



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 1st March, 2018**, Room 3.1, 3rd Floor, 5 Strand, London, WC2 5HR.

**Members Present:** Councillors Melvyn Caplan (Chairman), Karen Scarborough and Aziz Toki

#### 1 MEMBERSHIP

There were no changes of Membership.

#### 2 DECLARATIONS OF INTEREST

Councillors Caplan and Scarborough declared in respect of Belgrave Square Garden in Belgrave Square that they know some of the attendees at the hearing in their work as councillors. They had not discussed the application beforehand with any of the attendees. Councillor Caplan also declared that he had spoken with two of the Knightsbridge and Belgravia Ward Councillors, Councillor Robathan and Councillor Devenish, the evening prior to the hearing and advised them that they were not able to speak at the hearing without having submitted representations. They had had no influence on the decision making process.

#### 1 BELGRAVE SQUARE GARDEN, OPEN SPACE, BELGRAVE SQUARE, SW1

### LICENSING SUB-COMMITTEE No. 3

*Thursday 1 March 2018*

Membership: Councillor Melvyn Caplan (Chairman), Councillor Karen Scarborough and Councillor Aziz Toki

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

Relevant Representations: In support of application – 24 representations.

Objecting to the application – Metropolitan Police,  
Environmental Health, 34 residential representations.

Present: Mr Craig Baylis (Solicitor, representing Grosvenor Estate), Ms Amanda Bond-Elliott (Chair, Belgrave Square Garden Events Committee), Mr Nigel Hughes (Estate Surveyor, Grosvenor Estate), Mr Robert Dudley (We Are The Fair Ltd – Designated Premises Supervisor), PC Reaz Guerra (Metropolitan Police), Mr Dave Nevitt (Environmental Health), Mr Richard Brown (Solicitor, Citizens Advice Bureau Licensing Advice Project, representing Ms Mary Reignier-Leigh, Mr George Waite and Mr Jeremy Lucas (all of Belgravia Society and all in attendance)), Mr Charles Oliver, Ms Sara Oliver, Ms Marina Kaloghirou, Ms Monica Lucas, Mr Vincent Oratore, Mr JTS Bower, Ms Hazel O’Leary and Ms Karen Morgan Thomas (local residents).

Declaration: Councillors Caplan and Scarborough declared that they know some of the attendees at the hearing in their work as councillors. They had not discussed the application beforehand with any of the attendees. Councillor Caplan also declared that he had spoken with two of the Knightsbridge and Belgravia Ward Councillors, Councillor Robathan and Councillor Devenish, the evening prior to the hearing and advised them that they were not able to speak at the hearing without having submitted representations. They had had no influence on the decision making process.

<b>Belgrave Square Garden, Open Space, Belgrave Square, SW1 17/14880/LIPN</b>	
<b>1.</b>	<b>Late Night Refreshment (Indoors and 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):  Prior to the hearing, the Applicant advised all parties that there were amendments to the application. Firstly, under “conditions consistent with the operating schedule” in the Licensing Sub-Committee report (condition 11), the number of events for which licensable activity would be necessary was reduced from 15 to 12. Secondly, in terms of non-standard timings, it had originally been proposed that there should be a maximum of 5 occasions per calendar year when licensable activity may continue until 01:30. The applicant now proposed to reduce this to a maximum of 3 occasions per calendar year when licensable activity may continue until 01:00.

The Sub-Committee was addressed at the hearing by Mr Baylis. He disputed that there had been any element of 'subterfuge' or a lack of consultation in relation to what was sought from the application as he believed may have been suggested by Belgravia Society's written representation. He clarified that he had been instructed by Grosvenor Estate. The Applicant was Belgrave Square Garden Events Committee and the application was being fully supported by Grosvenor Estate who own the Belgrave Square Garden Open Space.

The Sub-Committee heard from Mr Hughes. Mr Hughes explained that residents of Belgrave Square are automatically entitled to use the Garden and are keyholders. Anyone who lives on the Belgrave Estate can apply as a concession to be a keyholder for the Garden. An e-mail had been sent to all keyholders in June 2017 that Grosvenor had e-mail addresses for, setting out the original proposals. A letter had also been placed in the Garden. There had been one objection from the keyholders and three or four emails requesting further information. Belgravia Society issued a newsletter about the application and Grosvenor asked their agents to respond which subsequently appeared in Belgravia magazine. The Chair of the Belgravia Society had been invited in the response to meet with Grosvenor's agents to discuss the application. Mr Hughes added that this meeting had unfortunately not taken place.

Mr Hughes wished to emphasise that Grosvenor did not want to jeopardise the use of the Garden. The Grosvenor family had owned the freehold of Mayfair Belgravia for 340 years, Grosvenor had looked after 200 acres of the estate for 200 years and he had personally been responsible for looking after Belgrave Square for the last 30 years. He was proud of the Garden and it had won a number of awards, including in recent years.

Mr Hughes advised those present that there had been an incident where an individual was injured at an event in 2016 on land owned by Grosvenor (it was not specifically a Grosvenor event). There had been a health and safety review undertaken by Grosvenor and they had decided to employ an overall consultant to advise on events. We Are The Fair Ltd had been selected and had been involved with Grosvenor events across the United Kingdom, including for the garden squares that Grosvenor are responsible for. We Are The Fair had recommended that where there were more than one or two events proposed at a site per year Grosvenor should seek a premises licence. Mr Hughes explained that Grosvenor had operated events under Temporary Event Notices ('TENS') for the last seven or eight years and there had been no complaints. He believed that there would be greater consistency, governance and an ability for residents to see what was happening if a premises licence was applied for.

Mr Hughes stated (and this was re-iterated by Mr Baylis) that he did not envisage a change in the nature or type of events that would be held at Belgrave Square Garden in comparison to those held previously in the event the application was granted. The plan was to hold an open air opera in 2018. It would be no different to other low key, low impact events.

The Sub-Committee also heard from Mr Dudley who was from We Are The Fair. He said that since We Are The Fair had been appointed, events held at the

Garden had included London Open Squares Weekend, a networking cocktail party, an annual Belgrave residents' barbeque, a dog show and a children's sports day. Mr Dudley was responsible for due diligence of events and had submitted the required TENs.

Members of the Sub-Committee had requested and had been given a complete record of the TENs held at the Garden, starting in 2009. It was ensured that the parties to the hearing had access to the same information.

Mr Baylis expressed the view that the conditions offered, including those discussed with Environmental Health were comprehensive. In making the point that there had been no issues raised in relation to the TENs that had been held, he referred to an event from 21 to 23 June 2017 which included one item which concluded at 01:30. Mr Dudley clarified that this had been the residents' barbeque held in a small marquee in the inner Garden. Twenty to thirty people had been on the premises by 01:30. Attendees had been given a table, chefs had prepared the meal, alcohol had been provided as part of the ticket price and there had been a cash bar and disco with amplified music. It was Mr Dudley's assessment, having walked around Belgrave Square during the event, that music could be heard at times but not particularly loudly. Traffic noise and the trees in the Garden played a part in shielding what music could be heard.

Mr Wroe asked Mr Baylis what the likely capacity was in relation to the application. Mr Baylis replied that this had been discussed with Mr Nevitt for Environmental Health. Environmental Health took into account means of escape and toilets. Portable toilets were being supplied for the events. It was the case that Belgrave Square was capable of catering for thousands of people. The capacity requested in respect of the premises licence was one thousand.

The Sub-Committee noted that one event had been held at the Garden in both 2009 and 2012 and the maximum held in any one year had been four in 2015. Three events had been held in both 2016 and 2017. The Sub-Committee asked why the Applicant was now seeking twelve events per year. If the desire was to regularise in the premises licence what the Applicant had been doing previously when applying for TENs, why did the Applicant not limit the number of events to five rather than twelve or the fifteen originally sought? There had also not been three late events held in any one year previously. Mr Hughes replied that there were a number of different types of events that were sought. There were potentially events which may be envisaged as private but could involve alcohol and a cash bar. There needed to be some flexibility and it was possible that ad hoc events would be required that were not foreseen at the current time. These were not for profit events. It was invested back into the Garden.

The Sub-Committee made the point that the Applicant could still submit up to fifteen TENs per year in addition to the number set out in the premises licence if the Sub-Committee was minded to grant. Further clarification was sought as to what the events that would take place if the premises licence was granted might involve. Mr Hughes responded that he could not be more specific in terms of what the events might involve as the nature of these were not known a year in advance. Mr Hughes and Mr Baylis added that they were willing to give assurances that no further TENs would be applied for if the application was

granted. Mr Panto commented that whilst the Council would expect the Applicant and Grosvenor to abide by their assurances, they would not be legally bound by them.

Mr Baylis wished to clarify that there would be no change envisaged in the type of events rather than the number of events. He commented that the advantage to the premises licence if granted would be that there would be conditions attached to it which would have to be complied with. Breaches of conditions could potentially lead to a review of the premises licence.

The Sub-Committee also asked the Applicant what the capacities had been for previous events held. Mr Dudley replied that the maximum number for the barbeque in June 2017 had been 420.

The Sub-Committee heard from Mr Nevitt on behalf of Environmental Health. Mr Nevitt said that he had conveyed to Grosvenor and the events management company representatives Environmental Health's three concerns. These were firstly that the increase in number of events per year would potentially create an increased risk. Secondly, there was the lateness of the terminal hour sought. Thirdly, it was possible to have a much bigger capacity than 499 which is the maximum number permitted under a TEN. Mr Nevitt explained that he had advised those involved with the application to look at holding any late events as TENs if they were not seeking capacities over 499. This would bring the application back to approximately Core Hours for the bulk of the activities with larger capacities. If there were any difficulties caused by late night activities from Temporary Event Notices it would not put the premises licence at risk.

Mr Nevitt accepted Mr Baylis' point that Belgrave Square is very large and it is possible for thousands to be located there at any one time. He expected that the event organiser would submit for prior approval an event management plan and a capacity would be decided on the information provided. Environmental Health's concern would be what the premises licence would allow. Would it include the Applicant holding a major rock concert in the Open Space?

Mr Nevitt stated that the ancillary operational aspects for the events were also important including the set up and break down arrangements after the events take place. Mr Nevitt referred to there being a lack of public transport available in the immediate vicinity. More people attending the events would have to disperse through the surrounding streets and this would have to be addressed.

Mr Nevitt confirmed that the TENs had been operated without any recorded complaints. He concurred with Mr Dudley's view that traffic noise and the trees in the Garden played a part in shielding what music could be heard by residents who were some distance away from the centre of Belgrave Square. It was likely that employing the same events management company would result in a consistent approach towards the events. Mr Nevitt observed that having conditions on a premises licence would create better regulation than undertakings on a Temporary Event Notice.

Mr Panto asked Mr Nevitt whether he was satisfied with the conditions proposed by those involved with the application as Environmental Health had

not put forward any of their own. Mr Nevitt replied that in general he was content with what conditions were being offered subject to what arose at the hearing. The key element was the requirement to produce an event management plan. Specifically in respect of the capacity, the numbers in terms of public safety were acceptable. However, it would depend on how the events management company managed the thousand people, including the dispersal from the event.

The Sub-Committee heard from PC Guerra on behalf of the Metropolitan Police. He stated that the Applicant had applied for a range of activities which could be interpreted in a number of different ways by those scrutinising the application. Low risk events had generally been held in the Garden in the past and these had been assessed on a case by case basis when the TENs had been submitted. If the current application was granted there would be an event management plan submitted setting out what the event entailed. However, the number of events would increase and the question was how the use of the Garden area would develop and what numbers were likely to attend. The Police had not proposed conditions to date as it was not clear how the events would develop and what conditions would be appropriate.

The Sub-Committee was addressed by Mr Brown, representing the Belgravia Society. Mr Brown explained that the Belgravia Society's position was that the application as presented should be refused. It was not felt that the application promoted the licensing objectives. One reason for this was that the terminal hours were considered to be very late for an open space. Hyde Park in comparison had a significantly earlier terminal hour.

In terms of the number of events per year, Mr Brown said that these were far in excess of those sought as TENs over the last few years. He made the point that whilst it could be the case that the nature of events might not change, the granting of the current application would enable those involved with the application to change the way in which the events were operated.

Mr Brown emphasised that it was likely that events would take place mostly during the Summer. Dismantling of equipment was often noisy and would, it was felt, drag on over an extended period. The use of the Garden for keyholders was likely to be curtailed. Mr Brown queried whether the events could therefore be described as occasional. He expressed the view that the type of activity could not be more open ended. Performance of dance, live music and recorded music were all sought as activities after they became licensable at 23:00.

The Belgravia Society was also of the view that a capacity of one thousand was excessive, both in terms of potential noise from a crowd at the event and the dispersal afterwards. Mr Brown commented that Belgrave Square and the locality is a very residential area.

Mr Brown queried why the Applicant had applied for off sales. The Belgravia Society believed that the proposed conditions were not sufficient. It was also felt that the Applicant should have commissioned a noise impact assessment, particularly as there were events which could take place until 01:30 in an open

space. Mr Brown highlighted the problems at Hyde Park as an example of noise not being predictable and adversely affecting different areas at different times.

Mr Brown stated that the Society was not accusing those involved with the application of 'subterfuge'. However, he did believe that there were some valid questions to be answered in terms of the transparency of who the Applicant was in this case. Whilst the Applicant was the Belgrave Square Garden Events Committee, the Sub-Committee had only heard from representatives of Grosvenor and We Are The Fair. He expressed the view that it was vital for the Sub-Committee to know who the premises licence was being granted to. It was, he believed, peculiar that there was a proposed condition that 'all events taking place in the Garden will be approved in writing by either Grosvenor or the Belgrave Square Garden Events Committee'.

Mr Brown referred to the London Squares Preservation Act 1931. He mentioned that the Act set out that a protected square could only be used for an authorised purpose which was as an ornamental pleasure garden or for play, rest and recreation. No structure could be erected except in furtherance of that purpose. He made the point that condition 9 required the sale of alcohol to be ancillary to the primary use of the premises as an event space and this was erroneous as the Garden was an open space and not an event space. If the Sub-Committee was minded to grant the application, the number of events granted would be relevant in terms of the materiality of the use.

Mr Brown wished to clarify that the Belgravia Society did not oppose low frequency events such as the residents' barbeque. It was the Society's view that the barbeque had not meant to be a precedent for many more late night events. The fact that the Applicant could also apply for TENs in addition to the premises licence was a significant concern for the Society.

Mr Brown recommended that the application was refused and that TENs were submitted for any events. He appreciated the argument that a premises licence could be seen as beneficial in some cases due to conditions being attached. However, he disagreed in this case. A particular issue was the doubling of capacity from 499 for TENs to 1000 for events if the premises licence was granted.

Mr Brown suggested that in the event the application was granted, the maximum number of events granted was five. This he believed would be consistent with Mr Dudley's assurance to Mr Waite of the Belgravia Society in a letter included in the report that 'we are not proposing a significant increase in the number of events held in the Garden'. These would only be events with licensable activities. There was no restriction on the Garden being used for events with non-licensable activities.

In relation to the terminal hour for events, Mr Brown suggested 22:00 Monday to Saturday and 21:00 on Sunday. It was requested that no regulated entertainment was permitted, that there were no off sales and the maximum capacity for events was 250.

Ms Reignier-Leigh, Trustee and Secretary of the Belgravia Society spoke in respect of the application. She commented that Grosvenor had not made an attempt to have a meaningful dialogue with the Society about events. She was keen for the Garden to remain the best small park in London for the use of local residents and not taken over by licensable activities. She expressed the view that 499 people for an event was too many for a residential garden and was concerned how the numbers of events had increased over the years. Ms Reignier-Leigh queried why if there were 20-30 people remaining for an event at 01:30 in the morning, the application did not limit events to Core Hours at the latest.

Mr Waite, Chair of the Belgravia Society, made the point that most of the houses in the neighbourhood of Belgrave Square are divided into flats and very few of the houses have gardens. There was a reliance on Belgrave Square Garden as many keyholders did not have their own private gardens. He also wished to draw the Sub-Committee's attention to the Events held at the Garden having previously been organised by the community. Now he believed they were of a size that the events were becoming commercial.

The Sub-Committee heard from Mr Lucas, a resident and keyholder of the Garden and Belgravia Society member. He stated that the Garden was supposed to be a residential garden square and should not descend to commercial activity. It should not follow a similar path to Hyde Park. He was concerned at the number of days it would take to set up and dismantle the equipment and the two day events proposed. Mr Lucas believed the events were a breach of the 1931 London Squares Preservation Act and that if the application was granted the hours should be consistent with those specified for resident organised events of 21:00. The maximum capacity should not exceed 50.

Mr Bower said that he is a member of the Belgravia Society. He expressed the view that a maximum of five events would be an appropriate solution in respect of the application.

Ms Morgan Thomas stated that she is not a Garden keyholder and was not a member of Belgravia Society. She was concerned that the application would add to the stress the area was already experiencing from traffic and parking and was one of the most polluted areas in London. She stated that the residential association in her block was vehemently opposed to the application. The application did not set out what would happen before or after the events and dispersal resulting from a huge increase in footfall was of huge concern. She did not believe that alcohol should be provided at the site and for off sales and was concerned about an adding to noise late at night. Ms Morgan Thomas also was of the view that there was potential for crime and disorder and harm to children, including from potential drink and drug use.

Mr Baylis was given an opportunity to respond to the comments made by the objectors. He advised that Mr Hughes was content for the application to be amended so that all events would be in keeping with the Council's Core Hours policy. The number of events would be reduced to a maximum of seven. The maximum capacity sought remained at 1000.



The Sub-Committee asked Mr Baylis why off sales were sought. He replied that it was envisaged there might be wine tasting stalls and the opportunity provided to customers to buy a bottle of wine. It tended to involve sponsors of the event selling bottles. Mr Dudley added that this had occurred in the past at an event permitted as a TEN.

Mr Brown was given the opportunity to respond to the amendments made to the application. He re-iterated that the Belgravia Society's view was that the proposed capacity was still far too high. Seven events was still too high but was better than twelve. Ms Reignier-Leigh added that the Society believed there should be no more than five events. Mr Brown confirmed that the Society was still seeking an earlier terminal hour for events.

With regard to the capacity, Mr Baylis commented that having an attendance of 1000 people would not be the norm. Mr Dudley informed those present that the maximum number who had attended a non-licensable event was 700 for the networking, cocktail party.

Ms Reignier-Leigh made the point that up to 700 hundred people walking on the garden was too many.

Mr Baylis responded to some of the other points raised by the objectors. This included that the set up and break down of equipment was already carried out in relation to events held under TENs. The conditions would give residents greater protection. He believed that objectors were speculating on what was a worst case scenario. What was actually being proposed was similar to what had taken place before but in a more regulated environment.

The Sub-Committee asked Mr Nevitt and PC Guerra whether they were seeking any further conditions based on what had been discussed at the hearing. Mr Nevitt replied that he would like a clear capacity figure on the premises licence. He was also seeking that the Applicant notified Environmental Health of the events and that Environmental Health was required to give final approval for the Applicant's event management plan before events took place. PC Guerra requested that off sales were in sealed containers.

Mr Brown requested that the Council's Model Condition 12 was attached to the licence in the event the application was granted. This is that no noise shall emanate from the premises which gives rise to a nuisance. This condition was agreed by Mr Baylis. Mr Brown also asked that any event management plan took into account dispersal. He believed that a written dispersal policy should be retained by Grosvenor / We Are The Fair and be available to relevant officers on request. Mr Baylis was content with Mr Brown's proposed condition.

It was confirmed by Mr Baylis and Mr Dudley that no events would take place over a two day period following the amendment to the application that the proposed hours would be in keeping with Core Hours.

Mr Brown requested SIA trained personnel to monitor dispersal until one hour after the event. It was not felt that the stated aim that the DPS would oversee

dispersal was sufficient. He asked that any live or recorded music did not carry on for longer than four hours. An assurance was sought by the Belgravia Society that TENs would not be applied for in addition to any events granted as part of the premises licence. Mr Brown also requested that the Council's Model Condition 24 was attached to the licence requiring a direct telephone number of management to be made publicly available whilst the premises is open.

Mr Brown made the additional point in response to Mr Baylis' earlier comment that whilst the Sub-Committee could not take into account speculation, it was able to take into account the likely effect of granting the application.

Mr Baylis referred to conditions 21 and 22 in the operating schedule that events would be risk assessed to see if SIA staff were required. He requested that the Sub-Committee did not impose a requirement to have SIA staff for every event, no matter what it involved. There was access to Grosvenor security who would be able to give appropriate advice.

Mr Baylis disputed that there were any issues with transparency in terms of the Applicant being Belgrave Square Garden Events Committee and mentioned some of the names of the members of the Committee.

The Sub-Committee carefully considered the written representations received and the comments made at the hearing. The Sub-Committee was of the view that Grosvenor and the Applicant had good motives in submitting the application, seeking a premises licence to improve the regulation of events held at Belgrave Square Garden Open Space.

Members of the Sub-Committee appreciated that they could not take into account speculation. They would only take into account the likely effect of granting the application. It was the Sub-Committee's role to take into account the comments of the parties, including Environmental Health and the Police. They had raised some concerns about the proposed capacity which had to be taken seriously. The Sub-Committee accepted the advice from Environmental Health that from a public safety point of view Belgrave Square was capable of coping with a large number of people. However, the Applicant was seeking to have a capacity of a thousand people dispersing from the premises. The previous maximum capacity for any of the events with licensable activities, including the sale of alcohol, submitted under TENs had been 420. The Sub-Committee permitted a maximum capacity for events of 500.

The Sub-Committee granted the application on the basis that there would be a maximum of five events held per calendar year. The rationale for this was to take those involved with the application at their word in terms of replicating for the premises licence what had been sought in previous years in relation to the TENs.

The Sub-Committee granted Core Hours as sought by the Applicant following the amendments to the application. Members had given careful thought to the requests of residents, including the Belgravia Society, for an earlier terminal hour. However, the Sub-Committee considered it was an appropriate balance to grant Core Hours for licensable activities for a maximum of five events per

	<p>year.</p> <p>The Chairman stated that the decision made was without prejudice to other matters such as the London Squares Preservation Act 1931. He also emphasised that the Sub-Committee had no jurisdiction over the non-licensable events. He thanked all parties for the written representations received and the comments made at the hearing. He expressed the wish that all parties would improve the lines of communication in the future. It was clear to the Sub-Committee that all parties cared deeply about the area.</p> <p>The Sub-Committee considered that it was appropriate to attach the condition that 'licensable activities and the consumption of alcohol at the premises shall only be provided ancillary to the primary use of the premises as a Garden Square'. The Sub-Committee also decided to amend the Event Management Plan condition so that it was required to be submitted to the Licensing Authority, Environmental Health and Police a minimum of 10 working days prior to the event. As requested by Mr Brown on behalf of the Belgravia Society, the details of the Event Management Plan would include the setup and break down arrangements for the event and the dispersal of customers at the end of the event. As agreed between Mr Brown and Mr Baylis, the Council's Model Conditions 12 and 24 were attached to the premises licence. This would ensure that no noise would emanate from the premises which gives rise to a nuisance. MC24 was amended to the requirement for a direct telephone number for the management to be made publicly available at all times whilst licensable activities are taking place.</p>						
<b>2.</b>	<b>Sale by retail of alcohol (On and Off)</b>						
	<table> <tr> <td>Monday to Thursday:</td> <td>10:00 to 23:30</td> </tr> <tr> <td>Friday to Saturday:</td> <td>10:00 to 00:00</td> </tr> <tr> <td>Sunday:</td> <td>12:00 to 22:30</td> </tr> </table>	Monday to Thursday:	10:00 to 23:30	Friday to Saturday:	10:00 to 00:00	Sunday:	12:00 to 22:30
Monday to Thursday:	10:00 to 23:30						
Friday to Saturday:	10:00 to 00:00						
Sunday:	12:00 to 22:30						
	<p>Amendments to application advised at hearing:</p> <p>The application had been amended on behalf of the Applicant to Core Hours with core terminal hours for off sales. The hours for off sales were therefore reduced to 10:00 to 23:00 Monday to Saturday and 12.00 to 22.30 on Sunday.</p>						
	<p>Decision (including reasons if different from those set out in report):</p> <p>The Sub-Committee granted the hours applied for in relation to on sales and core terminal hours for off sales, namely 10.00 to 23.00 on Monday to Saturday and 12.00 to 22.30 on Sunday, subject to conditions as set out below.</p>						
<b>3.</b>	<b>Plays (Indoors and Outdoors)</b>						
	<table> <tr> <td>Monday to Thursday:</td> <td>09:00 to 23:30</td> </tr> <tr> <td>Friday to Saturday:</td> <td>09:00 to 00:00</td> </tr> </table>	Monday to Thursday:	09:00 to 23:30	Friday to Saturday:	09:00 to 00:00		
Monday to Thursday:	09:00 to 23:30						
Friday to Saturday:	09:00 to 00:00						

	Sunday:	09:00 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.	
<b>4.</b>	<b>Films (Indoors and Outdoors)</b>	
	Monday to Thursday: Friday to Saturday: Sunday:	09:00 to 23:30 09:00 to 00:00 09:00 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.	
<b>5.</b>	<b>Live Music (Indoors and Outdoors)</b>	
	Monday to Thursday: Friday to Saturday: Sunday:	09:00 to 23:30 09:00 to 00:00 09:00 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.	
<b>6.</b>	<b>Recorded Music (Indoors and Outdoors)</b>	
	Monday to Thursday: Friday to Saturday: Sunday:	09:00 to 23:30 09:00 to 00:00 09:00 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.
<b>7.</b>	<b>Performance of dance (Indoors and Outdoors)</b>
	Monday to Thursday: 09:00 to 23:30 Friday to Saturday: 09:00 to 00:00 Sunday: 09:00 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.
<b>8.</b>	<b>Anything of a similar description (Indoors and Outdoors)</b>
	Monday to Thursday: 09:00 to 23:30 Friday to Saturday: 09:00 to 00:00 Sunday: 09:00 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.
<b>9.</b>	<b>Hours premises are open to the public</b>
	Monday to Thursday: 09:00 to 00:00 Friday to Saturday: 09:00 to 00:30 Sunday: 09:00 to 23:00
	Amendments to application advised at hearing:

	<p>The application had been amended on behalf of the Applicant to Core Hours. The terminal hour is 23:30 Monday to Thursday, midnight Friday to Saturday and 22:30 on Sunday.</p>
	<p>Decision (including reasons if different from those set out in report):</p> <p>The Sub-Committee granted Core Hours for the opening hours to the public.</p>
<p><b>10.</b></p>	<p><b>Seasonal variations / Non-standard timings</b></p>
	<p><b><u>Late Night Refreshment (Indoors and Outdoors)</u></b></p> <p>On a maximum of 5 occasions per calendar year late night refreshment may take place until 01:30 to facilitate community events such as the annual BBQ held on behalf of Belgrave Square Garden keyholders and their guests.</p> <p><b><u>Sale by retail of alcohol (On and Off)</u></b></p> <p>On a maximum of 5 occasions per calendar year sale of alcohol may take place until 01:30 to facilitate community events such as the annual BBQ held on behalf of Belgrave Square Garden keyholders and their guests.</p> <p><b><u>Plays (Indoors and Outdoors)</u></b></p> <p>On a maximum of 5 occasions per calendar year performances of plays may take place until 01:30 to facilitate community events such as the annual BBQ held on behalf of Belgrave Square Garden keyholders and their guests.</p> <p><b><u>Films (Indoors and Outdoors)</u></b></p> <p>On a maximum of 5 occasions per calendar year exhibition of film may take place until 01:30 to facilitate community events such as the annual BBQ held on behalf of Belgrave Square Garden keyholders and their guests.</p> <p><b><u>Live Music (Indoors and Outdoors)</u></b></p> <p>On a maximum of 5 occasions per calendar year performances of live music may take place until 01:30 to facilitate community events such as the annual BBQ held on behalf of Belgrave Square Garden keyholders and their guests.</p> <p><b><u>Recorded Music (Indoors and Outdoors)</u></b></p> <p>On a maximum of 5 occasions per calendar year performances of recorded music may take place until 01:30 to facilitate community events such as the annual BBQ held on behalf of Belgrave Square Garden keyholders and their guests.</p> <p><b><u>Performance of dance (Indoors and Outdoors)</u></b></p>

	<p>On a maximum of 5 occasions per calendar year performances of dance may take place until 01:30 to facilitate community events such as the annual BBQ held on behalf of Belgrave Square Garden keyholders and their guests.</p> <p><b><u>Anything of a similar description (Indoors and Outdoors)</u></b></p> <p>On a maximum of 5 occasions per calendar year performances of plays may take place until 01:30.</p> <p><b><u>Hours premises are open to the public</u></b></p> <p>On a maximum of 5 occasions per calendar year the premises may remain open to the public until 02:00 to facilitate community events such as the annual BBQ held on behalf of Belgrave Square Garden keyholders and their guests.</p>
	<p>Amendments to application advised at hearing:</p> <p>Prior to the hearing for all non-standard timings set out above, the Applicant amended the application so that there should be a maximum of 3 occasions per calendar year that could potentially finish at 01:00.</p> <p>During the hearing the application was amended further so that all events would be in keeping with the Council's Core Hours policy. This meant that this aspect of the application for non-standard timings was therefore in effect withdrawn by the Applicant.</p>
	<p>Decision (including reasons if different from those set out in report):</p> <p>The Sub-Committee was not required to consider this aspect of the application as it had in effect been withdrawn by the Applicant.</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. Licensable activities and the consumption of alcohol at the premises shall only be provided ancillary to the primary use of the premises as a Garden Square.

10. 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.

11. Licensable activities shall only be permitted when an event takes place at the premises. Events may only take place on a maximum of 5 days per calendar year.

12. All events taking place in the Gardens will be approved in writing by either Grosvenor or the Belgrave Square Garden Events Committee.

13. All events taking place in the Gardens will be subject to individual Risk Assessment.
14. A suitable and sufficient Event Management Plan shall be drawn up prior to an event and submitted to the Licensing Authority, Environmental Health and Police a minimum of 10 working days prior to the event. This shall be kept for at least one year and shall include where necessary, as a minimum, details on the following aspects:
  - i) Emergency and evacuation procedures
  - ii) Crowd management and stewarding arrangements
  - iii) Overnight security arrangements
  - iv) A detailed site plan showing all permanent and temporary structures and all access and egress points
  - v) Capacity at any one time
  - vi) Certificates from competent persons on Structures, Electrical Power Supply and Gas equipment (including LPG)
  - vii) First Aid and Lost Children arrangements
  - viii) Noise Management Plan
  - ix) Risk Assessments
  - x) A waste management plan
  - xi) Sanitary accommodation
  - xii) Public Liability Insurance
  - xiii) The setup and break down arrangements for the event
  - xiv) the dispersal of customers at the end of the event.
15. When creating the Event Management Plan, reference will be made to the following publications: The Technical Standards for Places of Entertainment – District Surveyor’s Association, The Event Safety Guide (purple guide), Guide To Safety At Sports Grounds (green guide), FRSA – Open Air Events and Venues.
16. All events will be either private events or ticketed public events. None of the events taking place will be freely accessible to the public.
17. All events will be notified in writing to the Licensing Authority and Police at least 28 days prior to the event taking place.
18. The premises Licence holder shall comply with all reasonable requirements of Westminster Police Licensing Team, the London Fire and Emergency Planning Authority and Westminster City Council’s Environmental Health Consultation Team and Filming & Events Team.
19. Once risk assessed, events deemed necessary will feature an appropriate number of SIA staff.
20. Following Risk Assessment, where relevant, a separate Security Risk Assessment will be carried out and specialist advice sought from Grosvenor's approved security consultant.
21. Alcohol for sale for consumption off the premises will only be made in sealed

containers and customers will not be permitted to consume these products on the premises.

22. All sales of alcohol for consumption off the premises will cease at 23:00 Monday to Saturday and 22:30 on Sunday.
23. All contractors, suppliers, concessions and caterers will be audited for their suitability to provide services with the premises.
24. In the absence of daylight there will be sufficient lighting installed whilst the premises are open to the public.
25. All drinks sold, supplied or consumed shall only be in open polycarbonate or crushable vessels unless prior exemption has been obtained from the Environmental Health Consultation Team for a specific event in writing or by email.
26. Where such exemption has been gained, events involving glassware on site will feature the following measures: i: Cleaning/Back Bar staff to be on duty to clear any breakages promptly ii: Spot Sweep (long handled dustpan and broom) to be available to facilitate safe clearing of breakages.
27. Events featuring amplified music will give consideration to the positioning and directionality of PA systems and loudspeakers within the Gardens.
28. PA Systems and loudspeakers will only be situated within the inner Garden.
29. No noise generated on the premises, or by its associated plant or equipment, shall emanate from the premises which gives rise to a nuisance, including the setting up and breaking down of an event.
30. Unaccompanied children will not be permitted on site after 21:00 during any event.
31. In relation to the sale of alcohol, 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.
32. Challenge 25 signage will be on display at all alcohol service points.
33. A 'Lost and Found Child Policy' will be prepared and all key staff on duty will be aware of the policy.
34. Events operated by Grosvenor with children on site will feature an appropriate number of DBS checked staff. For events operated by approved third parties, similar assurances will be sought.
35. The number of persons permitted on the premises at any one time (excluding staff) shall not exceed 500 persons.

36. A direct telephone number for the manager at the premises shall be publicly available at all times licensable activities are taking place at the premises. This telephone number is to be made available to residents and businesses in the vicinity.

**2 WINGSTOP RESTAURANTS, BASEMENT TO SECOND FLOOR, 138-140 SHAFTESBURY AVENUE, W1**

**LICENSING SUB-COMMITTEE No. 3**

*Thursday 1 March 2018*

Membership: Councillor Melvyn Caplan (Chairman), Councillor Karen Scarborough and Councillor Aziz Toki

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

Relevant Representations: Licensing Authority, Amenity Society and 2 local residents.

Present: Ms Lana Tricker (Solicitor, representing the Applicant), Mr Herman Sahota (Director, Applicant Company), Mr Christian Solanot (Operational Director, Applicant Company), Mr David Sycamore and Ms Roxana Haq (Licensing Authority) and Mr David Kaner (Covent Garden Community Association).

<b>Wingstop Restaurants, Basement To Second Floor, 138-140 Shaftesbury Avenue, W1 18/00145/LIPN</b>	
<b>1.</b>	<b>Late Night Refreshment (Indoors and Outdoors)</b>
	Monday to Sunday: 23:00 to 00:00
	Amendments to application advised at hearing:  Ms Tricker, representing the Applicant, advised that the Applicant had withdrawn late night refreshment (outdoors) / takeaway as it was no longer being sought after 23:00.
	Decision (including reasons if different from those set out in report):  The Sub-Committee heard from Ms Tricker, representing the Applicant. She advised Members that there were two amendments to the application. Firstly, the terminal hour for off-sales on Sunday was reduced from 23:00 to 22:30 and

secondly, late night refreshment (outdoors) / takeaway was no longer being sought after 23:00.

Ms Tricker explained that the Applicant was unable to accept the Council's model restaurant condition, MC66, in full. She described the operation of the premises with customers placing their orders at the counter. They would sit down awaiting the food to be prepared/cooked at the premises. Once it was ready, they would collect it from the counter and consume any food or drink whilst seated. There would be no waiter or waitress service at the premises although there was several staff there. There was no bar at the premises and alcohol would not be displayed there. It would be served from behind a counter. Ms Tricker estimated that alcohol sales would be approximately 2% to 3% of turnover.

Ms Tricker referred to the proposed conditions, emphasising that the premises would not be drink led. On sales would be ancillary to the meal. Off sales would be in sealed containers, ancillary to a takeaway meal and not consumed on the premises or in the immediate vicinity of the premises. Ms Tricker commented that the off sales condition was an important element for the Police and Mr Kaner for Covent Garden Community Association. The Police had requested that off sales were not consumed in the immediate vicinity of the premises prior to the withdrawal of their representation. The Police had also requested that there was no drinking outside the premises which had been agreed by the Applicant. She added that the conditions also required a Challenge 25 policy to be established. No super-strength beers would be sold at the venue and there would be no self-service of alcohol. There would be three types of beer sold which would be ancillary to a meal.

Ms Tricker stated that the main seating area was on the first floor. There were no licensable activities in the basement or on the second floor. She was content for the fact that there were no licensable activities on the two floors to be the subject of a condition on the premises licence in the event the Sub-Committee was minded to grant the application.

Ms Tricker also spoke about the representations received. Environmental Health had withdrawn their representation in addition to the Police following conditions having been agreed with the Applicant. Two residents had expressed concerns in their written representations regarding crime and disorder in the area. Ms Tricker believed however that it was significant that the Police had not maintained their representation on these grounds.

Ms Tricker made the point that there was a 25 year lease agreement in place and there was no intention to sell the premises. She had no objections if a condition was attached to the licence that the licensable activities authorised by the licence would only be carried on at the premises by the Applicant. It would mean that the licence would have to be varied before it could be operated by another licence holder.

The Sub-Committee asked the Applicant a number of questions. These included why the Applicant was seeking beyond Core Hours for on and off sales of alcohol if the sales constituted a small proportion of turnover. Mr Solanot

responded that Wingstop Restaurants was not a fast food outlet. Food was cooked fresh, according to the order. Gourmet sauces were used. Beer was ancillary to a meal and it was not anticipated that customers would seek multiple alcohol sales. The Applicant wished to have similar hours on the premises licence for sales of alcohol as the neighbouring premises, Shake Shack. Mr Solanot also explained that the Applicant was keen to follow the United States concept with beer and chicken wings going hand in hand.

The Sub-Committee also asked the Applicant to explain how the application would not add to cumulative impact. Mr Solanot replied that there were already people who wished to dine in the area. They would not bring more people into the West End Cumulative Impact Area. Ms Tricker and Mr Solanot added that the Applicant was catering for people going to the theatre. It was not similar to McDonalds, which often involved a short stay. There would be a 30-45 minute dwell time. In response to a question from the Sub-Committee asking how the Applicant intended to prevent food being taken away from the premises, Mr Solanot replied that food would be provided on a tray.

The Sub-Committee heard from Mr Sycamore, on behalf of the Licensing Authority. He advised that the Licensing Authority maintained its representation primarily due to cumulative impact concerns. Mr Sycamore referred to paragraph 2.4.4 of the Council's Statement of Licensing Policy that 'each incremental increase in capacity contributes in part to increasing the attraction of the area as a "honey pot" destination for night-life and to the cumulative problems created by such a high concentration of activity in the area'. The premises had previously been a bank and was now adding up to 120 people at any one time.

Mr Sycamore believed that further information should be provided by the Applicant as to why the application should be granted beyond Core Hours on Mondays to Thursdays and Sundays. He did consider that there was some value in the alcohol not being displayed or advertised and limited to three beers.

The Sub-Committee was addressed by Mr Kaner, on behalf of the Covent Garden Community Association. He stated that he did appreciate some of the amendments to the application, including the withdrawal of late night refreshment (outdoors) / takeaway. He shared the Licensing Authority's concern that Wingstop Restaurants was located in a "honey pot" area, which already contained Shake Shack and McDonalds. The premises had previously been a bank and would add to cumulative impact (Shake Shack had taken over from a restaurant premises).

Mr Kaner was keen that the premises had an on sales operation emphasis and he took the view that there would then be value in a condition being attached to the licence that the licensable activities authorised by the licence would only be carried on at the premises by the Applicant. He did prefer on sales to be granted to Core Hours and ancillary to a substantial table meal.

Mr Kaner was not just concerned about off sales after Core Hours but the period leading up to it. At 22:00 there would be an adverse impact from off sales in the West End Cumulative Impact Area. He requested that off sales cease at 21:00.

Overall Mr Kaner was of the view that the area was already very busy. It would maintain people in the Cumulative Impact Area for longer but he did not believe the impact of Core Hours would be too adverse if the premises had an on sales operation emphasis. It was his understanding in relation to the two representations from residents who were not in attendance at the hearing that their particular concern was takeaway.

Mr Panto asked the Applicant for a response in terms of the Council's policy on fast food premises. Whilst the Applicant had withdrawn takeaway, there was no waiter or waitress service at Wingstop Restaurants and the policy also applied to premises where customers ordered and consumed hot food within the premises on a self-seating basis. The concern from a policy point of view is that customers who have consumed alcohol earlier in the evening in the Cumulative Impact Area would be retained in the area if they have access to fast food, whether that is provide for consumption on or off the premises. Ms Tricker replied that the environment for dining was constantly changing. Whilst there was no waiter or waitress service, there would be plenty of staff present and customers would be seated.

The Chairman made the point that there were policy concerns regarding significant number of customers remaining in the Cumulative Impact Area, having consumed alcohol. He asked the Applicant whether it would be acceptable to have waiter or waitress service after 23:00 hours. Mr Solanot replied that the concept would not work if this was introduced. It was not commercially viable to introduce waiter/waitress service for a short period of the day. It would be possible to have waiter and waitresses clearing the table.

The Sub-Committee asked the Applicant how many seats there were in the premises. Mr Solanot stated that there were 99 covers. The Sub-Committee put it to the Applicant that since it was not possible to serve people in the queue, the capacity should be 99 rather than 120. The Applicant agreed the capacity of 99.

Mr Wroe requested further information on whether cutlery or crockery would be provided. Ms Tricker replied that cutlery was not used when eating chicken wings. Tables would not be laid out with knives and forks.

Mr Panto also asked for the Applicant's view on whether customers could be shown to their tables. Mr Solanot said that this was not a model that was used in the United States and it would change the operation too much. There were no menus handed out. They were written on a board.

The Sub-Committee considered that it was appropriate to grant the application in part. The sale of alcohol (both on and off sales) was permitted until 23:00 Monday to Saturday and 22:30 on Sunday. These hours were in keeping with the fact that the Applicant could have late night refreshment until 23:00 without it being licensed and alcohol was ancillary to food.

The Sub-Committee noted that late night refreshment (outdoors) / takeaway had been withdrawn. The aspect of the application relating to late night refreshment



	<p>(indoors) after 23:00 was refused by the Sub-Committee. The Sub-Committee considered that Wingstop Restaurants' operation was in keeping with a fast food premises. It is the Licensing Authority's policy (FFP2) to refuse applications for premises supplying fast food inside the Cumulative Impact Areas, other than applications to vary hours within the Core Hours under Policy HRS1. The premises did not comply in a number of ways with the Council's definition of a restaurant. These included that there was no waiter/waitress service of alcohol, there would be take away service of drink and customers would not be shown to their tables. These measures would have helped to offset concerns regarding people remaining in the cumulative impact area having consumed alcohol.</p> <p>Paragraph 2.4.20 of the Council's Statement of Licensing Policy refers to concerns in the Cumulative Impact Areas where there are high concentrations of fast food premises in addition to other licensed premises. 'On this basis and because the attraction and retention of people by the premises mitigates against their rapid dispersal from the cumulative impact areas, the Licensing Authority considers that the grant of variations or new licences for fast food premises in the Cumulative Impact Areas should be limited to exceptional circumstances'.</p> <p>The Sub-Committee wished to be reasonably flexible towards the Applicant within the Council's policy constraints and permitted the premises to remain open until 23:30 Monday to Saturday and 22:30 on Sunday.</p>
<b>2.</b>	<b>Sale by retail of alcohol (On)</b>
	<p>Monday to Sunday: 11:00 to 00:00</p>
	<p>Amendments to application advised at hearing:</p> <p>None.</p>
	<p>Decision (including reasons if different from those set out in report):</p> <p>The sale of alcohol for consumption on the premises was permitted until 23:00 Monday to Saturday and 22:30 on Sunday.</p>
<b>3.</b>	<b>Sale by retail of alcohol (Off)</b>
	<p>Monday to Sunday: 11:00 to 23:00</p>
	<p>Amendments to application advised at hearing:</p> <p>Ms Tricker, representing the Applicant, advised that the terminal hour for off-sales on Sunday was reduced from 23:00 to 22:30.</p>
	<p>Decision (including reasons if different from those set out in report):</p>

	The sale of alcohol for consumption off the premises was permitted until 23:00 Monday to Saturday and 22:30 on Sunday.
<b>4.</b>	<b>Hours premises are open to the public</b>
	Monday to Sunday: 10:00 to 00:00
	Amendments to application advised at hearing:  None.
	Decision (including reasons if different from those set out in report):  The Sub-Committee granted a terminal hour of 23:30 Monday to Saturday and 22:30 on Sunday.
<b>5.</b>	<b>Seasonal variations / Non-standard timings</b>
	<b><u>Late Night Refreshment (Indoors and Outdoors), Sale by retail of alcohol (On and Off) and Hours premises are open to the public</u></b>  The premises may remain open for the sale of alcohol and the provision of late night refreshment from the terminal hour for those activities on New Year's Eve through to the commencement time for those activities on New Year's Day.
	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.

<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 sale of alcohol for consumption on the premises shall only be to persons purchasing a substantial table meal there and as an ancillary to that meal,

which is to be eaten seated at a table or counter in the premises.

10. 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.
11. No super-strength beer, lagers, ciders or spirit mixtures of 5.5% ABV (alcohol by volume) or above shall be sold at the premises
12. There shall be no self service of alcohol.
13. 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
14. 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.
15. 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.
16. A direct telephone number for the manager at the premises shall be publicly available at all times the premises is open. This telephone number is to be made available to residents and businesses in the vicinity.
17. No rubbish, including bottles, shall be moved, removed or placed in outside areas between 2300 hours and 0600 hours or as in compliance with Westminster City Council's own waste contractor collection hours.
18. No deliveries of alcohol to the premises shall take place between 23:00 hours and 06:00 hours on the following day
19. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
20. Persons temporarily leaving the premises onto the public highway for the purposes of smoking shall not take any drinks with them.
21. 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.

22. The premises licence holder shall ensure that any patrons smoking outside the premises do so in an orderly manner and are supervised by staff so as to ensure that there is no public nuisance or obstruction of the public highway.
23. 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.
24. 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.
25. The approved arrangements at the premises, including means of escape provisions, emergency warning equipment, the electrical installation and mechanical equipment, shall at all material times be maintained in good condition and full working order.
26. The means of escape provided for the premises shall be maintained unobstructed, free of trip hazards, be immediately available and clearly identified in accordance with the plans provided.
27. All emergency doors shall be available at all material times without the use of a key, code, card or similar means.
28. All emergency doors shall be maintained effectively self-closing and not held open other than by an approved device.
29. The edges of the treads of steps and stairways shall be maintained so as to be conspicuous.
30. Curtains and hangings shall be arranged so as not to obstruct emergency safety signs or emergency equipment.
31. All fabrics, curtains, drapes and similar features including materials used in finishing and furnishing shall be either non-combustible or be durably or inherently flame-retarded fabric. Any fabrics used in escape routes (other than foyers), entertainment areas or function rooms, shall be non-combustible.
32. Flashing or particularly bright lights on or outside the premises shall not cause a nuisance to nearby properties, save insofar as they are necessary for the prevention of crime.
33. An incident log shall be kept at the premises, and made available on request to an authorised officer of the City Council or the Police. 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.

- 34. The premises may remain open for the sale of alcohol and the provision of late night refreshment from the terminal hour for those activities on New Year's Eve through to the commencement time for those activities on New Year's Day.
- 35. 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.
- 36. All sales of alcohol for consumption off the premises shall be in sealed containers and ancillary to a takeaway meal only, and shall not be consumed on the premises or in the immediate vicinity of the premises.
- 37. The sale of alcohol shall be limited to a selection of 3 beers.
- 38. 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.
- 39. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times
- 40. No licensable activities shall take at the premises until the capacity of the premises has been assessed by the Environmental Health Consultation Team and a condition detailing the capacity so determined has replaced this condition on the Licence. The capacity to be determined shall not exceed 99 persons.
- 41. There shall be no licensable activity in the basement or on the second floor of the premises.

### **3 THE PLAZA, 116-128 OXFORD STREET, W1**

#### **LICENSING SUB-COMMITTEE No. 3**

*Thursday 1 March 2018*

Membership: Councillor Melvyn Caplan (Chairman), Councillor Karen Scarborough and Councillor Aziz Toki

Legal Adviser: Barry Panto



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

Relevant Representations: Licensing Authority.

Present: Mr Gary Grant (Counsel, representing the Applicant), Mr Marcos Fernandez Pardo (Chief Executive Officer, Applicant Company), Mr Andrew Wong (Solicitor, on behalf of the Applicant) and Mr David Sycamore and Ms Roxana Haq (Licensing Authority).

<b>New Paella restaurant to be situated in Eastcastle Street (within the larger unit known as The Plaza, 116-128 Oxford Street, W1). 17/14610/LIPN</b>	
<b>1.</b>	<b>Playing of Recorded Music (Indoors)</b>
	<p>Monday to Thursday: 11:00 to 23:30          Friday and Saturday: 11:00 to 00:00          Sunday: 12:00 to 22:30</p>
	<p>Amendments to application advised at hearing:</p> <p>None.</p>
	<p>Decision (including reasons if different from those set out in report):</p> <p>The Sub-Committee heard from Mr Grant, representing the Applicant. He explained that InPaella is the venture of Quique Dacosta, the internationally renowned chef whose flagship restaurant in Alicante, Spain has held 3 Michelin Stars since 2012. The Applicant company is in partnership with Iberica Restaurants who are working with Snr Dacosta and they current operate eight restaurants in the UK, including two in Westminster.</p> <p>Mr Grant referred to the Council’s Statement of Licensing Policy setting out at paragraph 2.5.12 that the ‘wide variety of restaurants is a feature of Westminster and contributes to its status as a world class city’ and commented that the project would provide world class dining facilities.</p> <p>The Applicant was seeking Core Hours for licensable activities with an additional half an hour in relation to the closing time. Mr Grant stated that the reason for the request for an extra half hour was in order that customers would be able to have a more relaxed dining experience. There would be gradual dispersal from the restaurant.</p> <p>Mr Grant advised that the proposed capacity is 190 (80 on the ground floor and</p>

110 on the first floor). The planning permission granted in March 2017 had envisaged a capacity of 250. He expressed the view that the application would, due to the nature of the premises, enhance the area rather than detract from it and would not add to cumulative impact in the West End Cumulative Impact Area. He also drew Members' attention to InPaella replacing a number of fast food restaurants that had previously operated from The Plaza's food court. These outlets had occupied 1440m<sup>2</sup> in comparison to the current premises' 865m<sup>2</sup>. The remainder of the space in The Plaza, which was the subject of a major re-development in Eastcastle Street, would be a retail unit. The address of the premises would be Eastcastle Street.

Mr Grant said that the hours for the planning permission granted by the Council were in keeping with the opening hours to the public being applied for in the current application. He made reference to the case of Forster v SoS for Communities and Local Government [2016] EWCA Civ 609 in order to make the point that whilst the Sub-Committee was not bound by a planning decision it should have regard to that recent decision. Mr Grant also referred to the list of other restaurant premises in the area set out in the report for the application and added that the proposed hours were in line with those premises.

Mr Grant also spoke about the proposed conditions offered by the Applicant. These included the Council's model restaurant condition, MC66, that no drinks shall be taken outside the premises and that a maximum of 25 customers at any one time would be able to consume alcohol prior to their meal in the bar area. There was also a proposed condition that the maximum number of patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, would be limited to 10 at any one time.

Mr Grant requested that the Applicant was given the opportunity to submit additional documents at the hearing. These had been received by the Licensing Service after the deadline set out in the Council's Rules of Procedure. The documents included letters of support from local residents, local businesses, the Ambassador of Spain, the Spanish Chamber of Commerce and the Economic and Commercial Office at the Embassy of Spain in the United Kingdom. Mr Grant believed that if one of the purposes of the cumulative impact policy was to protect local residents then letters from residents in support of the application was a relevant factor. There was no objection from the Licensing Authority to the Sub-Committee considering these documents. The Sub-Committee decided to allow the documents to be submitted by the Applicant on this occasion.

The Sub-Committee was addressed by Mr Sycamore on behalf of the Licensing Authority. The Licensing Authority maintained their representation on policy grounds, particularly cumulative impact, as 190 people would have access to additional licensable activities in the West End Cumulative Impact Area. He however welcomed the vast improvement in the application, including the proposed conditions and the amendments made by the Applicant during the consultation process and after it had concluded. This included that customers' purchase and consumption of alcohol in the holding bar had previously been pre and post meal but would now only be prior to a meal. A specific maximum number of 25 had now been set. Mr Sycamore welcomed that the Applicant had proposed the Council's model restaurant condition, MC66 and no off sales.

	<p>Mr Sycamore said that it was for the Sub-Committee to consider whether Mr Grant’s point on the new premises replacing the fast food restaurants located in the Plaza demonstrated that the customers were already in the cumulative impact area.</p> <p>The Sub-Committee, in granting the application, considered that the application would promote the licensing objectives and not add to cumulative impact. Key to this decision was the conditions offered by the Applicant, including that the premises would be fully compliant with the Council’s model restaurant condition. The Sub-Committee was content that licensable activities within Core Hours and an additional 30 minutes in terms of the closing time were appropriate given the nature of the application. The Sub-Committee noted that there were not any concerns raised by local residents or the Responsible Authorities regarding the licensing objectives.</p> <p>Whilst the Sub-Committee welcomed the changing use of the space within The Plaza to a restaurant with MC66 as a condition on its licence, Members had not made a decision based on the reduced space used by the restaurant in comparison to the fast food premises. No licensable activities had been conceded or licences surrendered as part of this application.</p> <p>It was agreed that the premises would now be known as Restaurant, Eastcastle Street as this was more appropriate given its location than 116-128 Oxford Street.</p>						
<b>2.</b>	<b>Late Night Refreshment (Indoors)</b>						
	<table border="0"> <tr> <td>Monday to Thursday:</td> <td>23:00 to 23:30</td> </tr> <tr> <td>Friday and Saturday:</td> <td>23:00 to 00:00</td> </tr> </table>	Monday to Thursday:	23:00 to 23:30	Friday and Saturday:	23:00 to 00:00		
Monday to Thursday:	23:00 to 23:30						
Friday and Saturday:	23:00 to 00:00						
	<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>Sale by retail of alcohol (On)</b>						
	<table border="0"> <tr> <td>Monday to Thursday:</td> <td>11:00 to 23:30</td> </tr> <tr> <td>Friday to Saturday:</td> <td>11:00 to 00:00</td> </tr> <tr> <td>Sunday:</td> <td>12:00 to 22:30</td> </tr> </table>	Monday to Thursday:	11:00 to 23:30	Friday to Saturday:	11:00 to 00:00	Sunday:	12:00 to 22:30
Monday to Thursday:	11:00 to 23:30						
Friday to Saturday:	11:00 to 00:00						
Sunday:	12:00 to 22:30						
	<p>Amendments to application advised at hearing:</p>						

	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>Hours premises are open to the public</b>
	Monday to Thursday: 11:00 to 00:00 Friday to Saturday: 11:00 to 00:30 Sunday: 11:00 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>5.</b>	<b>Seasonal variations / Non-standard timings</b>
	<p><b><u>Playing of Recorded Music (Indoors)</u></b></p> <ul style="list-style-type: none"> <li>• From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.</li> <li>• On the day British Summer Time commences for an additional hour following the terminal hour.</li> <li>• Sundays before Bank Holidays 12:00 – 00:00 hours.</li> </ul> <p><b><u>Late Night Refreshment (Indoors)</u></b></p> <ul style="list-style-type: none"> <li>• From the start time on New Year's Eve to the terminal hour for New Year's Day.</li> <li>• On the day British Summer Time commences for an additional hour following the terminal hour.</li> <li>• Sundays before Bank Holidays 23:00 – 00:00 hours.</li> </ul> <p><b><u>Sale by retail of alcohol (On)</u></b></p> <ul style="list-style-type: none"> <li>• From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.</li> <li>• On the day British Summer Time commences for an additional hour following the terminal hour.</li> </ul>

	<ul style="list-style-type: none"> <li>• Sundays before Bank Holidays 12:00 – 00:00 hours.</li> </ul> <p><b><u>Hours premises are open to the public</u></b></p> <ul style="list-style-type: none"> <li>• On the day British Summer Time commences for an additional hour following the terminal hour.</li> <li>• From the start time on New Year’s Eve to the terminal hour for New Year’s Day.</li> <li>• Sundays before Bank Holidays 11:00 – 00:30 hours.</li> </ul>
	<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>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.	<p>(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.</p> <p>(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—</p>

- (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. No drinks shall be taken outside the premises.
- 10. 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.
- 11. The number of persons permitted on the premises at any one time (excluding staff) shall not exceed,  
First Floor (110) persons  
Ground Floor 80 persons
- 12. A Challenge 21 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport or proof of age card with the PASS Hologram.
- 13. 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.



14. Loudspeakers shall not be located in the entrance lobby or outside the premises building. Recorded music played in the restaurant shall not be audible externally.
15. The premises will have a zero tolerance policy to drugs and drunken/violent behaviour. We will also encourage responsible drinking and the consumption of food with alcoholic beverages.
16. The licence holder will train staff to recognise binge drinking and to refuse to serve people who show signs of having already consumed too much.
17. Any person who appears to be intoxicated or who is behaving in a disorderly manner will not be allowed entry to the venue. Any person within the venue who appears to be intoxicated or who is behaving in a disorderly manner will be given care and consideration when being asked to leave the venue.
18. A comprehensive cloakroom will be available. Access to the restaurant is always through a manned reception.
19. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the preceding 31 day period.
20. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premise is open. This staff member must be able to provide a Police or authorised council officer copies of recent CCTV images or data with the absolute minimum of delay when requested.
21. All windows and external doors shall be kept closed at any time when regulated entertainment takes place, except for the immediate access and egress of persons.
22. The restaurants main entrance will have self-closing doors and a two door lobby.
23. 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.
24. Patrons permitted to temporarily leave and then re-enter the premises, eg to smoke, shall not be permitted to take drinks or glass containers with them.
25. Notices shall be prominently displayed at all exits requesting patrons to respect

the needs of local residents and businesses and leave the area quietly.

26. 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.
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. No waste or recyclable materials, including bottles, shall be moved, removed or placed in outside areas between 23.00 hours and 08.00 hours Monday to Saturday and not before 10am or after 10:30pm on Sundays. These will occur between the times of 08:00 and 19:00 using the buildings loading bays in accordance to the submitted servicing plan to the planning department of Westminster Council.
29. No deliveries to the premises shall take place between 23.00 and 08.00 Monday to Saturday and not before 10am or after 10:30pm on Sundays. These will occur between the times of 08:00 and 19:00 using the buildings loading bays in accordance to the submitted servicing plan to the planning department of Westminster Council.
30. The premises licence holder shall ensure that any patrons smoking outside the premises do so in an orderly manner and are supervised by staff so as to ensure that there is no public nuisance or obstruction of the highway.
31. An incident log shall be kept at the premises, and made available on request to an authorised officer of the City Council or the Police, which will record the following:
  - (a) all crimes reported to the venue
  - (b) all ejections of patrons
  - (c) any complaints received concerning crime and disorder
  - (d) any incidents of disorder
  - (e) all seizures of drugs or offensive weapons
  - (f) any faults in the CCTV system
  - (g) any refusal of the sale of alcohol
  - (h) any visit by a relevant authority or emergency service.
32. There shall be no sales of hot food or hot drink for consumption 'Off' the premises.
33. 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.

34. 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.
35. 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.
36. All emergency exit doors shall be available at all material times without the use of a key, code, card or similar means.
37. All emergency doors shall be maintained effectively self-closing and not held open other than by an approved device.
38. The edges of the treads of steps and stairways shall be maintained so as to be conspicuous.
39. Curtains and hangings shall be arranged so as not to obstruct emergency safety signs or emergency equipment.
40. 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.
41. Notwithstanding condition 41, alcohol may be supplied and consumed prior to their meal in the bar area on the first floor of the premises (**coloured blue on the plan**), by up to a maximum of 25 customers at any one time.
42. Patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, shall be limited to (10) persons at any one time.
43. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
44. No licensable activities shall take place at the premises until it 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.

**4 TRATTORIA DA ALDO, BASEMENT AND GROUND FLOOR, 51 GREEK STREET, W1**

**LICENSING SUB-COMMITTEE No. 3**

*Thursday 1 March 2018*

Membership: Councillor Melvyn Caplan (Chairman), Councillor Karen Scarborough and Councillor Aziz Toki

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

Relevant Representations: Licensing Authority.

Present: Mr Jack Spiegler (Solicitor, representing the Applicant) and Mr David Sycamore and Ms Roxana Haq (Licensing Authority).

<b>Trattoria Da Aldo, Basement And Ground Floor, 51 Greek Street, W1 18/00322/LIPV</b>	
<b>1.</b>	<b>Layout alteration</b>
	<p>The applicant is seeking to vary the premises layout in the Basement and Ground Floor of the premises. The proposed layout changes include:</p> <ul style="list-style-type: none"><li>• An increased and improved sanitary accommodation; reconfiguration of back of house areas and introduction of new dining area in the basement area.</li><li>• Replacement of dining areas with display kitchen and back of house areas; installation of new dining counter on the Ground Floor and inclusion of existing private forecourt within licence demise.</li></ul>
	<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>This was an application to vary the premises licence for a restaurant situated in the West End Cumulative Impact Area. The first aspect the Applicant sought to vary was changes to the premises layout, which now included an external area (sales to which would now constitute "on sales" within the terms of the licence).</p>

The second was to amend a condition on the existing licence, increasing the maximum capacity from 40 including staff to 54 excluding staff. The third was to add a works condition to the licence.

The Licensing Authority submitted a representation objecting to the increase in capacity in the West End Cumulative Impact Area. The conditions on the existing licence required alcohol to be ancillary to a table meal and supplied by waiter or waitress service. During the hearing, in response to a question from the Sub-Committee, Mr Spiegler, representing the Applicant, confirmed that his client was content for the Council's model restaurant condition, MC66 to replace these conditions on the premises licence in the event the Sub-Committee was minded to grant the application. Mr Spiegler supplied the information that the maximum number of staff employed at Trattoria Da Aldo would be 12.

The Sub-Committee heard from Mr Sycamore. He welcomed the fact that the Applicant had offered the Council's model restaurant condition. He also welcomed clarification of the capacity in relation to the number of staff who would be employed at the premises. Mr Sycamore did make the point that the existing hours of operation (which had not changed) were in excess of Core Hours and that more people would be dispersing into the Cumulative Impact Area in the event of an increased capacity. However, it was for the Sub-Committee to consider whether the addition of MC66 addressed concerns.

The Sub-Committee granted the application for the layout alteration, the increased capacity and the works condition. Members considered that the additional conditions, in particular the model restaurant condition, ensured that the application would not add to cumulative impact and would promote the licensing objectives. In policy terms, the premises would now be regarded as a restaurant rather than a fast food premises and that would impact on the existing operation and potentially reduce existing cumulative impact.

The Applicant had agreed two conditions with Environmental Health prior to the latter withdrawing their representation. These had been agreed following the publication of the report. These were that all outside tables and chairs would be removed or rendered unusable by 23:00 each day and no fumes, steam or odours would 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. The Sub-Committee attached these conditions to the licence.

**2. Conditions being varied, added or removed**

**Existing Condition 21**

The number of persons permitted in the premises at any one time (including staff) shall not exceed 40 persons.

**Proposed variation to Condition 21**

The number of persons permitted in the premises at any one time (excluding staff) shall not exceed 54 persons.

**Additional condition proposed by the Applicant**

	<p>The variation of this premises licence (18/00080/LIPT) to include the works shown on plans reference 227.10.500 and 227.10.501 (or subsequently substituted plans) will have no effect until the premises have been assessed as satisfactory by the Environmental Health Consultation Team at which time this condition shall be removed from this licence by the licensing authority.</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>

### **Conditions attached to the Licence**

#### **Mandatory Conditions**

1. No supply of alcohol may be made at a time when there is no designated premises supervisor in respect of this licence.
2. No supply of alcohol may be made at a time when the designated premises supervisor does not hold a personal licence or the personal licence is suspended.
3. Every supply of alcohol under this licence must be made or authorised by a person who holds a personal licence.
4.
  - (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
  - (2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises—
    - (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to;

- (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
    - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
  - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
  - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
  - (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
  - (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).
5. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
6.
  - (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
  - (2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
  - (3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either—
    - (a) a holographic mark, or
    - (b) an ultraviolet feature.
7. The responsible person must ensure that—
  - (a) where any of the following alcoholic drinks is sold or supplied for

consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—

- (i) beer or cider: ½ pint;
  - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
  - (iii) still wine in a glass: 125 ml;
- (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
- (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

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

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

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

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

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

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

Where -

- (i) P is the permitted price,
  - (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
  - (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
- (c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence -
- (i) the holder of the premises licence,



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

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

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

### **Additional Conditions**

9. The premises may remain open for the sale of alcohol and the provision of late night refreshment from the terminal hour for those activities on New Year's Eve through to the commencement time for those activities on New Year's Day.

10. 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.

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. 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.
13. No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
14. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and leave the area quietly.
15. 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.
16. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
17. No rubbish, including bottles, shall be moved, removed or placed in outside areas between 2300 hours and 0800 hours.
18. The number of persons permitted in the premises at any one time (excluding staff) shall not exceed 54 Persons.
19. The pavement from the building line to the kerb edge immediately outside the premises, including gutter/channel at its junction with the kerb edge, shall be swept and or washed, and litter and sweepings collected and stored in accordance with the approved refuse storage arrangements.
20. All outside tables and chairs shall be removed or rendered unusable by 23:00 each day.
21. 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.
22. The variation of this premises licence (18/00080/LIPT) to include the works shown on plans reference 227.10.500 and 227.10.501 (or subsequently substituted plans) will have no effect until the premises have been assessed as satisfactory by the Environmental Health Consultation Team at which time this condition shall be removed from this licence by the licensing authority.