enter the premises to smoke shall be restricted to a designated smoking area defined as Area A up until no later than 01:00 hours and thereafter as Area B, both areas to be clearly shown on the plan attached to this licence.

60 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.

**Annex 4 — Plans**

**Attached**