



CITY OF WESTMINSTER

MINUTES

Licensing Sub-Committee (3)

MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (3)** Committee held on **Thursday 7th July, 2016**, Rooms 5, 6 & 7 - 17th Floor, Westminster City Hall, 64 Victoria Street, London, SW1E 6 QP.

Members Present: Councillors Melvyn Caplan (Chairman), Peter Freeman and Rita Begum

1 MEMBERSHIP

There were no changes to the Membership.

2 DECLARATIONS OF INTEREST

Councillors Caplan and Freeman declared in respect of Pitch 1771, Marylebone Road, NW1 that they had been Members of the Planning Committee which had considered the application for the relocation of the street trading pitch and new kiosk at the Planning Committee meeting held on 2 June 2015.

3 ISOLATED PITCH F3026(A), 9-9A GERRARD STREET, W1

LICENSING SUB-COMMITTEE No. 3

Thursday 7th July 2016

Membership: Councillor Melvyn Caplan (Chairman), Councillor Peter Freeman and Councillor Rita Begum

Legal Adviser: Barry Panto

Policy Adviser: Chris Wroe

Committee Officer: Jonathan Deacon

Presenting Officer: Taruna Adnath

Representations: The Council's City Planning and Highways departments.

Present: Mr Andre Cheong (New Loon Moon Ltd) and his brother, Mr Michael Cheong, Mr Robert Ayton (Head of Design & Conservation, WCG Planning - Central Area), Mr Sean Dwyer (Highways Planning Manager, WCG

**Isolated Pitch F3026(a), 9-9A Gerrard Street, W1
16/02334/LIPRS**

This was a proposal by Mr Andre Cheong, Managing Director at New Loon Moon Ltd to create a new isolated street trading pitch to be located on the left entrance of the building located at No. 9a Gerrard Street. Mr Cheong's current pitch, F3026, was on the opposite side of the premises. This was not an application to grant a street trading licence specifically to Mr Cheong or any other operator. As the report stated, this was a request to designate the area as a licence street which was a prerequisite to the granting of any street trading licence. If Members were minded to grant the proposal, applications to fill the area designated would be subject to a separate process.

The Chairman and Ms Adnath on behalf of the Licensing Service drew Mr Cheong's attention to the fact that Policy ST5 (iii) of the City of Westminster Statement of Street Licensing Policy states that 'the Licensing authority will not designate any new isolated street trading pitches, apart from in exceptional circumstances'. The Chairman asked Mr Cheong, when addressing Members on the proposal, to refer to what Mr Cheong believed were the exceptional circumstances as to why the Sub-Committee should grant the proposal.

Mr Andre Cheong explained that the store behind the proposed pitch was the oldest store in Chinatown. There was more than 35 years of history there. He had taken over the store nearly 21 years ago. In 2000 he had been granted a street trading licence on pitch F3026 outside the store to enable him to sell costume fruits and vegetables. The store opposite had also been granted a street trading licence. Mr Cheong commented that at that time there was not the trend which exists now for street food. He believed a characteristic of Chinatown is the 'hustle and bustle' and that food is available appearing to be fresh from the market. He expressed the view that Chinatown was very different from Oxford Street and those in the area, including tourists, were not looking for it to be pristine. This included the pavements. Mr Cheong also made the point that New Loon Moon was a supermarket which had featured in programmes made by many of the well-known chefs on television, including Jamie Oliver and most recently John Torode in March 2016. The outside area had been included in Mr Torode's programme.

Mr Cheong stated that the character and uniqueness of what was being provided had been emphasised at the Sub-Committee meeting in 2000 and he did not believe anything had changed since then. The main change was the increasing popularity of street food and market stalls in the UK. He informed Members that in 2000 his company had not owned the whole building and had a shared lease. Approximately ten years ago he had taken over the entire building and had since then refurbished what is a listed building. Mr Cheong added that the extension of the trading area to include a new designated pitch would enable his company to display its wares and continue to enhance the aura of the Chinatown area. There were limits to what his company could do with the façade of the building and the stalls would be a key part of what is the largest supermarket in terms of items and square footage in

Chinatown.

Mr Cheong also wished to bring to Members' attention that since 2000 there had been no issues with enforcement officers or the Council in general. The vicinity of the store was kept clean and tidy.

The Sub-Committee heard from Mr Ayton on behalf of the Council's City Planning department who was objecting to the proposal. He referred to the house having been a grade II listed building since 1970 and being one of the largest Georgian houses in the Chinatown Conservation Area. It was an important building in Chinatown's history. This included in the eighteenth century being a pub called the Turk's Head which was well known for the patrons who frequented it. He expressed concern at the visual impact of designating a pitch on the other side of the building from the existing pitch. It would obscure views of the building as people looked down Gerrard Street. Mr Ayton believed it would harm its setting and there was a townscape issue with further visual clutter being introduced to the streetscape. In addition to the pitch, there would be stalls and umbrellas in place. If a pitch was permitted on the west side of the building, in addition to what was already located on the east side, the whole of the ground floor would be obscured by the trading and be harmful in heritage terms.

Mr Dwyer on behalf of the Council's Highways department stated that purely from a highways point of view if the proposal was for a 'tables and chairs' licence it would be expected to gain planning permission before it was given a licence. He did not see any reason why he would object to a 'tables and chairs' application taking up the proposed amount of pavement provided it operated after the pedestrianisation is in force from midday as there was no traffic to take into account. Mr Dwyer clarified to the Sub-Committee that it was Highway's view that the proposal would require planning permission as it was a change of use of the highway.

Mr Cheong wished to respond to some of the points made by Mr Ayton. He stated that he was well aware of the history of the building and had refurbished it. He believed that the heritage of the building was being continued as a result of the maintenance of the property he had overseen. He informed those present that he had applied to the Council to put an awning on the building. It was rejected and he had accepted that if it was stuck to the end of the building it would adversely affect the view of the building. It had therefore been necessary to keep umbrellas in place.

Mr Cheong made the additional point that people, including tourists, took many photographs of the company's property and stall. It generated an atmosphere and enhanced Chinatown.

Mr Michael Cheong addressed the Sub-Committee, asking whether the pitch could be attached to the front of the property. He made reference to the objection being that the pitch was in front of the property rather than being attached to it. The Chairman advised Mr Cheong that Members were not able to consider the particular circumstances of the Applicant but only whether it was appropriate to designate a pitch at the location being proposed by the Applicant. Who would use the pitch would be determined at a later date.

Bearing in mind that the Sub-Committee was being asked to decide whether or not to

designate a new pitch rather than a licensing application for that pitch, it was considered that the views of the planning department had to be taken into account. Unless there was a clear indication that planning permission was likely to be granted, it would be most unlikely that the pitch could be designated as one that is suitable for street trading purposes. On that basis, the Sub-Committee therefore took into account the concerns of Mr Ayton regarding the visual impact of the proposed pitch on the building.

Members of the Sub-Committee considered that whilst the potential operator had a long standing business in the vicinity that was well run, there were not exceptional circumstances which would warrant designating a new street trading pitch at the proposed location. It was noted that the policy had changed since the granting of pitch F3026 in 2000. The Members concluded that, in accordance with the licensing policy, they would have refused to designate the new pitch even if there had been no objection from the planning department.

4 PITCH 1771, MARYLEBONE ROAD, NW1

LICENSING SUB-COMMITTEE No. 3

Thursday 7th July 2016

Membership: Councillor Melvyn Caplan (Chairman), Councillor Peter Freeman and Councillor Rita Begum

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

Present: Mr Lee Kitchiner (Applicant and Licence Holder for Pitch 1771) and Ms Rosalind Hick (Street Trading Team Manager, Westminster Council)

Declarations: Councillors Caplan and Freeman declared that they had been Members of the Planning Committee which had considered the application for the relocation of the street trading pitch and new kiosk at the Planning Committee meeting held on 2 June 2015.

Street Trading Pitch 1771, Marylebone Road, NW1 16/04480/LIIS

Mr Kitchiner had submitted a planning application which sought permission to relocate the existing street trading pitch designation to a position approximately five metres away within Marylebone Road and for approval of a semi-permanent kiosk. Items sold at the removable kiosk were wrapped ice cream, soft ice cream, soft drinks and crepes. Planning permission had been granted on 2 June 2015. Mr Kitchiner had then approached the Licensing Service to relocate the existing pitch designation in line with the Planning decision.

Mr Kitchiner had advised the Council that he was not ready at this point in time to put the new kiosk in place. This was likely to take place in November 2016. Members of the Sub-Committee were being asked to delegate to an authorised officer of the Licensing Service the authority to determine the date that the actual variation of the designation would take effect.

Mr Kitchiner confirmed at the hearing that he was proposing to move the kiosk to an improved location for line of sight and orientation. The Committee asked for clarification on why he would not be undertaking the work until at least November 2016. He replied that there were matters to finalise in respect of the relocation of the Legible London Totem sign. Highways were also carrying out works to the pavement in the area. It was felt that it was better not to undertake the relocation of the new receptacle during the summer months when Madame Tussauds was particularly busy. He advised that the estimated date that the new receptacle would be in place was 8 November.

The Sub-Committee noted that there had been no objections to the application. Members were content with the design of the kiosk and to permit the variation of the original designation of Pitch 1771 so that it was relocated to the proposed site five metres away. Members also delegated to an authorised officer of the Licensing Service the ability to determine the date that the actual variation of the designation will take effect.

The formal decision of the Sub-Committee is to vary the designation of Pitch 1771 in Marylebone Road on a date to be determined by the licensing service under delegated powers to the position indicated on the plan attached to the report as Appendix D, the size of the pitch remaining as Length, 3.65 metres and Width 1.52 metres.

5 WHYTE & BROWN LIMITED, UNITS G2, 1.4, 1.5 & 1.6, GROUND FLOOR UNIT G2, KINGLY COURT, W1

LICENSING SUB-COMMITTEE No. 3

Thursday 7th July 2016

Membership: Councillor Melvyn Caplan (Chairman), Councillor Peter Freeman
and Councillor Rita Begum

Legal Adviser: Barry Panto
Policy Adviser: Chris Wroe
Committee Officer: Jonathan Deacon
Presenting Officer: Darren O'Leary

Relevant Representations: 1 Amenity Society (The Soho Society).

Present: Mr Thomas O'Maoileoin (Solicitor, representing the Applicant) and Ms
Karen Wood (Applicant Company)

**Whyte & Brown Limited, Units G2, 1.4, 1.5 & 1.6, Ground Floor Unit G2, Kingly Court, W1
16/03381/LIPV**

1. Condition to be varied

	<u>From</u>	<u>To</u>
	<p>Condition 9 on the existing premises licence – “The total number of persons permitted in the premises at any one time (excluding staff) shall not exceed 120 persons, with no more than 100 persons to the first floor”.</p>	<p>“The total number of persons permitted in the premises at any one time (excluding staff) shall not exceed 140 persons, with no more than:</p> <ul style="list-style-type: none"> a) 100 persons to the first floor b) 30 persons to the ground floor c) 50 persons to the outside courtyard”.
	<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 noted that this was an application for a variation of the premises licence to increase the capacity of the premises from 120 to 140 excluding staff. Mr O’Maoileoin, representing the Applicant, confirmed that customers entered from Beak Street into Kingly Court and the outside area was within the courtyard. It was proposed that a maximum capacity would be set of 140 excluding staff. Within that maximum capacity there could be up to 100 people on the first floor, 30 people on the ground floor and 50 people in the outside courtyard. Clarification had been provided to Mrs Callingham, a local resident, regarding the capacities and it was believed she had withdrawn her representation.</p> <p>Mr O’Maoileoin explained that prior to the restaurant opening a fire risk assessment had recommended a capacity of 160. At the time it had been decided to include a condition when the original premises licence had been applied for specifying a capacity of 120 excluding staff. Also included as a condition on the premises licence was a restaurant condition. Mr O’Maoileoin informed the Sub-Committee that since the restaurant had opened it had been very successful. The Licence Holder had sought pre-application advice from Environmental Health in order to discuss the possibility of having a capacity of 160 at the restaurant. The difficulty with this was the number of lavatories on the premises. The Licence Holder had put forward the idea of using some of the communal lavatories. Environmental Health did not agree this approach. It was therefore agreed to compromise on a maximum capacity of 140.</p> <p>Mr O’Maoileoin made the point that Environmental Health and the Metropolitan</p>	

Police were not objecting to the application. He had attempted to contact The Soho Society to discuss their objection but had not received a response. He expressed the view that the written representation did not refer specifically to the application. The Soho Society's comments about the impact of late night and drink led premises and night cafes were not relevant to what would continue to be a fully conditioned restaurant. The conditions that were on the existing premises licence already promoted the licensing objectives. Alcohol sold would be ancillary to a seated customer consuming a substantial table meal and would be served by waiter or waitress. The only change to the premises licence being applied for was the ability to have an extra twenty diners. There were no proposed changes to the hours for licensable activities or the opening hours.

The Sub-Committee asked Mr O'Maoileoin how the capacities for the separate areas would be monitored so that the overall capacity of 140 would not be exceeded. He replied that all customers would have to be shown to their table and when they arrived there would be a 'meet and greet' system in place. It would therefore be known precisely how many people there were in the different areas. The numbers on the ground floor and in the outside area were quite small. The Sub-Committee also checked with Mr O'Maoileoin whether he was content to include the outside area in the restaurant condition. He had no objections to this.

The Sub-Committee granted the application, considering that the application would not add to cumulative impact. It would have been highly likely that had the original application included a condition with a suggested capacity of 140 this would have been permitted, taking into account that the conditions attached to the premises licence promoted the licensing objectives including the premises being a bona fide restaurant. The hours of operation were in keeping with the Council's Core Hours policy.

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 total number of persons permitted in the premises at any one time (excluding staff) shall not exceed 140 persons, with no more than:

- (a) 100 persons to the first floor
- (b) 30 persons to the ground floor
- (c) 50 persons to the outside courtyard

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

11. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of a Metropolitan Police Crime Prevention Officer. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually

record whilst the premises is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Recordings shall be made available immediately upon the request of Police or authorised officer throughout the preceding 31 day period.

12. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises is open to the public. This staff member must be able to show a Police or authorised council officer recent data or footage with the absolute minimum of delay when requested.
13. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
14. No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
15. The supply of alcohol shall be by waiter or waitress service, save in the respect of the area hatched black on the approved plan.
16. No striptease, no nudity and all persons to be decently attired at all times except when the premises are operating under the provision of a Sexual Entertainment Venue Licence.
17. There shall be no sale of alcohol for consumption off the Premises after 11pm.
18. The external seating will not be used after Core Hours, being 10:30pm Sunday, 11:30pm Monday to Thursday and midnight Friday and Saturday.
19. The premises (including the external seating area) shall only operate as a restaurant (i) in which customers are shown to their table, (ii) 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, (iii) which do not provide any take away service of food or drink for immediate consumption, and (iv) where intoxicating liquor shall not be sold, supplied, or consumed on the premises otherwise than to persons who are seated in the premises and bona fide taking substantial table meals and provided always that the consumption of intoxicating liquor by such persons is ancillary to taking such meals.
20. 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 regards 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.

6 AVIVA, 10-11 GREAT NEWPORT STREET, WC2

LICENSING SUB-COMMITTEE No. 3

Thursday 7th July 2016

Membership: Councillor Melvyn Caplan (Chairman), Councillor Peter Freeman and Councillor Rita Begum

Legal Adviser: Barry Panto
Policy Adviser: Chris Wroe
Committee Officer: Jonathan Deacon
Presenting Officer: Darren O'Leary

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

Present: Mr Christopher Rees-Gay (Solicitor, representing the Applicant), Ms Isabel Sheppard (Asset Manager, Applicant Company), Mr Maxwell Owusu Koduah (Environmental Health), PC Michael Day (Metropolitan Police) and Mr Mark Gilkes (local resident)

Aviva, 10-11 Great Newport Street, WC2 16/04563/LIPN	
1.	Late Night Refreshment (Indoors)
	Monday to Thursday: 23:00 to 23:30 Friday to Saturday: 23:00 to 00:00 Sundays before Bank Holidays: 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 initially heard from Mr Rees-Gay, representing the Applicant Company. He stated that taking into account the concerns of Mr Gilkes, local resident, his client was amending the opening hours so that they were within the Council's Core Hours apart from Sunday mornings when it was proposed that the premises would open at 10:00. He explained to those present that Aviva is the freeholder of the premises. The application was for the restaurant on the ground and basement floors. A high quality operator was being sought to run the restaurant. Above this were the 14 residential flats that were in the process of being sold. The Applicant Company wished to ensure

that local residents in the area, including those in the flats above, were not adversely affected. There would be no regulated entertainment played at the restaurant. There would be no vertical drinking. There was no outside area. A minimum number of 150 covers was being offered to ensure the premises would remain a restaurant. There was no presumption against the application in policy terms.

Mr Rees-Gay stated, in relation to the representations, that it was his belief that the Police and Environmental Health had made a representation based on the premises being located in the West End Cumulative Impact Area. The Applicant had agreed conditions with the Police and Environmental Health and it was Mr Rees-Gay's view that the Responsible Authorities had maintained their representations so that the Sub-Committee could consider the matter. He referred to Mr Gilkes' representation and specifically Mr Gilkes' concerns regarding the terminal hour for licensable activities being midnight on Fridays and Saturdays, noise from bottles being placed outside for collection after midnight and beer barrel deliveries being made prior to 07:00.

Mr Rees-Gay made the point that his client had e-mailed Mr Gilkes that the premises would be a restaurant and that the Applicant wished to ensure that there were no issues raised for local residents. It had been explained in the e-mail that the entrance/exit of the restaurant would be in Great Newport Street and deliveries would take place there and not to the rear or to the side which was more likely to have an impact on local residents. There would in the lease between the freeholder and the tenants of the flats above be a 'quiet enjoyment' clause which would protect the residents above the restaurant and ultimately also those local residents who were located a little further away.

In terms of the conditions proposed to minimise the potential for public nuisance, Mr Rees-Gay drew Members' attention to a proposed amendment to the model condition that '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'. This was because Environmental Health had advised him that there were specific waste collections along Great Newport Street at around 01:00. In order to alleviate Mr Gilkes' concern Mr Rees-Gay was proposing an alternative condition that no bottles (which were likely to make more noise) would be moved, removed from or placed in outside areas between 23:00 and 07:00 on the following day. A deliveries condition had not been offered as this was dependent on the operator who would be responsible for the restaurant. However, there was a condition on the planning permission that required the Applicant Company to provide a service management plan including delivery arrangements. The restaurant could not be opened until the arrangements were approved by the Council. Mr Gilkes had been sent a management plan setting out the measures that would be taken to prevent noise.

The Sub-Committee asked why the Applicant was seeking off-sales. Mr Rees-Gay replied that apart from customers being permitted to take from the premises part consumed and resealed bottles of wine supplied ancillary to their meal, there would be no sales of alcohol for consumption off the premises.

The Sub-Committee heard from representatives of the Responsible Authorities. PC Day confirmed that the Applicant had agreed all of the Police's proposed conditions and that their concerns had been addressed. Mr Koduah also confirmed that the Applicant had agreed all of Environmental Health's proposed conditions. His representation had been maintained in order to assist the Sub-Committee. He explained that general waste collections took place in the locality between 01:00 and 03:00, 09:00 and 11:00 and 18:00 and 20:30. As the restaurant generated food waste he was recommending a revised condition that did not limit waste collections so that no bottles would be moved, removed from or placed in outside areas between 23:00 and 07:00 on the following day. The overall capacity was yet to be determined. The number of toilets would be a factor in the number decided upon.

The Sub-Committee was addressed by Mr Gilkes. He informed Members that he is on the board of the Soho Housing Association which is the landlord for Sandringham Flats but was at the meeting in a personal capacity. He was concerned that the Sandringham Residents Association had not made a representation as a number of their senior elected representatives had resigned.

Mr Gilkes stated that residents of Sandringham flats had to put up with a lot of noise, particularly being located in an entertainment area. He brought to Members' attention that he is a shift worker with an earliest start of 04:00 during the week and Saturdays and 05:45 on Sundays. His latest finish was 02:00. He needed to get some sleep when possible. A particular concern was that sound entered from the street and reverberated round the courtyard of Sandringham flats. Any noise in Great Newport Street came through the alley and could be heard by the residents of Sandringham flats. Mr Gilkes gave the example that there was a side gate on Great Newport Street known as 'Harry Potter Gate' as it was used for one of the films. There were Harry Potter Walking Tours and Mr Gilkes commented that he was able to hear it in his flat.

Mr Gilkes said that noise was heard from staff at Patisserie Valerie in Great Newport Street having cigarettes at 'Harry Potter Gate'. He was keen that staff at 10-11 Great Newport Street did not use the area around the gate for smoking or that customers did not wait for taxis there.

The Sub-Committee asked the Applicant's Representatives a number of questions. They were asked what the smoking arrangements would be. Mr Rees-Gay replied that this would need to be agreed with the operator who would run the premises. It was suggested that an option for the smoking area was that customers were recommended to head in a westerly direction, away from the 'Harry Potter Gate'. The Applicant's Representatives did not object to the Sub-Committee's proposal that there was a restriction on the number of customers from the restaurant smoking outside at any one time.

Mr Wroe enquired as to the operation of the bar for those who it was proposed would not be eating. Mr Rees-Gay replied that the Applicant had agreed with the Police a proposed condition that customers could consume alcohol without it being ancillary to food until 20:00. His client however only envisaged 10-11 Great Newport Street being a restaurant and did not expect customers to come to the premises simply to drink alcohol. It would be a holding bar. The Sub-

Committee explored with the Applicant's Representatives whether it was envisaged that the premises would be run so that alcohol would be supplied purely prior to a meal. Mr Rees-Gay confirmed that his client was comfortable with a condition that the consumption of alcohol in the bar area would only be prior to a meal. Whilst the operator was yet to be selected, the Applicant Company was also content that there would be an agreement with a taxi company. PC Day suggested that customers should be encouraged to stay inside the premises until the taxi arrived.

The Sub-Committee granted the application. Members considered that the application was for a restaurant and the Applicant was content to amend the operation so that consumption of alcohol was only prior to a meal. The Applicant had amended the proposed opening hours to Core Hours apart from Sunday mornings when the restaurant would open at 10:00. Apart from customers being permitted to take from the premises part consumed and resealed bottles of wine supplied ancillary to their meal, there would be no sales of alcohol for consumption off the premises. The Applicant had taken into account the representations received and had been amenable to conditions which promoted the licensable objectives. Agreeing conditions with the Police and Environmental Health had addressed the Responsible Authorities' concerns. The Applicant was content, having heard Mr Gilkes' concerns, that conditions would be attached to the licence requiring the operator to have an agreement with a taxi company and also limiting the maximum number of customers smoking outside. The Sub-Committee set a maximum number of 8 customers smoking outside. Members also attached the model condition to the premises licence 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. On the advice of Environmental Health, the Sub-Committee attached the condition that no 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. This would exclude the waste collections.

2. Sale by Retail of Alcohol (On and Off)

Monday to Thursday:	10:00 to 23:30
Friday to Saturday:	10:00 to 00:00
Sunday:	12:00 to 22:30
Sundays before Bank Holidays:	12:00 to 00:00

Amendments to application advised at hearing:

Mr Rees-Gay stated during the hearing that apart from customers being permitted to take from the premises part consumed and resealed bottles of wine supplied ancillary to their meal, there would be no sales of alcohol for consumption off the premises.

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

	The Sub-Committee granted the proposed hours for on-sales, subject to conditions as set out below (see reasons for decision in Section 1).								
3.	Opening Hours								
	<table> <tr> <td>Monday to Thursday:</td> <td>10:00 to 00:00</td> </tr> <tr> <td>Friday to Saturday:</td> <td>10:00 to 00:30</td> </tr> <tr> <td>Sunday:</td> <td>10:00 to 23:00</td> </tr> <tr> <td>Sundays before Bank Holidays:</td> <td>12:00 to 00:30</td> </tr> </table>	Monday to Thursday:	10:00 to 00:00	Friday to Saturday:	10:00 to 00:30	Sunday:	10:00 to 23:00	Sundays before Bank Holidays:	12:00 to 00:30
Monday to Thursday:	10:00 to 00:00								
Friday to Saturday:	10:00 to 00:30								
Sunday:	10:00 to 23:00								
Sundays before Bank Holidays:	12:00 to 00:30								
	<p>Amendments to application advised at hearing:</p> <p>Mr Rees-Gay stated during the hearing that apart from Sunday mornings when it was proposed that the premises would open at 10:00, the opening hours were being amended so that they were in keeping with the Council's Core Hours policy. The proposed opening hours would therefore be:</p> <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>10:00 to 22:30</td> </tr> <tr> <td>Sundays before Bank Holidays:</td> <td>12:00 to 00:00</td> </tr> </table>	Monday to Thursday:	10:00 to 23:30	Friday to Saturday:	10:00 to 00:00	Sunday:	10:00 to 22:30	Sundays before Bank Holidays:	12:00 to 00:00
Monday to Thursday:	10:00 to 23:30								
Friday to Saturday:	10:00 to 00:00								
Sunday:	10:00 to 22:30								
Sundays before Bank Holidays:	12:00 to 00:00								
	<p>Decision (including reasons if different from those set out in report):</p> <p>The Sub-Committee granted the Applicant's amended hours, subject to conditions as set out below (see reasons for decision in Section 1).</p>								

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

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

is ancillary to taking such meals.

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

22. Apart from customers being permitted to take alcohol from the premises in accordance with condition 9 above, there shall be no sales of alcohol for consumption off the premises.
23. Notwithstanding condition 9 above, alcohol may be supplied and consumed by customers prior to their meal in the bar area, in the area hatched black and shown on plan number 1762 SK12/020 P5, by up to a maximum at any one time of 15 customers in this area.
24. The premises will be laid out with a minimum of 150 covers at all times.
25. 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.
26. 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.
27. A record shall be kept detailing all refused sales of alcohol. The record should include the date and time of the refused sale and the name of the member of staff who refused the sale. The record shall be available for inspection at the premises by the police or an authorised officer of the City Council at all times whilst the premises is open.
28. An incident log shall be kept at the premises, and made available on request to an authorised officer of the City Council or the Police. It must be completed within 24 hours of the incident and will record the following: (a) all crimes reported to the venue (b) all ejections of patrons (c) any complaints received concerning crime and disorder (d) any incidents of disorder (e) all seizures of drugs or offensive weapons (f) any faults in the CCTV system, searching equipment or scanning equipment (g) any refusal of the sale of alcohol (h) any visit by a relevant authority or emergency service.
29. 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.

30. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
31. 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.
32. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
33. No 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.
34. 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.
35. All exit doors to the premises will remain closed after 23:00 hours except for entrance and egress.
36. 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.
37. 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.
38. No advertisements of any kind (including placard, poster, sticker, flyer, picture, letter, sign or other mark) that advertises or promotes the establishment, its premises, or any of its events, facilities, goods or services shall be inscribed or affixed upon the surface of the highway, or upon any building, structure, works, street furniture, tree, or any other property, or be distributed to the public.
39. 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.
40. 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.
41. All emergency exit doors shall be available at all material times without the use of a key, code, card or similar means.

42. All emergency doors shall be maintained effectively self-closing and not held open other than by an approved device.
43. The edges of the treads of steps and stairways shall be maintained so as to be conspicuous.
44. Curtains and hangings shall be arranged so as not to obstruct emergency safety signs or emergency equipment.
45. 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.
46. 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.
47. 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.
48. 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.
49. Patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, shall be limited to 8 persons at any one time.
50. 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.

7 SMACK SOHO, KEMBLE HOUSE, 58 DEAN STREET, W1

LICENSING SUB-COMMITTEE No. 3

Thursday 7th July 2016

Membership: Councillor Melvyn Caplan (Chairman), Councillor Peter Freeman and Councillor Rita Begum

Legal Adviser: Barry Panto
Policy Adviser: Chris Wroe
Committee Officer: Jonathan Deacon
Presenting Officer: Darren O'Leary

Relevant Representations: 1 Amenity Society.

Present: Mr Thomas O'Maoileoin (Solicitor, representing the Applicant)

Smack Soho, Kemble House, 58 Dean Street, W1 16/03523/LIPN	
1.	Sale by Retail of Alcohol (Off)
	Monday to Saturday: 12:00 to 22:00
	Amendments to application advised at hearing: None.
	<p>Decision (including reasons if different from those set out in report):</p> <p>This was an application for a new premises licence for off-sales from midday to 22:00 Monday to Saturday. Mr O'Maoileoin informed the Sub-Committee that Smack Soho is owned by the Burger & Lobster Group and has been operating for over six months without alcohol being sold. He described the premises as a retail/delicatessen unit under Use Class A1. Various lobster fillings were provided within a range of rolls. Salads were pre-mixed. There was also a selection of soft drinks, teas and coffees.</p> <p>Mr O'Maoileoin stated that the lunchtime trade was almost entirely to office workers. In the evening, the clientele included pre and post theatre. The Police had suggested to the Applicant that any sales of alcohol were not self-service. Alcohol would be kept behind the service counter where food was purchased. It was intended to limit alcohol to beer and wine. Wine would be contained in small bottles and organic beers and wines were part of the offer.</p> <p>In keeping with the application for off-sales, customers would not be able to consume alcohol at the seating area inside the premises. Mr O'Maoileoin explained that one reason why on-sales had not been applied for was that there would potentially be an issue with planning as it could be considered that there was movement from Use Class A1 to A3. Also, the area where customers could eat was very limited in size. The likely number of people that could be accommodated in the seating area was approximately 12. If on-sales were provided to customers there would be an emphasis on the Applicant to provide toiletry facilities in a very small unit and this would not make the business commercially viable. Mr O'Maoileoin stated that based on information from similar businesses, his client did not believe that there would be a significant demand for alcohol, particularly as a large percentage of the trade was office workers purchasing food at lunch time. It was the view of the Applicant that if office workers did buy alcohol it would be on their way home ancillary to a takeaway meal. It had been proposed as a condition that alcohol could only be sold ancillary to a takeaway meal.</p> <p>Mr O'Maoileoin made the point that whilst the premises would not become an</p>

off-licence, the Applicant had been prepared to offer restrictions similar to those attached to premises licences for off-licences. These included that no super-strength beer, lagers, ciders or spirit mixtures sold and there would be no self-service of alcohol. Also, no more than 15% of the sales area would be used for the display of alcohol. Mr O'Maoileoin added that in reality there would be much less than 15% of the sales area used for the display of alcohol. The Applicant was content with either a Challenge 21 or Challenge 25 proof of age scheme being implemented at the premises.

Mr O'Maoileoin addressed the Sub-Committee on the objection from the Soho Society (the Metropolitan Police had withdrawn their representation). He had written to them as the representation had referred to alcohol being sold Monday to Saturday 12:00 until 22:00 and yet they had also recommended within the representation that it was necessary to keep the operating hours within the Core Hours when the proposed hours (including the opening hours) were well within the Council's Core Hours policy. Mr O'Maoileoin also disputed that Smack Soho was a late night establishment or a drink led premises as had been referred to in the representation. He believed that the licensing objectives were promoted as a result of the proposed conditions which had led to the Police withdrawing their representation.

Mr O'Maoileoin commented that Smack Soho was not a fast food premises under the Council's policy and that the application would not add to cumulative impact, including in relation to the proposed hours of operation. The Sub-Committee noted that alcohol was ancillary to takeaway food and asked whether this was intended for immediate consumption. Mr O'Maoileoin replied that it was not and his clients did not encourage it. The lobster roll would be triple wrapped (it would not be like takeaway fish and chips), the salad would be in a plastic sealed container and the bottle of wine would be sealed similarly to a small bottle of wine customers would receive on an aeroplane. The food sold would all be cold.

Mr Wroe made the point that other applications had raised concerns that alcohol sold with fast food (although this was not a fast food premises) would lead to or encourage street drinking. It would be important to know in this instance how readily available for consumption the alcohol would be. The Sub-Committee had noted that whilst there may not be issues specifically with the Applicant's operations, the application was for a premises licence and could at some stage be transferred to another operator. Mr O'Maoileoin responded that apart from the way the food would be sold, procedures could be put in place such as having a notice that alcohol would not be consumed on the premises or immediately outside / in the vicinity of the premises. Staff would be able to monitor the outside area. The Applicant employed someone to 'meet and greet' customers at the entrance of the premises. He did not expect a huge amount of off-sales. It was anticipated that similarly to Marks and Spencers, customers would want to take cold food and a small bottle of wine home with them.

The Sub-Committee asked Mr O'Maoileoin what the price point was for the food and drink offer. He replied that lobster rolls would be approximately £12 and salads were approximately £7. Alcohol would be more expensive than that sold in an off-licence as was in keeping with the Burger & Lobster restaurants. He

	<p>would not object to the Sub-Committee requiring that the size of the bottles of alcohol were restricted.</p> <p>The Sub-Committee granted the application, amending a condition proposed by the Applicant so that 'sales of alcohol for consumption off the premises shall only be supplied ancillary to a cold takeaway meal. Neither the off-sales nor the cold takeaway meal shall be sold for immediate consumption'. The Sub-Committee considered that the combination of the way the food was wrapped, the fact the food was cold, the nature of the operation including the price point for the sale of food and alcohol and also the proposed monitoring by staff would discourage immediate consumption outside the premises, including street drinking. The Sub-Committee also considered that the conditions promoted the licensing objectives and that given the proposed hours, the application would not add to cumulative impact in the West End Cumulative Impact Area. Members decided that it would be appropriate for the premises to operate a Challenge 25 proof of age scheme.</p>
2.	Opening Hours
	Monday to Saturday: 12:00 to 22:00
	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	
<u>Mandatory Conditions</u>	
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 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.

5(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.

5(ii) For the purposes of the condition set out in paragraph 5(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.

5(iii). Where the permitted price given by Paragraph 5(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.

5(iv). (1) Sub-paragraph 5(iv)(2) below applies where the permitted price given by Paragraph 5(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

6. All sales of alcohol for consumption off the premises shall be in sealed containers only, and shall not be consumed on the premises.

7. Sales of alcohol for consumption off the premises shall only be supplied ancillary to a cold takeaway meal. Neither the off-sales nor the cold takeaway meal shall be sold for immediate consumption.

8. No more than 15% of the sales area shall be used at any one time for the sale, exposure for sale, or display of alcohol.

9. No super-strength beer, lagers, ciders or spirit mixtures of 5.5% ABV (alcohol by volume) or above shall be sold at the premises, except for premium beers and ciders supplied in glass bottles.

10. A record shall be kept detailing all refused sales of alcohol. The record should include the date and time of the refused sale and the name of the member of staff who refused the sale. The record shall be available for inspection at the premises by the police or an authorised officer of the City Council at all times whilst the premises is open

11. 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.

12. 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.

13. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
14. 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.
15. 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.
16. There shall be no self-service of alcohol.