

MINUTES OF THE LICENSING SUB COMMITTEE

HELD ON 4 MAY 2012 AT 10:14 AM

APPLICANT : MR DONALD PEDLEY

PREMISES: CARTER ROOMS, 56-58 CARTER LANE,
LONDON EC4V 5EA

PRESENT

Panel

Alderman Simon Walsh (Chairman)

Ms Marianne Fredericks

Dr Peter Hardwick

In attendance

Julie Mayer Town Clerks

Paul Chadha Comptroller and City Solicitor

Peter Davenport Licensing Department

Applicant Mr Donald Pedley

Local residents Mr M Rance; Mr A Sanalito; Ms Verschoor; Ms Kurahone; Dr L Wright; Mr S Barnes

Common Councilmen Ms Henrika Priest; Ms Virginia Rounding (local wards)

Police Ins. R Jones; Mr J Hall; PCSO G Short

Environmental Health Andrew Dawson; Tony Bride

Licensee Mr J Hallows – Director of Carter Rooms;
Mr R Prado – Manager of Carter Rooms
(Applicant's Legal Representative)

Licensing Act 2003 (Hearings) Regulations 2005

1. A hearing was held in Committee Room 1, Guildhall, London, EC2 to consider the application by the City Police for a review of the premises licence for Carter Rooms, 56-58 Carter Lane, London EC4V 5EA
2. The Sub Committee had before them a report of the Director of Markets and Consumer Protection, which appended copies of:-

Appendix 1: Copy of Review Application

- 1a: Minutes of Meeting held on 25 March 2011
- 1b: Memorandum of Understanding between City of London Police Licensing Team and Carter Rooms
- 1c: Extract from hearing held on 9 March 2011
- 1d: Video Evidence from Mr Pedley [available separately on a memory stick marked Carter Rooms ONE]
- 1e: Letter from Mr Pedley detailing format of video evidence
- 1f: Complaint record form of Mr Verschoor
- 1g: Video evidence from Mr Verschoor (41 files named IMG_0135.MOV to IMG_0214.MOV) [available separately on a DVD marked Carter Rooms TWO]

Appendix 2: Plan of Premises

Appendix 3: Copy of Carter Room's current premises licence

Appendix 4: Decision of previous hearings held on 26 September 2005 and 27 June 2008.

Appendix 5: Representations from responsible authorities:

- i) City of London Police Licensing Team
- ii) Environmental Health (Pollution Team)

Appendix 6: Representations from interested parties:

Appendix 7: Map of subject premises together with other Licensed premises in the area and their latest Terminal time for alcohol sales

Representation from the City of London Police Licensing Team

3. The Chairman explained the purpose of the hearing, which was to conduct a Review of the premises licence for Carter Rooms, 56-58 Carter Lane, London EC4V 5EA, in light of the application by Mr Donald Pedley. He also outlined the procedure that would be followed.
4. The Chairman opened with introductions and advised those present that the Panel had viewed all of the reports and supporting video footage.
5. The Panel noted that the Landlord of the Carter Rooms had made a late application to speak, outside of the Regulations. Whilst the Chairman would not permit the Landlord to speak, his views could be expressed through the Licensee and his Legal Representative.
6. Before proceeding, the Licensee's Legal Representative sought to have the hearing adjourned on the basis that the licensing authority had not complied with the requirements of Regulation 7(2) of the Licensing Act 2003 (Hearings) Regulations 2005, in that the Notice of Hearing sent to the Premises Licence Holder did not contain the representations received from interested parties; as required by Schedule 3 of the Regulations. It was accepted the Premises Licence Holder had subsequently received the representations but not within 10 working days prior to the hearing, as would have been the case if they had been attached to the Notice of Hearing.
7. Whilst empathising with his position, the Chairman explained that he was of the opinion that, despite the procedural irregularity, the hearing could proceed. He noted that the initial Review Application had been despatched to the premises licence holder on 13 March and a delivery receipt obtained. The evidence in support of the review accompanied the application. The Notice of Hearing had been despatched in time, on 18 April. Further papers had followed on 25 April and these included the representations submitted by interested parties. The Chairman explained that a breach of the Regulations does not render the proceedings void and that the hearing can still continue if there is no prejudice or if any prejudice that arises can be cured (regulations 31 and 32 of the 2005 Regulations). He noted that the Police and Premises Licence Holder had submitted further documentation, the previous day, which was permitted under Regulation 18 and these documents had been circulated to the Panel.
8. The Chairman decided that it was possible to cure any potential prejudice, that the Premises Licence Holder may have suffered as a result of receiving the representations from interested parties late, by disregarding any incidents which did not fall within the dates referred to in the Application for the Review of the Premises Licence. The Chairman noted that some of the representations, particularly those received from Councilmen, were of a general nature and could be considered as constituting "supporting

statements” as opposed to new representations. These representations could not be considered to prejudice the Premises Licence Holder. The position relating to the representations submitted by some of the residents and the City of London Police was different, as they did contain details of incidents falling outside the dates referred to in the Application for Review. The Chairman ruled that any dates outside of those detailed on pages 13-16 (of the initial application) would be disregarded. Whilst accepting this ruling, the Licensee’s Legal Representative strongly expressed his dissent and felt that the Hearing should be adjourned. The Chairman defended his position by referring to the large number of residents present and therefore an adjournment would be unfair.

9. The Legal Representative was also dissatisfied about the close proximity of the Patch licensed premises to those of Carter Rooms and the possibility of the clients of Patch causing the alleged public nuisance, which may be attributed to Carter Rooms. The Chairman reminded those present that a Hearing for the Patch licensed premises would take place directly after this one. A final decision for both premises would be deferred until the conclusion of both hearings.
10. The Hearing proceeded and the Applicant was invited to put his case. The Committee also viewed video evidence of a disturbance, outside the premises, which had occurred in the early hours of the morning. This was one of 40 pieces of video evidence submitted, all showing similar anti-social behaviour. The Applicant advised that this was probably the worse example. The footage showed drunken, loud, aggressive and anti-social behaviour, including an assault following an argument about a taxi. The Panel noted that Carter Lane is particularly narrow and therefore this causes considerable congestion and noise nuisance on dispersal, particularly when clients are trying to get taxis. This problem can be substantial, given that the capacity of Carter Rooms is 200.
11. The Licensee explained that the Duty Manager had called the Police and the organiser of that particular event had been barred from making future bookings. The Management Team of Carter Rooms had put a more stringent vetting procedure in place, which would be explained further when they had the opportunity to put their case. The Licensee stressed that he had not received any complaints since January this year. However, the Committee noted that Environmental Health had visited the premises on 3 March to investigate music being played outside of the Licensing Conditions. The residents explained that the procedure for reporting noise complaints to the Police had recently changed; i.e. they would only respond if there were threats of crime. There had also been some unwillingness, by the residents, to communicate with the Licensee whilst the Application was live.

12. In response to further questions, the Licensee confirmed that he does not run promoted events, just private parties but acknowledged that the general public can access feeds on Twitter and Facebook. He was further questioned about the nature of birthday parties. Given the size of these events and the capacity of Carter Rooms, a Member suggested that they were probably hosting several parties at the same time.
13. The Licensee also advised that he had regular weekly contact with a PCSO, evidenced in the papers submitted yesterday and briefly outlined the new noise mitigation measures in place. The Licensee had approached the Applicant about the improvements and the possibility of engaging the residents in a trial period. However, the Applicant had been unwilling to discuss them and was only interested in seeking a reduction in the premises' operating hours. The Applicant confirmed his position on this. The Chairman advised that this was the Applicant's prerogative and therefore not relevant to this part of the evidence.

The meeting adjourned at 12.20 and reconvened at 1.15

14. The two Common Councilmen representing the local wards made their submissions. They had been aware of problems from the premises since 2008 and, from their recent meetings with residents; there had been no sustained improvements.
15. The Chairman then invited the residents to present their written evidence, avoiding repetitions and highlighting their significant concerns and the depth of feeling behind them. The presentations covered the following:
 - Base rhythm repetitions from amplified music, audible through closed windows.
 - Sleep disturbance to themselves and their children – at frequent intervals and into the early hours.
 - Aggressive, drunken behaviour of patrons, making them feel unsafe and insecure in their homes and neighbourhood (as depicted in the video evidence).
 - Patrons loitering beyond closing hours, outside residential properties, urinating and engaging in general anti-social and threatening behaviour.
16. The residents were very confident that they had been observing and hearing the patrons from Carter Rooms on these occasions.
17. In concluding, the residents felt that the City of London Corporation should protect them from public nuisance. The Chairman explained that the Licensing

Sub Committee was obliged to balance the needs of residents with those of the local business community.

18. The Environmental Health Officer then made a submission and asked Members to note the following updates to the data on complaints, following a review yesterday:
 - 9 (not 8) complaints from residents in and around Carter Lane, since November 2010.
 - 4 (not 2) complaints on 28 November 2010 about very loud amplified music (an abatement notice was served under s80 Environmental Protection Act 1990).
 - 3 (not 2) further complaints from nearby residents on 14 October 2011 and 4 December 2011 about loud amplified music. The Manager was asked to turn the music down, which he did.
 - 25 (not 24) planned observations since 5 December 2010 and on 5 (not 3) occasions groups of people were seen talking loudly outside the premises. On 4 (not 5) occasions, amplified music was audible in Carter Lane and the surrounding alleyways.
19. The Environmental Health Officer was aware of the sound mitigation measures which had been introduced by the Licensee but they had not been signed off.
20. In response to questions, the Officer advised that Environmental Enforcement Officers are on duty within the City on Friday and Saturday nights and any immediate threats of crime and disorder were escalated to the Police.
21. The Police then made their representation and generally supported the residents' perception of public nuisance; as they felt unsafe and insecure in their home homes and neighbourhood. However, the Police representative confirmed that, whilst Carter Rooms does not have a high crime perspective, it had been given a 'gold' anti-social behaviour status. This means an Inspector must supervise it. The Police also felt that the problem was compounded by the close proximity of Patch, as they receive very few complaints from the other 21 nearby licensed premises.
22. The Police did not feel constrained by restricting the evidence, as ruled by the Chairman. They felt that the Licensee had made considerable efforts to reduce public nuisance and they had managed their Temporary Event Notices (TENs) very well. The Licensee explained that a full risk assessment had been carried out for each TEN and he would be happy to do this for every event.

At 2.25pm Dr Hardwick left the meeting as he has an important conflicting engagement, caused by the bereavement of a fellow Common Councilman.

23. The Licensee's Representative was unhappy about this situation but the Chairman advised that the Panel was still quorate and the Hearing would continue.
24. The Licensee was then invited to make his representation and expand on the following recent improvements:
 - Security barriers introduced to keep smokers within the immediate vicinity of the premises.
 - Further barriers to channel patrons away from the premises, towards Ludgate Hill to pick up taxis.
 - The new Manager would be attending an SIA course next week and holds weekly security meetings. 4-5 security staff are on duty when the capacity is at 200.
 - The premises are busier at 12 midnight than at 2 am, so any reduction in hours could lead to more numbers dispersing.
 - Weekly communications with the local PCSO and a noise and incident log.
 - Strict vetting of customers booking events, including full contact details and at least 1 meeting before the event.
 - Noise mitigation measures, which the Licensee would like to expand further by commissioning a sound engineer.
25. A Member asked about the Memorandum of Understanding drawn up by the Police in August 2011. The Licensee felt that he had kept to this and it had informed the action plan set out above.

Each party was then invited to sum up, as follows:

26. The Licensee did not feel that the video evidence portrayed his typical clientele and also felt that there had been some exaggeration of events. He also felt strongly that Patch's clientele had caused some of the incidents. He had made some very dramatic improvements, as highlighted above but had not been given the opportunity to let them take effect. He felt certain that the business would fail if the hours were reduced. The Landlord also took this matter very seriously and was prepared to work with the residents.
27. The Police and Environmental Services had no further comment.

28. The Applicant felt that the quality of life of the local residents was being compromised and there had been no improvements since the Memorandum of Understanding had been drawn up last August. The video and written evidence showed that the residents were frequently exposed to extreme public nuisance.

The meeting ended at 3.20 pm and the Chairman reminded those present that a decision would be deferred until after the Patch Hearing, which would follow immediately after this one.

CHAIRMAN

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COMMON COUNCIL OF THE CITY OF LONDON

LICENSING SUB-COMMITTEE

Alderman Simon WALSH MA (Chairman)

Marianne FREDERICKS CC

**1Dr Peter HARDWICK QHP CC*

Friday 4 May 2012 (09.30-15.00)

IN RE:

‘CARTER ROOMS’
56-58 CARTER LANE, LONDON EC4
Ward of Farringdon Within

At today's hearing the sub-committee was addressed by the applicant (Mr Donald Pedley) in person, by Virginia Rounding CC, Henrika Priest CC, Mark Rance, Dr Laura Wright, Andrew Sanalidro and Ikuko Kurahone as interested parties, by Tony Bride on behalf of the City's Environmental Health department as a responsible authority and by John Hall, PCSO Greg Short and Insp Rita Jones of the City Police also as a responsible authority. The sub-committee also considered those written representations appearing in the bundle of public papers. On behalf of the premises licence holder (PLH) the sub-committee was addressed by Counsel representing Jordan Hallows and Romano Prado. A spokesman for Sackville TSP Property (the landlord of the premises containing Carter Rooms) also attended with a solicitor but as no representation had been made by the landlord they could not take part in the hearing.

¹ Dr Hardwick was present for most of the hearing but was obliged to leave before its conclusion and he therefore took no part at all in the decision making process

In addition to the other documents appearing in the 2 bundles of public papers the sub-committee considered 2 collections of video evidence: a longer collection prepared by Mr Pedley and a shorter collection (although containing far more individual 'clips') prepared by a supporter of his. We also considered a 28-page bundle of documents from the premises licence holder provided to us shortly before the hearing.

1. On 14 March 2012 Donald Pedley, a City resident, applied under s51 of the Licensing Act, 2003 to the City Corporation for a review of the premises licence held by Carter Rooms Limited in respect of 'Carter Rooms' at 56-58 Carter Lane in the City of London. Two things are worthy of note at this point. Mr Pedley had tried to launch an identical review some 2 weeks earlier but this had foundered on technicalities. Nevertheless papers had been served on the PLH so that when this review was properly launched it could have come as no surprise at all to the PLH. On the same date Mr Pedley also applied for a review of the premises licence for 'Patch', operating at 58-62 Carter Lane.
2. Mr Pedley's application was served on the PLH in accordance with the statute and the regulations and it is commendably detailed. It makes it very clear which licensing objectives are being engaged and the grounds on which it is said that those objectives are not being met or sufficiently promoted are also laid out clearly and chronologically. In 2011 particularly, the application sets out the disturbance and discomfort alleged to have been suffered by Mr Pedley and his wife. It also sets out the sustained efforts by Mr Pedley and others (such as his Ward councilmen) to bring problems to the attention of the PLH and to deal with them proportionately and amicably. This includes meetings and the ultimate signing of a 'Memorandum of Understanding' (MoU) with the police licensing team. This 'MoU' approach is one that we support generally and one which we note usually achieves its aims – sadly not the case here. There was no obligation on Mr Pedley to provide any supporting documentation or any 'evidence' at this early stage but very helpfully he chose to do so. This consisted of some paperwork but most significantly his collection of video evidence. He provided this on a CD for all parties.

3. During the consultation period when the 'blue notice' was displayed on the door of Carter Rooms many representations were received. All supported Mr Pedley's application. These were sent to and collated by the City Corporation. The consultation period expired on 11 April 2012. By virtue of Reg 5 and Sch 1 of the Licensing Act 2003 (Hearings) Regulations 2005 (the 'Regulations') it was necessary to hold the hearing to consider the application and the representations within 20 working days after 11 April. This gave a 'hearing window' from 12 April – 10 May 2012. The hearing was set for 4 May 2012, being day 17 of the 20-day window. Notice of this date was sent to the parties on 18 April 2012.
4. Unfortunately this is when things went somewhat awry in the Town Clerk's department. With the Notice of Hearing the Town Clerk should have sent copies of the representations received in respect of the applications as well as any documents served with those representations. This is a clear entitlement of the PLH under Reg 7(2) of the Regulations. Subsequent enquiries have shown that this was not a failing unique to this case, the Town Clerk was routinely overlooking this requirement in all cases. It is however the first time it has ever been raised as an issue. It has now been rectified but this is of little comfort to the PLH.
5. In respect of this case, this procedural deficiency was first raised at today's hearing. Counsel for Mr Hallows and Mr Romano submitted that the PLH required an adjournment to deal with the issues of which it had not been made aware in good time and relied in support of this proposition on an e-mail sent by Mr Hallows to the Town Clerk dated 27 April 2012. This e-mail does indeed ask for an adjournment and points to the late delivery of the further representations but the principal thrust of the e-mail is a complaint by Mr Hallows that he "only received the Application for the Review of Mr Pedley for the first time when [the Town Clerk] sent [the Notice of Hearing]". This is simply not right. The PLH would have received the full detail of Mr Pedley's application at least one whole month earlier (and, indeed, some 6 weeks earlier if one takes into account the first abortive attempt to launch the application for review). The PLH would thus have had ample time to take advice and instruct lawyers if it felt that was

necessary. We could not conclude that the PLH was unable to deal with the application and we declined to adjourn the hearing under Reg 12.

6. That did, however, still leave a question as to the effect of the breach of the Regulations. This very question had been raised much earlier by lawyers representing Patch (where the same error had occurred). We were therefore prepared and able to deal with it in the same way as we did with Patch. The failure to send the representations, as required by Reg 7(2), is a clear breach of the Regulations. But such a breach does not, of itself, render the proceedings void (Reg 31) and the hearing can continue if there is no prejudice or if any prejudice arising from the breach can be cured. In order to do this the Regulations give us substantial leeway to take such steps as we think fit in all the circumstances (Reg 32).
7. We looked at the representations and supporting documents that should have been served with the Notice on 18 April 2012 but were probably not, in fact, served until 25/26 April (a delay of some 5/6 working days). They fell into 4 distinct groups:
 - a. Representations from Councilmen: these are all capable of being characterised as ‘supporting’ statements rather than new representations. They address generalities, history and, in at least one case, are in identical form. They helpfully direct everyone’s attention to relevant parts of the City’s Licensing Policy and the s182 Guidance and refer to other licensing decisions but as none of them raise new factual or evidential matters we did not think that their late delivery was prejudicial in any material way;
 - b. ‘Supportive’ representations from residents: these, which include by way of example the letter from the Lord Bishop of London, are just like the councilmen’s representations and again we did not think that their late delivery was prejudicial in any material way;

9. Having been assured by us that we had looked at the several hours of video evidence, Mr Pedley introduced his application briefly and took us to what he felt were the most significant excerpts of video evidence. We looked particularly at the recordings from 30 October and 4 December 2011. In our view these showed a level of intoxicated rowdiness at a time of the early morning that constituted a clear disturbance to anyone living close and a clear public nuisance. Whilst it was clear that some of what we saw and heard was coming from patrons of neighbouring 'Patch' we were quite satisfied that Carter Rooms' patrons contributed to the noise and nuisance sufficiently of themselves². The tone, volume and level of profanity in the raucous shouts of often inebriated patrons were simply unacceptable and perhaps all the more so in the early hours of the morning and so close to residential³ premises. Significantly we also formed the view, having seen so much video evidence collected over a significant period of time, that what we saw was properly representative of the general level of disturbance caused to local residents week in and week out and not in any way merely an unrepresentative 'spike' in street activity.
10. Other residents then spoke forcefully of their experiences and whilst we did feel some of their expectations of the level of noise and the time at which sleep should be undisturbed were rather unrealistic, we felt their contributions generally fully supported what Mr Pedley had told us.
11. Both Mr Pedley and other residents also complained about the leakage of amplified music and particularly a 'bass beat' heard (and sometimes felt) in their homes. They were partially supported in this by the history of these premises which had in the not-too-distant past been served with a statutory noise abatement notice. It was, we presume, also hoped that including the issue in the MoU would sort the problem out. However, in the terms of the application before us, this area of complaint was not helpfully supported by the City's

² In this hearing Carter Rooms often blamed Patch (as Patch did in reverse in its own hearing) but we were satisfied that each set of premises caused enough difficulty by itself for us to need to take action.

³ We also took on board the comments of many of those who came to the hearing that they (and many of their neighbours) are 'permanent' City residents not just casual users of pieds-à-terre

environmental health department and on the balance of probabilities we could not conclude that there was a public nuisance caused by music from Carter Rooms that would engage our powers. The lack of any expert evidence from the PLH on this point was thus irrelevant.

12. Mr Pedley's application also referred to the licensing objective of preventing crime and disorder. The police evidence showed that there was really very little crime associated with Carter Rooms (with the possible exception of one fracas we clearly saw in a video clip) and much less that one might normally expect of premises operating as they do. For this they are to be congratulated. There is, of course, the disorder we refer to above but we accept that this only infrequently reaches such a level as to constitute a crime or to be of proper concern to the police, as such. We wish to note publicly at this point that we feel from what we read in the papers and from what we were told that the residents and the local businesses have received an exemplary service over a substantial period and in very difficult circumstances from PCSO Greg Short for which he should be commended. At the end of the day, we feel that the licensing objective of reducing crime and disorder is being properly promoted and addressed in Carter Lane.

13. Mr Hallows (supported by Mr Prado) then addressed us. We were impressed by him. His contributions were open, frank and had every appearance of honesty – not always our experience in licensing hearings. We felt that the work he did to keep crime down and to keep the noise of music inside the premises⁴ were genuine and, for the most part, successful. It was partly for these reasons that we did not find either of these to be issues that concerned us.

14. What we were then left with was simply the clear and regular public nuisance caused by patrons of Carter Rooms in the street outside in the early hours, especially at the weekend. It was clear that these sort of patrons were actively

⁴ We must, however, express our concern at hearing that the escape of noise through the ground floor fire exit was being addressed by hanging a heavy velvet curtain over that fire exit. We sincerely hope that this unusual approach has the support of the fire officer.

sought by the PLH. We heard of attempts formally to encourage the patrons of other local bars which close much earlier to come to Carter Rooms for the last couple of hours drinking. We also understood that this early morning patronage, whether casual or following on from pre-booked events, was important to the business plan of Carter Rooms. We got the very clear impression that Mr Hallows was doing his best to deal with the problem but we also concluded, in line with several residents (including Mr Rance who put the matter very eloquently), that there was little he could actually do that would have any real effect.

15. This gives us a real problem. On the one hand we have a PLH doing its very best but not being able, it seems on the evidence, to improve matters and on the other hand we have local residents who are significantly disadvantaged and feel that they are quite helpless to do anything about the problem.

16. In our Licensing Policy, which has been written and now updated twice with the unusual circumstances of the City very much in mind, we say:

a. (¶37) There can be little doubt that a well-managed licensed venue can benefit the local community. However, there is clearly a risk of local residents being disturbed, particularly if the venue is open late at night because people leaving the premises can be a significant problem in the early hours. Customers may be less inhibited about their behaviour and may be unaware of the noise they are creating;

b. (¶49) ... the risk of disturbance to local residents is greater when licensable activities continue late at night and into the early hours of the morning. For example, the risk of residents' sleep being disturbed by patrons leaving licensed premises is obviously greater at 2am than at 11pm. (¶50) It is, therefore, the policy of the City Corporation to strike a fair balance between the benefits to a community of a licensed venue and the risk of disturbance to local residents and workers ...;

- c. (¶56) When considering whether any licensed activity should be permitted, the City Corporation will assess the likelihood of it causing unacceptable adverse impact ... by considering the following factors amongst other relevant matters ... the means of access to and exit from the premises by patrons ... and in considering any application for review of premises already licensed the City Corporation may take into account evidence of ... past demonstrable adverse impact from the activity especially on local residents;

- d. (¶58) In reaching its decisions the City Corporation acknowledges the difficulty a licence holder has in preventing anti-social behaviour by individuals once they are beyond the direct control of that licence holder. However it will also take into account that the licensing objective of preventing public nuisance will not be achieved if patrons from licensed premises regularly engage in anti-social activities to the detriment of nearby residents or businesses. Furthermore, it will take into account its responsibility under the Crime and Disorder Act, 1998 to do all it can to prevent ... disorder in the City.

17. We have addressed these generalities in several hearings both for new licences and for reviews. We do not say and never have said that there should be no late-night activity in the City. Quite the contrary, we welcome it and so do many of our stakeholders. What we do say very clearly, however, is that there are parts of the City that are, for unalterable reasons of geography and construction, simply unsuitable for late night bars. We best set this out in a decision relating to premises only a few dozen yards away from Carter Rooms (then known as 'Ochre' and now trading as the 'Duke and Duchess') where we said:

- a. 'We do not feel that the narrow canyon-like side streets of this part of the City where the medieval street plan still exists and where the older buildings are far less substantial than the former banking halls housing newer licensed premises in the east of the City are appropriate places for late night bars. The need for patrons to stand outside premises to ...

smoke ... is also a serious issue where the pavements are very narrow or streets pedestrianised as noise is inevitable. This noise can be (or certainly can seem) very loud in the early hours.'

18. In conclusion, therefore, we took great care over many hours in considering this application, the representations in support of it and the careful and measured response of the PLH. We were mindful of the provisions of the Licensing Act 2003, in particular the statutory licensing objectives, together with the guidance issued by the Secretary of State and our own Licensing Policy. We have concluded that there is a real public nuisance caused by the late operation of these premises. We do not find that they are badly run - but that cannot mean that local residents must therefore put up with a level of nuisance that could be dealt by us with if the premises were badly run. That would be a patently absurd result.

19. There is no reason to revoke this licence nor to suspend it. There is equally no reason to remove the DPS. We cannot think of any conditions that would improve matters. We are therefore driven to decide that it is necessary, to promote the licensing objective of preventing public nuisance, to require these premises to cease selling alcohol, providing regulated entertainment and/or providing late night refreshment at midnight. This shall apply on every night of the week.

20. It is our policy on reviews to further consider all other conditions on licences and to remove or modify those that do not meet our expectations that licence conditions should be clear, concise and enforceable. With this in mind we also make the following changes:

- a. Annex 2 – Conditions 1, 4, 8 and 9 are removed. Condition 3 is varied to read “Recordable CCTV shall be installed in the premises with recordings being kept for a minimum of 31 days and available to be shown to the police or Corporation licensing officer during that time on request”;

b. Annex 3 – Condition 6 is removed

21. If any party is dissatisfied with this decision they are reminded of the right to appeal, within 21 days, to a Magistrates' Court. Any party proposing to appeal is also reminded that under s181(2) of the Licensing Act, 2003 the Magistrates' Court hearing the appeal may make any order as to costs as it thinks fit.
22. This decision will not take effect until 21 days have elapsed after it is communicated to the parties or, should there be an appeal, until that appeal is heard and determined.

Should the PLH appeal, the Respondent to the appeal will be the City Corporation. Mr Pedley and those making representations will not automatically be parties. Any appeal is likely to be heard many months from the day on which we make our decision but all parties are reminded that in addition to having the benefit of seeing and reading all that we have seen and read the Magistrates' Court will make its decision based on its own view of what is necessary *at the time of the appeal hearing*. In other words, any demonstrable improvement by the PLH will be highly relevant – as will any evidence of continuing nuisance that can be provided by anyone