

LICENSING PANEL E

THURSDAY, 18 MAY 2023 AT 10.00 AM
REMOTE MEETING VIA MICROSOFT TEAMS. THIS MEETING CAN BE WATCHED
LIVE AT WWW.CAMDEN.GOV.UK/WEBCAST

Enquiries to: Rebecca Taylor, Committee Services
E-Mail: licensing.committee@camden.gov.uk
Telephone: 020 7974 8543 (Text phone prefix 18001)

MEMBERS

Councillor Meric Apak (Chair), Kentish Town South; (L)
Councillor Richard Olszewski, Fortune Green; (L)
Councillor Nanouche Umeadi, Kilburn; (L)

SUBSTITUTE MEMBERS

Councillor Patricia Callaghan, Camden Town; (L)
Councillor Sharon Hardwick, West Hampstead; (L)
Councillor Izzy Lenga, South Hampstead; (L)
Councillor Shah Miah, St Pancras and Somers Town; (L)
Councillor Matt Cooper, Primrose Hill; (L)
Councillor Lorna Greenwood, Fortune Green; (L)
Councillor Eddie Hanson, Kilburn; (L)
Councillor Jenny Headlam-Wells, Kentish Town South; (L)
Councillor Matthew Kirk, Belsize; (LD)
Councillor Sylvia McNamara, Kentish Town North; (L)
Councillor Jonathan Simpson MBE, King's Cross; (L)
Councillor Gio Spinella, Frognal; (C)

L = Labour, C = Conservative, LD = Liberal Democrat

IMPORTANT: Please read the 'Guidance Notes on Procedures' that follow.

Issued on: Wednesday, 10 May 2023

REMOTE MEETINGS IN CAMDEN

Everyone is welcome to come to watch public meetings in Camden. Agendas for these meetings are available in advance on the Council's website at www.camden.gov.uk/democracy. Parties to a licensing hearing may submit further late materials no later than 7pm, two working days before the meeting is due to start. These will be published online and circulated to the committee members. At the start of the relevant item, after the officer's presentation, the Chair will confirm which late papers have been circulated and invite each group of parties (responsible authorities, interested parties, applicant; or applicant, interested parties, licence holder) to set out in up to 2 minutes why the papers should be accepted or not. The committee members will then decide whether to admit the papers – taking advice as needed from officers – and take any adjournment necessary to ensure all voting members have read them.

Unlike most meetings in Camden, Licensing Panels and the Licensing (Sexual Entertainment Venues) Sub-Committee do not allow members of the public to speak at the meeting unless they have made a valid representation during the consultation period. The applicant, licence holder and parties who made representations will be sent a notice of the hearing and are required to return this by 7pm, two working days before the meeting. Where a party has not indicated their intention to speak by this time, they will be presumed to not be addressing the hearing. Reasonable attempts will be made to accommodate those submitting late notifications, but their participation will not be guaranteed.

The applicant, licence holder and parties making representations must identify a single speaker for whom the meeting will be adjourned for up to 15 minutes if their audio feed fails. This may be themselves or another nominated person. They may invite others to speak as part of their submissions, but the committee will not adjourn the meeting for a speaker who is not the identified single speaker for the party unless the Chair is persuaded that that the non-lead speaker has material information to impart to the committee.

The Council is allowed to discuss some items in private, although this does not happen often – any such items will be discussed, as far as possible, at the end of the meeting. The live meeting stream will be paused and members of the public, including the applicant, licence holder and parties making representations, will be asked to leave the remote meeting.

Members of the public have a right to take their own recordings of public meetings for reporting purposes. This does not apply to any of the Council's meetings which are private or not open to the public. Laws on public order offences and defamation still apply, and you should exercise your rights with responsibility. Please respect the views of others when reporting from a meeting.

You may be asked to stop filming, photographing or recording a meeting if this in some way becomes disruptive to the meeting.

This meeting will be broadcast live via www.camden.gov.uk/webcast

If you have any views or questions about meetings at Camden Council please call Committee Services on 020 7974 1915.

REMOTE MEETING ETIQUETTE

Participants¹ in remote meetings are asked to adhere to the following guidelines:

Preparing for the meeting

- If you are planning to attend, make sure you have informed the committee officer named on the agenda front sheet by 7pm, two working days before the meeting, so that a full list of those expected at the meeting can be prepared.
- Ensure you have read the report(s) before the meeting.
- Ensure that you are located in an area where you are unlikely to be disturbed.
- Ensure that your broadband connection is sufficiently stable to join the meeting. If your connection has low bandwidth, you might need to ask others using your broadband connection to disconnect their devices from the broadband for the duration of the meeting. If this does not help, you may wish to try connecting your device to your router using an Ethernet cable.
- Ensure that your background is neutral (a blank wall is best) and that you are dressed appropriately for a meeting held in public.
- Ensure that the camera on the device that you are using is positioned to provide a clear, front-on view of your face. This may involve thinking about lighting in the room you are in (for example, sitting in front of a window may plunge your face into shadow) or putting your webcam, laptop or tablet on top of a couple of books so that you can look into the camera face on.
- Ensure that you are familiar with the functions of the software you are using. The committee officer will be online 15 minutes before the meeting start time to give everyone time to join and deal with any technical challenges, so try to join the meeting at least 5 minutes before the meeting start time to make sure that everything is working.
- Ideally, you should use earphones or a headset to participate in meetings as it reduces the risk of feedback from using your device's external speaker and reduces background noise from your surroundings.

At the meeting

- Join the meeting promptly to avoid unnecessary interruptions.
- Mute your microphone when you are not talking. If you are an officer, applicant, licence holder or party making a representation, please turn off your video when not speaking in order to reduce bandwidth.
- Only speak when invited to do so by the Chair.
- When speaking for the first time, please state your name.
- While usual time limits apply during licensing hearings, do keep comments, questions and other contributions brief and to the point.

¹ Participants are defined as members of the committee; other councillors who seek to address the committee; officers advising the committee or presenting reports; any external partners / third-parties invited to address or advise the Committee; and deputies (including any member of the public with speaking rights).

- If referring to a specific page on the agenda, mention the page number.
- The 'chat' function must only be used by committee members to indicate a wish to speak, to indicate that they are having a connection issue or to make a request for a formal vote. It is not to be used for conversations and should be used in an appropriate and professional manner at all times.
- Once you no longer need to participate in the meeting, please leave the call; you can still watch via the public video stream if you wish. Once the Chair closes the meeting, all remaining participants should leave the call promptly.

Exempt or confidential items

Occasionally, the committee may need to go into closed session to consider information that is confidential or exempt from publication. If this happens, the committee will pass a resolution to that effect, the public feed will be cut and any participant who is not a member of the committee will be asked to leave the meeting. If you are asked to leave the meeting, please end your connection promptly. Any connections that are not ended promptly will be terminated by the committee officer.

Gender inclusive minutes: Camden seeks to write the minutes of its committees in a way that does not misgender individuals. If you are contributing to the meeting and you wish to let us know what your pronouns are, please contact the Committee Officer named on the front of this agenda. Otherwise, we will use job titles, full names or neutral terminology. We will not assume gender.

WEBCASTING NOTICE

This meeting will be broadcast live by the Council via www.camden.gov.uk/webcast. The whole of the meeting will be filmed and recorded, except where there are confidential or exempt items, and the footage will be on the Internet for at least a year. A copy of it will also be retained in accordance with the Council's data retention policy.

If you make a representation to the meeting you will be deemed by the Council to have consented to being filmed and to the possible use of those images and sound recordings for webcasting and/or training purposes.

The Council is obliged by law to allow members of the public to take their own recordings and images of this remote meeting. The Council will only seek to prevent this should it be undertaken in a disruptive or otherwise inappropriate manner.

We have a privacy notice that explains our use of webcasting data which you can see via <https://camden.public-i.tv>.

If you have any queries regarding webcasting or the recording of meetings by the public, please contact the webcasting co-ordinator on 020 7974 5653.

LICENSING PANEL E

18 MAY 2023

THERE ARE NO PRIVATE REPORTS

PLEASE NOTE THAT PART OF THIS MEETING MAY NOT BE OPEN TO THE PUBLIC AND PRESS BECAUSE IT MAY INVOLVE THE CONSIDERATION OF EXEMPT INFORMATION WITHIN THE MEANING OF SCHEDULE 12A TO THE LOCAL GOVERNMENT ACT 1972, OR CONFIDENTIAL WITHIN THE MEANING OF SECTION 100(A)(2) OF THE ACT.

AGENDA

Wards

Guidance on Procedures

1. **GUIDANCE ON REMOTE MEETINGS HELD UNDER THE LICENSING ACT 2003 AND ASSOCIATED REGULATIONS** (Pages 43 - 48)

To agree the procedure rules for remote meetings.

2. **APOLOGIES**

3. **DECLARATIONS BY MEMBERS OF STATUTORY DISCLOSABLE PECUNIARY INTERESTS, COMPULSORY REGISTERABLE NON-PECUNIARY INTERESTS AND VOLUNTARY REGISTERABLE NON-PECUNIARY INTERESTS IN MATTERS ON THIS AGENDA**

4. **ANNOUNCEMENTS**

Broadcast of the meeting

The Chair to announce the following: "In addition to the rights by law that the public and press have to record this meeting, I would like to remind everyone that this meeting is being broadcast live by the Council to the Internet and can be viewed on our website for at least six months after the meeting. After that time, webcasts are archived and can be made available on upon request.

If you have asked to address the meeting, you are deemed to be consenting to being filmed and to the use of those images and sound recordings for webcasting and/or training purposes. If you are addressing the Committee your contribution will be recorded and broadcast."

5. NOTIFICATION OF ANY ITEMS OF BUSINESS THAT THE CHAIR DECIDES TO TAKE AS URGENT

6. MINUTES

(Pages 49 -
62)

To approve and sign the minutes of the meeting held on 2nd February 2023.

7. SPIRITUAL CAIPIRINHA BAR, 4 FERDINAND STREET, LONDON NW1 8ER

Haverstock

Report of the Executive Director Supporting Communities

(Pages 63 -
88)

This is an application to vary a premises licence under section 34 of the Licensing Act 2003.

8. ANY OTHER BUSINESS THAT THE CHAIR CONSIDERS URGENT

9. LOCAL GOVERNMENT ACT 1972 - ACCESS TO INFORMATION

Should the Panel wish to go into closed session, it will take the following resolution:

THAT the press and public be excluded from the proceedings of the Licensing Panel on **18 May 2023** during consideration of the respective item on the agenda on the grounds that it is likely, in view of the nature of the business to be transacted, that were members of the public to be present, there would be disclosure of exempt information as defined in Schedule 12A to the Local Government Act 1972 (as amended) and that the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

Specifically -

Publicity in respect of item x would be likely to lead to the disclosure of information in respect of which a claim to legal professional privilege could be maintained in legal proceedings by virtue of Category 5 of Schedule 12A of the Local Government Act 1972 (as amended).

AGENDA ENDS

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IMPORTANT

**Guidance Notes on
Procedures**

**GUIDANCE NOTES ON PROCEDURES FOR HEARINGS IN ACCORDANCE
WITH REGULATION 21 OF THE LICENSING ACT 2003 (HEARING)
REGULARIONS 2005 (AS AMENDED) [‘THE REGULATIONS’]**

1. Introduction

- 1.1. In this procedure “the Parties” include the Applicant, Responsible Authorities, the licence holder, or any other person as applicable. Any other person is any person that is or is likely to be affected by the operation of a licensed premises, they will be referred to as an ‘Interested Party’ in this procedure note, and Responsible Authorities are bodies like the police and fire brigade. Please check the Licensing Act 2003 (“the Act”) for the complete definition.
- 1.2. For the avoidance of doubt the Licensing Authority Responsible Authority will be represented by the Licensing Enforcement Officer. The Responsible Authority is a distinct and separate body from that of the Licensing Authority who will determine the application.
- 1.3. Except where the Regulations provide differently, the Council Procedure Rules and Access to Information Procedure Rules (in so far as they apply to committees and sub-committees) will be followed for all hearings.
- 1.4. Except where the Regulations provide differently, the Panel may, in exceptional circumstance vary this procedure. In such circumstances the Panel must give reasons for the variation.

2. Making representations to Camden

- 2.1. The Council has produced guidance notes for the Parties. These contain detailed provisions on making applications and relevant representations including the licensing objectives and mandatory time limits referred to in this procedure. They are available from the, Licensing Team, London Borough of Camden, 5 Pancras Square, London, N1C 4AG. Tel: 020 7974 4444 or www.camden.gov.uk/licensing.
- 2.2. Interested Parties and Responsible Authorities should note that representations must be made within 28 days of the date when the application was given to the Authority except where in the case of a review of a premises licence following a closure order, within 7 days (including the 7th day) of the date when the Authority received the notice in relation to the closure order and any extension to it.
- 2.3. Failure to make a relevant representation means a party has no rights to be heard and/or give evidence at a hearing.
- 2.4. Representations can be made for as well as against an application.

3. Holding a hearing

- 3.1. If relevant representations are made there will be a hearing by a Licensing Panel to consider them.
- 3.2. Where a valid application has been made and no representations are made, the application **must** be granted, subject only to conditions that are consistent with the operating schedule and relevant mandatory conditions in the Act. No hearing will take place.

Right to dispense with hearing if all parties agree [where allowed]

- 3.3. The need for a hearing can only be dispensed with if all the parties give notice in writing to the Licensing Authority that they agree that such a hearing is unnecessary. If the officers agree a hearing is unnecessary all the parties will be notified and the Panel will make a decision on the application within 10 working days of that notification. All the parties will be informed of this decision.

Notice of hearing

- 3.4. Where a hearing is necessary, officers will arrange the date, time and place of the hearing and will give a notice of it in accordance with the mandatory time limit.
- 3.5. The notice of hearing will be accompanied by the following information
 - a) the rights of a party provided for in the regulations;
 - b) the consequences if a party does not attend or is not represented at the hearing;
 - c) the procedure to be followed at the hearing;
 - d) any particular points on which the Licensing Panel considers that it will want clarification at the hearing from a party.

Action following receipt of notice of hearing

- 3.6. An Applicant, Interested Party or Responsible Authority who receives a notice of hearing **must** give to the authority a notice in writing stating:
 - a) whether they intend to attend or be represented at the hearing;
 - b) whether they consider a hearing to be unnecessary.
- 3.7. The notice must be given within the prescribed time limit.
- 3.8. If a Party wishes to call someone to appear as a witness at the hearing and address the Licensing Panel the notice must contain a request for permission for that person to appear giving the name of the person and a brief description of the point or points they wish to raise before the Committee. Failure to comply with this requirement will mean that person cannot be called as a witness.
- 3.9. This notice should be sent to the Committee Clerk, Committee Services, Town Hall, Judd Street, London, WC1H 9JE, fax 020 7974 5921 Email:

licensing.committee@camden.gov.uk. Please note that the Committee Clerk will accept this notice by letter, email or fax.

- 3.10. Any Party attending the hearing can be assisted or represented by any person whether or not that person is legally qualified, provided that they have given notice as set out above.
- 3.11. A decision on whether the person can appear will be made by the Licensing Panel at the beginning of the relevant hearing. Members will give reasons as to their decision.

Agenda

- 3.12. In addition to the notice of hearing detailed in paragraphs 3.4 and 3.5, an agenda for the hearing containing a copy of the officers' report to the Licensing Panel will be published before the hearing. You may view this on the Council's website (www.camden.gov.uk/democracy) or request a copy from the Clerk before the hearing.

Failure to attend

- 3.13. If a party has informed the authority that he will not be coming to the hearing, it may go ahead in his absence. If someone has said that they will be attending but does not do so the Licensing Panel may:
 - a) where it considers it to be necessary in the public interest, adjourn the hearing to a specified date; or
 - b) hold the hearing in the party's absence.
- 3.14. If a hearing is adjourned the parties will be notified as soon as possible of the date, time and place to which it has been adjourned. If the Licensing Panel holds the hearing in the absence of a party, it will consider the application, representations or notice made by that party.
- 3.15. Hearings will be held in public. There may be rare occasions where the Panel needs to receive specific legal advice in private. If that is the case, it will pass a special resolution and move to another room with the legal advisor and the Clerk or ask the Applicant and other parties to leave the room. Once the Licensing Panel has received the advice the meeting will resume in public.

Power to extend time etc.

- 3.16. The Licensing Panel can extend the time limits set out in this procedure if it considers it to be necessary in the public interest, but cannot extend the time limit past the prescribed time after which the application will be treated as granted or rejected.
- 3.17. Where the authority has extended a time limit it will as soon as possible notify all parties of the period of the extension and the reasons for it.
- 3.18. The Licensing Panel or the officers of the Authority can:
- a) adjourn a hearing to a specified date;
 - b) arrange for a hearing to be held on specified additional dates, if it considers this to be necessary in order for it to consider any representations or notice made by a party.
- 3.19. Where the authority has adjourned a hearing to a specified date it must as soon as possible notify all parties of the date, time and place.
- 3.20. Where the authority has arranged for a hearing to be held on a specified additional date it must as soon as possible notify all parties of the additional date, time and place.

Quorum

- 3.21. Business shall not be transacted at a Panel unless at least two voting members of the Licensing Committee are present and able to vote.

Panel Time Limits

- 3.22. Committee Procedure Rule 19 will not apply. Meetings will last for a maximum of 4 hours and will finish no later than 22.30. Any business not transacted by the end of the meeting is deferred to another meeting and heard afresh. The Parties will be told which meeting it is being deferred to.

Minutes

- 3.23. The minutes record that consideration was given to a report, and any relevant discussion leading to a reason for the decision that is not in the report, or the reason for departing from an officer's recommendation. Matters which are irrelevant or which are dealt with in the report, or do not affect the decision are not minuted. The minutes will not be a transcript or near transcript of the hearing. Once the minutes have been agreed and signed at a subsequent meeting of the Licensing Panel that document (which incorporates the report and written submissions) is the record of the meeting, as required by Regulation 30 of the Regulations.
- 3.24. The minutes of the meeting are made public when they are ready, and are posted on the Council's website at www.camden.gov.uk/democracy.

Withdrawal of representations

- 3.25. An Interested Party or Responsible Authority who wishes to withdraw any representations that they have made must give notice of this no later than 24 hours before the day on which the hearing is to be held, or it can be done orally at the hearing. This notice should be sent to the Committee Clerk, Committee Services, Town Hall, Judd Street, London, WC1H 9JE, fax: 020 7974 5921 Email: licensing.committee@camden.gov.uk. Please note that the Committee Clerk will accept this notice by letter, email or fax.

Exclusion of disruptive persons

- 3.26. The Licensing Panel can require anyone attending the hearing who is behaving in a disruptive manner to leave the hearing and may:
- a) refuse to let that person return, or
 - b) let him return subject to whatever conditions the Panel specifies.
- 3.27. Anyone who has been required to leave can, before the end of the hearing, submit to the Panel in writing any information that they would have been entitled to give orally if they had they not been required to leave.
- 3.28. Parties and members of the public are not permitted to bring any banner or placard into a meeting. Filming, photography and other forms of recording are permitted unless the Chair rules they are being disruptive. If the meeting passes a motion to exclude the press and public then, in conjunction with this, all rights to record the meeting are removed.

Amending the Application

- 3.29. If the Applicant wishes to amend their application this must be in writing, signed by the applicant or their representative. This can be done before the hearing or at the hearing before the Panel begin deliberation. No amendment will be accepted which in the opinion of the Panel would extend the activities in relation to the original application.

Additional Documentary and Other Evidence

- 3.30. The Parties should make every effort to ensure all documentary and other evidence is included in their application or representation. Additional documentary or other evidence submitted prior to the hearing may only be produced at the hearing with the consent of the Panel. In making its decision the Panel will consider each request on its merit and will bear in mind whether the other parties have seen the material. Please note that the officers of the authority will not distribute additional material received after the original application or representation.
- 3.31. In all other cases, the Panel will consider each request on its merits and will bear in mind whether the other Parties have seen the material, whether there

are exceptional reasons for not producing the material before, whether a failure to admit the evidence would prejudice the Council's ability to reach a decision, and whether prejudice would be caused to the applicant any party if the evidence were to be admitted at this stage.

4. Procedure at Hearings

- 4.1. The Licensing Panel is not a court, and every effort is made to keep the proceedings as informal as possible. Cross-examination will not be permitted unless the Panel agrees.
- 4.2. It is important that the hearing follows a particular order, to make sure that all parties have a chance to be heard.
- 4.3. Any Applicant, Interested Party or Responsible Authority, or their representative who has given notice should make themselves known to the Clerk before the meeting.

5. Hearings concerning applications for the grant and variation of Premises Licences and Club Premises Certificates and the grant of Provisional Statements

Chair's Introduction:

- 5.1. The Chair will introduce the Panel and the officers advising it and then outline the procedures to be followed at the hearing, drawing attention to time limits for speakers.
- 5.2. The Chair will then briefly announce the application and what it is for.
- 5.3. The Panel will then consider any requests made in advance for permission for any person (other than a representative of any party) to appear at the hearing. Permission will not be unreasonably withheld and if permission is refused the Panel will give reasons for its refusal.
- 5.4. The Chair will indicate which officers of the Supporting Communities Directorate are present to deal with points of clarification on the report.

Report of Executive Director Supporting Communities:

- 5.5. The officers of the Supporting Communities Directorate will not normally go through the report on the agenda, as it is anticipated that the Panel, and the Parties will have read it.
- 5.6. Members and the Parties may seek clarification from officers of the Supporting Communities Directorate on matters raised in the report.

Negotiation and Compromise

- 5.7. Where the applicant has amended the application as tabled, the applicant will be permitted a 2 minute debrief to clarify any amendments to the application that have been made since the publication of the report.

Responsible Authority's Case [if applicable]

- 5.8. The Chair will ask the Responsible Authority and their representative, if appropriate, to identify themselves. The Responsible Authority or their representative may:
- a) give further information in support of their representations, in response to any notice from the authority seeking clarification;
 - b) address the Panel; and
 - c) call any witnesses notified to the Authority in advance of the hearing permitted in accordance with 5.3 above.
- 5.9. Fifteen minutes may be allowed for the Responsible Authority's Case, and this may only be extended with the consent of the Panel.
- 5.10. Members of the Panel and then any other party if given permission by the Panel may ask the Responsible Authority questions for the purposes of clarification only.

Interested Parties' Case [if applicable]

- 5.11. The Chair will ask the Interested Parties and their representative, if appropriate, to identify themselves. The Interested Parties or their representative may
- a) give further information in support of their representations, in response to any notice from the authority seeking clarification;
 - b) address the Panel; and
 - c) call any witnesses notified to the Authority in advance of the hearing permitted in accordance with 5.3 above.
- 5.12. Fifteen minutes may be allowed for the Interested Parties' case in total for all interested parties, and this may only be extended with the consent of the Panel. The interested parties should preferably speak through a single spokesperson.
- 5.13. Members of the Panel and then any other party if given permission by the Panel may ask the Interested Parties questions for the purposes of clarification only.

Applicant's Case

- 5.14. The Chair will ask the Applicant and their representative, if appropriate, to identify themselves. The Applicant or their representative may:
- a) give further information in support of their application, in response to any notice from the authority seeking clarification;
 - b) address the Panel; and
 - c) call any witnesses notified to the Authority in advance of the hearing permitted in accordance with 5.3 above.
- 5.15. Fifteen minutes may be allowed for the Applicant's Case, and this may only be extended with the consent of the Panel.
- 5.16. Members of the Panel and then any other party if given permission by the Panel may ask the Applicant questions. Again, this is for the purposes clarification purposes only.

Closing Remarks

- 5.17. Any party is allowed to make closing remarks, not exceeding two minutes. The order will be Responsible Authority, Interested Party and Applicant.

Deliberation

- 5.18. The Panel will deliberate in public. This will take the form of a discussion lead by the Chair and no other person at the hearing may take part. The Panel may ask advice of the legal advisor or the Clerk. There may be occasions where it needs to receive specific legal advice in private. If that is the case, it will pass a special resolution and move to another room with the legal advisor and the Clerk or ask the parties and members of the public to leave the room whilst advice is taken. After receiving this advice the Panel will resume in public.
- 5.19. The Panel will disregard any information given or evidence produced by a party or a witness, which is not relevant to:
- a) their application, representations or notice (as applicable) and/or
 - b) the promotion of the licensing objectives.

Decision

- 5.20. The Panel will make decisions in public and the Chair will announce the decision. The Executive Director Supporting Communities will later confirm the decision in writing to all parties.

6. Hearings concerning applications for reviews of Premises Licences and Club Premises Certificates

Chair's Introduction:

- 6.1. The Chair will introduce the Panel and the officers advising it and then outline the procedures to be followed at the hearing.
- 6.2. The Chair will then briefly announce the application and what it is for.
- 6.3. The Panel will then consider any requests made in advance for permission for any person (other than a representative **of any party**) to appear at the hearing. Permission will not be unreasonably withheld and if permission is refused the Panel will give reasons for its refusal.
- 6.4. The Chair will indicate which officers of the Supporting Communities Directorate are present to deal with points of clarification on the report.

Report of Executive Director Supporting Communities:

- 6.5. The officers of the Supporting Communities Directorate will not normally go through the report on the agenda, as it is anticipated that the Panel, and the Parties will have read it.
- 6.6. Members and the Parties may seek clarification of officers from the Supporting Communities Directorate on matters raised in the report.

Applicant's Case

- 6.7. The Chair will ask the Applicant and their representative, if appropriate, to identify themselves. The Applicant or their representative may
 - a) give further information in support of their application, in response to any notice from the authority seeking clarification;
 - b) address the Panel; and
 - c) call any witnesses notified to the Authority in advance of the hearing, permitted in accordance with 6.3 above.
- 6.8. Members of the Panel and then any other party if given permission by the Panel may ask the Applicant questions. This is for the purposes of clarification only.

Responsible Authority's Case [if applicable]

- 6.9. The Chair will ask the Responsible Authority and their representative, if appropriate, to identify themselves. The Responsible Authority or their representative may
 - a) give further information in support of their application, in response to any notice from the authority seeking clarification;
 - b) address the Panel; and

- c) call any witnesses notified to the Authority in advance of the hearing. permitted in accordance with 6.3 above.

6.10. Members of the Panel and then any other party if given permission by the Panel may ask the Responsible Authority questions for the purposes of clarification only.

Interested Parties' Case [if applicable]

6.11. The Chair will ask the Interested Parties and their representative, if appropriate, to identify themselves. The Interested Parties or their representative may

- a) give further information in support of their application, in response to any notice from the authority seeking clarification;
- b) address the Panel; and
- c) call any witnesses notified to the Authority in advance of the hearing. permitted in accordance with 6.3 above.

6.12. The interested parties should preferably speak through a single spokesperson.

6.13. Members of the Panel and then any other party if given permission by the Panel may ask the Interested Parties questions for the purposes of clarification only.

Licence Holder's Case

6.14. The Chair will ask the Licence Holder and their representative, if appropriate, to identify themselves. The Licence Holder or their representative may:

- a) give further information in support of their case, in response to any notice from the authority seeking clarification;
- b) address the Panel; and
- c) call any witnesses notified to the Authority in advance of the hearing. permitted in accordance with 6.3 above.

6.15. Members of the Panel and then any other party if given permission by the Panel may ask the Licence Holder questions. Again, this is for the purposes of clarification only.

Closing Remarks

6.16. Any party is allowed to make closing remarks, not exceeding two minutes. The order will be Responsible Authority, interested Party and Licence Holder.

Deliberation

- 6.17. The Panel will deliberate in public. This will take the form of a discussion lead by the Chair and no other person at the hearing may take part. The Panel may ask advice of the legal advisor or the Clerk. There may be occasions where it needs to receive specific legal advice in private. If that is the case, it will pass a special resolution and move to another room with the legal advisor and the Clerk or ask the parties and members of the public to leave the room whilst the advice is taken. After receiving this advice the Panel will resume in public.
- 6.18. The Panel will disregard any information given or evidence produced by a party or a witness, which is not relevant to:
- a) their review application or representations (as applicable), and/or
 - b) the promotion of the licensing objectives.

Decision

- 6.19. The Panel will make decisions in public and the Chair will announce the decision. The Executive Director Supporting Communities will later confirm the decision in writing to all parties.

7. Hearings concerning applications for Personal Licences

Chair's Introduction

- 7.1. The Chair will introduce the Panel and the officers advising it and then outline the procedures to be followed at the hearing, drawing attention to time limits for speakers.
- 7.2. The Chair will then briefly announce the application and what it is for.
- 7.3. The Panel will then consider any requests made in advance for permission for any person (other than a representative) to appear at the hearing. Permission will not be unreasonably withheld and if permission is refused the Panel will give reasons for its refusal.
- 7.4. The Chair will indicate which officers of the Supporting Communities Directorate are present to deal with points of clarification on the report.

Report of Executive Director, Supporting Communities Directorate

- 7.5. The officers of the Supporting Communities Directorate will not normally go through the report on the agenda, as it is anticipated that the Panel, and the Parties will have read it.
- 7.6. Members and the Parties may seek clarification from officers from the Supporting Communities Directorate on matters raised in the report.

Police Case

- 7.7. The Chair will ask the Police and their representative, if appropriate, to identify themselves. The Police or their representative may
- a) give further information in support of their notice, in response to any notice from the authority seeking clarification;
 - b) address the Panel; and
 - c) call any witnesses notified to the Authority in advance of the hearing permitted in accordance with 7.3 above.
- 7.8. Members of the Panel and then any other party if given permission by the Panel may ask the Police questions. This is for the purposes of clarification only.

Applicant's Case

- 7.9. The Chair will ask the Applicant and their representative, if appropriate, to identify themselves. The Applicant or their representative may
- a) give further information in support of their application, in response to any notice from the authority seeking clarification;
 - b) address the Panel; and
 - c) call any witnesses notified to the Authority in advance of the hearing permitted in accordance with 7.3 above.
- 7.10. Members of the Panel and then any other party if given permission by the Panel may ask the Applicant questions. Again, this is for the purposes of clarification only.

Closing Remarks

- 7.11. Any party is allowed to make closing remarks, not exceeding two minutes. The order will be the Police and the Applicant.

Deliberation

- 7.12. The Panel will deliberate in public. This will take the form of a discussion lead by the Chair and no other person at the hearing may take part. The Panel may ask advice of the legal advisor or the Clerk. There may be occasions where it needs to receive specific legal advice in private. If that is the case, it will pass a special resolution and move to another room with the legal advisor and the Clerk or ask the parties and members of the public to leave the room whilst advice is taken. After receiving this advice the Panel will resume in public.
- 7.13. The Panel will disregard any information given or evidence produced by a party or a witness, which is not relevant to:
- a) their application, representations or notice (as applicable), and/or
 - b) the promotion of the crime prevention objective.

Decision

- 7.14. The Panel will make decisions in public and the Chair will announce the decision. The Executive Director Supporting Communities will later confirm the decision in writing to all parties.

8. Hearings concerning applications for Temporary Events Notice

Chair's Introduction

- 8.1. The Chair will introduce the Panel and the officers advising it and then outline the procedures to be followed at the hearing, drawing attention to time limits for speakers.
- 8.2. The Chair will then briefly announce the application and what it is for.
- 8.3. The Panel will then consider any requests made in advance for permission for any person (other than a representative) to appear at the hearing. Permission will not be unreasonably withheld and if permission is refused the Panel will give reasons for its refusal.
- 8.4. The Chair will indicate which officers of the Supporting Communities Directorate are present to deal with points of clarification on the report.

Report of Executive Director Supporting Communities

- 8.5. The officers of the Supporting Communities Directorate will not normally go through the report on the agenda, as it is anticipated that the Panel and the Parties will have read it.
- 8.6. Members and the Parties may seek clarification from officers of the Supporting Communities Directorate Department on matters raised in the report.

Responsible Authority Case

- 8.7. The Chair will ask the Police and/or Environmental Health Responsible Authority and their representative, if appropriate, to identify themselves. The Police and/or Environmental Health Responsible Authority or their representative may
 - a) give further information in support of their notice, in response to any notice from the authority seeking clarification;
 - b) address the Panel; and
 - c) call any witnesses notified to the Authority in advance of the hearing permitted in accordance with 8.3 above.
- 8.8. Members of the Panel and then any other party if given permission by the Panel may ask the Police and/or Environmental Health Responsible Authority questions. Again, this is for the purposes of clarification only.

Applicant's Case

- 8.9. The Chair will ask the Applicant and their representative, if appropriate, to identify themselves. The Applicant or their representative may
- a) give further information in support of their application, in response to any notice from the authority seeking clarification;
 - b) address the Panel; and
 - c) call any witnesses notified to the Authority in advance of the hearing permitted in accordance with 8.3 above.
- 8.10. Members of the Panel and then any other party if given permission by the Panel may ask the Applicant questions. Again, this is for the purposes of clarification only.

Closing Remarks

- 8.11. Any party is allowed to make closing remarks, not exceeding two minutes. The order will be the Police and the Applicant.

Deliberation

- 8.12. The Panel will deliberate in public. This will take the form of a discussion lead by the Chair and no other person at the hearing may take part. The Panel may ask advice of the legal advisor or the Clerk. There may be occasions where it needs to receive specific legal advice in private. If that is the case, it will pass a special resolution and move to another room with the legal advisor and the Clerk or ask the parties and members of the public to leave the room whilst advice is taken. After receiving this advice the Panel will resume in public.
- 8.13. The Panel will disregard any information given or evidence produced by a party or a witness, which is not relevant to:
- a) their application, representations or notice (as applicable); and/or
 - b) the promotion of the licensing objectives.

Decision

- 8.14. The Panel will make decisions in public and the Chair will announce the decision. The Executive Director Supporting Communities will later confirm the decision in writing to all parties.

9. Hearings concerning applications for Summary Review or to consider representations against Interim Steps

Chair's Introduction:

- 9.1. The Chair will introduce the Panel and the officers advising it and then outline the procedures to be followed at the hearing.

- 9.2. The Chair will then briefly announce the application and what it is for.
- 9.3. The Panel will then consider any requests made in advance for permission for any person (other than a representative) to appear at the hearing. Permission will not be unreasonably withheld and if permission is refused the Panel will give reasons for its refusal.
- 9.4. The Chair will indicate which officers of the Supporting Communities Directorates are present to deal with points of clarification on the report.

Report of Executive Director Supporting Communities:

- 9.5. The officers of the Supporting Communities Directorate will not normally go through the report on the agenda, as it is anticipated that the Panel and the Parties will have read it.
- 9.6. Members and the Parties may seek clarification of officers from the Supporting Communities Directorate on matters raised in the report.

Police Case

- 9.7. The Chair will ask the Police and their representative, if appropriate, to identify themselves. The Police or their representative may
 - a) give further information in support of their application and certificate;
 - b) address the Panel; and
 - c) call any witnesses notified to the Authority in advance of the hearing, permitted in accordance with 9.3 above.
- 9.8. Members of the Panel and then any other party if given permission by the Panel may ask the Police questions. Again, is for the purposes of clarification only.

Licence Holder's Case [if applicable]

- 9.9. The Chair will ask the Licence Holder and their representative, if appropriate, to identify themselves. The Licence Holder or their representative may
 - a) give further information in support of their representations,
 - b) address the Panel; and
 - c) call any witnesses notified to the Authority in advance of the hearing permitted in accordance with 9.3 above.
- 9.10. Members of the Panel and then any other party if given permission by the Panel may ask the Licence Holder questions. Again, this is for the purposes of clarification only.

Closing Remarks

- 9.11. Any party is allowed to make closing remarks, not exceeding two minutes. The order will be the Police and the Licence Holder.

Deliberation

- 9.12. The Panel will deliberate in public. This will take the form of a discussion lead by the Chair and no other person at the hearing may take part. The Panel may ask advice of the legal advisor or the Clerk. There may be occasions where it needs to receive specific legal advice in private. If that is the case, it will pass a special resolution and move to another room with the legal advisor and the Clerk or ask the parties and members of the public to leave the room whilst advice is taken. After receiving this advice the Panel will resume in public.
- 9.13. The Panel will disregard any information given or evidence produced by a party or a witness, which is not relevant to:
- a) their application, certificate or representations (as applicable); and/or
 - b) the promotion of the licensing objectives.

Decision

- 9.14. The Panel will make decisions in public and the Chair will announce the decision. The Executive Director Supporting Communities will later confirm the decision in writing to all parties.

10. Procedure for Hearings under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 in Respect of Sex Establishments

1. Introduction

- 1.1. This document sets out the procedure to be followed by the Licensing Sub-Committees (known as “Licensing Panels” or “Panels”) where functions have been delegated from the Licensing Committee.
- 1.2. In this procedure “the Parties” include the applicant or licence holder and any objectors as applicable.
- 1.3. The Council Procedure Rules and Access to Information Procedure Rules (in so far as they apply to Committees and Sub Committees) will be followed for all hearings.
- 1.4. The Licensing Panel may, in exceptional circumstance vary this procedure. In such circumstances the Licensing Panel must give reasons for the variation.

2. Making Objections to an Application

- 2.1. The Council has produced guidance notes for the Parties. These contain detailed provisions on making applications and objections and time limits referred to in this procedure. They are available from:

Contact Camden
London Borough of Camden

5 Pancras Square
London
N1C 4AGTel: 020 7974 4444
Email: LicensingRepresentation@camden.gov.uk
Web: www.camden.gov.uk/licensing

- 2.2. Objections should be made within 28 days of the date of the application.
- 2.3. The Licensing Authority shall not provide an objector's name and address to the applicant for the licence unless the objector has specifically agreed to this.
- 2.4. Failure to make an objection means a Party will have no right to be heard or to give evidence at the hearing.

3 Holding a Hearing

- 3.1 Whether or not relevant objections are made, there will be a hearing by a Licensing Panel to consider applications for the grant, renewal, variation or transfer of a Sex Establishment Licence.

Notice of Hearing

- 3.2 Officers will arrange the date, time and place of the hearing and will give notice of it.
- 3.3 The notice of hearing will be accompanied by the following information:
 - a) the consequences if a Party does not attend or is not represented at the hearing;
 - b) the procedure to be followed at the hearing.

Action Following Receipt of Notice of Hearing

- 3.4 An applicant or objector who receives a notice of hearing must give to the Licensing Authority a notice in writing stating whether they will attend the hearing, whether they will be represented at the hearing and whether they intend to call any witnesses at the hearing.
- 3.5 If a Party wishes to call someone to appear as a witness at the hearing and address the Panel, the notice must contain a request for permission for that person to appear giving the name of the person and a brief description of the point or points they wish to raise before the Licensing Panel. FAILURE TO COMPLY WITH THIS REQUIREMENT WILL MEAN THAT PERSON CANNOT BE CALLED AS A WITNESS.
- 3.6 This notice should be sent to the Committee Clerk, Committee Services, Town Hall, Judd Street, London, WC1H 9JE, fax 020 7974 5921 or email to licensing.committee@camden.gov.uk. Please note that the Committee Clerk will accept this notice by letter, email or fax.

- 3.7 Any Party attending the hearing can be assisted or represented by any person, whether or not that person is legally qualified, provided that they have given notice as set out above. If one of your local Councillors is a Member of the Panel, you should not lobby them directly as this could prejudice their position.
- 3.8 A decision on whether the person can appear will be made by the Panel at the beginning of the relevant hearing. Members will give reasons as to their decision.
- 3.9 Any Party intending to rely on any documentation at the hearing must submit that documentation to the Council at least seven days in advance of the hearing. Failure to do so may mean such supplementary evidence will not be admitted at the hearing.

Agenda

- 3.10 In addition to the notice of hearing detailed in paragraphs 3.2 and 3.3, an agenda for the hearing containing a copy of the Licensing Authority officer's report to the Licensing Panel will be published before the hearing. You may view the report on Camden's website at www.camden.gov.uk/democracy or request a copy by contacting the Committee Clerk before the hearing.

Failure to Attend

- 3.11 If a Party has informed the Council that he will not be attending the hearing it may go ahead in his absence. If a Party has indicated they will attend but does not do so the Panel may:
- (a) where it considers it to be necessary in the public interest, adjourn the hearing to a specified date, or
 - (b) hold the hearing in the Party's absence.
- 3.12 If a Panel adjourns the hearing, it must as soon as possible notify the Parties of the date, time and place to which it has been adjourned. If the Panel holds the hearing in the absence of a Party, it will consider the application or objection made by that Party.
- 3.13 Hearings will be held in public. There may be rare occasions where the Panel needs to receive specific legal advice in private. If that is the case, the Panel will pass a special resolution and move to another room with the legal advisor and the Clerk or ask the applicant and other Parties to leave the room. Once the Panel has received the advice the meeting will resume in public.

Power to Extend Time Limits

- 3.14 The Panel can extend the time limits set out in this procedure if it considers it to be necessary in the public interest.

- 3.15 Where the Council has extended a time limit it will as soon as possible notify all Parties of the period of the extension and the reasons for it.
- 3.16 The Panel or the officers of the Council can—
- (a) adjourn the hearing to a specified date
 - (b) arrange for the hearing to be held on specified additional dates, if it considers this to be necessary in order for the Panel to consider any representations or notice made by a Party.
- 3.17 Where the Panel has adjourned a hearing to a specified date, the Council will, as soon as possible, notify all Parties of the date, time and place of the new hearing.
- 3.18 Where the Panel has arranged for a hearing to be held on a specified additional date, the Council will, as soon as possible, notify all Parties of the additional date, time and place of the additional hearing.

Quorum

- 3.19 Business shall not be transacted at a Panel unless at least two voting members of the Licensing Committee are present and able to vote.

Panel Time Limits

- 3.20 Committee Procedure Rule 19 will not apply. Meetings will last for a maximum of four hours and will finish no later than 22.30 hours. Any business not transacted by the end of the meeting will be deferred to another meeting. The Parties will be told which meeting it is being deferred to.

Minutes

- 3.21 The minutes record that consideration was given to a report, any discussion leading to a decision, and any reason for departing from an officer's recommendation. Irrelevant matters, matters dealt with in the report, or matters that did not affect the decision are not minuted. The minutes will not be a transcript or near transcript of the hearing. Once the minutes have been agreed and signed at a subsequent meeting of the Panel, that document (incorporating the report and any written submissions) is the record of the meeting.
- 3.22 The minutes of the meeting are made public when they are ready and are posted on the Council's website at www.camden.gov.uk/democracy.

Withdrawal of Objections

- 3.23 A person who wishes to withdraw his objection may give notice of this no later than 24 hours before the day on which the hearing is to be held or orally at the hearing. This notice should be sent to the Committee Clerk, Committee Services, Town Hall, Judd Street, London, WC1H 9JE, fax: 020 7974 5921 or

email licensing.committee@camden.gov.uk. The Committee Clerk will accept this notice by letter, email or fax.

Exclusion of Disruptive Persons

- 3.24 The Panel may require anyone person present at the hearing who is behaving in a disruptive manner to leave the hearing and may—
- (a) refuse to let that person return, or
 - (b) let him return subject to whatever conditions the Panel specifies.
- 3.25 Anyone who has been required to leave can, before the end of the hearing, submit to the Panel in writing any information they would have been entitled to give orally if they had they not been required to leave.
- 3.26 Parties and members of the public are not permitted to bring any banner or placard into a meeting, nor are they allowed to film, take photographs of, or make recordings of, the proceedings without the consent of the Chair.

Amending the Application

- 3.27 If an applicant wishes to amend their application, they must do so in writing and must sign the amendment. This can be prior to the hearing or at the hearing before the Panel begins deliberation. No amendment will be accepted which, in the opinion of the Panel, would extend the activities requested in the original application.

Additional Documentary and Other Evidence

- 3.28 The Parties should make every effort to ensure all documentary and other evidence is included in their application or objection. Additional documentary or other evidence submitted prior to the hearing may only be produced at the hearing where it has been provided to the Council at least seven days before the hearing and with the consent of the Panel and other Parties.
- 3.29 In all other cases, the Panel will consider each request on its merits and will bear in mind whether the other Parties have seen the material, whether there are exceptional reasons for not producing the material before, whether a failure to admit the evidence would prejudice the Council's ability to reach a decision, and whether prejudice would be caused to the applicant if the evidence were to be admitted at this stage.

4 Procedure at Hearings

- 4.1 The Licensing Panel is not a court. Every effort is made to keep proceedings as informal as possible. Cross-examination will not be permitted unless the Panel agrees.
- 4.2 It is important that the hearing follows a particular order to ensure all Parties have a chance to be heard.

- 4.3 Any applicant or objector or their representative who has given notice should make themselves known to the Committee Clerk before the hearing begins.

5 Hearings for Applications for the Grant, Renewal, Transfer or Variation of a Sex Establishment Licence or for Existing Sex Shops

Chair's Introduction:

- 5.1 The Chair will introduce the Panel and the officers advising it and outline the procedures to be followed at the hearing, drawing attention to time limits for speakers.
- 5.2 The Chair will then briefly announce the application and what it is for.
- 5.3 The Panel will then consider any requests made in advance for permission for any person (other than a representative of any Party) to appear at the hearing. Permission will not be unreasonably withheld and if permission is refused the Panel will give reasons for its refusal.
- 5.4 The Chair will indicate which officers of the Supporting Communities Directorate are present to deal with the report.

Report of Executive Director Supporting Communities

- 5.5 The officer of the Supporting Communities Directorates will introduce their report to the Licensing Panel. The report will set out the nature of the activities to be provided at the sex establishment, give details of any objections, direct Members to relevant sections of the Council's Sex Establishments Policy, and provide an assessment of the locality where the application is for a new licence or a variation of an existing licence in relevant circumstances.
- 5.6 Members and the Parties may seek clarification from the officer on matters raised in the report.

Negotiation and Compromise

- 5.7 Where the applicant has amended the application tabled, the applicant will be permitted a two minute debrief to clarify any amendments to the application that have been made since the publication of the report

Objector's Case (where applicable)

- 5.8 The Chair will ask the objectors and their representative(s), if appropriate, to identify themselves. The objector or their representative may:
- (a) address the Panel, and
 - (b) call any witnesses notified to the Authority in advance of the hearing. permitted in accordance with 3.5 above

- 5.9 Fifteen minutes in total will be allowed for objectors to state their case. This may only be extended with the consent of the Panel. Objectors should preferably speak through a single spokesperson.
- 5.10 Where objections or other comments have been made by the Metropolitan Police, an additional fifteen minutes shall be permitted for the Police to state their case.
- 5.11 Members of the Panel and then any other Party (if given permission by the Panel) may ask objectors questions.

Applicant's Case

- 5.12 The Chair will ask the applicant and their representative, if appropriate, to identify themselves. The applicant or their representative may:
- (a) address the Panel, and
 - (b) call any witnesses notified to the Authority in advance of the hearing permitted in accordance with 3.5 above
- 5.13 Fifteen minutes will be allowed for the applicant's case. This may only be extended with the consent of the Panel.
- 5.14 Members of the Panel and then any other Party (if given permission by the Panel) may ask the applicant questions.

Closing Remarks

- 5.15 Any Party will be permitted to make closing remarks not exceeding two minutes. Objectors will be required to summarise first, followed by the applicant.

Deliberation

- 5.16 The Panel will deliberate in public. This will take the form of a discussion lead by the Chair and no other person at the hearing may take part. The Panel may ask advice of the legal advisor or the Clerk. There may be occasions where it needs to receive specific legal advice in private. If that is the case, it will pass a special resolution and move to another room with the legal advisor and the Clerk or ask the parties and members of the public to leave the room whilst advice is taken. After receiving this advice the Panel will resume in public.

Decision

- 5.17 Where the Panel are able to reach a decision on the day of the hearing, the Chair will announce the decision to all Parties at the hearing. The Executive Director Supporting Communities will later confirm the decision in writing to all Parties.

- 5.18 In some cases the Panel may not make its decision on the day of the hearing. In such cases, the Panel will reconvene within 28 days to announce its decision in public. The Executive Director Supporting Communities will later confirm the decision in writing to all Parties.

6 Hearings for Applications for the Grant of a Sex Establishment Licence Pre Second Appointed Day

Chair's Introduction:

- 6.1 The Chair will introduce the Panel and the officers advising it and outline the procedures to be followed at the hearing.
- 6.2 The Chair will then briefly give details of the reason for considering revocation of the licence.
- 6.3 The Panel will consider any requests made in advance for permission for any person (other than a representative of any Party) to appear at the hearing. Permission will not be unreasonably withheld, and if permission is refused, the Panel will give reasons for its refusal.

Licensing Authority's Case

- 6.4 The officer of the Supporting Communities Directorate shall outline the reason for considering revocation of the licence and briefly outline the evidence supporting the Licensing Authority's case. The officer shall introduce their report to the Licensing Panel. The report will set out any evidence supporting revocation of the licence and any response from the licence holder, and will direct Members to relevant sections of the Council's Sex Establishments Policy.
- 6.5 The officer will then call any witnesses to support the Licensing Authority's case.
- 6.6 Fifteen minutes in total will be allowed for witnesses to state their case. This may only be extended with the consent of the Panel. Witnesses should preferably speak through a single spokesperson.
- 6.7 Where objections or other comments have been made by the Metropolitan Police, an additional fifteen minutes shall be permitted for the Police to state their case.
- 6.8 Members of the Panel and then the licence holder may ask the officer and any witnesses questions.

Licence Holder's Case

- 6.9 The Chair will ask the licence holder and their representative, if appropriate, to identify themselves. The licence holder or their representative may:
- (a) give any information in support of their case

- (b) address the Panel, and
- (c) call any witnesses notified to the Authority in advance of the hearing permitted in accordance with 3.5 above.

6.10 Members of the Panel and then any other Party (if given permission by the Panel) may ask the licence holder questions.

Closing Remarks

6.11 Any Party shall be permitted to make closing remarks not exceeding two minutes. The order shall be the officer of the Supporting Communities Directorate, any witnesses, and then the licence holder.

Deliberation

6.12 The Panel will deliberate in public. This will take the form of a discussion lead by the Chair and no other person at the hearing may take part. The Panel may ask advice of the legal advisor or the Clerk. There may be occasions where it needs to receive specific legal advice in private. If that is the case, it will pass a special resolution and move to another room with the legal advisor and the Clerk or ask the parties and members of the public to leave the room whilst advice is taken. After receiving this advice the Panel will resume in public.

Decision

6.13 Where the Panel are able to reach a decision on the day of the hearing, the Chair will announce the decision to all Parties at the hearing. The Executive Director Supporting Communities will later confirm the decision in writing to all Parties.

6.14 In some cases the Panel may not make its decision on the day of the hearing. In such cases, the Panel will reconvene within 28 days to announce its decision in public. The Executive Director Supporting Communities will later confirm the decision in writing to all Parties.

11. Miscellaneous Licensing Matters

11.1. Communications on matters not yet on the agenda should be sent to the Licensing Team, Supporting Communities Directorate, 5 Pancras Square, London N1C 4AG, telephone: 020 7974 6919: email: licensingenquiry@camden.gov.uk.

Part 3: Advice to Members of the Licensing Committee on Members' Interests

1. Involvement in Licensing Matters prior to Meetings of the Committee or Licensing Panel

- 1.1. Members of the Committee are advised to take steps to minimise their involvement in any relevant matter prior to its consideration by the Committee or Licensing Panel so that they may be seen to take all decisions at the meeting with an open mind.
- 1.2. If a Member has already taken a view on an application before them (whether in their ward or not), for example by writing a letter of support or objection, or speaking publicly for or against an application, the Member should take particular care where they may be or may appear to be acting both as an advocate on behalf of one or more constituents and as an adjudicator on an application in respect of which the interests of the constituent are at variance with the interests of others. Members may make visits to premises in their capacity as ward councillors and may subsequently speak either for or against the relevant application. In these circumstances a Member may not be seen to be an impartial judge of the relative merits of both sides of the argument. The Member must always declare that they have visited the premises and, if in doubt, should refrain from voting.
- 1.3. The Committee has adopted a protocol governing official visits to premises.

2. Councillors as Objectors

- 2.1. If you are an objector or Interested Party you should obtain a copy of the report from the Clerk unless you have already been sent one by the Supporting Communities Directorate. You may get the report from the Clerk or on the Council's website (www.camden.gov.uk/democracy) after 4.00 p.m. six working days before the meeting. You must comply with the relevant requirements in Parts 1 and 2 to be able speak to the Committee or address the Panel.
- 2.2. However, a Councillor who is objecting on their own right should consider whether they have a prejudicial interest. A Councillor must regard themselves as having a prejudicial interest if the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice the Member's judgement of the public interest.
- 2.3. The Code of Conduct states that where a Member has such an interest s/he should not take part in any discussions about that interest unless a dispensation has been obtained from the authority's Standards Committee. They must declare what the interest is and withdraw from the meeting by leaving the room.
- 2.4. It does not apply where, for example, a Councillor is acting in an advocacy role for his or her constituents, and no new information is being introduced into the public domain. However, in the case of the Panel you should ensure that the

Interested Party complies with the requirements of paragraph 18 or you may be unable to.

3. Briefing for Licensing Committee (not Panels)

- 3.1. There will only be a briefing before a Committee meeting and this will only deal with the following matters:
 - a) Reading late papers, which the Clerk has received on the day of the meeting and seeking clarification on them;
 - b) Advice from the Clerk on procedure and in particular the application of these procedures.
- 3.2. The briefing should start 45 minutes before the start of the meeting and end 15 minutes before. This is to enable officers to be involved in advice to objectors and applicants before the meeting if required. Technical officers do not attend the briefing. There is an opportunity for clarification on matters covered in reports relating to applications during the meeting itself, when the technical officers are present.

4. Applications at Appeal

- 4.1. The Borough Solicitor will provide a report every six months on the progress of applications determined by the Committee and the Licensing Panels, which have gone to appeal.

5. Personal Interests/Prejudicial Interests

- 5.1. As with all other meetings, the provisions of the Camden Code of Conduct apply. The particular nature of the Licensing Committee and Panels means that issues of propriety are of particular concern. Members need to be particularly vigilant and should refamiliarise themselves with the provisions from time to time, seeking advice if in any doubt.

6. The Human Rights Act 1998

- 6.1. The Human Rights Act 1998 incorporates the key articles of the European Convention on Human Rights into domestic law. The Convention guarantees certain basic human rights. As far as possible legislation (including the licensing laws) must be interpreted in conformity with Convention rights. Decisions on licensing matters are actions of a public authority and must be compatible with Convention rights. Consequently Members of the Committee must be aware of the rights contained in the Convention (particularly those set out below) when making licensing decisions.

a) Article 6: Right to a fair trial

6(1) In the determination of his civil rights and obligations.....everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.

b) Article 8: Right to respect for private and family life

Everyone has a right to respect for his or her private life, his home and correspondence.

c) Article 1 of the First Protocols: Protection of property

Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

d) Article 14: Prohibition of discrimination

The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth, or other status.

- 6.2. Most Convention rights are not absolute and there are circumstances when an interference with a person's rights is permitted.
- 6.3. Article 8 states that "there shall be no interference by a public authority with the exercise of (rights under that Article) except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others" and Article 1 of the First Protocol states that the provisions of the Article "shall not, however, in any way impair the right of a state to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties."
- 6.4. However, any interference with any of the Rights contained in the Convention must be sanctioned by law and be aimed at pursuing a legitimate aim and must go no further than is necessary and be proportionate to the intended objective of the authority. The interference will not be justified if the means used to achieve the aim are excessive in the circumstances.
- 6.5. This point is relevant to all licensing decisions but particularly in the context of conditions and enforcement. Home Office guidance on this point states "any interference with a Convention right should be carefully designed to meet the objective in question and must not be arbitrary or unfair. You must not use a sledgehammer to crack a nut" to give effect to Convention rights in the licensing context, Members of the Licensing Committee will need to balance the rights of one individual (having regard to the personal circumstances of that person) against those of another and/or the interests of the community at large.

7. Councillors who are not Members of the Licensing Committee

- 7.1. A Councillor who is not a Member of the Licensing Committee may speak at a meeting of the Licensing Committee, with the agreement of the Chair, as an advocate for either the applicant or the objectors, and where no new information is being introduced into the public domain.
- 7.2. A Councillor who is not a Member of the Licensing Committee may speak at a hearing before a Panel as an advocate for either the applicant or the objectors.
- 7.3. However, a Councillor attending in a personal capacity to object to or support any application should consider whether they have a prejudicial interest. A Councillor must regard themselves as having a prejudicial interest if the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice the Member's judgment of the public interest.
- 7.4. The applicant automatically has the right to reply, and the right to see in advance the nature of the objection or representation. Members should disclose any interest they may have, including the fact that they have been in contact with objectors, the applicant, an Interested Party or a relevant Authority if this is the case and whether they are speaking on behalf of such persons or any particular interest.
- 7.5. Any Councillor who is not on the Licensing Committee but who is at one of its meetings should normally sit separately, to demonstrate that they are not taking part in the discussion, consideration or vote. They should not communicate with Members of the Committee or Panel or pass papers or documents to them before or during the meeting. They may not attend briefings or accompany the Committee if it retires to deliberate in private.
- 7.6. Councillors who are opposed in principle to any category of application or form of public entertainment, either in their own ward or borough-wide, should not seek nomination to the Licensing Committee.

8. Ward Members

- 8.1. Being the Member for the ward in which particular premises are situated is not per se declarable and as a general rule Members of the Committee may deliberate on matters affecting their wards, provided this is done with an open mind. To underline the openness of the proceedings, the agenda papers show which ward each Member sits for, and it is helpful for Members to maintain the practice of naming their ward when they introduce themselves at the start of the meeting.

9. Being Seen to Act Fairly

- 9.1. With regard to planning committees, the Local Government Ombudsman advises that not only must Members act fairly; they must be seen to act fairly. The same maxim should apply to licensing committees. Members are advised to maintain and demonstrate an open mind if contacted by applicants or

members of the public in the time leading up to the meeting. Members of the public, applicants and other parties may seek to lobby Members prior to meetings and this is a normal part of the democratic process. Members are however advised to share details of that lobbying with officers in advance of any hearing in the interests of transparency. Officers may comment on the content of that lobbying and may share it with other Members and parties if deemed appropriate.

10. Members should be Present throughout Consideration of an Item

- 10.1. Members making a decision on any particular item must ensure that they are present throughout its consideration. If they join the meeting or go out and return to it part way through a particular item they should refrain from participating in the discussion and not vote on that item. If a Member needs to leave the room, he or she may ask for a short adjournment.

11. Use of Political Whips

- 11.1. The Local Government Ombudsman considers that the "whipping" of group meetings for town and country planning matters in this way is maladministration, and it is good practice to apply the same maxim to licensing matters.

12. Relationship between Members and Officers

- 12.1. Good administration is dependent on a successful relationship between Councillors and officers, which can only be based upon mutual trust, and understanding of each other's roles and responsibilities. The Code governing this relationship is the Camden Code of Conduct. Periodically, Member/officer seminars will be arranged outside the formal committee setting at which general issues of licensing can be discussed more freely as part of the process of training and policy formulation.

13. Member Development and Training

- 13.1. Because the technical issues concerning licensing are complex, and matters of propriety are not always straightforward, appointment to the Licensing Committee creates a requirement for new Members to undertake training on appointment, and for all Members to have refresher training periodically thereafter. Seminars are also organised where Members may develop their specialist knowledge and where topical issues may be aired. Members are advised not to accept nomination to the Licensing Committee unless they are prepared to take on this responsibility. Members also need to familiarise themselves with the provisions of these procedures.

Part 4: Licensing Committee and Licensing Panels – Protocol for Visits to Premises

1. Exceptional Circumstances

- 1.1. Most premises are licensed under delegated powers. Others are referred to the Committee with a detailed report, containing all the background and technical information which officers, in their professional judgement, believe Members need to make a decision on an application. Therefore, visits to premises should be exceptional, and undertaken either to check a specific material consideration, or to assist the Committee with a matter that has hitherto been outside its experience or that of individual Members.
- 1.2. Members should also note the disruption that any visit will cause to the Schedule of meetings, to officers and interested parties attending the meetings.
- 1.3. If having read the officer's report a Member requires further information on an application, it would be appropriate for the Member to contact the report author to request the information to be included in the supplementary agenda which will be despatched the evening before the meeting.

2. Arrangement of Visit

- 2.1. The Executive Director Supporting Communities will notify the licensee that a visit is to be arranged, and a date will be fixed in consultation with the Chair and leaders of the opposition groups on the Committee, although this will not be communicated to the licensee. Members will then be notified of the visit.
- 2.2. In the interests of consistency and transparency, every effort should be made by Members considering the application to attend the visit.
- 2.3. Members will be accompanied on the visit by a licensing officer.

3. Briefing

- 3.1. Before a visit takes place there will be a briefing at a venue to be arranged, with a report setting out technical and background information regarding the premises. In particular, Members will be asked to note the reason for the visit and any specific aspects of the application they wish to focus on. The Borough Solicitor will remind Members of the relevant legislation, providing Counsel's opinion on specific advice as appropriate. Members will be reminded of Camden's Code of Corporate Governance and the rules governing expenditure.

4. Arrival at the Premises

- 4.1. Where appropriate, the accompanying officer should make clear the arrival of Members at the premises. If public admittance is an issue and where there is a door charge, this should be paid and the amount reimbursed by the Council. If some other aspect of the premises is an issue, Members should be admitted without charge. If entrance is refused, and gentle persuasion fails, then the

licensee's decision should be respected. Members should have their identity tags with them.

5. During the Visit

- 5.1. If Members are visiting to see some particular aspect of the premises, or check something, then they should do so. Any specific observations should be passed to the officer, who will note them.
- 5.2. Interested parties will not be invited to site visits but should any attend this may be recorded by officers including a summary of any conversations they have held with Members if appropriate. Members may only ask questions or seek clarification from officers, the applicant or any third party as appropriate. Hospitality or gifts should not be accepted.
- 5.3. Where drinks are served, Members may partake at their own expense. Preferably drinks should be non-alcoholic. Any visit would not normally take longer than the average time taken to consume a drink. However, there may be circumstances (e.g. waiting for a performance to begin or ascertaining the actual closing time of premises) where Members may need to stay longer.
- 5.4. Once Members are satisfied that the purpose of their visit, (as determined and discussed at the briefing) has been fulfilled, the visit should end. It would not be proper to remain for social or entertainment reasons, since these are not the purpose of the visit and could be misinterpreted.

6. After the Visit

- 6.1. The fact that a visit took place will be recorded in the officer's report to the meeting of the Committee considering the application along with any relevant factors noted during the visit which may reasonably be taken into account. It would not be inappropriate for Members to ask questions of applicants and objectors, at the Committee, arising from their visit.

7. Unforeseen Circumstances

- 7.1. If events during a visit to premises take an unexpected turn, such that there is a danger to Members, or the potential to embarrass them in their public capacity, it is usually advisable to leave immediately.

EQUALITY ACT 2010

The Equality Act 2010 provides protection from discrimination in respect of certain protected characteristics, namely: age, disability, gender reassignment, pregnancy and maternity, race, religion or beliefs and sex and sexual orientation. It places the Council under a legal duty to have due regard to the advancement of equality in the exercise of its powers including licensing functions. Members of the Panel must be mindful of this duty inter alia when determining all licensing applications. In particular Members of the Panel must pay due regard to the need to:

(1) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;

(2) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and

(3) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

ENDS

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Guidance on remote hearings held under the Licensing Act 2003 and associated regulations

The following procedure shall be adopted in relation to the conduct of all hearings of Licensing Sub-Committees (known as Licensing Panels) which are held to consider applications submitted under the Licensing Act 2003 and associated regulations. The Council's Standing Orders, while still applying, are for hearings held pursuant to the Licensing Act 2003 to be interpreted in light of this guidance note and the fact that the hearing is being held remotely adjusted accordingly.

A. System for conducting remote hearings

1. Camden will conduct remote hearings using Microsoft Teams ('Teams') using the calls functionality.
2. The remote hearing will be conducted via a Teams call, using both the audio and video functionality so all participants¹ in a remote hearing should be capable of being heard and seen. All decision-makers must maintain as a legal minimum an audio connection to the hearing, but may mute themselves when they are not speaking. It will not impact the lawfulness or otherwise of the hearing should a committee member not be able to see the other participants for any part of the hearing, nor if they be cannot be seen by other participants and / or the public. All participants will, as far as able, try to join the hearing using the Teams app or web browser and not via dialling into the hearing.
3. Unless a hearing is dealing with confidential items, it will be streamed to the public so that they may listen and watch (should video be available) but the public will not be able to participate unless section B6 below applies; these are hearings held in public via a digital connection, but are not public hearings.
4. The Chair will be provided with advice on procedure and hearing management by a committee officer, a lawyer and other relevant officers.
5. Hearings will be streamed live as well as recorded, stored and uploaded to the Council's website. The Council will aim to do this within 48 hours of the hearing finishing.
6. Minutes will be taken and published in the usual manner.
7. In line with existing standing orders, the ruling of the Chair on a point of order and on the construction or application of this guidance, procedure rules and standing orders shall not be challenged during any hearing, including any decision of the Chair to ask for contributors to be muted.

Prior to the hearing

1. Agendas will be published on the [website](#) and via the modern.gov app and, unless a matter is urgent, five clear working days will elapse from the publication of the agenda to the holding of the hearing. Panel members will, as usual, receive an automated email when the agenda is published online containing a link to the agenda. They will also be provided with contact details to use in the event that their connection to the hearing is cut.

¹ Participants are defined as members of the committee; other councillors who seek to address the hearing; officers advising the committee or presenting reports; any external partners / third-parties invited to address or advise the hearing; and any member of the public with speaking rights.

Late papers

2. Parties to a licensing hearing may submit further late materials no later than 7pm, two working days before the hearing is due to start. These will be published online and circulated to the panel members. At the start of the relevant item, after the officer's presentation, the Chair will confirm which late papers have been circulated and invite each group of parties (responsible authorities, interested parties, applicant; or applicant, interested parties, licence holder) to set out in up to 2 minutes why the papers should be accepted or not. The panel members will then decide whether to admit the papers – taking advice as needed from officers – and take any adjournment necessary to ensure all voting members have read them.

B. At the hearing

1. The committee officer will begin the remote hearing 15 minutes before the start time to allow participants to join promptly and check their audio / video feeds are working.
2. At the beginning of the formal hearing, the Chair will confirm attendance by calling the name of each of those expected to be in attendance and ask them to confirm that they are present, their role (voting member, guest member, advising officer or member of the public with speaking rights) and that they can hear proceedings. Any members who are acting as substitutes shall identify themselves as substitutes and say for whom they are substituting.
3. The usual rules as to numbers of members to create a quorum will apply, and presence in the hearing of a voting member or substitute will count towards the quorum.
4. The hearing will, as the first item of business on the agenda, note and agree the variations / interpretations of procedure rules as set out in this document. The hearing will then follow the published agenda as normal.
5. Any Member participating who declares an interest in any item of business which would normally require them to leave the room shall switch off their microphone and camera for the duration of the item so they cannot be heard or seen by the other participants. They should also refrain from sending any messages using the chat function during the item or do anything that may be reasonably perceived as trying to influence the debate. Any such action may be a breach of the Members' Code of Conduct. The relevant Member will still be able to see and hear the discussion and at the end of the item may switch their camera and microphone back on. The committee officer may use their ability to remotely switch microphones on and off to assist in this process.

Public participation

6. Licensing hearings do not take deputations. The applicant / licence holder / parties making representations instead declare their intention to address the Committee beforehand. They will be sent a notice of the hearing as normal and are required to return this by 7pm, 2 working days before the hearing. Where a party has not indicated their intention to speak by this time, they will be presumed to not be addressing the Committee. Reasonable attempts will be made to accommodate those submitting late notifications, but their participation will not be guaranteed.
7. It is stressed to applicants / licence holders/ parties making representations that they must identify a single speaker and this may be themselves or another nominated person. They may invite others to speak as part of their submissions, but the panel will not

adjourn the hearing for a speaker who is not the identified single speaker for the party unless the Chair is persuaded that that the non-lead speaker has material information to impart to the panel.

Debate

8. Panel members will indicate their desire to speak by submitting their name using the “chat” function on Teams. This “chat” will not be minuted nor be a formal part or contribution to the hearing. All participants should refrain from using the chat for any function other than indicating their wish to speak, indicating a loss of their audio feed (section C8) or to request a formal vote (section C21) and will be reminded about this at the outset of the hearing. Where a panel member has joined through dialling in, and therefore does not have access to the chat function, the Chair will at relevant points during items specifically invite those participants dialling-in to address the hearing or otherwise confirm they have no comments / questions.
9. When not speaking, participants will be asked to keep themselves muted. Officers may do this remotely to improve the audio quality of the hearing.

Interruptions to connections

10. If a Member’s audio feed cuts out during the hearing they will:
 11. If still connected to Teams, use the ‘chat’ function to advise immediately that they can no longer hear the other participants;
 12. If they are unable to use the Teams ‘chat’ function, use the emergency contact details provided to alert the relevant officer (usually the committee officer) who will advise the Chair.
13. Where the Chair is notified of a panel member’s audio feed failing they will immediately stop the hearing and call a short adjournment of up to 15 minutes to re-establish the connection. Where the connection is re-established, the Chair will ask relevant participants to repeat in summary any part of the discussion that is considered reasonably necessary to ensure panel members have been given the same information as each other.
14. If after the 15 minutes adjournment, the connection to the panel member cannot be re-established then the hearing will resume – so long as there is still a quorum – and the Member will be deemed as having left the hearing and will be unable to vote on the item. They may, if able, rejoin the hearing and participate on later items.
15. If the Chair is the member affected by the interrupted connection, the committee officer will adjourn the hearing in line with sections C9 – C10. Upon the resumption, if the Chair has been unable to rejoin the hearing, the Vice-Chair will assume the Chair. Where there is no Vice-Chair, the committee officer will conduct a vote for a panel member to temporarily assume the chair. The usual Chair may resume their role at the start of the next item if they have resumed their connection.
16. Where a loss of connection renders a hearing inquorate, the normal procedure rules on inquoracy will apply i.e. the hearing will stand adjourned for up to 15 minutes (or 30 minutes if the committee officer deems it likely that a quorum can be achieved in that time). If after this time, a quorum has not been found then the hearing will conclude and the business stand adjourned to the next hearing of the panel.

17. Where the Chair is advised that the public audio feed is not working to a satisfactory standard, then they shall adjourn the hearing as if it was inquorate under section C12 (unless the hearing is in private session).

Voting

18. The Chair may, at their discretion, consider that there is an accord amongst panel members, and shall announce this to the hearing and not call for a formal vote. Should a panel member wish a formal vote to take place they should indicate this by way of the 'chat' function.
19. When the Chair elects to put a matter to the vote, they will ask the voting members of the panel to confirm that they were able to hear the item in full and to cast their vote on the recommendation(s) / motion. The chair will conduct a roll call in alphabetical order for each panel member to respond in turn.
20. Given the quasi-judicial nature of the business, should the Chair be in any doubt as to whether a panel member was present for the whole of an item they will not allow that panel member to vote.

Behaviour

21. The Chair will at their discretion be entitled to mute any contributors, including voting members, should they consider it appropriate. Should either a member or other participant become disruptive, the Chair will warn them and should that warning not result in a change of behaviour which is acceptable to the Chair then they shall, at their absolute discretion, be entitled to terminate the individual's participation in the hearing.

C. Confidential/Exempt Items

1. Should the hearing have confidential or exempt items on the agenda, the Chair will move the usual motion to move into private session. This can be agreed by a general consensus of the voting members to the satisfaction of the Chair or by carrying out a roll call vote.
2. The hearing shall then stand adjourned until the Chair is satisfied, upon the advisement of the clerk, that the public live feed has paused and all participants not eligible to remain as a part of the hearing have been removed as such. Each Member in remote attendance must ensure and verbally declare that there are no other persons present who are not entitled to be (either hearing or seeing), and/or recording the proceedings.
3. When resolving to move back into public session, the hearing shall again adjourn until the Chair is satisfied, upon the advisement of the clerk, that the public live feed has resumed and all eligible participants have had their audio / video feeds restored satisfactorily.

D. Equalities

1. It is recognised that that some persons who ordinarily would be able to participate in Council hearings in person will not be able to participate in remote hearings due to physical or other disability or because they lack the technological capability to do so. It is believed that this will only be a small minority of persons, but will likely disproportionately affect older persons and those of less financial means. We are aware that in terms of income those that fall within certain protected groups are statistically

more likely to lack the means to have access to that equipment or the ability to use it. There is therefore functionality to dial into a hearing instead of joining via the Internet, and the Council will support this as far as possible in line with the procedures set out above.

2. Teams has live captions functionality for remote hearings for the deaf / hard of hearing, which users can independently turn on; guidance on how to do so will be provided. The Council cannot accept any liability for the accuracy of these live captions.
3. The Council will consider any other requests for reasonable adjustments to be made in order to allow parties to be involved in remote Council hearings as far as circumstances at the time of the hearing allows.
4. In addition the Council will review and monitor the operation of its remote decision making and make adjustments when it considers it can further mitigate any adverse impact.

ENDS

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THE LONDON BOROUGH OF CAMDEN

At a hearing of **LICENSING PANEL E** held on **THURSDAY, 2ND FEBRUARY, 2023** at 10.00 am in Remote meeting via Microsoft Teams. This meeting can be watched live at www.camden.gov.uk/webcast

MEMBERS OF THE PANEL PRESENT

Councillors Meric Apak (Chair) and Nanouche Umeadi

MEMBERS OF THE PANEL ABSENT

Councillors Richard Olszewski

The minutes should be read in conjunction with the agenda for the hearing. They are subject to approval and signature at the next hearing of Licensing Panel E and any corrections approved at that hearing will be recorded in those minutes.

MINUTES

1. **GUIDANCE ON REMOTE MEETINGS HELD UNDER THE LICENSING ACT 2003 AND ASSOCIATED REGULATIONS**

RESOLVED -

THAT the guidance on remote meetings be agreed.

2. **APOLOGIES**

Apologies had been received from Councillor Richard Olszewski.

3. **DECLARATIONS BY MEMBERS OF STATUTORY DISCLOSABLE PECUNIARY INTERESTS, COMPULSORY REGISTERABLE NON-PECUNIARY INTERESTS AND VOLUNTARY REGISTERABLE NON-PECUNIARY INTERESTS IN MATTERS ON THIS AGENDA**

There were no declarations.

4. **ANNOUNCEMENTS**

Broadcast of the Meeting

The Chair made the following announcement: "In addition to the rights by law that the public and press have to record this meeting, I would like to remind everyone that this meeting is being broadcast live by the Council to the Internet and can be viewed on our website for six months after the meeting. After that time, webcasts are archived and can be made available upon request."

If you have asked to address the meeting, you are deemed to be consenting to having your contributions recorded and broadcast, including video when switched on, and to the use of those sound recordings and images for webcasting and/or training purposes.”

Supplementary Agenda

The Chair stated that since the publication of the main agenda, a supplementary agenda had been published and circulated. Following that, an additional late paper was circulated on 1 February. The additional papers would be summarised by the licensing officer in the relevant item.

5. NOTIFICATION OF ANY ITEMS OF BUSINESS THAT THE CHAIR DECIDES TO TAKE AS URGENT

There was no urgent business.

6. MINUTES

RESOLVED -

THAT the minutes of the meetings held on 24 November 2022, 24, March 2022, 9 December 2021, 9 November 2021 and 26 August 2021 be approved and signed as a correct record.

7. TEN, AT BASEMENT AND GROUND FLOOR, ALLIANCE HOUSE, 29- 30 HIGH HOLBORN, LONDON, WC1V 6AZ

Consideration was given to a report of the Executive Director Supporting Communities detailing an application for a new premises licence under Section 17 of the Licensing Act 2003.

The Licensing Officer, Sarah Williams, summarised the report. Since publication of the main agenda, additional proposed conditions had been published included within the supplementary agenda. The application was now for a total 27 conditions and an amendment to the end time of operation, moving to 3am from 5am. Since the publication of the main agenda, the following documents had been circulated as part of the supplementary agenda: withdrawal of representations from the Police, Environmental Health and the Local Authority, and a Photo representation (in relation to page 158 of the main agenda). A Crime and Disorder Report was further circulated, submitted by the Agent.

There were no active responsible authority representations, having all withdrawn. There were no interested parties registered to speak.

Licensing Panel E - Thursday, 2nd February, 2023

The Agent, Robert Sutherland, was accompanied by the Applicant, Ryan Burge, and a Crime and Disorder Expert, Jim Sollars. In addition to the papers, the Agent outlined the following:

- Concerns raised by the responsible authorities has been addressed by the additional conditions and changes to hours
- The Applicant had met with the Councillor who made a representation, who had spoke on behalf of residents. The Applicant had explained to the Councillor the conversations with the Police, the procedures at the premises, and how dispersals would be conducted. Also, that local residents would have his contact details if any issues were to arise.
- They believed the other representation, which was anonymous, to be a disgruntled customer.

In response to questions from the Panel, the following was clarified by the Agent:

- It was confirmed that the Councillor was satisfied to the point he would not attend the hearing to support his representation, but he did not withdraw the representation as he still wanted the Panel to consider his view.
- The Agent confirmed that condition 25 would mitigate impact of noise disturbance and antisocial behaviour in the surrounding area. He also confirmed there was a wind down procedure to mitigate nuisance.
- The Applicant became the manager of the premises from December 2020, which was after a high profile incident at the venue during summer 2020. The premises had been developed and improved throughout the lockdowns, which had been recognised by the Police. The venue was operating on a licence amended through an appeal in 2022.
- The premises used to operate as a nightclub, however now it now operated as an upmarket, premium and exclusive bar venue. Through these characteristics, it was expected that patrons would behave well. The Applicant held importance to the upmarket branding of the venue, which the status relied on high operating standards.
- The Agent explained that there would be one door supervisor per 25 customers, outlined in condition 2, which was a higher proportion to the industry standard of 75-100. Security staff wore a body camera, which also acted as a deterrence.
- It was confirmed there was no intention to apply a tables and chairs license, in relation to condition 27.
- The Agent confirmed they were willing to surrender the existing license if a new licence was granted.
- The Agent described the gradual winding down process which started from 02:00am, including music and lighting, ahead of the stop of sales at 03:00am. It was confirmed that customers were expected to leave the venue by 04:00am. The gradual process was to ensure customers left in staggard smaller groups.

In their closing remarks, the Agent stated that they had amended the application with a reduction in hours and additional conditions, in line with responsible authority engagement and to promote the licensing objectives; resulting in all three responsible authorities withdrawing their representations.

Decision and Reasons

In their deliberations, the Panel stated that the running of the premises sounded responsible and there was a detailed winddown procedure. However, they believed the winddown should start sooner than 02:30am, to allow customers time to climatise in leaving the late night venue in an orderly way. Secondly, Members said that the security guards equipped with body cameras sounded like a reasonable mitigation to misbehaviour of clients, and managed outside dispersal. The Panel was reassured that all three responsible authorities withdrew their representations, deciding the licence objectives would be promoted, and having added a number of robust conditions.

There were still outstanding concerns raised in the remaining representations. Members were also concerned customers may cause disturbance on the street outside, however this had been addressed by the conditions. Members agreed that to mitigate concerns that the wind down procedures should start earlier at 02:00am, including last orders to be no later 02:45am and last customers to leave the venue no later than 03:00am. This would be added to the dispersal policy on condition 12 a).

RESOLVED –

i) THAT a licence be granted for:

a) Supply of Alcohol (For consumption on and off the premises)

11:00 – 03:00 Monday to Sunday

b) Live Music, Performances of Dance and Anything similar to live music, recorded music or performances of dance

11:00 – 03:00 Monday to Sunday

c) Recorded Music

11:00 – 03:00 Monday to Sunday

d) Late night refreshment

23:00 – 03:00 Monday to Sunday

e) Opening hours

11:00 – 04:00 Monday to Sunday

(ii) THAT the following conditions be added to the licence:

- 1) The premises will install and maintain a comprehensive CCTV system covering all parts of the premises as per the minimum requirements of the Metropolitan Police Service. Further:
 - (a) All entry and exit points will be covered enabling frontal identification of every person entering in any light condition.
 - (b) The CCTV system will continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises.
 - (c) All recordings will be stored for a minimum period of 31 days with date and time stamping.
 - (d) Viewing of recordings will be made available immediately upon request of the Metropolitan Police Service or Responsible Authority Officer throughout the preceding 31 day period, providing the request complies with the Data Protection Act or any other Primary Legislation
 - (e) All searches will be recorded on the CCTV system
 - (f) There will be external CCTV (installed and operated) which monitors the queue.
 - (g) A staff member from the premises who is conversant with the operation of the CCTV system will be always on the premises when the premises are open. This staff member will be able to provide Metropolitan Police Service or Authorised council officer copies of recent CCTV images or data with the absolute minimum of delay when requested, providing the request complies with the Data Protection Act or any other Primary Legislation.
 - (h) The CCTV system will be checked daily to confirm that it is working.
 - (i) The CCTV system will be maintained bi-annually and details of maintenance will be made available upon request to the council.
 - (j) The licence holder will always ensure that there is a sufficient supply of portable media (USB sticks, DVDs or similar) to be provided to the Metropolitan Police Service in the event of copy CCTV footage being requested.
 - (k) The recording equipment and data storage devices will be kept in a secure environment and fitted with security functions (such as passwords) to prevent recordings being tampered with.
 - (l) The system will be register with the Information Commissions Office.
 - (m) The system will abide by the Surveillance Camera Code of Practice.
 - (n) if the any Camera on the system or the system itself becomes inoperable, then within 48 hours the Metropolitan Police will be notified along with an estimate given of the repair timescale.

- 2) Where the premises are open for licensable activities on any day after 22:30 from 21:00 hours, a minimum of one (1) SIA Door Supervisors shall be employed per twenty-five (25) customers at the premises until 30 mins after close. Further when engaged, all SIA licensed door supervisors will:
 - a) wear their SIA badges;

Licensing Panel E - Thursday, 2nd February, 2023

- b) be equipped with closed circuit radios;
 - c) be equipped with "body worn video" camera devices that will record both sound and images. All recordings will be stored for a minimum of 31 days with date and time stamping. Viewing of recordings will be made available immediately upon request of the Metropolitan Police Service or Responsible Authority Officer throughout the preceding 31 day period, providing the request complies with the Data Protection Act or any other Primary Legislation; and
 - d) when stationed outside the premises, wear high visibility jackets or vests.
 - e) ask customers not to stand around talking in the street outside the premises and ask customers to leave quickly and quietly.
 - f) will check the toilets every 30 mins and these checks are to be documented, this condition is of nil effect if the toilets are staffed by a toilet attendant.
 - g) Sign in in a register at the start of their shift and out at the end of their shift. In this log they will, confirm their full name, date of Birth, SIA registration number, and Contact details (phone number and email address).
 - h) remain on duty for half an hour after the close the venue to ensure all patrons are dispersed from the area.
 - i) monitor any patrons who are in the smoking area.
 - j) ensure when there is a confrontation between guests and one or more party is ejected, they must take action to ensure there is no further confrontation outside. Further SIA Door Supervisors will monitor those involved until they are satisfied the incident will not escalate.
 - k) will have control of clickers ensuring that the venue is not over capacity at any time. Smokers must be included in the clicker count.
 - l) will escort out from the premises immediately any patron who covers their head with a hoodie, hat or any other item of clothing.
- 3) When SIA are employed at the premises the licence holder will:
- a) keep a photographic copy of each SIA door supervisor's badge, this will be produced upon request to the Metropolitan Police.
 - b) Employ a minimum of one (1) female SIA door supervisor will, where practicable possible; where this is not possible the licence holder will confirm the reasons in an incident report.
 - c) inform the police if they change the company that provides SIA Door Supervisors.
- 4) There shall be always a personal licence holder on duty on the premises when the premises are authorised to sell alcohol.
- 5) No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
- 6) Notices shall be prominently displayed:
- a) at all exits requesting patrons to respect the needs of residents and leave the area quietly.

Licensing Panel E - Thursday, 2nd February, 2023

- b) all entrances and exits advising customers that CCTV is operating at the premises and will be always clearly legible when the premises conducts licensable activities.
 - c) at the entrance and exits stating that the premises has a zero tolerance towards drugs and weapons.
 - d) throughout the premises warning of potential criminal activity such as theft that may target customers shall be displayed.
 - e) outside the premises indicating the licensable hours and opening hours permitted under the premises licence.
 - f) throughout the premises advising customers that the premises operates a Challenge 25 proof of age scheme.
- 7) A Challenge 25 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence or passport.
- 8) A log shall be kept at the premises, and made available on request to an authorised officer of the Council or the Metropolitan Police Service, 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 faults in the CCTV system or searching equipment
 - e) any refusal of the sale of alcohol
 - f) any visit by a relevant authority, Metropolitan Police Service, London Ambulance Service or London Fire Brigade.
 - g) any CCTV images seized by Metropolitan Police Service or other relevant authority or supplied by license holder on request, including name of person requesting and name of person supplying
 - h) any attempted underage alcohol purchases
 - i) any acts of violence or criminal damage
 - j) any theft or attempted theft of alcoholic drinks
- 9) The premises licence holder will ensure that all staff are trained commensurate with their roles at the premises including:
- a) The Licensing Act 2003, responsibilities in supporting the four key objectives.
 - b) Crime Scene Preservations
 - c) Welfare and Vulnerability Engagement (WAVE) training. The premises licence holder will ensure that records of staff training are kept and made available to Responsible Authority Officers on request. The premises licence holder will ensure that refresher training is provided every 6 months.
- 10) The premises licence holder shall provide and maintain a dedicated telephone number of the designated premises supervisor for use by any responsible authority or any person who may wish to make a complaint during the

Licensing Panel E - Thursday, 2nd February, 2023

operation of the licence. This shall be provided upon request to the Licensing Authority and Metropolitan Police Service.

- 11) Deliveries of materials necessary for the operation of the business shall be carried out at such time or in such a manner as to prevent nuisance and disturbance to nearby residents.
- 12) The premises licence holder will devise and maintain the following policies:
 - a) Dispersal
This policy will include but not limited to:
 - i. How patrons leaving the premises will be directed away from the premises;
 - ii. How patrons will be informed of the services of taxi and private hire operators;
 - iii. What staff will be responsible for supervising those leaving the premises and how they will supervise such persons;
 - iv. Any 'wind' down periods;
 - v. Methods to prevent re-entry to the premises;
 - vi. How bottles and glasses will be prevented from being removed from the premises.
 - vii. The policy for winding down will begin at 02:00am. Last orders will be no later than 02:45am. The last customer to leave the premises will be no later than 03:30am.
 - b) Security
This policy will include but not limited to:
 - i. Clear expectations of staff roles (including the DPS, managers/supervisors and door supervisors);
 - ii. Staff training regarding identification of suspicious activity and what action to take;
 - c) Drugs, this will be a zero-tolerance policy with regard to the use/possession of controlled drugs and psychoactive substances
Including but not limited to:
 - i. Dealing with patrons suspected of using drugs on the premises;
 - ii. Scrutiny of spaces including toilets or outside areas;
 - iii. The handling of items suspected to be illegal drugs or psychoactive substances.
 - iv. Steps taken to discourage and disrupt drug use on the premises
 - v. Steps to be taken to inform patrons of the premises drug policy/practice.

Any changes to these documents will be notified to the Metropolitan Police within 48 hours of making the change.

- 13) When the premises is open past 00:00 they shall operate a last admittance policy for patrons whereby the last patron shall be admitted to the premises 90 minutes before closing time.

Licensing Panel E - Thursday, 2nd February, 2023

- 14) Windows and doors shall be closed at 22:00 when live or recorded music is playing except for the immediate entrance or egress of persons to or from the premises.
- 15) No person under 18 years of age shall be admitted to the premises or allowed to remain on the premises after 21:00 except in the company of an adult.
- 16) No patron temporarily allowed to leave to smoke, on High Holborn, will be allowed to take any glassware or drinking vessel from the premises whether empty or containing any beverage. This includes patrons using the smoking area.
- 17) In the event that a serious assault is committed on the premises (or appears to have been committed) the management will immediately ensure that:
 - a) The police (and, where appropriate, the London Ambulance Service) are called without delay;
 - b) All measures that are reasonably practicable are taken to apprehend any suspects pending the arrival of the police;
 - c) The crime scene is preserved to enable a full forensic investigation to be carried out by the police; and
 - d) Such other measures are taken (as appropriate) to fully protect the safety of all persons present on the premises.
- 18) No patrons, DJ's, performers, (along with their guests and entourage) or guests of staff will be admitted (or re-admitted) to the premises after 21:00, or when a promoted event is running unless:
 - a) They have had their ID scanned on entry;
 - b) They have been physically searched in accordance with the Premises' entry policy which will include a full bag search and;
 - c) The searching will be supplemented using two functional metal detecting wands operated by a male and (so far as reasonably possible) female door supervisor dedicated to that duty either until the end of permitted hours or until there are no further admissions. Where a female Door Supervisor is not available this shall be logged.
 - d) They comply with the following dress code; individuals wearing hats and/or hoodies shall be refused entry until such items are removed from the customer's head.

Further:

 - e) No patron carrying visibly open or sealed alcohol vessels shall be admitted to the premises at any time that the premises are open for any licensable activities.
- 19) The licence holder will conduct a vigorous vetting procedure for any Private Party, Promoter (and their known associates), DJ or artist or outside agent. This vetting must be documented and should consider any open-source

Licensing Panel E - Thursday, 2nd February, 2023

material, and reference checks. If there are any concerns these should be communicated to the Metropolitan Police at least 14 days before the event.

- 20) Mr Antony HOXHA and Wale OGUNYE are not to be employed in any capacity on or at the premises or involved in the management of the premises either directly or indirectly.
- 21) Mr Antony HOXHA and Wale OGUNYE are not to enter the premises at any time in any capacity whilst licensable activities are taking place.
- 22) The area in Fulwood Place, shall be clear of customers by 23:30. Further when the area is in use, there will be one (1) SIA Door Supervisor dedicated to this area. After this time any patrons smoking must do so on High Holborn.
- 23) No more than eight (8) customers shall be permitted to smoke outside the premises on High Holborn at any one time. The premises will have a designated smoking area located on the terrace in front of the premises on High Holborn. This policy will be in operation whenever this area is in use.
- 24) Non-alcoholic beverages shall be available throughout the premises opening hours.
- 25) All patrons will be off the premises no later than 60 mins after the end of licensable activities.
- 26) The areas marked on the plan will be laid out with chairs and tables and alcohol will be supplied by waiter service to customers at their table
- 27) Alcoholic beverages can only be sold to and consumed by customers outside of the premises on Fulwood Place when sat at a table covered by a tables and chairs license where required.
- 28) That the previous licence and conditions be surrendered upon the new licence and conditions being granted on 2 February 2023.

ACTION BY: Executive Director, Supporting Communities

8. KISS THE SKY (FORMERLY TRUFLESECCO) 11-13 CAMDEN HIGH STREET, LONDON, NW1 7JE

Consideration was given to a report of the Executive Director Supporting Communities detailing an application for seven temporary event notices under Section 100 of the Licensing Act 2003.

Licensing Panel E - Thursday, 2nd February, 2023

The Licensing Officer, Sarah Williams, summarised the report. Since publication of the main agenda, the following information was included within the supplementary agenda:

- Submitted by the Agent: Kiss The Sky evidence bundle and Kiss The Sky venue photos.
- Submitted by Environmental Health: Environmental Health and Agent emails, Noise Officer report, Police report, Police Photos, Warning letter from Environmental Health, and Environmental Health objection.

The Environmental Health Officer responsible authority, Lee Perella, summarised his representation and additional papers (page 210 of the main agenda and pages 73-84 of the supplementary agenda). In addition to the written representation, he outlined the following:

- He believed the venue was looking to operate as a livelier venue than what their conditions allowed. The temporary event notice applications were seeking more flexibility, at an already drinks-led venue. In previous Police visits to the venue, it was clear venue was not operating with their current conditions and demonstrated a lack of knowledge from staff.
- The only way to assess how affective the recently fitted sound limiting methods would be to carry out an assessment at the adjoining property.
- The venue was a small premises with no lobby and therefore a greater risk of sound nuisance.
- Currently, Environment Health were not convinced the application demonstrated the works carried out so far to mitigate noise were fit for purpose for the venue and would prevent further complaints. He stated that if the Panel were minded, they could consider granting one or two notice to allow more time to assess the situation and that the venue was suitable.

The Agent, Luke Elford, was accompanied by the Applicant, Mr Ray. In addition to the papers and application, the Agent outlined the following:

- The venue was initially marketed to the Applicant as a bar venue. When issues arose following the opening, immediate measures and efforts were put in place to promote the licensing objectives.
- There were 83 conditions on the current licence. He said this number was extensive and complex for this operation, at points unclear to even an experienced licencing officer, and contradictory in parts.
- The Police had advised the Applicant to apply for a series of temporary event notices and apply for a new license, which an application had been submitted and would be considered by a panel in due course . No objections had been made by the Police on the temporary event notice applications. Multiple temporary event notices we applied for to allow for business continuity of the venue.
- The Agent had found communication with Environmental Health not satisfactorily responsive, which included invitations to Environmental Health carry out sound tests. Also, some communication to the Agent had not been sent to the right address.
- He noted that noise assessments in the adjoining property were taking place within the next few days. He stated that the Applicant was in the process of taking over the upstairs flat, when the residents contract ended.

In response to questions, the Agent clarified the following:

- The initial complaint arose following the first night of the venue opening from a resident because they were surprised the venue had opened. The Applicant had since engaged with the resident.
- It was confirmed that there were no specific events planned for any of the dates on the temporary event notices, such as live acts. There would be DJs whose music would go through a sound limiter using the venues in-house music equipment. He added that they did not offer dry-hires of the venue. There were arrangements for staff, security and customer bookings for the proposed dates.
- The Applicant stated that the venue had maximum seating capacity of 30 covers, which included bar seating.
- It was confirmed there was a team of security. The entry and exit of the venue would be managed and the door would be kept shut. A dispersal policy managed the winddown of the evening.

In their closing remarks, Lee Perella stated the following:

- He understood the venue was trying to change for a new purpose, however the correct set up needed to be in place to make this a feasible operation.
- He understood the need for business continuity, however Environmental Health needed assurances the licensing objectives would be promoted.

In their closing remarks, Luke Elford asked the Panel that if they were minded to not grant the full set of temporary event notice applications, and needed reassurance before granting further applications, request that the Panel could factor in the time limits required to make further applications and the costs involved for the Applicant.

Decision and Reasons

In their deliberations, the Panel noted that Environmental Health made a strong case for the resident and the risk of nuisance they were subject to. It was also noted that the high number of notices, on successive weekends, was a concern at a stage when that reassurance was not fully satisfied. It was positive hearing the number of sound limiting mitigations the Applicant had installed, but they required further testing to see if they were fit for purpose for the venue. The Panel was concerned for the property above.

The Panel also considered the need for business continuity of the venue and the need test, therefore granting a notice would enable a practical assessment. They did not feel additional conditions should be placed on the venue, and that negotiation should continue with the Applicant and Environmental Health. If the Panel were to grant a few notices, then the Applicant had the opportunity to apply for later notices in due course.

The Panel was at points minded to refuse, however through deliberations they conceded to the interest of natural justice and the providing opportunity to the venue to assess their ability to responsibly operate.

RESOLVED –

i) THAT temporary event notice applications, detailed in section 1.1 a) 2. – 4. of the report, be GRANTED for:

- a) 10th until 12th February 2023**
Friday 17:00 – Saturday 01:30
Saturday 17:00 – Sunday 01:30
- b) 17th until 19th February 2023**
Friday 17:00 – Saturday 01:30
Saturday 17:00 – Sunday 01:30
- c) 25th until 26th February 2023**
Friday 17:00 – Saturday 01:30
Saturday 17:00 – Sunday 01:30

ii) THAT the remaining temporary event notices applications considered, detailed in section 1.1 a) 1 and 5. - 7. of the report, be REJECTED in their entirety.

ACTION BY: Executive Director, Supporting Communities

9. ANY OTHER BUSINESS THAT THE CHAIR CONSIDERS URGENT

There was no urgent business.

The hearing ended at 1.05 pm.

CHAIR


Contact Officer: Anoushka Clayton-Walshe
Telephone No: 020 7974 8543
E-Mail: licensing.committee@camden.gov.uk

MINUTES END

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Agenda Item 7

APPLICATION TO VARY A PREMISES LICENCE UNDER SECTION 34 OF THE LICENSING ACT 2003

LONDON BOROUGH OF CAMDEN	<u>FOR SUBMISSION TO:</u> Licensing Panel	<u>DATE:</u> 18 May 2023
<u>REPORT OF:</u> Executive Director Supporting Communities	<u>CONTACT OFFICER:</u> Dennis Viechweg, Licensing Officer, Licensing Team, 5 Pancras Square, London, N1C 4AG. Tel: 020 7974 2152 Email: Dennis.Viechweg@camden.gov.uk	
<u>PREMISES:</u> Spiritual Caipirinha Bar, 4 Ferdinand Street, London NW1 8ER	<u>WARD:</u> Haverstock	
Local Government Act 1972 – Access to Information - Documents used in the preparation of this report	1) The Licensing Act 2003 (“the Act”) 2) Camden Statement of Licensing Policy 2022-2027 (“the Policy”) 3) Amended Guidance issued under section 182 of the Licensing Act 2003 (December 2022) (“the Guidance”)	
Appendices	Appendix 1) Map of premises Appendix 2) Application form Appendix 3) Current premises licence Appendix 4) Relevant representations Appendix 5) Conditions consistent with the operating schedule Appendix 6) Legal and finance comments	
<p>Signed by Jamie Akinola, Director of Public Safety</p>  <p>Date: 5th May 2023</p>		

1. Application

1.1 This is an application to vary a premises licence under section 34 of the Licensing Act 2003. **Appendix 2**

1.2 The premises are licensed for:

- a) Supply of Alcohol (For consumption on the premises)
10.00-23.30 Sunday to Thursday
10.00-00.30 Friday and Saturday
- b) Plays
16.00-00.00 Sunday to Thursday
16.00-01.00 Friday and Saturday
- c) Films
16.00-00.00 Sunday to Thursday
16.00-01.00 Friday and Saturday
- d) Live Music
10.00-23.00 Sunday to Thursday
10.00-00.00 Friday and Saturday
- e) Recorded Music
10.00-23.00 Sunday to Thursday
10.00-00.00 Friday and Saturday
- f) Facilities for Dancing
10.00-23.00 Sunday to Thursday
10.00-03.00 Friday and Saturday
- g) Opening Hours
10.00-00.00 Sunday to Thursday
10.00-01.00 Friday and Saturday

1.3 The application is for:

Variation to Existing Licensable Activity and times:

- a) Supply of Alcohol (For consumption on the premises)
10.00-00.30 Sunday to Thursday
10.00-01.30 Friday and Saturday
- b) Live Music
10.00-00.30 Sunday to Thursday
10.00-01.30 Friday and Saturday
- c) Recorded Music
10.00-00.30 Sunday to Thursday
10.00-01.30 Friday and Saturday
- d) Opening Hours
07.00-01.00 Monday to Thursday
07.00-02.00 Friday and Saturday
07.00-01.00 Sunday

2. Representations

- 2.1 One relevant representation has been received in relation to the application.
- 2.2 The representation opposes the application and is from the Police, responsible authority.

Appendix 3

3. Policy

Licensing objectives (Chapter Four Page 20 to 35 of the Policy)

- 3.1 The licensing objectives engaged by this application are:

- a) The Prevention of Crime and Disorder
- b) The Prevention of Public Nuisance

Cumulative Impact Policy Area (Chapter Six- Page 39 to 44 of the Policy)

- 3.2 The premises are situated in the Camden Town cumulative impact policy area where there is a presumption to refuse all new or variation applications. The presumption is rebuttable.

Hours policy (Chapter Five- Page 36 to 38 of the Policy)

- 3.3 The hours policy is engaged by this application in relation to the proposed times for licensable activities. The framework hours are given in the policy as:

Alcohol On Sales

Monday to Thursday 10:00 am until 11:30 pm
Friday and Saturday 10:00 am until midnight
Sunday 11:00 am until 10:30 pm

- 3.4 The times for the framework hours on any given day are not (and should not be regarded as) the “usual” or “normal” working hours for licensable activities in the Borough. Instead, the framework hours serve to identify those cases where the Licensing Authority will pay particular regard to the likely effect on the local neighbourhood of carrying out the proposed licensable activities.

Women’s Safety (Appendix One – Page 88 to 89 of the Policy)

- 3.5 The council has adopted a set of principles that commit our licensed premises to act in a responsible manner, taking all forms of female harassment seriously and set out the practical steps licensed premises can take to support this.

The principles encourage all licensed premises to consider and implement them in the day to day operation of their premises and include:

- a. Let's Communicate
- b. Supporting Each Other
- c. Training for All

The application does not include these principles.

Premises Policy (Chapter Seven – Page 46 to 67 of the Policy)

- 3.6 The premises policies currently engaged by this application are:
- a) Restaurants, cafes and coffee houses
 - b) Premises supplying hot food and drink between 11:00 pm and 05:00 am

4. Secretary of State's Guidance

- 4.1 The relevant parts of the Secretary of State's Guidance ("the Guidance") for this application are:
- a) Chapter 2 - The Licensing Objectives
 - b) Chapter 3 - Licensable Activities
 - c) Chapter 8 - Applications for Premises Licences
 - d) Chapter 9 - Determining Applications
 - e) Chapter 10 - Conditions Attached to Premises Licences and Club Premises Certificates.

5. Recommendations

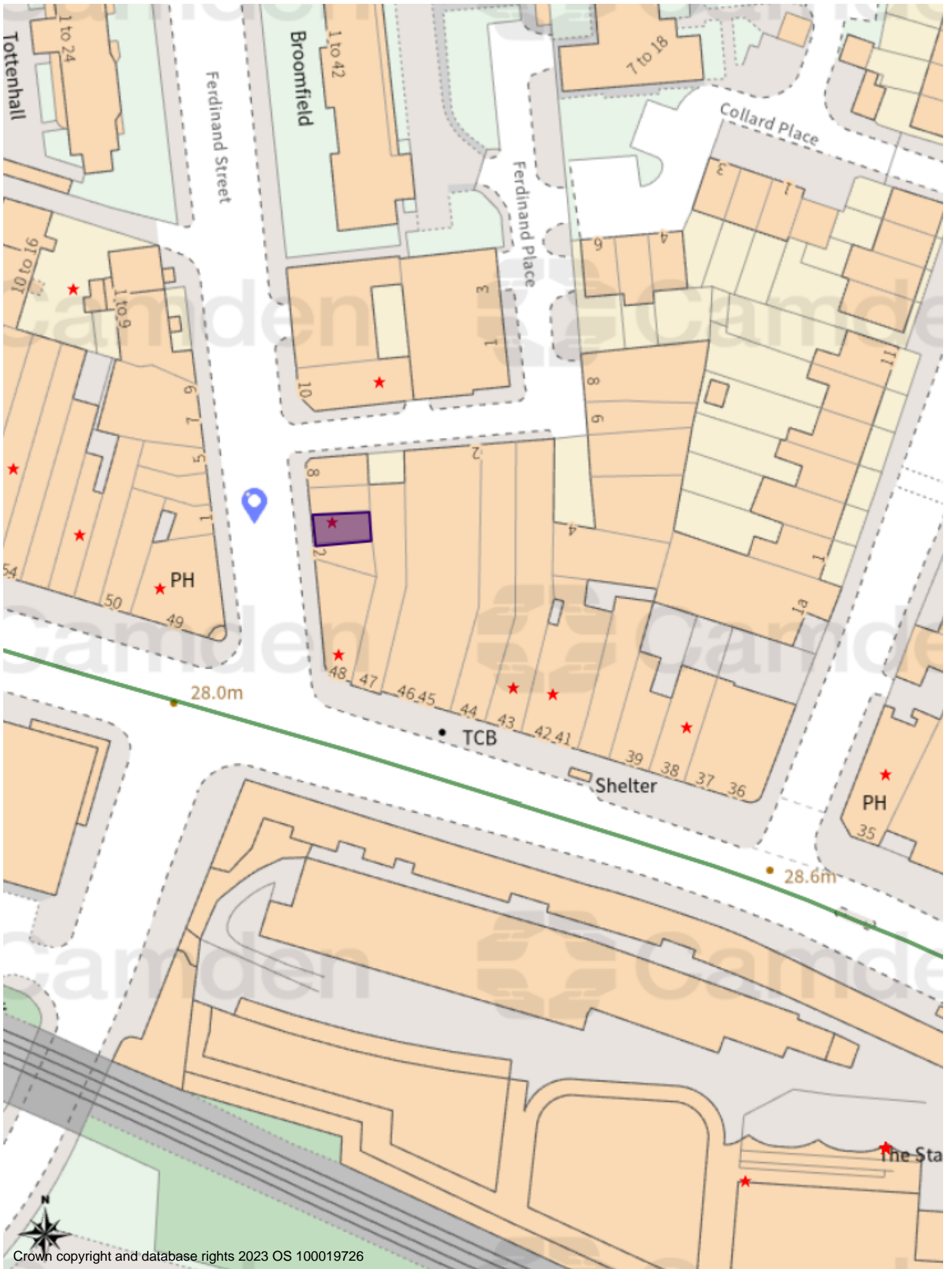
- 5.1 To determine the application to vary a premises licence under section 35 the Licensing Act 2003.
- 5.2 Having considered the application, the representation(s) submitted in relation to this application, the legislative provisions, the Statement of Licensing Policy, and the Guidance issued by the Secretary of State, Members have the following options:
- a) Grant the application in full with such conditions on the licence that are consistent with the operating schedule.
 - b) Grant the application subject to revised conditions that they consider appropriate to promote the licensing objectives.
 - c) Reject the whole or part of the application.

- 5.3 Members may attach additional conditions if they consider it appropriate for the promotion of the licensing objectives raised in the representations.
- 5.4 Members are reminded that all applications must be considered on their own merits, and that findings on any issues of fact should be on the balance of probability.

6. Conclusion

- 6.1 Members are required to consider the application in light of all the relevant information, and if approval is given, may attach such conditions appropriate to promote the licensing objectives.

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Application for full variations to a licensed premises - Ref no. 114268

Are you able to return the existing premises licence or club certificate?	No
What do you want to vary?	Premises licence : PREM-LIC\3025
Who is making the variation?	The licensee
Correspondence details	
Who should we correspond with in regards to this application?	Premises
What type of variation are you applying for?	Full variation
What is the non-domestic rateable value (NDRV) of the premises?	10800
Will the variations mean the premises is used exclusively or primarily to sell or supply alcohol?	No
Will the variations change the expected attendance?	No
When do you want the variations to take effect?	As soon as possible
What changes do you want to make?	<ul style="list-style-type: none">• Amend premises information and premises business hours
Amend seasonal variations to business hours?	No

Application for full variations to a licensed premises - Ref no. 114268

Amend times the premises open to the public at times other than those listed? No

Make changes to your business hours below

Day	Start time	End time
Monday	07:00	01:00
Tuesday	07:00	01:00
Wednesday	07:00	01:00
Thursday	07:00	01:00
Friday	07:00	02:00
Saturday	07:00	02:00
Sunday	07:00	01:00

Will any of the changes made give rise to concerns in respect of children? No

The prevention of crime and disorder No

Public safety No

The prevention of public nuisance No

The prevention of children from harm No

About this form

Issued by Camden Town Hall
Judd Street
London
WC1H 9JE

Application for full variations to a licensed premises - Ref no. 114268

Contact phone 020 7974 4444

Form reference Ref. no. 114268

Data protection

No personal information you have given us will be passed on to third parties for commercial purposes. The Council's policy is that all information will be shared among officers and other agencies where the legal framework allows it, if this will help to improve the service you receive and to develop other services. If you do not wish certain information about you to be exchanged within the Council, you can request that this does not happen.

Thank you for your email. We just want to change the times of activities. We want to sell alcohol and play music from Sunday to Thursday until 12:30 and close at 1am. On Fridays and Saturdays we want to play music and sell alcohol until 1:30 and close at 2am.

We think that extending our license 1 more hour would help us a lot to run our business a bit better as you may be aware that it is been very difficult for bars and restaurants as we had all prices increased etc.

Many thanks

London Borough of Camden, Town Hall Extension, Argyle Street,
London, WC1H 8EQ

Premises Licence

London Borough of Camden Licensing Authority

Premises licence number PREM-LIC\3025

Part 1 – Premises details

Postal address of premises, or if none, ordnance survey map reference or description SPIRITUAL CAIPIRINHA BAR 4 FERDINAND STREET LONDON NW1 8ET	
Telephone number	N/A

Where the licence is time limited the dates N/A

Licensable activities authorised by the licence

(a) Plays	Yes
(b) Films	Yes
(e) Live Music	Yes
(f) Recorded Music	Yes
(j) Facilities for Dancing	Yes
Retail of Alcohol:	Yes

The times the licence authorises the carrying out of licensable activities

(a) Plays Sunday to Thursday Friday to Saturday	16:00 -00:00 16:00 -01:00
(b) Films (Indoors): Sunday to Thursday Friday to Saturday	16:00 -00:00 16:00 -01:00
(e) Live Music (Indoors): Sunday to Thursday Friday to Saturday	10:00 -23:00 10:00 -00:00
(f) Recorded Music (Indoors): Sunday to Thursday Friday to Saturday	10:00 -23:00 10:00- 00:30
(j) Facilities for Dancing Sunday to Thursday Friday to Saturday	10:00 - 23:30 10:00 - 00:30
Retail of Alcohol: Sunday to Thursday Friday to Saturday	10:00 -23:30 10:00 -00:30

The Opening Hours of the Premises	
Sunday to Thursday	10:00 -00:00
Friday to Saturday	10:00 -01:00

Where the licence authorises supplies of alcohol whether these are on and/or off supplies

Sale by Retail of Alcohol is permitted for consumption ON the premises only

Part 2

Name, (registered) address, telephone number and e-mail (where relevant) of holder of premises licence

SPIRITUAL BAR & RESTAURANT LTD
4 FERDINAND STREET
LONDON
NW1 8ER

Registered number of holder, for example company number, charity number (where applicable)

7065394

Name, address and telephone number of designated premises supervisor where the premises licence authorises the supply of alcohol

Rafael Flosi Pesce

██████████
██████
██████-

Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises the supply of alcohol

██████████

Signed on behalf of the Director, Culture and Environment Directorate
Date Licence Amended: 5th July 2012 APP\PREMISES-VARYDPS\002469
Date Licence Amended: 10th June 2010 APP\PREMISES-VARY\000542
Date Licence Amended: 20th April 2010 APP\PREMISES-TRANS\000635
Date Licence Amended: 20th April 2010 APP\PREMISES-VARYDPS\001680
Date Licence Granted: 27th August 2008 APP\PREMISES-NEW\000691

Annex 1 - Mandatory conditions

1. The supply of alcohol is prohibited at a time when there is no designated premises supervisor in respect of the premises.
2. The supply of alcohol is prohibited at a time when the designated premises supervisor does not hold a personal licence or his/her licence is suspended.
3. Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.
4. Where a premises licence includes a condition that at specified times one or more individuals must be at the premises to carry out a security activity, the licence must include a condition that each such individual must
 - (a) be authorised to carry out that activity by a licence granted under the Private Security Industry Act 2001; or
 - (b) be entitled to carry out that activity by virtue of section 4 of that Act.
5. But nothing in subsection (4) requires such a condition to be imposed -
 - (a) in respect of premises within paragraph 8(3)(a) of Schedule 2 to the Private Security Industry Act 2001 (c. 12) (premises with premises licences authorising plays or films), or
 - (b) in respect of premises in relation to -
 - (i) any occasion mentioned in paragraph 8(3)(b) or (c) of that Schedule (premises being used exclusively by club with club premises certificate, under a temporary event notice authorising plays or films or under a gaming licence), or
 - (ii) any occasion within paragraph 8(3)(d) of that Schedule (occasions prescribed by regulations under that Act).
6. For the purposes of this section
 - (a) "security activity" means an activity to which paragraph 2(1)(a) of that Schedule applies[and which is licensable conduct for the purposes of that Act (see section 3(2) of that Act)], and
 - (b) paragraph 8(5) of that Schedule (interpretation of references to an occasion) applies as it applies in relation to paragraph 8 of that Schedule.
7. (1) The responsible person shall take all reasonable steps to 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 in a manner which carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance, or harm to children

(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 (other than any promotion or discount available to an individual in respect of alcohol for consumption at a table meal, as defined in section 159 of the Act);

(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;

(d) provision of free or discounted alcohol in relation to the viewing on the premises of a sporting event, where that provision is dependent on

(i) the outcome of a race, competition or other event or process, or

(ii) the likelihood of anything occurring or not occurring;

(e) 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.

8. The responsible person shall ensure that no alcohol is dispensed 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).
9. The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.
10. (a) The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.
(b) 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 a holographic mark.

11. The responsible person shall 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: 1/2 pint;
 - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
 - (iii) still wine in a glass: 125 ml; and
 - (b) customers are made aware of the availability of these measures.
12. Where a premises licence authorises the exhibition of films, the licence must include a condition requiring the admission of children to the exhibition of any film to be restricted in accordance with this section.
13. Where the film classification body is specified in the licence, unless subsection (3)(b) applies, admission of children is must be restricted in accordance with any recommendation made by that body.
14. Where -
 - (a) the film classification body is not specified in the licence, or
 - (b) the relevant licensing authority has notified the holder of the licence that this subsection applies to the film in question, admission of children must be restricted in accordance with any recommendation made by that licensing authority.
15. In this section -

"children" means persons aged under 18; and "film classification body" means the person or persons designated as the authority under section 4 of the Video Recordings Act 1984 (c.39) (authority to determine suitability of video works for classification).

Annex 2 - Conditions consistent with the Operating Schedule

16. All plays within the premises shall be redistricted to small acts with either one or two actors.
17. Live music in the premises will be restricted to a maximum of 3 performers only.
18. Facilities for dancing will be permitted on the first floor of the premises only.
19. There will be zero tolerance to drug misuse.
20. Children will only be permitted at tables away from the bar area until 23:00 when accompanied by an adult.

Annex 3 - Conditions attached after a hearing by the licensing authority 10/06/2010

21. CCTV system shall be installed and working to the satisfaction of the Police and

Licensing Authority.

22. CCTV to operate at all times whilst the premises remains open to the public (including during any “private parties/events”) and all images captured to be recorded and stored on site and to be accessible by at least one member of staff on duty at all times if required.
23. Recordings shall be of a sufficient quality to identify persons on the recordings.
24. Recordings shall be maintained for a minimum period of 31 days.
25. Copies of the recordings shall be made available to the Police and/or the Licensing Authority on request within 48 hours of the request being made.
26. If the CCTV equipment is inoperative, or is otherwise not installed and working to the satisfaction of the Police and Licensing Authority, then within 48 hours the Police to be notified and an estimate given of the repair time scale and the premises to comply with all reasonable requests from the Police which may include the suspension of licensable activities if necessary.
27. Notices shall be displayed at the entrance to the premises, and in prominent positions throughout the premises, advising that CCTV is in operation.
28. For the purpose of these CCTV conditions 'the Police' refers to the licensing/partnership office of Holborn Police Station, and 'the Licensing Authority' refers to the Licensing Authority of the London Borough of Camden.
29. The Police must be called to any incident of disorder within the premises or relating to customers from the venue.
30. Only valid photo ID shall be accepted, namely driving licence or passport and any refusals of entry should be recorded in the incident book as soon as practicable.
31. There shall be no admittance to the venue after 01:00 Hours on any night the venue is open to the public.
32. The venue shall increase lighting inside and play more chilled out music at least 30 minutes before time permitted to supply alcohol as shown on the premises licence.
33. An incident log book to be maintained on the premises at all times it remains open to the public and must be made available immediately on request of the Police or Licensing Authority.
34. All staff shall be trained and evidence of this documented in the following areas
 - Sales of alcohol to underage customers.
 - Identification of drunk or drug impaired customers.
35. The venue shall adopt a "Challenge 25" style policy for entry and serving people at the bars at all times the venue remains open to the public.
36. A suitable method of controlling the capacity of all areas of the venue, in line with the current fire risk assessment, to be employed at all times and clearly documented so that it can be shown to Police or Licensing Authority on request.
37. All training documents shall be made available at all times when requested by Police or Licensing Authority.

38. There shall be no alcohol allowed in to the smoking area at any time and the smoking area shall be restricted to 8 patrons at any time.
39. Notices shall be displayed in prominent positions and at the exits to remind customers to leave quietly and respect the residential neighbours.
40. The Venue shall offer a taxi service for patrons and an area for the patrons to wait which will not disrupt the local residents.
41. The venue must have a documented policy and procedures put in place to securely store any of the following items until the police are contacted within 24 hours to collect them:
 - (a) Any drugs found on customers or within the venue.
 - (b) Any weapons found on customers or within the venue.





**METROPOLITAN
POLICE**

TOTAL POLICING

Camden Licensing Authority

Town Hall Extension
Argyle St
London

WC1H 8EQ

EK - Camden Borough

Licensing Unit
Room 1.22
Kentish Town Police Station
12a Holmes Rd
London
NW5 3AE

Telephone: [REDACTED]

Email: [REDACTED]

Your ref: **VARY\114268**

Dear Sir/Madam

RE: Application VARY\114268

Spiritual Caipirhina Bar, 4 Ferdinand Street, NW1 8ER

With reference to the above Application, the **Metropolitan Police Service (MPS)** wishes to **make a Representation.**

Case Law

Daniel Thwaites PLC v Wirral Magistrates' Court and Others

This case, referred to as 'the Thwaites case', is important because it emphasises the important role that Responsible Authorities have in providing information to decision makers to contextualise the issue before them. This case is sometimes misconstrued as requiring decisions to be based on 'real evidence', and that conditions cannot be imposed until problems have actually occurred. This is wrong. The purpose of the Act is to prevent problems from happening. Decisions can and should be based on well-informed common sense. The case recognises that Responsible Authorities are experts in their fields, and that weight should be attached to their representations.

The Honourable Mrs Justice Black said:

'Drawing on local knowledge, at least the local knowledge of local licensing authorities, is an important feature of the Act's approach. There can be little doubt that local magistrates are also entitled to take into account their own knowledge but, in my judgment, they must measure their own views against the evidence presented to them. In some cases, the evidence presented will require them to adjust their own impression. This is particularly likely to be so where it is given by a Responsible Authority such as the police.'

Source: [Alcohol licensing: using case law - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

This Application is based within the Camden Town Cumulative Impact Zone (CIZ) and therefore there is a presumption, based on the Borough Council's own Licensing Policy, that any New or Variation Application will be refused; due to the effects of cumulative impact. The MPS supports the Policy, especially in respect of the impact to Alcohol Harm.

Camden Borough has the 4th largest Night Time Economy in the UK (source: Night Mix Index, Make Associates)

UNIQUE APPLICATION ISSUES:

This application refers to a variation for an amendment of operating hours and licensable activities for PREM-LIC\3025.

The applicant is requesting to extend the hours of operation by an hour each day. They have also applied to extend the retail of alcohol by 1 hour each day with a terminal time of 0030 hours Sunday – Thursday and until 0130 hours on a Friday and Saturday. They have applied to extend live music by an extra 1.5 hours each day.

This extension of hours would be in direct conflict of the prevention of crime and disorder and preventing a public nuisance licensing objectives.

It is crime and disorder on the street involving visitors who have been and left the late night venues, which causes the majority of the issues in this part of Camden.

This premises is situated just a few metres from Chalk Farm Road where there is a high volume of crime reported particularly in the early hours of the morning.

If necessary the Police can provide in depth statistics showing the crimes that occur within the immediate area of this venue.

Conditions Offered/Recommended

For clarity, the MPS supports Camden Council's Licensing Policy with regards to the presumption to refuse new or variation applications within a cumulative impact zone. The MPS would therefore recommend that this application be refused in its entirety.

Mindful however, that the Applicant may successfully rebut the policy; or the Panel decides of its own volition to grant the Application, the MPS would then strongly recommend the Panel consider imposing the below conditions on any granted application.

- 1) A minimum of two 2 SIA-registered door supervisors shall be employed at the premises until 30 minutes after close with a log sheet to be kept (and available immediately to the Police upon request) showing who was working on any given night that the Police visit the venue.
- 2) SIA to ensure that all patrons have dispersed from the immediate area outside the venue at the end of operating hours.

Conclusion

To conclude, this application should be rejected in its entirety. The venue sits within the Camden Town CIZ. This CIZ was brought into place following research by the council that identified this area as having a higher concentration of licensed premises that undermine the licensing objectives.

The MPS support the existence of the Camden Town CIZ and its recommended framework hours, it is our belief that if a further extension outside of these hours were to be granted, there would be a negative impact on the promotion of the licensing objectives.

PC [REDACTED] – Camden Licensing Team
Kentish Town Police Station, 12a Holmes Road, NW5 3AE



CENTRAL NORTH
Policing Camden & Islington

[Click to see what we are doing for you on Twitter @MPSCamden](#)

[Click here to see what we are doing for you @MPSIslington](#)

Conditions consistent with the operating schedule

No further conditions added to the original operating schedule.

Current Conditions consistent with the Operating Schedule

16. All plays within the premises shall be redistricted to small acts with either one or two actors.

17. Live music in the premises will be restricted to a maximum of 3 performers only.

18. Facilities for dancing will be permitted on the first floor of the premises only.

19. There will be zero tolerance to drug misuse.

20. Children will only be permitted at tables away from the bar area until 23:00 when accompanied by an adult.

Annex 3 - Conditions attached after a hearing by the licensing authority

10/06/2010

21. CCTV system shall be installed and working to the satisfaction of the Police and Licensing Authority.

22. CCTV to operate at all times whilst the premises remains open to the public (including during any "private parties/events") and all images captured to be recorded and stored on site and to be accessible by at least one member of staff on duty at all times if required.

23. Recordings shall be of a sufficient quality to identify persons on the recordings.

24. Recordings shall be maintained for a minimum period of 31 days.

25. Copies of the recordings shall be made available to the Police and/or the Licensing Authority on request within 48 hours of the request being made.

26. If the CCTV equipment is inoperative, or is otherwise not installed and working to the satisfaction of the Police and Licensing Authority, then within 48 hours the Police to be notified and an estimate given of the repair time scale and the premises to comply with all reasonable requests from the Police which may include the suspension of licensable activities if necessary.

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28. For the purpose of these CCTV conditions 'the Police' refers to the licensing/partnership office of Holborn Police Station, and 'the Licensing Authority' refers to the Licensing Authority of the London Borough of Camden.

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Identification of drunk or drug impaired customers.
35. The venue shall adopt a "Challenge 25" style policy for entry and serving people at the bars at all times the venue remains open to the public.
36. A suitable method of controlling the capacity of all areas of the venue, in line with the current fire risk assessment, to be employed at all times and clearly documented do that it can be shown to Police or Licensing Authority on request.
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38. There shall be no alcohol allowed in to the smoking area at any time and the smoking area shall be restricted to 8 patrons at any time.
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41. The venue must have a documented policy and procedures put in place to securely store any of the following items until the police are contacted within 24 hours to collect them:
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 - (b) Any weapons found on customers or within the venue.

Section 1: Background comments of the Borough Solicitor

- 1.1 The purpose of Camden's Statement of Licensing Policy is to make it clear to applicants that wider considerations will be taken into account when determining applications. It is intended to guide the Licensing Panel when considering licence applications. However, the Licensing Panel must always consider each application on its own merits and allow exceptions to the normal policy where the circumstances of the application justify allowing an exception. The burden is on the applicant to show that they comply with the policy.
- 1.2 Members should only address those matters that have formed the subject matter of relevant representations. Matters that arise that are not the subject of relevant representations fall outside the function that the Panel is exercising when it holds a hearing
- 1.3 Members must determine, having regard for the evidence, whether granting the application for a premises licence will impact adversely on the policy criteria listed in paragraph 3 of this report.
- 1.4 In accordance with the provisions of Part 1 of Schedule 5 of the Act, where a Licensing Authority rejects in whole or in part, an application for a new premises licence, the applicant may appeal against the decision, to a magistrate's court within 21 days of being notified of the decision.
- 1.5 Similarly, where a person who made relevant representations in relation to the application contends that the licence ought not to have been granted, or that different or additional conditions should have been imposed on the licence, he may appeal against the decision to a magistrate's court within 21 days of being notified of the decision.
- 1.6 **The Human Rights Act 1998** incorporates the key articles of the European Convention on Human Rights into domestic law. Decisions on licensing matters are actions of a public authority and must be compatible with Convention rights. Consequently, Members of the Panel must be aware of the rights contained in the Convention (particularly those set out below) when making licensing decisions.
- (a) **Article 6: Right to a fair trial**
In the determination of his civil rights and obligations, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.
- (b) **Article 8: Right to respect for private and family life**
Everyone has a right to respect for his or her private life, his home and correspondence.

(c) Article 1 of the First Protocol: Protection of property

Every natural or legal person is entitled to the peaceful enjoyment of his possessions, including a licence. No one shall be deprived of his possession except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

(d) Article 10: Freedom of Expression

Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.

The exercise of these freedoms since it carries with it duties and responsibilities may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health and morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

(e) Article 14: Prohibition of discrimination

The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth, or other status.

- 1.7 When formulating policy local authorities must have regard to the **Equality Act 2010**. The Act provides protection from discrimination in respect of certain protected characteristics, namely: age, disability, gender reassignment, pregnancy and maternity, race, religion or beliefs and sex and sexual orientation. It places the Council under a legal duty to have due regard to the advancement of equality in the exercise of its powers including licensing powers. Members of the panel must be mindful of this duty when determining all licensing applications.

The section 149 Public Sector Equality Duty

(1) A public authority must, in the exercise of its functions, have due regard to the need to—

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

(2) A person who is not a public authority but who exercises public functions must, in the exercise of those functions, have due regard to the matters mentioned in subsection (1).

(3) Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to—

(a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
 (b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;
 (c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

(4) The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.

(5) Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to—

(a) tackle prejudice, and
 (b) promote understanding.

(6) Compliance with the duties in this section may involve treating some persons more favourably than others; but that is not to be taken as permitting conduct that would otherwise be prohibited by or under this Act.

1.8 In determining any application, the Council must comply with the public sector equality duty in s.149 of the 2010 Act. This is a duty to have regard to the need to achieve the statutory goals of s.149, rather than to achieve a particular result. The s149 duty sits alongside and does not override statutory requirements in relation to determining licensing applications, including the duty to consider all evidence on its merits and the legislative criteria listed at paragraphs 3 & 4.

1.9 When members have before them representations or other material on issues relevant to s149, even outside the scope of “standard” licensing considerations such material must still be specifically assessed in the context of s149. However, because s149 creates a requirement to “have regard” the fact a matter raised is relevant to s149 will not automatically translate into a reason for refusing an application that would be sustainable in any subsequent appeal, given the legal requirement to determine applications in compliance with licensing legislation.

Section 2: Financial Comments

- 2.1 Following consideration there are no financial implications concerning this application. The Executive Director Corporate Services has been consulted in the preparation of this report and has no further comments to add.