



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 2nd June, 2016**, Rooms 5, 6 & 7 - 17th Floor, Westminster City Hall, 64 Victoria Street, London, SW1E 6 QP.

Members Present: Councillors Angela Harvey (Chairman), Peter Freeman and Aziz Toki

1 MEMBERSHIP

There were no changes to the membership.

2 DECLARATIONS OF INTEREST

There were no declarations of interest.

3 FOXLOW, 8-10 LOWER JAMES STREET, W1

LICENSING SUB-COMMITTEE No. 5

Thursday 2nd June 2016

Membership: Councillor Angela Harvey (Chairman), Councillor Peter Freeman and Councillor Aziz Toki

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

Relevant Representations: Environmental Health, 2 Ward Councillors, 1 Residents' Association and 7 x local residents.

Present: Mr Thomas O'Maoileoin (Solicitor, representing the Applicant), Mr Richard Cowell (Applicant Company), Ms Sally Thomas (Environmental Health), Mr Richard Brown ((Solicitor, Citizens Advice Bureau Licensing Advice Project – representing Mrs Liz Callingham) and Mrs Liz Callingham (local resident, on behalf of Upper John Street and Beak Street residents)

**Foxlow, 8-10 Lower James Street, W1
16/03177/LIPN**

1. Late Night Refreshment (Indoor)

Monday to Thursday: 23:00 to 23:30
Friday to Saturday: 23:00 to 00:00

Amendments to application advised at hearing:

None.

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

The Sub-Committee had received an additional representation from Councillor Church who had e-mailed Members directly. The Chairman informed those present that it was accepted that representations needed to be sent to the Case Officer in the Licensing Team and not sent directly to Members. They would therefore be disregarding the additional correspondence. It was also noted that the representation was sent outside the time limits for representations to be taken into consideration. Mr O'Maoileoin, who had been advised of this e-mail the evening before along with the other parties to the hearing, stated that he appreciated that these things happened but there were protocols to follow. He had been concerned that it would have been a reason for one of the parties to take the matter further should they be unhappy with the outcome of the hearing. He accepted the Sub-Committee's clear statement that it would wholly disregard the additional correspondence.

Mr O'Maoileoin stated that this was one of a number of premises the Underdog restaurant chain had opened in London. They owned the Hawksmoor and Foxlow restaurants which specialised in being British steakhouses. The Applicant, having taken into account the representations objecting to the application, had decided to amend it. The proposed hours were now within the Council's Core Hours policy. Recorded music had been withdrawn with only background music being played. There was also no longer the intention to operate a bar at 8-10 Lower James Street. It was Mr O'Maoileoin's submission that due to Foxlow being a restaurant, the hours proposed and the conditions being offered, the application would not add to cumulative impact.

Mr O'Maoileoin stated that his client was content to make a commitment that all deliveries would not take place before 08:00. The Underdog Chain had experience of owning premises which promoted the licensing objectives in Westminster, including the Hawksmoor restaurants located in the West End Cumulative Impact Areas. He referred to the capacity of 125 being approved by the Council's Planning Committee. In response to the concerns raised by residents in their written representations, Mr O'Maoileoin made the points that any issues with the Crown pub in Lower James Street should be raised in another forum. Customers would not have any issues dispersing from the area given the access to public transport in Regent Street and Piccadilly Circus.

Mr O'Maoileoin addressed the Sub-Committee on the Council's policy and the licensing objectives. He referred to the Council's policy in respect of restaurants that they tended to cause less issues including as a result of alcohol being ancillary to substantial table meals and customers sitting down. In terms of the licensing objectives, the Police having seen the amendments to the application by the Applicant had withdrawn their representation and did not have any concerns about crime and disorder at the premises. Mr O'Maoileoin stated that the premises did not plan to open until October or November 2016 and would be reliant on Environmental Health's approval of public safety works before it was able to do so. No issues had been raised about protecting children from harm. In terms of preventing public nuisance, only background music would be played. Conditions had been agreed by the Applicant that there would be no drinking outside the premises and the number of smokers outside would be limited to a maximum of five at any one time.

The Sub-Committee asked Mr O'Maoileoin what was envisaged in applying for off-sales. He replied that his client had only included off-sales in the application in order that customers were permitted to take from the premises part consumed and resealed bottles of wine supplied ancillary to their meal. Mr Wroe stated in response that the Council's policy position on this was this was an accepted part of the model restaurant condition MC66 and was distinct from off-sales. Mr O'Maoileoin informed the Sub-Committee that he was therefore content for off-sales to be formally withdrawn.

Ms Thomas for Environmental Health advised the Sub-Committee that as a result of the application being amended, she had no further concerns regarding the application. The restaurant would now be operating within Core Hours and the conditions proposed minimised the potential for public nuisance and promoted public safety. She had maintained her representation to assist the Sub-Committee. She added that there were sufficient toilets proposed to cater for a capacity of 125. Should the Sub-Committee be minded to grant the application, there was the option to finalise the capacity during Environmental Health's inspection. This would not exceed 125 persons.

Mrs Callingham expressed concerns that all applications for licensed premises in the locality over recent years had appeared to be granted. These, she stated, had added to cumulative impact and disturbance due to deliveries through the night. Cumulative impact was a top priority for local residents. Residents did not see why a new licence for a large restaurant should be considered. She emphasised that the Applicant had initially applied for late night hours and bar use. Residents were concerned that as other restaurants in the chain already ran to later hours and had bar use that a variation to the premises licence would be requested if it was granted.

Mr Brown also spoke on Mrs Callingham's behalf. He responded to Mr O'Maoileoin's comments. He stated that being permitted planning permission did not compel the Sub-Committee to grant the licensing application. He referred to deliveries taking place until 23:00 hours. Customers dispersing would pass local residents including those in Golden Square. Mr Brown made the point that in relation to the Council's policy, the restaurant was in keeping

with RNT2 in the West End Cumulative Impact Area. Applications would only be granted subject to the cumulative impact policy. The Applicant needed to demonstrate that the application would not add to cumulative impact. This was difficult to do as there were already a large number of licensed premises in the area. Adding a 125 capacity Mr Brown believed would inevitably add to the potential for public nuisance. More people would be attracted into the area later at night as a result of the application and the introduction of the night tube would accentuate this. It was Mrs Callingham's submission that the bath had been filled beyond capacity and had overflowed. The only way to resolve this was to turn off the tap. Mr Brown added that if the application was granted it could always be permitted a reduced terminal hour.

Mrs Callingham also referred to deliveries taking place outside her flat at 05:00 recently. She had concerns about security at Kingly Court which often had its gates open at night. Companies were delivering there throughout the night and there did not appear to be any control over this.

The Sub-Committee asked those present about the proposed hours for deliveries. Mr O'Maoileoin replied that his client was content to limit deliveries from 08:00 to 20:00 as an example to other premises. He could not give a commitment to the same hours for the collection of waste because this was dependent on Council collection times. Mr Cowell made the point that bottles would not be taken outside after 23:00.

Members of the Sub-Committee in reaching their decision took into account all admissible evidence. The Sub-Committee noted the Applicant's amendments to the application including the proposed hours being within Core Hours and the removal of bar use, recorded music and off-sales. Conditions had also been proposed, including those which limited smokers outside to a maximum of five at any one time and limited deliveries to 08:00 to 20:00. The Sub-Committee was satisfied that the Applicant had taken the necessary and appropriate steps to promote the licensing objectives so as to ensure that the licensable activities would not add to cumulative impact. Members appreciated the difficulty that the Applicant had regarding waste collections but asked that all options be investigated to operate an earlier terminal hour which would benefit neighbours.

Members fully appreciated the reasons for the case made by local residents regarding the dripping tap analogy but did not consider that it was reasonable to decide that all applications for licensed premises should be refused in the locality no matter what was being proposed by the Applicant.

The Sub-Committee also attached a condition to the licence proposed by the Applicant that a contact number for the manager of the premises be made available to local residents and businesses (model condition 24). Model condition 90 was attached that no licensable activities would take place at the premises until the capacity of the premises had been determined by the Environmental Health Consultation Team and the licensing authority had replaced this condition on the licence with a condition detailing the capacity so determined. The capacity would not exceed 125 persons excluding staff.

2.	Sale by retail of alcohol (On and Off)
	<p>Monday to Thursday: 10:00 to 23:30 Friday to Saturday: 10:00 to 00:00 Sunday: 12:00 to 22:30</p>
	<p>Amendments to application advised at hearing:</p> <p>Mr O'Maoileoin clarified during the hearing that his client had only included off-sales in the application in order that customers were permitted to take from the premises part consumed and resealed bottles of wine supplied ancillary to their meal. Mr Wroe stated in response that the Council's policy position on this was this was an accepted part of the model restaurant condition MC66 and was distinct from off-sales. Mr O'Maoileoin informed the Sub-Committee that he was therefore content for off-sales to be formally withdrawn.</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 (see reasons for decision in Section 1).</p>
3.	Opening Hours
	<p>Monday to Thursday: 10:00 to 23:30 Friday to Saturday: 10:00 to 00:00 Sunday: 12:00 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>Granted, subject to conditions as set out below.</p>
4.	Seasonal Variations
	<p><u>Late Night Refreshment (Indoor), Sale by retail of alcohol (On and Off) and Opening Hours</u></p> <p>To extend from the end of permitted hours on New Year's Eve until the start of permitted hours on New Year's Day.</p>
	<p>Amendments to application advised at hearing:</p>

	<p>The applicant had indicated that off-sales were withdrawn from the application on the understanding that customers taking from the premises part consumed and resealed bottles of wine supplied ancillary to their meal was not considered to be an off-sale.</p>
	<p>Decision (including reasons if different from those set out in report):</p> <p>Granted, 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. 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.

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. 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.

12. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.

13. Notices shall be prominently displayed at any area used for smoking requesting patrons to respect the needs of local residents and use the area quietly.

14. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.

15. No waste or recyclable materials, including bottles, shall be moved, removed from or placed in outside areas between 23.00 hours and 08.00 hours on the following day.
16. No licensable activities shall take place 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 125 persons excluding staff.
17. No collections of waste or recycling materials (including bottles) from the premises shall take place between 23.00 and 08.00 on the following day.
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. 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) 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.
20. No deliveries to the premises shall take place between 20.00 and 08.00 on the following day.
21. The premises shall only operate as a restaurant:
 - a) in which customers are shown to their table,
 - b) where the supply of alcohol is by waiter or waitress service only,
 - c) 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,
 - d) which do not provide any take away service of food or drink for immediate consumption,
 - e) which do not provide any take away service of food or drink after 23.00, and
 - f) where alcohol shall not be sold or supplied, otherwise than for consumption by persons who are seated in the premises and bona fide taking substantial table meals there, and provided always that the consumption of alcohol by such persons is ancillary to taking such meals.

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

22. The premises may remain open for the sale of alcohol and the provision of late night refreshment from the terminal hour for those activities on New Year's Eve through to the commencement time for those activities on New Year's Day.
23. 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 reasonable requirements of Westminster Environmental Health Consultation Team, at which time this condition shall be removed from the licence by the licensing authority.
24. 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.
25. Patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, shall be limited to 5 persons at any one time.
26. 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.

4 THE SHERLOCK HOLMES, 10-11 NORTHUMBERLAND STREET, WC2

LICENSING SUB-COMMITTEE No. 5

Thursday 2nd June 2016

Membership: Councillor Angela Harvey (Chairman), Councillor Peter Freeman and Councillor Aziz Toki

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

Relevant Representations: Environmental Health and 1 local resident.

Present: Ms Tara Buffini (Business Development Manager), Mr Matthew Bennett (DPS and Manager) and Mr Dave Nevitt (Environmental Health).

The Sherlock Holmes, 10-11 Northumberland Street, WC2			
16/03221/LIPV			
1.	Sale by retail of alcohol (On and Off)		
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<u>From</u>	<u>To</u>		

	<p>Monday to Wednesday 11:00 to 23:00 Thursday to Saturday 11:00 to 00:00 Sunday 11:00 to 23:00</p>	<p>Monday to Wednesday 08:00 to 23:00 Thursday to Saturday 08:00 to 00:00 Sunday 08:00 to 23:00</p>
	<p>Amendments to application advised at hearing:</p> <p>The Applicant agreed a proposal by Environmental Health that the consumption of alcohol would be within the premises building.</p> <p>Ms Buffini and Mr Bennett were asked by Mr Panto about the application form which had suggested a terminal hour of 22:30 on Sundays for the sale of alcohol. They confirmed that this was a typographical error. The Sub-Committee accepted this as the Applicant was already permitted to sell alcohol until 23:00 under an existing licence for the premises.</p>	
	<p>Decision (including reasons if different from those set out in report):</p> <p>Ms Buffini and Mr Bennett, on behalf of the Applicant Company (Greene King Brewing And Retailing Limited), stated at the hearing that the application for a variation of the premises licence so that the commencement hour for the sale of alcohol would be 08:00 rather than 11:00 on the existing licence was in order that alcohol could be served with breakfast. Ms Buffini informed Members that it had been agreed with Mr Nevitt for Environmental Health that alcohol would be ancillary to a table meal for the duration of breakfast. Mr Bennett commented that The Sherlock Holmes was an iconic London pub and they wished to cater for the needs of their clientele which particularly included tourists.</p> <p>In response to a question from the Sub-Committee, Mr Bennett replied that the Applicant had attempted to contact the local resident who lived directly opposite the pub and had made a representation. He had not responded. Employees of The Sherlock Holmes had been unaware previously of his concerns.</p> <p>Mr Nevitt for Environmental Health advised the Sub-Committee that he was not aware of any recent complaints relating to the pub, having investigated this in the light of the local resident's comments. He was of the view that The Sherlock Holmes was well run. He wanted to ensure that residents in Craven Street were not adversely affected by the current application. He also considered that there was the potential for other local pubs such as the Ship and Shovell in Craven Passage to request extended hours in the event the current application was granted. With a view to these concerns he had proposed a slight alteration to the Council's Model Condition 38 with alcohol being ancillary to a table meal between 08:00 and 10:00 and customers consuming the alcohol inside the premises. Alcohol would not be consumed in the outside area from 08:00 to 10:00 due to the increased likelihood that residents were more likely to be disturbed by the use of this area early in the morning (the current tables and</p>	

chairs licence only permitted alcohol to be consumed there from 11:00 hours). This had been verbally agreed by the Applicant and Mr Nevitt informed Members that this addressed his concerns regarding the application.

The Sub-Committee granted the application. Members took into account the advice of Mr Nevitt and concurred with his view that on the basis that the sale of alcohol was ancillary to a table meal between 08:00 and 10:00 and that it was consumed inside the premises, the licensing objectives would be promoted. The Sub-Committee attached an appropriate condition to cover these two points (see condition 13 below). The application was unlikely to have an adverse impact on local residents.

The Sub-Committee noted the representation of Mr Semernin. Members considered that in the event he did consider that the pub was causing a public nuisance as a result of the existing operation he should get his complaints recorded with the Council's Noise Team.

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 terminal hour for late night refreshment on New Year's Eve is extending to 05:00 on New Year's Day.

10. Alcohol shall only be sold during the following permitted hours:

(a) Sunday to Wednesday 08:00 to 23:00

(b) Thursday to Saturday 08:00 to 00:00

(c) On New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day.

11. Licensable activities shall be permitted for an extra hour on the following days: Good Friday, Easter Saturday and Easter Sunday.

12. No children shall be allowed on the premises after 21:00.

13. Between 08:00 and 10:00, the supply of alcohol at the premises shall only be to a person seated taking a table meal there and for consumption by such a person as ancillary to their meal and shall be within the premises building.

5 TO CONSIDER THE SETTLEMENT OF AN APPEAL - THE LONDON EDITION, 10 BERNERS STREET, W1

LICENSING SUB-COMMITTEE No. 5

Thursday 2 June 2016

Membership: Councillor Angela Harvey (Chairman) and Councillor Peter Freeman

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

Also present: Hayley Davies, Litigation Appeals Manager

The London Edition, 10 Berners Street, W1

To consider granting authority to settle an appeal arising from the Licensing Sub-Committee decision of 17 September 2015.

RESOLVED: That under Regulation 14 of the Licensing Act 2003 (Hearings) Regulations 2005 the public be excluded from the meeting for the following item of business on the grounds that the public interest in the hearing taking place in private outweighs the public interest in that part of the meeting taking place in public.

Decision:

The Sub-Committee noted the advice of Leading Counsel and gave authority to settle the appeal on the basis set out in the report. In taking this decision, the Sub-Committee took into account that there had been a noticeable decrease in public nuisance since the review hearing in September 2015. The Licence Holder had ceased allowing the basement area to be used for externally promoted club nights and had ensured that two security guards are posted outside the hotel from 18:00 every night.

Members of the Sub-Committee thanked Mr Khalid for bringing the review and other local residents for taking the time to make representations and attend the hearing which had resulted in the premises being managed more effectively. Leading Counsel had indicated that the original decision of the Sub-Committee was unquestionably right at the time when it was made. However, it had to be recognised that the appellant had continued to operate to the original hours permitted during the 8 month period since the appeal and the level of disturbance had reduced very dramatically. There had been very few complaints from residents during that period and only one of the 16 residents involved had given an assurance that they would be prepared to give oral evidence at the appeal hearing.

Whilst the Council could decide to defend the appeal, the compromise being sought did secure the reduction in hours that the Sub-Committee ordered in respect of the basement and the additional conditions that had been imposed. In addition, two further conditions had been offered which further restricted the activities in the basement. The appellant had also agreed to pay the Council's reasonable costs of the appeal. It was therefore considered on balance that the benefit of accepting the compromise outweighed the risks associated with continuing to pursue the appeal.

CHAIRMAN: _____

DATE _____