



CITY OF WESTMINSTER

# MINUTES

## Licensing Sub-Committee (3)

### MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (3)** Committee held on **Thursday 2nd March, 2017**, Rooms 5, 6 & 7 - 17th Floor, Westminster City Hall, 64 Victoria Street, London, SW1E 6 QP.

**Members Present:** Councillors Melvyn Caplan (Chairman), Susie Burbridge and Aziz Toki

#### 1 MEMBERSHIP

There were no changes to the Membership.

#### 2 DECLARATIONS OF INTEREST

There were no declarations of interest.

#### 3 THE PLAYHOUSE, 91 JERMYN STREET, SW1 - NEW SEXUAL ENTERTAINMENT VENUE APPLICATION

### LICENSING SUB-COMMITTEE No. 3

*Thursday 2nd March 2017*

Membership: Councillor Melvyn Caplan (Chairman), Councillor Susie Burbridge and Councillor Aziz Toki

Legal Adviser: Barry Panto

Policy Adviser: Chris Wroe

Committee Officer: Jonathan Deacon

Presenting Officer: Sumeet Anand-Patel

Objections: Environmental Health, Metropolitan Police, Licensing Authority, 25 objections to application and 2 in support.

Present: Mr Philip Kolvin QC (Representing the Applicant), Ms Lana Tricker (Solicitor, on behalf of the Applicant), Mr Val Kmetz (Operations Manager), Mr Richard Traviss (Director), Mr David Serlui (Designated Premises Supervisor), Mr Adrian Studd (Licensing Consultant), Mr Ian Watson (Environmental Health), PC Toby Janes (Metropolitan Police), Mr David

Sycamore (Licensing Authority), Mr Richard Brown ((Solicitor, Citizens Advice Bureau Licensing Advice Project – representing an objector), Mr Gary Grant (Counsel, representing objectors) and Mr Alexander Williams (local resident).

**The Playhouse, 91 Jermyn Street, SW1  
16/12363/LISEVN**

The Sub-Committee initially consulted the parties present as to whether they were content for any matters relating to the Sexual Entertainment Venue ('SEV') application (16/12363/LISEVN) and the variation to the premises licence (16/13620/LIPV) to be raised during the one hearing. All the parties, including the Applicant, confirmed they were content to proceed in this way. It was made clear to the parties that the Sub-Committee would take separate decisions in respect of the two applications.

The Sub-Committee heard from Mr Kolvin, representing the Applicant. Mr Kolvin apologised that sufficient clarity had not been given of the essence of the SEV application prior to the hearing. He intended to explain during the hearing what the application involved, why the SEV application was completely different from that applied for at the premises in 2014 and why the proposal was not contrary to the Council's policies or the licensing objectives. He also would refer to the suitability of his clients in relation to correspondence which had been submitted by objectors to the application.

Mr Kolvin advised that customers entered a doorway on Jermyn Street and would head down into the basement. The basement and sub-basement were the two main trading floors. The basement from the Jermyn Street entrance was effectively the ground floor of the entrance from Ormond Yard which explained why there was some confusion in the papers regarding the description of the floors. At the far end of the basement there was a door which led directly to Ormond Yard. Mr Kolvin confirmed that this door was effectively being taken out of commission so that there would be no access or egress from Ormond Yard. Mr Kolvin stated that from the basement there were a further set of stairs to the sub-basement. Both of the trading floors had a bar. There was an existing premises licence under the Licensing Act 2003 legislation which permitted opening until 03:30 seven days a week. The basement capacity was 135 people and the sub-basement was 100. Mr Kolvin referred to the fact that the premises had previously operated as a nightclub, Abracadabra and that representations had expressed concerns regarding anti-social behaviour and noise when the club had been open over two years previously. Mr Kolvin believed that the question now was whether the premises reverted to its use under its current premises licence or if a new and different model could be introduced which his client was seeking to do.

Mr Kolvin explained that it was proposed that there would be an a la carte restaurant in the basement. At 23:00 and thereafter, the public would be required to leave and the only people who would be allowed in this area would be club members and their guests. In respect of the sub-basement, this would be for club members and their guests only. Mr Kolvin stated that the sub-basement would contain two private rooms and a small retractable stage. There would be no dance floor, loud music or any other aspects in keeping with a nightclub.

Mr Kolvin sought to emphasize that as part of the proposals there would be a bona fide membership club at the premises where nominations for membership would have to come from an existing member and these would be considered by a membership committee which would meet periodically. The intention was to have a membership which was 50% male and 50% female. The base membership fee would be £800. The target market would be people who shop in St James's for art and fashion. The entertainment offer at the premises would potentially include musicians, comedians, magicians, table hosts and burlesque performers. Mr Kolvin added that there was sometimes a debate about whether burlesque entertainment required a SEV licence and his client therefore wished to ensure that he was in possession of such a licence. It was intended that the entertainment would be suitable for club members who were both men and women and this would not involve striptease, table dancing, pole dancing or private booths.

Mr Kolvin clarified it was proposed that the two private rooms in the sub-basement and three private rooms in the basement could be booked by a group for sexual entertainment if requested. He commented that his client did not expect many bookings for sexual entertainment and that potentially weeks could go by without any nudity occurring at the premises. Sexual entertainment was not the main driver of the business. Mr Kolvin stated that his clients were highly respectful of the location and the sensitivities relating to it. There would be no reference to sexual entertainment outside the premises or any advertising in newspapers or on the internet relating to sexual entertainment. Mr Kolvin expressed the view that life in Jermyn Street would be unaffected and that there would be a benefit to residents in Ormond Yard in comparison to a nightclub. The proposed condition 16 was crucial as it indicated that relevant entertainment would be ancillary to the main use of the premises as a private members club. The public would never be able to get access to the sexual entertainment as the SEV licence would not operate in the basement until 23.00.

The Sub-Committee asked Mr Kolvin to explain the practicalities of how the membership would work and the Applicant would achieve a 50/50 split of male/female membership. Mr Kolvin replied that there would be a marketing partner, Quintessentially, and it was intended that there would be four individuals with established connections and it would be their connections who would be invited initially. Mr Kmetz provided the additional information that the managers would be the initial vetters of those applying to be members. They would not discriminate on gender grounds but would not establish quotas. Mr Kolvin clarified that his point was that this was not an all-male club.

Mr Kolvin addressed the Sub-Committee on the aspect that he did not believe the application was contrary to the Council's policies or the licensing objectives. His submission in respect of the application being considered under the Licensing Act 2003 legislation was that it was in certain respects neutral and in others an improvement in terms of the promotion of the licensing objectives. Mr Kolvin referred to the licensed area and the proposed hours of operation being the same. He expressed the view that the conditions strengthened the obligation to prevent any activity in Ormond Yard. The premises would be converted from a nightclub to a private members club with a likely improvement in behaviour.

Mr Kolvin responded to the Police's and the Licensing Authority's written point that the hours were beyond the Council's Core Hours policy. The Licensing Authority had also set out that this was contrary to policy NS1. He stated, by reference to paragraph 2.5.66 of the policy that his interpretation of policy NS1 was that it did not apply when the licence operates under the SEV legislation. In terms of the proposed hours, Mr Kolvin referred to 2.5.1 of the SEV policy that 'where a premises is licensed under the 2003 Act for hours beyond the "core hours" the council will have regard to those hours and generally grant a SEV licence to the hours authorised for other licensable activities, subject to the provision of a winding down period if appropriate'.

Mr Kolvin stated that the starting point in terms of SEV policy was to grant an application. There was only a refusal in the event that there was inappropriateness relating to harmful impact or unsuitability. He commented that in relation to Policy NO1, 91 Jermyn Street is located in Core CAZ North. Mr Kolvin believed it was unfair to suggest, as had been set out in the objections, that the application could be refused on the grounds in paragraph 2.3.15 of the SEV Statement of Licensing Policy that 'the number of sexual entertainment venues in the more immediate locality of the proposed venue is equal to or exceeds the number which the council considers appropriate for that more immediate locality'. There would be three in total but one of these, Scotch St James was not currently being operated as a SEV premises and there was no immediate risk of all three SEV licences being used in the locality.

In terms of Policy L01, Mr Kolvin made the point that the Sub-Committee had the discretion to refuse applications relating to SEVs on the grounds that the grant or renewal of the licence would be inappropriate, having regard to the character of the relevant locality. Mr Kolvin referred to paragraph 2.4.7 as examples of what could raise concern such as the visual impact of sexual entertainment premises, including in the form of signs, shop front design, promotional material, staff or customer queuing and made the point that none of these were issues at 91 Jermyn Street. He expressed the view that the premises would not be harming or adversely affecting the character of Jermyn Street. The nature of the clientele would be members who had a link to the local area. There would be no prostitutes or clippers outside the premises.

In terms of Policy L02, this referred to what was in the immediate vicinity and this as Mr Kolvin stated included premises used for religious worship. Mr Kolvin did not believe that St James's Church representatives had objected. Gaslight was itself in the vicinity of the Church and he did not believe that the look of the venue at 91 Jermyn Street would impact on St James's Church at all.

In respect of the suitability of the Applicant, Mr Kolvin said that the Police were well aware of those involved with the venue. Mr Kmetz would be the operator, Mr Traviss was the investor and Mr Serlui, who was previously the Designated Premises Supervisor at the venue, had been retained on a consultancy basis and was a director for the time being. Mr Kolvin asserted that all of these men were of good character and had not been disqualified as a director or been the subject of bankruptcy proceedings.

The Sub-Committee then heard from the Responsible Authorities. Mr Sycamore, representing the Licensing Authority, stated that the primary concern was the new

SEV application. In respect of Policy LO1 of the Council's SEV policy, the Licensing Authority took the view that the location with its entry and exit onto Jermyn Street was not suitable taking into account the properties and other businesses in the area. St James's Church and surrounding gardens would be in full view of the premises. 2.4.6 of the Council's SEV policy set out that 'in considering whether granting a licence would be inappropriate the council will specifically consider whether the character of the locality is predominately residential, high profile retail, of historic importance or iconic in nature, or one of family entertainment or leisure'. Mr Sycamore referred to the area being predominantly residential and with high profile retail units.

Mr Sycamore stated that there are two SEVs in close proximity to 91 Jermyn Street which is the same as when the application for a new SEV licence had been refused in 2014. Whilst the nature of the entertainment, as alluded to by Mr Kolvin, might be different from that proposed in 2014, there was still the potential for sexual entertainment being provided, including in the private rooms. Mr Sycamore believed it was necessary for the Applicant to satisfy the Sub-Committee why the application should be granted as an exemption to policy. The Licensing Authority was maintaining its objection to the application.

Mr Watson, on behalf of Environmental Health, addressed Members on the layout of the premises including that access to Ormond Yard would only be as an emergency escape. He made the point that Mr Kolvin's description of the way the premises would be used was not reflected in the application itself or in the proposed conditions. He advised that if granted, conditions should be tailored to restrict where Sexual entertainment took place. Mr Watson commented that 91 Jermyn Street is in Core CAZ North. From an enforcement point of view, SEVs did not tend to raise issues in the way that nightclubs often do. He added that he had no concerns regarding the variation of the premises licence under the Licensing Act 2003 legislation.

PC Janes, on behalf of the Police, also took the view that the original application had not reflected what was now being proposed on the Applicant's behalf by Mr Kolvin. He believed that the proposed conditions for the variation of the premises licence were more restrictive and promoted the crime and disorder licensing objective. He added that the Police had found in general that SEVs did cause less crime and disorder than nightclubs.

The Sub-Committee then heard from Mr Grant. He informed those present that his clients were content to have their anonymity waived. He was representing the St James's Conservation Trust including specific trustees Mr Turner, Ms Chichester and their professional adviser, Mr Heath. Mr Grant made the point that the significance of the Sub-Committee being asked to grant a new SEV licence in Jermyn Street should not be underplayed. The objections of his clients were based on the character of the locality, the uses to which other premises in the vicinity are put particularly St James's Church directly opposite, the risk of clustering of SEVs and the suitability of the Applicants to hold a SEV licence.

Mr Grant stated that SEV licence holders have a commercial imperative, would seek to maximise the potential of what was granted and would operate to the conditions on the licence. He recommended that the submissions made on behalf of the Applicant

regarding the limited SEV use should be treated with a healthy scepticism. He believed that if the Applicant was to describe the SEV use as being an integral part of the application then there was the likelihood that the application would not be granted. The application as it stood permitted striptease, pole dancing and table dancing. Mr Grant referred to there being a frequency exemption under the legislation which meant that even without a SEV licence a premises could provide sexual entertainment on up to eleven occasions a year. It was his view therefore that it could be expected that there would be more frequent use of the SEV licence than that. The Applicant had also given the indication that the variation of the premises licence under the Licensing Act legislation was dependent on the granting of the SEV licence which demonstrated its importance.

Mr Grant drew Members' attention to the previous decision taken by the Sub-Committee to refuse a new SEV licence at 91 Jermyn Street in 2014. He made the point that whilst the Applicant might currently have a different concept the core rationale for the Sub-Committee in reaching the decision in 2014 had not changed. The extent of the SEV use did not in his view make the granting of a licence any less inappropriate when having regard to the character of the relevant locality. Jermyn Street was not just another area. Its historical nature included St James's Church which had been designed and built by Sir Christopher Wren and was a focal point for community events. The Playhouse was not located in a side street as was Gaslight. He described Jermyn Street as a prestigious street of national importance and international renown and holding more royal warrants than any other street in the United Kingdom. He added that it had conservation area status and special policy status. There were families in the area and the Royal Academy of Arts and Fortnum and Mason were in the locality.

Mr Grant referred specifically to 2.4.17 of the Council's SEV Statement of Licensing Policy that SEVs 'may be inappropriate in the vicinity of other premises depending on their use. This may include premises in the vicinity used for religious worship, by children and families, or vulnerable adults. It may also include sex establishments and other premises providing sexual entertainment where the council considers it inappropriate to create a cluster of such premises'. He expressed the view that with there already being Gaslight and Scotch St James in the vicinity, if another SEV licence was granted at 91 Jermyn Street this would begin to create a cluster of such premises and the locality would gain a reputation for having SEVs. Mr Grant also made reference to paragraph 2.3.12 that Visit London, the official visitor organisation for London, had advised that if the balance and mix of uses in areas such as Soho, St James, Mayfair, and Covent Garden, were to change and become more dominated by sex related entertainment this could deter visitors and have a negative impact overall. In respect of paragraph 2.4.6 Mr Grant concurred with the Licensing Authority that the application could be considered inappropriate on the grounds that the character of the locality is predominately residential, high profile retail, of historic importance or iconic in nature, or one of family entertainment or leisure. He also referred to paragraph 2.1.11 that the council would apply the policy strictly where applications are made for licences for premises at locations where sexual entertainment has not previously been provided. Mr Grant also considered paragraph 2.4.12 to be relevant that 'localities characterised as areas of historic importance, or iconic in nature, will be particularly attractive to, and used by, visitors, both adults and children. The council may consider it inappropriate for these localities, which in many cases will be of national and international significance, to be

associated with SEVs and their associated character, because of the effect that such an association would have on visitors and on the image of London and Westminster in particular’.

Mr Grant questioned the suitability of Mr Serlui and Mr Traviss based on Mr Serlui’s involvement with Ghost in Farringdon Road, EC1 and Mr Traviss’ involvement with Centro and The Den (also known as “Jet Black”), 16A West Central Street, WC1. This information had been submitted to the Sub-Committee prior to the hearing.

Mr Grant also made the point that his clients did not appreciate the ‘gun to the head’ approach of the Applicant that if the SEV application was not granted with the private members’ club concept then the premises could revert back to a nightclub with the problems which had existed previously. He added that if the nightclub did return and any issues arose, the premises licence could be reviewed.

Mr Brown addressed the Sub-Committee and advised Members that his client agreed with Mr Grant’s submissions. This included Mr Grant’s points on the relevant aspects in the Council’s SEV policy, that there was likely to be more use of the SEV licence than was indicated by the Applicant at the hearing and that the Applicant was putting a ‘gun to the head’ of residents. He expressed the view that it was a particularly unattractive argument to indicate that the nightclub could return if the current application was refused given the residents’ representations regarding Abracadabra and that Mr Serlui had been involved with the premises for four years.

Mr Brown stated that his client, Mr Adler was prepared to waive his anonymity in order to explain his personal circumstances. Mr Adler shares a party wall with the premises and Mr Brown set out what his concerns were in relation to the premises. He had been inconvenienced recently by constant noise from building works and he was concerned that there was equally the potential for him to be inconvenienced by music once The Playhouse was operating. Mr Adler was seeking that noise would not be able to emanate from the premises via Ormond Yard. He was aware that Mason’s Yard was vulnerable to being used for nefarious purposes and any additional activity at 91 Jermyn Street could be detrimental. Mason’s Yard was easily accessible from Jermyn Street.

Mr Brown referred to the 2014 decision and that previously the proposed capacity had been reduced to 200. In the current application there would be no change to the capacity. Mr Brown informed Members that there were twenty one SEVs in CAZ Core North and therefore under the Council’s policy, four more could be designated. He believed that there must be a more appropriate location for a SEV than Jermyn Street.

The Sub-Committee asked Mr Kolvin for clarification on his client’s position in respect of the variation of the premises licence should the SEV application be refused. Mr Kolvin replied that the variation application would be withdrawn in that instance. It was agreed that there would be further discussion on the second item should the SEV application be granted.

Mr Kolvin was given the opportunity to respond to some of the points made by objectors to the applications. He stated that there were two representations of support from people living in flats in 91 Jermyn Street. The Applicant did not require

an exemption to SEV policy as suggested by the Licensing Authority. The proposals would not impact on the character of Jermyn Street. He agreed with the Police and Environmental Health that there was less likely to be potential for the licensing objectives to be undermined if a SEV application was granted at the premises rather than it re-opening as a nightclub.

Mr Kolvin responded to a point made by both Mr Grant and Mr Williams who had waived his anonymity. This was that the Applicant's vision of limited SEV use was misleading. Mr Kolvin commented that it was possible for the Sub-Committee to condition what took place in the premises including preventing private booths or restricting where sexual entertainment took place.

Mr Kolvin believed it was unfair to suggest that SEV use was not ancillary because the Applicant was minded to withdraw the variation application. It was, he stated, the case that the current design of the premises anticipated a particular sort of club. The conditions reflected that alcohol would only be served as part of a private members' club. If the SEV was not permitted, his client could operate the premises as a private members' club under the current licence.

Mr Kolvin stated that the impact of the application was different from the one refused in 2014 because that application had been for a SEV which would operate as a lapdancing club and was available to members of the public. It would also have been advertised.

Mr Kolvin referred to policy 2.4.17 and that this did not set out that there was a presumption that SEV applications near places of worship or near other SEV premises should be refused. It was only that they 'may be inappropriate in the vicinity of other premises depending on their use'.

Mr Kolvin apologised in the event that Mr Adler was being disturbed by works the landlord was carrying out. He added that there was a condition that no noise would be permitted to emanate from the premises. There would also be a works condition attached to the licence which would not be signed off by Environmental Health officers until they were content.

In response to questions from the Licensing Sub-Committee, Mr Kolvin informed the Sub-Committee that he was content for pole dancing to be removed from the application. Mr Kmetz said that the frequency of sexual entertainment would be driven by the demands of the members. It was anticipated that this would be several occasions per week. Mr Kolvin was asked whether it was intended that the burlesque entertainment would be limited to a stage. He replied that he would be content for a condition to be attached to a licence where any nudity would be in a defined area. It was possible that the entertainment would straddle the stage as it was very small.

The Sub-Committee noted that as referred to in the Council's policy and in Mr Kolvin's submission, Members had the discretion to refuse applications on specific grounds. This was a relatively wide ranging discretion. After having carefully considered all the representations received, the Sub-Committee had found that it was an inescapable fact that Jermyn Street was one of the most prestigious areas in the City of Westminster, in London and the whole of the country. This included its history



and its character up to the present day. The Chairman stated it was clear from previous decisions and from the Council's policy that the Council was not opposed to SEVs. Members had noted what was envisaged by the Applicant in terms of the operation that was proposed at the premises. Members, however, were firmly of the view that Jermyn Street was not appropriate for a SEV licence. It was not a situation where conditions would result in it becoming appropriate to grant the licence, even if those conditions had been tightly drafted to restrict the type of sexual entertainment that might be permitted.

The Sub-Committee had particularly taken into account policies L01 and L02 when finding that granting the new SEV application would be inappropriate, having regard to the character of the relevant locality (specifically Jermyn Street) and also the use to which premises in the vicinity of the proposed sexual entertainment venue are put. The Sub-Committee specifically considered that the character of the locality includes particularly high profile retail units, is of historic importance or iconic in nature and has a premises in the vicinity used for religious worship which is of historic significance, St James's Church. The Sub-Committee also wished to avoid the potential for a concentration or clustering of SEVs forming in the vicinity of Jermyn Street.

The Sub-Committee in reaching the decision to refuse the application did not take into account the suitability of the operators.

#### **4 THE PLAYHOUSE, 91 JERMYN STREET, SW1 - LICENSING ACT 2003 APPLICATION**

##### **LICENSING SUB-COMMITTEE No. 3**

*Thursday 2nd March 2017*

Membership: Councillor Melvyn Caplan (Chairman), Councillor Susie Burbridge and Councillor Aziz Toki

Legal Adviser: Barry Panto

Policy Adviser: Chris Wroe

Committee Officer: Jonathan Deacon

Presenting Officer: Sumeet Anand-Patel

Relevant Representations: Metropolitan Police, Licensing Authority, 4 representations objecting to application.

Present: Mr Philip Kolvin QC (Representing the Applicant), Ms Lana Tricker (Solicitor, on behalf of the Applicant), Mr Val Kmetz (Operations Manager), Mr Richard Traviss (Director), Mr David Serlui (Designated Premises Supervisor), Mr Adrian Studd (Licensing Consultant), PC Toby Janes (Metropolitan Police), Mr David Sycamore (Licensing Authority), Mr Richard Brown (Solicitor, Citizens Advice Bureau Licensing Advice Project – representing an objector) and Mr Gary Grant (Counsel, representing an objector)

**The Playhouse, 91 Jermyn Street, SW1  
16/13620/LIPV**

Following the decision by the Sub-Committee to refuse the application for a Sexual Entertainment Venue ('SEV') at the premises (16/12363/LISEVN), the Applicant confirmed that the application (16/13620/LIPV) to vary the plans and to vary, delete and update conditions was being withdrawn as it was dependent on the SEV application being granted.

**5 ELGIN FOOD & WINE, GROUND FLOOR, 97 ELGIN AVENUE, W9**

**LICENSING SUB-COMMITTEE No. 3**

*Thursday 2nd March 2017*

Membership: Councillor Melvyn Caplan (Chairman), Councillor Susie Burbridge and Councillor Aziz Toki

Legal Adviser: Barry Panto  
Policy Adviser: Chris Wroe  
Committee Officer: Jonathan Deacon  
Presenting Officer: Sumeet Anand-Patel

Relevant Representations: Environmental Health and Metropolitan Police.

Present: Mr Rajesh Jagtap (representing Mr Zergay Hakeem), Mr Zergay Hakeem (Applicant, Owner and Designated Premises Supervisor), Mr Maxwell Koduah (Environmental Health) and PC Reaz Guerra (Metropolitan Police)

**Elgin Food & Wine, Ground Floor, 97 Elgin Avenue, W9  
16/14167/LIPV**

**1. Sale by Retail of Alcohol (Off)**

<u>From</u>	<u>To</u>
Monday to Saturday 08:00 to 23:00 Sunday 10:00 to 22:30	Monday to Sunday 08:00 to 02:00

Amendments to application advised at hearing:

None.

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

The Sub-Committee heard from Mr Jagtap, representing the Applicant. He brought to the Sub-Committee's attention that Mr Hakeem, the Applicant, Owner and Designated Premises Supervisor had run Elgin Food & Wine for the last thirteen years. Mr Hakeem had held an event having operated with a temporary event notice ('TEN') on Friday 24 February and Saturday 25 February until 02:00. It was believed that no issues had arisen as a result of this event. He added that the premises had not been subject to crime and disorder or public nuisance during all the time Mr Hakeem had been operating at Elgin Food & Wine.

Mr Jagtap referred to the experienced staff and responsible management at the premises. There were two members of staff at the premises at all times. He stated that Mr Hakeem in his capacity as a local trader cared about the neighbourhood. In order to promote the crime and disorder licensing objective, CCTV at the premises was in keeping with Home Office standards and footage was available to the Police at their request. Mr Jagtap added that there were various security measures in place and staff had received the relevant training. He believed all four of the licensing objectives were being promoted.

The Sub-Committee then heard from PC Guerra on behalf of the Metropolitan Police. He stated that the premises were managed responsibly and there was no evidence of crime and disorder resulting from the premises operating to the current hours. However, he referred to the hours applied for in the application for a variation of the premises licence exceeding the Council's Core Hours policy. PC Guerra advised that the sale of alcohol until 02:00 potentially posed several problems for the Police. Availability of alcohol until late into the night would potentially add to anti-social behaviour, including further drinking in the street in a sensitive area. Whilst the convenience store is in a controlled drinking zone and the Police had powers to deal with specific issues relating to alcohol, it would result in an additional drain on Police resources.

PC Guerra also advised that there was the potential for Elgin Food & Wine to become a destination venue due to the hours being sought. He was concerned that customers would potentially have already consumed alcohol in other licensed premises and then would purchase further alcohol into the early hours of the morning on the way home after pubs or off licences had closed which could lead to anti-social behaviour or customers being the victims of crime. Whilst he appreciated that applications were considered on their own merits, PC Guerra expressed concerns that if the application was granted, it could set a precedent for other licensed premises in the area, including supermarkets, seeking later hours. He also made the point that the convenience store is located in a residential area and any noise could exacerbate anti-social behaviour. PC Guerra said that overall the Police were opposed to the sale of alcohol beyond Core Hours.

Mr Koduah addressed the Sub-Committee on behalf of Environmental Health. He informed Members that the Council had not received any complaints relating to public nuisance from the premises. He was maintaining his representation due to the proposed hours in the application for the sale of alcohol. Mr Koduah noted that the two TENs sought until 02:00 had been on Fridays and Saturdays

and he queried whether the Applicant needed to extend the hours sought every day of the week or specifically on Fridays and Saturdays. Applicants were encouraged in the Council's policy not to apply for hours that they did not intend to use. Mr Koduah also drew Members' attention to the TENs setting out that the Applicant would only admit four customers in the premises any one time and queried whether the Applicant was also seeking to do this as part of the current application.

The Sub-Committee asked the Applicant why, given that the Police had plenty of experience in these matters and had concerns regarding the application, he did not believe that issues would occur at the premises. It is a very residential area and it was not believed that there were any premises within the locality which operated to the late hour that was being applied for. The Applicant was also asked whether he was seeking a terminal hour of 02:00 every day following the comments of Mr Koduah.

Mr Hakeem replied that since he had operated at the premises he had never had any issues with customers or crime and disorder. Customers were supporting his application and there were no residential objections. He referred to a shop in Queen's Park and also one in Harrow Road which he believed were selling alcohol until at least 02:00. Mr Hakeem also commented that there were no pubs in the immediate area. His customers were generally local residents. People did not drink alcohol outside the convenience store in Elgin Avenue. He clarified that he did intend to sell alcohol until 02:00 every day of the week.

Mr Hakeem was asked whether he had specific concerns that the premises would become a destination venue when it became known that alcohol was being sold until 02:00 there. Mr Hakeem re-iterated that he believed that there were other shops selling alcohol until the early hours of the morning, including one in Harrow Road and one in Edgware Road.

The Sub-Committee, after careful consideration of the application, granted the aspect of the application relating to the opening hours 24 hours a day to members of the public. Members of the Sub-Committee noted that Elgin Food & Wine had been managed responsibly and is a well-run business and were content for the convenience store to be open at all hours for the sale of items such as bread and milk.

However, the Sub-Committee shared the Police's concerns that selling alcohol until 02:00 had the potential to make the store a destination venue where people would come from outside the immediate area to buy alcohol late at night and cause issues in what is a very residential location. Members considered that there is a lack of licensed premises in the locality which sell alcohol until 02:00 and would prompt customers, including those who may have been consuming alcohol previously during the evening, to target the premises and potentially undermine the licensing objectives. This was in contrast to the way the premises operated currently which attracted the local community. The aspect of the application relating to the proposed increase in hours for off sales was therefore refused. The Sub-Committee was also of the opinion that it was not appropriate to allow off-sales of alcohol before 10.00 on a Sunday, once again having regard to the highly residential nature of the location. The sale of alcohol

	<p>was already permitted for extensive hours on every day of the week which was more than enough to meet the needs of local residents.</p> <p>Mr Hakeem had referred to there being premises in the area which did sell alcohol until 02:00. However, one such store Mr Hakeem had described as selling alcohol until the early hours of the morning and being not far away in Queen's Park is believed to be located within an area overseen by Brent Council.</p>				
<b>2.</b>	<b>Hours premises are open to the public</b>				
	<table border="0" style="width: 100%;"> <tr> <td style="text-align: center;"><u>From</u></td> <td style="text-align: center;"><u>To</u></td> </tr> <tr> <td>Monday to Saturday 08:00 to 23:00 Sunday 10:00 to 22:30</td> <td>Monday to Sunday 00:00 to 00:00</td> </tr> </table>	<u>From</u>	<u>To</u>	Monday to Saturday 08:00 to 23:00 Sunday 10:00 to 22:30	Monday to Sunday 00:00 to 00:00
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Monday to Saturday 08:00 to 23:00 Sunday 10:00 to 22:30	Monday to Sunday 00:00 to 00:00				
	<p>Amendments to application advised at hearing:</p> <p>None.</p>				
	<p>Decision (including reasons if different from those set out in report):</p> <p>The Sub-Committee granted this aspect of the application which was for opening hours which would permit the sale of products other than alcohol.</p>				
<b>3.</b>	<b>Conditions being varied, added or removed</b>				
	<p><b>Conditions proposed by the applicant:</b></p> <ol style="list-style-type: none"> <li>8. Provision of effective CCTV in and around premises 24hrs/30 days recording.</li> <li>9. Training &amp; supervision of staff.</li> <li>10. Compulsory ID checks for under age children's.</li> <li>11. Proper and clear display of Legal Notices.</li> </ol> <p><b>Proposed conditions from Environmental Health and Metropolitan Police:</b></p> <ol style="list-style-type: none"> <li>12. A personal licence holder shall be on the premises during the hours permitted to supply alcohol.</li> <li>13. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and leave the area quietly.</li> <li>14. The variation of the Premises Licence 07/01246/WCCMAP to extend</li> </ol>				

	hours for the sale of alcohol for consumption “off the premises” will have no effect until the premises have been assessed as satisfactory by the Environmental Health Consultation Team and this condition has been removed from the Licence.
	Amendments to application advised at hearing:  None.
	Decision (including reasons if different from those set out in report):  There were no changes to the conditions on the premises licence, given that the aspect of the application relating to the extension of the proposed hours for off-sales had been refused by the Sub-Committee.

**6 SCOTCH ST JAMES, 13 MASON'S YARD, SW1 - RENEWAL OF SEXUAL ENTERTAINMENT VENUE PREMISES LICENCE**

**LICENSING SUB-COMMITTEE No. 3**

*Thursday 2nd March 2017*

Membership: Councillor Melvyn Caplan (Chairman), Councillor Susie Burbridge and Councillor Aziz Toki

Legal Adviser: Barry Panto

Policy Adviser: Chris Wroe

Committee Officer: Jonathan Deacon

Presenting Officer: Sumeet Anand-Patel

Objections: 1 objector.

Present: Mr Gary Grant (Counsel, representing the Applicant) and Mr Tim Lalic (owner of premises).

<b>Scotch St James, 13 Masons Yard, SW1 16/10483/LISEVR</b>
An application for the renewal of the Sexual Entertainment Venue licence.
Amendments to application advised at hearing:  None.

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

Granted, subject to the same conditions as attached to the previous licence when it was renewed in December 2015.

The Sub-Committee in granting the application accepted the point made by the Applicant's Representative, Mr Grant, that there were not any grounds for the current application not to be renewed. The proposed hours and conditions were the same as those originally attached to the Sexual Entertainment Venue ('SEV') licence in 2012 and there had been no proposed amendments to the renewed applications since then. SEV licences have to be applied for on an annual basis and the licence had been renewed on a number of occasions by the Sub-Committee. There was no evidence to suggest that Scotch St James was now having an adverse impact on the character of the relevant locality or that anything had changed within the locality since July 2015 to make it unsuitable. It is located in Westminster core CAZ north. The appropriate number of SEVs in this area had been set by the Council at 25 and as the premises are currently licensed, there would not be an increase in the number of SEVs. Mr Grant also referred to the location being suitable as Scotch St James is situated in a secluded courtyard.

The Committee did not consider that there were any concerns regarding the suitability of the applicant. Members noted that there had not been any representations from the Responsible Authorities. Mr Grant stated Mr Lalic continued to run a successful nightclub at the premises which was not causing any issues for local residents. His client was not intending to bring the SEV licence into effect. Mr Lalic was applying because it was a valuable asset and it was a condition on his lease that it remained in force.

Mr Grant expressed concerns that he had reason to believe that the one objection to the application was from a competitor who had indicated to his client that unless the business was sold to them they would object to the renewal of the SEV licence.

### **Conditions on the Licence**

#### **Standard Conditions**

1. Whilst Relevant Entertainment is taking place no person under the age of 18 shall be on the licensed premises and a clear notice to that effect shall be displayed at the entrance in a prominent position so that it can be easily read by persons entering the premises.
2. Whenever persons under the age of 18 are admitted to the premises there will be no promotional or other material on display within the premises which depicts nudity or partial nudity.

3. The licence or a clear copy shall be prominently displayed at all times so as to be readily and easily seen by all persons using the premises.
4. No provision of relevant entertainment, or material depicting nudity or relevant entertainment, shall be visible from outside the premises.
5. Menus and drinks price lists shall be clearly displayed at the front entrance of the club, reception area, tables and bar at such a position and size as to be easily read by customers. This price list shall show all consumable items and any minimum tariff including charges and fees applicable to Performers.
6. Except with the consent of the Licensing Authority, no advertisements of any kind (including placard, poster, sticker, flyer, picture, letter, sign or other mark) shall be inscribed or affixed at the premises, on the surface of the highway or on any building, structure, works, street furniture, tree or any other property or be distributed in the street to the public that advertises or promotes the relevant entertainment at the premises.
7. The licence holder or other person concerned in the conduct or management of the premises shall not seek to obtain custom by means of personal solicitation or touting, nor enter into any agreement with a third party to do so.
8. Adequate toilets, washing and changing facilities for use by the Performers shall be provided.
9. Either the licence holder or a named responsible person shall be present throughout the time the Relevant Entertainment takes place.
10. The premises will install and maintain a comprehensive CCTV system as per the minimum requirements of a Metropolitan Police Crime Prevention Officer that ensures all areas of the licensed premises are monitored including all entry and exit points will be covered enabling frontal identification of every person entering any light condition. All cameras shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Recordings shall be made available immediately upon the request of Police or authorised officer throughout the preceding 31 day period together with facilities for viewing.
11. 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 and this staff member should be able to show Police recent data and footage with the absolute minimum of delay of the request.
12. An incident log shall be kept at the premises, and made available on request to the Licensing Authority 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) 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;
- (i) any breach of licence conditions reported by a Performer.

13. The licence holder shall produce a Code of Conduct setting out rules and obligations between the licence holder and performers whilst performing. All Performers shall sign the Code of Conduct in their proper name acknowledging that they have read, understood and are prepared to abide by the said Code of Conduct, and a copy so signed shall be retained by the licence holder and shall be readily available for inspection by the Police and/or authorised persons upon reasonable request.
14. Individual records shall be kept at the premises of the real names, stage names and addresses of all Performers working at the premises. The record will include either a copy of their birth certificate, current passport, EU driving licence or national identity card and shall be made immediately available for inspection by the Police and/or the Licensing Authority upon request.
15. Details of all work permits and/or immigration status relating to persons working at the premises shall be retained by the licence holder and be readily available for inspection by the Licensing Authority, a Police Officer or Immigration Officer.
16. Relevant Entertainment shall be given only by Performers and the audience shall not be permitted to participate in the relevant entertainment.
17. There shall be no physical contact between Performers whilst performing.
18. Performers will not request or give out any telephone number, address or any other contact information from or to any customer. Any such information given by a customer shall be surrendered to the premises manager as soon as is practicable.
19. Relevant Entertainment shall take place only in the designated areas approved by the Licensing Authority as shown on the licence plan. Arrangements for access to the dressing room shall be maintained at all times whilst Relevant Entertainment is taking place and immediately thereafter.
20. Customers must remain fully clothed at all times. The Performer must not remove any of the customer's clothing at any time.
21. Where Relevant Entertainment is provided in booths, or other areas of the premises where private performances are provided, the booth or area shall not have a door or other similar closure, the area shall be constantly monitored by CCTV, and access to the booth or other area shall be adequately supervised.
22. Whenever Relevant Entertainment is being provided there shall be no physical contact between Performers and customers or between customers and Performers except for the exchanging of money or tokens at the beginning or

conclusion of the performance and only for the purpose of that performance. Clearly legible notices to this effect shall clearly be displayed in each private booth and in any performance area.

23. Performers must redress fully immediately after each performance.

**Additional Conditions**

24. Payment for the dance shall only be made by either adding the amount to the customer's bill or by paying the dancer after she returns to the table fully clothed.
25. At all times whilst dancing takes place at least one registered door supervisor shall be employed in the part of the premises used for dancing.
26. The maximum number of persons accommodated at any one time (excluding staff) shall not exceed 100 persons, with no more than 50 persons (excluding staff) between 03.00 and 05.00 hours.
27. All emergency doors shall be maintained effectively self closing and not held open other than by an approved device.
28. The edges of the treads of steps and stairways shall be maintained so as to be conspicuous.
29. Curtains and hangings shall be arranged so as not to obstruct emergency signs.
30. The approved arrangements at the premises, including means of escape provisions, emergency warning equipment, the electrical installation and mechanical equipment, shall at all material times be maintained in good condition and full working order.
31. The means of escape provided for the premises shall be maintained unobstructed, free of trip hazards, be immediately available and clearly identified in accordance with the plans provided.
32. All exit doors shall be available at all material times without the use of a key, code, card or similar means.
33. 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 10 days prior notice being given to the Licensing Authority where consent has not previously been given.
- i. pyrotechnics including fire works
  - ii. firearms
  - iii. lasers
  - iv. explosives and highly flammable substances.
  - v. real flame.
  - vi. strobe lighting

34. No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
35. No relevant entertainment shall take place at the premises until the premises has been inspected to the satisfaction of the Licensing Service and Environmental Health Service.