



CITY OF WESTMINSTER

MINUTES

Licensing Sub-Committee (6)

MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (6)** held on **Thursday 16th May, 2024**, Rooms 18.01 - 18.03 - 18th Floor, 64 Victoria Street, London, SW1E 6QP.

Members Present: Councillors Maggie Carman (Chair), Hamza Taouzzale and Karen Scarborough

1. MEMBERSHIP

1.1 There were changes to the membership.

2. DECLARATIONS OF INTEREST

1.2 There were no declarations of interest.

1. BASEMENT TO FIRST FLOOR, 30 DEAN STREET, W1D 3SA

WESTMINSTER CITY COUNCIL LICENSING SUB-COMMITTEE NO.6 ("The Committee")

Thursday 16 May 2024

Membership: Councillor Maggie Carman (Chair) Councillor Hamza Taouzzale and Councillor Karen Scarborough

Officer Support: Legal Advisor – Michael Feeney
Policy Officer – Kerry Simpkin
Committee Officer – Katherine Stagg
Presenting Officer – Roxsana Haq

Others present: Gary Grant (Counsel) and Alun Thomas (Thomas and Thomas Partners) representing the Applicant, James Rankin (Counsel) representing the Metropolitan Police Service, James Hayes (Licensing Authority), Anil Drayan (Environmental Health Services), Richard Brown representing the Soho Society

Application for a New Shadow Premises Licence in respect of Basement to First Floor, 30 Dean Street, London, W1D 3SA

Full Decision

Premises

Basement to First Floor
30 Dean Street
London
W1D 3SA

Applicant

Soho Estates Ltd

Ward

West End

Cumulative Impact Area

West End

Special Consideration Zone

None

Summary of Application

The Premises operates as an SEV and bar. The application is for a shadow premises licence in the same terms, conditions and plans as the current premises licence.

Representations Received

Licensing Authority
Metropolitan Police Service
Environmental Health Service
Three Local Residents

Issues raised by Objectors

Licensing Authority: The Applicant is encouraged to provide submissions as to how the operation of the premises will not add to cumulative impact and how they intend to manage potential risks. A condition restricting the involvement of named individuals in the running of the Premises was proposed.

EHS: Pending the on-going review of the current premises licence, the application may adversely affect public nuisance and public safety.

MPS: The application may undermine the prevention of crime and disorder, as the current premises licence is subject to a review application.

Soho Society: There are concerns with the recent history of the Premises. The Soho Society is willing to withdraw its representation if the Applicant was willing to agree to MC97.

Policy Considerations

Policies CIP1, HRS1, SCEV1 and PB1 apply.

Submissions

1. The Presenting Officer, Roxsana Haq, introduced the application and explained that the Applicant was seeking a new shadow premises licence.
2. Mr Grant for the Applicant explained that the application was being made to ensure that the building remained as a licensed premises, regardless of the decision made as to whether to revoke the premises licence or the SEV Licence. Mr Grant submitted that the recent history with the Premises demonstrated there was a problem with the licence holder, but not with the operation as a licensed premises. It was not in anyone's interests for the building to remain empty.
3. The Applicant was a respected and responsible landholder with an excellent working relationship with the Responsible Authorities. The Applicant could be trusted, and a shadow licence is an insurance policy, which is perfectly valid in law. If the premises licence and SEV licence were revoked, then the shadow licence could be marketed to other responsible tenants. Without the shadow licence, there was no guarantee that a further licence would be granted, particularly given the Premises' location in the CIZ.
4. Mr Grant submitted that the shadow licence would not add to cumulative impact since the Premises already has a premises licence. The Application at worst would maintain the status quo. Mr Grant then referred to page 88 of the Additional Information pack, where three conditions were offered. The first was a variation of Model Condition 97, saying that if the primary licence stays in existence then the shadow licence does not take effect. Mr Grant submitted that MC97 undermines the very purpose of a shadow licence, and in the Applicant's view was likely to be unlawful. The second condition was that named individuals shall not have any involvement in the day to day running of the Premises. The final condition was that the licence would not be transferred to Sohomead Ltd and (at the suggestion of the MPS) the Applicant was happy to add 'or any associated companies'. These conditions ensured that the shadow licence was not a backdoor attempt for the current premises licence holder to start running the Premises again.
5. Mr Grant also noted that the shadow licence would not permit SEV activities. A tenant wishing to operate an SEV would have to apply for an SEV Licence if the current SEV Licence were revoked. The Council's Statement of Licensing Policy ('SLP') at paragraph I22 highlights an advantage of shadow licences, namely that where a landlord is a licence holder then they have further responsibilities to promote the licensing objectives. Granting the application

would impose further supervisory duties on the Applicant. In summary, the Application would enable the continued existence of the building as a licensed premises, and it would not have any negative effects.

6. Mr Hayes for the Licensing Authority explained that the Licensing Authority was initially concerned that the application could potentially be used as a way for the current operator to continue running the Premises. The Licensing Authority stated that the issues with the Premises were inside the Premises and there was no history of environmental issues. The Sub-Committee could grant the application if it was satisfied that it would not add to cumulative impact, but the Licensing Authority would welcome a condition preventing the transfer of the shadow licence to the current premises licence holder and the imposition of MC97. The Licensing Authority were content with the condition restricting named people proposed by the Applicant.
7. Mr Drayan for EHS stated that EHS had an issue with shadow licences, as they could produce a 'conveyor belt' of licences, where the primary licence gets reviewed or revoked and someone puts in a shadow licence application. Mr Drayan added that generally premises licences that operate with an SEV licence cause fewer problems from a public nuisance/public safety point of view. There was therefore potential for cumulative impact to be added if the shadow licence were operated without an SEV licence.
8. In response to questions from the Sub-Committee, Mr Drayan confirmed that the Premises would likely cause more issues for the licensing objectives if it were operated as a nightclub compared to an SEV.
9. Mr Rankin for the MPS stated that the MPS were neutral on the application, subject to the Applicant's third proposed condition being amended as highlighted by Mr Grant.
10. Mr Brown for the Soho Society stated that the Soho Society had proposed MC97, which was in accordance with paragraph D20 of the SLP. MC97 operates to defer consideration of the application and the specific operation until a later date. There was no such thing as a 'shadow licence' in the legislation, and an application for a new shadow licence needs to be scrutinised the same as any other licence application. Paragraph D20 of the SLP and MC97 reflect that in many or most cases a shadow licence will not add to cumulative impact but that is not always the case and there may be cases where it is appropriate to give more detail. The Soho Society was therefore fairly neutral, subject to MC97 being added.
11. In response to a question from the legal advisor, Michael Feeney, Mr Brown stated that MC97 was a model condition and therefore approved by the Council's legal department. MC97 was an acknowledgement that shadow licences are legitimate, and the Soho Society did not have any issues with the applicant applying for a shadow licence. Mr Grant responded that MC97 by preventing use if the current licence is or is not in operation defeated the entire purpose of a shadow licence to find a new tenant. The Applicant's proposed condition was preferable, as it would provide clarity and assist with

enforcement if required. Mr Grant also noted that the police would be able to object to the transfer of the shadow licence.

12. In summing-up, Mr Hayes stated that the Licensing Authority requested MC97 for almost every shadow licence application and they would request it to be included.
13. In summing-up, Mr Grant added that the Applicant was willing to agree to a condition that the Premises shall not operate as a nightclub. The Applicant (without agreeing to the condition- it would prefer for it not to be included) also suggested that potentially a condition could be added stating that the Premises Licence shall operate only in conjunction with an SEV licence.

Conclusion and Reasons

1. The Committee has determined an application for a Premises Licence under the Licensing Act 2003. The Sub-Committee realises that it has a duty to consider each application on its individual merits and did so when determining this application.
2. Shadow licences are well-established and legitimate in licensing, and there was no fundamental objection from the Responsible Authorities or the Soho Society to the application being granted. The main issue was whether the shadow licence should include MC97.
3. MC97 is as follows: *'The shadow licence will not take effect when the current licence is in operation, or it lapses, is surrendered or revoked.'* Paragraph D20 of the SLP explains the interaction between shadow licences and the CIZ as follows: *'The Licensing Authority may consider granting applications for licences that duplicate the terms and conditions of the current operational licence for that same premises but are issued to the landowner, or other person with an interest in the property and that the licence has not affect by condition. These 'Shadow Licences' are normally sought by the landowner to protect the interests of their property due to the Policy to refuse certain new applications. A Shadow Licence will, in the event that a licence lapses, is surrendered or is revoked the property owner can look to market the property with the licence. The holder of the Shadow Licence would in those circumstances need to apply to the Licensing Authority to vary the licence to remove any conditions preventing the use of that licence. At that point the Licensing Authority will consider whether the operation of the premises is likely to be an exception to policy.'*
4. The Sub-Committee in this case considered it appropriate and proportionate to impose MC97 in line with the recommendation of the SLP. The Premises is situated in the CIZ. There was no detail available as to the nature of the business that might be run from the Premises in the future, and in those circumstances it was not possible for the Sub-Committee to conclude that the shadow licence without MC97 would not add to cumulative impact. The imposition of MC97 would ensure that the licence holder would have to apply for a variation of the licence to remove MC97. At that stage, there would be more detail available and the Sub-Committee would be in a position to assess

whether the application would or would not add to cumulative impact. The Sub-Committee did not agree with the Applicant that MC97 undermines the purpose of shadow licences, as the Applicant would still be able to market the Premises with a shadow licence to potential new tenants. However, MC97 was an important safeguard to ensure scrutiny of applications, particularly within the CIZ.

5. The Sub-Committee agreed with all parties that the other conditions proposed by the Applicant should be added to the shadow licence to ensure that the shadow licence would not be able to be used by the current premises licence holder. It was also appropriate and proportionate to add the condition offered by the Applicant that the Premises shall not operate as a nightclub, as this particular operation would add to cumulative impact. Finally, the Sub-Committee did not consider it appropriate and proportionate to impose a condition requiring that the Premises Licence be used only in conjunction with an SEV licence, as other potential businesses could also operate from the Premises in a way that would promote the licensing objectives and that would not add to cumulative impact.

Having carefully considered the committee papers, the additional papers and the submissions made by all of the parties orally, the Sub-Committee has decided, after taking into account all of the individual circumstances of this particular case and the promotion of the four licensing objectives:-

1. To grant permission for **Live Music (Indoors)** Monday to Saturday 09:00 to 01:00, Sunday 09:00 to 23:00. For times authorised for Christmas, New Year and Good Friday see conditions at Annex 1.
2. To grant permission for **Recorded Music** Monday to Sunday 09:00 to 09:00. For times authorised for Christmas, New Year and Good Friday see conditions at Annex 1.
3. To grant permission for **Provision of facilities for making music** Monday to Saturday 09:00 to 01:00, Sunday 09:00 to 23:00. For times authorised for Christmas, New Year and Good Friday see conditions at Annex 1.
4. To grant permission for **Provision of facilities for entertainment of a similar description to making music or dancing** Monday to Saturday 09:00 to 01:00, Sunday 09:00 to 23:00. For times authorised for Christmas, New Year and Good Friday see conditions at Annex 1.
5. To grant permission for **Performance of Dance** Monday to Saturday 09:00 to 01:00, Sunday 09:00 to 23:00. For times authorised for Christmas, New Year and Good Friday see conditions at Annex 1.
6. To grant permission for **Anything of a similar description to that falling within (e), (f) or (g)** Monday to Saturday 09:00 to 01:00, Sunday 09:00 to 23:00. For times authorised for Christmas, New Year and Good Friday see conditions at Annex 1.

7. To grant permission for **Late Night Refreshment** Monday to Saturday 23:00 to 01:30, Sunday 23:00 to 01:00. For times authorised for Christmas, New Year and Good Friday see conditions at Annex 1.
8. To grant permission for **Sale by Retail of Alcohol (On and Off Sales)** Monday to Saturday 10:00 to 01:00, Sunday 12:00 to 00:30. For times authorised for Christmas, New Year and Good Friday see conditions at Annex 1.
9. To grant permission for **the Opening Hours of the Premises** Monday to Saturday 09:00 to 01:30, Sunday 09:00 to 00:00. For times authorised for Christmas, New Year and Good Friday see conditions at Annex 1. Restricted access to children due to presence of full nudity in accordance with Sexual Entertainment Venue Licence.
10. That the Licence is subject to any relevant mandatory conditions.
11. That the Licence is subject to the following conditions imposed by the Committee which are considered appropriate and proportionate to promote the licensing objectives. Conditions marked with an asterisk (*) shall not apply when a Sexual Entertainment Licence is in effect at the premises.
12. This licence is subject to all the former Rules of Management for Places of Public Entertainment licensed by Westminster City Council, in force from 4 September 1998 and incorporating amendments agreed by the Council on 25 October 1999, 30 June 2000, 16 January 2001 and 1 October 2001.
13. On New Year's Eve the premises can remain open for the purpose of providing regulated entertainment from the time when the provision of regulated entertainment must otherwise cease on New Year's Eve to the time when regulated entertainment can commence on New Year's Day (or until midnight on New Year's Eve where no regulated entertainment takes place on New Year's Day).
14. Notwithstanding the provisions of Rule Management No.6 the premises may remain open for the purposes of this licence from 11pm on each of the days Monday to Saturday to 1am on the day following.
15. Patrons shall not be permitted to queue outside the premises.
16. Notices shall be prominently displayed at the exits reminding patrons that the premises are within a residential area. The notices shall also request patrons to leave in a quiet and orderly manner.
17. Deliveries to the premises shall not take place before 8am.
18. No person under 18 years of age shall take part in a striptease performance or shall otherwise be employed or allowed in the premises whilst the premises are in use under this licence.

19. Striptease will only be provided by the performers and the audience will not be permitted to be on the stage or participate in any other way.
20. Persons who have paid the fee allowing them to visit the premises as many times in one day as they wish may only be allowed re-entry to the premises up to 11pm. Thereafter, the minimum entrance charges at Condition 15 will apply with no re-entry.
21. There shall be no payment made by or on behalf of the licensees to any person for bringing customers to the premises.
22. No gaming otherwise than by machines authorised under part III, Gaming Act, 1968.
23. Striptease performances will only be provided by the dancers and the audience will not be permitted to participate in any way.
24. No persons under the age of 18 years shall be allowed to enter or remain on the licensed premises, and a clear notice shall be displayed, in the following terms, at the entrance to the premises in a prominent position so that it can be easily read by persons entering: NO PERSON UNDER 18 YEARS WILL BE ADMITTED.
25. The sound level at the premises to be maintained at a level so as to prevent noise escape to the exterior.
26. Customers shall not be permitted to form a queue outside the premises and thus obstruct the pavement.
27. Silence notices to be placed by the exits warning patrons that the premises are in proximity of residential premises and requesting them to make an orderly exit.
28. (i) Alcohol shall not be sold, supplied, consumed in or taken from the premises except during permitting hours.

In this condition, permitted hours means:

- (a) On weekdays, other than Christmas Day, Good Friday or New Year's Eve, 10:00 to 23:00.
- (b) On Sundays, other than Christmas Day or New Year's Eve, 12:00 noon to 22:30.
- (c) On Good Friday, 12:00 to 22:30.
- (d) ON Christmas Day, 12:00 to 15:00 and 19:00 to 22:30.
- (e) On New Year's Eve, except on a Sunday, 10:00 to 22:30.
- (f) On New Year's Eve on a Sunday, 12:00 to 22:30
- (g) On New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day (or, if there are no permitted hours on the following day, 00:00 midnight on 31st December).

(ii) Alcohol may be sold or supplied for one hour following the hours set out above (other than Christmas Day and New Year's Eve), and on Christmas Day, between 15:00 and 19:00, to persons taking table meals in the premises in a part of the premises usually set apart for the service of such persons and for consumption by such a person in that part of the premises as an ancillary to his meal. For other purposes or in other parts of the premises the hours set out above shall continue to apply.

(iii) (a) Alcohol may be sold or supplied until 01:00 in the morning following weekdays (other than Good Friday and Christmas Day), 00.30am in the morning following Sundays (other than Christmas Day) and 00.30 in the morning following Good Friday to persons taking table meals in the premises in a part of the premises usually set apart for the service of such persons and for consumption by that person in that part of the premises as an ancillary to his meal.

(b) That part of the premises must also be used for the provision of entertainment by persons present and performing to which the sale or supply of alcohol is also ancillary.

(c) That alcohol must be sold or supplied at the time before (i) the provision of entertainment by persons present and performing or (ii) the provision of substantial refreshment, has ended. For other purposes or in other parts of the premises the hours set out above shall continue to apply.

(d) This condition does not authorise any sale or supply to any person admitted to the premises either after midnight (23:00 on Sunday) or less than half an hour before the entertainment is due to end, except in accordance with condition number 28(ii) above.

NOTE- The above restrictions do not prohibit:

- (a) During the first thirty minutes after the above hours the consumption of the alcohol on the premises;
- (b) During the first twenty minutes after the above hours, the taking of alcohol from the premises unless the alcohol is supplied or taken in an open vessel;
- (c) During the first thirty minutes after the above hours the consumption of the alcohol on the premises by persons taking table meals there if the alcohol was supplied for consumption as ancillary to the meals;
- (d) The sale or supply of alcohol to or the consumption of alcohol by any person residing in the licensed premises;
- (e) The ordering of alcohol to be consumed off the premises, or the despatch by the vendor of the alcohol so ordered;
- (f) The sale of alcohol to a trader or registered club for the purposes of the trade or club;
- (g) The sale or supply of alcohol to any canteen or mess, being a canteen in which the sale or supply of alcohol is carried out under the authority of the Secretary of State or an authorised mess of members of Her Majesty's naval, military or air forces ;
- (h) The taking of alcohol from the premises by a person residing there;

- (i) The supply of alcohol for consumption on the premises to any private friends of a person residing there who are bona fide entertained by him at his own expense, or the consumption of alcohol by persons so supplied;
- (j) The supply of alcohol for consumption on the premises to persons employed there for the purposes of the business carried on by the holder of the licence, or the consumption of liquor so supplied, if the liquor is supplied at the expense of their employer or of the person carrying on or in charge of the business on the premises.

In this condition any reference to a person residing in the premises shall be construed as including a person not residing there but carrying on or in charge of the business on the premises.

29. No person under fourteen shall be in the bar of the licensed premises during the permitted hours unless one of the following applies:

- (a) He is the child of the holder of the premises licence.
- (b) He resides in the premises, but is not employed there.
- (c) He is in the bar solely for the purpose of passing to or from some part of the premises which is not a bar and to or from which there is no other convenient means of access or egress.
- (d) The bar is in railway refreshment rooms or other premises constructed, fitted and intended to be used bona fide for any purpose to which the holding of the licence is ancillary.

In this condition 'bar' includes any place exclusively or mainly used for the consumption of intoxicating liquor. But an area is not a bar when it is usual for it to be, and it is, set apart for the service of table meals and alcohol is only sold or supplied to persons as an ancillary to their table meals.

30. If any entertainment is provided for children or if an entertainment is provided at which the majority of persons attending are children, then, if the number of children attending the entertainment exceeds 100, it shall be the duty of the holder of the premises licence:

- (a) To station and keep stationed wherever necessary a sufficient number of adult attendants, properly instructed as to their duties, to prevent more children or other persons being admitted to the building, or to any part thereof, than the building or part can properly accommodate,
- (b) To control the movement of the children and other persons admitted while entering and leaving the building or any part thereof, and
- (c) To take all other reasonable precautions for the safety of the children.

31. The terminal hour for late night refreshment on New Year's Eve is extended to 05:00 on New Year's Day.

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

33. The maximum number of persons, including staff, to be present in the licensed premises shall not exceed the number specified from time to time by

the proper officer of the London Fire and Civil Defence Authority. Maximum number of persons permitted (including staff) – 65.

34. Two SIA licensed doormen shall be on duty at the premises at all times and shall routinely monitor the premises.
35. *An SIA trained licensed doorman shall be predominately based in the basement area during any stage performances.
36. *Whilst the premises are in use under this licence Rule Management No.4 is waived in part so as to only permit the performance of striptease on the raised stage or designated dance area in the basement.
37. *At least one 'Personal Licence Holder' shall be present during the whole time intoxicating liquor is supplied, sold or consumed.
38. * Striptease and nudity shall only be allowed in the basement floor, on a raised stage or in the private designated dance area as indicated on the Premises Plan. The stage performance provided to customers seated in theatre style seating or customers standing in the area to rear of that seating only. The private performance provided in the Designated Dance area to customers seated on fixed seating within the area.
39. * Striptease or nudity shall only be allowed in performance presented by or in association with the licensees in the designated dance or stage areas.

If at any time hostesses are operating at the premises Conditions 38-43 shall apply:

40. *The Code Conduct for hostesses shall be lodged with the Police Authority responsible for licensing and Westminster City Council Licensing Authority. All hostesses shall sign the Code of Conduct as agreed by the Police in their proper name acknowledging that they have read and understood, and are prepared to abide by the said Code of Conduct, and copy so signed shall be retained by the licensees and shall be readily available for inspection by the Police and/or authorised persons upon reasonable request.
41. *A record shall be kept at the premises of the real names, addresses and 'stage names' of all hostesses and this record shall be readily available to the Police and/or the Licensing Authority upon reasonable request.
42. *A notice outlining the Code of Conduct for the customer- as agreed with the Police- shall be positioned at the entrance, reception, bar area and table menus. It shall be of an adequate size (font 16) so that it can be easily read by the customer.
43. *All hostesses' activities shall be conducted openly and at no time shall hostesses entertain customers in areas of the premises that are screened, hidden by curtains or not in public use.

44. *Hostesses will not accept any telephone number or any other contact information from any customer.
45. *Customers will not be in the company of the hostess except in any area open to the public within the Club.
46. *Customers must remain fully clothed at all times. The dancers must not remove any of the customers' clothing at any time.
47. *There shall be no indecent conduct between the customer and dancers.
48. *Customers will not offer any payment in return for sexual favours.
49. *At all times customers will behave in a decent and appropriate manner. Any customers not acting in accordance with these codes of conduct will (at the management's discretion) be asked to leave the premises.
50. *There shall be no physical contact between dancers whilst performing.
51. There shall be no physical contact between customers and the dancers except for the placing of money or tokens in a garter or into the hands of the dancer at the beginning or conclusion of the performance. Whilst the dancers are performing there shall be a minimum distance of one metre between the dancer and the seated customers. Notices to this effect shall clearly be displayed at each table and at the entrance to the premises.
52. CCTV will be installed in the whole of the licensed areas, including all dance areas, and in particular cameras to be placed to cover the entrance, the toilet entrance and the entrance to the dancers changing room. All cameras will continually record whilst the premises are open to the public. The recordings will be retained for a period of 28 days, time/date stamped, and made available to the statutory authorities upon request (all areas are to be sufficiently lit, in order that the recorded images are of reasonable quality).
53. Suitable beverages other than intoxicating liquor (including drinking water) shall be available during the whole of the permitted hours in all parts of the premises where intoxicating liquor is sold or supplied.
54. *On any day that performers are taking part in acts of striptease (whether on stage or at table side) they shall not perform towards each other, or make any physical contact with another person.
55. *Such striptease and topless performers shall be engaged subject to the rules the same as or similar to the Management Rules of Conduct deposited with the Licensing Authority. The striptease dancers shall be provided with copy of those rules.
56. *Entertainment may be provided solely by fully nude dancers to customers seated at tables in the approved part of the premises. No audience participation shall be permitted.

57. *The maximum number of customers accommodated in the area at any one time shall be 4 persons excluding staff, dancers, or hostesses.
58. Consumption of alcohol is permitted outside the premises subject to being restricted to the Designated Smoking Area supervised by a licensed doorman positioned outside the premises at all material times and involves a maximum of 10 patrons at any one time.
59. No licensable activities shall take place 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.
60. Before the premises open to the public, the plans as deposited shall be checked by the Environmental Health Consultation Team to ensure they are an accurate reflection of the premises constructed. Where the premises layout has changed during the course of construction new plans shall be provided to the Environmental Health Consultation Team and the Licensing Authority.
61. There shall be no striptease or nudity, and all persons shall be decently attired at all times on the ground and first floors, except when the premises are operating under the authority of a Sexual Entertainment Venue licence.
62. The capacity of the first floor terrace shall be limited to a maximum of seven persons, including staff.
63. Mr Sajeed Ghaffar, Mr Gavin Venamore and/or Mr Declan Joseph Forde shall not have any involvement in the day to day running of the Premises, management of the Premises or management of the operation of the Premises.
64. The shadow licence may not be transferred to Sohomead Ltd or any associated companies.
65. The Premises shall not operate as a nightclub.
66. This licence will not take effect when the current licence (21/02690/LIPDPS or successor licence) is in operation, or it lapses, is surrendered or revoked.

This is the Full Decision of the Licensing Sub-Committee which takes effect forthwith.

**The Licensing Sub-Committee
16 May 2024**

2. SUNSET STRIP, BASEMENT TO FIRST FLOOR, 30 DEAN STREET, W1D 3SA

WESTMINSTER CITY COUNCIL LICENSING SUB-COMMITTEE NO.6
("The Committee")

Full Review Decision
Thursday 16 May 2024

Membership: Councillor Maggie Carman (Chair) Councillor Hamza Taouzzale and Councillor Karen Scarborough

Officer Support: Legal Advisor – Michael Feeney
Policy Officer – Kerry Simpkin
Committee Officer – Katherine Stagg
Presenting Officer – Roxsana Haq

Application for a Review of a Premises Licence – Sunset Strip, Basement to First Floor, 30 Dean Street, London, W1D 3SA

List of persons:

Premises Licence Holder

The Premises Licence Holder (PLH) is Sohomead Ltd. Sarah Le Fevre (Counsel), Lana Tricker (LT Law), Alastair Massie (DPS) and Dwight Okechukwu attended on behalf of the PLH.

Metropolitan Police Service ('The Applicant')

PC Steve Muldoon
Counsel: James Rankin

The Licensing Authority

James Hayes

Environmental Health Service

Anil Drayan

Interested Parties

Richard Brown on behalf of the Soho Society

Gary Grant (Counsel), Alun Thomas (Thomas and Thomas Partners) on behalf of Soho Estates Ltd

Cumulative Impact Area

West End

Ward

West End

Summary of Application

This is an application for a Review of a Premises Licence in respect of Sunset Strip, Basement to First Floor, 30 Dean Street, London, W1D 3SA (“the Premises”) under the Licensing Act 2003 (“the Act”). The Premises operates as a Sexual Entertainment Venue and bar in Soho.

The application was submitted by the Metropolitan Police Service on 16 February 2024 on the grounds of prevention of crime and disorder, public safety and prevention of public nuisance.

It has been identified through numerous visits by Officers from the Westminster Police Licensing unit and Council City Inspectors that there are continual breaches of the venue’s premises licence. Officers from both the police and the council have engaged with the venue in person and via email with a view to rectify any condition breaches.

A recent visit found further breaches and also found that despite the previous engagement and visits the DPS was unaware of the conditions on their licence and were unaware they were breaching conditions. At the time of the visit CCTV could not be used, there was no personal licence holder on site and there was one SIA registered security staff when there should have been two present.

Officers have requested CCTV images several times and this was never produced. On one occasion CCTV images for the wrong camera and date were provided.

On 13th January 2024 Police licensing officers received a crime report that made an allegation of drink spiking having taken place at the premises. On 17th January 2024 officers visited the venue and once again found breaches in the conditions relating to security and CCTV. There were further breaches also identified on the SEV licence. The venue was issued a section 19 closure notice that related to the breaches of conditions.

Representations

The application received a representation in support of the review from the Licensing Authority on 29 February 2024 on the grounds that the premises is failing to promote the licensing objectives and can be found at Appendix 4.1 of the Agenda Report. The Licensing Authority also provided submissions which include witness statements and a previous licensing sub-committee decision. These appear at Appendix 5 of the Agenda Report.

The application received a representation in support of the review from the Environmental Health Service on 15 March 2024 on the grounds that the premises is failing to promote the licensing objectives and can be found at Appendix 4.2 of the Agenda Report.

The Soho Society submitted representations in support of the review, which can be seen at Appendix 4.3 of the Agenda Report.

The landlord of the Premises, Soho Estates Ltd, submitted a representation, which can be seen at Appendix 4.4 of the Agenda Report.

Activities and Hours

The Premises currently benefits from the following:

Performance of Dance

Monday to Saturday: 09:00 to 01:00

Sunday: 09:00 to 23:00

Provision of facilities for Dancing

Monday to Saturday: 09:00 to 01:00

Sunday: 09:00 to 23:00

Provision of facilities for making Music

Monday to Saturday: 09:00 to 01:00

Sunday: 09:00 to 23:00

Performance of Live Music

Monday to Saturday: 09:00 to 01:00

Sunday: 09:00 to 23:00

Playing of Recorded Music

Monday to Sunday: 09:00 to 09:00

Provision of facilities for entertainment of a similar description to making music or dancing

Monday to Saturday: 09:00 to 01:00

Sunday: 09:00 to 23:00

Anything of a similar description to Live Music, Recorded Music or

Performance of Dance

Monday to Saturday: 09:00 to 01:00

Sunday: 09:00 to 23:00

Late Night Refreshment

Monday to Saturday: 23:00 to 01:30

Sunday: 23:00 to 01:00

Private Entertainment consisting of dancing, music or other entertainment of a like kind for consideration and with a view to profit

Unrestricted

Sale by Retail of Alcohol

Monday to Saturday: 10:00 to 01:00

Sunday: 12:00 to 00:30

Opening Hours

Monday to Saturday 09:00 to 01:30

Sunday 09:00 to 00:00.

Hearing:

1. The Chair introduced the Members of the Sub-Committee and outlined the procedure to the Parties in attendance. The Chair advised that the Sub-Committee would hear the application along with the Licensing Authority's application to revoke the SEV licence in respect of the Premises. The Chair advised that the Sub-Committee recognised that a separate decision would have to be reached on each application and that each application must be determined on its own merits. The parties were invited to make comments in respect of the proposed procedure, and no objections were raised.
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4. Mr Rankin noted that the MPS had objected to the SEV Renewal application on 23 November 2023 and much of what the Sub-Committee was about to hear had already been said. On 23 November, the PLH said that if the booths were removed and if permission were granted to vary the Premises Licence then the problem would be removed as well. In addition, the PLH threw a number of people under the bus, and Mr Gavin Venamore was the victim on 23 November. The PLH said they had put misplaced trust in Mr Venamore, and this time it appeared that Mr Declan Forde (the DPS before Mr Massie) would be the chosen victim.
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Mr Rankin therefore submitted that the only solution was to revoke the Premises Licence and the SEV Licence.

11. Following these submissions, the Sub-Committee went into closed session to view a CCTV clip of roughly one minute duration that Mr Rankin had referred to. This showed touching between performers and customers.

Licensing Authority

12. Mr Hayes stated that the Licensing Authority supported revocation of the Premises Licence and were the applicant for revocation for the SEV licence. Mr Hayes explained that the premises licence had been held since 2012. Prior to 2023 the premises licence had been held by people who were officers/directors of Sohomead Ltd, so there was an ongoing and consistent link between the PLH now and the historic issues of non-compliance.
13. Mr Hayes advised that the Licensing Authority had not rushed into this at all, but it was the culmination of a long history of concerns raised by the MPS but also the Council's own enforcement officers. Mr Hayes referred to the Council's SEV Policy, which referred to offences committed by the PLH and the operation/management of the Premises. Mr Hayes noted that it was a criminal offence to operate a licence otherwise than in accordance with the licence conditions.
14. Mr Hayes explained that the catalyst for revocation was the visit on 17 January 2024 but that there had been a long history of engagement with the Premises. Mr Hayes then summarised the instances of non-compliance with conditions as set out in the agenda papers, referring to 8 occasions where breaches of conditions had been witnessed between August 2019 and November 2023.
15. At two hearings for renewal of the SEV licence following applications in 2019 and 2023 the Sub-Committee had given serious consideration to refusing the applications on the basis of repeated non-compliance and in those decisions the Sub-Committee deemed it unlikely that the SEV licence would be renewed in future if similar issues were observed. On 17 January when officers visited with the MPS, it was clear that the issues identified had not been resolved, and this was soon afterwards the Sub-Committee had been assured that the issues would be addressed through successful management. There was blatant non-compliance, and every performance witnessed included contact between performers and customers. The Licensing Authority found that no fewer than 7 conditions were not being complied with.
16. Mr Hayes stated that it was essential for Premises to comply with the conditions on their licence and those that fail to do so should face proportionate sanction. Given the history of issues over an extended period of time, revocation was the only clear way in which the pattern of non-compliance could be brought to an end. The Licensing Authority felt that they were in a position where this was the last option available to them. A failure to take proportionate action would fail to promote the licensing objectives and would send a message

that in cases of non-compliance a Premises could promise to change management and then be able to continue trading.

17. Finally, Mr Hayes noted in particular that CCTV conditions were crucial for preventing crime and disorder and failure to operate the CCTV as required should be taken very seriously. The 'no touching' conditions were likewise crucial to create a safe working environment for performers to be able to work without experiencing sexual harassment or assault.
18. In response to questions from the Sub-Committee, Mr Hayes stated that the licence had been transferred to Sohomead Ltd in April 2023 and prior to that Mr Forde had been the licence holder. Prior to that Mr Forde and Mr Anthony Curran had been joint licence holders. Mr Forde had been a director of Sohomead Ltd, and the Licensing Authority's view was that the history of non-compliance had continued throughout.

Environmental Health Services

19. Mr Drayan stated that the Premises was not a cause of public nuisance, but based on the evidence provided by the MPS and the Licensing Authority in relation to the crime and disorder and public safety licensing objectives EHS supported the requests for revocation of the licences.

Soho Society

20. Mr Brown stated that the Soho Society essentially supported revocation of the two licences based on the history of non-compliance. The Soho Society did not object to SEVs per se, but that does not give the PLH a free pass to act in the manner set out by the MPS and expect to get away unscathed. There had been breaches in 2019, 2020, 2022 and 2024. There was a gap between 2020 and 2023, but this was during Covid when SEVs were the last category of Premises to reopen. There was a constant pattern of non-compliance and the Soho Society supported the submissions of Mr Rankin in that regard.
21. Mr Brown said that whenever the Premises were visited, breaches were witnessed, and this could not be a coincidence. Mr Brown stated that this was sending a message to other operators that it is ok to repeatedly breach conditions and to make promises without keeping them. Soho relies on people playing by the rules; enforcement resources are precious and when a premises takes up a disproportionate amount of resources then the Premises has to face the appropriate sanction.

Soho Estates Ltd (Landlord)

22. Mr Grant referred to the Landlord's written submissions made at pages 86 and 87 of the Additional Agenda Pack. In summary, Mr Grant stated that the Landlord had no association with the PLH other than being their landlord. The Landlord shared the concerns expressed by the Responsible Authorities, and Mr Grant confirmed that the Landlord would respect whatever assessment the

Council made with regards to the premises licence review and SEV licence revocation applications.

PLH

23. Ms Le Fevre referred to the written submissions made by Ms Tricker at pages 130, 134 and 326-330 of the Agenda Pack. Ms Le Fevre referred to the fact that Mr Massie's role as DPS had been confirmed formally at the end of March. No issue was raised with Mr Massie, and his CV was in the papers. Ms Le Fevre added that Mr Massie was not only the DPS but also a director of Sohomead Ltd, so he was 'baked into' the structure of the licence.
24. Ms Le Fevre stated that there had been a change of cast. When representing the PLH previously she had always been accompanied by Mr Forde, and the PLH was now offering a condition that would prevent Mr Forde and Mr Venamore from being involved in the day to day running of the Premises.
25. Ms Le Fevre stated that neither the PLH nor Mr Massie were there to defend the indefensible, and the findings of the visit on 17 January 2024 fell into that bracket. The assessment for both applications had to be with reference to what was in place at the Premises now. On 23 November one of the measures proposed consisted first of the removal and replacement of Mr Venamore. Mr Venamore as a former Council employee was expected to be an asset but it turned out that he was a liability. That has been done. In addition, work has been carried out at the Premises to update the CCTV system, which was done on 1 March. This was a substantial upgrade which had no blind spots and allowed for remote supervision. On 23 November it was confirmed that every instance of contact had taken place in the vicinity or within the private booths, and that was why it was essential to remove and design out the booth areas. It took longer than it should have to remove the booths, but that was done in early February.
26. Ms Le Fevre advised that the progress and change at the Premises did not stop with Mr Massie's appointment, and there was hard evidence in the papers of root and branch reform of the system, staff and policy. The culture of the Premises had been swept out and replaced. Mark Fulton had carried out an unannounced visit on 28 March and he found no issues at all. Mr Fulton had been recruited to provide a rolling programme of quarterly inspections and these would be available for inspection. Further, on 22 April 2024 the MPS and Licensing Authority had been invited to the Premises to view the new CCTV system. There was no mention of this visit, which showed that no issues of concern were discovered during the course of the inspection. This is the accurate picture of the current situation, which is when the Sub-Committee's assessment would bite.
27. Ms Le Fevre explained that following the hearing on 23 November, not all of the measures had been carried out due to the need to find personnel and overcome regulatory hurdles, such as planning consent. In addition, one of the investors had pulled out and had had to be replaced. These hurdles had however been overcome, and the change required had been effected. With regards to future proofing, Ms Le Fevre stated that there was permanency of change that had been built in with regards to the change in equipment and the topography of the

Premises. Mr Massie would be permanently present at the Premises, and his reputation was on the line.

28. Ms Le Fevre noted that the issue of the booths and the historic touching were of primary concern to the SEV Licence application, as such entertainment was not authorised pursuant to the premises licence. It was the first time that the premises licence had been brought before the Sub-Committee, and this was a clear distinction that would need to form part of the decision-making on the two separate applications.
29. In response to questions from the Sub-Committee, Mr Massie stated that he had been at the Premises every day, apart from on two occasions where he had been watching the CCTV and on comms. He would continue to be there five nights a week. If in future Mr Massie had to take time out for eg holiday then he would be replaced by a business partner from a different company who is also a personal licence holder of 30 years.
30. In response to questions from the Sub-Committee, Mr Massie stated that a dancer would be dismissed for breaching the code of conduct. A number of dancers had left before Mr Massie joining, and since he had joined two had been dismissed for breaching the 'no touching' rule.
31. In response to questions from the Sub-Committee, Mr Massie stated that he believed the manager of the Premises had been there for about 6-8 months so he had been there for the breaches in January but had been relatively new at that point. In November the manager had been behind the bar working at the Premises but was not a manager. Mr Massie stated that Mr Forde had been wrong and old-fashioned in his attitude. Ms Le Fevre added that Mr Forde had been consistently there and that Mr Venamore had been brought in to resolve issues and under his management things got worse rather than better, which is why he had been removed. Ms Le Fevre stated that rather than characterising this as throwing someone under the bus, it was a correct response to an incorrect piece of employment.
32. In response to questions from the Sub-Committee, Mr Massie explained that the policies that had been developed were normal and needed to prevent the place from falling apart. All the controls were permanent and had been put in place. The staff training policy was also from Mr Massie.
33. In response to questions from the Sub-Committee, Ms Le Fevre confirmed that the investor pulling out was not to do with the poor running of the Premises. Ms Le Fevre added that the redesign of the Premises was seen as a complete package, which was now ready to go. The work with the booths had not taken place as an interim piece of work, had not been done immediately, because the refurbishment was seen as a complete package. Ms Le Fevre stated that it would be unfair to say that this meant the work was not taken seriously; the work was seen as part of a whole rather than hived off and done separately. Ms Le Fevre added that Mr Forde had been the original director of the PLH. In November he was said to be retiring, but it took some time for him to retire and move on because of the need to secure funding. He has now left the Premises.

34. In response to questions from the Sub-Committee as to whether the concerns raised in November 2023 had not been taken seriously, Ms Le Fevre stated that she could not speak for Mr Forde. She was there with the PLH, the new DPS and a condition preventing any involvement of Mr Forde with the Premises.

Summing-Up

35. In summing-up, Mr Rankin stated that the last exchange had brought him concern. The unnamed manager was there initially on instructions for 8 months, and then when the PLH realised what way the wind was blowing this changed to 6-8 months. Mr Rankin submitted that this was indicative of the PLH changing their story to suit their case, which was a source of concern. It is a concern when the PLH promises that they are going to take measures to secure renewal and then do not do them. The Premises had been given multiple chances, and they had run out of chances. Mr Massie by his own admission said that he had had to dismiss two dancers for touching customers. The issue is still going on, and it will continue to go on. Removing the booths was not the 'silver bullet', the problem is endemic and systematic. The time had come for the Sub-Committee to make a firm stand. The PLH had been given every opportunity.

36. In summing-up, Mr Hayes stated that the Sub-Committee had heard all this before about the culture of the Premises changing. The Licensing Authority had not heard enough to change its position and it still felt that based on the history of non-compliance, revocation was the proportionate response.

37. In summing-up, Ms Le Fevre submitted that there was hard evidence that the Premises was now being run by a responsible person and that there had not been any issues for the last four months. Ms Le Fevre repeated that a distinction between the two applications had to be drawn given that the SEV Licence authorised adult entertainment. The Sub-Committee could if minded upgrade the premises licence by adopting model conditions on CCTV. For the SEV revocation application, the operator was not the operator that appeared previously before the Sub-Committee. The change in venue and personnel had been hard-wired and baked into the system. The changes had already been effected, which had never been the case before.

The Sub-Committee's Decision and Reasons

Review Decision

38. Being mindful of the Home Office Guidance, the Act and having carefully considered the review application, the evidence and the representations made by all the parties, both orally and in writing, the Sub-Committee decided that it was appropriate and proportionate in order to promote the licensing objectives to take the following step: -

- To Revoke the Premises Licence of the above Premises.

Reasons

39. The Sub-Committee recognised that the proceedings set out in the Act for reviewing Premises Licences represent a key protection for the community when problems associated with crime and disorder, public safety, public nuisance or the protection of children from harm are occurring. The Act provides the Licensing Authority with a range of powers on determining a review that it may exercise where it considers them appropriate for the promotion of the licensing objectives. In deciding which of these powers to invoke, the Licensing Authority should so far as possible seek to establish the cause or causes of the concerns which the representations identify. The remedial action taken should generally be directed at these causes and should always be no more than an appropriate and proportionate response. Each case has to be determined on its own merits.
40. The Sub-Committee decided that it was appropriate and proportionate for the promotion of the licensing objectives to revoke the licence for the reasons given by the MPS and the Licensing Authority. There was an extensive history of non-compliance with conditions stretching back a number of years, and the Sub-Committee noted that the PLH did not deny that the conditions had been repeatedly breached as alleged. The Sub-Committee considered that the history of the Premises was indicative of a culture of non-compliance. In order for the licensing regime to function and for the licensing objectives to be upheld, it is essential that conditions designed to promote public safety and prevent crime and disorder are followed. The Sub-Committee takes non-compliance with such conditions extremely seriously.
41. The Sub-Committee accepted the point made by the PLH that the 'no touching' rule and the issue of the booths were more relevant to the SEV licence than the Premises Licence. However, the evidence presented by the MPS and the Licensing Authority demonstrated that there had been repeated, persistent breaches of the conditions on the premises licence in addition to breaches of conditions on the SEV licence, most notably in relation to CCTV and the requirement to have two SIA doormen. The Sub-Committee agreed with the central submission made by the MPS and the Licensing Authority that in the face of persistent and repeated non-compliance revocation was the appropriate and proportionate response when repeated warnings and interventions had been ineffective in securing compliance.
42. The Sub-Committee did not consider that alternative options would be sufficient to promote the licensing objectives in these circumstances. The PLH had previously promised that the culture of the Premises would change and that the problems identified would not happen again. These promises had not secured compliance, and previous conditions banning the involvement of certain individuals from participating in the operation of the Premises had been ineffective. The only condition offered, to add Mr Forde's name to the list of individuals banned from being involved with the Premises, was not therefore sufficient to allay the Sub-Committee's concerns.

43. The Sub-Committee also did not consider that the hiring of a new DPS and the implementation of new policies would address the fundamental concerns raised by the MPS and the Licensing Authority. The Premises had been given multiple chances and told multiple times that its operation needed to improve. The PLH had, in the Sub-Committee's view, failed to take these warnings seriously and had continued to operate in blatant breach of numerous conditions, on both the premises licence and the SEV Licence. The PLH had responded in the past by saying that the problems would be addressed via new management (eg by getting rid of Mr Venamore ahead of the hearing on 23 November 2023). That was essentially the response of the PLH to this review application, but the Sub-Committee had no faith that repeating the same process and relying on assurances as to new management would produce a different result. The Sub-Committee agreed with the MPS and the Licensing Authority that in the face of such persistent non-compliance stretching over a period of years, the only suitable and proportionate action to take to address the concerns raised was revocation.
44. In all the circumstances of the case and having carefully considered the application for the full review and the evidence presented by all the parties, both verbally and in writing, the Sub-Committee concluded it was appropriate and proportionate to Revoke the Licence in order to promote the licensing objectives.

The determination of the revocation does not have effect until the end of the period given for appealing against the reasoned decision, or if the decision is appealed against, until the appeal is concluded.

The Applicant for the Review, the Premises Licence Holder and any Party who has made a relevant representation to the review application may appeal against this Decision to Westminster Magistrates Court, 181 Marylebone Road, London, NW1 5BR, within 21 days of receiving this Decision.

The Licensing Sub-Committee
16 May 2024

3. SUNSET STRIP, BASEMENT TO FIRST FLOOR, 30 DEAN STREET, W1D 3SA

WESTMINSTER CITY COUNCIL LICENSING SUB-COMMITTEE NO.6
("The Committee")

Full Decision
Thursday 16 May 2024

Membership: Councillor Maggie Carman (Chair) Councillor Hamza Taouzzale
and Councillor Karen Scarborough

Officer Support: Legal Advisor – Michael Feeney
Policy Officer – Kerry Simpkin
Committee Officer – Katherine Stagg
Presenting Officer – Roxsana Haq

**Application for Revocation of a Sex Establishment Licence for Sunset Strip,
Basement to First Floor, 30 Dean Street, London, W1D 3SA**

List of persons:

Premises Licence Holder

The Premises Licence Holder (PLH) is Sohomead Ltd. Sarah Le Fevre (Counsel), Lana Tricker (LT Law), Alastair Massie (DPS) and Dwight Okechukwu attended on behalf of the PLH.

Metropolitan Police Service ('The Applicant')

PC Steve Muldoon
Counsel: James Rankin

The Licensing Authority

James Hayes

Environmental Health Service

Anil Drayan

Interested Parties

Richard Brown on behalf of the Soho Society.

Gary Grant (Counsel), Alun Thomas (Thomas and Thomas Partners) on behalf of Soho Estates Ltd.

Cumulative Impact Area

West End

Ward

West End

Summary of Application

This is an application for revocation of a Sex Establishment Licence in respect of Sunset Strip, Basement to First Floor, 30 Dean Street, London, W1D 3SA (“the Premises”) under the Licensing Act 2003 (“the Act”). The Premises operates as a Sexual Entertainment Venue and bar in Soho.

The application was submitted on 29 February 2024 by the Licensing Authority on the grounds that the licence holder is unsuitable to hold the licence. A visit was carried out on 17 January 2024 due to an allegation of drink spiking reported to the Police. The Police and Licensing Officer visited the Premises and requested to view the CCTV. Officers observed a number of private dances where physical contact between performers and customers were witnessed.

A copy of the CCTV footage was requested on 17 January but the footage was not downloaded correctly. Therefore, the Police requested another copy which was provided within a few days. The Licensing Authority viewed the CCYV and confirmed breaches of the standard licence conditions.

The visit on 17 January found further breaches and found that despite previous engagement and visits the DPS was unaware of the conditions on their licence and were unaware they were breaching conditions. At the time of the visit CCTV could not be used, there was no personal licence holder on site and there was one SIA registered security staff when there should have been two present.

Activities

The SEV Licence permits the following Relevant Entertainment (namely table dancing and pole dancing involving implied nudity, full and partial nudity):

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Sunday: 09:00 to 23:00

Hearing:

1. The Chair introduced the Members of the Sub-Committee and outlined the procedure to the Parties in attendance. The Chair advised that the Sub-Committee would hear the application along with the Metropolitan Police’s application to review the premises licence in respect of the Premises. The Chair advised that the Sub-Committee recognised that a separate decision would have to be reached on each application and that each application must be determined on its own merits. The parties were invited to make comments in respect of the proposed procedure, and no objections were raised.

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12. Mr Hayes stated that the Licensing Authority supported revocation of the Premises Licence and were the applicant for revocation for the SEV licence. Mr Hayes explained that the premises licence had been held since 2012. Prior to 2023 the premises licence had been held by people who were officers/directors of Sohomead Ltd, so there was an ongoing and consistent link between the PLH now and the historic issues of non-compliance.
13. Mr Hayes advised that the Licensing Authority had not rushed into this at all, but it was the culmination of a long history of concerns raised by the MPS but also the Council's own enforcement officers. Mr Hayes referred to the Council's SEV Policy, which referred to offences committed by the PLH and the operation/management of the Premises. Mr Hayes noted that it was a criminal offence to operate a licence otherwise than in accordance with the licence conditions.
14. Mr Hayes explained that the catalyst for revocation was the visit on 17 January 2024 but that there had been a long history of engagement with the Premises. Mr Hayes then summarised the instances of non-compliance with conditions as set out in the agenda papers, referring to 8 occasions where breaches of conditions had been witnessed between August 2019 and November 2023.
15. At two hearings for renewal of the SEV licence following applications in 2019 and 2023 the Sub-Committee had given serious consideration to refusing the applications on the basis of repeated non-compliance and in those decisions the Sub-Committee deemed it unlikely that the SEV licence would be renewed in future if similar issues were observed. On 17 January when officers visited with the MPS, it was clear that the issues identified had not been resolved, and this was soon afterwards the Sub-Committee had been assured that the issues would be addressed through successful management. There was blatant non-compliance, and every performance witnessed included contact between performers and customers. The Licensing Authority found that no fewer than 7 conditions were not being complied with.
16. Mr Hayes stated that it was essential for Premises to comply with the conditions on their licence and those that fail to do so should face proportionate sanction. Given the history of issues over an extended period of time, revocation was the only clear way in which the pattern of non-compliance could be brought to an end. The Licensing Authority felt that they were in a position where this was the last option available to them. A failure to take proportionate action would fail to promote the licensing objectives and would send a message that in cases of non-compliance a Premises could promise to change management and then be able to continue trading.
17. Finally, Mr Hayes noted in particular that CCTV conditions were crucial for preventing crime and disorder and failure to operate the CCTV as required should be taken very seriously. The 'no touching' conditions were likewise crucial to create a safe working environment for performers to be able to work without experiencing sexual harassment or assault.

18. In response to questions from the Sub-Committee, Mr Hayes stated that the licence had been transferred to Sohomead Ltd in April 2023 and prior to that Mr Forde had been the licence holder. Prior to that Mr Forde and Mr Anthony Curran had been joint licence holders. Mr Forde had been a director of Sohomead Ltd, and the Licensing Authority's view was that the history of non-compliance had continued throughout.

Environmental Health Services

19. Mr Drayan stated that the Premises was not a cause of public nuisance, but based on the evidence provided by the MPS and the Licensing Authority in relation to the crime and disorder and public safety licensing objectives EHS supported the requests for revocation of the licences.

Soho Society

20. Mr Brown stated that the Soho Society essentially supported revocation of the two licences based on the history of non-compliance. The Soho Society did not object to SEVs per se, but that does not give the PLH a free pass to act in the manner set out by the MPS and expect to get away unscathed. There had been breaches in 2019, 2020, 2023 and 2024. There was a gap between 2020 and 2023, but this was during Covid when SEVs were the last category of Premises to reopen. There was a constant pattern of non-compliance and the Soho Society supported the submissions of Mr Rankin in that regard.
21. Mr Brown said that whenever the Premises were visited, breaches were witnessed, and this could not be a coincidence. Mr Brown stated that this was sending a message to other operators that it is ok to repeatedly breach conditions and to make promises without keeping them. Soho relies on people playing by the rules; enforcement resources are precious and when a premises takes up a disproportionate amount of resources then the Premises has to face the appropriate sanction.

Soho Estates Ltd (Landlord)

22. Mr Grant referred to the Landlord's written submissions made at pages 86 and 87 of the Additional Agenda Pack. In summary, Mr Grant stated that the Landlord had no association with the PLH other than being their landlord. The Landlord shared the concerns expressed by the Responsible Authorities, and Mr Grant confirmed that the Landlord would respect whatever assessment the Council made with regards to the premises licence review and SEV licence revocation applications.

PLH

23. Ms Le Fevre referred to the written submissions made by Ms Tricker at pages 130, 134 and 326-330 of the Agenda Pack. Ms Le Fevre referred to the fact that Mr Massie's role as DPS had been confirmed formally at the end of March. No issue was raised with Mr Massie, and his CV was in the papers. Ms Le Fevre

added that Mr Massie was not only the DPS but also a director of Sohomead Ltd, so he was 'baked into' the structure of the licence.

24. Ms Le Fevre stated that there had been a change of cast. When representing the PLH previously she had always been accompanied by Mr Forde, and the PLH was now offering a condition that would prevent Mr Forde and Mr Venamore from being involved in the day to day running of the Premises.
25. Ms Le Fevre stated that neither the PLH nor Mr Massie were there to defend the indefensible, and the findings of the visit on 17 January 2024 fell into that bracket. The assessment for both applications had to be with reference to what was in place at the Premises now. On 23 November one of the measures proposed consisted first of the removal and replacement of Mr Venamore. Mr Venamore as a former Council employee was expected to be an asset but it turned out that he was a liability. That has been done. In addition, work has been carried out at the Premises to update the CCTV system, which was done on 1 March. This was a substantial upgrade which had no blind spots and allowed for remote supervision. On 23 November it was confirmed that every instance of contact had taken place in the vicinity or within the private booths, and that was why it was essential to remove and design out the booth areas. It took longer than it should have to remove the booths, but that was done in early February.
26. Ms Le Fevre advised that the progress and change at the Premises did not stop with Mr Massie's appointment, and there was hard evidence in the papers of root and branch reform of the system, staff and policy. The culture of the Premises had been swept out and replaced. Mark Fulton had carried out an unannounced visit on 28 March and he found no issues at all. Mr Fulton had been recruited to provide a rolling programme of quarterly inspections and these would be available for inspection. Further, on 22 April 2024 the MPS and Licensing Authority had been invited to the Premises to view the new CCTV system. There was no mention of this visit, which showed that no issues of concern were discovered during the course of the inspection. This is the accurate picture of the current situation, which is when the Sub-Committee's assessment would bite.
27. Ms Le Fevre explained that following the hearing on 23 November, not all of the measures had been carried out due to the need to find personnel and overcome regulatory hurdles, such as planning consent. In addition, one of the investors had pulled out and had had to be replaced. These hurdles had however been overcome, and the change required had been effected. With regards to future proofing, Ms Le Fevre stated that there was permanency of change that had been built in with regards to the change in equipment and the topography of the Premises. Mr Massie would be permanently present at the Premises, and his reputation was on the line.
28. Ms Le Fevre noted that the issue of the booths and the historic touching were of primary concern to the SEV Licence application, as such entertainment was not authorised pursuant to the premises licence. It was the first time that the premises licence had been brought before the Sub-Committee, and this was a clear distinction that would need to form part of the decision-making on the two separate applications.

29. In response to questions from the Sub-Committee, Mr Massie stated that he had been at the Premises every day, apart from on two occasions where he had been watching the CCTV and on comms. He would continue to be there five nights a week. If in future Mr Massie had to take time out for eg holiday then he would be replaced by a business partner from a different company who is also a personal licence holder of 30 years.
30. In response to questions from the Sub-Committee, Mr Massie stated that a dancer would be dismissed for breaching the code of conduct. A number of dancers had left before Mr Massie joining, and since he had joined two had been dismissed for breaching the 'no touching' rule.
31. In response to questions from the Sub-Committee, Mr Massie stated that he believed the manager of the Premises had been there for about 6-8 months so he had been there for the breaches in January but had been relatively new at that point. In November the manager had been behind the bar working at the Premises but was not a manager. Mr Massie stated that Mr Forde had been wrong and old-fashioned in his attitude. Ms Le Fevre added that Mr Forde had been consistently there and that Mr Venamore had been brought in to resolve issues and under his management things got worse rather than better, which is why he had been removed. Ms Le Fevre stated that rather than characterising this as throwing someone under the bus, it was a correct response to an incorrect piece of employment.
32. In response to questions from the Sub-Committee, Mr Massie explained that the policies that had been developed were normal and needed to prevent the place from falling apart. All the controls were permanent and had been put in place. The staff training policy was also from Mr Massie.
33. In response to questions from the Sub-Committee, Ms Le Fevre confirmed that the investor pulling out was not to do with the poor running of the Premises. Ms Le Fevre added that the redesign of the Premises was seen as a complete package, which was now ready to go. The work with the booths had not taken place as an interim piece of work, had not been done immediately, because the refurbishment was seen as a complete package. Ms Le Fevre stated that it would be unfair to say that this meant the work was not taken seriously; the work was seen as part of a whole rather than hived off and done separately. Ms Le Fevre added that Mr Forde had been the original director of the PLH. In November he was said to be retiring, but it took some time for him to retire and move on because of the need to secure funding. He has now left the Premises.
34. In response to questions from the Sub-Committee as to whether the concerns raised in November 2023 had not been taken seriously, Ms Le Fevre stated that she could not speak for Mr Forde. She was there with the PLH, the new DPS and a condition preventing any involvement of Mr Forde with the Premises.

Summing-Up

35. In summing-up, Mr Rankin stated that the last exchange had brought him concern. The unnamed manager was there initially on instructions for 8 months, and then when the PLH realised what way the wind was blowing this changed to

6-8 months. Mr Rankin submitted that this was indicative of the PLH changing their story to suit their case, which was a source of concern. It is a concern when the PLH promises that they are going to take measures to secure renewal and then do not do them. The Premises had been given multiple chances, and they had run out of chances. Mr Massie by his own admission said that he had had to dismiss two dancers for touching customers. The issue is still going on, and it will continue to go on. Removing the booths was not the 'silver bullet', the problem is endemic and systematic. The time had come for the Sub-Committee to make a firm stand. The PLH had been given every opportunity.

36. In summing-up, Mr Hayes stated that the Sub-Committee had heard all this before about the culture of the Premises changing. The Licensing Authority had not heard enough to change its position and it still felt that based on the history of non-compliance, revocation was the proportionate response.

37. In summing-up, Ms Le Fevre submitted that there was hard evidence that the Premises was now being run by a responsible person and that there had not been any issues for the last four months. Ms Le Fevre repeated that a distinction between the two applications had to be drawn given that the SEV Licence authorised adult entertainment. The Sub-Committee could if minded upgrade the premises licence by adopting model conditions on CCTV. For the SEV revocation application, the operator was not the operator that appeared previously before the Sub-Committee. The change in venue and personnel had been hard-wired and baked into the system. The changes had already been effected, which had never been the case before.

The Sub-Committee's Decision and Reasons

Decision

38. Having carefully considered the application, the evidence and the representations made by all the parties, both orally and in writing, the Sub-Committee decided to revoke the licence, as the licence holder is unsuitable to hold the licence.

Reasons

39. The Sub-Committee decided that the licence holder was unsuitable to hold the licence for the reasons given by the MPS and the Licensing Authority. There was an extensive history of non-compliance with conditions stretching back a number of years, and the Sub-Committee noted that the PLH did not deny that the conditions had been repeatedly breached as alleged. The Sub-Committee considered that the history of the Premises was indicative of a culture of non-compliance within the PLH. For the SEV licensing regime to function, it is essential that conditions designed to secure the safety and welfare of performers and customers are followed. The Sub-Committee takes non-compliance with these conditions extremely seriously.

40. A recurring theme in particular was the PLH's failure to comply with the 'no touching' rule ever since 2019, and this had been the basis of the MPS and the Licensing Authority objecting to renewal of the SEV Licence in November 2023. The Sub-Committee's decision on that occasion had made it clear that serious

consideration had been given to not renewing the SEV Licence and that the steps proposed by the PLH (including removal of the booths) would need to be taken in order to ensure compliance in the future. However, in the visit to the Premises in January 2024 it was apparent that the works to the booths had not been completed. The Sub-Committee considered that the concerns raised in the decision dated 23 November 2023 had not been taken seriously by the PLH.

41. Removing the booths had been a key component of the measures proposed, and the Sub-Committee did not consider a lack of money to uninstall the booths an excuse for continuing to operate in flagrant breach of conditions on the SEV Licence. The Sub-Committee likewise did not consider it an excuse that the PLH had considered the refurbishment to be a single piece of work and had never considered removing the booths as a separate piece of work. Removing the booths as a way to ensure that the 'no touching' rule was followed was the PLH's own suggestion in order to secure renewal of their SEV Licence. It was for them to implement the works, and they had failed to do so.
42. The Sub-Committee did not consider the measures taken since 17 January 2024 sufficient to allay their fundamental concerns as to the suitability of the licence holder. The Premises had been given multiple opportunities and had been warned multiple times as to the potential consequences of continued non-compliance. Those warnings had been ignored. Previous measures taken by banning the involvement of certain individuals from the running of the Premises had not been effective, and the Sub-Committee did not therefore consider that banning Mr Forde would produce a different result. In fact, Mr Massie had admitted that since he had taken over as DPS he had had to dismiss two dancers for failure to comply with the 'no touching' rule.
43. The PLH stated that there had been no issues identified since January 2024, but this was a short period compared to the years of evidenced non-compliance. In addition, Mr Forde had been a director of Sohomed Ltd, and the Sub-Committee agreed with the Licensing Authority that there was a link between the PLH now and the historic issues of non-compliance. There was reference to at least one unnamed 'manager' who was still employed at the Premises and had been employed in January 2024 and (possibly) November 2023 as well.
44. The Sub-Committee therefore agreed with the Licensing Authority and MPS that a culture of non-compliance was embedded within the PLH, that the measures taken since 17 January 2024 were insufficient to demonstrate the suitability of the PLH and that the only option left to the Sub-Committee was to revoke the SEV Licence.
45. In all the circumstances of the case and having carefully considered the application for revocation and the evidence presented by all the parties, both verbally and in writing, the Sub-Committee concluded that the licence should be revoked, as the licence holder is unsuitable to hold the licence.

The determination of the revocation does not have effect until the end of the period given for appealing against the reasoned decision, or if the decision is appealed against, until the appeal is concluded.

The appeal provisions in Paragraph 27 of Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 apply.

The Licensing Sub-Committee
16 May 2024

The Meeting ended at 1.01 pm