



CITY OF WESTMINSTER

MINUTES

Licensing Sub-Committee (5)

MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (5)** held on **Thursday 14th February, 2019**, Room 3.1, 3rd Floor, 5 Strand, London, WC2 5HR.

Members Present: Councillors Murad Gassanly (Chairman), Jim Glen and Aziz Toki

1 MEMBERSHIP

1.1 There were no changes to the membership.

2 DECLARATIONS OF INTEREST

2.1 There were no declarations of interest.

1 PHASE 8, 7-8 ST MARTIN'S PLACE, LONDON, WC2N 4HA

LICENSING SUB-COMMITTEE No. 5

Thursday 14th February 2019

Membership: Councillor Murad Gassanly (Chairman), Councillor Jim Glen and Councillor Aziz Toki

Legal Adviser: Barry Panto

Policy Adviser: Kerry Simpkin

Committee Officer: Tristan Fieldsend

Presenting Officer: Michelle Steward

Relevant Representations: Environmental Health and residents St Martin-in the Fields

Present: Mr Stephen Walsh QC (representing the Applicant), Ms Lisa Inzani (Solicitor, representing the Applicant), Mr Philip Chan (Applicant), Mr Matthew Moffatt (Proposed DPS and General Manager), Mr Ian Watson (Environmental Health), Mr Richard Brown (Solicitor, Citizens Advice Bureau Licensing Advice Project, representing St Martins-in-the-Fields) and Ms Allyson Hargreaves and Revd Richard Carter (St Martins in-the-Fields)

1. Sale by Retail of Alcohol – On and Off Sales

Monday to Thursday: 10:00 to 23:30

Friday to Saturday: 10:00 to 00:00

Sunday: 10:00 to 22:30

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.

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 Best Effort Ventures Ltd ("The Applicant") for a new premises licence in respect of Page 8, 7-8 St Martin's Place, London, WC2N 4HA.

The Licensing Officer introduced the application.

Mr Walsh, representing the applicant, explained that the application before the Sub-Committee was for a new premises licence for a hotel that had been granted planning permission in 2016. The hotel was situated over four floors and consisted of 138 bedrooms. The applicant had invested £90 million in renovating the building and had recruited a DPS who had significant experience in managing for major hotel chains. It was proposed that the hotel would open in September 2019. Mr Walsh showed detailed plans to the Sub-Committee including the proposals for the ground floor area. This ground floor would only have a very limited licensable area in order for a small café to operate which would predominantly sell tea and coffee. It was proposed that alcohol would also be available, however there would be no sales of draught beers and it would not be a destination bar.

To provide reassurance a condition was proposed requiring all sales of alcohol to be ancillary to the main use of the Premises as a hotel. The original application had sought to permit late night refreshment to 01:30 hours but, following discussions with stakeholders, it was now proposed to amend this to core hours. The main entrance to the Premises would be through the west of the building, the bar area would be staffed at all times with the close proximity of the reception area also providing a high degree of supervision. Customers could order a drink at the bar and then sit in the foyer to consume it or if they were hotel residents take it to their room. Mr Walsh advised the Sub-Committee that discussions had taken place with the Licensing Authority who were satisfied with the security arrangements in place on the ground floor due to the nature of the operation and the direct supervision from the reception area.

Mr Walsh explained that currently no external seating on the ground floor had been applied for but it was proposed to add a condition to the licence requiring any outside tables and chairs in this outside area to be rendered unusable by 23:00 hours. Mr Walsh advised that Environmental Health (EH) had suggested this condition to future proof the licence in anticipation of a future table and chairs licence application. The proposed conditions would require the supply of alcohol in this external area to be customers seated and served by waiter/waitress service only. In addition, it was highlighted that the application was seeking to licence the first, second, third and fourth floors of the Premises as it was proposed for hotel residents to have access to mini-bars in their rooms. Late night refreshment and the showing of pre-recorded films had also been applied for on these floors to allow hotel residents to order hot drinks to their rooms and watch films.

Mr Watson, representing Environmental Health, confirmed that he had been involved with the Premises at the pre-application stage. It was confirmed that the amendment to the application restricting the ground floor area permitting late night refreshment to core hours was considered appropriate. With regards to the external area the Sub-Committee was informed that the previous Premises that operated from the site did have a tables and chairs licence. Mr Watson explained that barriers had surrounded this area from the public highway with all furniture rendered unusable after 21:00 hours. Mr Watson also noted that it was proposed for any supply of alcohol in this area would have to be by waiter/waitress service. In terms of customers using the ground floor café it was not normally considered appropriate to impose a capacity on foyer areas at hotels, as it would be very difficult to manage. Instead, the capacity would usually be managed through the fire risk assessment that would be undertaken. As live music had been applied for, the Sub-Committee was advised that often a sound limiter condition would be attached to the licence to prevent any disturbance to local residents. Mr Walsh advised the Sub-Committee that the hotel did not intend to provide any live music and as such, this aspect of the application would be withdrawn.

In response to a question from the Council's Legal Adviser Mr Walsh confirmed that it was proposed for the sale of alcohol on the ground floor to be to core hours except on Sunday mornings when it would commence at 10:00 hours.

Mr Brown, from the Citizens Advice Bureau Licensing Advice Project, explained that the residents who lived next door to the application site were the clergy of St Martins in-the Fields. This building had been in residence for nearly 200 years, which highlighted the clear imprint of residential use. The residents broadly supported the development and accepted that licensable activities would take place from the Premises. However, it was their desire that a solution be found that worked for all parties. Ms Hargreaves had submitted a paper detailing the residents' concerns that included the various challenges facing the area, which informed some of the residents' views. The residents had met with the applicant and constructive discussions had been held. Their main concerns remained however regarding the close proximity of the Premises to residential accommodation and the use of the ground floor external area.

Ms Hargreaves, an Executive Director for St Martin-in-the-Fields Ltd, confirmed that the residential building situated next to the Premises had accommodated clergy since it was built. Three families were currently resident at the property and it was not anticipated that this family use would cease in the future. The Connection also operated out of St Martins-in-the-Fields, which provided a day centre for approximately 200 people per day and a night centre, which had provision for 75 homeless people to stay overnight. These people would be situated between the basement and first floor. In terms of the application, licencing the hotel rooms was not considered an issue. Concerns had been raised over the provision of live and recorded music in the ground floor area but this had been addressed following the applicant's confirmation that this aspect of the application had been withdrawn. Regarding the use of tables and chairs in the external ground floor area, it was considered permitting this until 23:00 was not appropriate and should be restricted to 21:00. This was a significant extension to what had previously been permitted and it would have the potential to impact on the amenity of local residents. There would also be increased noise levels through hotel residents arriving and leaving the hotel however, the hotel would be expected to manage this appropriately and be a good neighbour to residents. Finally, if hotel residents and their guests would be permitted to drink alcohol until late in the evening on ground floor it was requested that sales of alcohol take place only to those customers who were seated and with the supply of alcohol by waiter/waitress service.

Revd Richard Carter, a local resident, explained that he was happy with the development but did have concerns over the use of the outside areas and their close proximity to residential accommodation. He pointed out a balcony on a photograph which was a bedroom directly overlooking the area. Revd Carter supported Ms Hargreaves suggestion that any tables and chairs in the ground floor external area be rendered unusable after 21:00 hours.

Mr Brown highlighted to the Sub-Committee the following concerns raised by local residents and measures that could be taken to address them:

- The dispersal of public into the surrounding area from the Premises was of particular concern, particularly later in the evening, as it had the potential to create a public nuisance. It was therefore suggested that the supply of alcohol on floors 1, 2, 3 and 4 be unrestricted, as proposed, but only to hotel residents and the maximum of four bona fide guests per hotel resident.
- It was understood that the applicant had no current intention to operate on the ground floor external area and therefore it was suggested that the proposed conditions relating to this area be withdrawn from the application. If the applicant wanted to use this area in the future, an application would have to be submitted. This was felt to be appropriate in the circumstances as the Sub-Committee was advised that the application before it did not specify the location of the outside area. Under the planning permission granted the terminal hour for the use of this area had been restricted to 21:00 and it was suggested this be replicated. It was accepted that the previous operators had used this area but it had been restricted to 21:00 and no late night refreshment or alcohol was

provided.

- Concern over off sales of alcohol had been expressed. It was recognised that the Premises was unlikely to sell cheap alcohol to be consumed on the street however a condition could be added to the licence to ensure this was the case.
- A condition regarding smokers was proposed, however it was unknown where these smokers would go and concern was expressed that it could be close to residential properties.
- Proposed conditions regarding unrestricted supply of alcohol and late night refreshment to hotel residents and their bona fide guests was not opposed but it was requested that the ground floor area be excluded from the condition.
- Additional conditions were proposed suggesting that the supply of alcohol on the ground floor should be to a person seated at a table only, supplied by waiter/waitress service only and a requirement for all windows and doors to be kept closed after 21:00 hours.

Mr Walsh explained that the applicant desired to be a good neighbour and, to provide reassurance to local residents, he agreed that the ground floor external seating area could be restricted to a terminal hour of 21:00 hours. Clarification was provided on the use of the tables and chairs in this area, which was that the supply of alcohol would be considered an off sale and the use of the area would be determined by a table and chairs licence. It was confirmed that the supply of alcohol would be by waiter/waitress service only. It was not considered that waiter/waitress service of alcohol for the ground floor café was appropriate due to the nature of its location in the hotel foyer. The café was of a relaxed nature and would be supervised by staff from both the bar area and the reception. The Sub-Committee was advised that the Police thought this level of supervision was appropriate and manageable. In terms of smokers this issue had been discussed with EH and it was anticipated that an area would be used located away from residential properties.

Mr Watson provided an overview of the extent of the external ground floor area and how it could be used for tables and chairs. An emergency exit was located between the Premises and the neighbouring residential properties therefore ensuring that they were not located directly next door to each other.

After careful consideration, the Sub-Committee agreed to grant the application subject to several amendments. Concerns raised over potential public nuisance had been partly addressed through the withdrawal of the provision for live/recorded music and the scaling back of hours for licensable activities on the ground floor for members of the public to core hours. This did not include Sundays where the sale and supply of alcohol on the ground floor would be permitted from 10:00 hours. The Sub-Committee considered these hours acceptable due to its small capacity and that the nature of the operation would mean it would not become a drink-led establishment. Waiter/waitress service on

	<p>the ground floor was not imposed due to the high level of staff supervision in the area from both the bar and reception. To provide further protection however the Sub-Committee requested an updated Premises plan be submitted highlighting where exactly licensable activities would be permitted in this area. Due to the hotel nature of the Premises, permitting the unrestricted supply of alcohol and late night refreshment on floors 1, 2, 3 and 4 to hotel residents and their bona fide guests was considered appropriate. To ensure there were no problems with dispersal into the local area however, the number of bona fide guests permitted per hotel resident would be restricted to four. Further reassurance was provided by the condition requiring all licensable activities to be ancillary to the premises operating as a hotel.</p> <p>The Sub-Committee acknowledged the concerns raised by local residents, particularly with regard to use of the external ground floor area. It was acknowledged that the applicant had no current intentions to use this area but if a future application was made the Sub-Committee noted the applicant's agreement for it to be conditioned so that its use would only be permitted until 21:00 hours. The supply of alcohol in this area would only be by waiter/waitress service and as such, the Sub-Committee considered that this offered the residents suitable protection and promoted the licensing objectives.</p> <p>Having taken into account all the evidence (with consideration being given to the representations received from local residents), the Sub-Committee was satisfied that the application was suitable for the local area and had addressed the concerns raised. The applicant had demonstrated that the application was appropriate and the conditions proposed would ensure the promotion of the licensing objectives.</p>
2.	<p>Sale by Retail of Alcohol (Hotel Residents and their Bona Fide Guests) – On and Off Sales</p> <p>Monday to Sunday: 00:00 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 Sub-Committee granted the application (see reasons for decision in Section 1).</p>
3.	<p>Exhibition of a Film – Indoors (Hotel Bedrooms Only)</p> <p>Monday to Sunday: 00:00 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 Sub-Committee granted the application (see reasons for decision in Section 1).</p>
4.	<p>Live and Recorded Music - Indoors</p> <p>Monday to Sunday: 23:00 to 01:30</p> <p>Seasonal Variations/Non-Standard Timings:</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>Amendments to application advised at hearing:</p> <p>The Sub-Committee was informed by the applicant that this aspect of the application had been withdrawn.</p>
5.	<p>Late Night Refreshment - Indoors</p> <p>Monday to Sunday: 23:00 to 01:30</p> <p>Seasonal Variations/Non-Standard Timings:</p> <p>From the end of permitted hours on New Year's Day the terminal hour shall be extended to 5am on New Year's Day.</p>
	<p>Amendments to application advised at hearing:</p> <p>The Sub-Committee was informed by the applicant that the hours for late night refreshment had been amended to the following:</p> <p>Monday to Thursday: 23:00 to 23:30 Friday to Saturday: 23:00 to 00:00 Sunday: Not applicable</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>
6.	<p>Late Night Refreshment: Hotel Residents and their Bona Fide Guests - Indoors</p> <p>Monday to Sunday: 23:00 to 05:00</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>
7.	<p>Hours Premises are Open to the Public</p> <p>Monday to Sunday: 08:00 to 01:30</p> <p>Seasonal Variations/Non-Standard Timings:</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>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 to the following amended hours:</p> <p>Monday to Thursday: 08:00 to 00:00 Friday to Saturday: 08:00 to 00:30 Sunday: 08:00 to 23:00</p>
8.	<p>Hours Premises are Open to Hotel residents and up to Four Bona Fide Guests per Resident</p> <p>Monday to Sunday: 00:00 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 Sub-Committee granted the application (see reasons for decision in Section 1).</p>

Conditions attached to the Licence	
<u>Mandatory Conditions</u>	
1.	No supply of alcohol may be made at a time when there is no designated

premises supervisor in respect of this licence.

2. No supply of alcohol may be made at a time when the designated premises supervisor does not hold a personal licence or the personal licence is suspended.
3. Every supply of alcohol under this licence must be made or authorised by a person who holds a personal licence.
4.
 - (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
 - (2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises—
 - (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to;
 - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
 - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
 - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
 - (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
 - (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).
5. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
6.
 - (1) The premises licence holder or club premises certificate holder must

ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.

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

7. The responsible person must ensure that—

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

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

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

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

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

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

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

Where -

- (i) P is the permitted price,
- (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
- (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;

(c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence -

- (i) the holder of the premises licence,
- (ii) the designated premises supervisor (if any) in respect of such a licence, or
- (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;

(d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and

(e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.

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

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

Conditions Consistent with the Operating Schedule

9. Licensable activities authorised under this licence shall remain ancillary to the

main use of the premises as a hotel.

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. 'Off' sales of alcohol shall only be to persons seated in any outside area appropriately authorised for the use of tables and chairs on the highway by waiter or waitress service.
12. There shall be no sales of alcohol for consumption 'Off' the premises after 21.00 hours.
13. There shall be no sales of draught beer, cider or lager from the ground floor café.
14. There shall be no self-service of alcohol from the ground floor café.
15. All ground floor external seating shall be removed or rendered unusable after 21.00 hours.
16. 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.
17. 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 for licensable activities. 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.
18. An incident log shall be kept at the premises, and made available on request to an authorised officer of the City Council or the Police. It must be completed within 24 hours of the incident and will record the following:
 - (a) all crimes reported to the venue
 - (b) all ejections of patrons
 - (c) any complaints received concerning crime and disorder
 - (d) any incidents of disorder
 - (e) any faults in the CCTV system
 - (f) any refusal of the sale of alcohol
 - (g) any visit by a relevant authority or emergency service.
19. 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.

20. 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.
21. 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.
22. 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.
23. 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.
24. All emergency exit doors shall be available at all material times without the use of a key, code, card or similar means.
25. All emergency doors shall be maintained effectively self-closing and not held open other than by an approved device.
26. The edges of the treads of steps and stairways shall be maintained so as to be conspicuous.
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. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
29. No waste or recyclable materials, including bottles, shall be moved, removed from or placed in outside areas between 23.00 hours and 08.00 hours on the following day.
30. The sale of alcohol for consumption in hotel bedrooms by hotel residents and up to four of their bona fide guests is permitted for 24 hours.
31. The provision of hot food and drink for consumption in hotel bedrooms shall be permitted for 24 hours for hotel residents and up to four of their bona fide guests.
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 open to the public, the plans as deposited will be checked by the Environmental Health Consultation Team to ensure they are an accurate reflection of the premises constructed. Where the premises layout has changed during the course of construction new plans shall be provided to the Environmental Health Consultation Team and the Licensing Authority.
34. Licensable activities on the ground floor shall be restricted to the lobby area edged in red.
35. No licensable activities shall take place in the basement of the premises.
36. The exhibition of films is restricted to hotel bedrooms only.

2 6TH FLOOR RESTAURANT AND TERRACE, 7-8 ST MARTIN'S PLACE, LONDON, WC2N 4HA

LICENSING SUB-COMMITTEE No. 5

Thursday 14th February 2019

Membership: Councillor Murad Gassanly (Chairman), Councillor Jim Glen and Councillor Aziz Toki

Legal Adviser: Barry Panto
 Policy Adviser: Kerry Simpkin
 Committee Officer: Tristan Fieldsend
 Presenting Officer: Michelle Steward

Relevant Representations: Environmental Health and residents of St Martin in the Fields

Present: Mr Stephen Walsh QC (representing the Applicant), Mr Alun Thomas (Solicitor, representing the Applicant), Ms Lisa Inzani (Solicitor, representing the Applicant), Mr Sergey Men (Applicant), Mr Ian Watson (Environmental Health), Mr Richard Brown (Solicitor, Citizens Advice Bureau Licensing Advice Project, representing St Martins-in-the-Fields) and Ms Allyson Hargreaves and Revd Richard Carter (St Martins in-the-Fields)

6th Floor Restaurant and Terrace, 7-8 St Martin's Place, London, WC2N 4HA ("The Premises") 18/15489/LIPN	
1.	Sale by Retail of Alcohol – On and Off Sales
	Monday to Sunday: 08:00 to 01:00

	<p>Seasonal Variations/Non-Standard Timings:</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>Amendments to application advised at hearing:</p> <p>The applicant advised that the provision of off sales be withdrawn from the application except to hotel residents.</p>
	<p>Decision (including reasons if different from those set out in report):</p> <p>The Sub-Committee considered an application by Amaberry Ltd ("The Applicant") for a new premises licence in respect of 6th Floor Restaurant and Terrace, 7-8 St Martin's Place, London, WC2N 4HA.</p> <p>The Licensing Officer introduced the application and confirmed that the Police had withdrawn their representation following the agreement of conditions with the applicant.</p> <p>Mr Walsh, representing the applicant, explained that the application was for a bar and restaurant located on the 6th floor of the hotel. The operator, Mr Sergey Men, was a very experienced and renowned sushi chef who had developed other successful restaurants with an emphasis on seafood. Mr Walsh detailed the Premises plans to the Sub-Committee and highlighted where the external west and south terraces were located in addition to the hatched areas designating where the restaurant and bar were situated. Concerns expressed by local residents had been considered and the application had subsequently been amended accordingly. The Sub-Committee was advised that the proposed restaurant and bar were appropriate for a hotel of this quality and would provide a high level of service to hotel residents and members of the public.</p> <p>Mr Walsh recognised that the use of the west and south terraces was of major concern to the residents and that as such a compromise had tried to be reached. The Sub-Committee was informed that planning permission had been granted for the use of the terraces subject to them being restricted after 23:30. The original licensing application wanted to utilise the west terrace until 00:00 but following consideration of the concerns the proposal had now been scaled back to 23:30 in line with the planning permission. It was also proposed to limit the terminal hour for the supply of alcohol on the west terrace to 23:00. Concerning the south terrace, this would be conditioned so that customers were prevented from taking food and drink on to it after 23:30. After this time, a maximum of 10 people would be permitted to use the terrace for smoking only. It was confirmed that both terraces would be supervised.</p> <p>In terms of the bar and restaurant areas Mr Walsh explained that it was proposed to permit the sale of alcohol there until 01:00. It was not considered that this was an excessively late terminal hour because of its location, the fact it was not situated within a Cumulative Impact Area (CIA) and due to the style of operation. The anticipated capacity was 180 customers plus an overall</p>

combined maximum of 40 permitted on both terrace areas. There would be a maximum of 50 covers within the hatched area which would clearly operate as a restaurant. Concern had been expressed that vertical drinking would be permitted within the restaurant and it was stated that this had been requested to allow the venue to hold functions. There would not be significant vertical drinking taking place at the Premises and this would be reinforced through a proposed condition requiring the supply of alcohol in the hatched area after 20:00 to be a person seated taking a table meal only except for hotel residents and their guests or those attending a private function. It was considered that this condition would provide the appropriate protection whilst also allowing the area to have the necessary flexibility to hold private functions.

Mr Walsh confirmed that it had been suggested that each hotel resident be limited to four bona fide guests each and the applicant was willing to accept this proposal. A proposal to withdraw the provision of off sales except to hotel residents was also accepted. The suggestion though that there should be a no entry/re-entry condition after 23:30 was not considered appropriate however as this was more appropriate for a nightclub operation and not the function of a hotel.

In terms of the Council's Statement of Licensing Policy Mr Walsh advised that hotels were considered to have less impact on a local area than other operations providing alcohol. Other nearby licenced premises operated until 02:30 Monday to Saturday including the Crypt Café operated by St Martins-in-the-Fields that had a licence until 03:00. Music and dance was permitted on the licence with no restaurant conditions attached. This Premises was operated with respect, operated responsibly and effectively and this was what the application before the Sub-Committee was also seeking to a lesser hour of 01:00.

Mr Watson, representing Environmental Health, acknowledged that the main concerns raised related to the use of the terraces and their close proximity to residential properties. It was suggested that these terraces were slightly set back however which would limit their impact on residents' privacy. With regards to the proposed hours a 01:00 terminal hour for licensable activities was considered appropriate. A proposed condition was also welcomed requiring members of the public to be seated taking a table meal when purchasing any alcohol in the hatched area after 20:00. Allowing smokers to use the south terrace later in the evening was considered difficult to assess as it was unknown what potential noise would occur from this activity. The applicant had advised that the capacity of the Premises was 220 but this would be fully assessed when the fire safety assessment took place. The proposed combined capacity of 40 people on both terraces was also deemed to be acceptable. Any potential noise emanating from the terraces would be restricted through the condition prohibiting any regulated entertainment taking place on them and also restricting the supply of alcohol in these areas after 23:00.

Mr Brown, from the Citizens Advice Bureau Licensing Advice Project, highlighted how the Council's hotel policy was clearly relevant for this application as it raised concerns that hotel bars easily accessible from the street had the potential to create similar problems as other licenced premises in a CIA. A query was raised if this bar was easily accessible from the street and if it was, it was suggested a

condition be considered requiring a member of staff to supervise the ground floor lift area to the bar. It was accepted that other premises in the locality had late licences but the reality was they often only opened until 23:30 or rarely operated them. The application before the Sub-Committee had received planning permission for a rooftop restaurant but important issues concerning the external terraces and the circumstances surrounding the sale of alcohol remained. It was also queried why regulated entertainment had been applied for and why this was relevant to its operation as a hotel restaurant.

Ms Hargreaves, the Executive Director for St Martin-in-the-Fields Ltd, acknowledged that the Crypt premises located nearby was operated by St Martins-in-the-Fields and was in receipt of a licence permitting it to operate until 03:00. This licence was only operated approximately 12 times per year however with a normal terminal hour of 02:00, all licensable activities took place in the basement area and two SIA staff were on duty during the events to help with dispersal. The Sub-Committee was advised that these events were very different from the proposed operation at the hotel. Ms Hargreaves explained that the residents' main concern related to the west terrace area. Ms Hargreaves displayed to the Sub-Committee the close proximity of the terrace to the bedroom windows of adjoining residential properties. The application was seeking to allow customers to drink alcohol on the terrace until 23:00 potentially causing significant disturbance to residents. It was suggested a reasonable compromise would be to restrict the use of this area to 21:00. With regards to the south terrace, permitting it to be allowed as a smoking area raised concerns over privacy and also the potential for noise disturbance. It was therefore proposed that all customers using the terraces be required to be seated.

Ms Hargreaves raised additional concerns relating to how people accessed the Premises through the lifts and whether they would be supervised. In addition, a question was asked as to how the Premises would be managed, whether customers would be greeted when they exited the lifts and shown to a table. The acoustic treatment undertaken on the top floor was welcomed but restrictions on the opening of doors on the west terrace was requested to limit any potential noise escape. It was also suggested that permitting customers to use the terraces from 08:00 was too early and this should be restricted to 09:00. A further concern over dispersal was expressed and it was suggested a condition requiring an SIA staff member to be on duty on the ground and 6th floors would help with this issue.

Revd Carter, a local resident, confirmed that the operation of the restaurant was not a cause for concern; however, the concern about the use of the west terrace was due to the potential noise disturbance it could create. The suggestion that an SIA staff member be on duty on the ground floor to help with dispersal was welcomed.

Mr Brown addressed several of the following proposed conditions and also suggested several additional conditions:

- It was suggested the hours for the Premises be scaled back to core hours but later hours could be deemed acceptable if it was fully conditioned as a restaurant.

- The requested flexibility to allow vertical drinking for private functions was not opposed, however a maximum limit on these numbers could be imposed.
- Scale back the commencement hour for the supply of alcohol back from 08:00 to 09:00.
- The applicant had proposed for the west and south terraces to have a combined capacity of 40 persons with customers on the west terrace permitted to drink alcohol until 23:30. To protect residents' amenity it was proposed that the consumption of alcohol on the terraces cease by 21:00, with all customers seated and served by waiter/waitress service. The terraces could be closed by 21:30 with any smokers having to use the ground floor to avoid any potential noise disturbance on the south terrace.
- Condition 26 referred to all doors and windows on the west terrace being kept closed after 23:00 but there was no mention of the south terrace.
- An additional condition was proposed confirming that the combined capacity for both terraces would be a maximum of 40 persons.
- The difficulties of imposing a re-entry condition was recognised, however it was requested one be imposed for members of the public.
- It was suggested SIA door staff be employed from 23:00 on Thursday to Saturday on the ground floor and 6th floors to assist with dispersal.

In response Mr Walsh clarified, that there would be three lifts on the ground floor of the hotel. The third lift provided direct access to the Premises to members of the public and would be accessible via a separate doorway where a member of staff would be in attendance on the ground floor to assist them. The customers would then be greeted by another member of staff upon their arrival on the 6th floor. With regards to the proximity of the west terrace to residential properties Mr Walsh suggested that a compromise could be found to reassure residents. The use of the terraces was permitted through the planning permission granted but barriers could potentially be erected to provide more privacy and no music provision would be provided to limit any potential disturbance. Discussions with residents over the location of the tables and chairs on the west terrace would continue to ensure a suitable outcome for all parties could be achieved. To provide further reassurance Mr Walsh also proposed that to address concerns over customers entering and exiting on the west terrace one of the doors located on it could be used for emergency access/egress or servicing only.

After careful consideration, the Sub-Committee agreed to grant the application subject to amendments. One of the key issues related to the plans for the Premises and ensuring it was clear to all parties which of the areas were designated as the restaurant, which was the bar area and which were the terraces, as different provisions would apply to each. It was therefore requested that the applicant submit a revised plan showing the bar as the crosshatched

	<p>area, the restaurant as the hatched area and the terraces not hatched.</p> <p>The close proximity of the west terrace to residential properties was regarded as a major concern, particularly as these were family dwellings. Their use had the potential to negatively impact on residents' privacy and also create disturbance through any noise generated. To provide the appropriate protection to residents, conditions would be placed on the licence confirming that the maximum combined capacity for both terraces would be 40 customers. Customers would also be prevented from using the west terrace after 23:30 with the consumption of alcohol in this area ceasing by 21:00 daily. The number of persons permitted on the south terrace to smoke after 23:30 would not be permitted to exceed 10 with the consumption of alcohol in this area ceasing by 23:00. Further restrictions would also be imposed requiring the northern door of the west terrace to be closed and used for emergency or servicing purposes only. All windows and doors on the west terrace would also be required to be closed after 21:00 when a DJ was playing. The Sub-Committee felt that these conditions were appropriate for the terrace areas and would ensure that any potential noise disturbance to residents living in close proximity would be appropriately limited.</p> <p>The Sub-Committee was also aware of the concerns raised by residents regarding dispersal, particularly later in the evening. As such it was considered appropriate to add a condition on the licence requiring an SIA door supervisor to be in attendance on the ground floor from Monday to Saturday from 23:00 until 30 minutes after all customers had left the Premises to ensure dispersal was carried out in an orderly manner which did not create a nuisance to residents. A requirement would also be imposed that patrons who were not hotel residents had to leave the Premises by 01:00 each day. In terms of the restaurant, the Sub-Committee was keen to ensure it could not become a drink-led establishment whilst providing the applicant with the flexibility to hold private functions in the space. It was therefore considered appropriate to impose a condition requiring the supply of alcohol in the hatched area to be to a person taking a table meal only save for hotel residents and their bona fide guests and attendees of private, pre-booked events. The proposed reduction in the hours for licensable activities to 01:00 was also welcomed by the Sub-Committee and would help lessen the application's impact on residents.</p> <p>The Sub-Committee acknowledged the concerns raised by local residents, particularly with regard to use of the external terrace areas. Having taken into account all the evidence however the Sub-Committee was satisfied that the application was suitable for the local area and, subject to the amendments, addressed the concerns raised. The applicant had demonstrated that the application was appropriate for the local area and the conditions proposed would ensure the promotion of the licensing objectives.</p>
2.	<p>Hours Premises are Open to the Public</p> <p>Monday to Sunday: 08:00 to 01:30</p> <p>Seasonal Variations/Non-Standard Timings:</p> <p>From the end of permitted hours on New Year's Eve to the start of permitted</p>

	hours on New Year's Day.
	<p>Amendments to application advised at hearing:</p> <p>The Sub-Committee was informed that the closing hours had been amended to 08:00 to 01:00 Monday to Sunday.</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>
3.	<p>Late Night Refreshment - Indoors</p> <p>Monday to Sunday: 23:00 to 01:30</p> <p>Seasonal Variations/Non-Standard Timings:</p> <p>From the end of permitted hours on New Year's Day the terminal hour shall be extended to 5am on New Year's Day.</p>
	<p>Amendments to application advised at hearing:</p> <p>The Sub-Committee was informed that the provision of late night refreshment had been amended to between 23:00 and 01:00 Monday to Sunday.</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>
4.	<p>Live and Recorded Music - Indoors</p> <p>Monday to Sunday: 23:00 to 01:30</p>
	<p>Amendments to application advised at hearing:</p> <p>The Sub-Committee was informed that the provision for live and recorded music had been amended to between 23:00 to 01:00 Monday to Sunday.</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>

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.

Conditions Consistent with the Operating Schedule

9. Licensable activities authorised under this licence shall remain ancillary to the main use of the building as a hotel.
10. The supply of alcohol in the hatched area at the premises shall only be to a person seated taking a table meal there and for consumption by such a person as ancillary to their meal save for hotel residents and their bona fide guest or persons attending a pre-booked private function.

Notwithstanding this condition:

(i) customers are permitted to take from the premises part consumed and resealed bottles of wine supplied ancillary to their meal, and

(ii) alcohol may be sold, supplied and consumed in the bar area [shown as cross hatched] on the plan to a maximum capacity to be determined by the Environmental Health Consultation Team (at which point this condition shall be replaced by the licensing authority with the capacity so determined).

11. A minimum of 50 covers shall be provided internally at all times the premises are providing licensable activities.
12. 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.
13. Between 08:00 and 10:00 hours daily, the supply of alcohol at the premises shall only be to a person seated taking a table meal there and for consumption by such person as ancillary to their meal.
14. The supply and consumption of alcohol on the 6th floor west terrace shall cease at 21.00 hours daily.
15. The consumption of alcohol on the south terrace shall cease at 23:00 hours daily.
16. Patrons who are not resident of the hotel are to be off the licensed premises by 01:00 hours each day.
17. There shall be no sales of alcohol for consumption off the premises except to residents of the hotel located within the building as part of room service.
18. 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.

19. 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 for licensable activities. 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.
20. An incident log shall be kept at the premises, and made available on request to an authorised officer of the City Council or the Police. It must be completed within 24 hours of the incident and will record the following:
 - (a) all crimes reported to the venue
 - (b) all ejections of patrons
 - (c) any complaints received concerning crime and disorder
 - (d) any incidents of disorder
 - (e) any faults in the CCTV system
 - (f) any refusal of the sale of alcohol
 - (g) any visit by a relevant authority or emergency service.
21. 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.
22. No licensable activities shall take at the premises until the capacity of the premises has been determined by the Environmental Health Consultation Team and the licensing authority has replaced this condition on the licence with a condition detailing the capacity so determined. In any event such capacity shall not exceed 220 persons (excluding staff).
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. 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.
25. A noise limiter must be fitted to the musical amplification system set at a level determined by and to the satisfaction of an authorised officer of the Environmental Health Service, so as to ensure that no noise nuisance is caused to local residents or businesses. The operational panel of the noise limiter shall then be secured by key or password to the satisfaction of officers from the Environmental Health Service and access shall only be by persons authorised by the Premises Licence holder. The limiter shall not be altered without prior agreement with the Environmental Health Service. No alteration or modification to any existing sound system(s) should be effected without prior knowledge of an authorised Officer of the Environmental Health Service. No additional sound generating equipment shall be used on the premises without being routed through the sound limiter device.

26. No regulated entertainment shall be provided on the 6th floor external terraces.
27. All doors and windows on the 6th floor west terrace shall be kept closed after 21:00 and at anytime when the DJ is playing, except for immediate access and egress.
28. Customers shall not be permitted on the West Terrace after 23:30 hours.
29. The number of persons (excluding staff) on the South Terrace shall not exceed 10 at any time after 23:30.
30. 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.
31. 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.
32. All emergency exit doors shall be available at all material times without the use of a key, code, card or similar means.
33. All emergency doors shall be maintained effectively self-closing and not held open other than by an approved device.
34. No waste or recyclable materials, including bottles, shall be moved, removed from or placed in outside areas between 23.00 hours and 08.00 hours on the following day.
35. 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.
36. Before the premises open to the public, the plans as deposited will be checked by the Environmental Health Consultation Team to ensure they are an accurate reflection of the premises constructed. Where the premises layout has changed during the course of construction new plans shall be provided to the Environmental Health Consultation Team and the Licensing Authority.
37. The number of customers permitted on the terrace(s) shall not exceed 40 persons at any one time.
38. The northern door to the west terrace shall not be used except in an emergency or for servicing.

39. The licence holder shall ensure that any queue to enter the premises which forms outside the premises is orderly and supervised by door staff so as to ensure that there is no public nuisance or obstruction to the public highway.
40. From 23:00 Monday to Saturday and 22:30 on Sunday until 30 minutes after all customers have left the premises, an SIA door supervisor shall be on duty on the ground floor. The SIA supervisor's duties shall include ensuring that customers leave the premises in an orderly manner and do not cause a noise nuisance to local residents.

3 CUMBERLAND FOOD AND WINE, 11 GREAT CUMBERLAND PLACE, LONDON, W1H 7LU

Granted under delegated authority.

4 BASEMENT, 57 GREEK STREET, LONDON, W1D 3DX

Granted under delegated authority.

5 UNIT 34B, TROCADERO, 19 RUPERT STREET, LONDON, W1D 7PN

LICENSING SUB-COMMITTEE No. 5

Thursday 14th February 2019

Membership: Councillor Murad Gassanly (Chairman), Councillor Jim Glen and Councillor Aziz Toki

Legal Adviser: Barry Panto

Policy Adviser: Kerry Simpkin

Committee Officer: Tristan Fieldsend

Presenting Officer: Michelle Steward

Relevant Representations: Environmental Health and the Licensing Authority

Present: Mr Gary Grant (Counsel, representing the Applicant), Mr Yuk Chun Wong (Applicant), Mr Dave Nevitt (Environmental Health) and Miss Roxsana Haq (Licensing Authority)

**Unit 34B, Trocadero, 19 Rupert Street, London, W1D 7PN ("The Premises")
18/16233/LIPN**

1. Sale by Retail of Alcohol – On and Off Sales

Monday to Sunday: 10:00 to 01:30

Seasonal Variations/Non-Standard Timings:

The permitted hours for the sale by retail of alcohol shall be extended from the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.

	<p>Amendments to application advised at hearing:</p> <p>The Sub-Committee was advised by the applicant that the hours for the sale by retail of alcohol had been amended to:</p> <p>Monday to Saturday: 10:00 to 01:00 on the day following Sunday: 10:00 to 23:30</p> <p>It was also noted that the provision of off sales had been withdrawn.</p>
	<p>Decision (including reasons if different from those set out in report):</p> <p>The Sub-Committee considered an application by Skewer and Beer Ltd ("The Applicant") for a new premises licence in respect of Unit 34B, Trocadero, 19 Rupert Street, London, W1D 7PN.</p> <p>The Licensing Officer introduced the application and confirmed that the Police had withdrawn their representation following the applicant's agreement to reduce the terminal hour for the sale by retail of alcohol and late night refreshment.</p> <p>Mr Grant, representing the applicant, provided the Sub-Committee with clarification on what hours were now being requested. The application was being reduced so that the terminal hour for alcohol and late night refreshment would be restricted to 01:00 hours Monday to Saturday. The terminal hours for licensable activities on Sundays would also be reduced to 23:30 hours. It was now also intended to restrict the closing hour for the Premises to 01:30 Monday to Saturday and 00:00 on Sundays. The Premises currently benefited from a premises licence that permitted the sale of alcohol to 00:00 Monday to Saturday and therefore, the application was only seeking a one-hour extension. The hours for Sunday were actually a reduction in the current hours permitted for late night refreshment. Following these amendments to the application, the Police had withdrawn their representation.</p> <p>Mr Grant informed the Sub-Committee that the applicant was a very experienced operator who had operated premises within the West End for several years. As such, the applicant was very aware of the sensitive nature of the area. The application was to provide a communal dining experience where customers effectively cooked their own food. It was a sociable form of dining with customers spending in the region of 2 to 3 hours at the restaurant. Approximately 70% of customers were Chinese with the other 30% being formed mainly of post theatre attendees. The Sub-Committee was advised that the application was seeking the extension in hours as Chinese customers tended to eat later in the evening and they were currently being asked to leave before they had finished their meals due to the current permitted hours. The extension would provide a better customer experience and allow customers to finish their meals at a more comfortable pace.</p>

	<p>Mr Grant explained how the application could be considered an exception to policy as it was proposed to include the full model restaurant condition on to the licence. The Premises was not a bar with only a maximum capacity of 60 customers permitted. The current licence would be surrendered if the Sub-Committee was minded to grant the application. It was also proposed to include a series of modernised conditions on to the licence that would ensure the Premises would not add to cumulative impact. These conditions would:</p> <ul style="list-style-type: none"> • Control waste and litter and the hours when it could be presented and collected; • Control the outside area in relation to smokers, as there were currently no controls in place. The number of smokers would be limited to 6; • All doors and windows would be closed after 23:00; • A direct telephone number for the manager at the Premises would be publically available at all times the Premises was open; • Eleven additional conditions which were not on the existing licence would be imposed providing further restrictions; and • No takeaway would be permitted from the Premises after 23:00 hours. <p>Mr Grant advised that the proposed conditions provided a level of control over the Premises, which did not currently exist. The Sub-Committee also noted that the 24-hour provision for hotel residents and their bona fide guests of the Trocadero development had now been withdrawn. The Sub-Committee was advised that the applicant had also successfully operated several Temporary Event Notices (TENs) at the Premises to the hours requested without any issues arising.</p> <p>Mr Nevitt, representing Environmental Health, confirmed that the hours applied for in the application had been reduced. The proposed additional conditions were considered satisfactory, in particular the full model restaurant condition. The capacity of 60 at the Premises was considered acceptable and there would be no provision for external seating. The Premises had no history of complaints, even during the operation of the TENs, and was not considered a cause for concern. The Sub-Committee had to decide if the proposed restrictions on the licence were sufficient to permit the extension in hours considering the Premises was located in a Cumulative Impact Area (CIA).</p> <p>Ms Haq, representing the Licensing Authority, confirmed that their representation was maintained as the application was seeking hours outside the core hours policy and the Premises was located within a CIA.</p> <p>In response to question from the Sub-Committee Mr Grant advised that any conditions on the licence relating to hotel residents could be deleted. To provide further reassurance to the Sub-Committee and stakeholders it was also confirmed that the provision of off sales of alcohol would be withdrawn from the application.</p> <p>The Sub-Committee carefully considered the application and noted that it was seeking to extend the hours permitting the sale by retail of alcohol and late night refreshment in a CIA. It was considered however, that with the addition of the</p>
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	<p>full model restaurant condition the Premises could be considered a restaurant and would not become a drink-led establishment. As such, there was no presumption to refuse the application and further reassurance was provided due to there being no increase in capacity, no use of external areas and restrictions placed on smokers. The hours originally proposed had been scaled back following discussions with the responsible authorities and it was noted that the Police had subsequently withdrawn their representation.</p> <p>The Sub-Committee was also pleased to note that the provision of off sales had been withdrawn from the application along with the 24-hour element for hotel residents of the Trocadero development. The other additional conditions proposed were welcomed and provided restrictions on the licence that did not exist on the current licence. Therefore, even though the Premises was located within a CIA the proposed conditions, the nature of the operation and the conditions offered by the applicant were restrictive enough to ensure that the Premises would not add to cumulative impact in the CIA, was suitable for the local area and ultimately promoted the licensing objectives. The Sub-Committee therefore granted the application accordingly.</p>
2.	<p>Sale by Retail of Alcohol: (Hotel Residents and their Bona Fide Guests) – On and Off Sales</p> <p>Monday to Sunday: 00:00 to 00:00</p>
	<p>Amendments to application advised at hearing:</p> <p>The Sub-Committee was advised that the applicant had withdrawn this element of the application.</p>
3.	<p>Late Night Refreshment – Indoors and Outdoors</p> <p>Monday to Sunday: 23:00 to 01:30</p> <p>Seasonal Variations/Non-Standard Timings:</p> <p>The permitted hours for late night refreshment shall be extended from 01:30 to 05:00 on New Year's Eve to the start of permitted hours on New Year's Day.</p>
	<p>Amendments to application advised at hearing:</p> <p>The Sub-Committee was advised by the applicant that the hours for late night refreshment had been amended to:</p> <p>Monday to Saturday: 23:00 to 01:00 on the day following Sunday: 23:00 to 23:30</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>

4.	<p>Late Night Refreshment: (Hotel Residents and their Bona Fide Guests) – Indoors and Outdoors</p> <p>Monday to Sunday: 23:00 to 05:00</p>
	<p>Amendments to application advised at hearing:</p> <p>The Sub-Committee was advised that the applicant had withdrawn this element of the application.</p>
5.	<p>Hours Premises are Open to the Public</p> <p>Monday to Sunday: 10:00 to 02:00 on the following day</p> <p>Seasonal Variations/Non-Standard Timings:</p> <p>All licensable activities shall be extended from the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.</p>
	<p>Amendments to application advised at hearing:</p> <p>The Sub-Committee was advised by the applicant that the opening hours for the Premises had been amended to:</p> <p>Monday to Saturday: 10:00 to 01:30 on the day following Sunday: 10:00 to 00:00</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>
6.	<p>Hours Premises are Open to the Public (Hotel Residents and their Bona Fide Guests)</p> <p>Monday to Sunday: 10:00 to 02:00</p>
	<p>Amendments to application advised at hearing:</p> <p>The Sub-Committee was advised that the applicant had withdrawn this element of the application.</p>

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

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

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

7. The responsible person must ensure that—

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

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

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

- 8(ii) For the purposes of the condition set out in paragraph 8(i) above -
- (a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;
 - (b) "permitted price" is the price found by applying the formula -
$$P = D + (D \times V)$$

Where -
 - (i) P is the permitted price,
 - (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
 - (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
 - (c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence -
 - (i) the holder of the premises licence,
 - (ii) the designated premises supervisor (if any) in respect of such a licence, or
 - (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;
 - (d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
 - (e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.
- 8(iii). Where the permitted price given by Paragraph 8(ii)(b) above would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.
- 8(iv). (1) Sub-paragraph 8(iv)(2) below applies where the permitted price given by Paragraph 8(ii)(b) above on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.
- (2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

Conditions Consistent with the Operating Schedule

9. 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 (except chopsticks),
 - (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.
10. During the hours of operation 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.
11. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the preceding 31 day period.
12. A staff member from the premises who is conversant with the operation of the CCTV shall be on the premises at all times when the premises are open to the public. This staff member shall be able to show Police recent data or footage with the absolute minimum of delay when requested.
13. 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 refusal of sale of alcohol.

14. 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.
15. The number of persons accommodated at the premises (excluding staff) shall not exceed 60 customers.
16. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and to leave the area quietly.
17. All entrance doors and windows to be kept closed after 23:00 hours except for immediate access and egress of persons.
18. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before collection times.
19. Loudspeakers shall not be located in the entrance lobby or outside the premise building.
20. 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.
21. No waste or recyclable materials, including bottles, shall be moved, removed or placed in outside areas between 23:00 hours and 08:00 hours.
22. 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 unless seated in an authorised external area.
23. The premises licence holder shall ensure that any patrons smoking outside the premises do so on an orderly manner and are supervised by staff so as to ensure that there is no public nuisance or obstruction of the public highway.
24. A direct telephone number for the manager at the premises shall be publically available at all times the premises is open. This telephone number is to be made available to residents and businesses in the vicinity.
25. A challenge 25 proof of age scheme shall be operated at the premise where the only acceptable forms of identification are recognised photographic identification cards such as a driving licence, passport or proof of age card with the PASS hologram.
26. There shall be no striptease or nudity and all persons shall be decently attired at all times unless the premises are operating under the provisions of a Sexual Entertainment Licence.
27. There shall be no sales of hot food or hot drink for consumption off the premises after 23.00.

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| 28. | Patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, shall be limited to 6 persons at any one time. |
| 29. | No licensable activities shall take place at the premises until premises licence 18/11417/LIPVM (or such other number subsequently issued for the premises) has been surrendered. |

The Meeting ended at 3.10 pm

CHAIRMAN: _____

DATE _____