



CITY OF WESTMINSTER

MINUTES

Licensing Sub-Committee (1)

MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (1)** Committee held on **Thursday 27th November, 2014**, Rooms 5, 6 & 7 - 17th Floor, City Hall.

Members Present: Councillors Tim Mitchell (Chairman), Nick Evans and Aziz Toki

1 MEMBERSHIP

There were no changes to the Membership.

2 DECLARATIONS OF INTEREST

There were no declarations of interest.

3 14 MELCOMBE STREET, NW1

LICENSING SUB-COMMITTEE No. 1

Thursday 27 November 2014

Membership: Councillor Tim Mitchell (Chairman), Councillor Nick Evans and Councillor Aziz Toki

Legal Adviser: Kirsten Chohan
Policy Adviser: Chris Wroe
Committee Officer: Jonathan Deacon

Relevant Representations: 10 interested parties (in support of application), Environmental Health and 12 interested parties (adverse representations).

Present: Mrs Elisabet Finetto and Mr Maximilian Finetto (Applicants) and Mr Ian Watson (Environmental Health)

**14 Melcombe Street, NW1
14/08184/LIPV**

1. Variation to conditions

	<p>To delete the following conditions:</p> <p><u>Condition 12:</u></p> <p>The supply of alcohol at the premises shall only be to a person seated taking a table meal there and for consumption by such a person as ancillary to their meal.</p> <p><u>Condition 14:</u></p> <p>Sales of alcohol for consumption off the premises shall only be supplied with, and ancillary to, a take-away meal.</p>
	<p>Amendments to application advised at hearing:</p> <p>None.</p>
	<p>Decision (including reasons if different from those set out in report):</p> <p>The Sub-Committee amended Conditions 12 and 14 on the existing licence. Condition 12 (Condition 14 in the list of conditions below) became ‘the supply of alcohol for consumption on the premises shall only be to persons seated’ which was an alternative proposed by Environmental Health (EH). Condition 14 (Condition 16 below) became ‘sales of alcohol for consumption off the premises shall be ancillary to the use of the premises as a café’.</p> <p>The Sub-Committee noted the written concerns of local residents who had objected to the application. These particularly referred to the negative effects of the premises potentially becoming a bar or pub. Members however heard from the Applicants, Mrs Elisabet Finetto and her son, Mr Maximilian Finetto, that they were still seeking that customers would be seated when drinking alcohol and would be served by waiter or waitress. There would be no vertical drinking. The intention was to serve those customers who would like a glass of wine or limoncello without food. The Finettos imported wines and wished to make some off-sales. These would not be advertised.</p> <p>Mr Watson for Environmental Health stated that there was no record of nuisance or complaints from the premises. He referred to those consuming alcohol being seated and served by waiter or waitress, including at the tables and chairs outside located on private land. There would be no sales of draught beer. Mr Watson informed Members that he was maintaining his representation in order that he could answer the questions of the Sub-Committee or in the event that residents were in attendance.</p> <p>The Sub-Committee took into account that 14 Melcombe Street is not located in one of the Council’s designated stress areas and there was no policy presumption against the application. Members considered that the Applicants had taken steps with the proposed conditions, in conjunction with EH, to promote the licensing objectives. They further strengthened the conditions to</p>

	<p>prevent future licence holders attempting to operate 14 Melcombe Street as a bar or pub. These included that off sales would be ancillary to the use of the premises as a café and that patrons permitted to temporarily leave and then re-enter the premises, for example to smoke, would not be permitted to take drinks or bottles with them.</p> <p>The Sub-Committee granted advancing the premises opening hour by one hour on Sundays to 09:00 hours. Overall the hours permitted during the entire week were less than the Council's Core Hours. Alcohol would still not be sold until 12:00 on Sundays. The Chairman stressed that planning permission did not include Sunday opening; a separate planning application needed to be made.</p>
2.	To bring forward the premises commencement hour by one hour on Sundays
	<p>Monday to Thursday: 07:00 to 22:00 Friday to Saturday: 07:00 to 23:00 Sunday: 09:00 to 20:00.</p>
	<p>Amendments to application advised at hearing:</p> <p>None.</p>
	<p>Decision (including reasons if different from those set out in report):</p> <p>Granted, subject to conditions as set out below (see reasons for decision in Section 1).</p>

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

consumption on the premises in a manner which carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance, or harm to children;

- (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to;
 - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
- (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic (other than any promotion or discount available to an individual in respect of alcohol for consumption at a table meal, as defined in section 159 of the Act);
- (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less;
- (d) provision of free or discounted alcohol in relation to the viewing on the premises of a sporting event, where that provision is dependent on;
 - (i) the outcome of a race, competition or other event or process, or
 - (ii) the likelihood of anything occurring or not occurring;
- (e) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner.

5. The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).

6. The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.

7. (1) The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.

(2) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark.

8. The responsible person shall ensure that;
- (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures;
 - (i) beer or cider: ½ pint;
 - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
 - (iii) still wine in a glass: 125 ml; and
 - (b) customers are made aware of the availability of these measures.

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.

9. Admission of children to the premises must be restricted in accordance with the film classification recommended by the British Board of Film Classification or recommended by this licensing authority as appropriate.

Mandatory condition to be added to the licence:

- 10(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.

- 10(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.

10(iii) Where the permitted price given by Paragraph 10(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.

10(iv) (1) Sub-paragraph 10(iv)(2) below applies where the permitted price given by Paragraph 10(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.

Additional Conditions

11. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the preceding 31 day period.

12. A staff member from the premises who is conversant with the operation of the CCTV 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.

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

14. The supply of alcohol for consumption on the premises shall only be to persons seated.
15. The supply of alcohol shall be by waiter or waitress service only.
16. Off sales of alcohol shall be ancillary to the use of the premises as a café.
17. All off sales of alcohol shall be in sealed containers only, and shall not be drunk on the premises.
18. All tables and chairs shall be removed from the outside area by 23.00 each day.
19. Clearly legible notices shall be displayed at all exits from the premises requesting patrons to respect the needs of local residents and to leave the premises and area quietly.
20. No rubbish, including bottles, shall be moved, removed or placed in outside areas between 2300 hours and 0700 hours.
21. Deliveries to the premises shall only take place between 0800 and 2300 hours save for deliveries of freshly baked products.
22. 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 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.
23. The number of persons seated at any one time (excluding staff) shall not exceed 34.
24. No beer or cider above 5.5% ABV to be sold from the premises, excepting premium beers in glass bottles only, such premium beers to be identified on request to the Licensing Authority and the Police.
25. No more than 10% of the sales area shall be used at any one time for the sale, exposure for sale, or display of alcohol.
26. All cashiers will receive refresher training on relevant alcohol laws and the licence holder's policy on challenging for ID. Such training to take place at least twice a year. Records will be maintained at the premises containing information about the training of any person who may make a sale of alcohol including the date of their training and the nature of the training undertaken. The relevant documentation shall be produced on request to a police officer or a relevant officer of a responsible authority.
27. The premises will operate a Challenge 21 proof of age scheme. 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. Prominent signage indicating the permitted hours for the sale of alcohol shall be displayed so as to be visible before entering the premises, where alcohol is on public display, and at the point of sale.
29. 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.
30. There shall be no sale or supply of draught alcohol.
31. 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 on crime and disorder (d) any incidents of disorder (e) all seizures of drugs or offensive weapons¹ (f) any faults in the CCTV system (g) any refusal of the sale of alcohol (h) any visit by a relevant authority or emergency service.
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. Patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, shall not be permitted to take drinks or bottles with them.

4 ONE HOUSING SOHOSTEL, WEST END HOUSE, 91-92 DEAN STREET, W1

LICENSING SUB-COMMITTEE No. 1

Thursday 27 November 2014

Membership: Councillor Tim Mitchell (Chairman), Councillor Nick Evans and Councillor Aziz Toki

Legal Adviser: Kirsten Chohan
Policy Adviser: Chris Wroe
Committee Officer: Jonathan Deacon

Relevant Representations: Environmental Health, Licensing Inspector, The Soho Society and 1 x local resident.

Present: Ms Julia Edwards and Mr Stuart Ball (Applicant Company), Mr Stephen Smith (Environmental Health), Mr Richard Brown (Solicitor, Citizens Advice Bureau Licensing Advice Project – on behalf of The Soho

Society and Ms Alice Dugdale), Mr David Gleeson (The Soho Society) and Mrs Dugdale (local resident).

One Housing Sohostel, West End House, 91-92 Dean Street, W1 14/08365/LIPN	
1.	Sale of Alcohol: On the premises – residents only
	Monday to Sunday 10:00 to 01:00.
	Amendments to application advised at hearing: None.
	Decision (including reasons if different from those set out in report): The Sub-Committee initially heard from Ms Edwards. One Housing Sohostel had been a homeless hostel and had been converted to tourist accommodation with all proceeds going to charity. It was intended that the sale of alcohol would be ancillary to its primary use as a hostel. If the brand was successful, it was intended to develop the Sohostel concept across London. The Applicant had worked with Environmental Health (EH) and the Police; consequently the application had been amended. The terminal hour had been brought back so that One Housing Sohostel would be operating until 01:00 Monday to Sunday. Ms Edwards stated that conditions had been agreed with the Responsible Authorities, subject to the Sub-Committee being minded to grant the application, including that alcohol would only be on-sales to residents only. There would be no external advertising of facilities and from 21:00 to 08:00 2 SIA registered door staff would be deployed at the premises. The consumption of alcohol would be restricted to the lobby area only. A suitable smoking area had been discussed with the Police. Mr Smith for EH confirmed that as part of the discussions with the Applicant the terminal hour had been reduced. There was more than one floor with bedrooms and equipment which was in keeping with a hotel. There had been concerns regarding on and off sales. The Applicant had agreed that on-sales would be purely in the canteen area and had accepted that there would be no off-sales. Guests of hotel residents would not be allowed to drink alcohol on the premises Mr Brown, representing The Soho Society and Mrs Dugdale, stated that his clients were seeking safeguards if the Sub-Committee was minded to grant the application. The conditions agreed between the Responsible Authorities and the Applicant went some way towards that. The Soho Society was requesting that food was made available. The major concern overall, particularly for Mrs Dugdale, was the use of the outside area. A proposed condition that no drinking be permitted outside was welcomed. There was however the potential for people collecting outside the premises. Mr Brown recommended that the

designated smoking area was to the front and left of the premises, that the number of smokers was restricted and the outside area was monitored in line with the Council's Model Condition 71. Mr Brown stated that his clients were requesting that the Applicants operated Core Hours. The particular concern was that there was the potential for residents of One Housing Sohostel to visit other premises and drink alcohol, before returning and drinking more.

Mr Gleeson added that he believed the charity budget hotel would be a huge success and wished it well. However, he made the point that it is located in a popular area where people smoke outside and it was his view that granting the application would effectively be opening a new bar on the corner across from The Nellie Dean pub. Mrs Dugdale had experience of living near The Nellie Dean and Candy Bar for many years and she had observed that door supervisors at Vanity Nightclub and notices in windows in Candy Bar often did not have the desired effect of ensuring that the licensing objectives were promoted. Discussions between the door supervisors were often audible.

The Sub-Committee asked questions on the capacity of the premises. Mr Smith replied that the capacity of the premises was 155 if fully booked. EH stated that the acceptable capacity in the canteen area was 72. Mr Smith advised that food was available. There was a fully fitted kitchen and vending machines within the canteen area sold food and soft drinks. Mr Smith commented on the likelihood of customers leaving the premises to drink and then returning to drink more alcohol. He stated that EH had considered that there was in this instance greater potential for customers to go out into the Stress Area after Core Hours if alcohol could no longer be sold after that time. The 01:00 terminal hour would encourage customers to stay at the premises and relieve the impact on other premises within the Stress Area.

Ms Edwards responded to some of the points that had been raised by the objectors. She would welcome a limit on the number of smokers. The operation would be totally different from a bar or nightclub. The SIA registered staff would be directly employed and would not be from a security company. Ms Edwards and Mr Ball explained that vending machines would sell food and drink. Cold food only would be available after 23:00. Before 23:00 food such as burgers and chips would be available. After 23:00 there would be sandwiches and snacks.

The Sub-Committee asked the Applicants and the objectors their view on the number of smokers that should be permitted outside. Ms Edwards proposed ten, managed by the door supervisors. Mr Brown recommended six.

The Sub-Committee granted the application for the hours applied for as an exception to policy in the West End Stress Area. Members considered that whilst the terminology used was that of a hostel, it was very much a case of proposed hotel use and not that of a bar which would have more clearly warranted a Core Hours operation. The Applicant had already agreed a number of conditions which were more restrictive than those on hotel licences, including limiting where the alcohol could be served and that it could only be served by waiters or waitresses. This had led to the Police withdrawing their representation. The Sub-Committee added further conditions to the licence to

	<p>ensure that the Licensing Objectives were promoted and address a number of the residents' key concerns. These included setting out a designated smoking area defined as an area of Dean Street immediately to the north of the premises and requiring the Applicants to ensure that smokers outside the premises behave in an orderly manner and are supervised by staff so as to ensure that there is no public nuisance or obstruction of the public highway (Model Condition 71). Patrons permitted to temporarily leave and then re-enter the premises, for example to smoke, would not be permitted to take drinks or bottles with them. Substantial food and non-intoxicating beverages, including drinking water, would be available in all parts of the premises where alcohol is sold or supplied for consumption on the premises. The Sub-Committee decided to limit the number of smokers in the designated smoking area to a maximum of 10 at any one time.</p>
2.	Opening Hours
	<p>Monday to Sunday: 00:00 to 23:59.</p>
	<p>Amendments to application advised at hearing:</p> <p>None.</p>
	<p>Decision (including reasons if different from those set out in report):</p> <p>Granted, subject to conditions as set out below (see reasons for decision in Section 1).</p>

Conditions attached to the Licence

Mandatory Conditions

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

5. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
6.
 - (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
 - (2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
 - (3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either—
 - (a) a holographic mark, or
 - (b) an ultraviolet feature.
7. The responsible person must ensure that—
 - (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—
 - (i) beer or cider: ½ pint;
 - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
 - (iii) still wine in a glass: 125 ml;
 - (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
 - (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

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

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

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

Where -

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

Additional Conditions

9. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the preceding 31 day period.
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. 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.
11. A Challenge 25 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport or proof of age card with the PASS Hologram.
12. An incident log shall be kept at the premises, and made available on request to an authorised officer of the City Council or the Police, which will record the following: (a) all crimes reported to the venue (b) all ejections of patrons (c) any complaints received concerning crime and disorder (d) any incidents of disorder (e) all seizures of drugs or offensive weapons (f) any faults in the CCTV system (g) any refusal of the sale of alcohol (h) any visit by a relevant authority or emergency service.
13. The use for the premises under this licence shall remain ancillary to the main use of the premises as a hotel.
14. The Sale of Alcohol is restricted to hotel residents only.
15. There shall be no self-service of Alcohol.
16. 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.
17. The service of alcohol for consumption within the hotel canteen area will be by waiter/waitress service only. Waiters/waitresses will pour drinks so that bottles will not be provided to patrons.
18. A minimum of 2 directly employed SIA registered door staff will be at the Premises between 21:00 and 08:00 the following day to ensure Licensing Objectives are met.
19. Patrons permitted to temporarily leave and then re-enter the premises to smoke shall be restricted to a designated smoking area defined as the area of

Dean Street immediately to the north of the premises.

20. Alcohol will be sold for consumption ON the premises only.
21. No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
22. The sale and consumption of alcohol is restricted to the ground floor canteen area and shall only be supplied and consumed between the hours of 10:00 and 01:00 Monday to Sunday.
23. 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.
24. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
25. No waste or recyclable materials, including bottles, shall be moved, removed from or placed in outside areas between **23.00** hours and **08.00** hours on the following day.
26. The Licence will have no effect until the Licensing Authority are satisfied that the premises are 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 EH Consultation Team, at which time this condition will be removed from the Licence.
27. 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.
28. 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.
29. The canteen area may remain open for the sale of alcohol and the provision of late night refreshment from the terminal hour for those activities on New Year's Eve through to the commencement time for those activities on New Year's Day.
30. Patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, shall be limited to 10 persons at any one time.
31. The premises licence holder shall ensure that any patrons smoking outside the premises do so in an orderly manner and are supervised by staff so as to ensure that there is no public nuisance or obstruction of the public highway.
32. Patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, shall not be permitted to take drinks or bottles with them.

33. The number of persons permitted in the ground floor canteen area at any one time (excluding staff) shall not exceed 72 persons.

5 HARMONY, 103A OXFORD STREET, W1

LICENSING SUB-COMMITTEE No. 1

Thursday 27 November 2014

Membership: Councillor Tim Mitchell (Chairman), Councillor Nick Evans and Councillor Aziz Toki

Legal Adviser: Kirsten Chohan
Policy Adviser: Chris Wroe
Committee Officer: Jonathan Deacon

Relevant Representations: 3 local residents.

Present: Mr Philip Kolvin QC (representing the Applicant), Mr Richard Taylor (Solicitor on behalf of Applicant), Mr Steven Elvins and Mr Jamie Elvins (Applicant Company) and Objector 1.

**Harmony, 103 Oxford Street, W1
14/00509/LISEXR**

Application:

An application to renew a sex establishment licence for the sex shop under the Local Government (Miscellaneous Provisions) Act 1982.

Amendments to application advised at hearing:

None.

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

The Sub-Committee heard from Mr Kolvin, representing the Applicant. He stated that his client had traded at 103 Oxford Street for ten years. It had been his client's aim to shed the backstreet, seedy image that had on occasion been attributed to sex shops. It had operated without any complaints or concerns in a world renowned street. The clientele was 60% female and did not consist of the 'dirty mac' brigade. It was necessary under the legislation to apply for a sex establishment licence and on nine previous occasions the licence had been renewed without objection.

Mr Kolvin briefly described how Harmony operated. It trades on two levels. The ground floor did not require a sex establishment licence as it traded items such as

lingerie, toys, games and hen night novelties. The basement was the area that required licensing, trading items such as marital aids, DVDs and clothing. Items that were sold in the basement area could not be seen by passers-by. Mr Kolvin advised that his client had given undertakings in 2004 that the window displays would be agreed with the Council. Thus the Council had complete control over the premises' external impact. His client did not wish to offend anyone and had forwarded concepts for the window displays to Council officers.

Three objections had been received in response to the application. One of the objectors attended and wished to remain anonymous. The objector emphasised the concerns set out in the written representations that the sex shop was inappropriate for the high end shopping and family area in Oxford Street and was inappropriate for children to view. Residents were living nearby. The Crossrail entrance, once the project had been finalised, would be opposite the Harmony store. The objector did accept that the Applicants had done what they could not to offend people. However, it was questionable whether the Applicants could prevent those who were below 18 years of age walking into the shop.

Mr Kolvin was asked by the Sub-Committee how age restrictions were enforced at Harmony. He replied that the law required that those under the age of 18 were not permitted to enter the licensed area, the basement. His client ensured that those under the age of 18 were not allowed in any part of the shop. The counter was located adjacent to the main door and staff ensured that age restrictions were complied with. There were employees on the ground floor at all times.

Mr Kolvin clarified that the Applicants were not seeking to extend the licensed area beyond the basement. The correct address is 103 Oxford Street and not 103A Oxford Street which is located next door to Harmony.

Members of the Sub-Committee, in granting the renewal application in full (for a period of one year in keeping with the legislation), took into account the criteria set out under the Act. Matters that Members noted in reaching their decision included that there had been no representation from the Police, the shop was located within the designated Soho locality for sex establishments and there was no evidence that the shop at 103 Oxford Street was badly run or that young people had been exposed to inappropriate material. The Applicants had held a licence for ten years which had been renewed annually; Members were not convinced there had been a substantial change within the area over the period the Applicant had been trading at Harmony. There was the potential for substantial future change in the area but the Sub-Committee noted that the annual renewal process allowed for the appropriateness of the licence to be reviewed. In any event, there was likely to be a review of the Council's policy regarding licensed sex shops in the next two years.