



CITY OF WESTMINSTER

MINUTES

Licensing Sub-Committee (2)

MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (2)** Committee held on **Thursday 20th November, 2014**, Rooms 5, 6 & 7 - 17th Floor, City Hall.

Members Present: Councillors Nickie Aiken (Chairman), Nick Evans and Rita Begum

1 MEMBERSHIP

There were no changes to the Membership.

2 DECLARATIONS OF INTEREST

There were no declarations of interest.

1 PERFETTO, GROUND FLOOR AND BASEMENT, 112 WESTBOURNE GROVE, W2

LICENSING SUB-COMMITTEE No. 2

Thursday 20 November 2014

Membership: Councillor Nickie Aiken (Chairman), Councillor Nick Evans and Councillor Rita Begum

Legal Adviser: Anita Sharman
Policy Adviser: Chris Wroe
Committee Officer: Sarah Craddock

**Perfetto, Ground Floor and Basement, 112 Westbourne Grove, W2
14/07833/LIPN**

Adjourned prior to the meeting at the request of the Applicant.

2 JAMAICA PATTY, BASEMENT AND GROUND FLOOR, 26 NEW ROW, WC2

LICENSING SUB-COMMITTEE No. 2

Thursday 2 October 2014

Membership: Councillor Nickie Aiken (Chairman), Councillor Nick Evans and Councillor Rita Begum

Legal Adviser: Anita Sharman
Policy Adviser: Chris Wroe
Committee Officer: Sarah Craddock

Relevant Representations: Environmental Health Service, Metropolitan Police Force, The Covent Garden Trust, Burleigh Residents Association and Covent Garden Community Association

Present: Mr and Mrs Roberts (Applicant), Mr Ian Watson (Environmental Health Service) and PC Chris Murray (Metropolitan Police Force) and David Karmer (Covent Garden Community Association)

Jamaica Patty, Basement and Ground Floor, 26 New Row, WC2N 4LA 14/08128/LIPN	
1.	Late Night Refreshment: Indoors and Outdoors
	Monday to Saturday 23:00 to 00:00
	Amendments to application advised at hearing: None
	Decision (including reasons if different from those set out in report): The application for a new Late Night Refreshment: Indoors and Outdoors premises licence to operate as a shop selling hot food and beverages to eat in and take away from 23:00 to 00:00 was refused. Mr Roberts outlined that the premises was set up to sell take-away food and that his main aim was to create a brand to represent Jamaica in a positive way. It was a small business and the turnover was around £4000 per week. Mr Roberts emphasised that he really needed the licence as it was mainly a take-away business and that if more people ate inside the premises he would have to pay VAT which would make a big difference to the profit margin. He advised that he had not been told he needed a licence to trade until midnight when he took over the business and had been trading until midnight until he had been informed that he needed a licence. He had immediately stopped trading and had submitted a licence application to the Council. He added that he felt it was peculiar that he had been asked to make an application for something that was contrary to the Council's Licensing Policy and felt very surprised by the number of people objecting to his application.

	<p>Mr Roberts advised that other premises in the area had late night refreshment licences, like McDonalds and the ice-cream parlour next door to him, and there had been no noise complaints made about these premises. He also added that the Angel Crown pub had a late night licence. He further advised that when he had opened until midnight his customers had mainly been late night workers.</p> <p>Mr Robert advised of a complaint that had been made against the premises when he and his wife were on holiday. He confirmed that he knew how important it was to manage your business well and be considerate to your neighbours.</p> <p>Mr Wroe advised Mr Roberts of the Council's Stress Area Policies STR1, HRS1 and FFP2 and read out 'it is the Licensing Authority's policy to refuse applications in the Stress Area for: pubs and bars; late night refreshment premises offering hot food and drink to take-away'. Mr Wroe further advised that Mr Robert needed to show exceptional circumstances as to why he should be granted a late night refreshment licence in a stress area.</p> <p>Environmental Health and the Metropolitan Police had maintained their representations against the application on the grounds of causing an increase in Public Nuisance and impact on Public Safety as the premises was situated in the West End Stress. The application was also outside of the Council's core hour's policy.</p> <p>David Karmer, on behalf of the Covent Garden Community Association, advised that their representation was on page 91 of the report. He advised that local residents were concerned about any licence that encouraged people to stay in the area after core hours and add to cumulative impact to the stress area. He added that this type of premises, in particular, would add to cumulative impact because the product was easy to eat 'on the go' in the street.</p> <p>The Chairman advised Mr Roberts that he needed to familiarise himself with the Council's Licensing Objectives.</p> <p>The Sub-Committee refused the application as the applicant had not demonstrated any exceptional circumstance or shown that he would not add to cumulative impact to the stress area.</p>
<p>2.</p>	<p>Opening Hours</p>
	<p>Monday to Saturday 09:00 to 00:00 Sunday 09:00 to 19:00</p> <p>(Note: Opening hours are not a licensable activity under the Licensing Act 2003, however they can still be taken into consideration when assessing the application's effect on the licensing objectives).</p>

	Decision (including reasons if different from those set out in report):
	Granted (see full decision note in section 1)

3 LOWER GROUND FLOOR TO FOURTH FLOOR, 12 HAY HILL, W1

LICENSING SUB-COMMITTEE No. 2

Thursday 20 November 2014

Membership: Councillor Nickie Aiken (Chairman), Councillor Nick Evans and Councillor Rita Begum

Legal Advisor: Anita Sharman
 Policy Advisor: Chris Wroe
 Committee Officer: Sarah Craddock

Relevant Representations: Environmental Health Service, Metropolitan Police Service, Mayfair Residents Group and 17 Berkeley Street Residents Association.

Present: Mr Botkai (representing the applicant), Mr Robinson (Chief Executive, Applicant), Mr Julien Marinizzi (Operations Manager), Mr Ian Watson (Environmental Health Service), PC Reaz Guerra (Metropolitan Police Service), Mr Richard Brown (CAB representing Ms Jaleh Zand, 17 Berkeley Street Residents Association.), Ms Sharon French and Ms Brittany Corr- Cushman & Wakefield LLP (representing 4 Hay Hill) and Mr Ron Whelan (Mayfair Residents Group)

Declaration: Councillor Nickie Aiken advised that she knew Mr Robinson as his children had attended the same school as her children but that she had no personal contact with him regarding this application.

12 Hay Hill, Lower Ground Floor to Fourth Floor, W1J 6DQ 14/08158/LIPN	
1.	Late Night Refreshment: Indoors
	Monday to Thursday 23:00 to 00:00 Friday to Saturday 23:00 to 01:30
	Amendments to application advised at hearing: Late submissions of the Club rules and response to the proposed conditions had been received and circulated to the Sub-Committee.

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

The application was for a new premises licence to operate the building as serviced offices with licensable facilities, consisting of 7 levels from basement to 4th floor was granted.

Mr Botkai advised that this application was for a new premises licence to operate the building as serviced offices with licensable facilities, consisting of 7 levels from basement to 4th floor. He stated that it would be a Members club only with two types of Membership on offer: A Tenant Membership where a person paid £72,000 per year and had their own office space and use of the gym and dining facilities and a Members Membership where a person paid £1800 per year and could hot desk on certain floors of the building and use the gym and dining facilities. He added that the building would primarily be used as office space but to make the business viable, high class dining facilities needed to be available on the premises.

Mr Botkai explained the layout of the building to the Sub-Committee. The basement would be a technical area only. The lower ground floor would contain a lounge/bar area with a small outside area for people who wished to smoke. The ground floor would have a reception area and it had been agreed with Environmental Health that the doors would be kept closed at all times. Hot desking would be available on the ground floor as well as a dining area. The 1st floor would accommodate the gym and the 2nd floor would provide offices for tenants. It also had a small terrace for canapé parties. Mr Botkai requested that people were allowed to stand on the terrace and that the condition regarding seating on the terrace should not be placed on the licence. The 3rd floor also provided office space and the 4th floor provided hot desking space.

Mr Botkai advised that the premises was not located in a stress area and that it would be a tightly controlled club. He stated that the application was slightly beyond core hours except for Sunday to allow the Members to work and dine later into the evening. He advised that they were not expecting large numbers of people at the premises during the evening and therefore the premises would not add to the cumulative impact in the area.

Mr Botkai referred to Appendix B of the report which contained the proposed conditions. He advised that conditions 17 and 18 were very important to the licence but that condition 18a was not appropriate for this premises. He then referred to condition 32 and asked that it be reworded as hot desking was available on the floor. He requested that conditions 35 and 36 be deleted. He further suggested new wording for condition 42 taken from his proposed conditions memo. He then advised that his applicant had agreed to conditions 43 and 44 but that he was leaving it for the Sub-Committee to decide whether they were appropriate to be included on the licence.

Mr Robinson gave details of his background and advised that they were trying to create a business club. He confirmed that the premises would give due

	<p>consideration to neighbours which was one of the reasons why they had made it a Members club. He stated that the building did not lend itself to having a large number of private functions.</p> <p>Environmental Health and the Metropolitan Police had maintained their representation on the grounds that the application would increase public nuisance and undermine the crime prevention objective.</p> <p>The Police advised that they had visited the premises and that their main concern was that the premises was located in a very busy area which already had a number of late night premises. The building would also be open 24 hours a day and could be booked every night of the week for private functions for up to 500 people.</p> <p>Environmental Health advised that the nature of the application was somewhat confusing. They were concerned about the lateness of the hour, the location because the area surrounding the premises was very residential, the outside terrace area and the potential number of pre-booked events. Environmental Health requested that they placed sliding doors in the lobby area to prevent noise escape from the ground floor restaurant and that the location of the restaurant on the floor needed to be shaded on the map. Mr Watson further advised that he did not feel it was appropriate to place conditions 43 and 44 on the licence as they were not enforceable. He did however confirm that he had agreed the proposed conditions with the applicant.</p> <p>Two Resident Associations had also made representations on the grounds of prevention of crime and disorder and cumulative impact of licensed premises within the vicinity. Mr Brown representing Ms Jaleh Zand advised that she was very concerned about the late night hours and nature of the application. It was a very busy area, especially late at night. He referred to the other premises that had late night licences and advised that it was more difficult to get people to disperse late at night. He referred to the two conditions that the residents had requested on the licence and advised that including them on the licence would show good partnership working between the premises and residents. Mr Whelan agreed with Mr Brown and emphasised that he was in favour of adding conditions 43 and 44 to the licence.</p> <p>The Sub-Committee granted the application as they considered that this would be a mixed use building for Members only and that the conditions attached to the licence would promote the licensing objectives.</p>
2.	Sale of Alcohol: On the Premises
	Monday to Thursday 10:00 to 23:30 Friday to Saturday 10:00 to 01:00 Sunday 12:00 to 22:00

	Granted (see full decision note in section 1)
3.	Opening Hours
	Monday to Thursday 08:00 to 00:00 Friday to Saturday 08:00 to 01:30 Sunday 08:00 to 22:30 (Note: Opening hours are not a licensable activity under the Licensing Act 2003, however they can still be taken into consideration when assessing the application's effect on the licensing objectives).
	Decision (including reasons if different from those set out in report):
	Granted (see full decision note in section 1)

Conditions to be attached to the Licence

1. No supply of alcohol may be made at a time when there is no designated premises supervisor in respect of this licence.
2. No supply of alcohol may be made at a time when the designated premises supervisor does not hold a personal licence or the personal licence is suspended.
3. Every supply of alcohol under this licence must be made or authorised by a person who holds a personal licence.
4. (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises—
 - (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to;
 - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
 - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;

- (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
 - (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
 - (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).
5. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
6. (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
- (2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
- (3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either—
- (a) a holographic mark, or
 - (b) an ultraviolet feature.
7. The responsible person must ensure that—
- (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—
 - (i) beer or cider: ½ pint;
 - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
 - (iii) still wine in a glass: 125 ml;
 - (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
 - (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

A responsible person in relation to a licensed premises means the holder of the premise licence in respect of the premises, the designated premises supervisor (if

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

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

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

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

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

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

Where -

(i) P is the permitted price,

(ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and

(iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;

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

(i) the holder of the premises licence,

(ii) the designated premises supervisor (if any) in respect of such a licence, or

(iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;

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

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

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

(iv) (1) Sub-paragraph 8(iv)(2) below applies where the permitted price given by Paragraph 8(ii)(b) above on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.

(2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

9. The venue shall install and maintain a comprehensive CCTV system at the premises as per the minimum requirements of a Metropolitan Police Licensing Team. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the venue is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Recordings shall be immediately arranged by a member of staff for hand over to Police or authorised officer following their request, throughout the preceding 31 day period.

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

11. No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.

12. There shall be no sales of alcohol for consumption off the premises.

13. Patrons permitted to temporarily leave and then re-enter the premises, eg to smoke, shall not be permitted to take drinks or glass containers with them.

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

15. An incident log shall be kept at the premises, and made available on request to an authorised officer of the City Council or the Police, which will record the following:

- (a) all crimes reported to the venue
- (b) all ejections of patrons
- (c) any complaints received
- (d) any incidents of disorder
- (e) all seizures of drugs or offensive weapons
- (f) any faults in the CCTV system or searching equipment or scanning equipment
- (g) any refusal of the sale of alcohol
- (h) any visit by a relevant authority or emergency service.

16. The Licence will have no effect until the Licensing Authority are satisfied that the premises is constructed or altered in accordance with the appropriate provisions of the District Surveyor's Association – Technical Standards for

Places of Entertainment and the reasonable requirements of Westminster Environmental Health Consultation Team, at which time this condition will be removed from the Licence.

17. Access to the premises will be limited to persons who are tenants or members of a private club ("the Club") and their bona fide guests save for persons attending pre booked events at the premises booked by tenant and member only.
18. Pre booked events on the ground floor and lower ground floor of the premises which continue after 22:00 shall be restricted to 4 events per calendar month and a record of each event must be kept for inspection by the police or authorised officer for 28 days.
19. No person shall be admitted to be a tenant or member of the Club or be entitled to take advantage of any of the privileges of tenancy or membership without an interval of at least 48 hours between their nomination or application for tenancy or membership and their admission.
20. A list of the names and addresses of tenants and members of the Club shall be kept on the premises at all times together with a book showing the names and dates of attendance of any guests introduced by tenants and members. Both the list and the book shall be produced on demand for inspection by the police or an authorised officer of the Council.
21. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
22. No waste or recyclable materials, including bottles, shall be moved, removed or placed in outside areas between (23.00) hours and (08.00) hours.
23. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
24. Notices shall be prominently displayed at any area used for smoking requesting patrons to respect the needs of local residents and use the area quietly.
25. A direct telephone number for the manager at the premises shall be publicly available at all times the premises is open. This telephone number is to be made available to residents and businesses in the vicinity.
26. The licence holder shall enter into an agreement with a hackney carriage and/or private carriage firm to provide transport for customers, with contact numbers made readily available to customers who will be encouraged to use such services.
27. A Challenge 21 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic

identification cards, such as a driving licence, passport or proof of age card with the PASS Hologram.

28. The licensable activities are restricted to:
Lower Ground Floor
Ground Floor
First Floor
Second Floor
Third Floor
Fourth Floor
29. The number of persons accommodated at any one time (excluding staff) shall not exceed the capacity yet to be agreed by District Surveyor).
Lower Ground Floor
Ground Floor
First Floor
Second Floor Internal
Second Floor External Terrace
Third Floor:
Fourth Floor

The maximum numbers are subject to final approval by the District Surveyor upon the removal of the works condition.

30. There shall be no internal service bars permitted on the First Floor, Second Floor, Third Floor and Fourth Floor.
31. The Ground floor shall only operate as a restaurant:-
 - (i) where the supply of alcohol is by waiter or waitress service only.
 - (ii) where alcohol shall not be sold or supplied, otherwise than for consumption by persons who are seated in the premises and bona fide taking substantial table meals there, and provided always that the consumption of alcohol by such persons is ancillary to taking such meals.
32. Substantial food and non-intoxicating beverages, including drinking water, shall be available in all parts of the premises where alcohol is sold or supplied for consumption on the premises.
33. There shall be no self service of alcohol on the premises.
34. The Lower Ground Floor External area shall not be used after 22.00.
35. The Second Floor External Roof terrace shall not be used after 22.00.
36. No deliveries or collections of waste or recycling materials (including bottles) from the premises shall take place between 23.00 hours and 07.30 hours on the following day.

37. During the hours of operation of the premises, the licence holder shall ensure sufficient measures are in place to remove and prevent litter or waste arising or accumulating from customers in the area immediately outside the premises, and that this area shall be swept and or washed, and litter and sweepings collected and stored in accordance with the approved refuse storage arrangements by close of business.
38. Loudspeakers shall not be located in the entrance lobby or outside the premises building.
39. The entrance doors shall be kept closed except for immediate access and egress of persons.
40. All collections and deliveries to the premises will be made from Burton Lane only.

4 VINYL BAR, 36-38 HANWAY STREET, W1

LICENSING SUB-COMMITTEE No. 2

Thursday 20 November 2014

Membership: Councillor Nickie Aiken (Chairman), Councillor Nick Evans and Councillor Rita Begum

Legal Adviser: Anita Sharman
 Policy Adviser: Chris Wroe
 Committee Officer: Sarah Craddock

Relevant Representations: Environmental Health Service and Metropolitan Police Service

Present: Mr Julian Skeens and Mr Lavell (representing the applicant), Les Richards, Director of Vinyl Bars, Alfie Best, Financier of Vinyl Bars, Anil Drayan (Environmental Health Service), PC Toby James and PC Reaz Guerra (Metropolitan Police Service)

Vinyl Bars Ltd, 36-38 Hanway Street, W1T 1UP 14/07515/LIPN	
1.	Regulated Entertainment: Live Music, Performance of Dance, Anything similar to the above
	Monday to Saturday 09:00 to 02:00 Sunday 09:00 to 23:00
	Recorded Music Monday to Sunday 00:00 to 00:00 (24 Hours)
	Amendments to application advised at hearing:

The Licensing Service advised that Licensing Policy 2.1.7 also related to this application and had been omitted from the report.

Policy 2.1.7 In cases where licences have lapsed through insolvency or death, the council will generally grant a new licence on similar terms to the lapsed licence as a replacement. However the Council will take into account the previous history of the premises, the length of time the premises have been closed, and any problems at the premises, and will impose conditions that reflect current good practice for the type of business proposed at the premises.

In response to a question from the Sub-Committee, the Licensing Service advised that the licence could only be transferred if a transfer application was made within 28 days and this had not happened in this case.

In response to a question from the Sub-Committee, Mr Skeens advised that the late submission regarding a legal case submitted the morning of the hearing would be withdrawn.

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

The application for a new premises licence to operate as a bar was granted.

Mr Skeens advised that this was a small premises with a capacity for 60 persons situated on the edge of the West End Stress Area. The previous licence had lapsed on 25.04.2014 following the liquidation of Net Bars Limited. He referred to the licensing history of the premises and advised that the outgoing operator had submitted two transfer licencing applications to have the licence transferred to Vinyl Bar. The Licensing Service, however, had confirmed that these applications were not valid. He explained that If the transfer applications had been valid, Vinyl Bar would only be asking the Sub-Committee for a minor variation instead of a new premises licence.

Mr Skeens advised that the licence that Vinyl Bar were asking for was virtually identical to the previous lapsed licence. He referred to page 208 of the report which contained the proposed conditions and went through them with the Sub-Committee. He emphasised that he felt that the proposed conditions clearly set out the operation of the premises and would promote the Licensing objectives. He advised the time of 10pm should be changed to 11pm and the words 'wine or' should be deleted in condition 41

Mr Skeens confirmed that the old operators would have nothing to do with the management of the premises and they were more than happy to have this added as a condition to the licence. He referred to Licensing Policy 2.1.3 which set out that the Licensing Authority would continue to monitor the effect of the grant of a licence on the licensing objectives and requested that the Sub-Committee take Policy 2.1.3 into account alongside Policy 2.1.7.

Both Environmental Health and the Metropolitan Police Force had maintained their representation on the grounds of causing increase in Public Nuisance and impact on Public Safety but confirmed that the proposed conditions had been agreed with the applicant.

	The Sub-Committee granted the application as they felt that the applicant had demonstrated exceptional circumstances under the Council's Licensing Policy 2.1.7 and considered that the conditions attached to the licence would help promote the licensing objectives.
2.	Late Night Refreshment: Indoors
	Monday to Saturday 23:00 to 02:00
	Granted (see full decision note in section 1)
3.	Sale of Alcohol: On and Off the Premises
	Monday to Saturday 10:00 to 02:00 Sunday 12:00 to 22:30
	Granted (see full decision note in section 1)
4.	Seasonal Variations and Non-Standard Timings
	Regulated Entertainment and Late Night Refreshment From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.
	Granted (see full decision note in section 1)
5.	Opening Hours
	Monday to Saturday 09:00 to 02:30 Sunday 09:00 to 23:00 From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day. (Note: Opening hours are not a licensable activity under the Licensing Act 2003, however they can still be taken into consideration when assessing the application's effect on the licensing objectives).
	Decision (including reasons if different from those set out in report):
	Granted (see full decision note in section 1)

Conditions to be attached to the Licence

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

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

7. The responsible person must ensure that—

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

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

8. (i) A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.
- (ii) For the purposes of the condition set out in paragraph 8(i) above -
 - (a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;

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

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

Where -

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

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

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

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

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

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

would (iv) (1) Sub-paragraph 8(iv)(2) below applies where the permitted price given by Paragraph 8(ii)(b) above on a day ("the first day") be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.

(2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

9. There shall be a personal licence holder on duty on the premises at all times when the premises are authorised to sell alcohol.

10. Substantial food and suitable beverages other than intoxicating liquor (including drinking water) shall be available during the whole of the permitted hours in all parts of the premises where intoxicating liquor is sold or supplied.

11. A noise limiter must be fitted to the musical amplification system set at a level determined by and to the satisfaction of an authorised officer of the Environmental Health Service, Premises Management so as to ensure that no noise nuisance is caused to local residents or businesses. The operational panel of the noise limiter shall then be secured by key or password to the satisfaction of officers from the Environmental Health Service and access shall only be by persons authorised by the premises Licence holder. The limiter shall not be altered without prior agreement with Environmental Health Service. No alteration or modification to any existing sound system(s) should be effected without prior knowledge of an authorised Officer of the Environmental Health Service. No additional sound generating equipment shall be used on the premises without being routed through the sound limiter device.
12. All windows and external doors shall be kept closed after 23:00 hours, or at any time when regulated entertainment takes place, except for the immediate access and egress of persons.
13. There shall be no new admittance to the premises after midnight. After such time, any remaining persons queuing for entry shall be informed that access to the premises will be refused and asked to leave the immediate area.
14. No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
15. No fumes, steam or odours shall be emitted from the licensed premises so as to cause a nuisance to any persons living or carrying on business in the area where the premises are situated
16. Notices shall be prominently displayed at any area used for smoking requesting patrons to respect the needs of local residents and use the area quietly.
17. The licence holder shall ensure that any queue to enter the premises which form outside the premises and any area used by smokers is orderly and supervised by door staff so as to ensure that there is no public nuisance or obstruction to the public highway.
18. Patrons temporarily leaving the premises such as for the purposes of smoking shall be limited to a maximum of 6 persons at any one time.
19. Patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, shall not be permitted to take drinks or glass containers with them.
20. The number of persons accommodated (including staff) at any one time shall not exceed 60 in the basement and 20 on the ground floor.
21. No advertisements of any kind (including placard, poster, sticker, flyer, picture, letter, sign or any other mark) that advertisements or promotes the establishment, its premises, or any of its events, facilities, goods or services shall be inscribed or affixed upon the surface of the highway, or upon any

building, structure, works, street furniture, tree or any other property, or be distributed to the public. This does not prohibit the distribution of leaflets to persons within the premises.

22. There shall be no payment made by or on behalf of the licence holder to any person for bringing customers to the premises.
23. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum of 31 days with date and time stamping. Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the preceding 31 day period.
24. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises are open. This staff member must be able to provide a police or authorised council officer copies of recent CCTV images or data with the absolute minimum of delay when requested.
25. An incident log shall be kept at the premises, and made available on request to an authorized officer of the City Council or the Police, which will record the following:
 - (a) All crimes reported to the venue
 - (b) All ejections of patrons
 - (c) Any complaints received
 - (d) Any incidents of disorder
 - (e) All seizures of drugs or offensive weapons
 - (f) Any faults in the CCTV system or searching equipment or scanning equipment
 - (g) Any refusal of the sale of alcohol
 - (h) Any visit by a relevant authority or emergency service
26. No deliveries or collections shall be made to or from the premises between 2300 and 0800 hours.
27. All waste shall be properly presented and placed out for collection no earlier Than 30 minutes before the scheduled collection times.
28. No rubbish, including bottles, shall be moved, removed or placed in outside Areas between 2300 hours and 0800 hours.
29. During the hours of operation ensure sufficient measures are in place to Remove and prevent litter or waste arising or accumulating from customers in the area immediately outside the premises, and that the aforementioned area shall be swept and or washed, and litter and sweepings collected and stored

in accordance with the approved refuse storage arrangements by close of business.

30. 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 license, passport or proof of age card with the PASS Hologram.
31. The edge of the treads of steps and stairways shall be maintained so as to be conspicuous.
32. All exit doors shall be available at all material times without the use of a key, code, card or similar means. Any fastenings or electrically controlled locks shall be approved by the council
33. Only hangings, curtains, upholstery and temporary decorations, complying with the relevant British (or where appropriate European) Standard shall be used. Where necessary these shall be periodically tested for flame resistance and re-treated as necessary.
34. The approved arrangements at the premises, including means of escape provisions, emergency warning equipment, the electrical installation and mechanical equipment, shall at all material times be maintained in good condition and full working order.
35. The means of escape provided for the premises shall be maintained unobstructed, free of trip hazards, be immediately available and clearly identified in accordance with the plans provided.
36. All emergency doors shall be maintained effectively self-closing and not held open other than by an approved device.
37. All fabrics, curtains, drapes and similar features including materials used in finishing and furnishing should be either non-combustible or be durably or inherently flame-retarded fabric. Any fabrics used in escape routes, other than foyers, entertainment areas or function rooms, should be non-combustible
38. Curtains and hangings shall be arranged so as not to obstruct emergency signs.
39. No person shall give at the premises any exhibition, demonstration or performance of hypnotism, mesmerism or any similar act or process which produces or is intended to produce in any other person any form of induced sleep or trance in which susceptibility of the mind of that person to suggestion or direction is increased or intended to be increased.

Note: (1) This rule does not apply to exhibitions given under the provisions of Section 2 (1A) and 5 of the Hypnotism Act 1952.

40. There shall be no striptease or nudity, and all persons shall be decently attired at all times, except when the premises are operating under the

authority of Sexual Entertainment Venue Licence.

41. Any special effects or mechanical installations shall be arranged and stored So as to minimise any risk to the safety of those using the premises. The Following special effects will only be used on 7 days prior notice being given to Westminster City Council Consultation Team where consent has not previously been given:
 - (a) Dry ice and cryogenic fog
 - (b) Smoke machines and fog generators
 - (c) Pyrotechnics including fireworks
 - (d) Firearms
 - (e) Lasers
 - (f) Explosives and highly flammable substances
 - (g) Real flame
 - (h) Strobe lighting
42. The Certificates listed below, together with, if necessary, satisfactory details of Remediation works identified, shall be submitted to the Environmental Health Consultation Team upon written request:
 - (a) Any emergency lighting battery or system
 - (b) Any electrical installation
 - (c) Any fire alarm system
43. At least one SIA registered door supervisor shall be employed at the premises From 2200 hours until all patrons and staff have left the premises on Thursday to Saturday.
44. All SIA staff have engaged at the premises shall wear high visibility yellow Jackets or vests. SIA licences worn by door staff shall be clearly displayed and visible at all times.
45. A daily Door Supervisor Log shall be correctly maintained at the premises and signed at the end of each day by the Duty Manager. This will include: The printed name of the Door Supervisor/Badge Number/Expiry date of SIA Licence and a signature of the Door Supervisor
46. A log shall be maintained to ensure that the capacity limit set for the premises is recorded hourly and can be properly monitored. Information regarding the capacity will be given to an authorised officer or Police Officer on request.
- 47
 - (a) From 11pm each day, all drinking vessels used in the venue shall be polycarbonate. All drinks in glass bottles are to be decanted into polycarbonate containers or polycarbonate carafes prior to be served, with the exception of champagne or bottles of spirits with a minimum size of 70cl supplied by waiter/waitress service to tables. Staff shall clear all empty bottles promptly from the tables. Customers shall not be permitted to leave their table carrying any such glass bottles of drink from the table.

- (b) Notwithstanding 47(a) above, with the written agreement of the Westminster Licensing Police, a copy of which will be held at the premises reception, glass drinking vessels may be used for private or pre-booked events within the lounge/club area.
- 48 From 11pm each day, all customers entering the premises will have their ID Scanned on entry. All records shall be stored for a minimum period of 31 days with date and time stamping. These records shall be made available immediately upon request of the police or authorised officer throughout the preceding 31 day period.
49. From 11pm each day, all persons entering or re-entering the premises shall be searched by an SIA- trained member of staff and monitored by the premises CCTV system. The searching will be supplemented by the use of two functional metal detecting wands operated by a male and female door supervisor dedicated to that duty either until the end of the permitted hours or until there is no further admissions.
50. The licence will have no effect until the Licencing Authority are satisfied that the premises is constructed or altered in accordance with the appropriate provisions of the District Surveyor's Association – Technical Standards for places of Entertainment and the reasonable requirements of Westminster Environmental Health Consultation Team, at which time this condition will be removed from the license.
51. Before the premises open to the public, the plans as deposited will be checked by the Environmental Health Consultation Team to ensure they are an accurate reflection of the premises constructed. Where the premises layout has changed during the course of construction, new plans shall be provided to the Environmental Health Consultation Team and the Licensing Authority.
52. On the ground floor, the sale and supply of intoxicating liquor shall be by waiter and waitress service only.
53. Alcohol shall not be sold or supplied except during permitted hours.
- (a) Subject to the following paragraphs, the permitted hours on weekdays shall commence at 10:00 and extend until 02:00 on the morning following, except that –
- i) the permitted hours shall end at 00:00 midnight on any day on which music and dancing is not provided after midnight; and
 - ii) on any day that music and dancing end between 00:00 midnight and 02:00, the permitted hours shall end when the music and dancing end;
 - iii) the sale of alcohol must be ancillary to the use of the premises for music and dancing and substantial refreshment.

5 FULL REVIEW - MADAME JOJO'S, 8-10 BREWER STREET, W1

LICENSING SUB-COMMITTEE No. 2

Thursday 20 November 2014

Membership: Councillor Nickie Aiken (Chairman) and Councillor Nick Evans and Councillor Rita Begum

Legal Adviser: Anita Sharman
Policy Adviser: Chris Wroe
Committee Officer: Sarah Craddock

Relevant Representations: Metropolitan Police (Applicant), Environmental Health Service and Safer Soho Panel

Present: Mr James Rankin QC (representing the Applicant), Sergeant Frank Partridge and PC Guerra (Metropolitan Police), Mr Philip Kolvin QC and Mr Mark Browning (representing the Licensee), Mr Paajoe Gaskin (Manager and Proposed DPS), Kerry Chapman (proposed DPS), Nigel Carter, (Licensing Inspector) Mr Anil Drayan (Environmental Health Service), Mr White (resident and representing Safer West End) and Ms Alun Thomas (representing the Freeholders of the premises Soho Estates)

**Review of the premises licences for:
Madame JoJo's, 8-10 Brewer Street, W1
14/09263/LIREVX**

An application had been made by the Metropolitan Police Service to review the premises licences for Madame JoJo's and Escape Nightclub under Section 53A(1)(b) of the Licensing Act 2003 (premises associated with serious crime or disorder).

The Committee after considering the report and the evidence presented at the hearing may take such interim steps as it considers necessary for the promotion of the licensing objectives. These steps are:

- (a) modification of the conditions of the premises licence (modify, delete or add conditions);
- (b) to exclude the sale by retail of alcohol from the scope of the licence;
- (c) to suspend the licence for a period not exceeding three months
- (d) to revoke the licence;

Decision (including reasons):

The Sub-Committee initially heard from Mr Rankin. He stated that there had been a grievous assault perpetrated by employees from Madame JoJo's and Escape Nightclub on Friday 24 October 2014 at approximately 00:35 hours. There had been a series of failings which showed a complete disregard for the licensing objectives and the serious incident had been created purely by the employees themselves. Mr Rankin described the attack (as detailed below). He emphasised that the incident was so serious that it did not matter how good the new management strategy was or how the new DPS was, the Police were seeking revocation of the licence to send a clear message to the West End that this behaviour would not be tolerated.

Sergeant Partridge and PC Guerra took Members through the CCTV footage of the incident. This included the incidents recorded on CCTV outside Madame JoJo's and also CCTV from inside the venue directed towards the street. The footage from the external camera included the discussion between a member of security from Escape and a Somali male escalating to the point where the male is head-butted and then pinned against the wall by the security manager of Madame JoJo's only to be punched a number of times by a man the Police believed to be Madame JoJo's taxi operator. When the Somali male returned with a group of males seen throwing glass bottles towards Madame JoJo's door, the indoor camera showed security staff producing baseball bats wrapped in bin liners. The Somali male was attacked again by security staff, including with a baseball bat by the man believed to be the taxi operator. The Police were of the view that the footage clearly demonstrated that the security manager had authorised the use of the baseball bats. Mr Rankin commented that the man described as the taxi operator clearly knew where the baseball bats were kept, was shown to have a close association with staff at the premises and took part in the attack itself. One man had been injured by a glass bottle thrown by the group of males and there had been no first aid box at the premises to treat his injury. This had to be obtained from another premises and a customer had cleaned up the injured man. The injured man was an innocent passer-by and had nothing to do with the club or the Somali male.

Sergeant Partridge advised that the manager on duty, Mr Zorick, had pointed to where the baseball bats were kept and thumbs up signs had been used between the security staff, taxi driver and night manager to acknowledge that they knew where the baseball bats were kept on the premises. After the incident had taken place the baseball bats were replaced and the broken baseball bat was initially hidden. The Police had also had particular concerns that they had not been called initially when the incident arose and noted that the night manager on duty appeared to have been totally apathetic about the serious assault that was taking place. He did eventually call the police but not until 12.40 am, over 1 hour after the initial assault occurred. Sergeant Partridge strongly advised that what had happened was completely outrageous and that other operators in Brewer Street had been shocked by the incident. He emphasised that the revocation of the licence was the only clear way to ensure such a serious incident did not happen again in the West End.

Mr Kolvin stated that he did not dispute the Police interpretation of the CCTV although he did make the point that the man Police believed to be the taxi operator

was not a member of staff of Madame JoJo's or Escape. His client, Ms Louise Tkaczyk the DPS, was appalled by the incident and did not condone any of the events, including the use of baseball bats. Ms Tkaczyk also wished to apologise for the incident taking place. Ms Tkaczyk had run Madame JoJo's for 13 years and Escape for 8 years and nothing like this had happened before. The Committee would have read how warm and friendly the premises was received by the 140,000 people who visited the premises each year. Neither premises attracted trouble makers and were not 'on the radar' for the Police as causing serious crime and disorder. Ms Tkaczyk had not been well for much of 2014 and had installed Mr Paajoe Gaskin, Mr Steven Tkaczyk, the DPS' father and Mr Bojan Zorick as managers. Ms Tkaczyk had felt very let down by Mr Zorick. She had shut both venues voluntarily at the request of the Police and had co-operated with the Police in terms of evidence gathering, including providing the CCTV footage. Since the closure of the premises Ms Tkaczyk had worked extremely hard on the action place, management strategy, employing a DPS and training all her staff to ensure the premises would be managed properly in the future.

Mr Kolvin introduced Kerry Chapman to the Committee who Ms Tkaczyk had employed to take over as DPS and manage the premises. Mr Kolvin went through Ms Chapman's very impressive CV which clearly showed that Ms Chapman had been working in the business for over 18 years, was very successful and well respected by the industry and Police. Ms Chapman advised how the staff had been re-trained, that a new head doorman had been employed personally by her, that she had a strong documented style of management for both staff and the owners and that she would have complete control over the hiring and firing of staff as it was her reputation on the line. She confirmed that she was confident that she could successfully manage these premises as DPS.

Mr Kolvin addressed the Sub-Committee on his client's action plan. Firstly Mr Zorick, the manager on duty, had been dismissed for gross misconduct. Secondly, the door team had been dismissed and thirdly they had been replaced by TSS Security, an experienced company which operated a number of premises in the immediate area which would hopefully get the premises working together to deal with the external environmental problem between the door staff and street gangs. Fourthly there would be two door supervisors at each venue during operating hours together with the introduction of female door staff which had shown to reduce the potential for conflict. Fifthly, door staff would wear body cams provided by TSS which could record conversation. Step six. Any assault at the premises would be reported to the Police immediately. Step seven. Both Madame JoJo's and Escape Nightclub were willing to become members of the Safer West End project. Step eight. All managers and staff had received training with Abacus Training in the legitimate use of force, crime scene preservation, conflict management and incident report writing. Step nine. Ms Chapman had been employed as DPS. Ms Tkaczyk had recognised that due to her illness she must step down as the role required someone who was able to work full time at the premises. Step ten. Ms Chapman would be employed on a full-time basis. Step eleven. There would be a named, responsible person in charge when the Ms Chapman was off and on leave. Step twelve. Ms Tkaczyk had shut both venues voluntarily at the request of the Police, had co-operated with the Police in terms of evidence gathering, including providing the CCTV footage and had worked hard on implementing her action place, management strategy, employing a new DPS and training all her staff.

In conclusion, Mr Kolvin advised that a dedicated taxi company had been employed and a designated smoking area and queuing area would be arranged outside of the venues. CCTV and flood lighting had also been installed to capture the whole of Brewer Street and all staff knew the location of the First Aid kits on the premises. Mr Tkaczyk, the owner's father, had left the business. Mr Kolvin emphasised that this one incident should not undo all the good work built up over the years by the premises. Ms Tkaczyk had done everything possible to ensure that such an incident would not happen again and hoped that the CCTV would bring the Safer West End Group some peace of mind. He advised that Ms Tkaczyk was willing to give Mr White a direct telephone line to Ms Chapman.

The Sub-Committee referred to the possibility of drug/street gangs operating in the area. Sergeant Partridge confirmed that there was an issue with drug/street gangs and that when the police were called the gangs disappeared and reappeared when they had gone. He advised that the venues were working with the Police to try and deal with the gangs. The Sub-Committee referred to page 333 of the report where it details an incident occurring against a manager at the premises. Mr Kolvin gave brief details of the incident and confirmed that the Police had not pursued the incident.

Environmental Health advised that they supported the Metropolitan Police and that the licensing objectives as well as the Health and Safety regulations had been breached at the premises.

Mr White, a resident and member of the Safer Soho Panel expressed concerns about how the premises had been managed and sought for the licence to be revoked. He was supported by Councillor Paul Church and his neighbours. Mr White advised that drug dealing and gangs had disappeared from the area after the Police's action last year but the chaotic nature and noise from customers and illegally parked taxis outside of Madame JoJo's had continued. Since the closure of the two premises residents had been able to sleep as there had been no crowd noise and no bottle collections taking place at 3am. Mr White firmly believed that all the problems occurring at Madame JoJo's had come from weak management and weak ownership and ownership came first and management followed. He also added that Madam JoJo's had declined three times an invitation to join Safer Soho Panel. Mr White concluded by stating that the new management plan was very impressive but it was fatally flawed because the same ownership remained of the two premises.

Mr Thomas, the solicitor acting for the freeholder, Soho Estates, referred to page 530 of the report which contained the representation from Soho Estates, the Landlord of the two premises. He advised that Soho Estates had serious concerns about the management and operation of the two premises and in their opinion there had been no real change or demonstration that the operation of the premises would change as the ownership remained the same. Soho Estates supported the Police in calling for the revocation of the licence.

In response to the representations made by Mr White and Mr Thomas, Mr Kolvin advised that there had been no noise complaints regarding the premises. Both premises were now members of the Safer West End Group and Health and Safety policies were in place in the premises. Mr Kolvin advised that Soho Estates wanted his client to leave the premises but she had a legal right to occupy and manage these

premises. It was unavoidable that Ms Tkaczyk could not attend the hearing due to her ill health. He explained that if Ms Chapman ceased to become DPS the police would be informed and that the police would be given the opportunity to scrutinise the credentials of any potential new DPS.

In conclusion, Mr Rankin advised that no premises could be managed in this way and the evidence presented at the hearing along with the video footage spoke for itself. The incident was so serious that the Police were seeking revocation of the licence.

The Sub-Committee, having carefully considered all the evidence, decided it was necessary to revoke the premises licences for Madame JoJo's and Escape Nightclub. Members had noted that serious assaults with injury had taken place in the early hours of 24 October. The DPS, Ms Tkaczyk, had not been present at the premises on that evening and had indeed not been present at the premises for some time. She had put in place alternative arrangements for management supervision. On the evening concerned it had appeared to the Sub-Committee from the CCTV evidence that those connected with the premises were prepared for trouble. Baseball bats had been kept on an overhead shelf and when the incidents took place it appeared to be an organised assault on the Somali male concerned. The Police were not called initially and it was not clear whether they would have been had an innocent individual not been injured. There had been grossly inadequate first aid available to the individual from Madame JoJo's and appropriate first aid had to be sought from an adjacent premises. Environmental Health, Soho Estates and Mr White all supported the Police on the revocation of the licence to send a clear message to the premises in Soho that this type of incident would not be tolerated. In conclusion the Sub-Committee felt that the incident that had occurred was extremely serious and that the Licensee's new management action plan, new management strategy and the employment of the new DPS were not sufficient to address the gravity of this serious breach and the only appropriate action was to revoke the licence.

6 FULL REVIEW - ESCAPE NIGHTCLUB, 10A BREWER STREET, W1

LICENSING SUB-COMMITTEE No. 2

Thursday 20 November 2014

Membership: Councillor Nickie Aiken (Chairman) and Councillor Nick Evans and Councillor Rita Begum

Legal Adviser: Anita Sharman
Policy Adviser: Chris Wroe
Committee Officer: Sarah Craddock

Relevant Representations: Metropolitan Police (Applicant), Environmental Health Service and Safer Soho Panel

Present: Mr James Rankin QC (representing the Applicant), Sergeant Frank Partridge and PC Guerra (Metropolitan Police), Mr Philip Kolvin QC and Mr Mark Browning (representing the Licensee), Mr Paajoe Gaskin (Manager and Proposed DPS), Kerry Chapman (proposed DPS), Nigel

Carter, (Licensing Inspector) Mr Anil Drayan (Environmental Health Service), Mr White (resident and representing Safer West End) and Ms Alun Thomas (representing the Freeholders of the premises Soho Estates)

**Review of the premises licences for:
Escape Nightclub, 10A Brewer Street, W1
14/09252/LIREVX**

An application had been made by the Metropolitan Police Service to review the premises licences for Madame JoJo's and Escape Nightclub under Section 53A(1)(b) of the Licensing Act 2003 (premises associated with serious crime or disorder).

The Committee after considering the report and the evidence presented at the hearing may take such interim steps as it considers necessary for the promotion of the licensing objectives. These steps are:

- (a) modification of the conditions of the premises licence (modify, delete or add conditions);
- (b) to exclude the sale by retail of alcohol from the scope of the licence;
- (c) to suspend the licence for a period not exceeding three months
- (d) to revoke the licence;

Decision (including reasons):

The Sub-Committee initially heard from Mr Rankin. He stated that there had been a grievous assault perpetrated by employees from Madame JoJo's and Escape Nightclub on Friday 24 October 2014 at approximately 00:35 hours. There had been a series of failings which showed a complete disregard for the licensing objectives and the serious incident had been created purely by the employees themselves. Mr Rankin described the attack (as detailed below). He emphasised that the incident was so serious that it did not matter how good the new management strategy was or how the new DPS was, the Police were seeking revocation of the licence to send a clear message to the West End that this behaviour would not be tolerated.

Sergeant Partridge and PC Guerra took Members through the CCTV footage of the incident. This included the incidents recorded on CCTV outside Madame JoJo's and also CCTV from inside the venue directed towards the street. The footage from the external camera included the discussion between a member of security from Escape and a Somali male escalating to the point where the male is head-butted and then pinned against the wall by the security manager of Madame JoJo's only to be punched a number of times by a man the Police believed to be Madame JoJo's taxi operator. When the Somali male returned with a group of males seen throwing glass bottles towards Madame JoJo's door, the indoor camera showed security staff

producing baseball bats wrapped in bin liners. The Somali male was attacked again by security staff, including with a baseball bat by the man believed to be the taxi operator. The Police were of the view that the footage clearly demonstrated that the security manager had authorised the use of the baseball bats. Mr Rankin commented that the man described as the taxi operator clearly knew where the baseball bats were kept, was shown to have a close association with staff at the premises and took part in the attack itself. One man had been injured by a glass bottle thrown by the group of males and there had been no first aid box at the premises to treat his injury. This had to be obtained from another premises and a customer had cleaned up the injured man. The injured man was an innocent passer by and had nothing to do with the club or the Somali male.

Sergeant Partridge advised that the manager on duty, Mr Zorick, had pointed to where the baseball bats were kept and thumbs up signs had been used between the security staff, taxi driver and night manager to acknowledge that they knew where the baseball bats were kept on the premises. After the incident had taken place the baseball bats were replaced and the broken baseball bat was initially hidden. The Police had also had particular concerns that they had not been called initially when the incident arose and noted that the night manager on duty appeared to have been totally apathetic about the serious assault that was taking place. He did eventually call the police but not until 12.40 am, over 1 hour after the initial assault occurred. Sergeant Partridge strongly advised that what had happened was completely outrageous and that other operators in Brewer Street had been shocked by the incident. He emphasised that the revocation of the licence was the only clear way to ensure such a serious incident did not happen again in the West End.

Mr Kolvin stated that he did not dispute the Police interpretation of the CCTV although he did make the point that the man Police believed to be the taxi operator was not a member of staff of Madame JoJo's or Escape. His client, Ms Louise Tkaczyk the DPS, was appalled by the incident and did not condone any of the events, including the use of baseball bats. Ms Tkaczyk also wished to apologise for the incident taking place. Ms Tkaczyk had run Madame JoJo's for 13 years and Escape for 8 years and nothing like this had happened before. The Committee would have read how warm and friendly the premises was received by the 140,000 people who visited the premises each year. Neither premises attracted trouble makers and were not 'on the radar' for the Police as causing serious crime and disorder. Ms Tkaczyk had not been well for much of 2014 and had installed Mr Paajoe Gaskin, Mr Steven Tkaczyk, the DPS' father and Mr Bojan Zorick as managers. Ms Tkaczyk had felt very let down by Mr Zorick. She had shut both venues voluntarily at the request of the Police and had co-operated with the Police in terms of evidence gathering, including providing the CCTV footage. Since the closure of the premises Ms Tkaczyk had worked extremely hard on the action place, management strategy, employing a DPS and training all her staff to ensure the premises would be managed properly in the future.

Mr Kolvin introduced Kerry Chapman to the Committee who Ms Tkaczyk had employed to take over as DPS and manage the premises. Mr Kolvin went through

Ms Chapman's very impressive CV which clearly showed that Ms Chapman had been working in the business for over 18 years, was very successful and well respected by the industry and Police. Ms Chapman advised how the staff had been re-trained, that a new head doorman had been employed personally by her, that she had a strong documented style of management for both staff and the owners and that she would have complete control over the hiring and firing of staff as it was her reputation on the line. She confirmed that she was confident that she could successfully manage these premises as DPS.

Mr Kolvin addressed the Sub-Committee on his client's action plan. Firstly Mr Zorick, the manager on duty, had been dismissed for gross misconduct. Secondly, the door team had been dismissed and thirdly they had been replaced by TSS Security, an experienced company which operated a number of premises in the immediate area which would hopefully get the premises working together to deal with the external environmental problem between the door staff and street gangs. Fourthly there would be two door supervisors at each venue during operating hours together with the introduction of female door staff which had shown to reduce the potential for conflict. Fifthly, door staff would wear body cams provided by TSS which could record conversation. Step six. Any assault at the premises would be reported to the Police immediately. Step seven. Both Madame JoJo's and Escape Nightclub were willing to become members of the Safer West End project. Step eight. All managers and staff had received training with Abacus Training in the legitimate use of force, crime scene preservation, conflict management and incident report writing. Step nine. Ms Chapman had been employed as DPS. Ms Tkaczyk had recognised that due to her illness she must step down as the role required someone who was able to work full time at the premises. Step ten. Ms Chapman would be employed on a full-time basis. Step eleven. There would be a named, responsible person in charge when the Ms Chapman was off and on leave. Step twelve. Ms Tkaczyk had shut both venues voluntarily at the request of the Police, had co-operated with the Police in terms of evidence gathering, including providing the CCTV footage and had worked hard on implementing her action plan, management strategy, employing a new DPS and training all her staff.

In conclusion, Mr Kolvin advised that a dedicated taxi company had been employed and a designated smoking area and queuing area would be arranged outside of the venues. CCTV and flood lighting had also been installed to capture the whole of Brewer Street and all staff knew the location of the First Aid kits on the premises. Mr Tkaczyk, the owner's father, had left the business. Mr Kolvin emphasised that this one incident should not undo all the good work built up over the years by the premises. Ms Tkaczyk had done everything possible to ensure that such an incident would not happen again and hoped that the CCTV would bring the Safer West End Group some peace of mind. He advised that Ms Tkaczyk was willing to give Mr White a direct telephone line to Ms Chapman.

The Sub-Committee referred to the possibility of drug/street gangs operating in the area. Sergeant Partridge confirmed that there was an issue with drug/street gangs and that when the police were called the gangs disappeared and reappeared when they had gone. He advised that the venues were working with the Police to try and deal with the gangs. The Sub-Committee referred to page 333 of the report where it details an incident occurring against a manager at the premises. Mr Kolvin gave brief details of the incident and confirmed that the Police had not pursued the incident.

Environmental Health advised that they supported the Metropolitan Police and that the licensing objectives as well as the Health and Safety regulations had been breached at the premises.

Mr White, a resident and member of the Safer Soho Panel expressed concerns about how the premises had been managed and sought for the licence to be revoked. He was supported by Councillor Paul Church and his neighbours. Mr White advised that drug dealing and gangs had disappeared from the area after the Police's action last year but the chaotic nature and noise from customers and illegally parked taxis outside of Madame JoJo's had continued. Since the closure of the two premises residents had been able to sleep as there had been no crowd noise and no bottle collections taking place at 3am. Mr White firmly believed that all the problems occurring at Madame JoJo's had come from weak management and weak ownership and ownership came first and management followed. He also added that Madam JoJo's had declined three times an invitation to join Safer Soho Panel. Mr White concluded by stating that the new management plan was very impressive but it was fatally flawed because the same ownership remained of the two premises.

Mr Thomas, the solicitor acting for the freeholder, Soho Estates, referred to page 530 of the report which contained the representation from Soho Estates, the Landlord of the two premises. He advised that Soho Estates had serious concerns about the management and operation of the two premises and in their opinion there had been no real change or demonstration that the operation of the premises would change as the ownership remained the same. Soho Estates supported the Police in calling for the revocation of the licence.

In response to the representations made by Mr White and Mr Thomas, Mr Kolvin advised that there had been no noise complaints regarding the premises. Both premises were now members of the Safer West End Group and Health and Safety policies were in place in the premises. Mr Kolvin advised that Soho Estates wanted his client to leave the premises but she had a legal right to occupy and manage these premises. It was unavoidable that Ms Tkaczyk could not attend the hearing due to her ill health. He explained that if Ms Chapman ceased to become DPS the police would be informed and that the police would be given the opportunity to scrutinise the credentials of any potential new DPS.

In conclusion, Mr Rankin advised that no premises could be managed in this way and the evidence presented at the hearing along with the video footage spoke for itself. The incident was so serious that the Police were seeking revocation of the licence.

The Sub-Committee, having carefully considered all the evidence, decided it was necessary to revoke the premises licences for Madame JoJo's and Escape Nightclub. Members had noted that serious assaults with injury had taken place in the early hours of 24 October. The DPS, Ms Tkaczyk, had not been present at the premises on that evening and had indeed not been present at the premises for some time. She had put in place alternative arrangements for management supervision. On the evening concerned it had appeared to the Sub-Committee from the CCTV evidence that those connected with the premises were prepared for trouble. Baseball bats had been kept on an overhead shelf and when the incidents took place it appeared to be an organised assault on the Somali male concerned. The Police

were not called initially and it was not clear whether they would have been had an innocent individual not been injured. There had been grossly inadequate first aid available to the individual from Madame JoJo's and appropriate first aid had to be sought from an adjacent premises. Environmental Health, Soho Estates and Mr White all supported the Police on the revocation of the licence to send a clear message to the premises in Soho that this type of incident would not be tolerated. In conclusion the Sub-Committee felt that the incident that had occurred was extremely serious and that the Licensee's new management action plan, new management strategy and the employment of the new DPS were not sufficient to address the gravity of this serious breach and the only appropriate action was to revoke the licence.