



CITY OF WESTMINSTER

MINUTES

Licensing Sub-Committee (5)

MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (5)** Committee held on **Thursday 26th May, 2016**, Rooms 5, 6 & 7 - 17th Floor, Westminster City Hall, 64 Victoria Street, London, SW1E 6 QP.

Members Present: Councillors Angela Harvey (Chairman), Louise Hyams, Aziz Toki and Tim Mitchell

1 MEMBERSHIP

Councillor Tim Mitchell replaced Councillors Louise Hyams and Aziz Toki for the items Regent's University London, Regent's College, Inner Circle, Regent's Park and Pappiland Café, Ground Floor, 12 Norfolk Place, W2.

2 DECLARATIONS OF INTEREST

Councillor Angela Harvey declared in respect of The Pavilion, Merchant Square, W2 that she had known Dr Michael Clarke in his professional capacity as a medical doctor since the 1980s. She had not discussed the application with him prior to the hearing. Councillor Louise Hyams declared that Yosma Restaurant is located within the Ward she represents, St James's Ward. She declared that she knows Mr Hughes as he has previously worked at City of Westminster Council and also representatives of the Covent Garden Community Association as they are a recognised amenity society in St James's Ward. She was able to consider the matter impartially. Councillor Louise Hyams declared that Aquavit is located within the Ward she represents, St James's Ward.

3 THE PAVILION, MERCHANT SQUARE, W2

LICENSING SUB-COMMITTEE No. 5

Thursday 26th May 2016

Membership: Councillor Angela Harvey (Chairman), Councillor Louise Hyams and Councillor Aziz Toki

Legal Adviser: Barry Panto

Policy Adviser: Chris Wroe

Committee Officer: Jonathan Deacon

Presenting Officer: Nick Nelson

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

Present: Mr Alun Thomas (Solicitor, representing the Applicant), Mr Andrew Scrivener (Development Director, European Land), Mr Anil Drayan (Environmental Health), Mr Richard Brown (Solicitor, Citizens Advice Bureau Licensing Advice Project – representing Dr Michael Clarke and Mr John Zamit, South East Bayswater Residents' Association), Dr Michael Clarke (local resident) and Mrs Elizabeth Virgo (Paddington Waterways & Maida Vale Society)

Declaration: Councillor Angela Harvey declared that she had known Dr Michael Clarke in his professional capacity as a medical doctor since the 1980s. She had not discussed the application with him prior to the hearing.

The Pavilion, Merchant Square, W2 16/01609/LIPN	
1.	Provision of films (indoors)
	Monday to Sunday: 12:00 to 23:00
	Amendments to application advised at hearing: During the hearing Mr Thomas offered to amend this aspect of the application to Core Hours on Sundays (22:30 hours).
	Decision (including reasons if different from those set out in report): The Sub-Committee initially heard from Mr Thomas and Mr Scrivener. They stated that European Land owned the land north of the Paddington Basin. The Paddington Square development was a mixed use pedestrianised area which included office, retail and residential use. The Pavilion had been constructed as a marketing suite. However, whilst three main buildings were being built, it was proposed to use The Pavilion to house pop-up events. Mr Thomas and Mr Scrivener looked to re-assure those present that there would always be security present on the estate. All guards would have radios and there were CCTV cameras on site. Mr Thomas stated that planning permission had very recently been granted for The Pavilion until November 2016 and a capacity had been permitted of 60 people. He added that the advice he had received was that there was the potential for the capacity to reach 100 subject to suitable means of escape. The Applicant had agreed with Environmental Health that there would be no off-sales and no alcoholic drinks would be taken outside. Mr Scrivener informed the Sub-Committee that those wishing to smoke would be encouraged to do so in an area on the office side of The Pavilion near to the

escape door. This would be the opposite side of the building from the residents in Merchant Square.

Mr Thomas and Mr Scrivener made a number of points in response to questions from the Sub-Committee. They stated that there was no entrance on the office side of The Pavilion but that it would only take a matter of seconds if patrons wished to go to the designated smoking area. The Pavilion was soundproofed and double glazed so they did not believe that there would be noise breakout or public nuisance caused to residents. The Applicant had submitted an acoustic report by Spectrum Acoustic Consultants which had reached this conclusion. Admission to the premises whilst licensable activities were being carried out would be restricted to customers attending pre-booked and/or ticketed functions. Members asked whether that meant that a customer could buy a ticket on the day. Mr Thomas replied that it did but that the premises would not be a public house or bar.

Members of the Sub-Committee asked for clarification on the nature of the events that would be held at The Pavilion. Mr Thomas replied that the Applicants did not have exact details of what would take place but would control how the building operates. Members emphasised the need for the Applicant to regularly consult residents on potential events. Mr Scrivener commented that he would be content for the telephone number of the onsite office to be made available to residents. The Applicant would also be prepared to keep residents informed via the website and the intranet in the resident buildings of booked events. Mr Thomas explained that the frequency of events at this point depended on the interest the pop-up concept generated at this location. There had been a lot of interest to date. He felt it was unlikely that The Pavilion would be used for events seven days a week.

Mr Wroe asked whether the Applicant had considered restricting the timings of installations and setting up for pop-up events. Mr Scrivener replied that there were existing units on site which could hold equipment and the type of activity would be relatively small scale. Mr Panto asked about the long term planning for The Pavilion. Mr Scrivener responded that if the events were successful the Applicant would like to extend the planning permission beyond November 2016. It was confirmed that The Pavilion was as part of planning permission required to be replaced by open space by 2019.

The Sub-Committee was next addressed by Mr Drayan on behalf of Environmental Health. He stated that he had not believed it necessary to control the setting up of equipment as the events would be organised in advance and during normal working hours. It would be very rare for this process to take place overnight. The Applicant would be required under the terms of a condition agreed with Environmental Health to supervise patrons outside, including that the patrons smoke in an orderly manner. The Applicant had permanent security. Mr Drayan added that Environmental Health was satisfied with the proposed conditions agreed by the Applicant and had no further objections.

Members next heard from Mr Brown, representing Dr Clarke and Mr Zamit. Mr Brown requested that photographs were shown to the Sub-Committee to illustrate how close The Pavilion is to the Merchant Square flats. Mr Clarke had

described it in his written representation as being 'approximately 25 feet away'. Mr Brown stated that the main concern for residents was that they would be adversely affected by noise. There was a lack of clarity in the application regarding the pop-up events. The range of the events was potentially wide. He recommended that on this occasion a time limited grant was given by the Sub-Committee in line with the planning permission until November 2016 to assess the impact of the events. He informed the Sub-Committee that Dr Clarke's experience was that the noise currently experienced by residents was worse depending on what level the flat was on. The higher the flat the worse the noise experienced.

Mr Brown referred to residents who had already been affected by nuisance from the Grand Union pub. He questioned how comprehensive the Applicant's acoustic report was. There could potentially be a capacity of 100 depending on what was agreed with Environmental Health. The report had referred to cinema or summer club events. However, entertainment was de-regulated and musical events were an entirely different matter. The Pavilion had been designed as a marketing suite. Mr Brown expressed the view that whilst it was helpful to have a designated smoking area on the office side of the building, people would have to be directed there and there was the potential for patrons to sit on the benches or below the residents' balconies smoking. It was noted that there were no benches on the office side. Mr Scrivener responded that security would control the area in a well-managed way.

Mr Brown requested that conditions were attached to the premises licence limiting the maximum number of smokers in the designated area and that patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, would not be permitted to take drinks or glass containers with them. He proposed a maximum of 4 or 5 smokers at any one time. The Applicant had agreed that there would be no drinks taken outside. Mr Brown also asked Members for an earlier terminal hour for licensable activities and opening hours. He proposed 21:00 hours. He made the point that 23:00 was particularly late on a Sunday in this area. Mr Brown asked the Applicant about delivery and collection times for the building. Mr Thomas replied that deliveries and collections would take place at sociable hours and that these would not take place on Sundays.

Dr Clarke referred to the planning approval which had very recently been granted for The Pavilion which required details of each event to be submitted. He made the point that these details could be given to residents at the same time. He also drew attention to the planning permission stipulating a capacity of 60 people. He was advised that Environmental Health would set the capacity. Mr Drayan clarified that the capacity would depend on measures taken by the Applicant such as means of escape provided, alarms and stewarding and also potential sources of fire. It was noted that there were no cooking facilities.

Dr Clarke's key concerns included live music emanating from the building. The Pavilion had been designed as a show flat. He referred to noise travelling outwards and upwards into the flats. He was also concerned that patrons would drink and talk loudly outside the premises. It was important that they were not permitted to drink outside. He believed that it should be possible for patrons to

enter and exit the building on the office side. Dr Clarke recommended that the terminal hour for licensable activities and opening hours should be 21:00 or 22:00 Monday to Saturday and earlier than that on Sundays. Patrons who were smoking needed to be dissuaded from doing so on the benches or in close proximity to residents' flats. He also raised the matter of having experienced some nuisance from patrons of KuPP in Merchant Square (it was confirmed that the Applicant owned this premises).

The Sub-Committee asked whether drinking outside was permitted in the public areas in the mixed use development. Mr Thomas replied that people did have lunch there and security did not prevent them from having a glass of wine. Mr Scrivener added that people would be moved on by security if there was the danger of anti-social behaviour. He described the area as previously being derelict prior to the mixed use development taking place there and prone to anti-social behaviour. People were encouraged to use the public areas. Mr Drayan wished to make the point that events being pre-booked and ticketed would prevent the need for a condition to be added that there would be no permanent bar at the premises.

Ms Virgo, Chairman of the Paddington Waterways & Maida Vale Society stated that the particular problem with the application was the vagueness of the proposals. She questioned whether the acoustics had been tested for all eventualities such as karaoke. It would be beneficial if there was no drinking and smoking was effectively supervised. She believed that extensive use of the premises would be disquieting for residents.

Mr Thomas responded to some of the points raised by the residents. He referred to having to vary the planning permission if a capacity of more than 60 or a longer term was permitted as part of the licensing application being granted. He believed the acoustic report had demonstrated that The Pavilion would prevent noise escape. It was the case that live music was de-regulated. The cinema would not have big speakers. No drinks would be permitted outside. He amended the proposed hours on Sundays to Core Hours. A condition was offered that the telephone number of the Applicant would be made available to local residents and businesses. Mr Scrivener was able to inform in response to a question from the Sub-Committee that there would be five to ten security staff available at any one time.

Mr Panto advised the residents that it was not in the discretion of the Sub-Committee to grant a time limited application unless the Applicant was willing to make such an offer. Mr Thomas stated that his client did not wish to offer this.

The Sub-Committee considered that the open ended proposals for pop-up events at the premises were an unknown quantity. The Pavilion was in very close proximity to residents. A venue holding entertainment events had not been envisaged when the original plans for the site were approved by the Council. Instead it was designed to be a public open space which residents, office workers and passers-by could use. Members completely understood why local residents were concerned by the proposals. Members of the Sub-Committee decided not to require prior approval of events. This had already been required in the planning permission. However, in granting the application,

the premises licence would be carefully conditioned and the hours would be reduced from those applied for in order to promote the licensing objectives, notably to prevent public nuisance. The hours granted were Monday to Saturday 12:00 to 22:00 and Sunday 12:00 to 21:00. The Chairman reminded those parties objecting to the application that should the licensing objectives be undermined as a result of the operation of the premises they would have the option to submit a review of the premises licence.

Conditions attached to the premises licence by the Sub-Committee included Mr Brown's request that there was a limited maximum number of smokers in the designated area (the Sub-Committee decided on a maximum of six and in line with the advice of the Applicant set the designated smoking area to the west of the building with an updated plan needing to reflect this) and that patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, would not be permitted to take drinks or glass containers with them. Residents would need to be notified when functions and events were confirmed. The method of communication was not prescribed as long as residents were advised at the earliest possible opportunity. A direct telephone number for the manager at the premises would be publicly available at all times the premises is open. This telephone number would be made available to residents and businesses in the vicinity. No rubbish including bottles would be permitted to be moved, removed or placed in outside areas on Monday to Saturday between 2200 hours and 0800 hours on the day following and not at all on Sunday. The setting up and dismantling of events and functions would only be able to take place between Monday and Saturday 08:00 to 22:00 and Sunday 10:00 to 22:00. The Sub-Committee also decided that the capacity would not exceed 60 people and that all doors and windows would be closed after 21:00 hours to prevent the possibility of residents being adversely affected by noise outbreak later in the evening.

2.	Sale by Retail of Alcohol (On)
	Monday to Sunday: 12:00 to 23:00
	<p>Amendments to application advised at hearing:</p> <p>During the hearing Mr Thomas offered to amend this aspect of the application to Core Hours on Sundays (22:30 hours).</p>
	<p>Decision (including reasons if different from those set out in report):</p> <p>The hours granted by the Sub-Committee were Monday to Saturday 12:00 to 22:00 and Sunday 12:00 to 21:00, subject to conditions as set out below (see reasons for decision in Section 1).</p>
3.	Opening Hours
	Monday to Sunday: 12:00 to 23:00

	<p>Amendments to application advised at hearing:</p> <p>During the hearing Mr Thomas offered to amend this aspect of the application to Core Hours on Sundays (22:30 hours).</p>
	<p>Decision (including reasons if different from those set out in report):</p> <p>The hours granted by the Sub-Committee were Monday to Saturday 12:00 to 22:00 and Sunday 12:00 to 21:00, subject to conditions as set out below (see reasons for decision in Section 1).</p>

Conditions attached to the Licence

Mandatory Conditions

1. No supply of alcohol may be made at a time when there is no designated premises supervisor in respect of this licence.
2. No supply of alcohol may be made at a time when the designated premises supervisor does not hold a personal licence or the personal licence is suspended.
3. Every supply of alcohol under this licence must be made or authorised by a person who 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. Admission to the premises whilst licensable activities are being carried out is restricted to persons attending pre-booked and/or ticketed functions.

10. 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.

11. 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.

12. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the entire 31 day period.

13. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises are open. This staff member must be able to provide a Police or authorised council officer copies of recent CCTV images or data with the absolute minimum of delay when requested.

14. No noise generated on the premises, or by its associated plant or equipment, shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.

15. Loudspeakers shall not be located in the entrance lobby or outside the premises building.
16. Flashing or particularly bright lights from the premises shall not cause a nuisance to nearby properties.
17. Residents shall be notified when functions and events are confirmed. 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.
18. No rubbish including bottles will be moved, removed or placed in outside areas on Monday to Saturday between 2200 hours and 0800 hours on the day following and not at all on Sunday.
19. All waste is to be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
20. The number of persons permitted in the premises at any one time (excluding staff) shall not exceed 60 persons.
21. 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.
22. A Challenge 21 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport or proof of age card with the PASS Hologram.
23. 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.
24. Any special effects or mechanical installations shall be arranged and stored so as to minimise any risk to the safety of those using the premises. The following special effects will only be used on 10 days prior notice being given to the Environmental Health Consultation Team where consent has not previously been given:

- (a) dry ice and cryogenic fog
- (b) smoke machines and fog generators
- (c) pyrotechnics including fire works
- (d) firearms
- (e) lasers
- (f) explosives and highly flammable substances
- (g) real flame
- (h) strobe lighting.

25. The approved arrangements at the premises, including means of escape provisions, emergency warning equipment, the electrical installation and mechanical equipment, shall at all material times be maintained in good condition and full working order.
26. The means of escape provided for the premises shall be maintained unobstructed, free of trip hazards, be immediately available and clearly identified in accordance with the plans provided.
27. The edges of the treads of steps and stairways shall be maintained so as to be conspicuous.
28. Curtains and hangings shall be arranged so as not to obstruct emergency signs.
29. All fabrics, curtains, drapes and similar features including materials used in finishing and furnishing should be either non-combustible or be durably or inherently of flame-retarded fabric. Any fabrics used in escape routes, other than foyers, entertainment areas or function rooms, should be non-combustible.
30. All scenery should be maintained suitably flame retarded to the appropriate standards.
31. The certificates listed below shall be submitted to the Licensing Authority upon written request:
- (a) any emergency lighting battery or system
 - (b) any electrical installation
 - (c) any emergency warning system
32. All electrical sockets used to supply power for hand held electrical equipment shall be protected by a residual current device of 30 milliamps sensitivity complying with British Standard Specification 4293: 1993.
33. No person shall give at the premises any exhibition, demonstration or performance of hypnotism, mesmerism or any similar act or process which produces or is intended to produce in any other person any form of induced sleep or trance in which susceptibility of the mind of that person to suggestion or direction is increased or intended to be increased.

NOTE: This rule does not apply to exhibitions given under the provisions of

Section 2(1A) and 5 of the Hypnotism Act 1952.

34. The setup and dismantling of events and functions shall be restricted to the following times:

Monday to Saturday 08:00 to 22:00
Sunday 20:00 to 10:00.

35. Patrons permitted to temporarily leave and then re-enter the premises to smoke shall be restricted to a designated smoking area defined as the west side of the building near the fire exit.
36. Patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, shall be limited to 6 persons at any one time
37. All windows and external doors shall be kept closed after 21:00 hours, or at any time when regulated entertainment takes place, except for the immediate access and egress of persons

4 YOSMA RESTAURANT, DRURY HOUSE, 34-43 RUSSELL STREET, WC2

LICENSING SUB-COMMITTEE No. 5

Thursday 26th May 2016

Membership: Councillor Angela Harvey (Chairman), Councillor Louise Hyams and Councillor Aziz Toki

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

Relevant Representations: Licensing Authority, 1 Residents' Association and 11 x local residents.

Present: Mr Gareth Hughes (Solicitor, representing the Applicant), Mr Dave Nevitt (Environmental Health, acting as a witness at the hearing), Mr Sanjay Nandi (Director, Applicant Company), Ms Sophie Jones and Mr Hus Vedat (Applicant Company), Ms Heidi Lawrance (Licensing Authority), Mr Richard Brown (Solicitor, Citizens Advice Bureau Licensing Advice Project – representing local residents) and Ms Miray Kester, Mr Mark Genet and Ms Jane French (local residents)

Declaration: Councillor Louise Hyams declared that Yosma Restaurant is located within the Ward she represents, St James's Ward. She declared that she knows Mr Hughes as he has previously worked at City of Westminster Council and also representatives of the Covent Garden Community Association as they are a

recognised amenity society in St James's Ward. She was able to consider the matter impartially.

Yosma Restaurant, Drury House, 34-43 Russell Street, WC2 16/02519/LIPN	
1.	Late Night Refreshment (Indoors and Outdoors)
	Monday to Thursday: 23:00 to 23:30 Friday to Saturday: 23:00 to 00:00
	Amendments to application advised at hearing: Mr Hughes advised during the hearing that the aspect of the application relating to late night refreshment (outdoors) had been withdrawn. He further confirmed that there would be no take away of food and drink after 23.00.
	Decision (including reasons if different from those set out in report): The Sub-Committee initially heard from Mr Hughes, representing the Applicant. He had been asked by Mr Panto whether he had any objection to Councillor Hyams sitting at the hearing as the Council's Rules of Procedure states that Members will 'not normally' consider applications in their own ward. There is nothing in law which prevents a ward councillor from considering an application in his or her own ward. Mr Hughes replied that he had no objection to Councillor Hyams sitting. Mr Hughes confirmed at the hearing that his client had reduced the proposed terminal operating hours for the Turkish restaurant in keeping with the Council's Core Hours policy. This would also be reflected in the closing time. His client was seeking the flexibility to provide breakfast from 08:00 when it was proposed the restaurant would open. Mr Hughes stated that the Applicant had taken into account the comments of those who had made representations. There would be no recorded music or any other type of regulated entertainment. The Applicant had agreed that the premises would operate in accordance with the model restaurant condition, MC66. The bar area would only be used by customers who were waiting to be seated at a table in the main restaurant area or for those who have finished a table meal. The service of alcohol in the bar area would be by waiter or waitress. In consultation with the Covent Garden Community Association ('CGCA'), timings for waste collections and deliveries were put forward for 08:00 to 20:00 Mondays to Saturdays and 10:00 to 20:00 on Sundays. There would also be a last entry time for customers to the premises of 30 minutes prior to the end of licensable activities. Mr Hughes made the point that there had been a planning application to move the restaurant entrance from the junction with Russell Street and Drury Lane to

the other side of the building on the corner of Crown Court and Russell Street. A decision was awaited on the planning application. The original entrance could only be used as a disabled access, those accessing the offices or as a fire escape. It was proposed that alcohol could be consumed on the private forecourt outside and would constitute on-sales. Tables and chairs were sought on Russell Street and Crown Court. They would require tables and chairs licences.

Ms Kester was permitted to address the Sub-Committee prior to the Responsible Authorities as she needed to leave the hearing in the next few minutes. She lives in Peabody Estate, in close proximity to the premises. She stated she had been objecting to the application being granted. However, she was grateful that the proposed hours had now been reduced. She still had concerns regarding tables and chairs outside being positioned on Russell Street as the location was a narrow walkway. She also had concerns regarding the potential for deliveries to the corner of Russell Street and Drury Lane. Delivery vans tended to park on the corner of Russell Street and Drury Lane and directly outside her premises. Ms Kester questioned whether the restaurant would have outside advertising as this had the potential to shine a light into her property. Mr Hughes replied that deliveries would not take place to the entrance on the corner of Crown Court and Russell Street. There would be no outside advertising with lighting.

Mr Nevitt had intended to make a representation on behalf of Environmental Health but was deemed not to have done so within the allotted deadline. Mr Nevitt informed the Sub-Committee this was due to a technical error. He was available to answer questions and it was agreed by all parties that he should speak. Mr Hughes stated that he was content to have Mr Nevitt act as a witness for the Applicant in order that he was able to assist those present with the provision of additional information. Mr Nevitt had given the Applicant some pre-application advice and they had discussed the application during the consultation period. Mr Nevitt was asked for his view on the capacity of the premises. He replied that there was the potential for the premises to allow for a capacity of 200 people. However, currently the building was an empty shell and Environmental Health would want to assess the works when completed. If they built the premises in accordance with the plan, 150 persons would certainly be acceptable. Mr Hughes confirmed that the Applicant did not intend to exceed a capacity of 150 persons. Mr Nevitt was confident that there was good acoustic integrity inside the premises and there should not be noise outbreak. There was a stringent plant equipment condition in the planning permission.

Mr Nevitt stated that he had advised Mr Hughes that there should always be a two metre clearance between the edge of the curb and where the tables and chairs were located. There was sufficient clearance in Russell Street. However, he recommended that the Applicant only retain tables and chairs in Crown Court as it was too far for staff to walk along Russell Street with food and drink. There was much less street furniture in Crown Court. Crown Court however was quieter and Mr Nevitt expressed the view that movement of tables and chairs in particular at a later hour there could be a source of nuisance to local residents.

Ms Lawrance informed the Sub-Committee that the Applicant had addressed the Licensing Authority's concerns, having amended the hours, withdrawn recorded

music and agreed the Council's model restaurant condition. Her representation had been maintained as the application was for a new premises licence within the West End Cumulative Impact Area.

Ms French, a local resident, asked where rubbish collection vehicles would park to service the restaurant. She was concerned they would do so in Drury Lane. There were issues with vehicles double parking in Russell Street, including coaches bringing people for theatre matinees on Wednesday and Saturday afternoons. She also asked where the designated smoking area would be and where customers would wait for taxis. Mr Hughes proposed that the smoking area would be near the tables and chairs on the private forecourt in Russell Street. A door manager would oversee that customers would wait for taxis in the bar area as part of the dispersal policy. There would be an arrangement with a taxi company. The Applicant had agreed conditions that rubbish would not be collected after 20:00 and drivers would only be able to stop on Russell Street only. Mr Nevitt added that from a public safety point of view operators would need to ensure that there were no risks caused to the public by deliveries.

Mr Genet stated that he had been a resident of Crown Court for 23 years. He commented that the biggest concern residents had at this location was having tables and chairs there, particularly at night. He requested that there was no further use after 20:00. There were also concerns regarding collection of bottles and smoking in the area. It was like an echo chamber in Crown Court and it was possible to hear people talking on their mobile phones. The area needed to be managed so that people were directed from Crown Court and did not remain there to smoke or wait for taxis.

Mr Brown requested that Model Condition 35 was attached to the premises with the same hours as had been agreed by the Applicant for deliveries and collections. This would be that no waste or recyclable materials, including bottles, shall be moved, removed from or placed in outside areas between 20.00 hours and 08.00 hours on the following day. He made the case for tables and chairs use outside the premises concluding at 20:00 hours which could be used by the pre-theatre customers. He asked the Applicant whether it was intended to have any takeaway food and drink. Mr Hughes replied that this would not take place after 23:00 hours and this licensable activity was therefore being withdrawn. The Sub-Committee noted that this was a requirement of the Council's model restaurant condition that the applicant had now agreed to in any event. Mr Brown also requested Model Condition 60 requiring the licence holder to enter into an agreement with a private taxi firm in order to try and avoid crowds congregating and adversely affecting residents.

Mr Hughes in response to a question from the Sub-Committee confirmed that his client only wanted the option for customers to be permitted to take from the premises part consumed and resealed bottles of wine supplied ancillary to their meal. He was content to withdraw off-sales. He was also asked about the proposed capacity of the bar. Mr Hughes replied that his client was seeking a capacity of 20 for the bar. Alcohol in this area would only be consumed prior to or after a meal.

The Sub-Committee in granting the application considered that the Applicant

	<p>had agreed a number of conditions with all parties which would promote the licensing objectives. Yosma would be a bona fide restaurant which was fully compliant with the Council's model restaurant condition MC66. There would be a bar area with a capacity of 20 but this could only be used by customers prior to or after their meal. The proposed hours had been reduced to be in keeping with the Council's Core Hours policy and Members were satisfied that the granting of the application would not add to cumulative impact. Members were content for the Applicant to provide breakfast from 08:00 when it was proposed the restaurant would open. There would be no on-sales until 10:00. Off-sales and takeaway of hot food and drink had been withdrawn from the premises licence. One particular aspect of concern was the use of the outside area and Members, taking into account the potential for nuisance to local residents, limited the use of tables and chairs to 22:00 at Russell Street and 20:00 in Crown Court. Alcohol could only be consumed in these external areas if it was ancillary to a substantial table meal.</p> <p>A condition was attached to the licence that patrons (limited to 10) who wished to smoke would only be allowed to use the Russell Street side of the building and not Crown Court. As requested by Mr Brown the premises would be required to have an arrangement with a taxi company and MC35 was attached so that there would be no movement of waste, including bottles, after 20:00. Overall there would be no collections or deliveries after 20:00. The premises licence holder would be required to ensure that any patrons drinking and/or smoking outside the premises would do so in an orderly manner and would be supervised by staff so as to ensure that there is no public nuisance or obstruction of the public highway.</p>						
2.	Sale by Retail of Alcohol (On and Off)						
	<table> <tr> <td>Monday to Thursday:</td> <td>10:00 to 23:30</td> </tr> <tr> <td>Friday to Saturday:</td> <td>10:00 to 00:00</td> </tr> <tr> <td>Sunday:</td> <td>12:00 to 22:30</td> </tr> </table>	Monday to Thursday:	10:00 to 23:30	Friday to Saturday:	10:00 to 00:00	Sunday:	12:00 to 22:30
Monday to Thursday:	10:00 to 23:30						
Friday to Saturday:	10:00 to 00:00						
Sunday:	12:00 to 22:30						
	<p>Amendments to application advised at hearing:</p> <p>Mr Hughes in response to a question from the Sub-Committee confirmed that his client only wanted the option for customers to be permitted to take from the premises part consumed and resealed bottles of wine supplied ancillary to their meal. If the licensing authority was satisfied that such sales did not constitute off-sales, he was content to withdraw off-sales.</p>						
	<p>Decision (including reasons if different from those set out in report):</p> <p>The Sub-Committee granted the proposed hours for on-sales, subject to conditions as set out below (see reasons for decision in Section 1).</p>						
3.	Non-Standard Timings						

	<p><u>Late Night Refreshment (Indoors & Outside), Sale by retail of alcohol (On and Off) and Opening Hours</u></p> <p>From the end of hours on New Year’s Eve to the start of hours on New Year’s Day.</p> <p><u>Late Night Refreshment (Indoors & Outside) and Sale by retail of alcohol (On and Off)</u></p> <p>Sundays prior to Bank Holiday: 12:00 – 00.00</p>
	<p>Amendments to application advised at hearing:</p> <p>Mr Hughes advised during the hearing that the aspects of the application relating to late night refreshment (outdoors) and off-sales of alcohol were withdrawn.</p>
	<p>Decision (including reasons if different from those set out in report):</p> <p>The Sub-Committee granted the non-standard timings for late night refreshment (indoors) and on-sales, subject to conditions as set out below.</p>
<p>4. Opening Hours</p>	
	<p>Monday to Sunday: 07:00 to 00:30</p>
	<p>Amendments to application advised at hearing:</p> <p>Mr Hughes informed the Sub-Committee that his client was amending the application so that the closing time would be in keeping with the Council’s Core Hours policy (Monday to Thursday 23:30, Friday to Saturday 00:00 and Sunday 22:30). His client was seeking the flexibility to provide breakfast from 08:00 when it was proposed the restaurant would open.</p>
	<p>Decision (including reasons if different from those set out in report):</p> <p>The Sub-Committee granted the opening hours (Monday to Thursday 08:00 to 23:30, Friday to Saturday 08:00 to 00:00 and Sunday 08:00 to 22:30), subject to conditions as set out below.</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 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.
10. No licensable activities shall take at the premises until the capacity of the premises has been determined by the Environmental Health Consultation Team and the licensing authority has replaced this condition on the licence with a condition detailing the capacity so determined. The capacity shall not exceed 150 persons.
11. 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.
12. There shall be no sale of alcohol for consumption 'off' the premises.
13. 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.
14. 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 premise 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.
15. No noise generated on the premises, or by its associated plant or equipment, shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
16. Loudspeakers shall not be located in the entrance lobby or outside the premises building.
17. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
18. 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.
19. The means of escape provided for the premises shall be maintained unobstructed, free of trip hazards, be immediately available and clearly

identified in accordance with the plans provided.

20. The edges of the treads of steps and stairways shall be maintained so as to be conspicuous.
21. 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.
22. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
23. Waste collection from the premises to take place only within the following hours: 08:00 – 20:00 Mondays to Saturdays and 10:00 – 20:00 on Sundays.
24. 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
 - (g) any refusal of the sale of alcohol
 - (h) any visit by a relevant authority or emergency service
25. Deliveries to the premises to take place only within the following hours: 08:00 – 20:00 Mondays to Saturdays and 10:00 – 20:00 on Sundays. Drivers must stop on Russell Street only.
26. Before the premises open to the public, the plans as deposited will be checked by the Environmental Health Consultation Team to ensure they are an accurate reflection of the premises constructed. Where the premises layout has changed during the course of construction new plans shall be provided to the Environmental Health Consultation Team and the Licensing Authority.
27. All outside tables and chairs shall be rendered unusable by 22:00 each day in Russell Street and by 20:00 in Crown Court or in accordance with the terminal hour as set out in any tables and chairs permission granted by the City Council, whichever is the earlier.
28. Patrons permitted to temporarily leave and then re-enter the building e.g. to smoke, shall not be permitted to take drinks or glass containers with them. This does not apply to customers seated within the external private forecourt area who are taking substantial meals within that area.

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

30. The area hatched on the plan attached to this premises licence may be used only for those persons who are waiting to be seated at a table in the main restaurant area or for those who have finished a table meal. The service of alcohol in this hatched area shall be by waiter/waitress. The maximum capacity of this hatched area shall be limited to 20 persons.
31. Last entry time for customers to the premises is 30 minutes prior to the end of licensable activities.
32. No licensable activities shall take place at the premises until the premises has been assessed as satisfactory by the Environmental Health Consultation Team at which time this condition shall be removed from the licence by the licensing authority.
33. 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.
34. Patrons permitted to temporarily leave and then re-enter the premises to smoke shall be restricted to a designated smoking area in Russell Street shown cross-hatched on the plan attached to this premises licence. This area shall be enclosed within appropriate barriers.
35. Patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, shall be limited to 10 persons at any one time.
36. 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.

37. The premises licence holder shall ensure that any patrons drinking and/or smoking outside the premises do so in an orderly manner and are supervised by staff so as to ensure that there is no public nuisance or obstruction of the public highway.
38. No waste or recyclable materials, including bottles, shall be moved, removed from or placed in outside areas between 20.00 hours and 08.00 hours on the following day.

5 AQUAVIT, 1 CARLTON STREET, SW1

LICENSING SUB-COMMITTEE No. 5

Thursday 26th May 2016

Membership: Councillor Angela Harvey (Chairman), Councillor Louise Hyams and Councillor Aziz Toki

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

Relevant Representations: Environmental Health, Metropolitan Police and Licensing Authority.

Present: Mr Jeremy Bark (Solicitor, representing the Applicant), Mr Philip Hamilton (Chief Executive, Applicant Company), Mr Dave Nevitt (Environmental Health), PC Toby Janes (Metropolitan Police) and Ms Heidi Lawrance (Licensing Authority)

Declaration: Councillor Louise Hyams declared that Aquavit is located within the Ward she represents, St James’s Ward.

Aquavit, 1 Carlton Street, SW1	
16/02619/LIPN	
1.	Recorded Music (Indoors)
	Monday to Saturday: 07:30 to 01:00 Sunday: 09:30 to 22:30
	Amendments to application advised at hearing: None.

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

The Sub-Committee initially heard from Mr Bark, representing the Applicant. He had been asked by Mr Panto whether he had any objection to Councillor Hyams sitting at the hearing as the Council's Rules of Procedure states that Members will 'not normally' consider applications in their own ward. There is nothing in law which prevents a ward councillor from considering an application in his or her own ward. Mr Bark replied that he had no objection to Councillor Hyams sitting.

Mr Bark stated that the application was part of a Crown Estate re-development of the area. He appreciated that Aquavit was located just within the West End Cumulative Impact Area. He made the point that it was clear that the premises would be an upmarket restaurant. His client was seeking hours that were longer than Core Hours but could accept Core Hours. The main priority was some flexibility in respect of the conditions at the restaurant.

Mr Bark addressed the Sub-Committee in respect of the plans. Key features in the basement included the main kitchen and also an exit to an internal alleyway which connected to another part of the Crown Estate development. This would be where collections and deliveries would take place from Jermyn Street. A condition was proposed that other than where deliveries take place in accordance with the Crown Estate delivery arrangements allowing delivery to the dedicated delivery area no deliveries to the premises would take place between 23:00 and 08:00 on the following day. In terms of deliveries, a condition was proposed that other than where refuse is disposed of and collected in accordance with the Crown Estate refuse collection arrangements allowing collections from the dedicated area, all waste would be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times. Mr Bark stated that the Applicant wished to provide breakfast and servicing would need to take this into account.

On the ground floor, there would be a doorman at the main entrance at all times. There would be a minimum of two people 'meeting and greeting' inside the double doors at all times. There was a diner/dispenser bar where the Applicant wanted some flexibility and not be fully compliant with the Council's model restaurant condition, MC66. It would be available for a pre-dinner drink after which customers would be shown to their table. It was also being requested that a limited number of people would be able to have a drink without it being ancillary to food in this area. The Applicant's condition proposed that between 10:00 and 22:00 up to a suggested figure of 25 customers would be allowed to consume alcohol without a table meal provided that they are seated and served by waiter or waitress. There was the potential for up to 40 customers to be seated here and drinking but Mr Bark and Mr Hamilton commented that they did not want all patrons to be drinking and not have a meal. They were however seeking some flexibility. It was also put forward by the Applicant that there would be a standing area in the diner/dispenser bar area where it was suggested that approximately 8 people could drink but those customers who were standing and drinking would be required to have a meal. Mr Bark added that customers would be able to dine at the bar. Overall there would be 145

covers on the ground floor.

Mr Bark explained there would be a further kitchen on the Mezzanine floor. There were also two separate dining rooms on this floor which could be used separately or together. In the main it was proposed that these would be used for a dining restaurant area but the Applicant was seeking flexibility and not to be fully compliant with MC66 when there were pre-booked private events. There would be approximately 75 covers there. In the event that a pre-booked private function took place in these rooms which was not set out with tables and chairs, the estimated capacity was 125.

Mr Bark described the concept of the premises as a modern Nordic restaurant and the Applicant had similar premises in a number of cities around the world. The development cost would be approximately £7m. The food provided was predominantly fish. The average spend for lunch would be £35 to £40. The average spend for dinner would be £65 to £75. There would be 86 members of staff, 15-20 in the kitchen and 25 waiting staff. The overall capacity for Aquavit which Mr Bark stated was acceptable to Mr Nevitt and Mr Lynagh, Senior Licensing Surveyor if Aquavit was constructed in keeping with the plans, was 270 persons. It was proposed that there would be outside seating in Carlton Street. This area had planning consent but a tables and chairs licence had not yet been secured. It was proposed that off-sales would take place in this area on the public highway and tables and chairs would be rendered unusable by 23:00 each day.

The Sub-Committee heard next from the Responsible Authorities. PC Janes stated that the Metropolitan Police had maintained their objection as the proposed hours were beyond the Council's Core Hours policy in the West End Cumulative Impact Area. The Applicant was proposing to allow up to 25 people in the bar area to drink without this being ancillary to food. The Police had proposed alternative conditions which included limiting the supply of alcohol that was not ancillary to food to a terminal hour of 20:00. This was in keeping with 2.4.21 of the Council's Statement of Licensing Policy.

Mr Nevitt for Environmental Health stated that there were some advantages to the premises being central to the Crown Estate re-development, including the servicing arrangements. There were no residential occupiers in immediate proximity. There were residents a bit further away and the effects of dispersal needed to be considered for them. Mr Nevitt made the point that there was the issue of the application being within the West End Cumulative Impact Area and up to 270 people could be there to a late hour. He added the application was not purely for restaurant use and this was the main reason for maintaining his representation. Mr Nevitt commented that there was a lack of clarity in terms of where the Applicant was seeking flexibility from MC66. The Council's Statement of Licensing Policy set out in paragraph 2.4.21 that derogation from policy had suggested a terminal hour of 20:00 where customers were able to consume alcohol without being required to have a meal in the cumulative impact area. Mr Nevitt stated that greater clarity was required on the numbers that would be drinking, the exact areas where they would be drinking and the hours they would be drinking. He was concerned about vertical drinking with customers potentially standing in the way of staff serving food. It was expected that overall

the development would lead to 10,000 people being in this part of the Cumulative Impact Area and a bar would likely be a popular place.

Mr Nevitt advised that he was content in the event the Mezzanine dining area was used as a restaurant most of the time.

The Sub-Committee asked whether there would be more restaurants and bars in the development. Mr Nevitt confirmed that there would be. He was keen to have a consistent approach to other applications in the development. Mr Nevitt also brought to Members' attention that the condition for off-sales implied that alcohol could be consumed outside without it being ancillary to a meal. Mr Bark agreed Mr Wroe's suggestion that Model Condition 70A was applied to the premises licence so that off-sales would be restricted to alcohol consumed by customers 'who are seated in an area appropriately authorised for the use of tables and chairs on the highway and bona fide taking a substantial table meal there, and where the consumption of alcohol by such persons is ancillary to taking such a meal, and where the supply of alcohol is by waiter or waitress service only'.

Ms Lawrance, addressing the Sub-Committee, stated that the Licensing Authority was concerned that Aquavit could not be defined as a restaurant in keeping with the Council's policy. Having seen the size of the drinking area it could be turned into something more than just a restaurant. The application was for beyond Core Hours in the West End Cumulative Impact Area.

Mr Wroe made the point that on the mezzanine floor the dining area used for pre-booked private events would have no restaurant condition attached and could have a maximum capacity of up to 125 people standing (although this was yet to be finalised). He asked if the Applicant could explain how this was an exception to the Council's policy. Mr Bark replied that 125 people were a relatively small number, the event had to be pre-booked and it could be controlled in advance, this was a Crown Estate development and it was necessary to pass a door supervisor and other staff before reaching the area on the mezzanine floor. It was not possible to see the area from the ground floor. Mr Bark proposed that as part of an amendment to the proposed condition in respect of the mezzanine area food would always be available when it was used for pre-booked functions and as a minimum 'comprise of suitable canapés and other such food consistent with the Aquavit offer'.

Mr Bark offered amendments to the proposed conditions so that those who consumed alcohol in the ground floor bar area but did not eat would be limited to 15 and that those who consumed a drink prior to a meal would have to be seated and not stood.

The Sub-Committee, having carefully taken into account the representations received, did not consider that the application was an exception to the Council's policy in the West End Cumulative Impact Area which justified an extension of hours beyond Core Hours and a more open-ended derogation from the restaurant condition Model Condition 66. Members therefore granted Core Hours for the licensable activities and opening hours. The Sub-Committee had concerns that up to 125 people could be standing consuming alcohol in the

	<p>mezzanine area and decided that in this area alcohol could only be served where it was ancillary to food. The mere availability of food would not prevent that area from being drink led. The premises would be expected to operate as a restaurant as suggested in a condition proposed by the Police. The only relaxation of MC66 would be that in the ground floor bar area a maximum of 15 customers (the Applicant's final amended figure) would be able to drink until 20:00 without it being ancillary to food. The 20:00 terminal hour for consuming alcohol without food was in keeping with 2.4.21 of the Council's policy and was designed to prevent an addition to cumulative impact.</p> <p>The Sub-Committee attached the agreed condition that off-sales for the ground floor outside area would be ancillary to food and that tables and chairs would be rendered unusable by 23:00 each day except for Sundays when in line with Core Hours they would be rendered unusable by 22:30.</p>
2.	Late Night Refreshment (Indoors and Outdoors)
	<p>Monday to Saturday: 23:00 to 01:00</p>
	<p>Amendments to application advised at hearing:</p> <p>None.</p>
	<p>Decision (including reasons if different from those set out in report):</p> <p>The Sub-Committee granted Core Hours for this licensable activity (Monday to Thursday 23:00 to 23:30 and Friday and Saturday 23:00 to 00:00).</p>
3.	Sale by retail of alcohol (On and Off)
	<p>Monday to Saturday: 07:30 to 01:00 Sunday: 09:30 to 22:30</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 Core Hours for these licensable activities (On-sales Monday to Thursday 10:00 to 22:30, Friday and Saturday 10:00 to midnight and Sunday 12:00 to 22:30 and Off-Sales Monday to Saturday 08:00 to 23:00 and Sunday 10:00 to 22:30).</p>
4.	Opening Hours

	<p>Monday to Saturday: 07:30 to 01:00 Sunday: 09:30 to 22:30</p>
	<p>Amendments to application advised at hearing: None.</p>
	<p>Decision (including reasons if different from those set out in report): The Sub-Committee granted Monday to Thursday 08:00 to 23:00, Friday to Saturday 08:00 to 00:00 and Sunday 10:00 to 22:30).</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. 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.
10. 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.
11. The premises shall only operate as a restaurant:
- (i) in which customers are shown to their table,
 - (ii) where the supply of alcohol is by waiter or waitress service only,
 - (iii) which provide food in the form of substantial table meals that are prepared on the premises and are served and consumed at the table using non disposable crockery,
 - (iv) which do not provide any take away service of food or drink for immediate consumption,
 - (v) which do not provide any take away service of food or drink after 23.00, and

- (vi) where alcohol shall not be sold or supplied, otherwise than for consumption on the premises by persons who are seated in the premises and bona fide taking substantial table meals there, and provided always that the consumption of alcohol by such persons is ancillary to taking such meals.

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

12. Notwithstanding condition 11, alcohol may be supplied to customers without food provided that:
- a) Such supply shall only be for consumption by persons who are seated and served by waiter/waitress.
 - b) Such supply shall only be for consumption between 1000 and 20.00 each day.
 - c) Such supply shall be limited to (i) 15 customers to be seated in the area hatched and shown on ground floor licensed plan or (ii) the supply of alcohol on the mezzanine floor area whenever it is used for a bona fide pre booked private function to which members of the general public cannot obtain access and the supply of alcohol is ancillary to food.

The availability of alcohol without food shall not be promoted or advertised otherwise than on menus and price lists within the premises.

13. The sale and supply of alcohol for consumption off the premises shall be restricted to alcohol consumed by persons who are seated in an area appropriately authorised for the use of tables and chairs on the highway and bona fide taking a substantial table meal there, and where the consumption of alcohol by such persons is ancillary to taking such a meal, and where the supply of alcohol is by waiter or waitress service only.
14. 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.
15. All outside tables and chairs within the ground floor outside seating area shall be rendered unusable by 23.00 hours Monday to Saturday and by 22:30 hours on Sunday.
16. An incident log shall be kept at the premises, and made available on request to an authorised officer of the City Council or the Police, which will record the following:
- a. all crimes reported to the venue;
 - b. all ejections of patrons;
 - c. any complaints received concerning crime and disorder;
 - d. any incidents of disorder;
 - e. all seizures of drugs or offensive weapons;
 - f. any faults in the CCTV system;
 - g. any refusal of the sale of alcohol; and

h. any visit by a relevant authority or emergency service.

17. Notices shall be displayed at the exit of the premises requesting customers leaving the premises to respect the needs of local residents and businesses and leave the area quietly.
18. A Challenge 21 or Challenge 25 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport or proof of age card with the PASS Hologram.
19. 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 (accepting that persons seated within the ground floor seating area may consume alcohol as an ancillary to a table meal).
20. No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
21. Other than where deliveries take place in accordance with the Crown Estate delivery arrangements allowing delivery to the dedicated delivery area no deliveries to the premises shall take place between 23.00 and 08.00 on the following day.
22. Other than where refuse is disposed of and collected in accordance with the Crown Estate refuse collection arrangements allowing collections from the dedicated area, all waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
23. No licensable activities shall take at the premises until the capacity of the premises has been determined by the Environmental Health Consultation Team and the licensing authority has replaced this condition on the licence with a condition detailing the capacity so determined.
24. No licensable activities shall take place at the premises until the licensing authority are satisfied that the premises is constructed or altered in accordance with the appropriate provisions of the District Surveyor's Association – Technical Standards for Places of Entertainment and the reasonable requirements of Westminster Environmental Health Consultation Team, at which time this condition shall be removed from the licence by the licensing authority.
25. Before the premises are open to the public, the plans are deposited will be checked by the Environmental Health Consultation Team to ensure they are an accurate reflection of the premises constructed. Where the premises layout has changed a variation application may be required.

LICENSING SUB-COMMITTEE No. 5

Thursday 26th May 2016

Membership: Councillor Angela Harvey (Chairman) and Councillor Tim Mitchell

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

Relevant Representations: Environmental Health, Metropolitan Police and 1 local resident.

Present: Mr Phil Crier (Licensing Consultant, representing the Applicant), Ms Cheryl Quinnell (Company Secretary), Ms Clare Convey (Director of Operations, Aramark Limited - catering contractors on behalf of the University), Ms Sally Thomas (Environmental Health) and PC Toby Janes (Metropolitan Police)

Note: Councillor Mitchell replaced Councillors Hyams and Toki at the hearing.

Regent's University London, Regent's College, Inner Circle, Regent's Park 16/02659/LIPN	
1.	Late Night Refreshment (Indoors and Outdoors)
	Monday to Sunday: 23:00 to 23:30
	Amendments to application advised at hearing: The Applicant withdrew late night refreshment on Sundays during the hearing.
	Decision (including reasons if different from those set out in report): There is an existing licence for these premises. As a result of an oversight, when the application to convert the Justices' On Licence under the Licensing Act 2003 was made, only the plan for the basement was submitted and not for all the other intended areas such as the ground floor. The current application sought to rectify the position so that all areas were covered. The Applicant was offering to surrender the existing licence if the current application was granted. Mr Crier, representing the Applicant, stated that the facilities were primarily for the 250 students at the campus but they also could be used for pre-booked private events such as conferences and wedding receptions. His client had agreed Environmental Health's and Metropolitan Police's proposed conditions. The only change was an amendment to the second sentence of the Police's proposed model CCTV condition so that after the words 'all entry and exit points'

would be inserted 'to and from the campus' followed by 'will be covered enabling frontal identification of every person entering in any light condition'. Mr Crier added that there were a number of CCTV cameras within the building. However, they were not at every single exit and entrance. The University was gated and this was controlled by security.

Mr Crier referred to the local resident's representation objecting to the application. He did not believe that granting the application would disrupt the local resident late at night as the proposed hours were within Core Hours. Functions generally concluded around 22:00.

PC Janes stated his concerns had been addressed as the Police's conditions had been agreed. He was content to withdraw his representation. There was a very low level of crime at the premises.

Ms Thomas on behalf of Environmental Health drew Members' attention to the fact that the Applicant had agreed her proposed condition that the supply of alcohol would only be to students or staff of the university or for those people attending a pre-booked private event. She was content that the conditions that the Applicant had agreed promoted the licensing objectives of public safety and preventing public nuisance. The capacities would be finalised once the fire assessments were received. The capacities set out in the proposed condition for the various areas included in the application would be the maximum permitted. There was no record of noise complaints at the premises in the last couple of years.

The Sub-Committee asked a number of questions at the hearing. The Applicant was asked whether any attempt had been made to contact the local resident objecting to the application. Ms Quinnell replied that correspondence had been sent to him which had emphasised that the application had been submitted in order to rectify the position in relation to the plans. There was no intention to extend the operation from what had taken place to date. He had not as yet responded but was welcome to visit the campus. Ms Thomas advised that there was no regulated entertainment being applied for as it was de-regulated. Any entertainment played would be indoors except for the outdoor lawns. The Applicant would ensure that any speakers outside would always face inwards. There had been no complaints about that activity when events had been held previously.

Mr Crier in response to a question as to what was envisaged in terms of off-sales replied that his client was content to withdraw this from the application. The Applicant was also content to withdraw late night refreshment on Sundays. The existing licence permitted this activity Monday to Saturday. Mr Panto made the point that there was a significant time difference between the terminal hour for on-sales and the opening hours (which are twenty four hours a day due to the requirements of the campus). There would potentially be unlimited drinking up time. Mr Crier responded that his client was content with a condition being attached to the premises licence that alcohol would not be consumed more than 30 minutes after the permitted terminal hour for the supply of alcohol.

The Sub-Committee granted the application, subject to conditions as set out

below. Members considered that the application was in keeping with how the Applicant was currently operating the premises. The current application had been applied for in order to rectify the error of insufficient plans being submitted with the existing premises licence. It was unlikely that the local resident who had objected to the application or other residents would now be adversely affected as a result of the application being granted. Members noted that neither the Police nor Environmental Health had concerns regarding how the existing premises licence was being operated or regarding the potential for public nuisance or crime or disorder. The Applicant had reached an agreement with the Responsible Authorities regarding their proposed conditions.

The Sub-Committee attached the conditions to the licence as agreed between Mr Crier and the Responsible Authorities. Members also attached the model condition capacity condition (MC90) with maximum capacities for the various areas (see condition 15 below), that alcohol would not be consumed more than 30 minutes after the permitted terminal hour for the supply of alcohol and that no licensable activities would take place at the premises until premises licence 15/11412/LIPDPS had been surrendered (model condition 62).

2.	Sale by retail of alcohol (On and Off)
	Monday to Saturday: 10:00 to 23:00 Sunday: 12:00 to 22:30
	Amendments to application advised at hearing: The Applicant withdrew off-sales during the hearing.
	Decision (including reasons if different from those set out in report): The Sub-Committee granted the proposed hours for on-sales (see reasons for decision in Section 1).
3.	Opening Hours
	Monday to Sunday: 00:00 to 00:00
	Amendments to application advised at hearing: None.
	Decision (including reasons if different from those set out in report): Granted, subject to conditions as set out below.

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. The supply of alcohol shall only be to students, staff and their bona fide guests of the University or those people attending a pre-booked private event.
10. A Challenge 25 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport or proof of age card with the PASS Hologram.
11. There shall be no fixed bar at the premises in the following areas: Herringham Hall, Knapp Gallery, Refectory, Tuke Common Room and outdoor areas.
12. The licensable activities authorised by this licence and provided at the premises shall be ancillary to the main function of the premises as a university.
13. 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.
14. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
15. No licensable activities shall take at the premises until the capacity of the premises has been determined by the Environmental Health Consultation Team and the licensing authority has replaced this condition on the licence with a condition detailing the capacity so determined. The number of persons permitted any one time (excluding staff) shall not exceed the following number of persons:
 - i. Herringham Hall – 200
 - ii. Knapp Gallery – 80
 - iii. Tuke Common Room – 130
 - iv. Brasserie – 80 (café and restaurant area combined)
 - v. Refectory – 500
 - vi. Bedford's Bar – 150
16. No noise generated on the premises, or by its associated plant or equipment, shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
17. The means of escape provided for the premises shall be maintained unobstructed, free of trip hazards, be immediately available and clearly identified in accordance with the plans provided.
18. The edges of the treads of steps and stairways shall be maintained so as to be conspicuous.

19. All emergency doors shall be maintained effectively self-closing and not held open other than by an approved device.
20. All emergency exit doors shall be available at all material times without the use of a key, code, card or similar means.
21. The approved arrangements at the premises, including means of escape provisions, emergency warning equipment, the electrical installation and mechanical equipment, shall at all material times be maintained in good condition and full working order.
22. 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 to and from the campus 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.
23. 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 are 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.
24. An incident log shall be kept at the premises, and made available on request to an authorised officer of the City Council or the Police, which will record the following:
 - (a) all crimes reported to the venue
 - (b) all ejections of patrons
 - (c) any complaints received concerning crime and disorder
 - (d) any incidents of disorder
 - (e) any faults in the CCTV system
 - (f) any refusal of the sale of alcohol
 - (g) any visit by a relevant authority or emergency service.
25. No open containers of alcohol shall be allowed beyond the boundaries of the licensable area.
26. Signs shall be displayed in prominent places within the premises stating that it is an offence for persons under the age of 18 to purchase alcohol.
27. Food and non-alcoholic drinks shall remain available for purchase throughout the hours the premises is open to the public for the sale of alcohol.
28. No alcohol shall be consumed more than 30 minutes after the permitted terminal hour for the supply of alcohol.
29. No glass drink receptacles shall be allowed in outside areas unless a risk

assessment has been undertaken for certain specific events.

30. No licensable activities shall take place at the premises until premises licence 15/11412/LIPDPS has been surrendered.

7 PAPPILAND CAFE, GROUND FLOOR, 12 NORFOLK PLACE, W2

LICENSING SUB-COMMITTEE No. 5

Thursday 26th May 2016

Membership: Councillor Angela Harvey (Chairman) and Councillor Tim Mitchell

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

Relevant Representations: Environmental Health, Metropolitan Police and South East Bayswater Residents' Association / Bayswater Residents' Association.

Present: Mr Johar Pappiland (Applicant Company), Mr Anil Drayan (Environmental Health) and PC Toby Janes (Metropolitan Police)

Note: Councillor Mitchell replaced Councillors Hyams and Toki at the hearing.

Pappiland Café, Ground Floor, 12 Norfolk Place, W2 15/12126/LIPN	
1.	Sale by retail of alcohol (On)
	Monday to Sunday: 12:00 to 00:00
	Amendments to application advised at hearing: Mr Pappiland confirmed at the hearing that he had, following discussions with the Metropolitan Police and Environmental Health, reduced the proposed hours to Monday to Saturday 12:00 to 23:00 and Sunday 12:00 to 22:30.
	Decision (including reasons if different from those set out in report): This was a new application for on-sales of alcohol so as to boost trade at the coffee shop. In addition to the reduction in hours, the Applicant had also agreed the conditions proposed by the Responsible Authorities. Amongst the conditions proposed by the Police and agreed by the Applicant was that alcohol would be ancillary to a substantial table meal.

PC Janes on behalf of the Metropolitan Police and Mr Drayan on behalf of Environmental Health stated that following the Applicant's agreement of their proposed conditions and the earlier terminal hours they had no further objections to the application. Mr Nelson had been informed by Richard Brown who had been representing Mr Zamit that whilst he had wished to maintain his representation he was happy that all of the Responsible Authorities' proposed conditions had been agreed.

The Sub-Committee asked Mr Pappiland some questions regarding the application. The Sub-Committee had a concern that whilst earlier terminal hours had been agreed for on-sales of alcohol, the coffee shop was still due to close at midnight. This would mean that there could be a significant drinking up time. The Sub-Committee asked the Applicant whether he would agree a condition that the consumption of alcohol would cease no later than 30 minutes after the terminal hour for alcohol. Mr Pappiland replied that he was content to agree this condition. He was also able to advise that the tables and chairs in the outside area were on the private forecourt (this was confirmed by Mr Drayan) and he had agreed a condition that the tables and chairs would be removed by 22:00.

The Sub-Committee in granting the application considered that the Applicant had sought to address the concerns raised by the parties who had submitted representations objecting to the application. The proposed terminal hours for the application had been reduced and agreed conditions promoted the licensing objectives including alcohol being ancillary to food and that it would not be consumed more than half an hour after it had been sold. Members considered that the use of the outside area, where the sale of alcohol would also be ancillary to food, was acceptable until 22:00. There was still some activity in the street at that time including buses. The Applicant would be required to comply with the model condition that no noise would be permitted to emanate from the premises which gives rise to a nuisance.

2. Opening Hours

Monday to Sunday: 07:00 to 00:00

Amendments to application advised at hearing:

None.

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

Granted, subject to conditions as set out below.

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. 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.
10. 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 are 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.
11. 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. This does not include customers seated at the outside tables.
12. An incident log shall be kept at the premises, and made available on request to an authorised officer of the City Council or the Police, which will record the following:
 - (a) all crimes reported to the venue
 - (b) all ejections of patrons
 - (c) any complaints received concerning crime and disorder
 - (d) any incidents of disorder
 - (e) any faults in the CCTV system
 - (f) any refusal of the sale of alcohol
 - (g) any visit by a relevant authority or emergency service
13. The premises shall only operate as a restaurant:
 - (i) Where the supply of alcohol is by waiter or waitress service only,
 - (ii) Which provide food in the form of substantial table meals that are prepared
 - (iii) 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 after 23.00, and
 - (v) Where alcohol shall not be sold or supplied, otherwise than for consumption by persons who are seated on 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 the

meal.

14. Outside tables and chairs shall be removed or rendered unusable by 22:00 hours.
15. The alcohol available shall be restricted to beer and wine only.
16. The number of persons permitted at the premises (including external forecourt) at any one time shall not exceed 25 (including staff)
17. 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.
18. No noise generated on the premises, or by its associated plant or equipment, shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
19. 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.
20. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
21. 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.
22. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
23. No waste or recyclable materials, including bottles, shall be moved, removed from or placed in outside areas between 23:00 hours and 07:00 hours on the following day.
24. No deliveries to the premises shall take place between 23:00 hours and 08:00 hours on the following day.
25. The consumption of alcohol must cease no later than 30 minutes after the terminal hour for the sale of the alcohol.

LICENSING SUB-COMMITTEE No. 5

Thursday 26th May 2016

Membership: Councillor Angela Harvey (Chairman), Councillor Louise Hyams
and Councillor Aziz Toki

Legal Adviser: Barry Panto

Policy Adviser: Chris Wroe

Committee Officer: Jonathan Deacon

Simmons, 2 Bateman Street, W1 16/02637/LIPV
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Application withdrawn by the Applicant.
