



CITY OF WESTMINSTER

# MINUTES

## Temporary Licensing Committee

### MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Temporary Licensing Committee** Committee held on **Thursday 10th May, 2018**, Room 3.1, 3rd Floor, 5 Strand, London, WC2 5HR.

**Members Present:** Councillors Heather Acton and Tim Mitchell

#### **1 MEMBERSHIP**

Councillor Tim Mitchell was elected Chairman of the Temporary Licensing Committee.

#### **2 DECLARATIONS OF INTEREST**

There were no declarations of interest.

#### **3 VAPIANO, 84-86 WARDOUR STREET, W1**

### **TEMPORARY LICENSING COMMITTEE**

*Thursday 10<sup>th</sup> May 2018*

Membership: Councillor Tim Mitchell (Chairman) and Councillor Heather Acton

Legal Adviser: Horatio Chance

Policy Adviser: Chris Wroe

Committee Officer: Tristan Fieldsend

Presenting Officers: Simone Murray

Relevant Representations: The Licensing Authority, Environmental Health, Councillor Jonathan Glanz (West End Ward Councillor), The Soho Society, The Meard and Dean Streets Residents Association and Four Local Residents

Present: Mr Niall McCann (Solicitor, representing the Applicant), Ms Vikki O'Neill (Marketing Director, representing the Applicant Company), Miss Heidi Lawrance (Licensing Authority), Mr Dave Nevitt (Environmental Health) and Mr Richard Brown (Solicitor, Citizens Advice Bureau Licensing Advice Project, representing The Soho Society, The Meard and Dean Streets Residents Association and Philip Antscherl)

**Vapiano, 84-86 Wardour Street, London, W1F 0TG (“The Premises”)  
18/02022/LIPV**

**1. Conditions being Varied, Added or Removed**

Current:

**Condition 26**

There shall be no take away of hot food and hot drinks after 23:00.

**Condition 27**

There shall be no sales of alcohol for consumption off the premises, save for persons who have dined at the premises.

**Add the Following Condition:**

Proposed:

**Condition 11**

There shall be no take away of hot food and hot drinks for immediate consumption after 23:00.

**Condition 27**

There shall be no sales of alcohol for consumption off the premises, save for persons who have dined at the premises or are being delivered a substantial table meal to a bona fide address.

Notwithstanding condition 13, deliveries of alcohol and the provision of late night refreshment (where applicable) shall be permitted to be made from the premises until 23:00 hours on Sundays, 00:00 hours Mondays to Thursdays, 01:00 Fridays to Saturdays and 00:30 on Sundays before bank holidays.

Amendments to application advised at hearing:

The Applicant advised that the additional condition to be added to the licence would now read “Notwithstanding condition 13, deliveries of alcohol with a substantial table meal and the provision of late night refreshment (where applicable) shall be permitted to be made from the premises until 23:00 hours.”

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

The Sub-Committee considered an application by Vapiano Ltd for a variation of a premises licence in respect of Vapiano, 84-86 Wardour Street, London, W1F 0TG.

The Licensing Officer provided an outline of the application to the Sub-Committee.

Mr McCann, representing the Applicant, explained that Vapiano Ltd was an Italian restaurant group, which currently operated six premises within the UK. The Sub-Committee was provided with a description of the customer experience upon

entering the Premises and how it created a quick turnaround of customers. What the Application before the Sub-Committee was seeking was to permit deliveries of food and alcohol from the premises by online food delivery companies until 23:00 hours. Despite some apparent contradictions on the existing conditions on the licence, Mr McCann was of the opinion that it already did permit a takeaway service to be provided, excluding alcohol, until 23:00. Therefore, the aim of the application was to allow deliveries of alcohol to take place to those customers who had ordered a substantial table meal for delivery. It was stated that at the Applicant's other restaurants alcohol accounted for only 2% of their delivery sales, which was considered very low. This was mainly due to most deliveries taking place during the day to work locations or residential addresses. The Applicant's other restaurants were permitted to deliver alcohol and the application was seeking to establish consistency across all the premises.

With regards to the representations received Mr McCann advised that constructive discussions had been held with the Responsible Authorities. Following these discussions the application had been amended to address concerns and as such any takeaway delivery services would now be prevented from operating past 23:00 hours. In terms of the other representations, there were several key parts. Firstly, there was concern raised over delivery drivers loitering in the vicinity of the Premises. The Sub-Committee was advised that this was not a concern at the Applicant's other premises and the delivery drivers would only be called once the order was made. The Sub-Committee was advised that the time period between the order being placed and the food being cooked could be as short as two minutes. Secondly, alcohol sales would be subject to the Challenge 25 policy and if any delivery companies were found not to be adhering to this, the contract with the company would be terminated. Thirdly, any further concerns over pick-ups by delivery drivers would be mitigated by the layout of the Premises and its style of operation. Drivers would be greeted at a dedicated station by a member of staff, separate from members of the public, where there was plenty of room for them to wait inside the Premises. The resident representations received were mainly concerned with the hours requested and this was why the Application had now been scaled back to prevent deliveries after 23:00. This was still considered a busy time at that location and many other premises would still be operating delivery companies at that time. Regarding noise from the pick-ups it was expected that there would be approximately three to four pick-ups an hour, which was considered very small for such a busy area. In terms of the environmental aspect of deliveries, discussions had taken place with a delivery company and the Sub-Committee was advised that assurances had been made that within twelve months one third of its fleet would consist of either electric vehicles or pushbikes. Also, no cars were operated with the W1 postcode area. Finally, concern had been expressed over potential litter issues but the Sub-Committee was assured that deliveries would only take place to work offices or residential addresses. There would be no deliveries to locations on the street therefore there would be no litter created by way of public nuisance.

Mr McCann advised that the application was for a minor change to the licence as the Applicant already had the ability to provide takeaway aside from alcohol. The application would not add to cumulative impact in the local area and this was due to the controls in place. The Applicant had responded to the concerns raised and would ensure that the deliveries would be as environmentally friendly as possible.

Miss Lawrance, representing the Licensing Authority, advised that helpful discussions had taken place with the Applicant. The proposals and amendments to the application were noted and the reduction in hours was accepted. The Licensing Authority's main initial concern related to insufficient information on how the public nuisance licensing objective would be best promoted but the Applicant's subsequent information on how the Premises would be managed was noted. If the Sub-Committee was minded to grant the application, the Licensing Authority requested that a condition be added to the licence requiring a contact number for the Premises to be available to all local residents in the event of any nuisance being experienced at the Premises. The Premises was located in a Cumulative Impact Area (CIA) however and therefore the Licensing Authority's representation was maintained.

Mr Nevitt, representing Environmental Health (EH), advised that the provision of late night takeaway for immediate consumption was often a source of nuisance to residents. This was why EH was initially concerned with the application, however the reduction in hours to 23:00 and the fact it would not be for immediate consumption provided some reassurance to the Sub-Committee. EH's representation was maintained though as local residents had objected to the application and further clarity was still required on the wording of several of the conditions.

Mr Brown from the Westminster Citizens Advice Bureau, representing The Soho Society, The Meard and Dean Streets Residents Association and a local resident, expressed concern over the provision of any delivery or takeaway service. The variation application had been described earlier as a minor change however for local residents it would have a major impact. The location of the Premises was very different to that where the Applicant's other premises were located due to the Premises proximity to such a high density of residential properties. The Sub-Committee's attention was drawn to the current condition 9 on the Premises licence which was a modified model restaurant condition. This had been granted in 2013 and took into account the style of the operation by precluding any delivery or takeaway and ensuring all meals had to be consumed at a table. It was unknown how the current condition 22 had been placed on the licence as this appeared to contradict condition 9. The Sub-Committee was advised however that condition 9 clearly set out that the Premises should operate as a traditional restaurant. The application was seeking to permit deliveries, which as evidenced were already being provided, but Mr Brown was of the opinion that the conditions on the licence should prohibit this.

Mr Brown highlighted residents' concerns over the potential public nuisance caused by additional delivery drivers operating in the area. Delivery drivers did tend to congregate and park up at premises in order to pick up deliveries and this would be an issue in the local area. Meard Street was very narrow and semi-pedestrianised and already experienced delivery drivers using it as a cut-through. The application was likely to increase public nuisance in a CIA with the noise from delivery vehicles becoming a source of anti-social behaviour. Meard Street was very quiet later in the evening and the proposal before the Sub-Committee was likely to create inconvenience for residents.

Mr Brown highlighted that the Applicant had confirmed that a Challenge 25 policy was in place, however there was a disjoint over whether this related to their current delivery drivers or external delivery drivers. Therefore, a question was raised over the level of control they could exert over implementing this policy. It was acknowledged that the Applicant had held discussions with the Responsible Authorities but unfortunately, there had been no contact with local residents to address their concerns. The residents represented by Mr Brown were unhappy with the application and felt that the increased operation of online food delivery companies was a growing problem in Soho. Takeaway and deliveries were not a core part of the Premises' business and such an operation was not welcome in the local area. The Sub-Committee was therefore advised to refuse the Application and provide clarification on whether takeaways were also currently permitted under the existing licence.

In response to questions from the Sub-Committee Mr McCann advised that the Premises would have a dedicated station within it to deal with delivery drivers only. As soon as an order was made the cooking of the order would start immediately therefore ensuring there would be no congregating of drivers. The restaurant was busy however it was also large which meant that there was plenty of room internally for up to six delivery drivers to wait inside. The Applicant had been assured by the delivery companies that their drivers would not congregate in the local area. Instead they would circulate in the area until their order was ready for pickup. The Applicant recognised it had limited control however over where a driver could stop for a rest. When undertaking a pick up the drivers would park their bikes outside the Premises and it was expected that this would be for a period of approximately thirty seconds. In terms of the routes used by drivers, communication with delivery companies could be entered into, along with other local restaurants, to ensure that they did not use Meard Street. The Sub-Committee was interested to learn if takeaways were already currently being provided and Mr McCann confirmed that this was the case without the provision of alcohol.

Mr Brown considered that if delivery drivers circulated in the area or waited outside the Premises for an order both situations would be undesirable to residents. Local residents already experienced nuisance from deliveries due to takeaways and the application would simply exacerbate this problem. The conditions currently on the licence were in conflict, however the current condition nine should take precedence as this was imposed when originally considered by the Sub-Committee in 2013 and was specific about what type of Premises was envisaged. In response to a question from the Sub-Committee Mr Brown was of the opinion that the application should still be refused even if all deliveries were to be undertaken by pushbikes. It would address environmental concerns but it would not resolve the concerns raised regarding the congregating of drivers and the associated noise impact.

Mr McCann advised that the Applicant was content for a condition to be added to the licence requiring a contact number for the Premises management to be available to all local residents. Following a question from the Council's Legal Adviser Mr McCann considered the application to be an exception to the Council's CIA Policy. It was not seeking for deliveries to take place after 23:00 hours and any impact would be negligible as they already provided a takeaway service with

sales of alcohol expected to only form 2% of any delivery sales.

The Sub-Committee carefully considered the Application and noted that conditions had originally been placed on the licence in 2013 to ensure the operation would promote the licensing objectives in the manner expected of a restaurant. The Sub-Committee was of the opinion that the variation application before it would significantly alter the character of the Premises, making it a more casual dining experience and moving it away from being a bona fide restaurant. Concerns had been raised by local residents that permitting deliveries to take place would become a source of nuisance due to the residential nature of the area. The Sub-Committee considered that permitting deliveries, even until 23:00 hours only, was likely to result in additional delivery drivers circulating in the area or congregating in close proximity to the Premises and agreed this was likely to become a source of nuisance to residents. The Applicant had advised that only three to four deliveries were likely to take place each hour, however the Sub-Committee felt that any increase in the impact of a Premises located in a CIA, however small, was unacceptable. The Application was therefore considered inappropriate in the circumstances, was likely to add to cumulative impact in the CIA and undermine the licensing objectives. The Sub-Committee was of the opinion that it had not been proven that the application was a genuine exception to Policy and therefore refused the application accordingly.

The Sub-Committee noted that the Premises was currently operating a takeaway service and some confusion existed over whether this was permitted under the current conditions. It was stated that it was not for the Sub-Committee to interpret the existing licence on this occasion and any inconsistencies should be raised with the Licensing Authority. The Sub-Committee also wished to thank the Applicant for their efforts to encourage delivery companies to use environmentally modes of transport.

#### **4 11-19 ECCLESTON PLACE, SW1**

### **TEMPORARY LICENSING COMMITTEE**

*Thursday 10<sup>th</sup> May 2018*

Membership: Councillor Tim Mitchell (Chairman) and Councillor Heather Acton

Legal Adviser: Horatio Chance

Policy Adviser: Chris Wroe

Committee Officer: Tristan Fieldsend

Presenting Officers: Heidi Lawrance

Relevant Representations: Environmental Health, The Metropolitan Police and One Local Resident.

Present: Mr James Rankin (Counsel, representing the Applicant), Mr Alun Thomas (Solicitor, representing the Applicant), Mr Tom Warren (Applicant), PC Toby Janes (Metropolitan Police) and Mr Dave Nevitt (Environmental Health)

**11-19 Eccleston Place, London, SW1W 9NF (“The Premises”)  
18/02901/LIPN**

**1. Late Night Refreshment - Indoors**

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

**Seasonal variations / Non-Standard Timings:**

From the end of permitted hours on New Year’s Eve to the start of permitted hours on New Year’s Day.

On Sundays prior to bank holidays/public holidays 23:00 – 00:00.

Amendments to application advised at hearing:

None.

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

The Sub-Committee considered an application by Grosvenor Investments Ltd and Tarts Kitchen Ltd (Joint Applicants) for a new premises licence in respect of 11-19 Eccleston Place, London, SW1W 9NF.

The Licensing Officer provided an outline of the application to the Sub-Committee.

Mr Rankin and Mr Thomas, representing the applicants, confirmed that Grosvenor Estates was the landlord and they would transfer the lease upon its completion after which it would then be solely in the name of the tenant.

Mr Rankin highlighted that the Premises was not located within a Cumulative Impact Area (CIA) and was seeking to permit the sale of alcohol to core hours. The Premises would operate as a high-end restaurant with the provision of a standalone bar and a retail area. A photographic studio would also form part of the Premises that could also be utilised as an event space. The Sub-Committee was advised that a pre-application meeting had been held with Environmental Health (EH) and the Sub-Committee was advised that save for one area EH and the Police were content with the application. Only one residential representation had been received from a resident, who Mr Rankin advised, was not located in close proximity to the Premises. It was hoped the conditions agreed with the Responsible Authorities would allay the concerns raised by the resident.

Mr Rankin provided an overview of the Premises plans and confirmed that the capacity of the bar area would be limited to a maximum of 35 customers with a food offer available. The restaurant area had a capacity of 100 customers with the studio area used as a standalone area or as part of the restaurant if required. The Premises included two spaces where a deli food offer would be provided with all the food prepared onsite. In addition, there was also three small retail areas where it was hoped to provide a facility for off sales of alcohol.

Bottles of beer and English wines would be available to purchase in these areas and it was recognised that it was these areas which the Responsible Authorities had expressed concerns over.

Mr Rankin provided an overview of the proposed conditions which included:

- Adopting a restaurant condition for the supply of alcohol at the Premises save for 35 persons at the bar area; persons in the fashion, creative and entertainment industries located in the studio area; and persons attending a pre-booked function;
- No sales of super-strength beer, lagers, ciders or spirit mixtures of 5.5% ABV or above;
- No more than 15% of the retail area to be used for the sale and display of alcohol,
- No self service of spirits;
- Off sales of alcohol to cease by 23:00 hours; and
- Tables and chairs in the external area to be rendered unusable by 23:00 hours.

EH had requested a condition be added to the licence requesting that outside of the hours for the sale of alcohol, any alcohol situated in the retail areas must be secured behind either locked grilles or cabinets to prevent access by both customers and staff. Mr Rankin advised that this condition was often used for off licences and was not appropriate for the style of operation proposed for the Premises. The application was not aiming to attract people seeking intoxication and would not expect to receive customers requesting alcohol outside of its licensed hours. The Applicant was willing to accept the condition if the Sub-Committee deemed it necessary but it was requested that it not be added to the licence.

The Council's Policy Adviser requested clarity regarding the condition regarding off sales. Mr Rankin confirmed that this related to a small section of table, which extended externally into a courtyard area. The Applicant was content that off sales within this area be conditioned so that they were ancillary to customers taking a table meal.

The Sub-Committee was interested to learn what type, and the number of pre-booked events, it was envisaged to hold at the Premises. Mr Rankin advised that they would primarily relate to art and fashion events. It was currently unknown how many events would take place per annum but the operator wanted to be a good neighbour and aimed to create no impact to the nearby residents.

Mr Nevitt, representing Environmental Health, explained that he had initial concerns with the application due to the multi-use nature of the site and the close proximity of residents located above it. EH was pleased to note however that no regulated entertainment had been applied for and appropriate noise protection had been provided through the planning process. Further clarity was required though about the number of events planned and the proposed areas of activity. Finally, if the Applicant did not want to accept EH's proposed condition regarding the securing of alcohol behind locked grilles then further restrictions



on the size of the retail area for the sale of alcohol, and the installation of till prompts, would allay some concerns and reduce the emphasis on the display of alcohol.

PC Janes, representing the Metropolitan Police, confirmed that he was generally happy with the conditions offered and was satisfied they addressed the crime and disorder licensing objective. The small retail areas remained a source of concern however due to the street drinking issues experienced in the locality. The Premises could provide an opportunity for people to drink on the street and it was therefore requested that alcohol in these areas be locked behind grilles outside of the hours authorised for their sale so as to promote the crime and disorder licensing objective.

Mr Nevitt explained that if the Applicant was currently willing to accept the condition regarding the securing of alcohol in the retail areas then they could always submit a variation application in the future with a design that was potentially more appropriate for their style of operation. As such, Mr Rankin confirmed that the Applicant was willing to accept the condition imposed on the licence.

In response to questions from the Sub-Committee Mr Rankin confirmed that no shisha would be available at the Premises. In addition, all the packaging produced by the operation would be environmentally friendly and fully recyclable. Concern was expressed over delivery companies servicing the Premises and potentially creating disturbance to local residents. The Applicant therefore agreed for a condition to be placed on the licence that no takeaway or deliveries would occur after 23:00 hours. The Sub-Committee did note that the opening hours requested were thirty minutes in excess of core hours. Mr Rankin explained that the sale of retail was to core hours but thirty minutes extra was requested for the opening hours to allow customers to finish their drinks.

The Council's Policy Adviser requested that if the Sub-Committee was minded to grant the application condition 11(b) be amended to read "All sales of alcohol for consumption off the premises shall be: b) to persons seated taking a substantial table meal there and for consumption by such a person as ancillary to there meal in the courtyard area outside the retail grab and go kiosk marked on the plan." The Applicant was content for the amendment to be included on the licence.

The Sub-Committee carefully considered the application and noted that it was not located within a CIA and therefore there was no presumption against granting the licence. However, a slight concern was raised regarding the provision of pre-booked events and the potential impact 350 people attending could have on the local area. The Sub-Committee acknowledged however, that residents had raised no significant concerns over this area and if it did become a source of disturbance in the future residents did have necessary mechanisms available to bring about a review application. The style and nature of the operation provided reassurance that it would not become a drink-led establishment or a venue for people seeking intoxication. As it was a new premises however and had no operational footprint the Sub-Committee was of the opinion that granting the application to core hours, including opening hours,

	<p>was appropriate in the circumstances. The conditions proposed were considered appropriate and proportionate in the circumstances and would ensure that the licensing objectives were promoted. Further reassurance was also provided by the conditions, which ensured that there were no takeaways after 23:00 hours from the Premises and that off sales would be restricted to those areas shown on the plan only. Condition 11(b) was amended as discussed above and a slight amendment to condition 9 was also made so that the supply of alcohol in the studio area was to persons attending fashion, creative and entertainment events or promotions. Finally, it was agreed to adopt EH's proposed condition requiring all alcohol located in retail areas to be locked behind grilles outside of the hours authorised for its sale. It was recognised that the local area did have street drinking issues and therefore the Sub-Committee was of the opinion that this condition was appropriate for the location.</p> <p>The Sub-Committee was pleased to note that the packaging used by the Premises would be environmentally friendly and welcomed the assurance from the Applicant that there would be no shisha provided at the Premises.</p> <p>The Sub-Committee carefully considered the concerns expressed by Environmental Health, the Police and one local resident and took the view that the conditions proposed to be appropriate and proportionate in the circumstances. After careful consideration the Sub-Committee was satisfied that the Premises would promote the licensing objectives and therefore granted the application accordingly.</p>
<p><b>2.</b></p>	<p><b>Sale by Retail of Alcohol – On and Off Sales</b></p> <p>Monday to Thursday: 10:00 to 23:30  Friday to Saturday: 10:00 to 00:00  Sunday: 12:00 to 22:30</p> <p><b>Seasonal variations / Non-Standard Timings:</b></p> <p>From the end of permitted hours on new Year's Eve to the start of permitted hours on New Year's Day.</p> <p>On Sundays prior to bank holidays/public holidays 12:00 – 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 Sub-Committee granted the application (see reasons for decision in Section 1).</p>
<p><b>3.</b></p>	<p><b>Hours Premises Are Open to the Public</b></p> <p>Monday to Thursday: 07:30 to 00:00  Friday to Saturday: 07:30 to 00:30</p>

	<p>Sunday: 07:30 to 23:00</p> <p><b>Seasonal variations / Non-Standard Timings:</b></p> <p>From the end of permitted hours on new Year's Eve to the start of permitted hours on New Year's Day.</p> <p>On Sundays prior to bank holidays/public holidays 07:30 – 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 Sub-Committee granted the application but restricted the opening hours to core hours.</p>

<b>Conditions attached to the Licence</b>
<p><b><u>Mandatory Conditions</u></b></p> <ol style="list-style-type: none"> <li>1. No supply of alcohol may be made at a time when there is no designated premises supervisor in respect of this licence.</li> <li>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.</li> <li>3. Every supply of alcohol under this licence must be made or authorised by a person who holds a personal licence.</li> <li>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.</li> <li>(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— <ol style="list-style-type: none"> <li>(a) games or other activities which require or encourage, or are designed to require or encourage, individuals to; <ol style="list-style-type: none"> <li>(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</li> <li>(ii) drink as much alcohol as possible (whether within a time limit or otherwise);</li> </ol> </li> <li>(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;</li> </ol> </li> </ol>

- (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 subparagraph 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.

### **Conditions Consistent with the Operating Schedule**

9. The supply of alcohol at the premises shall only be to:
- i. Persons seated taking a table meal and for consumption by such a person as ancillary to their meal in the area marked Restaurant and Bar on the plans;
  - ii. Notwithstanding part (i) the following may consume alcohol without food or being seated;
    - 1) 35 persons at any one time in the Bar; or
    - 2) For use by persons providing fashion, creative and entertainment industry events or promotions in the area marked Studio and Breakout Area on the plans provided; and
    - 3) Persons attending a pre-booked function for which a suitable and sufficient Event Management Plan has been drawn up prior to the event.
10. An Event Management Plan for each event must be made available on request to the Responsible Authorities, kept for at least one year and must contain information and assessments on at least the following aspects where relevant:
- i. Responsible persons including at least one person with management responsibilities of the licence holder
  - ii. Safe Capacity (should never be more than (350)
  - iii. Stewarding and Emergency Evacuation Plans
  - iv. Temporary structures (including obtaining any temporary structures licence where necessary)
  - v. Safe use of any special effects eg laser, smoke and fog generators, flames, pyrotechnics, strobe lighting, etc
  - vi. Noise Management Plan
11. All sales of alcohol for consumption off the premises shall be:
- a) in sealed containers only and shall not be consumed on the premises; or
  - b) to persons seated taking a substantial table meal there and for consumption by such a person as ancillary to there meal in the courtyard area outside the retail grab and go kiosk marked on the plan.
12. There shall be no sales of hot food or hot drink for consumption off the premises after 23:00.
13. Substantial food and non-intoxicating beverages, including drinking water, shall be available in all parts of the premises where alcohol is sold or supplied for consumption on the premises.
14. 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

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

16. A Challenge 21 or Challenge 25 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognized photographic identification cards, such as a driving licence, passport or proof of age card with the PASS Hologram.

17. 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 authorized officer throughout the entire 31-day period.

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

19. 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.

20. 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.

21. Flashing or particularly bright lights on or outside the premises shall not cause a nuisance to nearby properties.

22. 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.

23. Patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, shall not be permitted to take drinks or glass containers with them.
24. 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.
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. No deliveries to the premises shall take place between (23.00) and (07.00) on the following day.
27. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
28. No waste or recyclable materials, including bottles, shall be moved, removed from or placed in outside areas between (23.00) hours and (07.00) hours on the following day.
29. No collections of waste or recycling materials (including bottles) from the premises shall take place between (23.00) and (07.00) on the following day.
30. A direct telephone number for the manager at the premises shall be publicly available at all times the premises are open. This telephone number is to be made available to residents and businesses in the vicinity.
31. The number of persons permitted at any one time (excluding staff) in the in the area marked Restaurant and Bar on the plans shall not exceed 150 persons and when the premises is used for events 350.
32. No licensable activities shall take place at the premises until the premises have been assessed as satisfactory by the Environmental Health Consultation Team at which time this condition shall be removed from the Licence by the Licensing Authority.
33. Before the premises are open to the public under the licence, the plans as deposited will be checked by the Environmental Health Consultation Team to ensure they are an accurate reflection of the work carried out. Where minor layout changes have occurred during the course of construction new plans shall be provided to the Environmental Health Consultation Team and the Licensing Authority.
34. Unless agreed in writing with the Licensing Authority, no super-strength beer, lagers, ciders or spirit mixtures of 5.5% ABV (alcohol by volume) or above shall be sold at the premises, except for premium beers and ciders supplied in glass bottles.
35. No more than (15)% of the retail area (as hatched black on the plan) shall be used at any one time for the sale, exposure for sale, or display of alcohol.
36. In the retail area hatched black on the plan, here shall be no self service of spirits on the premises, save for spirit mixtures less than 5.5% ABV.



37. Sales of alcohol for consumption off the premises shall cease after 23:00. Notwithstanding this condition customers are permitted to take from the premises part consumed and re-sealed bottles of wine supplied ancillary to their meal.
38. Tables and chairs in the external seating area shown on the plan shall be either removed or rendered unusable after 23:00.
39. Outside of the hours authorised for the sale of alcohol and whilst the premises are open to the public, the licence holder shall ensure that all alcohol in the retail areas as hatched black on the plan (including alcohol behind the counter) is secured in a locked store room or behind locked grilles, locked screens or locked cabinet doors so as to prevent access to the alcohol by both customers and staff.

## 5 CLARIDGES HOTEL 47-57 BROOK STREET MAYFAIR W1

### TEMPORARY LICENSING COMMITTEE

*Thursday 10<sup>th</sup> May 2018*

Membership: Councillor Tim Mitchell (Chairman) and Councillor Heather Acton

Legal Adviser: Horatio Chance

Policy Adviser: Chris Wroe

Committee Officer: Tristan Fieldsend

Presenting Officers: Heidi Lawrance

Relevant Representations: One Local Resident.

Present: Mr Mark Browning (Solicitor, representing the Applicant) and Mr Paul Jackson (General Manager, Representing the Applicant Company),

**Claridges Hotel, 47-57 Brook Street, Mayfair, London, W1K 4HR 9NF ("The Premises")**  
**18/03318/LIPV**

**1. Layout Alteration**

The variation application seeks to extend the area of the premises licence (known on the licence as The Brook Street Bar) to include the Davies Street External Area following the grant of planning permission.

Amendments to application advised at hearing:

None.

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

The Sub-Committee considered an application by Claridges Hotel Ltd for a variation of a premises licence in respect of Claridges Hotel, 47-57 Brook Street, Mayfair, London, W1K 4HR.

The Licensing Officer provided an outline of the application to the Sub-Committee and confirmed that following the agreement of conditions with the Applicant both the Police and Environmental Health (EH) had withdrawn their representations.

Mr Browning, representing the Applicant, explained that the reason for the application was that a planning application had been made to reintroduce an historic door at the Premises which led to an external garden area. It was confirmed that the planning application had been approved. The external area was located completely on the Premises and was not situated on the public highway with access to it provided through the hotel only. The bar area inside the hotel was licensed until 02:00 hours however following discussions with the Responsible Authorities the external areas would only be licensed until 23:00 hours. Hotel residents were located above this area so it was in the Applicant's interests that no disturbance was created in this area.

Mr Browning provided details of where the resident was located who had submitted a representation regarding the application and the significant distance this was away from the Premises. Negotiations were currently ongoing with the resident and a meeting had been proposed to discuss the application, which the resident had not attended.

The Sub-Committee was advised by Mr Browning that an advantage of utilising the external garden was that it would provide an area for customers to smoke therefore ensuring they did not have to use the smoking area on Brook Street located on the public highway. The Sub-Committee was assured that there would be no provision of shisha in this particular area. It was submitted that the external area would contain significant levels of screening made up of additional screens and planting and this would provide a significant barrier between the external area and the street. The Premises operated an extensive recycling programme and it took very seriously its environmental impact. In response to a question from the Sub-Committee the Applicant confirmed that they would use their best endeavours to use pollutant absorbing planting.

The Sub-Committee requested further clarity on how the garden area would operate. Mr Browning explained that alcohol could be sold for consumption in the area until 23:00 with the tables and chairs rendered unusable from 23:30. Customers would typically sit at a table where they would be served their drinks by a waiter/waitress and no standing area would be provided to permit vertical drinking. A customer would be able to purchase a drink at the internal bar and then take it outside but this would not be encouraged. The Sub-Committee noted that a member of staff would greet customers upon entering the bar.

The Council's Legal Adviser was interested to learn how the Applicant would appropriately control the external area. Mr Browning stated that it would not become a source of crime and disorder as access to the area was strictly controlled through the hotel. CCTV was also in place and appropriate conditions had been agreed with the Police and EH. The primary concern related to the hours and as such, they had reduced them to 23:00 hours. Hotel residents would be located above the garden area and therefore the Applicant would ensure that that the external area did not create any nuisance and disturb them.

The Council's Policy Adviser requested further clarity on the wording of the condition relating to tables in the external area being "put out of use". Mr Browning confirmed that to provide reassurance the condition could be amended so that no licensable activities would take place in the external area after 23:30 hours. With the Applicant's agreement the Council's Legal Adviser suggested the following additional condition be added to the licence, "There shall be no provision of late night refreshment, or the supply or consumption of alcohol in the external Brook Street external seating area after 23:30."

After careful consideration the Sub-Committee agreed to grant the Application. It was noted that the Premises was not located within a Cumulative Impact Area and therefore there was no presumption against granting the licence. It was considered that appropriate conditions had been agreed with the Responsible Authorities which would help promote the licensing objectives. The Sub-Committee was also pleased to note that the sale by retail of alcohol in the external area would cease by 23:00 hours. It was considered that an appropriate degree of control would be in place in the external area as it could only be accessed through the hotel, CCTV would be in operation and customers would be greeted when entering the bar by a member of staff. A further condition would be added to the licence preventing the provision of late night refreshment, or the supply or consumption of alcohol in the external Brook Street external seating area after 23:30. This provided reassurance that the area would not become a source of disturbance. The style and operation of the Premises was also taken into account and the Sub-Committee was of the opinion that it would not become a drink-led venue.

The Sub-Committee was pleased to note that no shisha would be provided at the Premises and the Applicant would use their best endeavours to ensure the planting used for screening in the external area would be pollution absorbent.

The Sub-Committee carefully considered the concerns expressed by the local resident and took the view that the conditions proposed to be appropriate and proportionate in the circumstances. After careful consideration the Sub-Committee was satisfied that the Premises would promote the licensing objectives and therefore granted the application accordingly.

### **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 subparagraph 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.

9. Admission of children to the premises must be restricted in accordance with the film classification recommended by the British Board of Film Classification or recommended by this licensing authority as appropriate.

**Conditions Reproducing the Effect of Conditions Subject to which Relevant Existing Licences Have Effect**

10. This licence is subject to all the former Rules of Management for Places of Public Entertainment licensed by Westminster City Council, in force from 4 September 1998 and incorporating amendments agreed by the Council on 25 October 1999, 30 June 2000, 16 January 2001 and 1 October 2001.

11. On New Year's Eve the premises can remain open for the purpose of providing regulated entertainment from the time when the provision of regulated entertainment must otherwise cease on New Year's Eve to the time when regulated entertainment can commence on New Year's Day (or until midnight on New Year's Eve where no regulated entertainment takes place on New Year's Day).

12. Notwithstanding the provisions of Rule of Management No. 6 the premises may remain open for the purposes of this licence from 11pm on each of the days Monday to Saturday to 1am on the day following.

13. The entertainment to be provided under this licence shall be restricted to live bands and discotheque with ancillary dancing. The entertainment shall be provided by a maximum of twelve performers.

14. The number of persons accommodated at any one time (excluding staff) in the first floor restaurant shall not exceed 30; Ground Floor Lounge, 100; Ground Floor Restaurant, 120; and Brook Street Bar, 70.

**Conditions which Reproduce the Effect of any Restriction Imposed on the use of the Premises by Specified Enactments**

15. No person under fourteen shall be in the bar of the licensed premises during the permitted hours unless one of the following applies:

- (a) He is the child of the holder of the premises licence.
- (b) He resides in the premises, but is not employed there.
- (c) He is in the bar solely for the purpose of passing to or from some part of the premises which is not a bar and to or from which there is no other convenient means of access or egress.
- (d) The bar is in railway refreshment rooms or other premises constructed, fitted and intended to be used bona fide for any purpose to which the holding of the licence is ancillary.

In this condition "bar" includes any place exclusively or mainly used for the consumption of intoxicating liquor. But an area is not a bar when it is usual for it to be, and it is, set apart for the service of table meals and alcohol is only sold or supplied to persons as an ancillary to their table meals.

16. If any entertainment is provided for children or if an entertainment is provided at which the majority of persons attending are children, then, if the number of children attending the entertainment exceeds 100, it shall be the duty of the holder of the premises licence (or the holder of the club premises certificate):

- (a) to station and keep stationed wherever necessary a sufficient number of adult attendants, properly instructed as to their duties, to prevent more children or other persons being admitted to the building, or to any part thereof, than the building or part can properly accommodate,
- (b) to control the movement of the children and other persons admitted while entering and leaving the building or any part thereof, and
- (c) take all other reasonable precautions for the safety of the children.

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

#### **Conditions Consistent with the Operating Schedule**

18. There shall be no entry or re-entry to the Brook Street Bar via the Brook Street Entrance after 0100.

19. No windows to the Brook Street Bar nor the entrance from Brook Street into the Brook Street Bar shall be fixed open after 2300.

20. Films shall be permitted on New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day.

#### **The two shops in the bottom left hand corner (leading off the Lobby) of the Ground Floor**

21. No permanent bar shall be constructed in the shops.

22. Consumption of alcohol in the shops shall only be part of pre-booked event.

**Conditions Attached after a Hearing by the Licensing Authority**

**Ground Floor Lounge, Restaurant and Bar: Monday to Saturday Only**

23. (a) Subject to the following paragraphs, the permitted hours on Monday to Saturday shall commence at 07:30 (12.00 on Christmas Day and Good Friday) and extend until 01:00 on the morning following, except that -

(i) the permitted hours shall end at 00:00 midnight on any day on which music and dancing is not provided after midnight; and

(ii) on any day that music and dancing end between 00:00 midnight and 01:00, the permitted hours shall end when the music and dancing end;

(b) The sale of alcohol must be ancillary to the use of the premises for music and dancing and substantial refreshment.

(c) The permitted hours on New Year's Eve will extend to the start of permitted hours on the following day, or if there are no permitted hours on 1 January, to 00:00 on New Year's Eve.

NOTE - The above restrictions do not prohibit:

(a) during the first thirty minutes after the above hours the consumption of the alcohol on the premises;

(b) during the first twenty minutes after the above hours, the taking of the alcohol from the premises unless the alcohol is supplied or taken in an open vessel;

(c) the sale or supply of alcohol to or the consumption of alcohol by any person residing in the licensed premises;

(d) the ordering of alcohol to be consumed off the premises, or the despatch by the vendor of the alcohol so ordered;

(e) the sale of alcohol to a trader or registered club for the purposes of the trade or club;

(f) the sale or supply of alcohol to any canteen or mess, being a canteen in which the sale or supply of alcohol is carried out under the authority of the Secretary of State or an authorised mess of members of her Majesty's naval, military or air forces;

(g) the taking of alcohol from the premises by a person residing there;

(h) the supply of alcohol for consumption on the premises to any private friends of a person residing there who are bona fide entertained by him at his own expense, or the consumption of alcohol by persons so supplied;

(i) the supply of alcohol for consumption on the premises to persons employed there for the purposes of the business carried on by the holder of the licence, or the consumption of liquor so supplied, if the liquor is supplied at the expense of their employer or of the person carrying on or in charge of the business on the premises.



In this condition, any reference to a person residing in the premises shall be construed as including a person not residing there but carrying on or in charge of the business on the premises.

**Other Areas and on Sundays in the Ground Floor Lounge, Restaurant and Bar**

24. (i) Alcohol shall not be sold, supplied, consumed in or taken from the premises except during permitted hours.

In this condition, permitted hours means:

- (a) On weekdays, other than Christmas Day, Good Friday or New Year's Eve, 07:30 to 23:00
- (b) On Sundays, other than Christmas Day or New Year's Eve, 07:30 to 22:30
- (c) On Good Friday, 12:00 to 22:30
- (d) On Christmas Day, 12:00 to 15:00 and 19:00 to 22:30
- (e) On New Year's Eve, except on a Sunday, 07:30 to 23:00
- (f) On New Year's Eve on a Sunday, 07:30 to 22:30
- (g) On New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day (or, if there are no permitted hours on the following day, midnight on 31st December).

(ii) Alcohol may be sold or supplied for one hour following the hours set out above (other than Christmas Day and New Year's Eve), and on Christmas Day, between 15.00 and 19.00, to persons taking table meals in the premises in a part of the premises usually set apart for the service of such persons and for consumption by such a person in that part of the premises as an ancillary to his meal. For other purposes or in other parts of the premises the hours set out above shall continue to apply.

NOTE - The above restrictions do not prohibit:

- (a) during the first thirty minutes after the above hours the consumption of the alcohol on the premises;
- (b) during the first twenty minutes after the above hours, the taking of the alcohol from the premises unless the alcohol is supplied or taken in an open vessel;
- (c) during the first thirty minutes after the above hours the consumption of the alcohol on the premises by persons taking table meals there if the alcohol was supplied for consumption as ancillary to the meals;
- (d) the sale or supply of alcohol to or the consumption of alcohol by any person residing in the licensed premises;
- (e) the ordering of alcohol to be consumed off the premises, or the despatch by the vendor of the alcohol so ordered;

(f) the sale of alcohol to a trader or registered club for the purposes of the trade or club;

(g) the sale or supply of alcohol to any canteen or mess, being a canteen in which the sale or supply of alcohol is carried out under the authority of the Secretary of State or an authorised mess of members of Her Majesty's naval, military or air forces;

(h) the taking of alcohol from the premises by a person residing there;

(i) the supply of alcohol for consumption on the premises to any private friends of a person residing there who are bona fide entertained by him at his own expense, or the consumption of alcohol by persons so supplied;

(j) the supply of alcohol for consumption on the premises to persons employed there for the purposes of the business carried on by the holder of the licence, or the consumption of liquor so supplied, if the liquor is supplied at the expense of their employer or of the person carrying on or in charge of the business on the premises.

In this condition, any reference to a person residing in the premises shall be construed as including a person not residing there but carrying on or in charge of the business on the premises.

25. The service of alcohol (restricted to wines and champagnes and no other alcoholic beverages) is permitted between 07:30 and 10:00am during "Champagne Breakfasts", served by a waiter or waitress to seated customers. The service of such alcohol will be ancillary to the supply of food.

26. On no more than 15 occasions per year and following 10 days' prior notice to the Police and Licensing Authority (or such lesser time as may be agreed with the Police) the hours for the provision of licensable activities currently provided at the premises may be extended to such a time as agreed with the Police. The police having the power to veto such application.

27. 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 outside table area shall be covered by external CCTV. 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.

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

29. An incident log shall be kept at the premises, and made available on request to

an authorised officer of the City Council or the Police. It must be completed within 24 hours of the incident and will record the following:

- (a) All crimes reported to the venue
- (b) All ejections of patrons
- (c) Any complaints received concerning crime and disorder
- (d) Any incidents of disorder
- (e) Any faults in the CCTV system, searching equipment or scanning equipment
- (f) Any refusal of the sale of alcohol
- (g) Any visit by a relevant authority or emergency service.

30. Service to the external tables shall cease at 23:00 hours and the tables put out of use by 23:30 hours daily.

31. There shall be no provision of late night refreshment, or the supply or consumption of alcohol in the external Brook Street external seating area after 23:30.

## **6 SOHO WHISKY CLUB, FIRST FLOOR, 42 OLD COMPTON STREET, W1**

### **TEMPORARY LICENSING COMMITTEE**

*Thursday 10<sup>th</sup> May 2018*

Membership: Councillor Tim Mitchell (Chairman) and Councillor Heather Acton

Legal Adviser: Horatio Chance

Policy Adviser: Chris Wroe

Committee Officer: Tristan Fieldsend

Presenting Officers: Simone Murray

Relevant Representations: The Licensing Authority

Present: Ms Lana Tricker (Solicitor, representing the Applicant), Mr Malcolm Mullin (Applicant) and Miss Heidi Lawrance (Licensing Authority)

**Soho Whisky Club, First Floor, 42 Old Compton Street, London, W1D 4TX ("The Premises")**  
**18/02552/LIPV**

#### **1. Conditions being Varied, Added or Removed**

Current:

##### **Condition 11**

The premises shall only operate as a private members club.

Proposed:

##### **Condition 11**

The premises shall operate:  
(a) as a private members club  
(b) for the purposes of whisky tasting by persons attending a pre-booked event where individual servings of

<p><b>Condition 14</b></p> <p>There shall be no `Off` sales of alcohol save for members and their guests purchasing alcohol in sealed containers for consumption off the premises.</p>	<p>alcohol for consumption on the premises shall be limited to:  (i) samples of 25ml maximum per serving and  (ii) five samples per customer per visit to the premises</p> <p><b>Condition 14</b></p> <p>There shall be no `Off` sales of alcohol save for members and their guests or participants of the whisky tasting, purchasing alcohol in sealed containers for consumption off the premises.</p>
<p><b>Condition 17</b></p> <p>Clearly legible notices shall be displayed at all exits from the premises requesting patrons to respect the needs of local residents and to leave the premises and area quietly.</p>	<p><b>Condition 17</b></p> <p>Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.</p>
<p><b>Condition 18</b></p> <p>No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.</p>	<p><b>Condition 18</b></p> <p>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.</p>
<p><b>Condition 20</b></p> <p>The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of a Metropolitan Police Crime Prevention Officer. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the</p>	<p><b>Condition 20</b></p> <p>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</p>

	<p>premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Recordings shall be made available immediately upon the request of a Police or authorised officer throughout the preceding 31 day period.</p> <p><b>Condition 21</b></p> <p>A staff member from the premises who is conversant with the operation of the CCTV system will be on the premises at all times when the premises are open to the public. This staff member will be able to show police recent data or footage with the absolute minimum of delay when requested.</p> <p><b>Addition of Condition:</b></p>	<p>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.</p> <p><b>Condition 21</b></p> <p>A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises are open. This staff member must be able to provide a Police or authorised council officer copies of recent CCTV images or data with the absolute minimum of delay when requested.</p> <p>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.</p>
	<p>Amendments to application advised at hearing:</p> <p>The Applicant advised that they were content for condition 11(b) to be amended so that the whisky tasting sessions would be restricted to between the hours of 10:00 and 20:00.</p>	
	<p>Decision (including reasons if different from those set out in report):</p> <p>The Sub-Committee considered an application by Donatel Freres Ltd for a variation of a premises licence in respect of Soho Whisky Club, First Floor, 42 Old Compton Street, London, W1D 4TX.</p> <p>The Licensing Officer provided an outline of the application to the Sub-Committee.</p> <p>Ms Tricker, representing the Applicant, explained that the Premises was a family business that had been trading for over seventy years. The application was very modest and was only seeking to permit pre-booked whisky tasting sessions taking place at the Premises. It was also proposed to convert several of the conditions on the licence to the Council's model conditions. The Sub-Committee was advised that the venue was not associated with any problems, had a small capacity of forty customers and was not seeking to change the hours for licensable activities. The application would allow customers to try the whisky before purchasing it and was simply seeking to offer an additional service to what was already provided. In terms of the management of tastings, they would have to</p>	

be pre-booked by customers. Upon entering the Premises, they would be met by a member of staff and escorted to the upstairs area. Customers would be accompanied at all times and following the end of the session escorted out of the building. It was expected that two to four people would attend each session, which would last ninety minutes. The tasting sessions would cease at 20:00 hours. The Sub-Committee was informed that the Applicant was content for a condition to be added to the licence restricting the whisky tasting sessions to be ancillary to the Premises operating as a members club.

Mr Mullin, the Applicant, advised that most of the existing members entered the Premises at approximately 17:00 to 18:00 hours. As such, the tasting sessions were planned to primarily cater for customers before the club members entered the Premises.

Miss Lawrance, representing the Licensing Authority, confirmed that the Premises was located within a Cumulative Impact Area (CIA) and currently operated as a private members club. There was a capacity of forty at the Premises however concern was expressed that this could potentially permit forty people to partake in a single tasting session throughout the day. Whether this had the potential to change the character of the Premises away from a private members club was a matter for the Sub-Committee to decide. Further information was also sought on the management of the tasting sessions and how many were planned to be held. Finally, the Applicant had suggested that the tasting sessions would cease at 20:00 hours, however this was not conditioned on the licence and therefore they could potentially take place until 23:00 hours.

Ms Tricker advised that the tasting sessions would only form a small element of the operation and would therefore not alter the character of the Premises. It was expected that two to three sessions would be held each day, lasting for approximately ninety minutes, with five to six members of staff on duty at any one time. To provide the Sub-Committee with reassurance over the application the Applicant was content for a condition to be placed on the licence restricting the tasting sessions to a terminal hour of 20:00 hours. Miss Lawrance confirmed that the addition of the above condition on the licence addressed some of the concerns raised by the Licensing Authority.

The Sub-Committee carefully considered the Application and noted that whilst it was located in a CIA the Application was not seeking to extend its permitted hours for licensable activities or increase its capacity. It was noted that the Premises currently had a small capacity of forty and the Sub-Committee considered that permitting the tasting sessions would not alter the character of the Premises. The Premises would continue to operate as a private members club and this provided the Sub-Committee with reassurance that the venue would not become a source of disturbance. The model conditions proposed were considered appropriate and proportionate in the circumstances. The Sub-Committee was of the opinion that they would ensure that there would be no cumulative impact in the local area and would therefore promote the licensing objectives. A degree of concern was expressed that the tasting sessions would be permitted until 23:00 hours and as such, with the agreement of the Applicant, current condition 11(b) would be amended to restrict the tasting sessions to between 10:00 and 20:00 hours only. This and the other controls in place at the Premises including the display of

notices and the operation of a CCTV system would ensure that there was an adequate level of control in place at the venue.

The Sub-Committee carefully considered the concerns expressed by the Licensing Authority but took the view that the style of operation and the conditions proposed to be appropriate and proportionate in the circumstances. After careful consideration the Sub-Committee was satisfied that, the Premises would not add to cumulative impact and would promote the licensing objectives. The Sub-Committee therefore granted the application accordingly.

### **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 subparagraph 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.

### **Conditions Consistent with the Operating Schedule**

10. There shall be no sales of hot food or hot drink for consumption off the premises after 23.00 hours

11. The premises shall operate:

- (a) as a private members club; and
- (b) between the hours of 10:00 and 20:00 for the purposes of whisky tasting by persons attending a pre-booked event where individual servings of alcohol for consumption on the premises shall be limited to:

- (i) samples of 25ml maximum per serving and
- (ii) five samples per customer per visit to the premises

12. There shall be no regulated entertainment at the premises except for the showing of film.

13. Food and non-intoxicating beverages, including drinking water, shall be available in all parts of the premises where alcohol is sold or supplied for consumption on the premises.

14. There shall be no 'Off' sales of alcohol save for members and their guests or participants of the whisky tasting, purchasing alcohol in sealed containers for consumption off the premises.

15. The number of persons accommodated at any one time on the premises (excluding staff) shall not exceed 40 persons.

16. The external smoking area, as marked on the plan, shall only be used by patrons between 10am to 10pm on any given day. Persons temporarily leaving the premises onto the public highway along Old Compton Street for the purposes of smoking shall not take any drinks with them.

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

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

19. All waste is to be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection time.

20. 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.

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

22. There shall be no cinema showing of films.

23. No person shall be admitted to membership of the said club without an interval of at least two days between membership and admission.

24. 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.

The Meeting ended at 1.03 pm

**CHAIRMAN:** \_\_\_\_\_

**DATE** \_\_\_\_\_