



CITY OF WESTMINSTER

MINUTES

Licensing Sub-Committee (6)

MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (6)** held on **Thursday 5th December, 2019**, Room 18.01-03, 18th Floor, Westminster City Hall, 64 Victoria Street, London, SW1E 6QP.

Members Present: Councillors Aicha Less and Karen Scarborough (Chairman)

Apologies for Absence: Councillor Louise Hyams

1 6 BREWER STREET, LONDON, W1F 0SB

LICENSING SUB-COMMITTEE No. 6

Thursday 5 December 2019

Membership: Councillor Karen Scarborough (Chairman) and Councillor Aicha Less

Legal Adviser: Horatio Chance
Committee Officer: Sarah Craddock
Policy Officer: Kerry Simpkin
Presenting Officer: Kevin Jackaman

Relevant Representations: Environmental Health Service, Licensing Authority, The Soho Society and nine residents.

Declaration of Interest: Kerry Simpkin advised that he managed and volunteered for the Soho Angels.

Present: Alun Thomas (Solicitor, representing the Applicant), Philip Thompson, Aasim Choudry, Nick Lawson, Adrian Studd (representing the Applicant Company), Karyn Abbott (Licensing Authority), PC Bryon Lewis (Metropolitan Police Service), Ian Watson (Environmental Health Service), Richard Brown (CAB representing Dee Rissik, Conrad Roebber and The Soho Society), Conrad Roeber (local resident) and David Glesson (Soho Society)

6 Brewer Street, London, W1F 0SB
("The Premises")
19/12383/LIPN

1. Sale by Retail of Alcohol – On the Premises

Monday to Saturday: 10:00 to 03:00
Sunday: 12:00 to 22:30

Seasonal Variations / Non-Standard Timings:

From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.

These hours to be extended by one hour on the morning that British Summer Time Commences.

On Sundays immediately prior to bank holidays: 12:00 to 03:00

Amendments to application advised at hearing:

None.

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

The Sub-Committee considered an application by Soho Estates Limited ("The Applicant") for a new Premises licence in respect of 6 Brewer Street, London, W1F 0SB.

The Presenting officer introduced the application. He advised that the Licensing Authority and the Environmental Health Service had maintained their representations on policy grounds. He further advised that the Soho Society and nine local residents had also made representations against the application. He confirmed that the Police had withdrawn their representation as conditions had been agreed with the Applicant and that PC Lewis was at the hearing on the request of the Chairman as the Police had withdrawn their representation less than 24 hours before the hearing. The Sub-Committee noted that the Premises are in the West End Ward and the West End Cumulative Impact Area.

Mr Thomas, Solicitor, representing the Applicant, advised that the Sub-Committee had before it an application for a new Premises licence for a night club. The Applicant had applied for regulated entertainment and was seeking to permit late night refreshments indoors between the hours of 23:00 to 03:30 Monday to Saturday. It was also proposed for the sale of alcohol (on the Premises) to be permitted between 10:00 to 03:00 Monday to Saturday and 12:00 to 22:30 on Sundays. The Sub-Committee noted that the two existing Premises licences would be surrendered prior to the new licence taking effect.

Mr Thomas gave a detailed presentation about the history of the area, the current venues operating in the neighbourhood, the two existing Premises

licences for 6 Brewer Street and Madame JoJo's. He briefly advised of the public outcry when Madame JoJos had been closed after a Licensing Sub-Committee Review Hearing. Mr Thomas then explained how Soho Estates had improved the safety of the area by employing a private security team to patrol the area to disperse criminal gangs. It was stated that this had cost Soho Estates some £40,000.

Mr Thomas referred to the plans for the new Premises Licence. He advised that the main difference with the new application, from the two existing Premises licences, was the moving of the main entrance of the Premises from Walker's Court back to its original position, albeit a few metres, to Brewer Street. He added that the new scheme reduced the ground floor use and access which had been proven (and supported by Westminster City Council's Statement of Licensing Policy) to reduce public nuisance and had the potential to reduce cumulative impact.

The Sub-Committee heard that the Premises' capacity would remain at 300 persons, that the smoking area would be in Walker's Court and that Cabaret based entertainment would operate Wednesday to Saturday evenings in the basement of the building. Mr Thomas confirmed that the Premises would not be operated as a night-club. The Sub-Committee noted that the reasons the main entrance was returning to Brewer Street was to alleviate the congestion in Walkers Court's, to enable robust supervision of the queues by the management and door supervisors and to reduce the potential for people to go into Peter Street before or after going to 6 Brewer Street. Mr Thomas emphasised that it was crucial for the Applicant's business model that the entrance return to its original position and that the iconic Madame JoJo's signage be hung and seen in Brewer Street.

Mr Adrian Studd, Independent Licensing Consultant, referred to his report attached at pages 23 to 30 of the additional Agenda Pack. He confirmed that during his observations it was clear that using an entrance in Walkers Court would add congestion to this narrow thoroughfare and that moving the entrance to 6 Brewer Street would have the benefits of providing additional supervision to that part of the street as well as leaving the pavement passable.

Mr Thomas referred to page 19, paragraph 23 of the additional Agenda Pack and advised that following pre-application advice and a meeting with the Responsible Authorities amendments to the conditions regarding smoking, queuing and the number of SIA licensed door supervisors had been agreed. Mr Thomas confirmed that the Premises would have a minimum of six door supervisors: two located at the entrance of the Premises, two located inside the Premises and two located in the smoking area. PC Lewis confirmed that the door supervisor's condition had been agreed with the Applicant and that it was the standard condition attached to this type of Premises licence.

Mr Thomas referred to the Noise Impact Assessment Report attached at pages 47 to 66 of the additional Agenda Pack and advised that the assessments had determined that the noise level from the club was unlikely to be audible at street level and that the noise from people queuing outside the venue was lower than the existing ambient noise level on the less busy evenings.

In response to questions from the Sub-Committee, Mr Thomas advised that it was considered that 25 smokers were a manageable number and explained that they would be accommodated in a designated smoking area in Walkers Court. He further advised that the three residential units above the Premises would be adequately sound-proofed and ownership would be retained by Soho Estates. He outlined that a kitchen was being built to provide substantial food. He advised that the Applicant preferred not to have a last entry condition attached to the licence. He further advised that it would, in his opinion, undermine the licensing objectives more if the entrance of the Premises remained on Walkers Court and that the area was not as highly residential or increasingly becoming more residential as stated in the local resident's representations against the application.

The Sub-Committee heard from Environmental Health who had maintained their representation on the grounds that the hours requested for regulated entertainment, late night refreshment and the sale of alcohol would have the likely effect of causing Public Nuisance within the West End Cumulative Impact Area. Environmental Health advised that they were content with the proposal to move Madame JoJos from the Ground Floor to the Basement and Sub-Basement of the Premises and that the proposed conditions to be attached to the licence should mitigate the resident's concerns and promote the licensing objectives. Environmental Health emphasised that they had no concerns regarding the operation inside the Premises or noise breakout from the Premises but outlined that any queues outside the Premises would need to be robustly managed to avoid congestion and nuisance.

The Sub-Committee heard from the Licensing Authority who had maintained their representation on policy grounds in accordance with the City Councils MD2 and PB2 Policies. In essence Policy PB2 states "the grant of new licences for pubs and bars in the Cumulative Impact Areas should be limited to exceptional circumstances".

The Sub-Committee requested that the Police attend the hearing to explain why they had withdrawn their representation less than 24 hours before the hearing as they considered this was a complex application.

Mr Brown, representing the Soho Society and two local residents, stated that representations had been made against the application on the grounds of prevention of Crime and Disorder, prevention of Public Nuisance and cumulative impact in the area. He advised that the residents had two concerns, namely: the hours sought and the location of the entrance. He added that Sandy Brown's Noise Report did not cover dispersal of people away from the area. He advised that there was no ideal place for the entrance but the proposal to place it in Brewer Street was the less desirable option. He confirmed that it was not the Soho Society's position for Madame JoJos not to ever reopen. He also emphasised that Walkers Court was wider than Brewer Street.

Mr Brown referred to the four reasons outlined by the Applicant as to why the entrance should be moved back to Brewer Street. Mr Brown advised that the evidence did not demonstrate that this was the best place for the entrance, that

there were more residents living in the area since 2014 and it was not clear how moving the entrance would not add to congestion on Brewer Street. He further advised that the Soho Society was disappointed that the Police had withdrawn their representation very late in the day especially taking into consideration the Crime and Disorder in the area. Mr Brown emphasised that the grant of new licences for pubs and bars in the Cumulative Impact Areas should be limited to exceptional circumstances and that Applicants/Premises must demonstrate that they would not add to the Cumulative Impact in the area. Lastly, he suggested that there should be an Integrated Management Plan introduced in the area.

Mr Roebber, local resident, referred to the plans for Brewer Street and advised that the proposed entrance was directly opposite his building. He stated that Madam JoJos had been a venue used for both cabaret acts and a nightclub. He advised that the original plan moved the entrance for Madame JoJos from Brewer Street to Walkers Court in order to remove nuisance from Brewer Street and consolidate queuing which he had supported. He emphasised that Brewer Street was too narrow for queuing and attracted pimps and criminal behaviour.

Mr Glesson, representing the Soho Society, advised that this was a large new late-night entertainment venue, with a capacity of 300 in this small part of Soho which was already saturated with late night licences with high capacities. He advised that residents were already suffering from late night noise and disturbance and an additional 300 customers dispersed onto the streets would add to the cumulative impact in the West End CIA. He emphasised that the Soho Society objected to the proposed entrance at 6 Brewer Street. The entrances and exits to Escape and Madame JoJo's were on Brewer Street which resulted in noise nuisance and disturbance to residents living nearby and was caused by people queuing outside and leaving these Premises. He added that the pavement was very narrow and not able to accommodate large numbers of people.

In response to the Responsible Authorities and Mr Brown's representations, Mr Thomas emphasised that: the Premises' lobby could hold around 75 persons, it was intended that people arriving at the venue would have pre-booked and any queues outside the Premises would be robustly managed by Madam JoJos. He explained the Premises' dispersal policy after the venue closed and advised again why the best place for the entrance to this Premises was in Brewer Street. He requested that if the Sub-Committee were going to place a last entry condition onto the licence that it be from 02:00 hours. He stated that if this application was not approved it was unlikely that the iconic Madam JoJos would be brought back to Soho.

Mr Brown emphasised that residents were particularly concerned about the relocation of the main entrance from Walker's Court back to Brewer Street where the pavements were very narrow making queuing difficult to manage and congestion in the area inevitable. Mr Glesson advised that the neighbourhood was becoming increasingly residential, that the area was already saturated with late night premises and that they did not wish to see these premises turning into an ordinary nightclub.

	<p>After carefully taking into consideration all the evidence before it and the various undertakings given by the applicant, the views of the relevant authorities and local residents, the Sub-Committee, on balance, considered that this application should be granted with amendments to the proposed conditions and additional conditions being added to the licence. The additional conditions included: providing a direct telephone number for residents, supervision of the smoking area, no entry or re-entry, save for smokers, after 02:00 hours and that the Premises shall operate as a cabaret-based entertainment venue. The Sub-Committee further considered that this application was an exception to policy due to the surrendering of the two existing premises licences, and that the conditions would mitigate resident's concerns as well as promote the licencing objectives. The Sub-Committee suggested that an Integrated Management Plan be implemented in view of the number of clubs in the area to allow Premises to work together to disperse people safely away from the West End area. The Sub-Committee therefore granted the application accordingly with the agreed conditions. The Sub-Committee considered that the conditions it had imposed on the Premises Licence to be appropriate and proportionate and would have the overall effect of promoting the licensing objectives.</p>
<p>2.</p>	<p>Late Night Refreshment – Indoors</p> <p>Monday to Saturday: 23:00 to 03:30</p> <p>Seasonal Variations / Non-Standard Timings:</p> <p>These hours to be extended from the end of permitted hours on New Year's Eve until the start of permitted hours on New Year's Day.</p> <p>These hours to be extended by one hour on the morning that British Summer Time Commences</p> <p>Sunday before Bank Holidays: 23:00 to 03:30</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 granted the application (see reasons for decision in Section 1).</p>
<p>3.</p>	<p>Plays: Indoors</p> <p>Monday to Saturday: 09:00 to 00:00 Sunday: 14:00 to 22:30</p> <p>Seasonal Variations / Non-Standard Timings:</p> <p>These hours to be extended from the end of permitted hours on New Year's Eve until the start of permitted hours on New Year's Day.</p>

	<p>These hours to be extended by one hour on the morning that British Summer Time Commences</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 granted the application (see reasons for decision in Section 1).</p>
4.	<p>Films: Indoors</p> <p>Monday to Saturday: 09:00 to 00:00 Sunday: 09:00 to 22:30</p> <p>Seasonal Variations / Non-Standard Timings:</p> <p>These hours to be extended from the end of permitted hours on New Year' Day.</p> <p>These hours to be extended by one hour on the morning that British Summer Time Commences.</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 granted the application (see reasons for decision in Section 1).</p>
5.	<p>Live music, performance of dance and anything of a similar description: Indoors</p> <p>Monday to Saturday: 09:00 to 03:00 Sunday: 12:00 to 22:30</p> <p>Seasonal Variations / Non-Standard Timings:</p> <p>These hours to be extended from the end of permitted hours on New Year' Eve until the start to permitted hours on New Year's Day.</p> <p>These hours to be extended by one hour on the morning that British Summer Time Commences.</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 granted the application (see reasons for decision in Section 1).</p>
6.	<p>Recorded Music: Indoors</p> <p>Monday to Saturday: 00:00 to 00:00 Sunday: 00:00 to 22:30</p> <p>Seasonal Variations / Non-Standard Timings:</p> <p>These hours to be extended from the end of permitted hours on New Year's Eve until the start of permitted hours on New Year's Day.</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 granted the application (see reasons for decision in Section 1).</p>
7.	<p>Hours Premises are Open to the Public</p> <p>Monday to Saturday: 09:00 to 03:30 Sunday: 12:00 – 01:00</p> <p>Seasonal Variations / Non-Standard Timings:</p> <p>These hours to be extended from the end of permitted hours on New Year' Eve until the start to permitted hours on New Year's Day.</p> <p>These hours to be extended by one hour on the morning that British Summer Time Commences.</p> <p>On Sundays immediately prior to bank holidays: 12:00 to 03:00</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>The Sub-Committee granted the application (see reasons for decision in Section 1).</p>
	<p>Adult Entertainment: Some performances may contain nudity, including burlesque-style.</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 granted the application (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 must 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 consumption on the premises—</p> <p>(a) games or other activities which require or encourage, or are designed to require or encourage, individuals to;</p> <p style="padding-left: 40px;">(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</p>

(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.

9. All person guarding premises against unauthorised access or occupation or against outbreaks of disorders or against damage (door supervisors) must be licensed by the Security Industry Authority

10. 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 licencing authority as appropriate.

Conditions imposed by the Licensing Authority after a hearing:-

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 entire 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 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.

13. 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 limiters 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 only be by altered without prior agreement with the Environmental Health Service. No alteration or modification to any existing sound system(s) should be effected without prior knowledge or 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.

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. All windows and external doors shall be kept closed at any time when regulated entertainment takes place, except for the immediate access and egress of persons.
16. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
17. All staff engaged outside the entrance to the premises, or supervising or controlling queues, shall wear high visibility identification.
18. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
19. No waste or recyclable materials, including bottles, shall be moved, removed from or placed in outside areas between 23:00 hours and 07:00 hours on the following day.
20. No collections of waste or recycling materials (including bottles) from the premises shall take place between 23.00 and 07.00 on the following day.
21. No deliveries to the premises shall take place between 23:00 and 07:00 on the following day.
22. There shall be no striptease or nudity and all person shall be decently attired at all times, except when the premises are operating under the authority of a Sexual Entertainment Venue licence.
23. 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.
24. 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. It must be completed

within 24 hours of the incident and 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 or searching equipment or scanning equipment
- (g) any refusal of the sale of alcohol
- (h) any visit by a relevant authority or emergency service.

25. 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.
26. A door supervisor shall remain 30 minutes after the cessation of licensable activities to actively disperse customers away from Brewer Street exit, the Premises and within its vicinity.
27. No person on behalf of the premises or on behalf of a person carrying or attempting to carry on licensable activity shall cause, permit, employ or allow, directly or indirectly, whether on payment or otherwise, any person(s) to importune, solicit or tout members of the public on any public highway for the purpose of bringing customers to the premises. The distribution of leaflets or similar promotional material is also prohibited.
For the purpose of this condition,
'Directly' means employ, have control of or instruct
'Indirectly' means allowing/permitting the service of or through a third party
28. 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.
- dry ice and cryogenic fog
 - smoke machines and fog generators
 - pyrotechnics including fireworks
 - firearms
 - lasers
 - explosives and highly flammable substances
 - real flame
 - strobe lighting
29. 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: This rule does not apply to exhibitions given under the provisions of Section 2(1A) and 5 of the Hypnotism Act 1952.

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 emergency exit doors shall be available at all material times without the use of a key, code, card or similar means.
33. All emergency doors shall be maintained effectively self closing and not held open other than by an approved device.
34. The edges of the treads of steps and stairways shall be maintained so as to be conspicuous.
35. Curtains and hangings shall be arranged so as not to obstruct emergency safety signs or emergency equipment.
36. All fabrics, curtains, drapes and similar features including materials used in finishing and furnishing shall 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, shall be non-combustible.
37. All materials used in finishing and furnishing the premises should, as far as it is reasonably practicable, be selected so as to be difficult to ignite and provide a low surface spread of flame and low rates of heat release and smoke emission.
38. The licence will have no effect until the capacity of the premises has been assessed by the Environmental Health Consultation Team and a condition detailing the agreed capacity for the ground floor and basement has replaced this condition on the Licence, subject to the overall capacity not exceeding 300 persons at any one time.
39. The sale of alcohol must be ancillary to the use of the premises for music and dancing and substantial refreshment.
40. The sale or supply of alcohol must end at midnight on any day on which music and dancing is not provided after midnight.
41. On any day that music and dancing end between midnight and 03.00, the sale or supply of alcohol shall end when the music and dancing end.
42. In relation to the morning on which summer time begins, the terminal hour for the sale or supply of alcohol on weekdays (Monday to Saturday) shall

extend until 04.00.

43. The sale or supply of alcohol on New Year's Eve will extend to the time when the sale or supply of alcohol can commence on New Year's Day.
44. 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.
45. There shall be no sales of hot food or hot drink for consumption off the premises after 23.00 hours.
46. A diary log shall be maintained to ensure that the capacity limit set for the premises is recorded hourly from when the premises open to closing time. This log must show the number of persons having entered the premises and left the premises within the hour and the running total. Both the head door supervisor and manager shall sign the records hourly to verify the running totals. Information regarding the capacity shall be given to an authorised officer or Police Officer on request.
47. No drinks shall be consumed outside the premises nor glasses/bottles removed from the premises by patrons when leaving.
48. The provision of films shall be incidental to other licensable activities and there shall be no cinema style showing of films.
49. The entrance door and inner lobby door shall be kept closed at all times when regulated entertainment is provided except for the immediate access and egress of patrons.
50. Loudspeakers shall not be located in the entrance lobby or outside the premises building.
51. An attendant shall be stationed in the cloakroom during the whole time it is in use.
52. Flashing or particularly bright lights on or outside the premises shall not cause a nuisance to nearby properties (save insofar as they are necessary for the prevention of crime).
53. The emergency exit doors on Walkers Court shall be maintained closed at all times except for the immediate access and egress for exit and re-entry of customers to smoke. All other fire exit doors shall remain closed and shall not be used for general access or egress at any time except in cases of emergency.
54. The certificates listed below shall be submitted to the Licensing Authority upon written request:
 - a) Any permanent or temporary emergency lighting battery or system
 - b) Any permanent or temporary electrical installation
 - c) Any permanent or temporary emergency warning system

55. The licence holder shall ensure that any queue to enter the premises which forms outside the premises is orderly and supervised by door staff so as to ensure that there is no public nuisance or obstruction to the public highway.
56. 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.
57. 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.
58. After 23.00 hours patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, shall be limited to 25 persons at any one time.
59. 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.
60. 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.
61. A minimum of 2 SIA licensed door supervisors shall be on duty at the premises for the first 100 customers, and an additional 1 for every additional 50 customers or part thereof while the premises remains open for business.
62. No licensable activities shall take place at the premises until premises licences 14/09057/LIDPSR and 14/09062/LIDPSR (or such other number subsequently issued for the premises) have been surrendered.
63. The premises licence holder shall ensure that any patrons smoking outside the premises do so in an orderly manner and are supervised by a minimum of 2 SIA Licensed Door Supervisors. (proposed by applicant with committee change re SIA)
64. 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.
65. There shall be no entry or re-entry, save for smokers using the smokers area in Walkers Court after 02:00.

66. The premises shall operate as a cabaret – burlesque based entertainment venue with substantial food and live music. The premises shall not be used primarily as a nightclub.

2 GROSVENOR SQUARE GARDENS, GROSVENOR SQUARE, LONDON, W1K 6LD

LICENSING SUB-COMMITTEE No. 6

Thursday 5 December 2019

Membership: Councillor Karen Scarborough (Chairman) and Councillor Aicha Less

Legal Adviser: Horatio Chance
 Committee Officer: Sarah Craddock
 Policy Officer: Kerry Simpkin
 Presenting Officer: Kevin Jackaman

Relevant Representations: Environmental Health Service and 5 Local residents.

Present: Matthew Phipps (Solicitor, representing the Applicant), Robert Dudley (Applicant), Gary Grant (Barrister), Chrissy Cullen and Marietjie Donaldson (Grosvenor West End Properties), Dave Nevitt (Environmental Health Service), Richard Brown (CAB Project Officer) and Belinda Harvey (local resident)

**Grosvenor Square Gardens, Grosvenor Square, London, W1K 6LD
 (“The Premises”)
 19/10699/LIPN**

1. Sale by Retail of Alcohol – On and off the Premises

Monday to Sunday: 12:00 to 20:00

Seasonal Variations / Non-Standard Timings:

None

Amendments to application advised at hearing:

None.

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

The Sub-Committee considered an application by Grosvenor West End Properties (“The Applicant”) for a new Premises licence in respect of Grosvenor Square Gardens, Grosvenor Square, London, W1K 6LD.

The Presenting officer introduced the application. He advised that the Police had withdrawn their representation as conditions had been agreed with the Applicant. He further advised that Environmental Health had maintained their representation on policy grounds and 5 local residents had also made representations against the application. The Premises are located in the West End Ward but not in a Cumulative Impact Area.

Mr Matthew Phipps, representing the Applicant, advised that this was an application for a new Premises licence permitting the use of the gardens for various events for a maximum of 68 days per calendar year. The Sub-Committee noted that a licence had previously been granted for a period of 12 months for similar but not identical activities to see how the Applicant managed the Square and promoted the licensing objectives for the licensable activities granted. Mr Phipps gave details of how Grosvenor Estates had actively engaged with the Responsibility Authorities and Resident Associations regarding this new application.

Mr Phipps advised that Grosvenor Estate had been in business for over 300 years and maintained a good reputation. He handed the Sub-Committee a glossy brochure outlining the events that had been successfully held in the Square during the last 12 months whilst promoting the licensing objectives. He emphasised that with the proposed agreed conditions on the new licence the Grosvenor Estate would continue to promote the licensing objectives. Mr Phipps advised that Grosvenor Square Gardens was a much-loved amenity for local residents, workers and the large number of tourists that visited London. He discussed with the Sub-Committee that the September 11th Memorial and the green space surrounding it would not suffer or be misused whilst events were being held in the Gardens. He referred to proposed conditions 28 and 34 that allowed the Police to veto any events following notification and cease all licensable activities at the events.

Mr Phipps referred to the Premises Licence Application Indicative Event Categories (Categories A-D) and outlined that Grosvenor Estates intended to: hold a wide variety of events for all different ages, that some events would be ticketed but others would be free, the capacity would depend on the category of event and that 25% of the Square would always be available for local residents to use as a local amenity. Mr Phipps referred to the local resident's representations against the application and advised that the Square should be used for both the benefit and enjoyment of local residents but also for people visiting/working in London. He confirmed that the funds raised from the events were ploughed back into the running and upkeep of the Square as well as some being given to charity.

In response to the Sub-Committee questions, Mr Phipps advised how the 68 days per calendar year allowed for events would be spread across the year and confirmed it was not the intention of Grosvenor Estates to apply for Temporary Event Notices (TENs) for additional events over and above the 68 days. Mr Phipps explained that Grosvenor Estates took a wider view of what/who 'the community' were and considered the space should benefit the general public. Mr Phipps advised that 'Live in the Square' was held under TENs last year and

that none of the representations before the Sub-Committee had stated that Grosvenor Estates had breached the licensing objectives during this event. Mr Phipps then referred to the events held in Hyde Park. The Sub-Committee confirmed to Mr Phipps that each application was judged on its own merits.

Mr Dave Nevitt, representing Environmental Health, advised that Environmental Health had worked with the Applicant on the application and proposed conditions and were no longer concerned about the nature of the proposed events to be held in the Garden. He confirmed that on balance Environmental Health preferred to have this type of licence with comprehensive conditions attached to it rather than have events held by way of Temporary Event Notices. He advised that the Sub-Committee needed to be content that local resident's concerns had been considered and pointed out that Category B events would be probably the most problematic events as the terminal hour was 23:00hrs. He confirmed that the proposed conditions 11 and 37 ensured that all events needed to be approved by both Environmental Health and the Police.

Mr Richard Brown (CAB Project Officer), representing Belinda Harley advised that their position was twofold: Grosvenor Square Gardens was an inappropriate location for events of the scale proposed by the applicant and that if the application was granted in its current form it would harm the licensing objectives. He stated that the Square was the site of the 9/11 Memorial and residents were concerned that the scale of the events would impinge on the access and use of this space of 'peaceful contemplation'. Mr Brown further advised that the Square was seen as a very important local amenity especially from residents living on the Peabody Estate. Mr Phipps advised that licensable activities would not take place around the 9/11 Memorial and that a minimal of 25% of the park would be left untouched by events.

Mr Brown referred to his comments on the proposed conditions attached to the additional information Agenda Pack and advised that Temporary Event Notices (TENs) were limited to 21 per year and therefore the use of the Gardens to hold events last year was far less than what was proposed for this new licence. Mr Brown took the Sub-Committee through his proposed changes to the proposed conditions and discussed the removal of waste, deliveries, the movement of equipment in and out of the Square, the use of glass drinking vessels, smoking, an available telephone number, noise and public nuisance and the number of events held during the summer months when resident's windows would be open and children were on their summer holidays. He emphasised that conditions should be added to the licence for the protection of children from harm as there would be alcohol served at these events.

Mr Brown referred to the different categories of events and emphasised that residents considered the following:

Category A: the maximum capacity of 2000 person was too high.

Category B: the terminal hour of 23:00 was too late.

Category C: the number of events and the terminal hour of 20:30 were too high

Category D: the maximum capacity of 1000 person was too high.

Ms Belinda Harvey (local resident) stated that in her opinion there had been a lack of consultation between the Applicant and the residents regarding the

	<p>application and there was now a lot of anxiety amongst residents regarding the selling of alcohol in the Gardens. She advised that she had lived in the area for some 30 years and was not asking for events to be ruled out completely. She wished for a balance between the best interests of the square, local residents and those that want to exploit the space with appropriate safeguards in place for a limited number of events.</p> <p>Ms Harvey advised that the Garden was very important to residents and workers and there was a social concern as the children, mothers and elderly people from the Peabody Estate used the Gardens regularly. She further advised that the 11th Memorial was located at the heart of Grosvenor Square which had turned the Garden into an international place of pilgrimage for all who grieve: it was therefore an inappropriate place for late-night open-air drinking. She outlined that the Garden also could be harmed with excess rubbish, smoking butts, urination and large numbers of people drinking and causing noise nuisance, especially during the summer months when the grass was particularly vulnerable. She considered that events would be best held during the early spring or late September. She further considered that 'less was more' and requested that the Sub-Committee considered licensing fewer events with conditions that promote the licensing objectives.</p> <p>Mr Phipps responded to the resident's representation and confirmed that consultation had taken place with the Responsibility Authorities and Resident Associations and all comments had been considered and covered in the proposed conditions. He stated that the Grosvenor Estate looked after and cleaned the Park everyday whether there was an event or not taking place and emphasised that there was CCTV in operation in the Park. He concluded that there had never been any complaints regarding the previous events held in the Park.</p> <p>The Sub-Committee after taking into consideration all the evidence before it and the various undertakings given by the Applicant during the course of the hearing was of the opinion that the conditions it had imposed on the licence were appropriate and proportionate and would help ensure the promotion of the licensing objectives. The Sub-Committee further noted the concerns of the local residents regarding the number and types of events proposed in the Square but considered it was not necessary to make their proposed changes to the conditions which had already been agreed with Environment Health and the Police. The Sub-Committee further noted that the Police had withdrawn their representation as they had agreed conditions with the Applicant. The Sub-Committee therefore granted the application accordingly with conditions.</p>
<p>2.</p>	<p>Plays, Films, Live Music, Recorded Music, Performance of Dance, Anything of a similar nature - On and off the Premises</p> <p>Monday to Saturday: 11:00 to 20:00</p> <p>Seasonal Variations / Non-Standard Timings:</p> <p>None</p>

	Amendments to application advised at hearing: None
	Decision (including reasons if different from those set out in report): The Sub-Committee granted the application (see reasons for decision in Section 1).
	Decision (including reasons if different from those set out in report): The Sub-Committee granted the application (see reasons for decision in Section 1).
3.	Hours Premises are Open to the Public Monday to Sunday: 08:30 to 20:30 Seasonal Variations / Non-Standard Timings: None
	Amendments to application advised at hearing: None
	Decision (including reasons if different from those set out in report): The Sub-Committee granted the application (see reasons for decision in Section 1).

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.

Conditions attached by the Licensing Authority after a hearing:-

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.
10. All persons guarding premises against unauthorised access or occupation or against outbreaks of disorder or against damage (door supervisors) must be licensed by the Security Industry Authority.
11. All events taking place in the Garden will be subject to individual Risk Assessment.
12. The Grosvenor Square Management Group (which comprises of Grosvenor

GBI, local stakeholders, including amenity societies, residents, businesses, The Royal Parks and relatives of the Memorial to the victims of 9/11) will be informed of all events taking place within the Garden.

13. There will be a maximum of **68 days** of events taking place per calendar year.
14. Events will be split into 4 categories: A, B, C and D.
15. **Category A events** will take place on no more than **28 days** per year, with a terminal hour of **20:30** and a maximum capacity of **2000** persons.
16. **Category A events** will be free, un-ticketed and open to the public.
17. **Category B events** will take place on no more than **10 days** per year, with a terminal hour of **23:00** and a maximum capacity of **500** persons.
18. The sale of alcohol during **Category B events** will be ancillary to the serving of food.
19. **Category B events** will feature 2 distinct service times: Lunch and Dinner, with no licensable activities taking place between the 2 service times (for example 12:00 – 15:00 / 17:00 – 22:30). Full details will be outlined in the Event Management Plan.
20. **Category C events** will take place on no more than **26 days** per year, with a terminal hour of **20:30** and a maximum capacity of **850** persons.
21. **Category C events** will be free, un-ticketed and open to the public.
22. **Category D events** will take place on no more than **4 days** per year, with a terminal hour of **18:00** and a maximum capacity of **1000** persons.
23. **Category D events** will be free, un-ticketed and open to the public.
24. Each event will be presented to WCC's Events and Filming Team for consideration as to whether or not the event should be subject to Safety Advisory Group discussion.
25. The premises Licence holder shall comply with all reasonable requirements of Westminster Police Licensing Team, the London Fire and Emergency Planning Authority and Westminster City Council's Environmental Health Consultation Team and Westminster City Council's Filming & Events Team.
26. Licensable activities and the consumption of alcohol at the premises shall only be provided ancillary to the primary use of the premises as a Garden Square.
27. Non-intoxicating beverages, including drinking water, shall be available to patrons throughout the permitted hours for the sale or supply of alcohol.
28. The Westminster Police Licensing Team and Police Events Planning Team

shall be notified 14 days in advance of any event during which licensable activities will be provided. The Police have the right to veto any event following notification.

29. An agreed minimum number of SIA licensed door supervisors shall be on duty at the premises at times when licensable activity is taking place. The minimum number of SIA security shall be agreed with the Westminster Police Licensing Team and/or Police Events Planning Team 14 days in advance of the event.
30. All SIA Door Supervisors shall wear yellow or orange high visibility tabards or jackets at all times with the word Security clearly displayed. When they are on duty they shall have their SIA licences on display at all times.
31. A search policy shall be agreed with the Westminster Police Licensing Team and/or Police Events Planning Team 14 days in advance for all events for customers and staff. The search policy will set out the extent of the search i.e. bags or bags and full outer clothing pat down and will be based on a written risk assessment, that can be provided to the Responsible Authorities upon request. Male and female Security will conduct searches of customers of the same gender. Notices shall be displayed stating that a refusal to be searched will result in a refusal of entry. Any such refusals will be noted an Incident and Refusal Log
32. An Incident and Refusal Log shall be kept at the premises, and made available on request to an authorised officer of the City Council or the Police. It must be completed within 24 hours of the incident and 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) Any refusal of the sale of alcohol
 - (f) Any visit by a relevant authority or emergency service
 - (g) Any faults to the CCTV system
33. All instances of crime and disorder shall be reported to the police.
34. On request of a senior Police Officer, the premises shall cease all licensable activities and only resume licensable activities when authorised by a senior Police Officer.
35. At times when the Licence is in operation, 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

entire 31 day period.

36. 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.
37. A suitable and sufficient Event Management Plan that helps to promote the licencing objectives shall be drawn up prior to an event and submitted for approval to the Licensing Authority, Environmental Health and Police Licensing & Police Events Planning Team. A draft of this document will be submitted a minimum of 28 days prior to the event with a final version being submitted a minimum of 14 days prior to the event. This shall be kept for at least one year following the event and shall include where necessary, details on the following aspects:
 - (a) Emergency and Evacuation Procedures
 - (b) Crowd Management and Stewarding arrangements
 - (c) Overnight Security arrangements
 - (d) A detailed site plan showing all permanent and temporary structures and all access and egress points
 - (e) Capacity at any one time
 - (f) Information on certificates from competent persons on Structures, Electrical Power Supply and Gas equipment (including LPG)
 - (g) First Aid and Lost Children arrangements
 - (h) Noise Management Plan
 - (i) Risk Assessments
 - (j) Waste Management Plan
 - (k) Sanitary accommodation
 - (l) Public Liability Insurance
 - (m) The setup and break down arrangements for the event
 - (n) The dispersal of customers at the end of the event
 - (o) The nature, style and content of the event
38. When creating the Event Management Plan, reference will be made to the following publications (or any replacement thereof): The Event Safety Guide (purple guide), Guide To Safety At Sports Grounds (green guide), FRSA - Open Air Events and Venues.
39. A communication system shall be provided to ensure the effective operation of the site under both normal and emergency evacuation conditions.
40. All drinks sold or supplied shall only be in open polycarbonate or crushable vessels unless prior exemption has been obtained from the Environmental Health Consultation Team for a specific event in writing or by email.
41. Events featuring glassware on site will feature the following measures:
 - Cleaning/Back Bar staff to be on duty to clear any breakages promptly
 - Spot Sweep (long handled dustpan and broom) to be available to facilitate the safe clearing of breakages.

42. Following Risk Assessment certain events will operate with an Event Safety Advisor on duty. This will be detailed in the Event Management Plan.
43. In the absence of daylight, there will be sufficient lighting installed whilst the premises are open to the public.
44. When disabled persons are present, there must be sufficient numbers of staff and adequate arrangements in place to ensure their safe evacuation in the event of an emergency.
45. Disabled persons on the Premises must be made aware of such Emergency arrangements by staff and the use of appropriate signage.
46. Suitable and sufficient supplies of First Aid equipment and materials must be available on the Premises at all times.
47. Music shall not emanate from the premises so as to cause nuisance to nearby properties.
48. No noise generated on the premises, or by its associated plant or equipment, shall emanate from the premises which gives rise to a nuisance, including the setting up and breaking down of an event.
49. No waste or recyclable materials, including bottles (bottling out), shall be moved, removed from or placed in outside areas between (21.00) hours and (08.00) hours on the following day.
50. A direct telephone number for the manager at the premises shall be publicly available at all times licensable activities are taking place at the premises. This telephone number is to be made available to residents and businesses in the vicinity.
51. Where regulated entertainment is provided a Noise Management Plan shall be submitted to WCC EHCT at least 14 days in advance of the event.
52. All deliveries and collections relating to events will be scheduled to take place between 07:00 - 19:00. Should it be necessary for any deliveries to take place outside of these hours, prior notification will be made to the Grosvenor Square Management Group and residents in Grosvenor Square.
53. Prominent, clear and legible notices must be displayed at all exits requesting the public to respect the needs of local residents and to leave the premises and the area quietly.
54. In relation to the sale of alcohol, a **Challenge 25 policy** will be in operation at all events and only approved ID will be accepted: Passport, Photo Driving

Licence, Prove It Card with PASS hologram, Military ID Card.

55. **Challenge 25** signage will be on display at all alcohol service points.
56. The PLH, DPS and staff should record any refusals of alcohol to young people in the Incident and Refusal Log. The Log shall be checked and where necessary updated and signed monthly by the Designated Premises Supervisor (DPS). The refusals log shall be made available for inspection by the Licensing Team, Police or Trading Standards.
57. Unaccompanied children will not be permitted on the Premises after 21:00 during any event.
58. A 'Lost and Found Child Policy' will be prepared and implemented.
59. Events operated by Grosvenor directly will feature an appropriate number of DBS checked staff (based on a written Risk Assessment within the Event Management Plan). For events operated by approved third parties, similar assurances will be sought.

3 HARMONY, 109 OXFORD STREET, LONDON, W1D 2HH

LICENSING SUB-COMMITTEE No. 6

Thursday 5th December 2019

Membership: Councillor Karen Scarborough (Chairman) and Councillor Aicha Less

Legal Adviser: Horatio Chance
Policy Adviser: Kerry Simpkin
Committee Officer: Sarah Craddock
Presenting Officer: Kevin Jackaman

Relevant Representations: None

Present: Mr Leon Charalambides (Barrister representing the Applicant) and Mr Steven Elvins (Applicant)

Harmony 109 Oxford Street, London W1D 2HH 19/13351/LISEXN	
1.	Application for a new Sex Establishment Licence
	Amendments to application advised at hearing: None
	Decision (including reasons if different from those set out in report): The Sub-Committee considered an application by Harmony Limited for a new Sex Establishment Premises licence in respect of Harmony, 109 Oxford Street, W1D 2HH. The Sub-Committee noted that the Premises were located in Oxford Street that was predominately retail and very busy with tourists and shoppers, there were no schools within 300 metres of the Premises and there were 10 licensed sex shop Premises located within a 500 radius of these Premises. The Sub-Committee also noted that there were no objections to the application from any of the Responsible Authorities. The Sub-Committee has a duty to consider each application on its individual merits. The Sub-Committee after carefully considering the evidence before it and Human Rights granted the application accordingly with the standard conditions imposed on the licence.

Conditions attached to the Licence

PART I – GENERAL

Definitions

1 In these rules, unless the context otherwise requires:

‘Approval of the Council’ or ‘Consent of the Council’ means the approval or consent of the Council in writing.

‘Approved’, ‘accepted’, or ‘permitted’ means approved, accepted or permitted by the Council in writing.

‘Approved arrangements’ means the arrangement of the premises, fittings, installations and all other things in connection therewith as approved by the Council.

‘Council’ means Westminster City Council.

‘Escape lighting’ (safety lighting) means lighting, obtained from a source independent of the general supply for the building, provided to assist the public and staff to leave the premises without the aid of normal lighting.

‘Film exhibition’ has the meaning described in Section 21 of the Cinemas Act 1985.

‘Licensee’ means the holder of a sex establishment licence.

‘Non-combustible’ material means material which is deemed to be non-combustible when tested in accordance with the provisions of British Standard 476: Part 4, or such other material or combination of materials as the Council accepts as being non-combustible for the purpose of these rules.

‘Officer’ means any person authorised in writing by the Council. (This may include officers of the London Fire and Civil Defence Authority).

‘Premises’ means any premises within the Council’s area licensed as a sex establishment and includes all installations, fittings and things in connection therewith.

‘Sex Establishment’, ‘Sex Cinema’, ‘Sex Shop’, ‘Sex Encounter Establishment’ and ‘Sex Article’ shall have the meanings ascribed to them in the Third Schedule to the Local Government (Miscellaneous Provisions) Act 1982 as amended by the Greater London Council (General Powers) Act 1986.

Dispensation or modification of rules

2. (a) These rules may be dispensed with or modified by the Council in any special case.
- (b) Where in these rules there is any reference to the consent of the Council being required, such consent may be given on such terms and conditions and subject to such restrictions as may be so specified.
- (c) If the licensee wishes any of the terms of the licence to be varied an application must be made to the Council.

PART II

GENERAL RULES RELATING TO MANAGEMENT, CONDUCT ETC

Exhibition of Licence

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.

Hours of Opening and Closing

4 The premises shall not, for any purpose of the licence, be opened before 0900 hours and shall not be kept open beyond 2300 hours.

Responsibility of Licensee

5 (a) The licensee shall take all reasonable precautions for the safety of the public and employees and except with the consent of the Council, shall retain control over all portions of the premises.

(b) No poster, advertisement, photograph, sketch, synopsis or programme shall be displayed by or on behalf of the licensee at the licensed premises or at any other public place except in accordance with the Town and Country Planning (Control of Advertisements) Regulations 1992 or any Order amending or replacing the same.

(c) The premises may not be used under the terms of the licence unless and until any necessary permission and/or consents have been obtained pursuant to the Town and Country Planning Act 1990, the London Building Acts 1930-1939 and the Building Act 1984 or any legislation amending or replacing the same.

Persons in Charge of Licensed Premises

6 (a) The licensee or some responsible person over 18 years of age nominated by him in writing for the purpose shall be in charge of, and upon, the licensed premises during the whole time that they are open to the public. Such written nomination shall be continuously available for inspection by a police officer or an officer authorised in writing by the Council.

(b) The person in charge shall not be engaged on any duties which will prevent him from exercising general supervision and he shall be assisted as necessary by suitable adult persons to ensure adequate supervision. The person in charge should be conversant with these conditions, a copy of which should be held on the premises.

(c) A notice showing the name of the person in charge of the premises at the time they are open under the licence shall be conspicuously exhibited in a position where it can be easily seen by customers.

(d) All members of staff shall be easily identifiable as such. If required by the Council in writing the licensee shall ensure that during the hours the premises are open for business every employee or person (apart from, where employed, hostesses or other companions) working in the licensed premises wears a badge of a type approved by the Council indicating his name and that he is an employee or person working in the premises.

Conduct of

7 (a) The licensee shall maintain good order on the premises and in particular shall ensure that none of the following shall take place:

- (a) Unlawful possession and/or supply of drugs controlled by the Misuse of Drugs Act 1971;
- (b) Indecent behaviour, including sexual intercourse;
- (c) The offer of any sexual or other indecent service for reward;
- (d) Acts of violence against person or property and/or the attempt or threat of such acts.

(b) The licensee shall ensure that the public are not admitted to any part or parts of the premises other than those which have been approved by the Council.

(c) The licensee or any other person concerned in the conduct or management of the premises shall not seek to obtain custom by means of personal solicitation or touting from the premises, immediately outside the premises or in the vicinity of the premises, nor allow the premises to be used by prostitutes.

Note: Soliciting includes the distribution of leaflets unless authorised by a consent under section 4 of the London Local Authorities Act 1994.

(d) No person under the age of 18 shall be admitted to any part of the premises which is used as a sex establishment or be employed in the business of the sex establishment.

(e) No poster, photograph, sketch, painting or any form of advertisement or display shall be displayed by or on behalf of the licensee on, outside or within the premises in a position where it is visible to the public if the Council regards it as unsuitable for exhibition to the public. If the licensee is notified in writing that the Council objects under this rule to a poster, photograph, sketch, painting, advertisement or display such poster, photograph, sketch, painting, advertisement or display shall be removed or completely obscured from sight.

Doorway Opening, Windows etc.

8 (a) The entrances to the premises shall be of a material or covered with a material which will render the interior of the premises invisible to passers by.

(b) Windows and openings to the premises other than entrances shall either be

obscured or with the consent of the Council shall have suspended behind them, in a position and at an altitude approved by the Council, opaque screens or blinds of a type and size approved by the Council.

Change of Use

9 No change of use of any portion of the premises from that approved by the Council shall be made until all necessary consents have been obtained from the Council. For the avoidance of doubt this includes a change from one class of sex establishment (e.g. a sex shop) to a different class of sex establishment (e.g. a sex encounter establishment).

10 No alterations (including temporary alterations) shall be made to the premises, without the prior written consent of the Council. This condition shall not require notice to be given in respect of routine maintenance works. Where works necessitate the premises being closed for a period of time, the premises shall not reopen for the purpose of the licence, until the licensee has been notified in writing by the Council of the satisfactory completion of the work.

Standard Conditions relating specifically to sex shops:

29. All sex articles and other things displayed for sale, hire, exchange or loan within a sex shop shall be clearly marked to show to persons who are inside the sex shop the respective prices being charged.

30. All printed matter offered for sale, hire, exchange or loan shall be available for inspection prior to purchase and a notice to this effect is to be prominently displayed within the sex establishment.

31. No film or video shall be exhibited, sold or supplied unless it has been passed by the British Board of Film Classification or such other authority performing a similar scrutinising function as may be notified to the licensee by the Council, and bears a certificate to that effect and is a reproduction authorised by the owner of the copyright of the film or video film so certified.

