



City of Westminster

Committee Agenda

Title: **Licensing Sub-Committee (3)**

Meeting Date: **Thursday 23 February 2023**

Time: **10.00 am**

Venue: **Rooms 18.01 - 18.03 - 18th Floor, 64 Victoria Street, London, SW1E 6QP**

Members: **Councillors:**

Robert Eagleton (Chair)
Concia Albert
Melvyn Caplan

Members of the public are welcome to attend the meeting and listen to the discussion Part 1 of the Agenda.

Admission to the public gallery is via a visitor's pass which is available from the main ground floor reception at 64 Victoria Street from 9.30am.

If you have a disability and require any special assistance, please contact the Committee Officer (details listed below) in advance of the meeting.

An Induction loop operates to enhance sound for anyone wearing a hearing aid or using a transmitter.

If you require further information, please contact the Committee Officer, Sarah Craddock, Committee and Councillor Co-ordinator.

Email: scraddock@westminster.gov.uk Tel: 0779098018
Corporate Website: www.westminster.gov.uk

Note for Members: Members are reminded that officer contacts are shown at the end of each report and Members are welcome to raise questions in advance of the meeting. Regarding Item 2, guidance on Declarations of Interests is included in the Code of Governance. If Members and Officers have any questions, they should contact the Director of Law before the meeting please.

AGENDA

PART 1 (IN PUBLIC)

1. MEMBERSHIP

To report any changes to the membership.

2. DECLARATIONS OF INTEREST

To receive declarations by Members and Officers of the existence and nature of any pecuniary interests or any other significant interest in matters on this agenda.

Licensing Applications for Determination

1. BASEMENT AND GROUND FLOOR, 52 QUEENSWAY, W2 3RY

(Pages 1 - 22)

Ward CIA* SCZ**	Site Name & Address	Application Type	Licensing Reference No.
Lancaster Gate * None ** None	Basement and Ground Floor 52 Queensway W2 3RY	New Premises Licence	22/11938/LIPN
*Cumulative Impact Area ** Special Consideration Zone			

2. WOK AND FIRE, 33 HAYMARKET, SW1Y 4HA

(Pages 23 - 46)

Ward CIA* SCZ**	Site Name & Address	Application Type	Licensing Reference No.
St James's * West End ** None	Wok and Fire 33 Haymarket SW1Y 4HA	New Premises Licence	22/11862/LIPN
*Cumulative Impact Area ** Special Consideration Zone			

3. SIMMONS, 11 WOODSTOCK STREET, W1C 2AE

**(Pages 47 -
116)**

Ward CIA* SCZ**	Site Name & Address	Application Type	Licensing Reference No.
West End * None **	Simmons 11 Woodstock Street W1C 2AE	Premises Licence Review	22/11955/LIREVP
*Cumulative Impact Area ** Special Consideration Zone: N/A			

**Stuart Love
Chief Executive
15 February 2023**

In considering applications for Premises Licences under the Licensing Act 2003, the Sub Committee is advised of the following:

Policy Considerations

The Licensing Sub-Committee is required to have regard to the City of Westminster statement of Licensing Policy, effective from January 2021.

Guidance Considerations

The Licensing Sub-Committee is required to have regard to any guidance issued by the Secretary of State under Section 182 the Licensing Act 2003. The most recent version was published in April 2018.

Core hours When Customers Are Permitted to Be on The Premises

Core hours, as set out in the Council's Statement of Licensing Policy 2021, are when customers are permitted to be on the Premises. The maximum opening hours permitted will not exceed the start time and terminal hour for each of the days where licensable activity is permitted.

Note: The core hours are for all licensable activities but if an application includes Late Night Refreshment, then the starting time for that licensable activity will be 11.00 pm.

1. Casinos

Up to 24 hours a day whilst Casino Gaming is permitted by a Premises Licence under the Gambling Act 2005.

2. Cinemas, Cultural Venues and Live Sporting Premises

Monday to Sunday: 09:00 hours to 24:00 hours

3. Hotels

Monday to Thursday: 09:00 hours to 23:30 hours

Friday and Saturday: 09:00 hours to 24:00 hours

Sunday: 09:00 hours to 22:30 hours

Sundays Immediately Prior To A Bank Holiday: 09:00 hours to 24:00 hours

Sale of alcohol to guests for consumption in hotel/guest rooms only: Anytime up to 24 hours

4. Off licences

Monday to Saturday: 08:00 hours to 23:00 hours

Sunday: 09:00 hours to 22:30 hours

5. Outdoor Spaces

Monday to Thursday: 09:00 hours to 23:30 hours

Friday and Saturday: 09:00 hours to 24:00 hours

Sunday: 09:00 hours to 22:30 hours

Sundays Immediately Prior To A Bank Holiday: 09:00 hours to 24:00 hours

6. Pubs and bars, Fast Food and Music and Dance venues

Monday to Thursday: 10:00 hours to 23:30 hours

Friday and Saturday: 10:00 hours to 24:00 hours

Sunday: 12:00 hours to 22:30 hours

Sundays Immediately Prior To A Bank Holiday: 12:00 hours to 24:00 hours

7. Qualifying Clubs

Monday to Thursday: 09:00 hours to 24:00 hours

Friday and Saturday: 09:00 hours to 24:00 hours

Sunday: 09:00 hours to 22:30 hours

Sundays Immediately Prior To A Bank Holiday: 09:00 hours to 24:00 hours

8. Restaurants

Monday to Thursday: 09:00 hours to 23:30 hours

Friday and Saturday: 09:00 hours to 24:00 hours

Sunday: 09:00 hours to 22:30 hours

Sundays Immediately Prior To A Bank Holiday: 09:00 hours to 24:00 hours

9. Sexual Entertainment Venues and Sex Cinemas

Monday to Thursday: 09:00 hours to 23:30 hours

Friday and Saturday: 09:00 hours to 24:00 hours

Sunday: 09:00 hours to 22:30 hours

Sundays Immediately Prior To A Bank Holiday: 09:00 hours to 24:00 hours

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City of Westminster

Licensing Sub-Committee Report

Item No:	
Date:	23 February 2023
Licensing Ref No:	22/11938/LIPN - New Premises Licence
Title of Report:	Basement And Ground Floor 52 Queensway London W2 3RY
Report of:	Director of Public Protection and Licensing
Wards involved:	Lancaster Gate
Policy context:	City of Westminster Statement of Licensing Policy
Financial summary:	None
Report Author:	Kevin Jackaman Senior Licensing Officer
Contact details	Telephone: 0207 641 6500 Email: kjackaman@westminster.gov.uk

1.	Application		
1-A	Applicant and premises		
Application Type:	New Premises Licence, Licensing Act 2003		
Application received date:	15 December 2022		
Applicant:	Mr Subramaniam Kamalanathan		
Premises address:	Basement And Ground Floor 52 Queensway London W2 3RY	Ward:	Lancaster Gate
		Cumulative Impact Area:	None
		Special Consideration Zone:	Queensway and Bayswater
Premises description:	According to the application form the premises intend to operate as a local convenience store which serves both local residents and tourists. It will provide services such as Oyster Top Up, Payzone, ATM and the purchase of groceries.		
Premises licence history:	This is a new premises licence application and no premises history exists		
Applicant submissions:	The applicant has previously operated at 10 Queensway and is now looking to move to 52 Queensway.		
Applicant amendments:	None		

1-B	Proposed licensable activities and hours						
Sale by retail of alcohol					On or off sales or both:		Off
Day:	Mon	Tues	Wed	Thur	Fri	Sat	Sun
Start:	09:00	09:00	09:00	09:00	09:00	09:00	09:00
End:	23:00	23:00	23:00	23:00	23:00	23:00	22:30
Seasonal variations/ Non-standard timings:			None				

Hours premises are open to the public							
Day:	Mon	Tues	Wed	Thur	Fri	Sat	Sun
Start:	09:00	09:00	09:00	09:00	09:00	09:00	09:00
End:	23:00	23:00	23:00	23:00	23:00	23:00	23:00
Seasonal variations/ Non-standard timings:			None				
Adult Entertainment:			None				

2.	Representations
2-A	Responsible Authorities
Responsible Authority:	Metropolitan Police Service
Representative:	Tom Stewart
Received:	10 January 2023
<p>I am writing to you on behalf of the Commissioner of the Metropolitan Police Service (“the Police”) to make representations against the granting of a new premises licence at <u>Basement And Ground Floor, 52 Queensway, London, W2 3RY.</u></p> <p>It is likely that if granted, the premises will undermine the licensing objective; <u>The Prevention of Crime and Disorder.</u> Whilst the hours applied for are consistent with the core hours policy for a premises of this type, the applicant has provided insufficient details within their operating schedule to demonstrate how the premises will promote the licensing objectives. It is further noted that the premises is located within the Queensway and Bayswater Special Consideration Zone. The application has neither addressed this within their application, nor proposed further conditions to mitigate the issues raised by the policy.</p> <p>Please see below a schedule of conditions proposed by the Police (In addition to the conditions proposed by the Environmental Health Team). If the applicant were minded to amend their application to include these conditions, the Police were be able to reconsider it’s representation:</p> <p>The conditions proposed by the Metropolitan Police appear at appendix 4</p>	
Responsible Authority:	Environmental Health
Representative:	Maxwell Koduah
Received:	04 January 2023
<p>I refer to the application for a new Premises Licence number for the above-mentioned premises. I have considered the information that you have provided within and accompanying this application. I have also considered the application in line with the relevant policies within the Councils Statement of Licensing Policy dated October 2021.</p> <p>Applicant is seeking to supply alcohol for consumption off the premises Monday to Sunday 09:00 – 23:00 hours</p> <p>Following consideration of the application and how it may affect the Licensing Objectives meeting the requirements of the Council’s Statement of Licensing Policy I wish to make following representations:</p> <p>1. The supply of alcohol and the hours requested to supply alcohol may have the likely effect causing an increase in Public Nuisance and may affect Public Safety within the area As presented, the application would have the likely effect of causing an increase in Public Nuisance and may affect Public Safety within the Edgware Cumulative Impact area</p> <p>Conditions, to form part of the operating schedule, have been proposed to support the licensing objectives of Prevention of Public Nuisance and Public Safety. These conditions shall be discussed during a site visit to the premises.</p> <p>The conditions proposed by Environmental Health appear at appendix 4</p>	

2-B Other Persons	
Name:	[REDACTED]
Address and/or Residents Association:	[REDACTED] [REDACTED] [REDACTED]
Received:	12 January 2023
<p>The resulting anti-social behavior, were this application be granted, will be of severe detriment to the mental health and physically threaten the wellbeing of the resident community at [REDACTED] [REDACTED]</p> <p>On behalf of the families and occupiers of [REDACTED] we vehemently object.</p>	
Name:	[REDACTED]
Address and/or Residents Association:	South East Bayswater Residents Association (SEBRA)
Received:	13 January 2023
<p>I am writing on behalf of the South East Bayswater Residents' Association (SEBRA) to make a relevant representation objecting to this licence application.</p> <p>Introduction</p> <p>SEBRA was formed in 1970 and works to protect the special character of our area. A non-profit, non party-political, voluntary organisation, we represent more than 1,000 people. SEBRA is consulted by Westminster Council on both major developments and all Council activities which affect the daily lives of residents.</p> <p>As a recognised amenity society we often engage in consultations with licence applicants both before and during the application process, although we have not been contacted by the applicant in this case.</p> <p>The application</p> <p>The application seeks off sales of Alcohol Monday to Saturday: 09:00 to 23:00 Sunday: 09:00 to 22:30 (although it is noted that the applicant has wrongly ticked the 'on sales' box not the 'off sales' box, although the application is clearly for off sales).</p> <p>The application states that the business is moving from 10 Queensway. The premises licence for 10 Queensway has a number of helpful conditions which we would like to see replicated on this licence, if granted. These conditions have however largely not been proposed by the applicant.</p> <p>SEBRA's position</p> <p>SEBRA wishes to strongly object to this application on the grounds of potential public nuisance and crime & disorder.</p> <p>The premises are in the Queensway/Bayswater Special Consideration Zone and face large residential blocks opposite at Princess Court & Queens Court.</p> <p>We see from application that the business they had had selling alcohol at No 10 Queensway is moving to No 52 Queensway, but as stated above we note they have not offered all the conditions on that Premises Licence.</p> <p>We would wish the conditions on Licence of No 10 Queensway (attached, along with new application) to be on proposed new Licence at No 52.</p> <p>We have a major street drinking and rough sleeping problem well catalogued at southern</p>	

section of Queensway and wish to have a condition controlling sale of miniature size bottles of alcohol (say, 20cl or below). We will consider if a condition prohibiting the sale of single cans is necessary.

We also wish to know what arrangements the applicant proposals for trading over the Notting Hill Carnival Bank Holiday Weekend, especially as last year on the evening and into the early hours of the morning of the Bank Holiday Monday, there was numerous problems with revellers making a real nuisance to residents and preventing Veolia from starting their massive clean up after the Carnival.

On the application form, on the sale of alcohol section M, we note On sales ticked but not Off sales and we are concerned that anyone looking at public register may not appreciate that Off sales of alcohol are being sought, especially as very few conditions offered.

We also do not understand why basement is outlined in red and not used by public.

Conclusion

We reserve the right to make further representations should more information become available but in the meantime, as always, we are content for our representation and contact details to be forwarded to the applicants agent and we are happy to discuss our concerns with them.

We would hope that we can resolve with the applicant our concerns without out the need for the application to go to a Licencing hearing.

Name:	[REDACTED]
Address and/or Residents Association:	[REDACTED] [REDACTED] [REDACTED]
Received:	14 January 2023

As a ward councillor in Lancaster Gate, I would like to raise an objection to the application at 52 Queensway, which seeks off sales of alcohol Mon-Sat 9:00-23:00 and Sunday 9:00-22:30. We understand this business was previously at 10 Queensway.

52 Queensway is in the Queensway/Bayswater Special Consideration Zone and faces large residential blocks - Princess Court and Queens Court. I am therefore objecting on the grounds of potential public nuisance and crime & disorder. We have a major street drinking and rough sleeping problem on the south end of Queensway, which is well known, and wish to have a condition controlling sale of miniature size bottles of alcohol.

I also note that the premises licence for 10 Queensway already has a number of helpful conditions which we would like to see replicated on this licence, if granted. These conditions have however largely not been proposed by the applicant currently. i.e. if granted, the exact conditions on the Licence currently at 10 Queensway should be proposed on any new Licence at 52 Queensway, as a minimum.

Name:	[REDACTED]
Address and/or Residents Association:	[REDACTED] [REDACTED] [REDACTED]
Received:	13 January 2023

Dear Team

I fully support SEBRA's objection to this application.

Name:	[REDACTED]
Address and/or Residents Association:	[REDACTED] [REDACTED] [REDACTED] [REDACTED]
Received:	27 December 2022
<p>I object to the licence as there are many other shops around that provide the same service.</p> <p>The worry of more anti social behaviour is a concern which this area has seen a rise in recently.</p>	
Name:	[REDACTED]
Address and/or Residents Association:	[REDACTED] [REDACTED] [REDACTED]
Received:	13 January 2023
<p>Hi team,</p> <p>As the ward councillor for Lancaster Gate, I would like to raise my strong objection to the application in the email subject. I wish to strongly object to this application on the grounds of potential public nuisance and crime & disorder.</p> <p>The premises are in the Queensway/Bayswater Special Consideration Zone and face large residential blocks opposite at Princess Court & Queens Court. I see from application that the business they had had selling alcohol at No 10 Queensway is moving to No 52 Queensway.</p> <p>We have a major street drinking and rough sleeping problem well catalogued at southern section of Queensway and therefore I would wish the conditions on Licence of No 10 Queensway to be on proposed new Licence at No 52.</p>	
Name:	[REDACTED]
Address and/or Residents Association:	Bayswater Residents Association (BRA)
Received:	13 January 2023
<p>Dear Sirs</p> <p>I am writing on behalf of the Bayswater Residents' Association (BRA) to object to this licence application. We support the detailed points raised by SEBRA on the ground of potential public nuisance and crime and disorder.</p> <p>We also request that the editions on the Licence of no. 10 Queensway be attached to any new Licence at no. 52.</p>	

3.	Policy & Guidance
The following policies within the City Of Westminster Statement of Licensing Policy apply:	
Policy SCZ1 applies	<p>A. In addition to meeting the other policies within this statement, applications within a designated Special Consideration Zone should demonstrate that they have taken account of the issues particular to the Zone, in question as identified within the 2020 Cumulative Impact Assessment, and should set out any proposed mitigation measures in relation to those issues within their operating schedule.</p> <p>B. For the purpose of Clause A, the designated Special Consideration Zones for this application is:</p> <ul style="list-style-type: none"> • Queensway/Bayswater.
Policy HRS1 applies	<p>A. Applications within the core hours set out below in this policy will generally be granted for the relevant premises uses, subject to not being contrary to other policies in the Statement of Licensing Policy.</p> <p>B. Applications for hours outside the core hours set out in Clause C will be considered on their merits, subject to other relevant policies, and with particular regard to the following:</p> <ol style="list-style-type: none"> 1. The demonstration of compliance in the requirements of policies CD1, PS1, PN1 and CH1 associated with the likelihood of the effect of the grant of a licence for later or earlier hours on crime and disorder, public safety, public nuisance and the protection of children from harm. 2. If the application is located within a Special Consideration Zone they have demonstrated that they have taken account of the issues identified in that area and provided adequate mitigation. 3. Whether there is residential accommodation in the proximity of the premises that would likely be adversely affected by premises being open or carrying out operations at the hours proposed. 4. The proposed hours of the licensable activities and when customers will be permitted to remain on the premises. 5. The proposed hours when any music, including incidental music, will be played. 6. The hours when customers will be allowed to take food or drink outside the premises or be within open areas which form part of the premises. 7. The existing hours of licensable activities and the past operation of the premises (if any) and hours of licensable premises in the vicinity. 8. Whether customers and staff have adequate access to public transport when arriving at and leaving the premises, especially at night. 9. The capacity of the premises. 10. The type of use, recognising that some venues are more likely to impact the licensing objectives than others; for example, pubs and bars are higher risk than theatres, cinemas and other cultural and sporting venues due to the nature of the operation. 11. The Licensing Authority will take into account the active measures proposed for a 'winding down' period including arrangements for people to be collected from the premises to travel home safely. 12. Conditions on hours may be attached that require that the supply of alcohol for consumption on the premises ceases a suitable period

	<p>of time before customers are required to leave the premises.</p> <p>13. The council, acting as the Licensing Authority, may reduce hours if, after review, it is necessary to impose conditions specifying shorter hours in order to promote the licensing objectives.</p> <p>14. Specific days for non-standard hours should be identified and justified as part of the application to allow responsible authorities and interested parties to evaluate the impact that these licensable activities may have, and to plan accordingly. The consideration of applications for later hours for Bank Holiday Mondays will take into account that later hours are generally granted for preceding Sundays and that the next day is a working day. Non-specific days are expected to be covered by Temporary Event Notices or variation applications.</p> <p>C. For the purpose of Clauses A and B above, the Core Hours for applications for each premises use type as defined within this policy are:</p> <p>10a. Shops (all licensable activities that are provided as ancillary to the primary use of the premises as a shop except the off sale of alcohol)</p> <p>Monday to Thursday: 9am to 11.30pm. Friday and Saturday: 9am to Midnight. Sunday: 9am to 10.30pm. Sundays immediately prior to a bank holiday: 9am to Midnight.</p> <p>10b. Shops (off-sales of alcohol where it forms either the ancillary or primary use of the premises) Monday to Saturday: 8am to 11pm. Sunday: 9am to 10.30pm.</p> <p>D. Core hours are when customers are permitted to be on the premises and therefore the maximum opening hours permitted will be to the same start and terminal hours for each of the days where licensable activity is permitted</p>
<p>Policy SHP1 applies</p>	<p>A. Applications for a shop outside the West End Cumulative Impact Zone will generally be granted subject to:</p> <ol style="list-style-type: none"> 1. The application meeting the requirements of policies CD1, PS1, PN1 and CH1. 2. The hours for licensable activities are within the council's Core Hours Policy HRS1. 3. The operation of any delivery services for alcohol meeting the council's Ancillary Alcohol and/or Latenight Refreshment Delivery Service Policy DEL1. 4. The applicant having taken account of the Special Consideration Zone Policy SCZ1 if the premises are located within a designated zone. 5. The application and operation of the venue meeting the definition of a shop in Clause C. <p>C. For the purposes of this policy:</p> <ol style="list-style-type: none"> 1. A shop is defined as a stall, vehicle, vessel, temporary structure, building or part of a stall, vehicle, vessel, temporary structure or building where the primary activity is the sale of goods or services to customers upon payment. 2. The licensable activities for the sale of alcohol for consumption on the premises, regulated entertainment and/or late night refreshment must be ancillary to the primary use of the premises as a shop. 3. The licensable activity of the sale of alcohol for consumption off the premises must be an ancillary function to the primary use of the premises unless that primary use is to sell alcohol for consumption off the premises, e.g. a traditional off licence.

4. Equality Implications

The Council in its capacity as Licensing Authority has a duty to have regard to its public sector equality duty under section 149 of the Equality Act 2010. In summary, section 149 provides that a Public Authority must, in the exercise of its functions, have due regard to the need to:

- (a) eliminate discrimination harassment, victimisation and any other conduct that is prohibited by or under this Act;
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- (c) foster good relations between persons who share a relevant protected characteristics and persons who do not share it.

Section 149 (7) of the Equality Act 2010 defines the relevant protected characteristics as age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.

5.	Appendices
Appendix 1	Premises plans
Appendix 2	Applicant supporting documents
Appendix 3	Premises history
Appendix 4	Proposed conditions
Appendix 5	Residential map and list of premises in the vicinity
Report author:	Kevin Jackaman Senior Licensing Officer
Contact:	Telephone: 020 7641 6500 Email: kjackaman@westminster.gov.uk

If you have any queries about this report or wish to inspect one of the background papers please contact the report author.

Background Documents – Local Government (Access to Information) Act 1972

1	Licensing Act 2003	N/A
2	City of Westminster Statement of Licensing Policy	October 2021
3	Amended Guidance issued under section 182 of the Licensing Act 2003	December 2022
4	Metropolitan Police Service representation	10 January 2023
5	Environmental Health representation	04 January 2023
6	Interested Party representation (1)	12 January 2023
7	Interested Party representation (2)	13 January 2023
8	Interested Party representation (3)	14 January 2023
9	Interested Party representation (4)	13 January 2023
10	Interested Party representation (5)	27 December 2022
11	Interested Party representation (6)	13 January 2022
12	Interested Party representation (7)	13 January 2023



From: [REDACTED]
To: [Ajose-Adeogun, Ola: WCC](#)
Subject: Re: 22/11938/LIPN - Basement And Ground Floor, 52 Kingsway, Representation
Date: 12 February 2023 23:31:02
Attachments: [image006.png](#)
[image007.png](#)

Dear Ola,

Thank you for your email of which the contents have been duly noted.

I hope to resolve the concerns of the parties interested in this license without the need for the application to go to a hearing. In this email, I will go through the conditions raised by the parties from their representations and provide feedback on them.

I accept all the proposed conditions set out by Environmental Health and they can be applied onto the Premises licence to form part of the operating schedule as stated in their communication.

Turning to the representation by SEBRA, I seek off sales of Alcohol and the application was amended accordingly. I understand your concerns and we would like to accept your proposal to replicate the conditions that were set out in 10 Queensway, London, W2 3RX. We are satisfied with this proposal as we aren't doing anything new and just continuing from 10 Queensway, London, W2 3RX. I, [REDACTED] have been a premises licence holder for over 10 years at 10 Queensway, W2 3RX which is a few minutes' walk from 52 Queensway, London and I have never had any anti-social complaints in regard to our conduct at that premises.

Next, in regard to the representation by the Metropolitan Police, I am satisfied and agree with all the conditions set out by Met Police. These conditions can be applied onto the Premises Licence accordingly and we will strictly abide by them as expected. The staff will be extensively trained on abiding to all the conditions on the premises license once granted such as but not limited to the Challenge 21 and Challenge 25 proof of age scheme. CCTV will be installed and used appropriately as instructed by the Met Police. I am strongly against public nuisance and disorder and I take steps to ensure peace. When I was operating in 10 Queensway, W2 3RX, I had installed CCTV's for inside and outside the premises so that I can also capture any disorderly conduct outside and report it to the police even though it was not a requirement to do so.

Finally, regarding the representation by BRA, I accept the condition proposed by BRA such that the conditions from 10 Queensway, London, W2 3RX are replicated to the proposed new licence for 52 Queensway, London, W2 3RY. The conditions raised by BRA are the same as with SEBRA. Therefore, I will repeat the response to the representation from SEBRA such that we are satisfied with this proposal to replicate the conditions set out from 10 Queensway to the new licence as we aren't doing anything new and just continuing from 10 Queensway, London, W2 3RX. I, [REDACTED] have been a premises licence holder for 10+ years at 10 Queensway, W2 3RX and have never received any complaints in regard to our conduct at the premises.

Regarding the other interested parties that are not included above who complained of public nuisance and disorder, as previously explained, I have been a premises licence holder at 10 Queensway, W2 3RX which is a few minutes' walk from the premises of interest at 52 Queensway, London, W2 3RY. The conditions set out at 10 Queensway, W2 3RX will be applied onto the new premises licence application for 52 Queensway, W2 3RY. I am a little surprised on receiving these complaints citing public nuisance and disorder for this premises licence application as I have not received any complaints whilst I was a premises licence holder at 10 Queensway, London, W2 3RX for a long time. I hope that the replication of the conditions set out from 10 Queensway to the new premises licence will resolve these concerns of public nuisance and disorder.

I hope my favourable responses to the proposals set out by the parties are acceptable and we do not require the need for this application to go through a hearing. Therefore, I kindly request Westminster Council to discontinue the hearing on the grounds that the hearing is unnecessary as I hope to amicably address the concerns set out by the interested parties.

Please could you pass my response to the interested parties for their attention?

Best regards,

From: Ajose-Adeogun, Ola: WCC <oajoseadeogun@westminster.gov.uk>

Sent: 07 February 2023 13:08

To: [REDACTED]

Subject: 22/11938/LIPN - Basement And Ground Floor, 52 Kingsway, Representation

Dear [REDACTED]

We have received representations from Environmental Health Maxwell Koduah and Metropolitan Police Tom Stewart which I have attached and copied into this email. There have also been representation from interested parties with comments.

Please any information you wish to send to the interested party please do so through myself.

Regards

Ola Ajose-Adeogun

Senior Licensing Officer

Public Protection & Licensing

Westminster City Council

15th Floor

City-Hall

64 Victoria Street

SW1E 6QP

Tel: 07866019685

Call Centre (for general queries) 020 7641 6500

Email: oajoseadeogun@westminster.gov.uk

www.westminster.gov.uk

There is no licence or appeal history for the premises.

CONDITIONS CONSISTENT WITH THE OPERATING SCHEDULE AND CONDITIONS PROPOSED BY A PARTY TO THE HEARING

When determining an application for a new premises licence under the provisions of the Licensing Act 2003, the licensing authority must, unless it decides to reject the application, grant the licence subject to the conditions which are indicated as mandatory in this schedule.

At a hearing the licensing authority may, in addition, and having regard to any representations received, grant the licence subject to such conditions which are consistent with the operating schedule submitted by the applicant as part of their application, or alter or omit these conditions, or add any new condition to such extent as the licensing authority considers necessary for the promotion of the licensing objectives.

This schedule lists those conditions which are consistent with the operating schedule, or proposed as necessary for the promotion of the licensing objectives by a responsible authority or an interested party as indicated. These conditions have not been submitted by the licensing service but reflect the positions of the applicant, responsible authority or interested party and have not necessarily been agreed

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 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.
- 5(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.
- 5(ii) For the purposes of the condition set out in paragraph 5(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.
- 5(iii). Where the permitted price given by Paragraph 5(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.
- 5(iv). (1) Sub-paragraph 5(iv)(2) below applies where the permitted price given by Paragraph 5(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 consistent with the operating schedule

None

Conditions proposed by Environmental Health and agreed by the applicant so as to form part of the operating schedule

- 6. No noise generated on the premises, or by its associated plant or equipment, shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance
- 7. All tills shall automatically prompt staff to ask for age verification identification when presented with an alcohol sale
- 8. There shall be no self-selection of spirits on the premises, save for spirit mixtures less than 5.5% ABV
- 9. No more than 15% of the sales area shall be used at any one time for the sale, exposure for sale, or display of alcohol
- 10. All sales of alcohol for consumption off the premises shall be in sealed containers only

11. 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
12. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times
13. All windows and external doors shall be kept closed after **21:00** hours except for the immediate access and egress of persons
14. 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
15. No deliveries to the premises shall take place between **23.00** and **08.00** hours on the following day
16. No licensable activities shall take place at the premises until the premises has been assessed as satisfactory by the Environmental Health Consultation Team at which time this condition shall be removed from the Licence by the licensing authority

Conditions proposed by the Police and agreed by the applicant so as to form part of the operating schedule

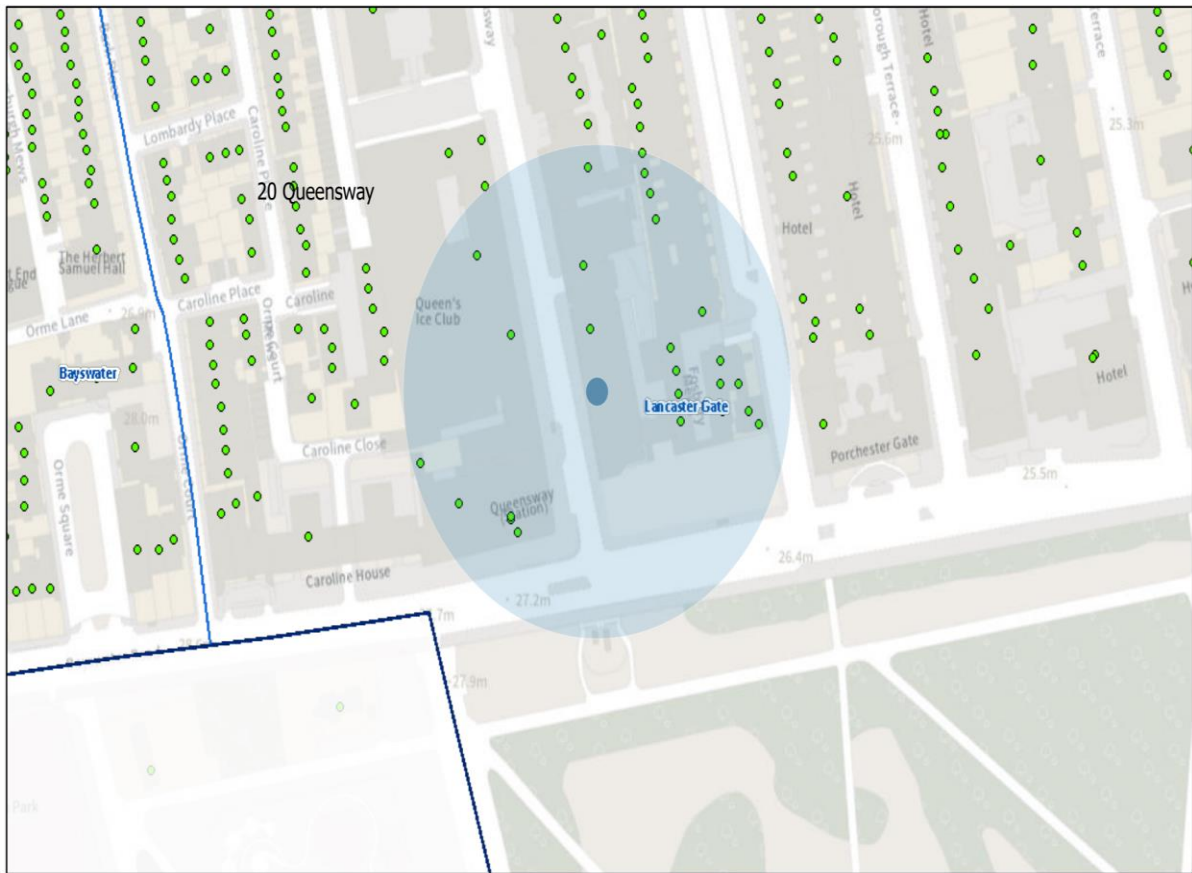
17. An incident log shall be kept at the premises, and made available on request to an authorised officer of the City Council or the Police. It must be completed within 24 hours of the incident and will record the following:
 - (a) all crimes reported to the venue
 - (b) all ejections of patrons
 - (c) 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, searching equipment or scanning equipment
 - (g) any refusal of the sale of alcohol
 - (h) any visit by a relevant authority or emergency service.
18.
 - (a) The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team.
 - (b) All entry and exit points will be covered enabling frontal identification of every person entering in any light condition.
 - (c) The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises and will include the external area immediately outside the premises entrance.
 - (d) All recordings shall be stored for a minimum period of 31 days with date and time stamping.
 - (e) Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the entire 31-day period.
19. 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.
20. There shall be a personal licence holder on duty on the premises at all times when the premises are authorised to sell alcohol.

21. A Challenge 21 or 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.

Conditions proposed by Interested Party and agreed by the applicant so as to form part of the operating schedule

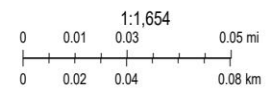
22. A personal licence holder shall be on the premises during the hours permitted to supply alcohol.
23. All sales of alcohol for consumption off the premises shall be in sealed containers only, and shall not be consumed on the premises.
24. Prominent signage indicating the permitted hours for the sale 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.
25. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and leave the area quietly.
26. 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.
27. No rubbish, including bottles, shall be removed or placed in outside areas between 2300 hours and 0800 hours.
28. Outside of the hours authorised for the sale of alcohol within the trading area is to be secured behind locked grills/screens or secured behind locked cabinet doors.
29. No super-strength beer, lagers or ciders of 5.5% ABV (alcohol by volume) or above shall be sold at the premises save for premium beer or ciders in glass bottles.
30. No self-service of spirits except for spirit mixers not above 5.5% ABV.
31. On the Sunday and Monday of the Notting Hill Carnival:
 - There shall be no sale of alcohol in glass vessels from the premises;
 - There will be no external advertisement of alcohol promotions at the premises; and
 - There shall be no sale of alcohol from the premises after 2000 hours.
32. No miniature bottles of spirits of 20cl or below shall be sold at the premises.

52 Queensway



10/02/2023, 15:26:03

- Property Mailing List
- Borough Boundary - Mask
- Ward Boundaries
- Ward Labels
- Borough Boundary - Detailed
- Stress Areas



Resident count: 325

Licensed premises within 75m of 52 Queensway, London, W2				
Licence Number	Trading Name	Address	Premises Type	Time Period
22/07833/LIPN	S Mart	20 Queensway London W2 3RX	Shop	Monday; 08:00 - 00:00 Tuesday; 08:00 - 00:00 Wednesday; 08:00 - 00:00 Thursday; 08:00 - 00:00 Friday; 08:00 - 00:00 Saturday;

				08:00 - 00:00 Sunday; 08:00 - 00:00
21/04894/LIPDPS	Not Recorded	18 - 20 Queensway London W2 3RX	Cafe	Sunday; 07:00 - 23:00 Monday to Saturday; 07:00 - 23:30
06/10112/WCCMAP	Mandarin Kitchen	14-16 Queensway London W2 3RX	Restaurant	Sunday; 12:00 - 00:00 Monday to Saturday; 10:00 - 00:30
21/04671/LIPDPS	Queens Ice Bowl	Queens Ice Club 17 Queensway London W2 4QP	Ice rink	Monday; 09:00 - 23:30 Tuesday; 09:00 - 23:30 Wednesday; 09:00 - 23:30 Thursday; 09:00 - 23:30 Friday; 09:00 - 00:00 Saturday; 09:00 - 00:00 Sunday; 09:00 - 23:00
13/08953/LIPT	Royal China Chinese Restaurant	13 Queensway London W2 4QJ	Restaurant	Sunday; 12:00 - 00:00 Monday to Saturday; 10:00 - 00:30
18/07658/LIPN	Urban Baristas	Ground Floor 11 Queensway London W2 4QJ	Not Recorded	Sunday; 07:00 - 23:00 Monday to Saturday; 07:00 - 23:30
18/08878/LIPT	Del Casa	27 Queensway London W2 4QJ	Restaurant	Sunday; 12:00 - 00:00 Monday to Saturday; 10:00 - 00:30
21/07343/LIPN	Ceru	11 Queensway London W2 4QJ	Restaurant	Sunday; 09:00 - 22:00 Monday to Thursday; 09:00 - 23:30 Friday to Saturday; 09:00 - 00:00
19/15603/LIPT	Food Basics Limited	28 Queensway London W2 3RX	Restaurant	Sunday; 10:00 - 22:30 Monday to Saturday; 10:00 - 23:00

21/11895/LIPDPS	Grand Royale	1-9 Inverness Terrace London W2 3LD	Hotel, 4+ star or major chain	Sunday; 10:00 - 00:00 Monday to Saturday; 10:00 - 00:30
15/04940/LIPRW	Aubaine Hilton London Hyde Park Hotel	129 Bayswater Road London W2 4RJ	Restaurant	Sunday; 07:00 - 23:00 Monday to Saturday; 07:00 - 23:30
06/09836/WCCMAP	New Fortune Cookie	1 Queensway London W2 4QJ	Restaurant	Sunday; 12:00 - 00:00 Monday to Saturday; 10:00 - 00:30
17/01793/LIPDPS	Hilton London Hyde Park Hotel	129 Bayswater Road London W2 4RJ	Hotel, 4+ star or major chain	Monday to Sunday; 00:00 - 00:00

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City of Westminster

Agenda Item 2. Licensing Sub-Committee Report

Item No:

Date:

23 February 2023

Licensing Ref No:

22/11862/LIPN - New Premises Licence

Title of Report:

Wok And Fire
33 Haymarket
London
SW1Y 4HA

Report of:

Director of Public Protection and Licensing

Wards involved:

St James's

Policy context:

City of Westminster Statement of Licensing Policy

Financial summary:

None

Report Author:

Angela Lynch
Senior Licensing Officer

Contact details

Telephone: 0207 641 6500
Email: aseaward@westminster.gov.uk

1. Application

1-A Applicant and premises			
Application Type:	New Premises Licence, Licensing Act 2003		
Application received date:	12 December 2022		
Applicant:	WF Piccadilly Ltd		
Premises:	Wok And Fire		
Premises address:	33 Haymarket London SW1Y 4HA	Ward:	St James's
		Cumulative Impact Zone:	West End
		Special Consideration Zone:	None
Premises description:	The premises intends to be a noodle restaurant and takeaway.		
Premises licence history:	This is a new premises application and therefore no Premises Licence history exists. However, the premises has had the benefit of Temporary Event Notices which can be found at appendix 3 .		
Applicant submissions:	None		
Applicant amendments:	None		

1-B Proposed licensable activities and hours							
Late Night Refreshment:				Indoors, outdoors or both			Both
Day:	Mon	Tues	Wed	Thur	Fri	Sat	Sun
Start:	23:00	23:00	23:00	23:00	23:00	23:00	23:00
End:	01:00	01:00	01:00	01:00	01:00	01:00	01:00
Seasonal variations/ Non-standard timings:		None					

Hours premises are open to the public							
Day:	Mon	Tues	Wed	Thur	Fri	Sat	Sun
Start:	11:00	11:00	11:00	11:00	11:00	11:00	12:00
End:	01:30	01:30	01:30	01:30	01:30	01:30	01:30
Seasonal variations/ Non-standard timings:		None					

2. Representations

2-A Responsible Authorities	
Responsible Authority:	Licensing Authority
Representative:	Kevin Jackaman
Received:	5 th January 2023

I write in relation to the application submitted for a new premises licence for 33 Haymarket, London, SW1.

As a responsible authority under section 13 (4) of the Licensing Act 2003 as amended under the Police and Social Responsibility Act 2011, the Licensing Authority have considered your application in full. The Licensing Authority has concerns in relation to this application and how the premises would promote the four Licensing Objectives:

- Public Nuisance
- Prevention of Crime & Disorder
- Public Safety
- Protection of children from harm

The application seeks the following:

Late Night Refreshment
Monday to Sunday 23:00 to 01:00

Opening Hours to Public
Monday to Saturday 11:00 to 01:30
Sunday 12:00 to 01:30

The premises is located within the West End Cumulative Impact Area and as such various policy points must be considered, namely CIP1, HRS1 and FFP1.

At present, the operating hours applied for Late Night refreshment currently fall outside of Westminster's core hours under Policy HRS1. The Licensing Authority encourage that the applicant reduces the hours to be within Westminster's Core hours.

6. Pubs and bars, Fast Food and Music and Dance venues
Monday to Thursday: 10am to 11.30pm.
Friday and Saturday: 10am to Midnight.
Sunday: Midday to 10.30pm.
Sundays immediately prior to a bank holiday: Midday to Midnight.

The Licensing Authority note that the applicant has proposed that the operation of the premises will be a noodle restaurant and takeaway. Due to the nature of the premises this application falls within Westminster's FFP1 (b, c, d) Policy that states.

B. It is the Licensing Authority's policy to refuse applications within the West End Cumulative Impact Zone other than:

1. Applications to vary the existing licence hours within the council's Core Hours Policy HRS1, and/or,
2. Applications that seek to vary the existing licence so as to reduce the overall capacity of the premises.

C. The applications referred to in Clause B1 and B2 will generally be granted subject to:

1. The application meeting the requirements of policies CD1, PS1, PN1 and CH1.

2. The operation of any delivery services for alcohol and/or late night refreshment meeting the council's Ancillary Delivery of Alcohol and/or Late-Night Refreshment Policy DEL1.

3. The application and operation of the venue continuing to meet the definition of a Fast Food Premises in Clause D.

D. For the purposes of this policy a Fast Food Premises is defined as:

1. A premises that provides late night refreshment, either by way of fast food over a counter, via a self-seating basis or take away for immediate consumption.

2. Food and drink are:

a. Available on the premises for self-selection.

b. Prepared on the premises.

c. Cooked or produced off the premises but brought to that premises in advance of its sale to customers.

3. The food and drink are provided in pre-sealed or open disposable packaging which is intended for immediate consumption.

4. A fast-food premises can provide a delivery service as part of its operation, however that service must be ancillary to the main function of the premises as defined within sub-clauses D,1 to D,3 above.

The Licensing Authority would like further submissions from the applicant to the questions below;

1. How is are the premises proposing to operate. Will it be predominantly a take away operation?
2. Will there be any delivery service?

Subject to any response received, from the applicant the Licensing Authority may reconsider the application under other policies such as the Council's restaurant policy RTTN1

The Licensing Authority has concerns regarding this application and encourages the applicant to provide further submissions on how the premises will be operated and controlled to have no adverse impact on the cumulative impact area.

Paragraph F56 states; Fast food premises which are open after 11pm can attract large groups of customers, many of whom have been consuming alcohol in pubs, bars, or night clubs sometimes some distance away. The congregation of people around these premises leads to additional noise and disturbance and further congestion in the area. Although premises which serve cold food and drink are not subject to licensing and may stay open all night, they are not so attractive to people who have been drinking as those providing hot food and drink. The council considers that the addition of hot fast food and hot drink adds to the attractiveness of premises to people who have been drinking and who are more likely to be involved in anti-social behaviour.

Paragraph F59 goes on to say. Applications within the West End Cumulative Impact Zone, where there is a presumption to refuse under this policy will be expected to demonstrate why their application should be permitted as an exception to this policy.

The Licensing Authority encourages the applicant to provide further submissions as to how the premises will not add to cumulative impact in the West End cumulative impact area, in accordance with policy CIP1.

Therefore, it is a decision for the Licensing Sub-Committee to determine whether the applicant has demonstrated any exceptional circumstances that would allow to depart from policy.

Please accept this as a formal representation.

Responsible Authority:	Environmental Health Service
Representative:	Sally Fabbricatore
Received:	6 th January 2023

I refer to the application for a new Premises Licence for the above premises. **The premises is situated in the West End Cumulative Impact Zone.**

This representation is based on the Operating Schedule and the submitted plans, for the ground floor (drawing number 003) and the basement (004) both dated March 2022.

The applicant is seeking the following on the **ground floor**, to allow Late Night Refreshment both 'indoors' and 'outdoors' Monday to Sunday 23:00-01:00 hours.

I wish to make the following representation in relation to the above application, the provision of and proposed hours for Late Night Refreshment may cause an increase in Public Nuisance in the cumulative impact zone and may impact on Public Safety.

Further information has been provided, which is being considered, but further conditions may be proposed by Environmental Health in order to protect the Licensing Objectives. Clarification is also sought regarding the WC provisions for customers, it appears the only facilities are accessed through the kitchen.

The granting of the Premises Licence as presented would have the likely effect of causing an increase in Public Nuisance in the cumulative impact zone and may impact on Public Safety.

Should you wish to discuss the matter further please do not hesitate to contact me.

A copy of the conditions proposed by the Environmental Health Service can be found at appendix 4.

Responsible Authority:	Metropolitan Police Service
Representative:	PC Dave Morgan
Received:	5 th January 2023

With reference to the above, I am writing to inform you that the Metropolitan Police Service as a Responsible Authority are **objecting** to this application on the basis that if granted, it would undermine the Licensing Objectives, namely The Prevention of Crime and Disorder.

The applicant has applied for Late Night Refreshment for:

Monday to Sunday: 2300 – 0100 hours

The hours sought are beyond those of Westminster Council's Core Hours policy and as per the policy, fast food premises that open beyond 11pm can attract large crowds of people, some of whom may be intoxicated.

The venue is also situated within the West End Cumulative Impact Zone and as such, the Police have concerns that the hours sought for Late Night Refreshment may lead to an increase in crime and anti-social behaviour in an already very demanding area.

I would therefore encourage the applicant consider a reduction in the hours sought or to submit further submissions showing that the venue will not add to the cumulative impact in the area.

Further submissions received from the Metropolitan Police Service on 24 January 2023.

With regards to the above application, the Metropolitan Police Service would like to further submit the following information.

As per my initial representation, the Metropolitan Police Service are concerned that this premises will become a focal point for late night revellers who may have been consuming alcohol.

As identified in the Westminster Councils Licensing Policy, FFP1, Fast Food premises that open beyond 11pm, can attract large groups of customers, many of whom have been consuming alcohol in pubs, bars, or night clubs sometimes some distance away.

This in turn can cause a large build-up of people, both inside and outside the premises, a majority of which may be in different states of intoxication. This can then lead to a rise in assaults, thefts, Robberies and Anti-Social Behaviour which will be a further drain on Police and Emergency Services resources.

This specific venue is situated within the heart of the Cumulative Impact Zone and is situated in an area where the Police have already observed an increase level of Crime and Anti-Social behaviour as illustrated below.

Current levels of crime within the West End

Assaults

The levels of crime and within the West End now exceeds the figures proceeding the COVID-19 pandemic. These levels also far exceed those within other areas of the City of Westminster.

Table 1 below demonstrates the levels of violence against the person across the *entire borough* in the month of December 2022. The hotspot is centred over Leicester Square and the immediate environs where this venue is situated.

Table 1 - Violence Against the Person

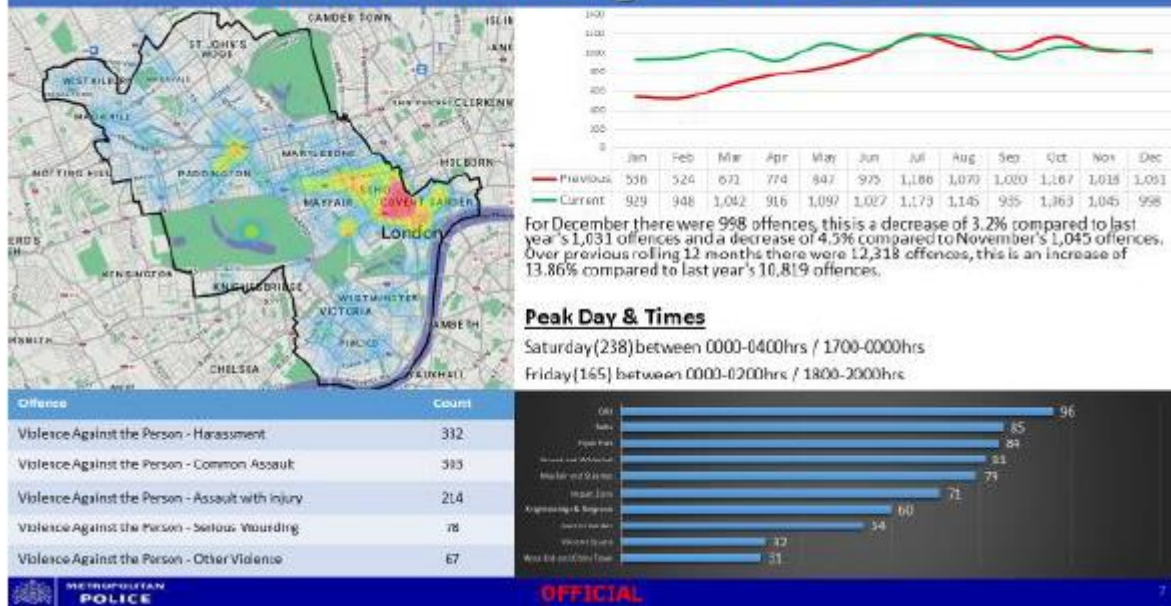
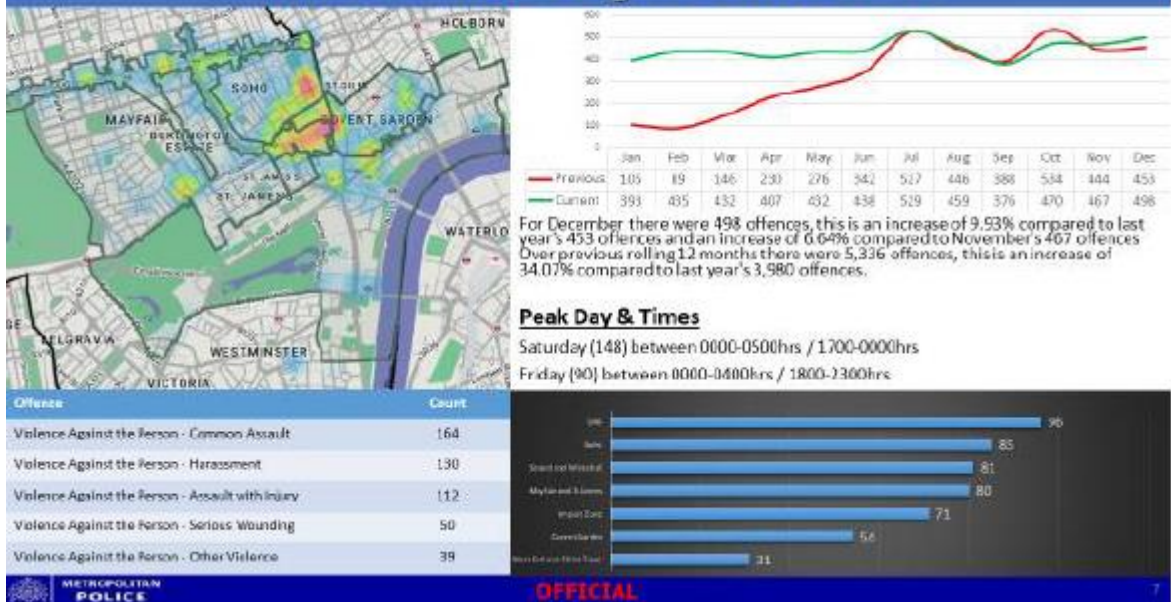


Table 2 below focuses on the 'West End' and demonstrates in more detail the location and distribution of violent offences in December 2022. Again, it can be seen that the majority of offences take place in and around Leicester Square including the Haymarket. For December there were 498 offences, this is an increase of 9.93% compared to last year's 453 offences and an increase of 6.64% compared to November's 467 offences. Over previous rolling 12 months there were 5,336 offences, this is an increase of 34.07% compared to last year's 3,980 offences. It should be noted that the peak times of these offences are between 00:00 and 05:00 hours when this venue wishes to remain open for Late Night Refreshments.

Table 2 - Violence Against the Person



Robbery

Table 3 below demonstrates the levels of robbery offences across the entire borough in the month of December 2022. As you can see, the significant majority of offences take place within the West End.

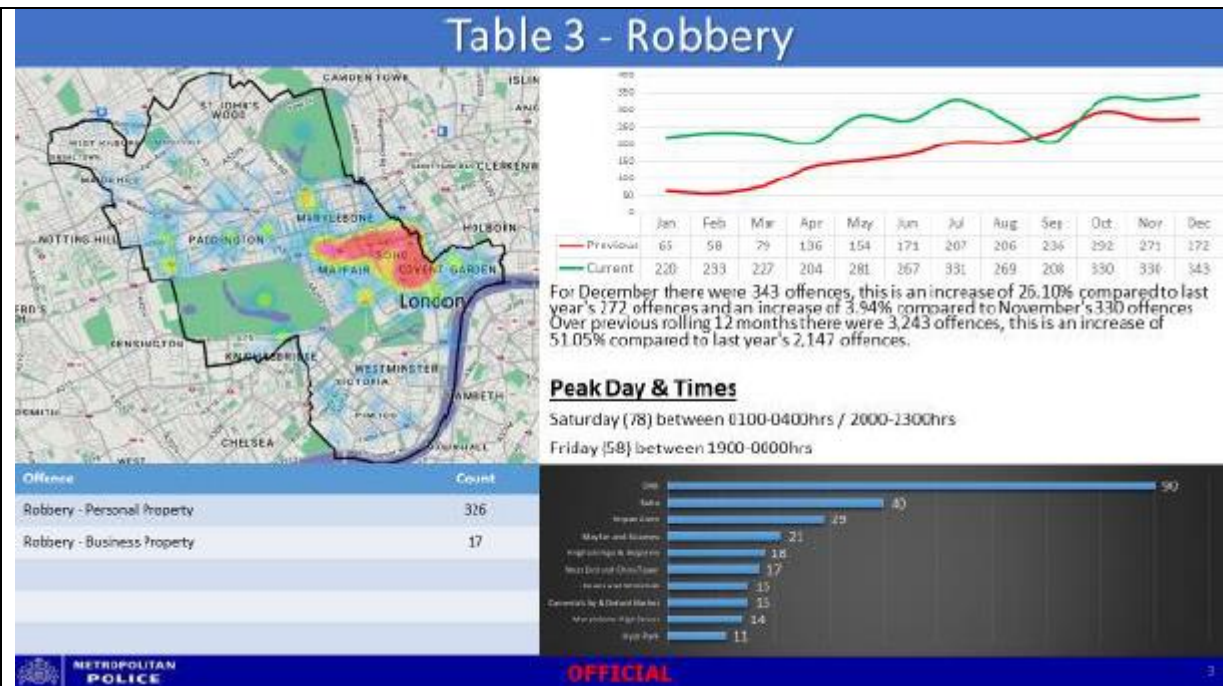
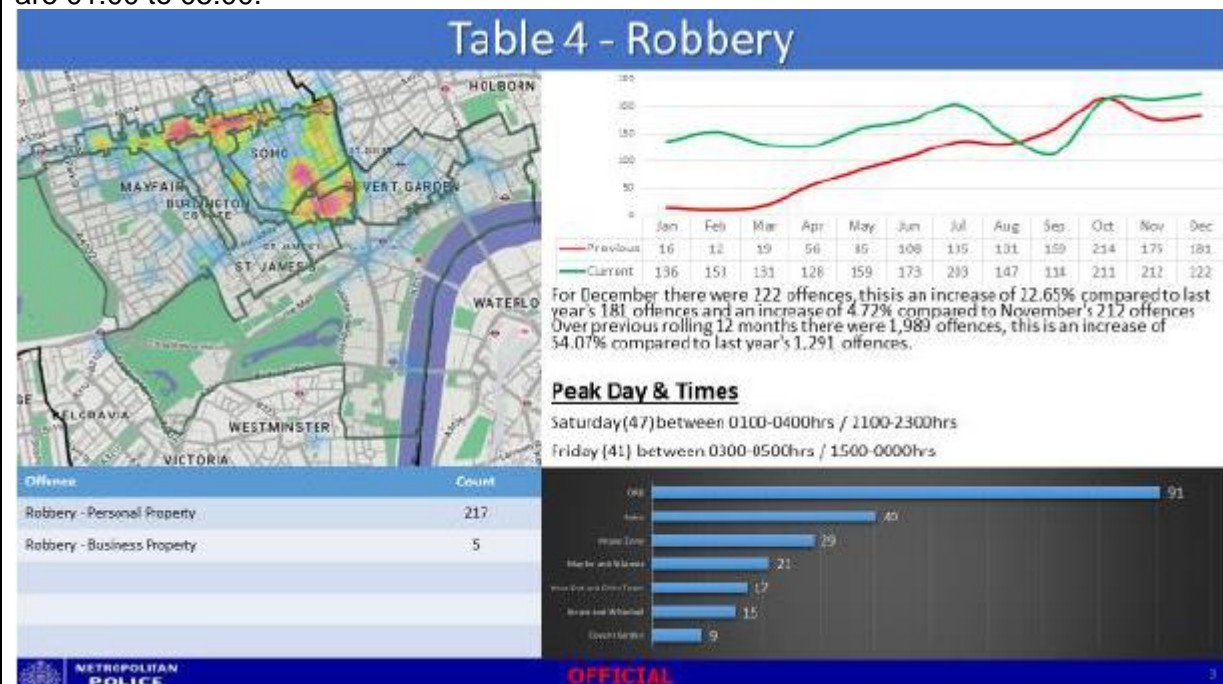


Table 4 below shows the levels of robbery within the West End during December 2022. This can be compared with **Table 3** above, which show the robberies across the borough as a whole. Once again, the 'hotspot' is centred in Leicester Square and the immediate area. The figures show that there were 222 reported robberies within the West End. This is an increase of 22.65% compared to last year's 181 offences and an increase of 4.72% compared to November's 212 offences. Over previous rolling 12 months there were 1,989 offences, this is an increase of 54.07% compared to last year's 1,291 offences. The peak times for these offences are 01:00 to 05:00.



The Metropolitan Police Service are therefore concerned that another fast-food venue in this area which is permitted to stay open beyond core hours will attract and retain people in an already busy area and will reduce the levels of dispersal within the Cumulative Impact Area. It is for these reasons that the Metropolitan Police Service have objected to this application. However, should the committee be minded to grant the application, we would seek to amend some of the conditions that the applicant has already submitted and include new conditions as follows:

Applicant Conditions already submitted

1. Notices shall be prominently displayed at each exit from the premises asking patrons to be considerate to neighbours when leaving - **Accepted**

2. CCTV will be operational at all times while the premises remain open to the public and all images captured be recorded and stored on site for a minimum period of 31 days. Copies of CCTV recordings will be made available to the Police and/or the Licensing Authority on reasonable request.

Replace with MC01:

• 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 and will include the external area immediately outside the premises entrance. 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.

3. At least one member of staff on duty whilst the licence is being used shall be trained in the requirements of the Licensing Act in terms of the licensing objectives, offences committed under the Act and conditions of the Premises Licence. - **Accepted**

4. Policies and procedures shall be put in place for the collection of street litter generated by the premises and such policies shall be implemented by staff whenever the premises are being used under the terms of this licence. - **Accepted**

5. An incident book will be maintained by the premises that details incidents of note that occur in the premises. This shall include crimes, items seized, defects in the CCTV system, refused admission, disorder and ejection as a minimum. The incident book shall be kept on the premises and be available for inspection at all times the premises is open.

Replace with MC49

• 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, searching equipment or scanning equipment
- (g) any visit by a relevant authority or emergency service.

6. From 9pm whenever the venue is operational on Fridays and Saturdays there will be 1 licensed door supervisor on duty on the premises. They will correctly display their SIA licence which will be visible whilst on duty. - **Accepted**

Also include the addition of MC02:

1. 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.

A copy of the conditions proposed by the Metropolitan Police Service can be found at appendix 4.

3. Policy & Guidance

The following policies within the City Of Westminster Statement of Licensing Policy apply:	
Policy CIP1 applies	<p>It is the Licensing Authority's policy to refuse applications within the West End Cumulative Impact Zone for: pubs and bars, fast food premises, and music and dancing and similar entertainment, other than applications to:</p> <ol style="list-style-type: none"> 1. Vary the hours within Core Hours under Policy HRS1, and/or 2. Vary the licence to reduce the overall capacity of the premises. <p>C. Applications for other premises types within the West End Cumulative Impact Zones will be subject to other policies within this statement and must demonstrate that they will not add to cumulative impact.</p> <p>D. For the purposes of this policy the premises types referred to in Clause A are defined within the relevant premises use policies within this statement</p>
Policy HRS1 applies	<p>A. Applications within the core hours set out below in this policy will generally be granted for the relevant premises uses, subject to not being contrary to other policies in the Statement of Licensing Policy.</p> <p>B. Applications for hours outside the core hours set out in Clause C will be considered on their merits, subject to other relevant policies, and with particular regard to the following:</p> <ol style="list-style-type: none"> 1. The demonstration of compliance in the requirements of policies CD1, PS1, PN1 and CH1 associated with the likelihood of the effect of the grant of a licence for later or earlier hours on crime and disorder, public safety, public nuisance and the protection of children from harm. 2. If the application is located within a Special Consideration Zone they have demonstrated that they have taken account of the issues identified in that area and provided adequate mitigation. 3. Whether there is residential accommodation in the proximity of the premises that would likely be adversely affected by premises being open or carrying out operations at the hours proposed. 4. The proposed hours of the licensable activities and when customers will be permitted to remain on the premises. 5. The proposed hours when any music, including incidental music, will be played. 6. The hours when customers will be allowed to take food or drink outside the premises or be within open areas which form part of the premises. 7. The existing hours of licensable activities and the past operation of the premises (if any) and hours of licensable premises in the vicinity. 8. Whether customers and staff have adequate access to public transport when arriving at and leaving the premises, especially at night. 9. The capacity of the premises. 10. The type of use, recognising that some venues are more likely to impact the licensing objectives than others; for example, pubs and bars are higher risk than theatres, cinemas and other cultural and sporting venues due to the nature of the operation. 11. The Licensing Authority will take into account the active measures proposed for a 'winding down' period including arrangements for people to be collected from the premises to travel home safely.

	<p>12. Conditions on hours may be attached that require that the supply of alcohol for consumption on the premises ceases a suitable period of time before customers are required to leave the premises.</p> <p>13. The council, acting as the Licensing Authority, may reduce hours if, after review, it is necessary to impose conditions specifying shorter hours in order to promote the licensing objectives.</p> <p>14. Specific days for non-standard hours should be identified and justified as part of the application to allow responsible authorities and interested parties to evaluate the impact that these licensable activities may have, and to plan accordingly. The consideration of applications for later hours for Bank Holiday Mondays will take into account that later hours are generally granted for preceding Sundays and that the next day is a working day. Non-specific days are expected to be covered by Temporary Event Notices or variation applications.</p> <p>C. For the purpose of Clauses A and B above, the Core Hours for applications for each premises use type as defined within this policy are:</p> <p>1. Casinos: Up to 24 hours a day whilst casino gaming is permitted by a premises licence under the Gambling Act 2005.</p> <p>2. Cinemas, Cultural Venues and Live Sporting Premises: Monday to Sunday: 9am to 12am</p> <p>3. Hotels: Monday to Thursday: 9am to 11.30pm. Friday and Saturday: 9am to 12am. Sunday: 9am to 10.30pm. Sundays immediately prior to a bank holiday: 9am to 12am. For the sale of alcohol to guests for consumption in hotel/guest rooms only: Anytime up to 24 hours.</p> <p>4. Off licences: Monday to Saturday: 8am to 11pm. Sunday: 9am to 10.30pm.</p> <p>5. Outdoor Spaces: Monday to Thursday: 9am to 11.30pm. Friday and Saturday: 9am to 12am. Sunday: 9am to 10.30pm. Sundays immediately prior to a bank holiday: 9am to 12am.</p> <p>6. Pubs and bars, Fast Food and Music and Dance venues: Monday to Thursday: 10am to 11.30pm. Friday and Saturday: 10am to 12am. Sunday: 9am to 10.30pm. Sundays immediately prior to a bank holiday: 12pm to 12am.</p> <p>7. Qualifying Clubs: Monday to Thursday: 9am to 12am.. Friday and Saturday: 9am to 12am. Sunday: 9am to 10.30pm. Sundays immediately prior to a bank holiday: 9am to 12am.</p> <p>8. Restaurants: Monday to Thursday: 9am to 11.30pm. Friday and Saturday: 9am to 12am. Sunday: 9am to 10.30pm. Sundays immediately prior to a bank holiday: 9am to 12am.</p> <p>9. Sexual Entertainment Venues and Sex Cinemas: Monday to Thursday: 9am to 11.30pm. Friday and Saturday: 9am to 12am. Sunday: 9am to 10.30pm. Sundays immediately prior to a bank holiday: 9am to 12am.</p> <p>D. Core hours are when customers are permitted to be on the premises and therefore the maximum opening hours permitted will be to the same start and terminal hours for each of the days where licensable activity is permitted.</p> <p>E. For the purposes of this policy, 'premises uses' are defined within the relevant premises use policies within this statement.</p>
Policy FFP1 Applies	<p>A. Applications outside the West End Cumulative Zones will generally be granted subject to:</p> <p>1. The application meeting the requirements of policies CD1, PS1,</p>

	<p>PN1 and CH1.</p> <p>2. The hours for licensable activities are within the council's Core Hours Policy HRS1.</p> <p>3. The operation of any delivery services for alcohol and/or latenight refreshment meeting the council's Ancillary Delivery of Alcohol and/or Late-Night Refreshment Policy DEL1.</p> <p>4. The applicant has taken account of the Special Consideration Zones Policy SCZ1 if the premises are located within a designated zone.</p> <p>5. The application and operation of the venue meet the definition of a fast food premises in Clause D.</p> <p>B. It is the Licensing Authority's policy to refuse applications within the West End Cumulative Impact Zone other than:</p> <ol style="list-style-type: none"> 1. Applications to vary the existing licence hours within the council's Core Hours Policy HRS1, and/or, 2. Applications that seek to vary the existing licence so as to reduce the overall capacity of the premises. <p>C. The applications referred to in Clause B1 and B2 will generally be granted subject to:</p> <ol style="list-style-type: none"> 1. The application meeting the requirements of policies CD1, PS1, PN1 and CH1. 2. The operation of any delivery services for alcohol and/or latenight refreshment meeting the council's Ancillary Delivery of Alcohol and/or Late-Night Refreshment Policy DEL1. 3. The application and operation of the venue continuing to meet the definition of a Fast Food Premises in Clause D. <p>D. For the purposes of this policy a Fast Food Premises is defined as:</p> <ol style="list-style-type: none"> 1. A premises that provides late night refreshment, either by way of fast food over a counter, via a self-seating basis or take away for immediate consumption. 2. Food and drink are: <ol style="list-style-type: none"> a. Available on the premises for self-selection. b. Prepared on the premises. c. Cooked or produced off the premises but brought to that premises in advance of its sale to customers. 3. The food and drink are provided in pre-sealed or open disposable packaging which is intended for immediate consumption. 4. A fast-food premises can provide a delivery service as part of its operation, however that service must be ancillary to the main function of the premises as defined within sub-clauses D,1 to D,3 above.
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4. Equality Implications

The Council in its capacity as Licensing Authority has a duty to have regard to its public sector equality duty under section 149 of the Equality Act 2010. In summary, section 149 provides that a Public Authority must, in the exercise of its functions, have due regard to the need to:

- (a) eliminate discrimination harassment, victimisation and any other conduct that is prohibited by or under this Act;
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- (c) foster good relations between persons who share a relevant protected characteristics and persons who do not share it.

Section 149 (7) of the Equality Act 2010 defines the relevant protected characteristics as age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.

5. Appendices

Appendix 1	Premises plans
Appendix 2	Applicant supporting documents
Appendix 3	Premises history
Appendix 4	Proposed conditions
Appendix 5	Residential map and list of premises in the vicinity

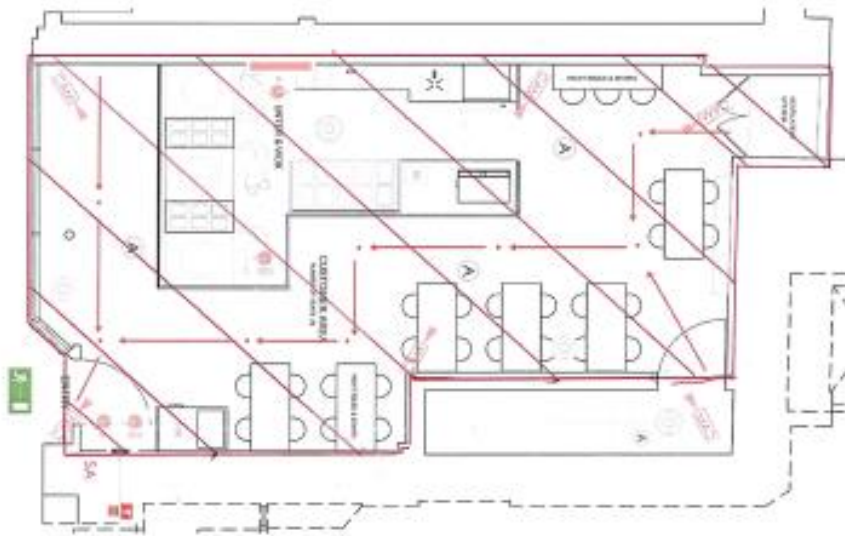
Report author:	Angela Lynch Senior Licensing Officer
Contact:	Telephone: 0207 641 6500 Email: aseaward@westminster.gov.uk

If you have any queries about this report or wish to inspect one of the background papers please contact the report author.

Background Documents – Local Government (Access to Information) Act 1972

1	Licensing Act 2003	N/A
2	City of Westminster Statement of Licensing Policy	01 October 2021
3	Amended Guidance issued under section 182 of the Licensing Act 2003	December 2022
4	Licensing Authority representation	5 January 2023
5	Environmental Health Service representation	6 January 2023
6	Metropolitan Police Service	5 January 2023

GROUND FLOOR - FIRE SAFETY PLAN
33 HAYMARKET



- SA Safety door
- CMV - Change
- CDV - Change
- Fire Extinguisher
- Fire Blanket
- Fire Alarm
- Fire Alarm Control Panel
- Fire Alarm Bell
- Fire Alarm Sounder
- Fire Alarm Control Panel
- Fire Alarm Bell
- Fire Alarm Sounder
- Fire Alarm Control Panel
- Fire Alarm Bell
- Fire Alarm Sounder



Ground floor	1. Detailed description of the premises, including the name, address, and contact information of the premises owner, occupier, and fire safety officer.
Fire Safety Plan	2. Description of the fire safety plan, including the fire safety objectives, fire safety measures, and fire safety procedures.
Fire Safety Plan	3. Description of the fire safety plan, including the fire safety objectives, fire safety measures, and fire safety procedures.
Fire Safety Plan	4. Description of the fire safety plan, including the fire safety objectives, fire safety measures, and fire safety procedures.
Fire Safety Plan	5. Description of the fire safety plan, including the fire safety objectives, fire safety measures, and fire safety procedures.
Fire Safety Plan	6. Description of the fire safety plan, including the fire safety objectives, fire safety measures, and fire safety procedures.
Fire Safety Plan	7. Description of the fire safety plan, including the fire safety objectives, fire safety measures, and fire safety procedures.
Fire Safety Plan	8. Description of the fire safety plan, including the fire safety objectives, fire safety measures, and fire safety procedures.
Fire Safety Plan	9. Description of the fire safety plan, including the fire safety objectives, fire safety measures, and fire safety procedures.
Fire Safety Plan	10. Description of the fire safety plan, including the fire safety objectives, fire safety measures, and fire safety procedures.

There are no supporting documents from the applicant.

Temporary Event Notice History

Application	Details of Application	Date Determined	Decision
22/11929/LITENN	Temporary Event Notice	20.12.2022	Event allowed to proceed
22/11906/LITENN	Temporary Event Notice	21.12.2022	Event allowed to proceed
22/11813/LITENN	Temporary Event Notice	13.12.2022	Event allowed to proceed

CONDITIONS CONSISTENT WITH THE OPERATING SCHEDULE AND CONDITIONS PROPOSED BY A PARTY TO THE HEARING

When determining an application for a new premises licence under the provisions of the Licensing Act 2003, the licensing authority must, unless it decides to reject the application, grant the licence subject to the conditions which are indicated as mandatory in this schedule.

At a hearing the licensing authority may, in addition, and having regard to any representations received, grant the licence subject to such conditions which are consistent with the operating schedule submitted by the applicant as part of their application, or alter or omit these conditions, or add any new condition to such extent as the licensing authority considers necessary for the promotion of the licensing objectives.

This schedule lists those conditions which are consistent with the operating schedule, or proposed as necessary for the promotion of the licensing objectives by a responsible authority or an interested party as indicated. These conditions have not been submitted by the licensing service but reflect the positions of the applicant, responsible authority or interested party and have not necessarily been agreed

Mandatory Conditions

None

Conditions consistent with the operating schedule

1. Notices shall be prominently displayed at each exit from the premises asking patrons to be considerate to neighbours when leaving.
2. CCTV will be operational at all times while the premises remain open to the public and all images captured be recorded and stored on site for a minimum period of 31 days. Copies of CCTV recordings will be made available to the Police and/or the Licensing Authority on reasonable request.

The Metropolitan Police Service proposes an alternative wording to condition 2 as follows:

2. 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 and will include the external area immediately outside the premises entrance. 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.
3. At least one member of staff on duty whilst the licence is being used shall be trained in the requirements of the Licensing Act in terms of the licensing objectives, offences committed under the Act and conditions of the Premises Licence.

4. Policies and procedures shall be put in place for the collection of street litter generated by the premises and such policies shall be implemented by staff whenever the premises are being used under the terms of this licence.
5. An incident book will be maintained by the premises that details incidents of note that occur in the premises. This shall include crimes, items seized, defects in the CCTV system, refused admission, disorder and ejection as a minimum. The incident book shall be kept on the premises and be available for inspection at all times the premises is open.

The Metropolitan Police Service proposes an alternative wording to condition 5 as follows:

5. 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, searching equipment or scanning equipment
 - (g) any visit by a relevant authority or emergency service.
6. From 9pm whenever the venue is operational on Fridays and Saturdays there will be 1 licensed door supervisor on duty on the premises. They will correctly display their SIA licence which will be visible whilst on duty.

Conditions proposed by the Metropolitan Police Service.

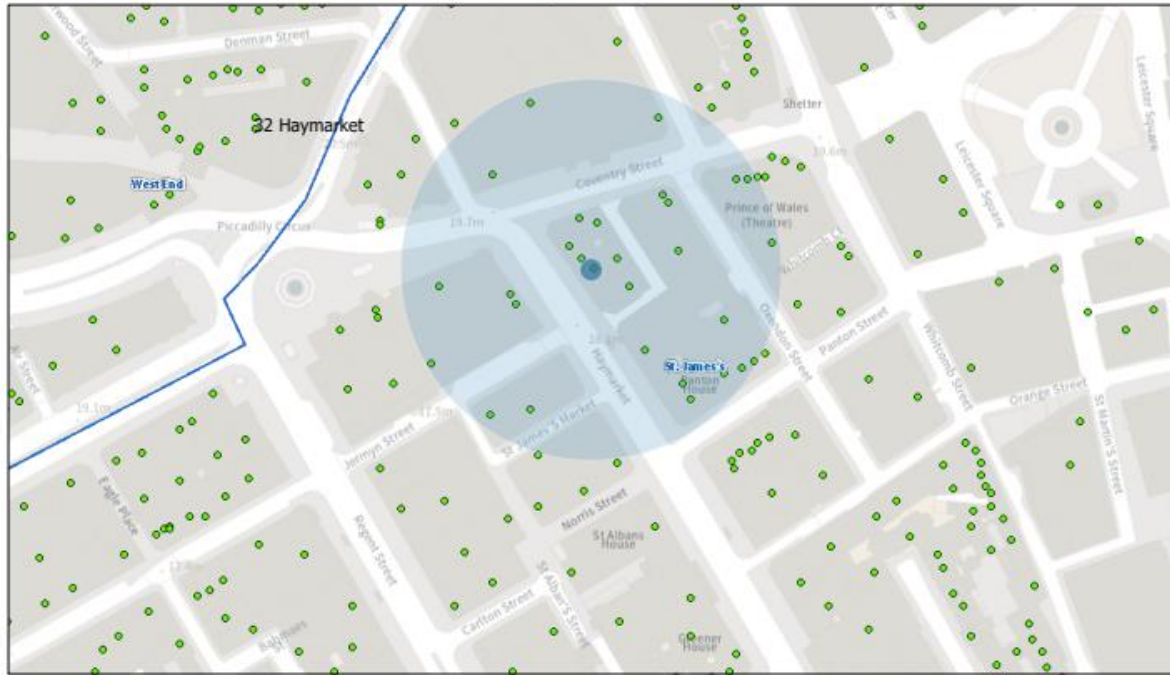
7. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises is open. This staff member must be able to provide a Police or authorised council officer copies of recent CCTV images or data with the absolute minimum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

Conditions proposed by the Environmental Health Service.

8. There shall be no consumption of late night refreshment on the premises.
9. No noise generated on the premises, or by its associated plant or equipment, shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
10. 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.
11. No deliveries to the premises shall take place between (23.00) and (08.00) hours on the following day.
12. No deliveries from the premises, either by the licensee or a third party shall take place between (23:00) and (08:00) hours on the following day.
13. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.

14. 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.
15. No fumes, steam or odours shall be emitted from the licensed premises so as to cause a nuisance to any persons living or carrying on business in the area where the premises are situated.
16. Delivery drivers shall be given clear, written instructions to use their vehicles in a responsible manner so as not to cause a nuisance to any residents or generally outside the license premises; not to leave engines running when the vehicles are parked; and not to obstruct the highway.

33 Haymarket, London, SW1Y 4HA



Resident Count 31

Licensed premises with 75 metres of 33 Haymarket, London, SW1Y 4HA				
Licence Number	Trading Name	Address	Premises Type	Time Period
20/07366/LIPCH	Aberdeen Steak House	21-22 Coventry Street London W1D 7AE	Restaurant	Sunday; 10:00 - 00:00 Monday to Saturday; 10:00 - 01:00 Sundays before Bank Holidays; 10:00 - 01:00
22/04106/LIPDPS	Tiger Tiger	Haymarket House 28-29 Haymarket London SW1Y 4SP	Night clubs and discos	Sunday; 09:00 - 00:30 Monday to Saturday; 09:00 - 03:30
17/02769/LIPDPS	The Comedy Store	Ground Floor Right Haymarket House 1A	Theatre	Sunday; 09:00 - 01:00 Monday to Saturday;

		Oxendon Street London SW1Y 4EE		09:00 - 05:00
20/02193/LIPRW	Happy Bar & Grill	25-29 Coventry Street London W1D 7AG	Restaurant	Sunday; 12:00 - 00:30 Monday to Saturday; 10:00 - 01:30 Sundays before Bank Holidays; 12:00 - 01:00
15/04802/LIPDPS	Caffe Concerto	45 Haymarket London SW1Y 4SE	Cafe	Monday to Sunday; 08:00 - 23:30
21/04813/LIPDPS	Comedy	Basement To Second Floor 7 Oxendon Street London SW1Y 4EE	Night clubs and discos	Sunday; 07:00 - 00:30 Sunday; 07:00 - 22:30 Monday to Thursday; 07:00 - 23:30 Monday to Saturday; 07:00 - 02:30 Friday to Saturday; 07:00 - 00:00 Sundays before Bank Holidays; 07:00 - 00:00
23/00049/LIPVM	Hard Rock Cafe	Criterion Building 225-229 Piccadilly London W1J 9HR	Not Recorded	Friday to Saturday; 07:00 - 02:30 Sunday to Thursday; 07:00 - 01:30
17/13227/LIPDPS	1	St James's Market London	Office	Saturday to Sunday; 00:00 - 00:00
16/14122/LIPN	Ikoyi	St James's Market London	Restaurant	Sunday; 12:00 - 23:00 Monday to Thursday; 10:00 - 00:00 Friday to Saturday; 10:00 - 00:30
21/10397/LIPDPS	Pizza Express	26 Haymarket London SW1Y 4SP	Restaurant	Sunday; 12:00 - 00:00 Monday to Saturday; 10:00 - 00:30
20/07347/LIPCHT	Jumak39	39 Panton Street London SW1Y 4EA	Restaurant	Sunday; 12:00 - 00:00 Monday to

				Saturday; 10:00 - 00:30
21/05711/LIPN	Layalina	32 Coventry Street London W1D 6BR	Restaurant	Monday to Sunday; 00:00 - 00:00
21/06624/LIPN	Sky Bar Lounge	Trocadero 13 Coventry Street London W1D 7DH	Restaurant	Monday to Sunday; 00:00 - 00:00
18/00656/LIPN	Trocadero Hotel/Sky Bar & Restaurant	Trocadero 13 Coventry Street London W1D 7DH	Hotel, 3 star or under	Monday to Sunday; 00:00 - 00:00
17/08106/LIPN	Unit 4 - Happy Bar And Grill	Trocadero 13 Coventry Street London W1D 7DH	Restaurant	Sunday; 08:00 - 22:30 Monday to Thursday; 08:00 - 23:30 Friday to Saturday; 08:00 - 00:00
22/00403/LIPDPS	Picturehouse Central	Trocadero 13 Coventry Street London W1D 7DH	Cinema	Monday to Sunday; 00:00 - 23:59
20/07563/LIPDPS	Five Guys	Trocadero 13 Coventry Street London W1D 7DH	Restaurant	Sunday; 10:00 - 22:30 Monday to Thursday; 10:00 - 23:30 Friday to Saturday; 10:00 - 00:00
22/02946/LIPDPS	Tasting Italy	Ground Floor To Second Floor 38 Panton Street London SW1Y 4EA	Restaurant	Monday to Sunday; 12:00 - 00:00
22/11749/LIPDPS	Prince Of Wales Theatre	31 Coventry Street London W1D 6AS	Theatre	Monday to Sunday; 09:00 - 00:00
21/00632/LIPN	(Shadow Licence)	52 Haymarket London SW1Y 4RP	Premises Licence - Shadow Licence	Sunday; 07:00 - 23:30 Monday to Saturday; 07:00 - 01:00
21/09831/LIPVM	Not Recorded	52 Haymarket London SW1Y 4RP	Restaurant	Monday; 07:00 - 01:00 Tuesday; 07:00 - 01:00 Wednesday; 07:00 - 01:00 Thursday; 07:00 - 01:00 Friday; 07:00 -

				01:00 Sunday; 07:00 - 23:30
10/07825/LIPD	Woodlands Restaurant	Basement And Ground Floor 37 Panton Street London SW1Y 4EA	Restaurant	Sunday; 12:00 - 00:00 Monday to Saturday; 10:00 - 00:30



City of Westminster

Licensing Sub-Committee Report

Item No:

Licensing Ref No:

Date:

Classification:

Title of Report:

Report of:

Policy context:

Financial summary:

Report Author:

Contact Details:

22/11955/LIREVP

23 February 2023

For General Release

Simmons
11 Woodstock Street
London
W1C 2AE

Director of Public Protection and Licensing

City of Westminster Statement of Licensing Policy

None

Emanuela Meloyan
Senior Licensing Officer

Telephone: 0207 641 6500
E-mail: emeloyan@westminster.gov.uk

APPLICATION DETAILS

Application Type:	A Review of Premises Licence application made under section 51 of the Licensing Act 2003 ("The Act").		
Applicant:	████████████████████	Date Application Received:	15 December 2022
Premises Name and Address:	Simmons 11 Woodstock Street London W1C 2AE		
Ward Name:	West End	Cumulative Impact Area:	None
Description of Premises:	The Premises currently operates as a Public House.		
Preliminary Note:	None		

2. SUMMARY OF APPLICATION

- 2.1 An application submitted by two local residents and supported by the Licensing Authority for a Review of the Premises Licence for Simmons 11 Woodstock Street, London, W1C 2AE ("The Premises") was received on 15 December 2022 on the grounds of the Prevention of Public Nuisance. A full copy of the application can be found at **Annex 1**.
- 2.2 Home Office Guidance issued under section 182 of the Act on page 94 (para 11.2 refers) states that "at any stage following the grant of a premises licence, a responsible authority, such as the Police or the Environmental Health Service, or any other person who can seek a review, may ask the Licensing Authority to review the premises licence because of a matter arising at the premises in connection with any of the four licensing objectives".
- 2.3 As such, in accordance with section 52(2) of the Act, the Licensing Authority must hold a hearing to consider the application and any relevant representations. The requirement to hold a hearing is mandatory in nature.
- 2.4 The Premises currently benefits from a Premises Licence under reference number 22/11866/LIPVM that permits the following licensable activities:

Late Night Refreshment

Monday to Sunday:	23:00 to 00:30
Non-standard Timings:	New Year's Eve until 01:30

Sale by Retail of Alcohol

Monday to Saturday:	10:00 to 00:00
Sunday:	12:00 to 23:30
Sundays before Bank Holidays:	12:00 to 00:00
Non-standard Timings:	New Year's Eve until 01:30

- 2.5 Further documents mainly in the form of email correspondence that were submitted as part of the review application can be found at **Annex 1 (Appendix 1-11)**
- 2.6 On submission of this application, the Applicant provided an in-depth description of the issues relating to the Premises which stated the following commentary:

“The aim of this review is to ensure that music noise and vibrations are inaudible in residents’ flats. Simmons Bar have opened a new venue next door and below to residential premises, in a building immediately adjacent to our own (both terraced houses) causing severe noise nuisance to residents due to the high volume of music being played. This is an issue both during daytime and resting hours for residents at [REDACTED], which we represent. We are also aware that residents at [REDACTED] have been impacted. The business have asked and have been granted Temporary Event Notices to 3am for every single week from now until end of the year. WCC noise officers have visited our residential premises a number of times, as per the timeline below, and have repeatedly witnessed statutory nuisance under Environmental Protection Act 1990 and asked the business to reduce their noise emissions.

A meeting was facilitated by [REDACTED] and WCC officers to try and resolve the situation amicably, by setting noise levels to be inaudible from within our premises, but that did not resolve the issue as the business considered WCC requirements not commercially viable (despite it having been established that a statutory nuisance exists). We understand that a noise abatement notice was issued on Nov 28th, but despite that the nuisance has continued as previously reported.

The business is currently only licensed to serve alcohol and late night refreshment, although they do offer and advertise regulated entertainment (on their website, fliers, window signs, etc.).

We are aware that recorded music is deregulated in certain circumstances and so the only way we can achieve enforceable conditions on the licence to cease the nuisance and prevent its reoccurrence is by way of a licence review”.

- 2.7 Additional submissions received from the Applicant can be found at **Annex 2**.
- 2.8 At the time of producing this report the Premises Licence Holder has yet to submit his submissions. However, any late written submissions will be presented to the Licensing Sub-Committee and all relevant parties prior to the hearing taking place.

3. REPRESENTATIONS:

- 3.1 The application has also received a representation in support of the Review from the Environmental Health Service on the 11 January 2023 on the grounds of Prevention of Public Nuisance and can be found at **Annex 3**.
- 3.2 The application has also received representations in support of the Review from interested parties on the grounds of public nuisance and can be found at **Annex 4**.

4. OPTIONS:

- 4.1 The Applicant is seeking Revocation of the Premises Licence due to the weight of evidence that has been submitted and the Premises failure to promote the licensing objectives, namely:-
 - 1) The potential for crime and disorder
 - 2) The potential for public nuisance

The Applicant believes that a nightclub style of operation is not appropriate for this location.

- 4.2 The Authority under section 52 (4) of the Act must, having regard to the application and the representations, take such steps (if any), as it considers appropriate for the promotion of the

licensing objectives. The steps are:

- (a) to modify the conditions of the licence;
- (b) to exclude a licensable activity from the scope of the licence;
- (c) to remove the designated premises supervisor;
- (d) to suspend the licence for a period not exceeding three months;
- (e) to revoke the licence;

and for this purpose the conditions of the licence are modified if any of them is altered or omitted or any new condition added.

- 4.3 In accordance with section 52(6) of the Act, if the Authority takes measures to modify conditions or exclude licensable activities from the licence, it may stipulate that the modification or exclusion is to have effect for only such period (not exceeding three months) as it may specify.
- 4.4 The licensing authority's determination of this application does not have effect until the 21 day appeal period has expired or if the decision is appealed the date the appeal is determined and / or disposed of.

5. LICENSING ACT 2003 APPLICATIONS AND APPEAL HISTORY

List of Appendices:	<p>Annex 1 – Application for Review</p> <ul style="list-style-type: none">• Appendix 1 – Full Premises Licence• Appendix 2 – 11-11-2022• Appendix 3 – 15-11-2022• Appendix 4 – 15-11-2022_b• Appendix 5 – 16-11-2022• Appendix 6 – 23-11-2022_a• Appendix 7 – 23-11-2022_b• Appendix 8 – 23-11-2022_c• Appendix 9 – 23-11-2022_d• Appendix 10 – 29-11-2022_a• Appendix 11 - 29-11-2022_b <p>Annex 2 – Applicant's further submissions Annex 3 – Environmental Health submission Annex 4 – Interested Parties representation Annex 5 – Licence History/Appeal History Annex 6 – Residential Map and List of Premises in the Vicinity</p>
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Background Documents – Local Government (Access to Information) Act 1972

- Licensing Act 2003
- City of Westminster Statement of Licensing Policy (October 2021)
- Revised Home Office Guidance issued under section 182 of the Licensing Act 2003 (December 2022)

Annex 1
Application for a Review and Supporting Documents from the Applicant



City of Westminster

APPLICATION FOR REVIEW

Please forward one copy of your completed application and any supporting documentation to:

Licensing Service
REVIEWS
Westminster City Council
Westminster City Hall
14th Floor
64 Victoria Street
London
SW1E 6QP

AND

Please give one copy of your application and any supporting documentation to the Holder of the Premises Licence and each of the following responsible authorities on the same day that the application is served on the Licensing Service;

1. The Chief Officer of Police
Westminster Police Liaison Team
4th Floor, Westminster City Hall
64 Victoria Street, London, SW1E 6QP
2. Fire Safety Regulation: South West Area 4
169 Union Street London SE1 0LL
3. Premises Management (Environmental Health; Health & Safety; Weights and Measures)
Westminster City Council
Environmental Health Consultation Team
4th Floor, Westminster City Hall
64 Victoria Street, London, SW1E 6QP

Continued.....

4. Development Planning Services
Westminster City Council
64 Victoria Street
London
SW1E 6QP

5. Area Child Protection Committee
Head of Commissioning – Child Protection & Quality, Social and Community
Services – Children and Families
4 Frampton Street
NW8 8LF

6. Director of Public Health
Inner North West London Primary Care Trusts
(Hammersmith and Fulham, Kensington and Chelsea, Westminster)
15 Marylebone Road, London
NW1 5JD

For boats only

The Navigation Authority (for vessels not permanently moored)

Tidal Thames
The Harbour Master
The Port of London Authority, 7 Harp Lane, London EC3R 6LB

Non Tidal Thames
The Environment Agency Recreation and Navigation, Thames Region, Kings
Meadow House, Kings Meadow Road, Reading, RG1 8DQ

Canals
The Leisure Manager
British Waterways Board
1 Sheldon Square, Paddington Central, London W2 6TT

And

The Surveyor General
The Maritime & Coastguard Agency, Orpington Marine Office, Central Court, 1 Knoll
Rise

Application for the review of a premises licence or club premises certificate under the Licensing Act 2003

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form.
If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary.
You may wish to keep a copy of the completed form for your records.

I [REDACTED].....
(Insert name of applicant)

apply for the review of a premises licence under section 51 / apply for the review of a club premises certificate under section 87 of the Licensing Act 2003 for the premises described in Part 1 below (delete as applicable)

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description 11 Woodstock Street	
Post town London	Post code (if known) W1C 2AE

Name of premises licence holder or club holding club premises certificate (if known) Simmons Covent Garden Limited, Third Floor, 120 Charing Cross Road London WC2H 0JR
--

Number of premises licence or club premises certificate (if known) 22/09392/LIPDPS

Part 2 - Applicant details

I am

Please tick ✓ yes

- 1) an individual, body or business which is not a responsible authority (please read guidance note 1, and complete (A) or (B) below)
- 2) a responsible authority (please complete (C) below)
- 3) a member of the club to which this application relates (please complete (A) below)

(A) DETAILS OF INDIVIDUAL APPLICANT (fill in as applicable)

Please tick ✓ yes

Mr Mrs Miss Ms Other title
(for example, Rev)

Surname First names

I am 18 years old or over

Please tick ✓ yes

Current postal address if different from premises address

Post town Post Code

Daytime contact telephone number

E-mail address (optional)

(B) DETAILS OF OTHER APPLICANT

Name and address <input type="text"/>
Telephone number (if any) <input type="text"/>
E-mail address (optional) <input type="text"/>

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address
Telephone number (if any)
E-mail address (optional)

This application to review relates to the following licensing objective(s)

- Please tick one or more boxes ✓
- 1) the prevention of crime and disorder
 - 2) public safety
 - 3) the prevention of public nuisance
 - 4) the protection of children from harm

Please state the ground(s) for review (please read guidance note 2)

The aim of this review is to ensure that music noise and vibrations are inaudible in residents' flats.

Simmons Bar have opened a new venue next door and below to residential premises, in a building immediately adjacent to our own (both terraced houses) causing severe noise nuisance to residents due to the high volume of music being played.

This is an issue both during daytime and resting hours for residents at [REDACTED] which we represent. We are also aware that residents at [REDACTED] have been impacted. The business have asked and have been granted Temporary Event Notices to 3am for every single week from now until end of the year.

WCC noise officers have visited our residential premises a number of times, as per the timeline below, and have repeatedly witnessed statutory nuisance under Environmental Protection Act 1990 and asked the business to reduce their noise emissions.

A meeting was facilitated by [REDACTED] and WCC officers to try and resolve the situation amicably, by setting noise levels to be inaudible from within our premises, but that did not resolve the issue as the business considered WCC requirements not commercially viable (despite it having been established that a statutory nuisance exists).

We understand that a noise abatement notice was issued on Nov 28th, but despite that the nuisance has continued as previously reported.

The business is currently only licensed to serve alcohol and late night refreshment, although they do offer and advertise regulated entertainment (on their website, fliers, window signs, etc.).

We are aware that recorded music is deregulated in certain circumstances and so the only way we can achieve enforceable conditions on the licence to cease the nuisance and prevent its reoccurrence is by way of a licence review.

Please provide as much information as possible to support the application (please read guidance note 3)

Introduction

██████████ is a terraced house, ██████████ to the premises in object at 11 Woodstock Street, ground and lower ground floor.

██████████ currently resides at ██████████. All flats have been negatively impacted by the nuisance, in decreasing order from ██████████ due to the different proximity to the area whence noise is emitted. Residents have been continuously living at the property from between 2 and 12 years as their full time homes.

In addition, residential units exist at ██████████ we've been approached by the previous residents of the ██████████ who co-signed with all residents at ██████████ an initial complaint to WCC Licensing Team on 15th November 2022. The residents at ██████████ have since relocated (allegedly due to the nuisance) and no longer live at the property.

Woodstock Street is a calm, partially pedestrianised street consisting mostly of residential and commercial office space, and is a quiet area in contrast to the much busier Oxford Street to which it is connected.

The street hosts a few pubs and restaurants, which have never caused nuisance to residents aside from the odd football game causing loud noise from punters at another pub. In the evening (after 8pm), the street generally sees the odd passers-by and pub/restaurant customers, but has never experience the sort of loud crowds (including queues forming on the pavement) experienced since Simmons Bar opened.

Indeed, 11 Woodstock Street has been a pub for a very long time, but no noise nuisance deriving from loud music or related vibrations was ever experienced or reported by residents.

Since Simmons Bar opened, large crowds have been gathering to access the premises, at times causing antisocial behaviour (security guards are employed by Simmons to monitor entrances and intervene to manage rowdy behaviour, a new concern not seen before in our street); loud music can distinctively be heard in neighbouring properties and in general the character of the street has received a detrimental impact.

Current licence

The premises licence permits sale of alcohol and late night refreshment, with a closing time of 12.30am Mon-Sun. The licence does not permit regulated entertainment. There is a condition that:

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

The deregulation provisions of s177A Licensing Act 2003 mean that the premises can provide regulated entertainment between the hours of 8am and 11pm despite there being no permission on the licence, and that conditions related to regulated entertainment have no effect between those hours. Between 11pm and 8am, a licence is required for regulated entertainment.

Reasons for review application

We have experienced nuisance since the day that the current licence holder opened.

This is a timeline of events based on the best of our recollections:

9th November 2022

Informal opening. loud music audible. At 10.30pm ██████████

with the manager who says "we have a licence but anyway we will close soon", the music is audible until 11pm.

10th November 2022

Formal opening, loud music audible.

FB reports noise on WCC website at 7.37pm (CAS-561026-D1Q2Y5), a WCC officer visits and confirms that they witnessed statutory noise. He speaks with management but nothing changes.

MT independently reports the noise to WCC at 9:08pm (CAS-561093-W4T2R1), and later liaises with FB on the issue.

FB reports noise again on WCC website at 11pm (CAS-561112-J7K8R8), two different officers return and witness statutory noise again, but the situation stays unresolved. The music continues loud past 11pm, in absence of any entertainment licence and any TEN. FB is told to report if it occurred again, in which case an abatement notice would then be sought.

11th November 2022

Loud music audible in the flats. MT reports the noise to WCC (CAS-561958-P1S9M1) at 7:00pm.

FB reports noise on WCC website 11.09pm (CAS-562015-H8Q5N5) (past 11pm, no entertainment licence nor TEN was granted for that date either).

12th November 2022

Loud music audible. MT reports to WCC (CAS-562310-Z6F3D5) at 7:27pm.

FB reports noise on WCC website 22.39pm (CAS-562350-X6S2M6).

13th November 2022

Loud music audible. MT reports to WCC (CAS-562714-V8J8Z7) at 8:27pm.

FB reports noise on WCC website 9.30pm (CAS-562731-P4Q4F1).

17th November 2022

Loud music audible.

FB reports noise on WCC website 11.10pm (CAS-562350-X6S2M6). A WCC officer visits and witnessed statutory noise yet again.

18th November 2022

Loud music audible.

FB reports noise on WCC website 23.34pm (CAS-569861-T4W6X5)

19-20th November 2022

In a private conversation between MT and tenants of 11 Woodstock St, they share the disturbance was so severe for them that they decided to vacate the premises and relocate.

22nd November 2022

FB agrees to have Simmons sound technician to measure noise in [REDACTED]. He is joined by MT, and two WCC council officers are also present.

The noise levels deemed acceptable by residents and WCC is deemed "not commercially viable" by Simmons.

The volume that is "commercially viable" for Simmons is deemed to be a statutory nuisance by the WCC noise officers present.

Simmons management are told to lower the volume further although no clear level is set, and to keep it

as such via a limiter. No acknowledgment is provided by Simmons.

24th November 2022

Same loud music is audible again. FB reports noise on WCC website 20.22 (CAS-575147-G1Y4B2). MT also reports to WCC (CAS-575198-N5T6Z5) at 22:50pm.

25th November 2022

Same loud music audible again.

FB reports noise on WCC website 22.56 (CAS-576330-C8K1V7). Two WCC officers visit at about 11.40pm but by the time they arrive the noise level has already faded (past closing time).

MT also reports (CAS-576349-G5B0Q3) at 0:01am.

26th November 2022

Loud music audible.

FB reports noise on WCC website 21.23 (CAS-576686-J9S9L2). Two WCC officers visit and once again witness statutory noise (music so loud that an officer's smartphone placed in Flat 1 picks up the exact track being played by the business).

28th November 2022

s80 noise abatement notice served by WCC.

1st December 2022

Loud music audible again, issue stays unresolved.

FB reports noise on WCC website 8.22pm (CAS-581595-Z1D6Y9).

8th-9th-10th-11th-12th December 2022

Despite not always being reported, nuisance keeps being observed in the evening, at times past 11pm.

Conclusion

We have willingly given our time to engage with the licence holder and to take part in noise testing to resolve an issue not of our making. We expected that once the nuisance had been identified and Council officers had impressed on the licence holder the extent of the situation, the matter would be swiftly resolved without the need for formal action. However, the nuisance has continued despite:

- i) the intervention of WCC officers;
- ii) the noise testing clearly demonstrating the level at which music must be played so as not to cause a nuisance; and
- iii) the service of the noise abatement notice,

has left us with no option but to apply to review the licence to add conditions to the licence to ensure that the nuisance ceases and does not reoccur. Under s177A, enforceable conditions can only be added to the licence by way of a licence review in any event.

As a starting point, we suggest that a resolution should include the following conditions. We feel that these conditions are necessary, appropriate and proportionate.

Proposed conditions:

- That the licensing authority removes the effect of the deregulation provided for by s177A Licensing Act 2003 (as amended) so that:
 - i) additional conditions are imposed as if the music was licensable (s177A(4));
 - ii) existing conditions have effect in accordance with s177A(3); and
 - iii) that a statement is included on the licence to the effect that s177A(3) and (4) Licensing Act 2003 (as amended) do not apply

If the licence holder has not demonstrated that they have resolved the issue, we see no option but to prevent the provision of regulated entertainment at the premises completely by condition, in addition to the conditions below.

If the licence holder has demonstrated that they have resolved the issue, we ask for the following conditions:

- Add MC11 as amended as follows:

A noise limiter must be fitted to the musical amplification system and maintained in accordance with the following criteria:

(a) the limiter must be set at a level determined by and to the satisfaction of an authorised Environmental Health Officer in conjunction with affected residents, so as to ensure that no noise nuisance is caused to local residents or businesses,

(b) The operational panel of the noise limiter shall then be secured by key or password to the satisfaction of the authorised Environmental Health Officer and access shall only be by persons authorised by the Premises Licence holder,

(c) The limiter shall not be altered without prior written agreement from the Environmental Health Consultation Team,

(d) No alteration or modification to any existing sound system(s) should be affected without prior knowledge of the Environmental Health Consultation Team, and

(e) No additional sound generating equipment shall be used on the premises without being routed through the sound limiter device.

- Amend condition 12 on the licence to be replaced by: MC12 'No noise generated on the premises, or by its associated plant or equipment, shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.'
- Add MC13 'Loudspeakers shall not be located in the entrance and exit of the premises or outside the building.'
- Add MC14 amended '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.'

Any other such conditions as may be proposed and as the Sub-Committee decides are appropriate and proportionate following consideration of this application, submissions from the licence holder, and any representations from responsible authorities and other persons.

Late edit: we have been made aware of a minor variation application ref: 22/11866/LIPVM which seeks to add MC11 to the licence. We obviously do not object to this but as noted above, for the condition to have effect between 8am and 11pm the Licensing Authority needs to disapply the provisions of s177A and this can only be done by way of a licence review.

Please tick ✓ yes

Have you made an application for review relating to the premises before

X

If yes please state the date of that application

Day	Month	Year

If you have made representations before relating to the premises please state what they were and when you made them

N/A

Please tick ✓ yes

- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate
- I understand that if I do not comply with the above requirements my application will be rejected

IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION

Part 3 – Signatures (please read guidance note 4)

Signature of applicant or applicant's solicitor or other duly authorised agent (please read guidance note 5). If signing on behalf of the applicant please state in what capacity.

[Redacted signature]

Date 15/12/2022

Capacity Applicant (resident)

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 6)

[Redacted contact name and address]

Post town [Redacted]

Post Code [Redacted]

Telephone number (if any) [Redacted]

If you would prefer us to correspond with you using an e-mail address your e-mail address (optional) [Redacted]

Notes for Guidance

1. A responsible authority includes the local police, fire and rescue authority and other statutory bodies which exercise specific functions in the local area.
2. The ground(s) for review must be based on one of the licensing objectives.
3. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
4. The application form must be signed.
5. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
6. This is the address which we shall use to correspond with you about this application.

Appendix 1 – Full Premises Licence



City of Westminster

64 Victoria Street, London, SW1E 6QP

Schedule 12
Part A

WARD: West End
UPRN: 010033546437

Premises licence

Regulation 33, 34

Premises licence number:

22/11866/LIPVM

Original Reference:

15/00580/LIPN

Part 1 – Premises details

Postal address of premises:

Simmons
11 Woodstock Street
London
W1C 2AE

Telephone Number: 0207 724 1117

Where the licence is time limited, the dates:

Not applicable

Licensable activities authorised by the licence:

Late Night Refreshment
Sale by Retail of Alcohol

The times the licence authorises the carrying out of licensable activities:

Late Night Refreshment

Monday to Sunday: 23:00 to 00:30
Non-standard Timings: New Year's Eve until 01:30

Sale by Retail of Alcohol

Monday to Saturday: 10:00 to 00:00
Sunday: 12:00 to 23:30
Sundays before Bank Holidays: 12:00 to 00:00
Non-standard Timings: New Year's Eve until 01:30

The opening hours of the premises:

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

Where the licence authorises supplies of alcohol, whether these are on and/or off supplies:

Alcohol is supplied for consumption both on and off the Premises.

Part 2

Name, (registered) address, telephone number and email (where relevant) of holder of premises licence:

Simmons Covent Garden Limited
Third Floor,
120 Charing Cross Road
London
WC2H 0JR

Registered number of holder, for example company number, charity number (where applicable)

13811528

Name, address and telephone number of designated premises supervisor where the premises licence authorises the supply of alcohol:

Name: Toni Aleksiev

Please note: It is the policy of the Licensing Authority not to display the address details of a designated premises supervisor.

Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises for the supply of alcohol:

Licence Number: LBWands/04708
Licensing Authority: London Borough of Wandsworth

Date: 4th January 2023

Signed:



pp
This licence has been authorised by Karyn Abbott on behalf of the Director - Public Protection and Licensing.

Annex 1 – 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.

Annex 2 – Conditions consistent with the operating Schedule

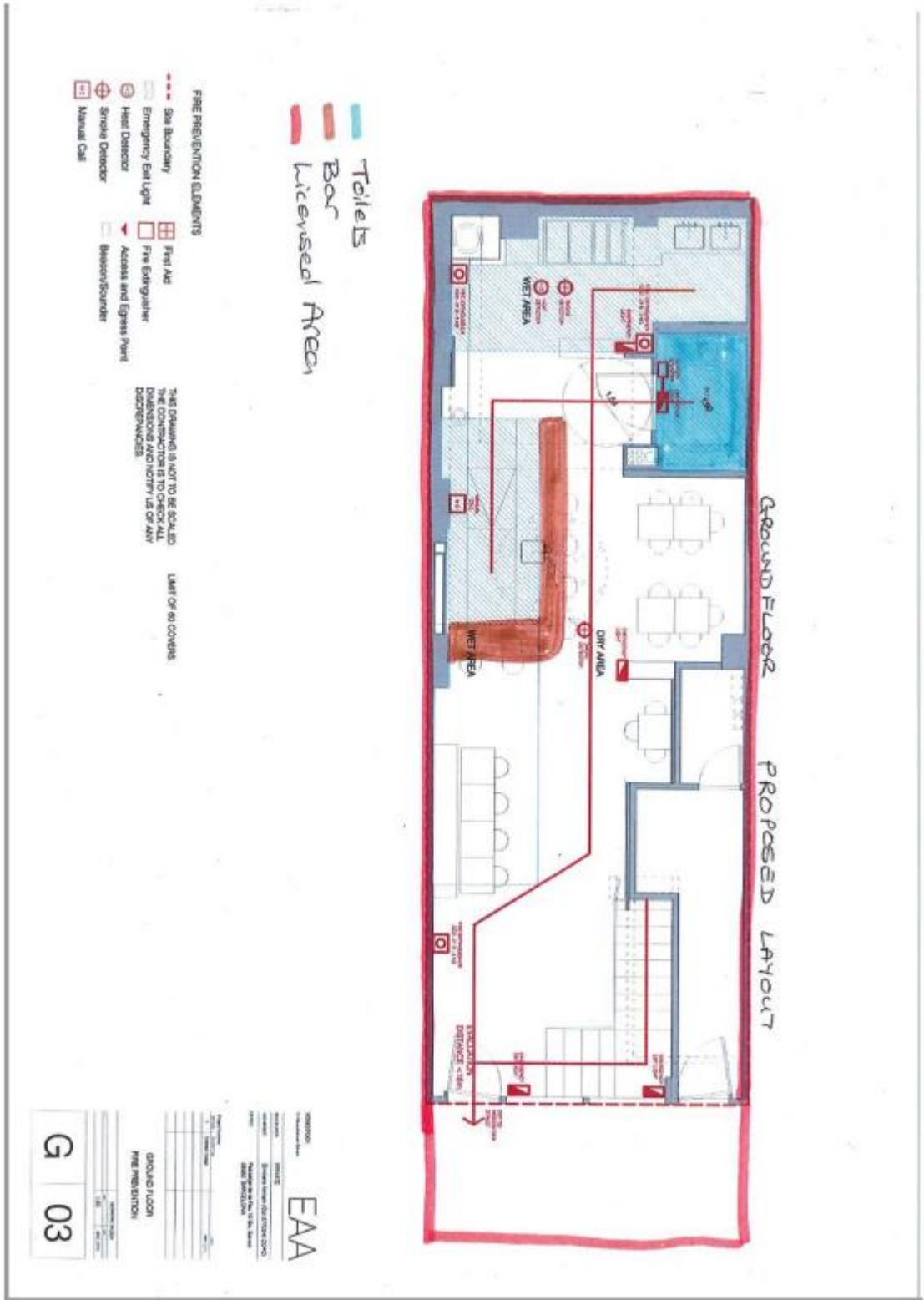
9. Substantial food and non-intoxicating beverages, including drinking water, shall be available in all parts of the premises where alcohol is sold or supplied for consumption on the premises.
10. Waiter/waitress service shall be available throughout the premises.
11. The number of persons permitted in the premises at any one time (including staff) shall not exceed 60 persons, with no more than 35 persons in the basement.
12. No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
13. There shall be no sales of alcohol for consumption off the premises after 23.00
14. All sales of alcohol for consumption off the premises shall be in sealed containers only, and shall not be consumed on the premises.
15. People drinking and/or smoking outside the premises shall be restricted to the private forecourt as defined on the attached plans.
16. All outside tables and chairs shall be rendered unusable by 23.00 each day.
17. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
18. 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.
19. 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.
20. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
21. No deliveries to the premises shall take place between 23.00 and 07.00 on the following day.
22. 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.
23. 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.
24. 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.
25. The edges of the treads of steps and stairways shall be maintained so as to be conspicuous.
26. The ventilation system to the kitchen area shall be switched off at 23.00 hours.
27. No licensable activities shall take place in the outside area after 23.00 hours.

28. 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, so as to ensure that no noise nuisance is caused to local residents or businesses. The operational panel of the noise limiter shall then be secured by key or password to the satisfaction of officers from the Environmental Health Service and access shall only be by persons authorised by the Premises Licence holder. The limiter shall not be altered without prior agreement with the Environmental Health Service. No alteration or modification to any existing sound system(s) should be effected without prior knowledge of an authorised Officer of the Environmental Health Service. No additional sound generating equipment shall be used on the premises without being routed through the sound limiter device.

Annex 3 – Conditions attached after a hearing by the licensing authority

None.

Annex 4 – Plans





BASMENT - PROPOSED LAYOUT

- FIRE PREVENTION ELEMENTS**
- See Boundary
 - ⊕ Emergency Exit Light
 - ⊕ Heat Detector
 - ⊕ Smoke Detector
 - ⊕ Manual Call
 - ⊕ First Aid
 - ⊕ Fire Extinguisher
 - ⊕ Access and Egress Point
 - ⊕ Basem/Boundary

THIS DRAWING IS NOT TO BE SCHEDULED
 THE CONTINUATION IS TO CHECK ALL
 DIMENSIONS AND NOTIFY US OF ANY
 DISCREPANCIES

LIMIT OF 60 COVER

EAA	
ENGINEERING ARCHITECTURE	
2002 MARKET AVENUE, SUITE 100 WESTMONT, ALABAMA 35172 TEL: 205.962.1111 FAX: 205.962.1112	
PROJECT: BASMENT FIRE PREVENTION	
DATE: 11/15/2023	DRAWN BY: [Name]
CHECKED BY: [Name]	SCALE: AS SHOWN
SHEET NO. B 03	



City of Westminster
64 Victoria Street, London, SW1E 6QP

Schedule 12
Part B

WARD: West End
UPRN: 010033546437

**Premises licence
summary**

Regulation 33, 34

Premises licence number:

22/11866/LIPVM

Part 1 – Premises details

Postal address of premises:

Simmons
11 Woodstock Street
London
W1C 2AE

Telephone Number: 0207 724 1117

Where the licence is time limited, the dates:

Not applicable

Licensable activities authorised by the licence:

Late Night Refreshment
Sale by Retail of Alcohol

The times the licence authorises the carrying out of licensable activities:

Late Night Refreshment
Monday to Sunday: 23:00 to 00:30
Non-standard Timings: New Year's Eve until 01:30

Sale by Retail of Alcohol
Monday to Saturday: 10:00 to 00:00
Sunday: 12:00 to 23:30
Sundays before Bank Holidays: 12:00 to 00:00
Non-standard Timings: New Year's Eve until 01:30

The opening hours of the premises:

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

Where the licence authorises supplies of alcohol, whether these are on and/or off supplies:

Alcohol is supplied for consumption both on and off the Premises.

Name and (registered) address of holder of premises licence:

Simmons Covent Garden Limited
Third Floor,
120 Charing Cross Road
London
WC2H 0JR

Registered number of holder, for example company number, charity number (where applicable)

13811528

Name of designated premises supervisor where the premises licence authorises for the supply of alcohol:

Name: Toni Aleksiev

State whether access to the premises by children is restricted or prohibited:

Restricted

Date: 4th January 2023

Signed:



pp
This licence has been authorised by Karyn Abbott on behalf of the Director - Public Protection and Licensing.

Appendix 2 – 11-11-2022



Federico Bixio <federico.bixio@gmail.com>

Noise issue from 11 woodstock Street

[REDACTED] Fri, Nov 11, 2022 at 3:49 PM

Good Afternoon Martin,

We spoke last night re: the nuisance from the new Simmons venue located at 11 Woodstock Street. I'm typing from my work email for convenience, copying my gmail address.
I appreciated your call after the visit of the first noise officer around 8pm (CAS-561026-D1Q2Y5).
To follow up on our conversation and what happened afterwards:

1. The noise continued in the night, two more officers (already well informed) came over to witness it just before midnight (CAS-561112-J7K8R8).
2. They stated a noise abatement notice will be issued: can you please confirm that's the case, and let me know when that will happen (or has happened).
What does the notice ask the business to do, and within which timeframe?
Is there a reference number I can have please?
3. Can the business be forced to install adequate, proved and tested soundproofing, and carry out specialist tests to demonstrate the solution is viable? I have commissioned several noise reports myself for my work, I have seen consultants measuring noise before and after works, I have seen specialist designs and surely much more can be done to the premises.
In new premises, this would be a planning requirement.
4. Building works have been carried out to prepare the venue: is it possible to find out who is the building control officer who approved the works, and on what basis did they approve such works without checking the need for acoustic protection.
5. Just to be clear: the noise transmitted into our building is not acceptable, as is, at any time of the day. It is not just a problem after 11pm: we cannot have that music resonating in our building during the day either. It is not background noise (like traffic or people), this is commercial music within commercial premises and it must not be audible within our building. It affects the wellbeing of all residents, and the enjoyment of our properties. I have a vulnerable tenant who is on prescription medication, and sleep deprivation can severely affect his health.
6. Annex 12.2 of Simmons' license states very clearly: *"No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance"*.
We have already witnessed that they are in breach of their license: will WCC take any action? Are you communicating to the Licensing office? Can the applications to extend the opening hours to 3am, for already almost 30 days until the end of the year, be withdrawn on the basis of the statutory noise already witnessed?
You also mentioned this business is a known offender. A simple Google search confirms it.
Is this not enough to at least not extend their opening hours until 3am?
7. We spoke to the people who directly live above the business: one has already left the premises yesterday, another is close to giving notice. We asked them to report the issue to the Noise Team.
We were told they complained about the lack of soundproofing, and the business owner discarded their concerns.
8. Shall we keep reporting the noise on the website every time we hear it? Shall we report it, but tick the option to not be contacted? We obviously want to keep the Noise Team informed, but there is probably no point in having officers over every day. Please advise what is the best course of action for us.

Sorry for the long email but this is a serious situation, with serious consequences on businesses and people, so I would really appreciate your answer on the points raised, so I can inform my tenants, my Landlord and their solicitor.

Many thanks, kind regards



Urgent complaint on licensing - Simmons Bar, 11 Woodstock St, W1C 2AE

3 messages

Tue, Nov 15, 2022 at 2:46 PM

To: licensing@westminster.gov.uk, EHConsultationTeam@westminster.gov.uk

Dear Licensing Team,

I'm writing this on behalf of residents at [REDACTED]
Full names of the signatories are below.

We are asking for an urgent and immediate review of the licence of Simmons Bar, 11 Woodstock Street, W1C 2AE (22/09392/LIPDPS) including the Temporary Event Licence extensions to 3am which were recently granted by WCC (22/10361/LITENP, 22/10362/LITENP, 22/10356/LITENP, 22/10357/LITENP, 22/10360/LITENP) and the yet pending Temporary Event License 22/10840/LITENP.

We live [REDACTED] Simmons Bar. Since its opening on Wed 9 November 2022, the business has been in breach of WCC statutory noise control. The music and resulting vibrations can be heard within neighbouring residential premises, [REDACTED] as ascertained by the WCC Noise Team (as discussed with the Team Manager, Mr Martin Tuohy), in clear violation of the License conditions (Annex 2.12).

The loud music is not only a disturbance during resting hours, but also during normal hours as it ruins the quiet enjoyment of properties by residents protected both by law and by WCC regulations. The situation is so severe that some of us had to leave our premises for the night. Our obvious concern is that during the Temporary Event Notices to 3am the nuisance will last even longer until the early hours and prevent us from getting any sleep.

On Wed 9th Nov we approached the bar manager and were told that they had the required soundproofing in place and the relevant licence to operate.

On Thu 10th Nov WCC Noise Officers visited our premises, witnessed and intervened twice to reduce the statutory noise, with no results. We were informed on that night that a noise abatement notice would be issued, after WCC Noise officers had witnessed statutory noise twice on the same night.

On Fri 11th and Sat 12th Nov, residents again logged complaints with WCC about the loud volume and nuisance caused.

The business have requested temporary licence extensions for every weekend from now to the end of the year until 3am, all of which have been granted, and they are already advertising a 4am opening time for New Year's Eve. This would aggravate the situation even further.

Moreover, this business seems to operate as a nightclub rather than a bar, thanks to the loud music, "disco" window advertisement, and hours of operation, which is a different type of business from the one previously occupying the premises (a pub/restaurant, which used to close at 11pm and only played incidental background music, from which the licence was transferred to Simmons Bar).

All of this is totally unacceptable to residents, due to the severe noise disturbance it creates, and requires swift and appropriate intervention from the local authority.

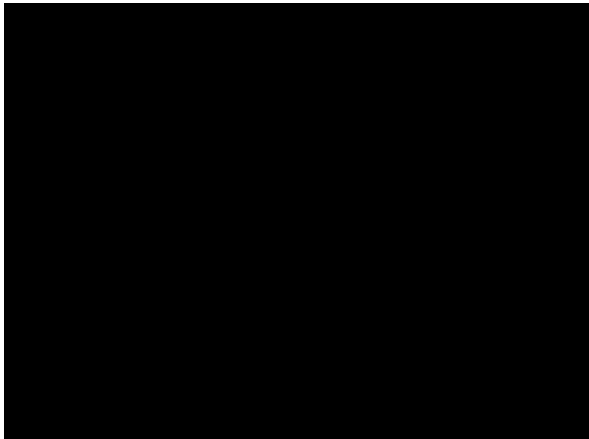
We are asking for immediate action to be taken to prevent the nuisance until the issues outlined above have been resolved fully and satisfactorily. The licence holder is clearly in breach of conditions of their licence (see condition 12) and possibly of an abatement notice. In addition, they do not have permission to provide recorded music after 11pm, so this also appears to be in breach of licensing law.

Can you please investigate these issues as a matter of urgency and confirm what action is being taken. We are aware that the Council can prosecute for breaches of conditions; serve a noise abatement notice and prosecute for a breach; and that bodies such as Environmental Health can apply to review the licence. We are aware of our right as residents to do so too, but obviously we would be reliant on evidence provided by Council officers.

Given that the nuisance has been witnessed and judged a statutory nuisance, we would expect that no further TENs will be granted to this premises. We are therefore copying this to the Environmental Health Consultation Team.

We trust in your cooperation on this matter.

Thanks,



Watson, Ian: WCC <iwatson@westminster.gov.uk>

Wed, Nov 16, 2022 at 3:36 PM

<[redacted]> "Licensing: WCC" <Licensing@westminster.gov.uk>, "EH Consultation Team: WCC" <EHConsultationTeam@westminster.gov.uk>, "Fabbricatore, Sally: WCC" <sfabbricatore@westminster.gov.uk>

Hi [redacted]

Thank you for the e-mail below.

I have been made aware of the noise complaints from Martin Tuohy City Inspector Team Manager since the premises commenced trading as a Simmons Bar, but cannot find any details of a noise abatement notice being served following visits.

You are correct that a premises licence can be reviewed where the premises operator is not upholding the licensing objectives. Environmental Health will be guided by Mr Tuohy on this as we are aware that he is in conversation with the premises regarding breach of conditions and abating any further nuisance.

Residents can also apply for a review and in this respect can contact Richard Brown, Licensing Advice Project who can provide advice and represent residents on such matters. His contact details are,

licensing@westminstercab.org.uk

You are correct that the premises can only play recorded music, as regulated entertainment, until 23.00 hours under the exemptions within the Live Music Act 2015. Any regulated entertainment provided after 23.00 hours would be unlawful unless supported by a Temporary Event notice. This would be an enforcement matter that could be addressed by Mr Tuohy.

Regards

Ian Watson

Senior Practitioner Environmental Health (Licensing)
EH Consultation

Regulatory Support Team 2

Public Protection and Licensing



Noise issue from 11 woodstock Street



Tue, Nov 15, 2022 at 2:50 PM

To: "Tuohy, Martin: WCC" <mtuohy@westminster.gov.uk>, Federico Bixio <federico.bixio@gmail.com>

Good afternoon Martin,

Thanks for your email, Simmons contacted us as well.

Can I please ask you first of all - this is really important to us – to clarify as a matter of urgency whether a Noise Abatement Notice has been served, and if not why not.

Statutory noise was witnessed by Noise Officers last Thursday 10th November both at 8pm and 11.45pm, officers had to intervene asking to reduce the volume, and one of the Officers said to me that a Noise Abatement Notice would be issued.

Our Landlord and their solicitor are on the matter as well, and I need to give them confirmation that statutory noise has been witnessed and, if that's the case, a notice has been served.

Regarding the acoustic consultant: why did Simmons not arrange a survey before designing and opening their venue within sensitive premises?

Before we agree to letting them in, they should provide us with a written method statement of how they want to conduct their survey.

The noise must be measured against the quietest background noise, so a 9pm visit will not be effective: the music will become more audible later in the night when residents go to sleep and background noise has faded.

Will they leave measuring equipment in place for the night? Will they produce a written report? Where will measurements be taken? Will measurements be taken outside as well, at the back in front of our bedroom windows, in anticipation of the summer when people may want to keep their windows open (and the venue may open their window/skylight)?

The  should be surveyed as they are the nearest residential premises. We will cooperate, but this has to be done with method and science and we need some time to set dates that work for all tenants.

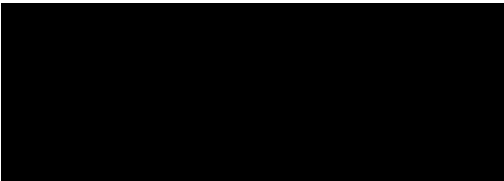
Furthermore, Simmons' License 22/09392/LIPDPS available on the Council's website only lists *Late night refreshments* and *Sale by retail of alcohol* as licensed activities.

Late night entertainment (including the playing of live or recorded music after 11pm) is not included and therefore should not take place at all.

They are not playing "incidental music" after 11pm: they advertise themselves on their front window as a "Disco" venue, their music is loud and continuous and it is used to attract and entertain customers and is therefore a licensable activity.

I'm looking forward to hearing from you – and most of all I need confirmation that statutory noise was witnessed (and hopefully a notice was served as well).

Kind regards





11 Woodstock Street

1 message

Tuohy, Martin: WCC <mtuohy@westminster.gov.uk>

Wed, Nov 16, 2022 at 12:22 AM



Dear

As per our conversation this evening I can confirm that officer have witnessed levels of noise that they believe would be a statutory nuisance on Thursday Night (10th) and Saturday Night (12th). We have not issued a Noise abatement notice. As you are aware we are engaging with the licence holder of the premises and hope that they will make the required changes so as to not cause further noise issues.

As discussed if you are disturbed again please report it to us and we will carry out an inspection/assessment.

Thanks

Martin Tuohy
Team Manager – Central
Public Protection and Licensing
[City of Westminster](#)
64 Victoria Street
London
SW1E 6QP
Tel: 07790 980195



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15 hours of free early education and childcare is available for all 3 and 4 year olds for up to 38 weeks per year, with an extended entitlement of 30 hours where eligible.



Noise issue from 11 woodstock Street

Wed, Nov 23, 2022 at 2:54 PM

To: "Tuohy, Martin: WCC" <mtuohy@westminster.gov.uk>, [REDACTED]

Hello Martin,

Thanks for arranging last night's visit at [12 Woodstock Street W1C 2AF](#) + Simmons bar, your assistance in this is much appreciated by all the impacted residents.

My summary of the meeting:

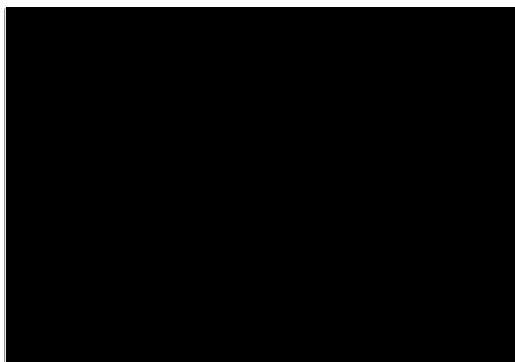
1. Nick Campbell (Simmons' CEO) and Richard Vivian (Big Sky Acoustics) were present for Simmons
 2. Richard Vivian was also the professional who advised Simmons on the (lack of) acoustic design of the premises. This put him in a conflict of interests position, as his measurements were biased towards Simmons (as also became apparent in some conversation with the WCC officers while in our premises)
 3. Francis Keegan and a second offices (apologies I didn't capture his name), and a resident [REDACTED] (also impacted) were also present.
 4. Measurements were taken in both the bedroom and living room of [REDACTED] starting with the lowest volume of music inside the Simmons bar, and gradually raising it until it become audible inside the residential premises.
 5. Even though already audible at that point (this went uncontested by all), the sound level was deemed to be "not commercially viable" by Simmons
 6. Simmons then increased the volume to a "commercially viable" level, which was very audible in the flat and deemed statutory noise by the WCC officer.
 7. Another measurement was attempted, bringing the volume down approx. 10%, but with the same result. The officers confirmed to all present that he still considered that statutory noise
 8. At this point, it was agreed the volume needed to be brought further down (no specifics) and set to a level, inaudible in the flats, with a noise limiter, but no further measurements were taken and Richard Vivian, Nick Campbell and your team left.
 9. It is pretty clear that the noise level deemed required by Simmons is not acceptable to the residents, and that it constitutes a statutory nuisance within our premises. Before leaving, the WCC officers advised us to raise further cases to the Noise team (indicating that there's no need to attend our premises again) if the music from Simmons was again audible in our flats
 10. Could we please have some clarity on what to expect going forward? It felt like there was no resolution or agreement last night, and we'd like to understand what happens next, and what's the best course of action on our end
- I should also highlight that when everybody left, the volume was left exactly as it was during the last measurement (statutory noise) and it stayed like that until just before midnight.
 - One more point: [REDACTED] was vacated this past weekend by the two tenants, allegedly as they couldn't cope with the disruption caused by Simmons Bar. Any further consideration on noise levels and licensing will have as great an impact, if not greater, as it does to us to whoever will occupy that flat going forward

I reinforce that, as experienced entrepreneurs in the sectors (there are many of their bars in central London) Simmons should have known better than to open a disco venue with no entertainment licence and with such poor soundproofing design and lack of insulation, nestled as it is within residential properties.

As discussed with your colleagues yesterday, we are not willing to accept any sacrifice to the quiet enjoyment of our properties caused by their lack of due diligence, skill and care (nor any "compromise" as they mentioned yesterday).

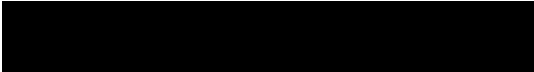
We would also like to thank again you and your colleagues for the prompt and professional intervention, availability and support so far.

Best,



[Quoted text hidden]

[Quoted text hidden]



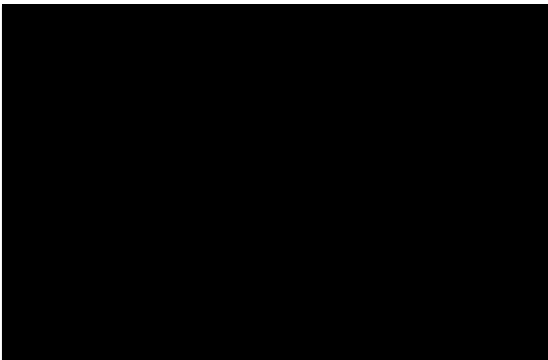
Noise issue from 11 woodstock Street

[Redacted]
Fri, Nov 25, 2022 at 10:47 AM
To: "Tuohy, Martin: WCC" <mtuohy@westminster.gov.uk>, [Redacted]
Cc: "Keegan, Francis: WCC" <fkeegan@westminster.gov.uk>

Martin (and Francis by copy),

Simmons (Woodstock street) was full on again last night, and they also used their TEN to stay open until late. I reported the loud music, and the tenant upstairs did the same. This is likely to happen again tonight and tomorrow. What happens next? Clearly the measurements and assessments and conversations had last Tuesday night were quickly discarded. Do I need more officers to come into the property to witness the noise, or can I just report online opting to not be contacted? I want this to stop, but also the idea of reporting, receiving a text, waiting, receiving a call and then waiting again for the officers, every night, is rather stressful. It will go on every night: can you please advise what will happen next and what is best to do from our side.

Thanks



From: Tuohy, Martin: WCC <mtuohy@westminster.gov.uk>
Sent: 22 November 2022 08:57



Cc: Keegan, Francis: WCC <fkeegan@westminster.gov.uk>

[Quoted text hidden]

[Quoted text hidden]

[Quoted text hidden]



Noise issue from 11 woodstock Street

Tuohy, Martin: WCC <mtuohy@westminster.gov.uk>

Fri, Nov 25, 2022 at 1:01 PM

Cc: "Keegan, Francis: WCC" <fkeegan@westminster.gov.uk>

Hi

Sorry to hear that you are still being disturbed.

As discussed previously, we wanted to give the premises an opportunity to take measures to ensure that you were not being disturbed.

From a going forward perspective it would be good if we could make a further assessment from within your property. I have made the manager and Noise officer working tonight (and over the weekend) aware of the issue and they will prioritise a visit to your property if you are being disturbed. So please log it in the same way but they will probably call you before the text message system kicks in.

I am aware that you have ben passed the details of Richard Brown, licensing Solicitor, from our licensing department. He will be able to help you with independent advice.

I have had correspondence from Simmons stating that they closed at midnight last night. Can you clarify if you were disturbed by the music after 2300hrs and if it continued after midnight?

[Quoted text hidden]

[Quoted text hidden]

[Quoted text hidden]

[Quoted text hidden]

[Quoted text hidden]

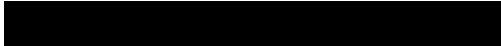
Find out more at: <https://cas5-0-urlprotect.trendmicro.com:443/wis/clicktime/v1/query?url=https%3a%2f%2fbit.ly%2fwccfis&umid=418559f4-e759-4030-b797-bd0af4616226&auth=f23bd3b3794c7a5914053bd0a99b1b4837b89b14-beb47d2653a38b1103c55c9a1a6404666d51f81a>

[Quoted text hidden]

[Quoted text hidden]

[Quoted text hidden]

[Quoted text hidden]



Noise issue from 11 woodstock Street

Fri, Nov 25, 2022 at 5:07 PM

To: "Tuohy, Martin: WCC" <mtuohy@westminster.gov.uk>, [REDACTED]
Cc: "Keegan, Francis: WCC" <fkeegan@westminster.gov.uk>

Thanks Martin,

I'll do as you say.

I know for sure the music went on well after 11pm last night, then I went to sleep with earplugs on (and I now have to sleep in another bedroom to be further away from Simmons) so I can't tell whether they closed at midnight or not.

Hope this will be over at some point - I am furious that we even spent over 1 hour with them the other night, let them into the property, and they just discarded everything that was said and done.

Kind regards

[REDACTED]

From: Tuohy, Martin: WCC <mtuohy@westminster.gov.uk>

Sent: Friday, November 25, 2022 1:01:12 PM

[Quoted text hidden]

[Quoted text hidden]



11 Woodstock street Simmons



Tue, Nov 29, 2022 at 2:04 PM

To: "Tuohy, Martin: WCC" <mtuohy@westminster.gov.uk>



Hi Martin,

We had another visit from your team on Saturday and statutory noise was witnessed again. We could clearly pick up the music that was being played inside Simmons.

Can you please confirm whether a Noise Abatement Notice has now been served, and if not why.

Thanks, kind regards



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11 Woodstock street Simmons

Tuohy, Martin: WCC <mtuohy@westminster.gov.uk>

Tue, Nov 29, 2022 at 6:31 PM



Yes I am aware that you had a visit on both Friday and Saturday night.

Due to GDPR I cannot give out information on any action taken against another person or premises through this channel. You will need to officially ask for this through a request via our Freedom of Information team.

Many Thanks

Martin

[Quoted text hidden]

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www.westminster.gov.uk

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Annex 2 Applicant Further Submissions

From: [REDACTED]
To: [Meloyan, Emanuela: WCC](#)
Cc: [Abbott, Karyn: WCC](#); [Donovan, Jessica: WCC](#); [Jackaman, Kevin: WCC](#); [Seaward, Angela: WCC](#);
[REDACTED]
Subject: Re: LSC - 23rd February 2023 - 22/11955/LIREVP - Simmons, 11 Woodstock Street, London W1C 2AE
Date: 14 February 2023 03:14:04
Attachments: [image002.png](#)
[image003.png](#)
[image001.png](#)

Some people who received this message don't often get email from federico.bixio@gmail.com. [Learn why this is important](#)

Good Morning,

Thank you for the communication below.

I am currently abroad and with limited access to internet.

I have included in this email all the addressees copied in your previous communication.

I have written below an update of the case in chronological order, as a continuation of the list of events previously included in my application for a Premises Licence Review.

I currently have no access to a computer so I have to use screenshots to provide copies of relevant emails (7 screenshots in total). I apologise, but I trust this is acceptable anyway.

I will provide further information on who will attend the hearing before 20th February as indicated.

Many thanks, kind regards

[REDACTED]

13th December 2022

Martin Tuohy arranges a second noise assessment inside 12 Woodstock street for 12th January 2023 at 12 midday, with the aim of setting a noise limiter.

15th December 2022

FB agrees (emails attached as screenshots) expressing concerns about the time, since a daytime assessment would be affected by background noise. No reply from Martin Tuohy or the Noise Team.

7th January 2023

FB reports noise (loud music) at 8.49pm
(CAS-613518-C1W4R2)

10th January 2023

FB emails Martin Tuohy again expressing concerns about the daytime assessment. MT responds on 11th Jan suggesting the concerns are raised directly during the assessment.

12th January 2024

The assessment takes place with John Crockford and Dave Nevitt (WCC), and Simmons sound engineer.

Concerns about the opportunity to do it at daytime are expressed by FB to Dave Nevitt who suggests to continue and see.

The noise from nearby construction sites (one directly across the street, with demolitions in progress) is extremely audible and demands that the assessment is paused at times.

Dave Nevitt confirms a noise limiter would be in place immediately after the assessment and nobody other than WCC assessors would have access to it.

The same evening the music is still clearly audible inside 12 Woodstock Street

12th January 2013

FB reports noise (loud music audible in the flat bedroom) at 11.06pm (CAS-618700-W9W9L4)

13th January 2023

FB reports noise (loud music audible in the flat bedroom) at 11.32pm (CAS-619945-D8W9V8)

FB also emails Martin Tuohy. The music is so loud the tracks being played (past the licensed time) is identifiable from 12 Woodstock street.

There is no reply nor follow up from either Martin Tuohy nor Dave Nevitt.

14th January 2023

FB reports noise (loud music) at 11.15pm (CAS-620330-P6L9F2)

1st February

FB reports noise (loud music) at 10.39pm (CAS-637413-Y1W2J4).

Additional late night events of loud music take place, even though they're not reported.

FB's concerns that noise levels are fluctuating and increasing at weekends appear to be confirmed by [REDACTED] who also have the same impression.

Antisocial behaviour has also been occurring frequently outside 12 Woodstock Street, consisting of loud chatting, altercations, and a couple of episodes of buzzers being rang as a prank in the middle of the night. Due to their short episodic nature, these events have not been reported to the noise team but had never happened in previous years.

23:48

◀ Search



Sound Limiter > Inbox



Tuohy, Martin: WCC 13 Dec 2022



to me ▾



As just discussed I have arranged with our Environmental Sciences and Environmental Health team to set the limiter at Simmons Bar on Thursday 12th at 12midday. I will share your number with them so they can have access to your property.

Many Thanks

Martin Tuohy

Team Manager – Central
Public Protection and Licensing
[City of Westminster](#)

[64 Victoria Street](#)
[London](#)
[SW1E 6QP](#)
Tel: 07790 980195



City of Westminster



Thanks Martin,

We agree with the date, but I must reinforce that, as discussed on the phone, we don't think this should be done in the day.

The issue is more evident and most impactful at night, the previous measurements were taken at night and it is reasonable to ask that the new measurements are also taken at night as noise

Thanks Martin,

As per previous correspondence these measurements should be taken at night or they will misrepresent the issue we are facing.

At midday the extraction duct of the ground floor restaurant will be on, as the mechanical equipment of nearby buildings, so measurements of the music level will be less accurate and relevant.

When we did building works and I commissioned a noise report in 2019, surveyed sound levels near the bedroom windows were 70db during the day as opposed to 40db at night.

Kind regards

...



Tuohy, Martin: WCC 11 Jan



to me ▾



John Crockford and Dave Nevitt are our experts in acoustics and are experts in this field so it's best to raise any concerns or interfering factors directly with them tomorrow.

Can you please confirm that you will be available at midday ~~tomorrow?~~

VIEW MESSAGE 23:50

◀ Search



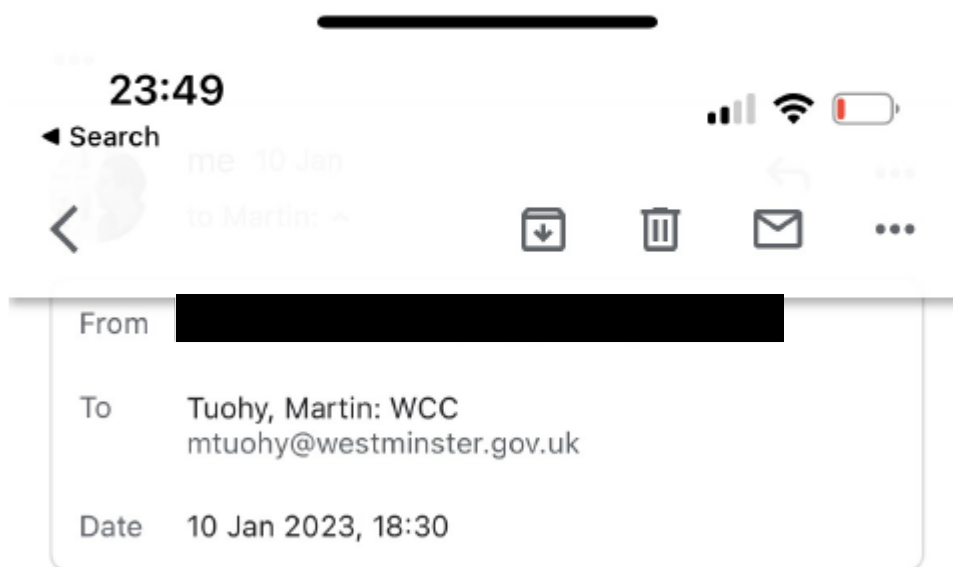
measurements are also taken at night, as noise levels at midday wouldn't be representative of the issue we are facing.

You explained the noise is likely transmitted through the structure and not airborne, but during the day there is also airborne noise from the street that would affect any measurements taken, so I am not confident that measurements taken at midday would be effective to resolve the issue.

As explained on the phone, I am concerned that we would then be left with residual noise still audible at night and we would have to repeat the whole operation, waiting weeks or months. Our preference would certainly be to do this at 10pm as done previously.

Kind regards

[Redacted signature]





me 11 Jan
to Martin: <



From [REDACTED]
To Tuohy, Martin: WCC
mtuohy@westminster.gov.uk
Date 11 Jan 2023, 12:06

Hi Martin,

I will be available tomorrow if needed.
I forgot to mention hard demolitions of Debenhams are currently in progress directly across the street, and construction works are taking place one block away (325 Oxford street).

Can the opportunity to do this survey at midday be discussed beforehand?

As I said I will be available if needed, but - forgive me if I say it bluntly - it's not like I have endless free time, I need to leave work and cross town to be at home and then return. This is all time I am dedicating to our loud neighbour who has been continuing to do as they please in the meantime.

Lastly, we heard today from the new tenant of [REDACTED] ([REDACTED] Simmons). She made contact with me after finding my details on the license review documents, where they had not been blanked

out for some reason. She is also, obviously, impacted by the noise.

She might be available to have the measurements taken in her flat as well, but she is not available during daytime due to working full time. She also is concerned as we are about the efficacy of conducting these tests outside of the hours when the issue is more apparent and



across the street, and construction works are taking place one block away (325 Oxford street).

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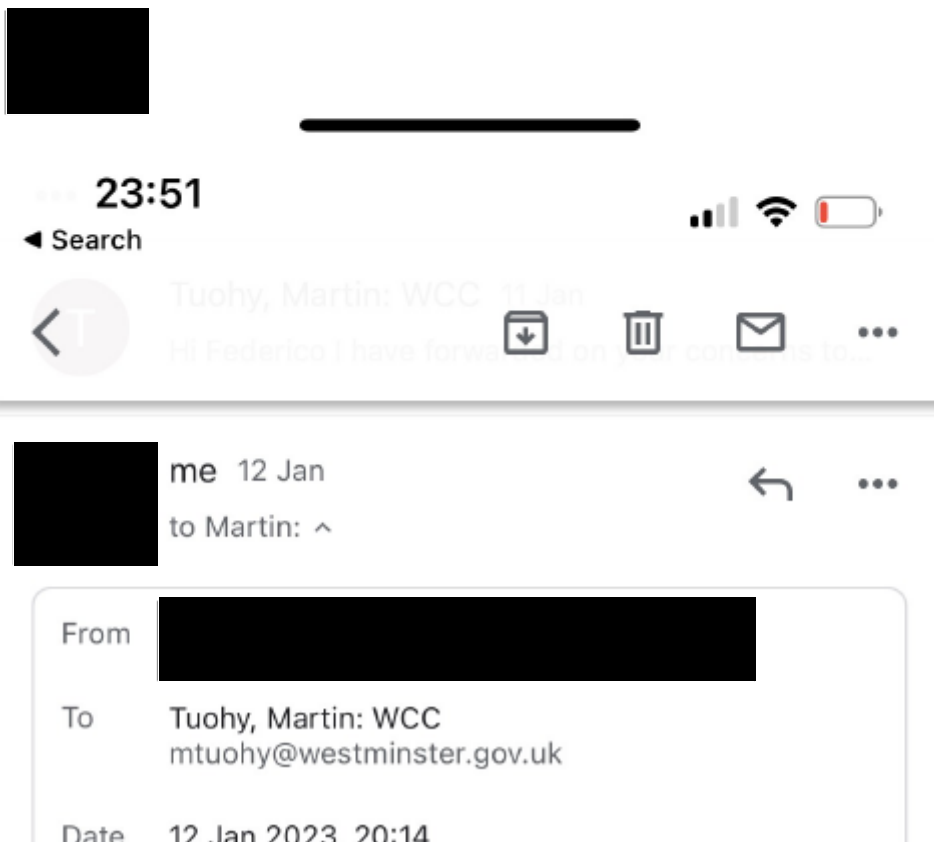
She made contact with me after finding my details on the license review documents, where they had not been blanked out for some reason. She is also, obviously, impacted by the noise.

She might be available to have the measurements taken in her flat as well, but she is not available during daytime due to working full time. She also is concerned as we are about the efficacy of conducting these tests outside of the hours when the issue is more apparent and impactful. I would suggest having the tests done at both flats one of these evenings.

Let me know how you wish to proceed.

If measurements will be taken during the day, we will have to bring it to the attention of the Committee during the license review hearing, to make sure our position is clear.

Kind regards



Hi Martin,

We did the noise "measurements" today. I explained again I did not trust results obtained at lunchtime due to background noise.

The demolitions from Debenhams were extremely audible despite closed doors of the living room and bedroom.

In a couple of occasions we had to ask the officer inside Simmons to let the music play for a couple of minutes for us to be able to assess it, because we could only hear hammers and drills and we had to wait for them to stop.

That is not the way to conduct a delicate assessment.

The result is that this evening, without drills and hammers, the music is still clearly audible from the bedroom, a exactly as I predicted and asked to avoid. It is not as bad as other times but this is not the result we were hoping for and I am really distressed right now.

Regards



23:51
◀ Search
◀ ally distressed right now

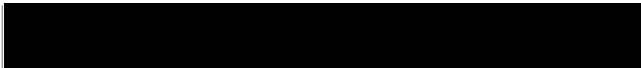


Regards

—Fed

...

 me 13 Jan
to Martin: ^  

From 
To Tuohy, Martin: WCC
mtuohy@westminster.gov.uk
Date 13 Jan 2023,
20:40

Hi Martin,

Following up on yesterday's email, I can now (23.30 Saturday evening, past the 23.00 limit of the license) clearly identify the track currently being played at Simmons as "I can't get you out of my head" by Kylie Minogue, from the bedroom.

Can you confirm a limiter was put in place at all after yesterday's assessment.
It doesn't seem to be the case.

Kind regards



...

← Reply

→ Forward

On Mon, 6 Feb 2023 at 11:26, Meloyan, Emanuela: WCC
<emeloyan@westminster.gov.uk> wrote:

Good afternoon,

Applicant: [REDACTED]

Application: Premises Licence Review – Licensing Act 2003

Location: Simmons, [11 Woodstock Street, London W1C 2AE](#)

In accordance with regulation 6 of The Licensing Act 2003 (Hearings) Regulations 2005 (2005 Regs) Westminster City Council as the Licensing Authority under the Licensing Act 2003 (the Act) hereby gives notice of the need to hold a hearing to determine the above mentioned application.

The Licensing Authority has received representations relating to this application and has scheduled the following public hearing to consider and determine this application:

Committee: Licensing Sub-Committee

Start time: 10am

Date: Thursday, 23rd February 2023

Location: 18th Floor, Westminster City Hall, [64 Victoria Street, London SW1E 6QP](#) –

Room to be confirmed

***** Please be aware members require all documents for applications to be part of the report. Please submit all documents by 12pm on Tuesday 14th February 2023. If you wish to submit any additional documents after this date members have the discretion to adjourn cases if they do not have adequate time to fully consider all additional documentation.*****

PLEASE PROVIDE CONFIRMATION OF ATTENDANCE WITH FULL NAMES AND ACKNOWLEDGEMENT RECEIPT OF THIS EMAIL BY 12pm Monday 20th February 2023.

Each party who has registered to speak, will be invited to make their representations and will be allowed a maximum of 10 minutes each.

If you have any special requirements for access to this building e.g. wheelchair access, please contact the case officer on the telephone number or email address listed above.

Subject to regulations 14(2) and 25 of the 2005 Regs, a party may attend the hearing and may be assisted or represented by any person whether or not that person is legally qualified.

At the hearing a party shall be entitled to -

- a. in response to a point upon which the authority has given notice to a party that it will want clarification under regulation 7(1) (d), give further information in support of their application, representations or notice,
- b. if given permission by the authority, question any other party, and,
- c. address the authority.

Under the Act, you are required to give notice to the Authority no later than one week prior to the hearing stating:

- (i) Whether you intend to attend or be represented at the Hearing
- (ii) Whether you consider a hearing to be unnecessary

If you wish to request the attendance of any other person (other than the person you intend to represent you at the Hearing), you must submit, with your notice to

the Authority, a request for permission for such other person to appear at the hearing. You must also submit the details of the name of that person and a brief description of the point(s) on which that person may be able to assist the Authority in relation to your application / notice / representation or notice of the party making the request. Any such request will be considered by the Committee at the beginning of the Hearing.

If a party cannot attend the hearing at the proposed time or date then they can request an adjournment of the application to a later date. Any request for an adjournment must be sent to the Licensing Authority in writing and express the reasons for the adjournment request. The Licensing Authority will consider the adjournment request and any implications on other parties to the application. It will then inform the requester of its decision.

To view further information on the requirements relating to licence applications and hearings or view the Council's Rules of Procedure please visit the Council's website at www.westminster.gov.uk/licensing.

Confidential and impartial advice is available for local residents and businesses from a specialist licensing solicitor at the Citizens Advice Bureau. You can contact the Licensing Advice Project via telephone on 020 7706 6029 or alternatively you can email licensing@westminstercab.org.uk. Further information about this service can also be found at <https://cas5-0-urprotect.trendmicro.com:443/wis/clicktime/v1/query?url=www.licensingadvice.org&umid=6c1e4896-f9bf-47c9-a07b-ccf307c61b72&auth=f23bd3b3794c7a5914053bd0a99b1b4837b89b14-7dd2bb4c13705523128a582fb6be22f9635f9692>.

If you or any other party to this application does not attend the hearing, the application may proceed in your or their absence, or alternatively, the Sub-Committee could decide to adjourn the matter.

If you have any questions relating to this application or this notice please do not hesitate to contact me on 020 7641 6500 or email licensing@westminster.gov.uk.

Thank you

Regards,

Emannuela Meloyan
Senior Licensing Officer

Licensing Service
Public Protection and Licensing

Westminster City Council
15th Floor City Hall

[64 Victoria Street](#)

[London, SW1E 6QP](#)

☎ 07814 986596

☎ 0114 551 3798 (Payment Enquiries)

☎ 0207 641 6500 (Call Centre)

✉ emeloyan@westminster.gov.uk

Westminster.gov.uk



COVID-19 VACCINATIONS

The COVID-19 vaccine is our first line of defence against coronavirus. The vaccine has been proven to be safe and effective at protecting people against serious illness from coronavirus. For information about vaccine centres and how to book your appointment, visit: www.westminster.gov.uk/vaccinations

**Annex 3
Environmental Health Service representation in support of review**

CITY OF WESTMINSTER

MEMORANDUM

TO **Licensing Officer**

REFERENCE **22/11955/LIREVP**

1. FROM **EH Consultation Team**

REFERENCE

BEING DEALT WITH BY **Ian Watson**

TELEPHONE

DATE **11th January 2023**

The Licensing Act 2003

Re: Simmons, 11 Woodstock Street, W1

I refer to the application for review of the Premises Licence.

The review application has been submitted by local residents due to the premises not supporting the licensing objective of Prevention of Public Nuisance.

The premises operate under licence number 22/11866/LIPVM.

The applicant has stated that despite working with the premises noise nuisance, from the provision of musical amplified entertainment, is still being experienced from the premises.

Therefore, under section 177A enforceable conditions are required to control live and recorded music that may be otherwise deregulated under the provisions of the Live Music Act 2012 (as amended 2015).

A check on the premises file shows numerous complaints from residents regarding loud music from amplified entertainment. These complaints have been verified following visits by EHO's/City Inspectors and on the 28th November 2022 a section 80 noise abatement notice was served under the Environmental Protection Act 1990 due to statutory nuisance being witnessed.

Environmental Health as a responsible authority supports this review and will submit a full list of complaints, visits and outcomes along with the noise abatement notice prior to the sub-committee hearing in line with the timescales recorded under the review.

Should you wish to discuss the matter further please do not hesitate to contact me.

Ian Watson
Senior Practitioner Environmental Health (Licensing)

Noise Limiter Setting Report

Sound Limiter Data Sheet

Premises	Simmonds Bar	
Address	Basement And Ground Floor 11 Woodstock Street London W1C 2AE	
Case Ref / UPRN	22/49902/EE1NOL / 010033640557	
Contact Name	Nick Campbell - CEO & Founder	
Email	nick@simmondsbar.co.uk	
Any previous complaints?	Yes – s80 served 28 Nov 2022 (22/00679/EP80NC) together with significant number of complaints	
Limiter & sound system	BSS Soundweb BLU50 3 x Citronic PLX amplifiers	
Location of Limiter	Manager's office in equipment rack	
How is limiter locked?	Laptop – property of Big Sky Acoustics Soundweb software password protected	
Zones	Basement	Ground Floor
No. of speakers	5 x Apart MASK6C, passive two-way loudspeakers	2 x DAP Xi-8 and 2 x Apart MASK6C passive two-way loudspeakers
Bass Bins (y/n)	No	No
LAeq (1 min)	80 dB	75 dB
LCeq (1 min)	87 dB	79 dB
Leq 1min 63Hz	74 dB	63 dB
Leq 1 min 125Hz	84 dB	73 dB
Assessment	For potential nuisance listening from 1 st floor flat in neighbouring building	
Date set	12 th January 2023	
Set by	John Crockford & Dave Nevitt (EHOs) Nick Campbell (Simmons - CEO), Kelsey Brennan (Simmons – Head of Operations), Richard Vivian (Big Sky Acoustics) & Niall McCann (Keystone Law - representing Simmons)	

Notes / Recommendations:

It was arranged for Dave Nevitt to visit the resident in the [REDACTED] [REDACTED] to observe and assess the level of intrusion into the flat from the music whilst John Crockford remained in the premises. John Crockford agreed to rely upon the noise measurements taken by Richard Vivian (Big Sky Acoustics) and that these measurements would be used as the set and agreed music noise levels.

Initially when music was played on the ground floor only no music noise was audible in the flat. The music noise level was increased slightly and then music was added in from the basement system. At this point, it became noticeable and disturbing within the flat.

The overall music noise level was reduced in both the basement and ground floor zones and some reductions were also made in base music noise levels in both zones. The system was set to levels (as shown above) that were deemed to not cause nuisance within the flat.

It was agreed that this was a preliminary exercise as it was known that there was a resident [REDACTED] who was unable to provide access at the time.

Abatement Notice

Abatement Notice in respect of Noise Nuisance

To: SIMMONS COVENT GARDEN LIMITED
120 Charing Cross Road, 3rd Floor, London, WC2H 0JR

TAKE NOTICE that under the provisions of the Environmental Protection Act 1990 the Westminster City Council being satisfied of the [existence] likely [recurrence] [occurrence] of noise amounting to a statutory nuisance under section [79(1)(g)] of that Act at premises in the vicinity of:

Woodstock Street, London W1

within the district of the said Council arising from playing loud music at;

Simmons Bar, 11 Woodstock Street, London W1C 2AE

HEREBY REQUIRE YOU, as ~~[[one of] the person(s) responsible for the said nuisance] the [owner][occupier] of the premises from which the noise is or would be emitted) [the person in whose name the vehicle is for the time being registered][the driver of the vehicle] [the operator of the machinery or equipment],~~ {forthwith from the service of the notice} {within.....[hours(s)][days]} to

abate the nuisance

HEREBY PROHIBIT the recurrence of the same

THIS is a notice to which paragraph (2) of regulation 3 of the Statutory Nuisance (Appeals) Regulations 1995 applies and, in consequence, in the event of an appeal this notice shall **NOT** be suspended until the appeal has been abandoned or decided by the Court, as, in the opinion of the Council,

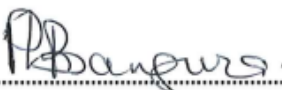
{the nuisance to which this notice relates is [likely to be a limited duration such that suspension would render the notice of no practical effect]} [the expenditure which would be incurred by any person in carrying out works in compliance with this notice before any appeal has been decided would not be disproportionate to the public benefit to be expected in that period from such compliance]

IF WITHOUT REASONABLE EXCUSE YOU contravene or fail to comply with any requirement of this notice you will be guilty of an offence under section 80(4) of the Environmental Protection Act 1990 and on summary conviction will be liable to a fine not exceeding level 5 on the Standard Scale (£5000) together with a further fine of an amount equal to one-tenth of that level for each day on which the offence continues after conviction. A person who commits an offence on industrial, trade or business premises will be liable on summary conviction to a fine.

The Council may also take proceedings in the High Court for securing the abatement, prohibition or restriction of the nuisance. Further, if you fail to execute all or any of the works in accordance with this notice, the Council may execute the works and recover from you the necessary expenditure incurred.

Dated: 28th November 2022

This matter is being dealt by: Mr. Patrick Bangura

Signed: 
Environmental Health Officer
(The officer appointed for this purpose)
For and on behalf of Kevin Goad
Executive Director of Environment & City Management

Noise Service
Public Protection & Licensing Department
15th floor, City Hall
Westminster City Hall,
64 Victoria Street
London SW1E 6QP

Ref: 22/45169/ENC45, 22/45484/ENC45,
22/46318/ENC45 & 22/47575/ENC45

Tel: 020-7641 2000

NB: A person served with this notice may appeal against the notice to a magistrates' court within twenty-one days beginning with the date of service of the notice. (see notes on the reverse of this form).

Statutory Nuisance (Appeals) Regulations 1995

1. (1) In these Regulations
"the 1974 Act" means the Control of Pollution Act 1974;
"the 1990 Act" means the Environmental Protection Act 1990; and
"the 1993 Act" means the Noise and Statutory Nuisance Act 1993.

Appeals under section 80(3) of the 1990 Act

2. (1) The provisions of this regulation apply in relation to an appeal brought by any person under section 80(3) of the 1990 Act (appeals to magistrates) against an abatement notice served upon him by a local authority.
- (2) The grounds on which a person served with such a notice may appeal under section 80(3) are any one or more of the following grounds that are appropriate in the circumstances of the particular case.
- (a) that the abatement notice is not justified by section 80 of the 1990 Act (summary proceedings for statutory nuisances);
- (b) that there has been some informality, defect or error in, or in connection with, the abatement notice; or in, or in connection with, any copy of the abatement notice served under section 80A(3) (certain notices in respect of vehicles, machinery or equipment);
- (c) that the authority have refused unreasonably to accept compliance with alternative requirements, or that the requirements of the abatement notice are otherwise unreasonable in character or extent, or are unnecessary;
- (d) that the time, or, where more than one time is specified, any of the times, within which the requirements of the abatement notice are to be complied with is not reasonably sufficient for the purpose;
- (e) where the nuisance to which the notice relates –
- (i) is a nuisance falling within section 79(1)(a), (d), (e), (f), or (g) of the 1990 Act and arises on industrial, trade, or business premises, or
- (ii) is a nuisance falling within section 79(1)(b) of the 1990 Act and the smoke is emitted from a chimney, or
- (iii) is a nuisance falling within section 79(1)(ga) of the 1990 Act and is noise emitted from or caused by a vehicle, machinery or equipment being used for industrial, trade or business purposes, that the best practicable means were used to prevent, or to counteract the effects of, the nuisances;
- (f) that, in the case of a nuisance under section 79(1)(g) or (ga) of the 1990 Act (noise emitted from premises), the requirements imposed by the abatement notice by virtue of section 80(1)(a) of that Act are more onerous than the requirements for the time being in force, in relation to the noise to which the notice relates, of –
- (i) any notice served under section 80 or 66 of the 1974 Act (control of noise on construction sites and from certain premises), or
- (ii) any consent given under section 61 or 65 of the 1974 Act or (consent for work on construction sites and consent for noise to exceed registered level in a noise abatement zone), or
- (iii) any determination made under section 67 of the 1974 Act (noise control of new buildings);
- (g) that, in the case of a nuisance under section 79(1)(ga) of the 1990 Act (noise emitted from or caused by vehicles, machinery or equipment), the requirements imposed by the abatement notice by virtue of section 80(1)(a) of the Act are more onerous than the requirements for the time being in force, in relation to the noise to which the notice relates, of any condition of a consent given under paragraph 1 of Schedule 2 to the 1993 Act (loudspeakers in streets or roads);
- (h) that the abatement notice should have been served on some person instead of the appellant, being –
- (i) the person responsible for the nuisance, or
- (ii) the person responsible for the vehicle, machinery or equipment, or
- (iii) in the case of a nuisance arising from any defect or a structural character, the owner of the premises, or
- (iv) in the case where the person responsible for the nuisance cannot be found or the nuisance has not yet occurred, the owner or occupier of the premises;
- (i) that the abatement notice might lawfully have been served on some person instead of the appellant being –
- (i) in the case where the appellant is the owner of the premises, the occupier of the premises, or
- (ii) in the case where the appellant is the occupier of the premises, the owner of the premises, and that it would have been equitable for it to have been so served;
- (j) that the abatement notice might lawfully have been served on some person in addition to the appellant, being –
- (i) a person also responsible for the nuisance, or
- (ii) a person who is also owner of the premises, or
- (iii) a person who is also an occupier of the premises, or
- (iv) a person who is also the person responsible for the vehicle, machinery or equipment, and that it would have been equitable for it to have been so served.
- (3) If and so far as an appeal is based on the ground of some informality, defect or error in, or in connection with, the abatement notice, or in, or in connection with, any copy of the notice served under section 80A(3), the court shall dismiss the appeal if it is satisfied that the informality, defect or error was not a material one.
- (4) Where the grounds upon which an appeal is brought include a ground specified in paragraph (2)(i) or (j) above, the appellant shall serve a copy of his notice of appeal on any other person referred to, and in the case of any appeal to which these regulations apply he may serve a copy of his notice of appeal on any other person having an estate or interest in the premises, machinery or equipment in question.
- (5) On the hearing of the appeal the court may –
- (a) quash the abatement notice to which the appeal relates, or
- (b) vary the abatement notice in favour of the appellant in such manner as it thinks fit, or
- (c) dismiss the appeal;
- and an abatement notice that is varied under sub-paragraph (b) above shall be final and shall otherwise have effect, as so varied, as if it had been so made by the local authority.
- (6) Subject to paragraph (7) below, on the hearing of an appeal the court may make such order as it thinks fit –
- (a) with respect to the person by whom any work is to be executed and the contribution to be made by any person towards the cost of the work, or
- (b) as to the proportions in which any expenses which may become recoverable by the authority under Part 111 of the 1990 Act are to be borne by the appellant and by any other person.
- (7) In exercising its powers under paragraph (6) above, the court –
- (a) shall have regard, as between an owner and an occupier, to the terms and conditions, whether contractual or statutory, of any relevant tenancy and to the nature of the works required, and
- (b) shall be satisfied before it imposes any requirement thereunder on any person other than the appellant, that the person has received a copy of the notice of appeal in pursuance of paragraph (4) above.

Suspension of notices

3. - (1) Where –
- (a) an appeal is brought against an abatement notice served under section 80 or section 80A of the 1990 Act, and –
- (b) either –
- (i) compliance with the abatement notice would involve any person in expenditure on the carrying out of works before the hearing of the appeal, or
- (ii) in the case of a nuisance under section 79(1)(g) or (ga) of the 1990 Act, the noise to which the abatement notice relates is noise necessarily caused in the course of the performance of some duty imposed by law on the appellant, and
- (c) either paragraph (2) does not apply, or it does apply but the requirements of paragraph (3) have not been met, the abatement notice shall be suspended until the appeal has been abandoned or decided by the court.
- (2) This paragraph applies where –
- (a) the nuisance to which the abatement notice relates –
- (i) is injurious to health, or
- (ii) is likely to be of a limited duration such that suspension of the notice would render it of no practical effect, or
- (b) the expenditure which would be incurred by any person in the carrying out of works in compliance with the abatement notice before any appeal has been decided would not be disproportionate to the public benefit to be expected in that period from such compliance.
- (3) Where paragraph (2) applies the abatement notice –
- (a) shall include a statement that paragraph (2) applies, and that as a consequence it shall have effect notwithstanding any appeal to a magistrates' court which has not been decided by the court, and
- (b) shall include a statement as to which of the grounds set out in paragraph (2) apply.

Statement of Witness – Paul Green

STATEMENT OF WITNESS

(C.J. Act 1967,s,9; M.C. Act 1980, ss5A(3)(a) and 5B, Criminal Procedure Rules 2005, r27.1(1))

Statement of: Paul Green
Age of witness: Over 18
Occupation of Witness: Environmental Health Officer
Address: Public Protection and Licensing
Westminster City Hall, 15th Floor
64 Victoria Street
LONDON SW1E 6QP
Telephone Number: 0207 641 3385

This statement, consisting of two page's each signed by me, is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false, or do not believe to be true.

Signed: 

Dated: 27 November 2022

I am employed by Westminster City Council in the Public Protection and Licensing Department as a Noise Officer. I have held enforcement roles with the City Council since 1994 and am authorised under the Environmental Protection Act 1990. I am a qualified Environmental Health Officer and was registered by the Environmental Health Officers Registration Board on 20 November 1986. I also hold a postgraduate Diploma in Acoustics and Noise Control.

On Saturday 26th November 2022, I was responding to noise complaints, accompanied by my manager David Sycamore, when I received a noise complaint at 21:23hrs, of loud music emanating from Simmons Bar, 11 Woodstock Street, London W1C 2AE. I confirmed that Simmons Bar was open by walking past the premises and then proceeded to the complainant's premises. On entering the complainant's bedroom at 21:40 hours, I clearly heard loud amplified music of a

Signed: 

Dated: 27 November 2022

STATEMENT OF WITNESS

(C.J. Act 1967,s,9; M.C. Act 1980, ss5A(3)(a) and 5B, Criminal Procedure Rules 2005, r27.1(1))

Continuation Statement of Paul Green

a song with a distinct female vocalist. I then listened to a few tracks of music noticing the gaps in between tracks until 21:56 hours, when I identified an Afrobeats song called 'Best OldSkool' by DJ Lawy. I continued to listen to amplified music from Simmons Bar until 22:05 hours, when I left the complainant's premises. During my time in the complainant's bedroom, I was of the view that the volume of amplified music emanating from Simmons Bar amounted to a statutory nuisance because the unreasonable volume of music was more than an annoyance or irritation as the loud music would have caused noise induced sleep disturbance i.e., prevented sleep and / or interrupted sleep.

Signed:



Dated: 27 November 2022

Environmental Health – Cover Letter

Westminster City Council

Westminster City Hall
64 Victoria Street
London SW1E 6QP

020 7641 6000
westminster.gov.uk



City of Westminster

Public Protection & Licensing
Environmental Health Service

Simmons Covent Garden Limited
120 Charing Cross Road
3rd Floor
London
WC2H 0JR

Interim Director: Nicky Crouch

This matter is being dealt with by P. Bangura
Direct line: 02076412000

Email: pbangura@westminster.gov.uk
Ref: 22/45169/ENC45, 22/45484/ENC45,
22/46318/ENC45 & 22/47575/ENC45

Date: 28th November 2022

Dear Sir/Madam,

**RE: ENVIRONMENTAL PROTECTION ACT 1990, SECTION 80
NOISE NUISANCE FROM SIMMONS BAR, 11 WOODSTOCK STREET, LONDON W1C 2AE**

I am writing further to Council officers visits to complainants premises on Thursday 10/11/2022, Saturday 12/11/2022, Thursday 17/11/2022 and Saturday 26/11/2022 at approximately 1950, 2341, and 2345 and 2240 hours respectively due to complaints of excessive noise from the above mentioned premises.

I can confirm that on each occasion, statutory nuisance was witnessed caused by playing loud music at this premises and on each occasion the staff in charge was advised about the issue.

Please therefore, find enclosed an abatement notice that is served in relation to the nuisance from the premises and requires you to prevent its reoccurrence.

Please be advised that should further statutory nuisance due to noise being witnessed from this premises, the Council may commence legal proceedings for failing to comply with the requirements of the notice.

The Council may also exercise its powers under the above legislation and apply for a warrant to enter the premises to seize and remove any equipment which appears is being or has been used in the emission of noise.

If you need further information or have queries regarding this matter, please do not hesitate to contact me on the telephone number given above.

Yours sincerely,

Patrick Bangura
Environmental Health Officer
Noise Service
Westminster City Council

1. Enclosed: Abatement notice dated 28/11/2022
2. Copy hand delivered: Simmons bar, 11 Woodstock Street, London W1C 2AE
3. Copy emailed to Director, Nicholas Campbell

Environmental Health to Mr Campbell

Westminster City Council

Westminster City Hall
64 Victoria Street
London SW1E 6QP

020 7641 6000
westminster.gov.uk



City of Westminster

Public Protection & Licensing
Environmental Health Service

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120 Charing Cross Road
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This matter is being dealt with by P. Bangura
Direct line: 02076412000
Email: pbangura@westminster.gov.uk
Ref: 22/45169/ENC45, 22/45484/ENC45,
22/46318/ENC45 & 22/47575/ENC45

Date: 28th November 2022

Dear Mr. Campbell,

**RE: ENVIRONMENTAL PROTECTION ACT 1990, SECTION 80
NOISE NUISANCE FROM SIMMONS BAR, 11 WOODSTOCK STREET, LONDON W1C 2AE**

Please see enclosed, a copy of the noise abatement notice that has been served on the company and posted to the registered address.

It relates to the ongoing nuisance caused by playing loud music at the above mentioned premises and be advised that the Notice remains in force until such time when the nuisance is abated.

Please read its contents carefully and ensure that its requirements are complied with. Legal action may be taken for non-compliance of this notice.

If you need further information or have queries regarding this matter, please do not hesitate to contact me on the telephone number given above.

Yours sincerely,

Patrick Bangura
Environmental Health Officer
Noise Service
Westminster City Council

1. Enclosed: Copy of the abatement notice dated 28/11/2022
2. Copy hand delivered to Simmons Bar, 11 Woodstock Street, London W1C 2AE

Annex 4

Interested Parties representation in support of the review plus supplementary documentation

Comments received electronically via PublicAccess:

•

Received: 11 Jan 2023 by
SUPPORT

I support the licence review application and the imposition of additional conditions as appropriate to mitigate the noise disturbance emanating from the bar operations at the premises, on the grounds that the premises are located within a residential building.

Further submissions received: 11 Jan 2023

Good afternoon.

I refer to the above licence review application. I am a resident at [REDACTED], [REDACTED] in question. I have been a resident since 22 November 2022. To my knowledge, other than Simmons Bar, the rest of the premises within the building are residential in nature.

I have read the related application and supporting documents and would like to lend my full support to it. The introduction section on page 6 of the application form sums up perfectly the character of the neighbourhood and the negative impact that the noise emission from Simmons Bar has had on the living conditions of affected residents. The disturbance comes not just from the audible emission of music which can be heard within my premises (including my bedroom) to the extent that I could, on occasion, distinctly identify the songs being played, but also from antisocial behaviour of their patrons during busy hours, including smoking and disposal of cigarette butts at the building entrance. This obviously has adverse health consequences for the residents.

I note from the application materials that sound measurements were taken on 22 November 2022 and the noise levels which were deemed acceptable by the [REDACTED] and the WCC, were considered to be “not commercially viable” by Simmons Bar. I was not present at that occasion, and so cannot speak to the events and conversations that had transpired, but I would like to add that the “commercial viability” of Simmons Bar (which in any case appears to be their unilateral and subjective assessment not backed up by any evidence as to loss of business revenue) should not take precedence over the rights of the residents to quiet enjoyment of their homes. After all, Simmons Bar would have known, or ought to have known, that the premises are situated directly [REDACTED], and it is regrettable that they appear not to have taken any measures to mitigate the negative externalities of their business activities suffered by the residents. In any case, the “commercial viability” of Simmons Bar should definitely not trump the law, and if it is indeed the case that the noise levels emanating from their premises have breached any statutory limit (which the attached email correspondence seems to suggest was the view of the attending officers), swift enforcement action should be taken to prevent a recurrence of the issue.

I would implore the WCC to review the application materials and submissions carefully and take our concerns seriously. In my opinion, the proposed conditions are necessary, appropriate and proportionate to all affected parties. I am sure an amicable resolution would have been the preference of the applicants, and it is unfortunate that the affected residents have had to expend precious time and resources to compel the bar operators to behave in a more considerate and neighbourly manner.

Best regards,

Noise issue from 11 woodstock Street

Federico Bixio [REDACTED]

Wed, Nov 23, 2022 at 2:54 PM

To: "Tuohy, Martin: WCC" <mtuohy@westminster.gov.uk>, [REDACTED]

Hello Martin,

Thanks for arranging last night's visit at [REDACTED] + Simmons bar, your assistance in this is much appreciated by all the impacted residents.

My summary of the meeting:

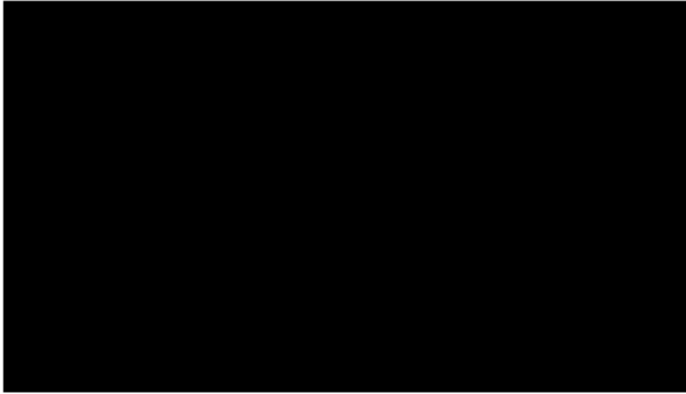
1. Nick Campbell (Simmons' CEO) and Richard Vivian (Big Sky Acoustics) were present for Simmons
 2. Richard Vivian was also the professional who advised Simmons on the (lack of) acoustic design of the premises. This put him in a conflict of interests position, as his measurements were biased towards Simmons (as also became apparent in some conversation with the WCC officers while in our premises)
 3. Francis Keegan and a second offices (apologies I didn't capture his name), and a resident from [REDACTED] [REDACTED] (also impacted) were also present.
 4. Measurements were taken in both the bedroom and living room of [REDACTED], starting with the lowest volume of music inside the Simmons bar, and gradually raising it until it become audible inside the residential premises.
 5. Even though already audible at that point (this went uncontested by all), the sound level was deemed to be "not commercially viable" by Simmons
 6. Simmons then increased the volume to a "commercially viable" level, which was very audible in the flat and deemed statutory noise by the WCC officer.
 7. Another measurement was attempted, bringing the volume down approx. 10%, but with the same result. The officers confirmed to all present that he still considered that statutory noise
 8. At this point, it was agreed the volume needed to be brought further down (no specifics) and set to a level, inaudible in the flats, with a noise limiter, but no further measurements were taken and Richard Vivian, Nick Campbell and your team left.
 9. It is pretty clear that the noise level deemed required by Simmons is not acceptable to the residents, and that it constitutes a statutory nuisance within our premises. Before leaving, the WCC officers advised us to raise further cases to the Noise team (indicating that there's no need to attend our premises again) if the music from Simmons was again audible in our flats
 10. Could we please have some clarity on what to expect going forward? It felt like there was no resolution or agreement last night, and we'd like to understand what happens next, and what's the best course of action on our end
- I should also highlight that when everybody left, the volume was left exactly as it was during the last measurement (statutory noise) and it stayed like that until just before midnight.
 - One more point: [REDACTED] was vacated this past weekend by the two tenants, allegedly as they couldn't cope with the disruption caused by Simmons Bar. Any further consideration on noise levels and licensing will have as great an impact, if not greater, as it does to us to whoever will occupy that flat going forward

I reinforce that, as experienced entrepreneurs in the sectors (there are many of their bars in central London) Simmons should have known better than to open a disco venue with no entertainment licence and with such poor soundproofing design and lack of insulation, nestled as it is within residential properties.

As discussed with your colleagues yesterday, we are not willing to accept any sacrifice to the quiet enjoyment of our properties caused by their lack of due diligence, skill and care (nor any "compromise" as they mentioned yesterday).

We would also like to thank again you and your colleagues for the prompt and professional intervention, availability and support so far.

Best,



Comments received via other means:

• [REDACTED]
Received: 12 Jan 2023 - SUPPORT

I am the current [REDACTED]. I support the demands of my neighbours as expressed in their licence review request regarding Simmons Bar, 11 Woodstock Street.

Since its opening, the bar has attracted large crowds late into the night, affecting the character and safety of our street. The loud music from the venue can be distinctly heard within our building in the stairwell and, although less loudly, within my flat at the top of the building.

I support the demands of the licence review to limit any current and future nuisance caused by said business.

• [REDACTED]
[REDACTED],
Received: 10 Jan 2023 - SUPPORT

Dear Licencing Officers,

My name [REDACTED], I am one of the directors of [REDACTED] the company owning the [REDACTED]

I am writing in support of the demands of the residents as expressed in their licence review request against Simmons Bar, 11 Woodstock Street.

The residents of the building have contacted us about the nuisance caused by the disco bar since its very opening in November. The noise generated within the commercial premises (loud music) and disturbance created (including antisocial behaviour, and late night disturbance) affects the enjoyment of the flats by the residents.

A member of our company also personally witnessed the nuisance, and we completely endorse the residents' concerns and complaints.

The premises at 11 Woodstock St, previously a pub (more recently a bistro) never caused any similar issues. The business has now been converted into a cocktail bar which advertise themselves as a venue for drinks, music and dance, with the front windows displaying a neon sign with the word "disco". It was reported to us that statutory nuisance (loud music) was witnessed by the Noise Team of Westminster City Council even outside deregulated entertainment hours, and we also witnessed the same.

The nuisance created, if further protracted, will have a direct impact on the value of our property and our rental income. Having carried out works in our own building in the past few years, and being very much aware of the required permits, accurate noise measurements and reports for all mechanical equipment, compliance with regulations and so on, I am personally very surprised a disco bar managed to open within a context of residential terraced buildings within the existing licence and without carrying out accurate studies and site measurements to assess the impact and ensure no disturbance would be generated, for the respect of all neighbours (residents and businesses) and as required by their licence.

Based on the above considerations, we ask the Council to proceed with the licence restrictions as outlined in the residents review request.

Best regards,

**Annex 5
Licence & Appeal History**

Licensing Act 2003 History

Application	Details of Application	Date Determined	Decision
15/00580/LIPN	New premises licence application	24.02.2015	Granted Under Delegated Authority
15/05723/LIPDPS	Premises Licence - Vary DPS	29.07.2015	Granted Under Delegated Authority
16/00518/LIPDPS	Premises Licence - Vary DPS	31.01.2016	Granted Under Delegated Authority
16/04060/LIPVM	Minor Variation - To alter the layout of the premises and to amend condition 11 with respect to capacity	16.05.2016	Granted Under Delegated Authority
16/07937/LIPDPS	Premises Licence - Vary DPS	11.08.2016	Granted Under Delegated Authority
17/01145/LIPDPS	Premises Licence - Vary DPS	17.02.2017	Granted Under Delegated Authority
17/08015/LIPDPS	Premises Licence - Vary DPS	02.08.2017	Granted Under Delegated Authority
20/11692/LIPCH	Change of Details - name and registered address of the premise licence holder Gastranome Limited	15.12.2020	Granted Under Delegated Authority
21/00436/LIPDPS	Premises Licence - Vary DPS	03.02.2021	Granted Under Delegated Authority
22/08769/LIPT	Transfer of premises licence from Gastranome Limited to Simmons Covent Garden Limited	30.09.2022	Granted Under Delegated Authority
22/09392/LIPDPS	Premises Licence - Vary DPS	18.10.2022	Granted Under Delegated Authority
22/11866/LIPVM	Minor Variation - To add conditions with respect to noise limiter agreed with Environmental Health Team	05.01.2023	Granted Under Delegated Authority
23/00367/LIPDPS	Premises Licence - Vary DPS	06.02.2023	Granted Under Delegated Authority

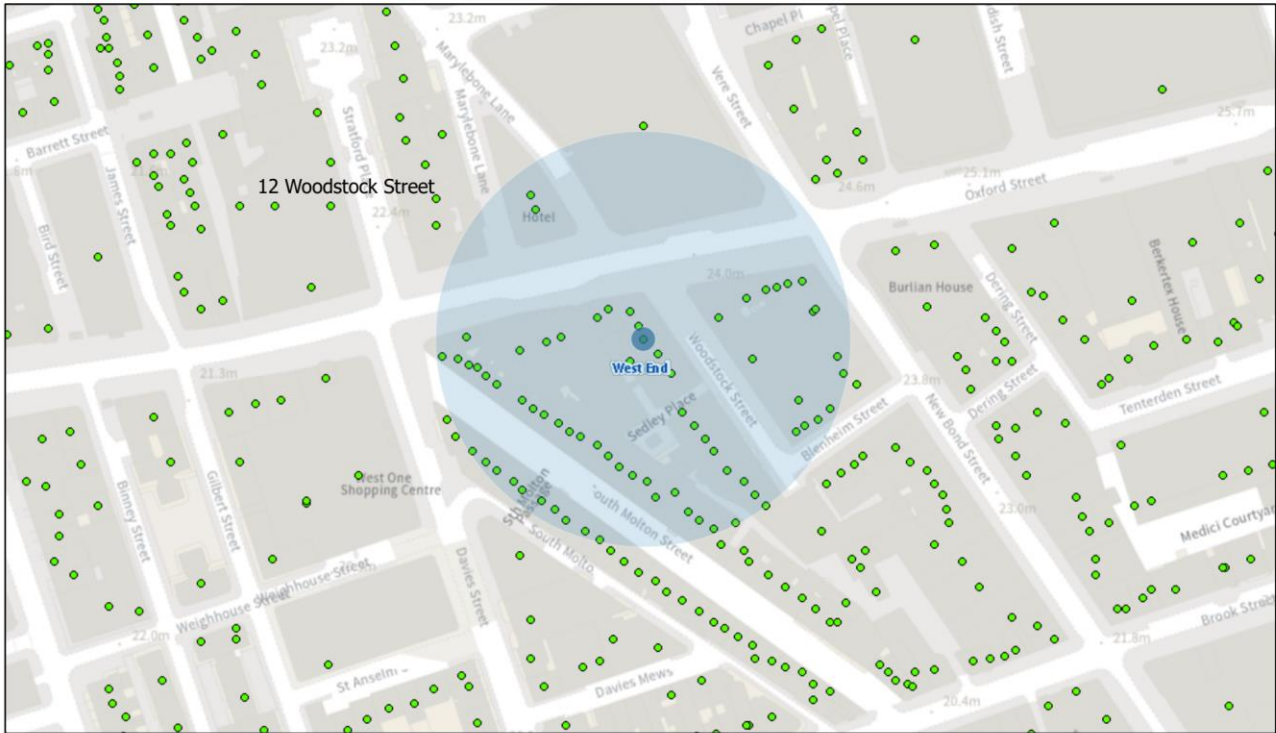
There is no appeal history

Temporary Event Notice history for premises:

TENS Application	Details of Application	Date Determined	Decision
22/10361/LITENP	Temporary Event Notice	04.11.2022	Notice Granted
22/10362/LITENP	Temporary Event Notice	04.11.2022	Notice Granted
22/10356/LITENP	Temporary Event Notice	04.11.2022	Notice Granted
22/10357/LITENP	Temporary Event Notice	04.11.2022	Notice Granted
22/10360/LITENP	Temporary Event Notice	04.11.2022	Notice Granted
22/10840/LITENP	Temporary Event Notice	15.11.2022	Notice Granted

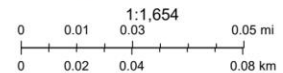
Annex 6 Residential Map and List of Premises in the Vicinity

11 Woodstock Street London



10/02/2023, 09:31:10

- Property Mailing List
- Borough Boundary - Mask
- Ward Boundaries
- Ward Labels
- Borough Boundary - Detailed



Resident Count = 21

Licensed premises within 75 metres of 11 Woodstock Street, London				
Licence Number	Trading Name	Address	Premises Type	Time Period
20/07487/LIPCH	Angus Steak House	Woodstock House 10 Woodstock Street London W1C 2AJ	Restaurant	Monday- Saturday – 10:00 – 01:00 Sunday 10:00 – 00:00
18/02542/LIPDPS	Spaghetti House	12 Woodstock Street London W1C 2AF	Restaurant	Monday- Saturday – 10:00 – 00:30 Sunday 12:00 – 00:00
19/11719/LIPN	Eat Tokyo	14 Woodstock Street London W1C 2AG	Restaurant	Monday – Sunday – 11:00 – 23:30
19/04359/LIPVM	Spread Eagle Public House	Spread Eagle 8 Woodstock Street London W1C 2AD	Restaurant	Monday – Thursday – 09:00 – 00:30 Friday – Saturday – 09:00 – 01:30
22/10265/LIPDPS	Yo! Sushi @ Riverside	15 Woodstock Street London W1C 2AQ	Restaurant	Monday- Saturday – 12:00 – 23:00 Sunday 12:00 – 22:30

06/05976/WCCMAP	Cafe Zeynah	341 Oxford Street London W1C 2JD	Cafe	Monday – Sunday – 23:00 – 05:00
21/14515/LIPV	Jaks	43 South Molton Street London W1K 5RS	Restaurant	Monday – Sunday – 07:00 – 03:30
21/00575/LIPDPS	Spook Space	Basement And Ground Floor 42 South Molton Street London W1K 5RR	Park/Open Space	Monday – Sunday – 07:00 – 22:00
21/05430/LIPRW	Caffe Concerto	Basement And Ground Floor 38 - 39 South Molton Street London W1K 5RL	Cafe	Monday – Thursday – 07:00 – 23:30 Friday – Saturday – 07:00 – 00:00 – Sunday – 07:00 – 23:30
16/09029/LIPDPS	Radisson Blu Edwardian Berkshire Hotel	Ground Floor Right 350 Oxford Street London W1C 1BY	Hotel	Monday – Sunday – 00:00 – 00:00
16/14245/LIPDPS	Chisou	Ground Floor 22 Woodstock Street London W1C 2AP	Restaurant	Monday- Saturday – 10:00 – 01:30 Sunday 10:00 – 00:00
21/13910/LIPCH	Cube	4 Blenheim Street London W1S 1LB	Restaurant	Monday- Saturday – 12:00 – 00:30 Sunday 12:00 – 23:00
06/05911/WCCMAP	Il Pizzaiolo Restaurant	3 Blenheim Street London W1S 1LA	Restaurant	Monday- Saturday – 10:00 – 00:30 Sunday 12:00 – 00:00