



CITY OF WESTMINSTER

# MINUTES

## Licensing Sub-Committee (4)

### MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (4)** Committee held on **Thursday 1st September, 2016**, Rooms 5, 6 & 7 - 17th Floor, Westminster City Hall, 64 Victoria Street, London, SW1E 6 QP.

**Members Present:** Councillors Jean Paul Floru (Chairman), Peter Freeman and Shamim Talukder

#### 1 MEMBERSHIP

There were no changes of Membership.

#### 2 DECLARATIONS OF INTEREST

There were no declarations of interest.

#### 3 TOMBO, 28 D'ARBLAY STREET, W1

#### LICENSING SUB-COMMITTEE No. 4

*Thursday 1st September 2016*

Membership: Councillor Jean-Paul Floru (Chairman), Councillor Peter Freeman and Councillor Shamim Talukder

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

Relevant Representations: Environmental Health and 1 local resident.

Present: Mr Phil Crier (Solicitor, representing the Applicant), Mr Patrick Mooney (Applicant Company), Ms Ayesha Bolton (Environmental Health) and Mr Paul Gisbourne (local resident).

**Tombo, 28 D'Arblay Street, W1**  
**16/06942/LIPN**

1.	<b>Sale by retail of alcohol (On-sales)</b>
	Monday to Saturday 11:30 to 21:30 Sunday 12:00 to 21:30
	Amendments to application advised at hearing:  None.
	<p>Decision (including reasons if different from those set out in report):</p> <p>Tombo is a Japanese poke and matcha café specialising in sushi, teas and cake for takeaway. This was an application for a new premises licence for on-sales of alcohol Monday to Saturday 11:30 to 21:30 and Sunday 12:00 to 21:30. Mr Crier, representing the Applicant, stated that his client had agreed the conditions proposed by Environmental Health and the Police. The premises had been operating for three months and the Applicant sought the ability to sell alcohol within the Council's Core Hours policy. He added that as a result of the conditions agreed by the Applicant there would be no external drinking at the premises or off-sales, alcohol would be ancillary to a table meal and customers would be seated and served by waiter or waitress.</p> <p>Ms Bolton confirmed that the Applicant had agreed the proposed Environmental Health conditions and her concerns had been addressed as a result. She referred to the fact that the agreed conditions included that the supply of alcohol would be limited to wine (including Sake) and bottled beers and that customers who consumed alcohol would be seated and not able to take it outside.</p> <p>The Sub-Committee was addressed by Mr Gisbourne. He made the point that D'Arblay Street, where he lives, crosses Berwick Street and that because of the one way system it is a relatively quiet street. He stated he had lived there for fourteen years and in the last four years it had become increasingly less quiet. He informed the Sub-Committee that Blanchette Soho in D'Arblay Street was causing particular nuisance with two of his neighbours moving out because of noise from loud music being played and patrons outside drinking. Mr Gisbourne commented that there was also a bar next door to where he lives that he considered was also becoming noisier. He feared a contagion effect from a third premises in close proximity. Even if there was no drinking outside, people could see alcohol being consumed inside from the street as tables were quite close to the window. It would, he believed, make it appear that the area was a place to go just to drink. He added that his concern was not the restaurant or how they stated they were intending to operate.</p> <p>In response to questions from the Sub-Committee, Mr Gisbourne advised that he had not had any issues with Tombo since it had opened. It was busy at lunchtimes but less busy in the evening. He was concerned that this could change if alcohol was sold at the premises. Mr Gisbourne also made the point that if he had not been experiencing nuisance from Blanchette Soho, he would not have submitted a representation. He had objected because of concerns the</p>

nuisance in the area could worsen.

Mr Crier in his response to Mr Gisbourne's comments wished to emphasise that Tombo was very different in style to Blanchette Soho. There would not be open doors and customers would not be permitted to drink outside.

Members of the Sub-Committee were keen to prevent a situation where the premises licence was transferred and a different style of establishment was able to operate at 28 D'Arblay Street which was able to cause nuisance to local residents. Mr Crier was therefore asked whether his client would accept a condition that alcohol would only be sold, supplied and consumed at the premises whilst the premises are operating as a Japanese poke and matcha café. Mr Crier replied that the Applicant would be content for this condition to be attached to the premises licence.

The Sub-Committee, in granting the application, took into account that the Applicant had agreed conditions which would promote the licensing objectives. This had led to both the Police and the Licensing Authority withdrawing their representations and Environmental Health's concerns being addressed. Great care had been taken to ensure that the premises would be a food led restaurant and not a drinking establishment. The proposed hours were well within the Council's Core Hours policy in the West End Cumulative Impact Area. The Chairman also made the additional point that Shaftesbury as a landlord would be unlikely to tolerate a public nuisance being caused at Tombo.

The Sub-Committee advised Mr Gisbourne to liaise with licensing officers after the hearing about the premises in the locality which he stated was causing a public nuisance. He had the option to submit an application for a review of the premises licence in the event that any licensed operator was undermining the licensing objectives.

**2. Opening Hours**

Monday to Sunday 11:30 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**

**Mandatory Conditions**

1. No supply of alcohol may be made at a time when there is no designated premises supervisor in respect of this licence.
2. No supply of alcohol may be made at a time when the designated premises supervisor does not hold a personal licence or the personal licence is suspended.
3. Every supply of alcohol under this licence must be made or authorised by a person who holds a personal licence.
4.
  - (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
  - (2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises—
    - (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to;
      - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
      - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
    - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
    - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
    - (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
    - (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).
5. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.

6. (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
- (2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
- (3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either—
- (a) a holographic mark, or
  - (b) an ultraviolet feature.

7. The responsible person must ensure that—

- (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—
- (i) beer or cider: ½ pint;
  - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
  - (iii) still wine in a glass: 125 ml;
- (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
- (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

A responsible person in relation to a licensed premises means the holder of the premise licence in respect of the premises, the designated premises supervisor (if any) or any individual aged 18 or over who is authorised by either the licence holder or designated premises supervisor. For premises with a club premises certificate, any member or officer of the club present on the premises in a capacity that which enables him to prevent the supply of alcohol.

8(i) A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

8(ii) For the purposes of the condition set out in paragraph 8(i) above -

(a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;

(b) "permitted price" is the price found by applying the formula -

$$P = D + (D \times V)$$

Where -

- (i) P is the permitted price,
  - (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
  - (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
- (c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence -
- (i) the holder of the premises licence,
  - (ii) the designated premises supervisor (if any) in respect of such a licence, or
  - (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;
- (d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
- (e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.

8(iii). Where the permitted price given by Paragraph 8(ii)(b) above would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

- 8(iv). (1) Sub-paragraph 8(iv)(2) below applies where the permitted price given by Paragraph 8(ii)(b) above on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.
- (2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

### **Additional Conditions**

9. Substantial food and non-intoxicating beverages, including drinking water, shall

be available in all parts of the premises where alcohol is sold or supplied for consumption on the premises.

10. No spirits or draught beers shall be sold at the premises.
11. Staff shall be fully trained in their responsibilities under the Licensing Act 2003 with particular reference to under age sales.
12. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the entire 31 day period.
13. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises 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.
14. An incident log shall be kept at the premises, and made available on request to an authorised officer of the City Council or the Police. It must be completed within 24 hours of the incident and will record the following:
  - (a) all crimes reported to the venue
  - (b) all ejections of patrons
  - (c) any complaints received concerning crime and disorder
  - (d) any incidents of disorder
  - (e) any faults in the CCTV system
  - (f) any refusal of the sale of alcohol
  - (g) any visit by a relevant authority or emergency service.
15. 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.
16. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
17. 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.
18. 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.

19. The supply of alcohol shall be by waiter or waitress service only.
20. The number of persons permitted to seat in the premises at any one time (excluding staff) shall not exceed 14 persons.
21. The supply of alcohol shall be limited to wine (including Sake) and bottled beers.
22. Patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, shall not be permitted to take alcoholic drinks or glass containers with them.
23. No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
24. All waste to be properly presented and placed out for collection no earlier than 30 minutes before the schedule collection times.
25. No rubbish, including bottles, shall be moved, removed or placed in outside areas between 23:00 hours and 08:00 hours.
26. No deliveries shall be made to the premises between 23:00 and 08:00 hours.
27. 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.
28. Alcohol shall only be sold, supplied and consumed at the premises whilst the premises are operating as a Japanese poke and matcha cafe.

#### **4 ICHI BUNS, 22A-24 WARDOUR STREET, W1**

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

*Thursday 1st September 2016*

Membership: Councillor Jean-Paul Floru (Chairman), Councillor Peter Freeman and Councillor Shamim Talukder

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

Relevant Representations: Environmental Health and Metropolitan Police.



Present: Mr Alun Thomas (Solicitor, representing the Applicant), Mr Paul Sarlas (Chief Executive Officer, Applicant Company), Mr Dave Nevitt (Environmental Health) and PC Toby Janes (Metropolitan Police).

<b>Ichi Buns, 22A-24 Wardour Street, W1 16/06865/LIPN</b>	
<b>1.</b>	<b>Basement &amp; Ground Floor – Late Night Refreshment (Indoors &amp; Outdoors)</b>
	Monday to Sunday 23:00 to 04:00.
	Amendments to application advised at hearing:  None.
	<p>Decision (including reasons if different from those set out in report):</p> <p>The Sub-Committee initially heard from Mr Thomas, representing the Applicant. He explained that the existing premises licence for 22A Wardour Street which had been transferred to his client already permitted the licensable activities and hours in the basement and on the ground floor which were being applied for in the application for the new premises licence. The Applicant had agreed a condition that the existing licence would be surrendered in the event the current application was granted. In addition the Applicant was seeking that the licensed area at the Japanese restaurant was extended to include the first floor of 24 Wardour Street. Mr Thomas referred to the fact that the proposed hours for licensable activities on the first floor were within the Council's Core Hours policy and that this area would operate in keeping with the Council's model restaurant condition, MC66. The likely capacity for the first floor would be 60 customers.</p> <p>The Sub-Committee asked Mr Thomas whether his client would be willing to have all floors subject to the MC66 condition. Mr Thomas replied that his client wished to retain the permissions for the basement and ground floor on the existing premises licence. The supply of alcohol in the basement and on the ground floor was required to be consumed by seated customers having a table meal.</p> <p>PC Janes advised the Sub-Committee that the Police were maintaining their representation due to the proposed additional capacity of 60 on the first floor in the West End Cumulative Impact Area. He was content with the conditions which had been agreed with the Applicant. In response to a question from the Sub-Committee PC Janes stated that there was no record of incidents of crime and disorder at the premises.</p> <p>The Sub-Committee next heard from Mr Nevitt. He had also maintained his representation due to the proposed increased capacity in the Cumulative Impact Area. However, he was reassured by the fact that the proposed hours for licensable activities on the first floor were in keeping with the Council's Core Hours policy and the area was subject to the model restaurant condition. He</p>

	<p>regarded the first floor area as a fairly low risk addition to the premises. Mr Nevitt made the point that Ichi Buns was a very different style to HK Diner and as a result of the agreed conditions there would be an improved, up to date premises licence if the application was granted.</p> <p>The Applicant was seeking off-sales. Mr Thomas on behalf of his client agreed an amended condition suggested by the Sub-Committee that ‘all sales of alcohol for consumption off the premises shall be in sealed containers and ancillary to a take-away meal, save for alcohol to be consumed by persons who are seated in an area appropriately authorised for the use of tables and chairs on the highway and bona fide taking a substantial meal there, and where the consumption of alcohol by such persons is ancillary to taking such a meal, and where the supply of alcohol is by waiter or waitress service’.</p> <p>The Sub-Committee, in granting the application subject to conditions, considered on the basis of the evidence that the application would promote the licensing objectives. Members accepted that the Applicant was already able to operate in the basement and on the ground floor as proposed in the application. It was noted that there had been no issues raised about the operation on these floors by the Police or Environmental Health and there had been no representations by local residents. The proposed condition surrendering the existing premises licence was attached to the new licence.</p> <p>In respect of the first floor, the nature of the conditions agreed between the Applicant and the Responsible Authorities including the fact that the premises would run in compliance with the Council’s model restaurant condition and also that the proposed hours for licensable activities were within the Council’s Core Hours, minimised any concerns that the premises would add to cumulative impact.</p>
<b>2.</b>	<b>Basement &amp; Ground Floor – Sale by retail of alcohol (On and Off Sales)</b>
	<p>Monday to Saturday 10:00 to 00:00  Sunday 12:00 to 23:30.</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 (see reasons for decision in Section 1).</p>
<b>3.</b>	<b>Basement &amp; Ground Floor – Regulated Entertainment (Recorded Music Indoors)</b>
	<p>Unrestricted.</p>

	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 (see reasons for decision in Section 1).
<b>4.</b>	<b>Basement &amp; Ground Floor – Opening Hours</b>
	Monday to Saturday 10:00 to 04:00. Sunday 12.00 to 04.00
	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 (see reasons for decision in Section 1).
<b>5.</b>	<b>First Floor – Late Night Refreshment (Indoors &amp; Outdoors)</b>
	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):  Granted, subject to conditions as set out below (see reasons for decision in Section 1).
<b>6.</b>	<b>First Floor – Sale by retail of alcohol (On and Off Sales)</b>
	Monday to Thursday 10:00 to 23:30 Friday to Saturday 10:00 to 00:00. Sunday 12.00 to 22.30
	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 (see reasons for decision in Section 1).
<b>7.</b>	<b>First Floor - Regulated Entertainment (Recorded Music Indoors)</b>
	Monday to Thursday 10:00 to 23:30 Friday to Saturday 10:00 to 00:00 Sunday 12:00 to 22:30.
	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 (see reasons for decision in Section 1).
<b>8.</b>	<b>First Floor – Opening Hours</b>
	Monday to Thursday 10:00 to 00:00 Friday to Saturday 10:00 to 00:30 Sunday 12:00 to 23:00.
	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 (see reasons for decision in Section 1).
<b>9.</b>	<b>Seasonal variations / Non-standard timings</b>
	<b><u>Basement &amp; Ground Floor</u> – Late Night Refreshment (Indoors &amp; Outdoors), Sale by retail of alcohol (on and Off) &amp; Opening Hours. <u>First Floor</u> – Late Night Refreshment (Indoors &amp; Outdoors), Sale by retail of alcohol (On and Off), Regulated Entertainment (Recorded Music Indoors) &amp; Opening Hours.</b>

	<p>From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.</p> <p><b><u>First Floor</u> – Late Night Refreshment (Indoors &amp; Outdoors), Sale by retail of alcohol (On and Off) and Regulated Entertainment (Recorded Music Indoors).</b></p> <p>Sundays before Bank Holidays until 00:00.</p> <p><b><u>First Floor</u> – Opening Hours</b></p> <p>Sundays before Bank Holidays until 00:30.</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>

<b>Conditions attached to the Licence</b>	
<b><u>Mandatory Conditions</u></b>	
1.	No supply of alcohol may be made at a time when there is no designated premises supervisor in respect of this licence.
2.	No supply of alcohol may be made at a time when the designated premises supervisor does not hold a personal licence or the personal licence is suspended.
3.	Every supply of alcohol under this licence must be made or authorised by a person who holds a personal licence.
4.	(1) The responsible person must ensure that staff on relevant premises do

not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises—

(a) games or other activities which require or encourage, or are designed to require or encourage, individuals to;

(i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or

(ii) drink as much alcohol as possible (whether within a time limit or otherwise);

(b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;

(c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;

(d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;

(e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).

5. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.

6. (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.

(2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.

(3) The policy must require individuals who appear to the responsible

person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either—

- (a) a holographic mark, or
- (b) an ultraviolet feature.

7. The responsible person must ensure that—

- (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—
  - (i) beer or cider: ½ pint;
  - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
  - (iii) still wine in a glass: 125 ml;
- (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
- (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

A responsible person in relation to a licensed premises means the holder of the premise licence in respect of the premises, the designated premises supervisor (if any) or any individual aged 18 or over who is authorised by either the licence holder or designated premises supervisor. For premises with a club premises certificate, any member or officer of the club present on the premises in a capacity that which enables him to prevent the supply of alcohol.

8(i) A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

8(ii) For the purposes of the condition set out in paragraph 8(i) above -

- (a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;
- (b) "permitted price" is the price found by applying the formula -

$$P = D + (D \times V)$$

Where -

- (i) P is the permitted price,

- (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
  - (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
- (c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence -
- (i) the holder of the premises licence,
  - (ii) the designated premises supervisor (if any) in respect of such a licence, or
  - (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;
- (d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
- (e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.

8(iii). Where the permitted price given by Paragraph 8(ii)(b) above would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

- 8(iv). (1) Sub-paragraph 8(iv)(2) below applies where the permitted price given by Paragraph 8(ii)(b) above on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.
- (2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

**Additional Conditions**

9. The supply of alcohol for consumption on the premises at ground & basement floors shall only be to a person seated taking a table meal there and for consumption by such a person as ancillary to their meal.

10. The first floor 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 for consumption on the premises, 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 or sake supplied ancillary to their meal.

11. Substantial food and non-intoxicating beverages, including drinking water, shall be available in all parts of the premises where alcohol is sold or supplied for consumption on the premises.
12. The number of persons permitted in the premises at any one time (excluding staff) shall not exceed:-
  - Ground Floor 40
  - Basement 60
  - First Floor 60
13. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the entire 31 day period.
14. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the 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.
15. No noise generated on the premises, or by its associated plant or equipment, shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
16. Loudspeakers shall not be located in the entrance lobby or outside the premises building.
17. All windows and external doors shall be kept closed after 23:00 hours, or at any time when regulated entertainment takes place, except for the immediate access and egress of persons.
18. All sales of alcohol for consumption off the premises shall be in sealed

containers and ancillary to a take-away meal, save for alcohol to be consumed by persons who are seated in an area appropriately authorised for the use of tables and chairs on the highway and bona fide taking a substantial meal there, and where the consumption of alcohol by such persons is ancillary to taking such a meal, and where the supply of alcohol is by waiter or waitress service.

19. All tables and chairs shall be removed from the outside area by 23.00 each day.
20. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
21. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
22. 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.
23. 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.
24. There shall be no striptease or nudity, and all persons shall be decently attired at all times, except when the premises are operating under the authority of a Sexual Entertainment Venue licence.
25. 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.
26. 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.
27. 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.

28. No deliveries to the premises shall take place between 23.00 and 08.00 on the following day.
29. The premises licence holder shall ensure that any patrons drinking and/or smoking outside the premises do so in an orderly manner and are supervised by staff so as to ensure that there is no public nuisance or obstruction of the public highway.
30. 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.
31. 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.
32. No licensable activities shall take place at the premises until premises licence 16/03459/LIPT (or such other number subsequently issued for the premises) has been surrendered and is incapable of resurrection.
33. 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.
34. There shall be no self-service of alcohol on the premises.
35. There shall be no draught beer on the premises.
36. The sale of alcohol for consumption off the premises shall cease at 23:00 Monday to Saturday and 22:30 Sunday.

**5 OLE & STEEN, 56 HAYMARKET, NO. 2 ST JAMES'S MARKET, SW1**

**LICENSING SUB-COMMITTEE No. 1**

*Thursday 1st September 2016*

Membership: Councillor Jean-Paul Floru (Chairman), Councillor Peter Freeman and Councillor Shamim Talukder

Legal Adviser: Barry Panto

Policy Adviser: Chris Wroe

Committee Officer: Jonathan Deacon

**Ole & Steen, 56 Haymarket, No. 2 St James's Market, SW1  
16/06722/LIPN**

The application was granted under delegated powers as all representations had been withdrawn.