





City of Westminster Licensing Sub-Committee

Meeting:	<i>Licensing Sub-Committee</i>
Date:	<i>12 February 2015</i>
Classification:	<i>General Release</i>
Premises:	<i>Vanity Bar and Nightclub, Basement to First Floor, 4 Carlisle Street, London, W1D 3BJ</i>
Wards Affected:	<i>West End, Core CAZ North</i>
Financial Summary:	<i>None</i>
Report of:	<i>Operational Director for Premises Management</i>

1. Executive Summary

- 1.1 The council has received an application for renewal of the sexual entertainment venue premises licence from Nags Head Limited for Vanity Bar and Nightclub, Basement to First Floor, 4 Carlisle Street, London, W1D 3BJ. The report sets out the application details, objections, policy and legal context along with other considerations that the Committee requires to determine this application.

2. Options

- 2.1 That following consideration of the information given orally at the hearing and in writing by the applicants and objectors the Sub Committee may:
- 2.1.1 Grant the application in full
 - 2.1.2 Grant with additional special conditions which the Licensing Sub-Committee deem appropriate; or
 - 2.1.3 Refuse the application.

3. Application

- 3.1 On the 12th December 2014 the applicant applied to renew the sexual entertainment venue premises licence to provide striptease, including full nudity between the hours of 09:00 to 03:00 on each of the days Monday to Saturday and 09:00 to 23:00 on Sunday. The applicant has not requested change the

relevant entertainment or to remove any standard conditions to the licence if the application is granted. A copy of the application is attached as Appendix A1.

- 3.2 On the 18th December 2014 an application to vary the sexual entertainment licence and premises licence was determined by the Licensing Sub Committee. A copy of the decision is attached as Appendix D.

4. Objections

- 4.1 The application has received three (3) objections (attached as Appendix B1 to Appendix B3).

- 4.2 Objection 1 is from the Soho Society (Appendix B1). The Soho Society highlights that, although the SEV licence was recently varied to extend the hours and expand the licensable activities from the basement to all three floors, the premises has not yet operated as such and residents' concerns remain that the operation will impact on the licensing objectives. Their objection states:

- The use of all three floors for entertainment and dancing will draw potential customers until 3am, causing more activity, noise and potential crime in a residential street, thereby impacting on crime and disorder;
- The street consists of domestic residences and sound created by the premises will likely disturb residents, impacting on public nuisance;
- Residents remain concerned that the operation of the premises will not improve the character and function of the city or areas of it. They dispute the applicant's claim that the venue will attract those seeking entertainment rather than seeking the consumption of alcohol as a major part of their night out.
- The building itself is, in parts, centuries old and was not designed as an entertainment venue. Carlisle Street is a rare, quiet pocket of Soho and the operation of this venue threatens this nature of the area.
- Concerns remain regarding the effective dispersal of customers both from the premises and the locality.

- 4.3 Objection 2 is from a local resident which states that this location is the wrong place for striptease entertainment which will have an impact on police time and public nuisance that the clientele will bring (see Appendix B2). Previously, the SEV licence was held at the premises but not in use, whereas current plans for the operation of a SEV premises have given rise to concerns.

- 4.4 Objection 3 is from Alice Dugdale, a local resident (see Appendix B3). Ms Dugdale states that:

- Carlisle Street is a quiet cul-de-sac with only pedestrian access at the far end, off the main thoroughfares of Dean Street and Old Compton Street. Prior to the opening of Vanity Bar, the street was quiet by midnight enabling residents to sleep easily even with windows open. Ms Dugdale fears a return to the levels of noise nuisance from previous operators at the premises.
 - Although the premises is not yet in operation, there are concerns that the proposed style of operation will not be a discreet, low capacity SEV premises. The residential density of the area is significant and will increase in the coming years with substantial housing becoming available above the Dean Street Ticket Hall for Crossrail. In addition, Crossrail will increase footfall to the area and the operation of this premises will impact visitors to the area.
 - The building itself is inappropriate and provides poor sound insulation to prevent nuisance to neighbouring residents. Given the recent extension of hours until 3am, Ms Dugdale fears this operation will impact on sleep during the night.
 - External noise created by customers visiting or leaving the premises is also a concern. Efforts by previous occupiers have been ineffective and this premises will add to the current external noise levels created by the Nelly Dean pub.
 - Ms Dugdale points out that during 2014, when the premises was not in operation, the presence of anti-social behaviour, including fights and drug dealers which residents had experienced while the bar was in operation, was non-existent.
- 4.5 On the 5th February 2015 Richard Brown provided further submissions on behalf of Mr Gleeson and Ms Dugdale. Attached as Appendix B4. The email attached a Court of Appeal decision in Thompson v Oxford City Council. The email also asks Members to consider a 6 month grant.

5. Licensing Act 2003 Premises Licence

- 5.1 The table below sets out the current activities and times permitted by the premises licence.
- 5.2 A copy of the current Premises Licence is attached to this report as Appendix C1.
- 5.3 A copy of the proposed Sexual Entertainment Venue Licence is attached at Appendix C2.

Existing Premises Licence (14/06652/LIPV) permitted Licensable Activities

Performance of Dance

Performance of Live Music

Provision of facilities for Dancing

Anything of a similar description to Live Music, Recorded music or Performance of Dance

Monday to Thursday: 09:00 to 23:30

Friday to Saturday: 09:00 to 02:00

Sunday 09:00 to 23:00

Playing of Recorded Music

Unrestricted

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

Unrestricted

Late Night Refreshment: Indoors

Monday to Saturday 23:00 to 03:30

Sunday 23:00 to 01:00

Sale of Alcohol: On the premises

Monday to Saturday 10:00 to 03:00

Sunday 12:00 to 00:30

Non Standard Timings/Seasonal Variations

Alcohol may be sold or supplied 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, midnight on 31st December).

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

Capacity:

Basement – 70

Ground Floor – 80

First Floor – 25

Opening hours:

Monday to Saturday 09:00 to 03:30

Sunday 09:00 to 01:00

6. Policy Considerations

6.1 Suitability of applicant – SU1

The applicant has stated that no relevant offences have been committed. In addition the Police and the Council's Licensing Inspectorate have carried out fit and proper persons checks and have not made any representations to the application.

6.2 SEV carried on for the benefit of another person – SU2

The Police and the Council's Licensing Inspectorate have undertaken appropriate checks and have made no comments.

6.3 Appropriate number of SEV in a locality – NO1

The appropriate number of sexual entertainment venues in the relevant localities is 25 in the Westminster core CAZ north. As the premises are currently licensed this application, if granted, will not exceed 25.

6.4 Character of the relevant locality – LO1

Carlisle Street is a small cul-de-sac with little or no vehicle traffic.

6.5 Use of premises in the vicinity – LO2

The main use of the premises in the immediate vicinity is residential with a few licensed premises (Licensing Act 2003). There are no other SEV premises, schools or places of worship within a 100 metre radius of the premises (see maps at Appendix E).

7. Legal Implications

7.1 The Licensing Sub-Committee may determine to:

- (a) Grant the application in full
- (b) Grant with additional special conditions which the Licensing Sub-Committee deem appropriate; or
- (b) Refuse the application.

7.2 Before refusing to grant a licence to the applicant, the Licensing Authority shall give the applicant an opportunity to appear before and of being heard by the Licensing Sub-Committee (Para 10(19) Schedule 3 LG(MP)A1982).

7.3 In considering this application, the Licensing Sub-Committee shall have regard to any observations submitted to them by the Chief Officer of Police and any

objections that have been received in writing within the 28 day consultation period (Para 10(18) Schedule 3 LG(MP)A1982).

7.4 The Licensing Sub-Committee may refuse to grant a licence for the following reasons:

- (a) that the applicant is unsuitable to hold a licence by reason of having been convicted of an offence or for any other reason;
- (b) that if the licence were to be granted the business to which it relates would be managed by or carried on for the benefit of a person, other than the applicant, who would be refused the grant of such a licence if he made the application himself;
- (c) that the number of Sexual Entertainment Venues in Westminster at the time the application is determined is equal to or exceeds the number which the authority consider is appropriate for that locality. This number, as specified in the Sexual Entertainment Venues Statement of Licensing Policy 2012, is currently set at 25;
- (d) that the renewal of the licence would be inappropriate, having regard to:
 - (i) the character of the relevant locality;
 - (ii) the use to which any premises in the vicinity are put;
 - (iii) the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made. (Para 12(3) Schedule 3 LG(MP)A1982)

7.5 If the Licensing Sub-Committee determine to grant a Sexual Entertainment Venue licence, the licence will be subject to the Standard Conditions for Sexual Entertainment Venue licences, unless the Sub-Committee determines that certain Standard Conditions should be expressly excluded or varied (Para 13(4) Schedule 3 LG(MP)A1982).

7.6 Should the Licensing Sub-Committee determine to refuse the application for the grant of a licence under Paragraph 12(3)(a) or (b) Schedule 3 LG(MP)A 1982, the applicant may appeal to the Magistrates' Court within 21 days beginning with the date on which the applicant is notified of the refusal of his application (Para 27(1) Schedule 3 LG(MP)A1982).

8. Human Rights Act and Equalities Act

8.1 In making a decision consideration will need to be given to the applicants rights under the European Convention on Human Rights. The right to peaceful enjoyment of possessions (Article 1 of the First Protocol) and freedom of expression (Article 10) may be relevant. The Home Office Guidance suggests that "local authorities would be well advised to consider whether any interference with the applicants rights under Article 10 or Article 1, Protocol 1 of the European Convention on Human Rights is necessary and proportionate for the prevention of disorder or crime, for the protection of health or morals or for the protection of

the rights and freedoms of other, or in the case of Article 1, Protocol 1, can be justified in the general interest”.

Appendices

- A1 – Application Form
- B1 – Objection 1 on behalf of the Soho Society
- B2 – Objector 2
- B3 – Objection 3 from Ms Alice Dugdale
- B4 – Further submissions from Soho Society and Ms Dugdale
- C1 – Current Licensing Act 2003 Premises Licence
- C2 – Proposed Sexual Entertainment Licence
- D – Minutes of the 18th December 2014
- E – Premises in the vicinity
- F – Photographs of the premises

If you have any queries about this Report or wish to inspect any of the Background Papers please contact: Steve Rowe on 020 7641 7825 or at srowe@westminster.gov.uk

BACKGROUND PAPERS

- Local Government (Miscellaneous Provisions) Act 1982
- Policing and Crime Act 2009
- Sexual Entertainment Venues Statement of Licensing Policy 2012
- Sexual Entertainment Venues Guidance and Procedure effective 17 February 2012



City of Westminster



APPLICATION TO RENEW A SEXUAL ENTERTAINMENT VENUE LICENCE

IMPORTANT: This form is open to inspection by the public.

I / We **Nags Head Limited**.....
(Insert name(s) of applicant)

apply to renew the Sexual Entertainment Venue licence under the Local Government (Miscellaneous Provisions) Act 1982 for the following premises:

Premises name: **Vanity Bar and Nightclub**.....

Premises address: **Basement to First Floor, 4 Carlisle Street, London W1D 3BJ** .

Licence reference number: **14/01806/LISEVT**.....

Important Note: Before completing this application, please read the following:

- WCC's Statement of Licensing Policy for Sexual Entertainment Venues
- WCC's Standard Conditions for Sexual Entertainment Venues
- WCC's Rules of Procedure governing Sexual Entertainment Venue applications

PART 1 – Applicant Details

Please state whether you are renewing the Sexual Entertainment Venue licence as:

a) an individual or individuals complete section (A)

b) a person other than an individual:

i. as a body corporate complete section (B)

ii. as an unincorporated body complete section (B)

Section A – Individual Licensee Details

First name(s):	
Surname:	
Former names (if any):	
Title:	
Home address:	
Postcode:	
Email address:	
Contact telephone number:	
Date of Birth:	
Have you been a resident of an EEA state throughout the period of 6 months immediately preceding the date the application was made?	Yes <input type="checkbox"/> No <input type="checkbox"/>

Additional Licensee Details (if necessary)

First name(s):	
Surname:	
Former names (if any):	
Title:	
Home address:	
Postcode:	
Email address:	
Contact telephone number:	
Date of Birth:	
Have you been a resident of an EEA state throughout the period of 6 months immediately preceding the date the application was made?	Yes <input type="checkbox"/> No <input type="checkbox"/>

Section B – Body Corporate or Unincorporated Body Details

Business Name: (if your business is registered, use its registered name)	Nags Head Limited
Is your business registered in the UK with Companies House?	Yes <input checked="" type="checkbox"/> Registered Number: 6251735
	No <input type="checkbox"/>
Is your business registered in another EEA state:	Yes <input type="checkbox"/> EEA State: Registered Number:
	No <input type="checkbox"/>
Legal Status: (e.g. Company Partnership, etc)	Company
Home Country: (the country where the headquarters of your business is located)	England/UK
Registered Address:	Nags Head Limited 17-19 Whitechapel Road London
Postcode:	E1 1DU
Directors, Partners, Owners and Managers	
You must provide details of all DIRECTORS (if the applicant is a company), all PARTNERS (if it is a partnership), and all MANAGERS of the business or organisation, including day-to-day MANAGERS OF THE PREMISES.	
Have there been any changes to the directors, partners or managers involved with the premises?	Yes <input type="checkbox"/> (please see below) No <input checked="" type="checkbox"/>
If yes, please provide details of the changes on a separate sheet, including the full name, private address and capacity of each director, partner and manager involved with the operation of the premises.	

Other Business Interests

Is the applicant, or any person named in this application, involved in any way with any other sex establishment (e.g. sexual entertainment venue, sex shop, sex cinema, hostess bar)?

Yes (please complete below) No

Please provide details, including the name and address of the establishment and the nature and extent of the interest. (If necessary please provide a separate sheet).

Owner, The Nags Head, 17-19 Whitechapel Road, London E1 1DU

PART 2 – Premises Details

Premises name:	Vanity Bar
Premises address:	4 Carlisle Street London
Postcode:	W1D 3BJ
Premises telephone number:	c/o 0207 339 7000
Email:	ajc@jgrlaw.co.uk
Website address:	
Where the licence is for a vehicle, vessel or stall, state where it is used as a sexual entertainment venue:	
Have there been any changes to the nature of the relevant entertainment since the licence was last granted / renewed?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> If yes, please provide details below.
Note variation application outstanding at date of application	

PART 3 – Convictions / Disqualifications

Have you, or any person named in or associated with this application, been convicted of any crime or offence?	
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
If yes, please provide details on a separate sheet	
Have you been refused the renewal of a licence for this premises, vehicle, vessel or stall within the last 12 months?	
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
If yes, has the refusal been reversed on appeal?	
Yes <input type="checkbox"/>	No <input type="checkbox"/>
Have you had a sex establishment licence revoked in Westminster within the last 12 months?	
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>

PART 4 - Checklist

Please tick as appropriate:

All relevant sections of the application form have been completed in full	<input checked="" type="checkbox"/>
Payment of the fee has been made in full (refer to Part 6 of this form)	<input checked="" type="checkbox"/>
Notice of this application has been published in a local newspaper / will be published in a local newspaper within the next 7 days, a full copy of the newspaper to be provided to the Licensing Authority as soon as possible	<input checked="" type="checkbox"/>
Notice of this application has been displayed at the premises	<input checked="" type="checkbox"/>
The application has been served on the Metropolitan Police Service	<input checked="" type="checkbox"/>

PART 5 - Declaration

APPLICANTS ARE WARNED THAT ANY PERSON WHO, IN CONNECTION WITH AN APPLICATION FOR THE RENEWAL OF A LICENCE MAKES A FALSE STATEMENT WHICH HE KNOWS TO BE FALSE IN ANY MATERIAL RESPECT, OR WHICH HE DOES NOT BELIEVE TO BE TRUE, IS GUILTY OF AN OFFENCE AND LIABLE ON SUMMARY CONVICTION TO A FINE NOT EXCEEDING TWENTY THOUSAND POUNDS (£20,000).

I declare that the information given above is true and complete in every respect.

Signed	<i>Jeffrey Green Russell Ltd.</i>
Date:	<i>12. 21. 14</i>
Capacity:	Solicitors and authorised agents

For joint applications:

Signed	
Date:	
Capacity:	

Agent Details

Are you an authorised agent acting on behalf of the applicant?

Yes No

If yes, please provide the following:

Agent name:	Jeffrey Green Russell Limited
Agent Address:	Waverley House 7-12 Noel Street London
Postcode:	W1F 8GQ
Agent Telephone Number:	02073397000
Agent Email:	aic@jgrlaw.co.uk

Correspondence Details

Please provide the details to which all correspondence should be sent:

Name:	Jeffrey Green Russell Limited, FAO Licensing
Address:	Waverley House 7-12 Noel Street London
Postcode:	W1F 8GQ
Telephone Number:	020 7339 7296
Email:	ajc@jgrlaw.co.uk

PART 6 – Payment

If applying by post you can pay by cheque, postal order or credit / debit card. Please make cheques and postal orders payable to 'City of Westminster'.

If you would like to pay by credit / debit card please complete this section:

Type of credit / debit card:	Visa <input checked="" type="checkbox"/>					MasterCard <input type="checkbox"/>										
	Solo <input type="checkbox"/>					Maestro <input type="checkbox"/>					Delta <input type="checkbox"/>					
Card number:	4	7	5	7	5	1	0	0	0	3	7	3	3	2	6	3
Issue date:	0	9	/	1	3	(mm/yy)										
Expiry date:	0	9	/	1	6	(mm/yy)										
Issue number:	(for Maestro / Solo)															
Name on card:	MANPAL SINGH															
Amount (£):	3863.00															

THIS APPLICATION SHOULD BE COMPLETED IN FULL AND RETURNED TO THE LICENSING SERVICE, PREMISES MANAGEMENT, WESTMINSTER CITY HALL, 64 VICTORIA STREET, LONDON, SW1E 6QP.

Nelson, Nicholas

From: David Gleeson [dgleeson@live.co.uk]
Sent: 08 January 2015 17:14
To: General Licensing; Premises Licensing
Cc: Gary Hayes; John Raynham; Margaret Bloomer; Marina Tempia; Richard Utting; Richard Brown; Steve Chambers
Subject: Objection: 14/11173/LISEVR - Vanity, 4 Carlisle Street, Soho W1D 3BJ

Follow Up Flag: Follow up
Flag Status: Completed

Objections
Westminster Licensing Service
4th Floor (West) City Hall
64 Victoria Street
London SW1E 6QP

This supersedes the Soho Society representation which was submitted earlier today

08 January 2015

Dear Sir/Madam

Ref: 14/11173/LISEVR – Vanity Bar and Nightclub, Basement to first floor, 4 Carlisle Street, London W1D 3BJ

Application to renew SEV licence - I write to object under para 8(15) of Sched 3 to the Local Government (Miscellaneous Provisions) Act 1982 (as amended) to the above application on behalf of the Soho Society.

The Soho Society is a charitable company limited by guarantee established in 1972. The Society is a recognised amenity society and was formed to make Soho a better place to live, work or visit by preserving and enhancing the area's existing diversity of character and uses, and by improving its facilities, amenities and environment. In particular, the Society supports the City Council's policies, including the cumulative impact policy, as set out in the Statement of Licensing Policy and the SEV Statement of Licensing Policy.

The Society objects to this renewal application on the grounds that:

1. It is contrary to the aims and objectives of the City Council's SEV Statement of Licensing Policy 2012 (para 1.7), particularly i) prevention of crime and disorder ii) prevention of public nuisance and iii) promoting improvement in the character and function of the city, or areas of it.

2. The variation would be inappropriate, having regard to the character of the relevant locality, and to the use to which other premises in the vicinity are put.

Prevention of crime and disorder – to use all three floors for entertainment and dancing will undoubtedly establish the premises as an attraction and draw potential customers until the venue is closed (3am), thereby causing more activity, noise and potential crime in this residential street.

Prevention of public nuisance – the space immediately above the premises – as well as other parts of this small street - consists of domestic residencies and the sound created by music in such a venue will undoubtedly disturb the occupants. Carlisle Street is a very small cul-de-sac with the Nadler Hotel at the end: it is also likely that a sexual entertainment venue spread over three floors and just yards from the main entrance and open until very late will have an adverse effect on this boutique hotel's business.

Promoting improvement in the character and function of the city, or areas of it – due to the comments above, we cannot see how this application would, if granted, promote such improvement. Although the recent application to vary the SEV licence to seek a later hour for relevant entertainment and to remove condition 25 which limited it to the basement only was granted, the premises has not yet operated and residents' concerns remain. The variation application stated that 'this application will facilitate the premises in attracting a clientele seeking out entertainment rather than seeing the consumption of alcohol as a major part of their night out.' This remains highly debatable.

2. 2. The variation would be inappropriate, having regard to the character of the relevant locality, and to the use to which other premises in the vicinity are put- there is significant residential accommodation in the vicinity of the premises, including directly above. We were disappointed that the Council granted the recent application to vary the SEV licence to all floors. Accordingly, and notwithstanding the recent grant of the variation, we feel that to grant this renewal application would be inappropriate. Case law in the higher courts confirms that the licensing authority is entitled to look at the matter afresh and to come to a different view (*R (Thompson) v Oxford City Council* [2014] EWCA Civ 94). We are aware that individual residents have made their own objections, and we support these. The building in question is, in parts, centuries old and was originally built as living accommodation so the building itself is arguably completely unsuited for the purpose the applicants are intending. Carlisle Street, although in the stress area, is situated in one of the rare, quiet pockets of Soho and having such a venue open until late in the night will disturb the general, harmonious peace which residents and businesses have carefully negotiated over the years.

Policy 2.5.7 further states that 'The effective dispersal of customers both from the premises and their locality is regarded by the council as a key principle of its policy to promote the policy aims and objectives.'

I confirm that I do not wish to exercise my right to anonymity under the Act.

I look forward to being kept up to date with developments.

Yours faithfully,

David Gleeson

Licensing Chair, The Soho Society
55 Dean Street
Soho
London W1D 6AF

Please see below an objection to this application from a resident who has asked me to forward his objection to the Council.

Regards,

Richard

Richard Brown

Licensing Advice Project
Westminster Citizens Advice Bureau
21a Conduit Place, London W2 1HS

www.licensingadvice.org

T: 020 7706 6029

F: 020 7706 6039

E: licensing@westminstercab.org.uk

From: [REDACTED]
Sent: 07 January 2015 19:40
To: [REDACTED]
Cc: [REDACTED]
Subject: Re: FW: Vanity

Richard

I will be grateful if you will make my objection known to the licensing authority on the SEV for the premises to be heard on 8th January.

My interest in this application is relevant [REDACTED] SEV licence for the "Doll's House Striptease and Nude Revue" lapse. On the grounds that even then the all male, desperate and grungy clientele damaged the ambience. It was far from the socially crunchy image of the Soho of Lucian Freud and Francis Bacon. [REDACTED] the occupier of the basement, ground floor and 1st floor rear on certain covenants about the hours of opening and permitted activities. Over the 27 years since these covenants have been discarded by successive freeholders and the standard rights of enjoyments of the residents have been infringed. [REDACTED]

This objection is consistent with the last renewal [REDACTED]. It was significant that on that occasion the applicant requested that it be approved because they had no intention of operating the venue for the sexual entertainment, but simply wished to keep the permission alive as an asset of the premises. Accordingly my objection on the grounds that at this address the SE licence would be inappropriate because of; public nuisance, prevention of crime, protection of children, was overcome. If the applicant did not operate the premises no harm could be done. Indeed. This applicant wants to use the permission for live display and all the overruled objections come back into play.

[REDACTED] In 1986 WCC informed me that it was so far to the north of the licensed SEV's that there was no chance of its being used for that purpose in the future. I was wrong as WCC has permitted the spread of SEV's right through the once desirable neighbourhood.

I object to the application to renew because this street is the wrong place for striptease and because a civilised society should not have to bear the cost in police time and public nuisance that the clientele will bring to the neighbourhood.

There is an incidental minor point that the applicant's operating licence which was approved on 18th December included a condition that the strippers should have a dedicated smoking area away from the street in order, presumably, to prevent them soliciting for prostitution. The designated area was the roof terrace behind flat 2. That terrace is demised to flat 2 by the lease dated 1987 [REDACTED]

[REDACTED]

[REDACTED]

Nelson, Nicholas

From: Alice Dugdale [alice.dugdale@btinternet.com]
Sent: 07 January 2015 20:34
To: General Licensing
Subject: Licence Renewal for Vanity Bar 14/11173/LISEVR
Attachments: objection to renewal final.docx

Follow Up Flag: Follow up
Flag Status: Completed

Dear Mr Rowe,

I attach my objection to the renewal of the above licence.

As it is obvious in my objection that I live above the premises, I waive my right to anonymity.

Yours sincerely,

Alice Dugdale

14/11173/LISEVR

I am writing to object to the renewal of the above Sexual Entertainment Licence for Vanity Bar. I am objecting on the grounds that:

- The grant would be inappropriate, having regard i) to the character of the relevant locality; ii) to the use to which any premises in the vicinity are put; iii) to the layout, character or condition of the premises.

- The grant would not promote the 'licensing objectives' (prevention of public nuisance, prevention of crime and disorder, public safety, protection of children from harm). Promotion of the licensing objectives is one of the aims of the Council's SEV Policy.

- The grant would not promote improvement in the 'character and function of the city, or parts of it.' This is another aim of the Council's SEV Policy.

Background

The character of the street in which Vanity Bar intends to operate has changed noticeably over recent years. When I bought my flat in 1986/7, the previous use of the building had indeed been a strip club, with the rooms above used for storage and occasional overnight stays by the women who worked there but crucially the property was all in single ownership so there was no real conflict of use between different areas of the building. When my neighbour, Hugh Matheson, acquired the building, he applied for change of use and the building was zoned for restaurant use with residential above. When he sold the building on it was to someone who said they were going to run something like a tapas bar but once they owned it they applied for and were granted a late licence and all the troubles began as there were now three independently owned flats above a premises with a late night licence

Carlisle Street and 'appropriateness'

Since the 1980's Soho and Carlisle Street has changed considerably, and this change continues apace, as will be seen below Carlisle Street is a quiet cul-de-sac with only pedestrian access at the far end, off the main thoroughfares of Dean Street and Old Compton Street. During 2014 as Vanity Bar was not open, by midnight the street was quiet and you could sleep easily even with your windows open. Given what residents have suffered over many years, this was welcome relief, and reflects the balance that should exist between the entirely legitimate aims of business, and the equally legitimate desire of residents to have an uninterrupted sleep at night time. This was a desire which was frequently frustrated by the operation of this premises in the past, and I fear will be so again if the renewal of the SEV licence is granted and the applicant is able to operate the entire premises as a 'strip club' with loud music

on all floors. This is in contrast to its former use which, although problematic, did not bring with it the problems that can occur with the operation of a strip club, problems which are recognised in the Council's Statement of Licensing Policy for SEVs.

It is unclear exactly how the premises proposes to operate as it has not yet opened at the time of writing. However, the view which was espoused at the hearing of the variation application that SEV premises cause less crime, disorder and nuisance is one that should not be applied with a broad brush. I am not in a position to say whether, empirically, this is the case or not, but I can see how, perhaps, a quiet, discreet, low capacity SEV premises not located under residential premises could be seen in this way. From what we have seen, Vanity will be none of these things.

There are an increasing number of residential premises in the street (above the Nelly Dean pub, 3 flats above Vanity bar, No 5 next door is residential above the hair dresser, the Nadler hotel at the end of the street is a boutique hotel popular with families visiting Westminster, a home opposite no.4 and another residence on the corner of Carlisle and Dean Street. The residential element of the area will be changing further over the next few years with a substantial housing becoming available above the Dean Street Ticket Hall for Cross Rail. Crossrail itself will bring increased footfall to this end of Soho as they exit the Crossrail station, and visitors' first impression of Westminster is very important.

I understand that one of the aims of the Council's SEV policy is to improve the 'character and function of the city' and I fail to see how adding a strip tease and lap dancing club of this type is improving either the character or the function of Carlisle Street, let alone Soho. Although the Candy Bar had a SEV licence, it only applied in the basement and was in fact rarely used at all. We were disappointed that the Council granted the recent application to vary the SEV licence to all floors.

Accordingly, and notwithstanding the recent grant of the variation, I feel that the grant would be inappropriate having regard to the character of the relevant locality; ii) to the use to which any premises in the vicinity are put. Case law in the higher courts confirms that the licensing authority is entitled to look at the matter afresh and to come to a different view (*R (Thompson) v Oxford City Council* [2014] EWCA Civ 94).

The layout, character and condition of the premises, and the licensing objectives

The building itself no. 4 Carlisle Street is inappropriate for this particular use as the applicant proposes to have music and dancing on all 3 floors of the premises. Previously, loud music was restricted to the basement. It is not suited to the use for club or bar as sound is easily transmitted through the building due to the history of the structure. It was built in the 1680's by a speculative builder. It was standard practice at the time to use cheap, badly-made and under fired bricks for all concealed work even if it was structurally important. The facades were not always properly bonded into the rest of the structure. This was a quick cheap build. The problem is further compounded by 300 years of alterations, changes of use and the fitting and

re-fitting of services. The drilling of timbers and the creation of voids for pipes, wires and ducts has resulted in a honeycomb of paths for the transmittance of sound through the structure. The applicant should have been aware of this.

The Council's key aims in its Statement of Licensing Policy for SEVs include promoting its licensing objectives including the prevention of public nuisance but the residents of No. 4 Carlisle Street have suffered for many years from nuisance from noise both inside and outside their homes. The different style of operation could lead to these problems reoccurring or becoming worse than before.

My bedroom is on the 3rd floor and dance music from the basement was clearly audible there until Westminster Council enforced a condition that dance music should only be in the basement and insisted that the previous tenant incorporated high class quality insulation to protect the residents. But it had taken 20 years of problems with noise, supposedly controlled by sound limiters, to get to that stage, hugely supported by Ian Watson of the Noise Prevention Team. You can still occasionally hear music from the basement but nothing on the previous scale. Ambient music was allowed in the Ground Floor bar and on the Mezzanine floor. On the whole this has worked very well. Dance music by its nature has an insistent beat and this was transmitted through the structure and it is virtually impossible to sleep once the beat gets into your brain.

My concern is that if the 'relevant entertainment' dancing is no longer confined just to the well-insulated basement but to the two other floors where there is no sound insulation, we could be back to the bad old days of spending nights awake until the earlier hours of the morning. The club has a licence to 3am and I am up for work between 6 and 7am so it does not allow much chance for a good night sleep.

The other major nuisance problem has also been the external noise from customers to the club hanging around outside talking, smoking, waiting for cabs. Previous clubs have employed CCTV cameras and door staff, which did nothing to diminish the problem, in some cases they added to the problem. The clientele for lap dancing and strip tease bars would also be different from the usual bar goers in Soho. There is already a problem with people from the Nelly Dean (owned by the same company) hanging round the door to the flats and this would compound the issue.

There is a further public nuisance problem as well as public safety and crime and disorder issues in that people hanging around late night establishments are often a magnet for other late night people. When the bar has been open it has attracted both late night party goers and homeless people cadging cigarettes and then they set up on the door steps of the houses opposite, calling across to people outside the bar, drinking and singing. This has led to fights and also the presence of the drug dealers. None of which would be taken as an improvement in the character and function of the street. During 2014 when the bar was closed we had none of these problems.

To sum up I do not see how granting a renewal to Vanity is appropriate, or will meet the Council's aims for their SEV policy by neither improving the character or

function of the street or by meeting the aims of their Licensing Objectives as it seems there is a likelihood of Public Nuisance, Public Safety and Crime and Disorder .

Rowe, Steven

From: Richard Brown [licensing@westminstercab.org.uk]
Sent: 05 February 2015 10:44
To: Rowe, Steven
Subject: FW: Vanity - 14/11173/LISEVR
Attachments: Thompson judgment.pdf

Dear Steve,

I write on behalf of Alice Dugdale and the Soho Society, both objectors to the renewal application. Both have waived their right to anonymity. They wish to raise the following points in advance of the hearing.

I attach the Court of appeal decision in Thompson v Oxford City Council, to which I may wish to refer at the hearing in the context of two important points which the decision emphasised:

1. Confirming the wide discretion afforded to the licensing authority in determining SEV applications, notwithstanding that a different Sub-Committee may have previously considered an application and come to a different conclusion. The wide discretion as to what is considered 'appropriate' was conferred deliberately by Parliament when the SEV regime was brought under the ambit of Local Government (Miscellaneous Provisions) Act 1982 and has been confirmed by case law including the Thompson judgment (e.g. KVP Limited v South Bucks DC).
2. That the licensing authority is entitled to take into account not only the locality in which the premises is situated but also future changes to the locality, when considering the 'character of the relevant locality' under Para 12(3)(d)(i) of Sched 3 Local Government (Miscellaneous Provisions) Act 1982. It is quite a lengthy judgment, but the discussion on this point is at paras 46-52. The locality is addressed in the objections.

Notwithstanding the above, Mrs Dugdale and the Soho Society appreciate that a variation application was granted recently which extended the ambit of the SEV to the entire premises, rather than the basement only. The premises has not yet opened under the licence. As such, should the Sub-Committee be minded to grant the renewal application, my clients ask that the Sub-Committee take into consideration the following points:

1. To grant the renewal for a period shorter than 12 months. A renewal application can be granted for a maximum of 12 months, or a lesser period. We would suggest 6 months, for the following reasons:

- Although there has been an SEV (or its predecessor) licence in place at the premises for a number of years, the licence was limited to the basement and was, we are instructed, seldom used in any event. Therefore the variation application granted in December 2014 to permit sexual entertainment throughout the entire premises, and the intention to operate a lap-dancing club there, is tantamount in its effect to an entirely new licence.
- The premises has not yet opened. Therefore, there has been no opportunity to test whether the residents' serious and continued misgivings about the SEV licence have materialised in fact. There is no right of review for residents under the 1982 Act, and residents' opportunity to have concerns addressed is limited to renewal applications, to which they are entitled to object. A 6 month renewal will allow for the effect of the operation of the premises to be tested, and will give the Applicant an opportunity to demonstrate to residents that he will work with residents and that the club will operate in a manner which does not impact on the licensing objectives, but will allow the residents to raise any continuing objections after 6 months rather than 12 months.
- As far as we are aware, the Applicant has no track record of operating late night SEV premises in Westminster.
- We should be grateful for confirmation from the Applicant as to whether he has a track record of operating late night premises directly underneath residential accommodation.

2. That a condition be added to restrict the number of smokers permitted outside at any one time to 4.

3. That condition 35 of the current SEV licence be amended to stipulate that at least one SIA doorman must be present at the entrance to the premises when it is open for business, until 30 minutes after the premises closes.

I should be extremely grateful if this additional submission could be included in the Report to Sub-Committee.

Kind regards,

Richard

Richard Brown

Licensing Advice Project
Westminster Citizens Advice Bureau
21a Conduit Place, London W2 1HS

www.licensingadvice.org



Westminster

Citizens
Advice
Bureau

T: 020 7706 6029
F: 020 7706 6039
E: licensing@westminstercab.org.uk

From: Richard Brown [mailto:licensing@westminstercab.org.uk]

Sent: 26 January 2015 15:50

To: srowe@westminster.gov.uk

Cc: 'David Gleeson'

Subject: Vanity - 14/11173/LISEVR

Hi Steve,

Hope you are well.

Just to let you know that I have been asked to represent the Soho Society at the renewal hearing. David Gleeson is not able to attend. There may be others – I will let you know in due course.

Kind regards,

Richard

Richard Brown

Licensing Advice Project
Westminster Citizens Advice Bureau
21a Conduit Place, London W2 1HS

www.licensingadvice.org



Westminster

Citizens
Advice
Bureau

**21a Conduit Place, London W2
1HS**

T: 020 7706 6026
F: 020 7706 6039

E: licensing@westminstercab.org.uk



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Neutral Citation Number: [2014] EWCA Civ 94

Case No: C1/2013/1844

IN THE COURT OF APPEAL (CIVIL DIVISION)
ON APPEAL FROM QUEEN'S BENCH DIVISION
ADMINISTRATIVE COURT
MR. JUSTICE HADDON-CAVE
CO/10908/2012

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 11/02/2014

Before:

THE MASTER OF THE ROLLS
LORD JUSTICE LONGMORE
and
LORD JUSTICE LLOYD JONES

Between:

R (ALISTAIR THOMPSON)	<u>Appellant</u>
- and -	
OXFORD CITY COUNCIL	<u>Respondent</u>
- and -	
SPEARMINT RHINO VENTURES (UK) LIMITED	<u>Intervener</u>

Gerald Gouriet QC and Jeremy Phillips (instructed by Berwin Leighton Paisner LLP) for
the Appellant

Ranjit Bhowse QC (instructed by Jeremy Thomas, Head of Law & Governance of Oxford
City Council) for the Respondent

Philip Kolvin QC (instructed by Robert Sutherland of Jeffrey Green Russell Ltd) for the
Intervener

Hearing date: 27 January 2014

Approved Judgment

LORD JUSTICE LLOYD JONES:

Introduction.

1. This is an appeal by Mr. Alistair Lockwood Thompson (“the appellant”) against the Order of Haddon-Cave J. dated 28 June 2013 dismissing his claim for judicial review of Oxford City Council’s (“the Council”) refusal on 24 September 2012 to renew a licence for a sexual entertainment venue (“the SEV licence”) for a lap-dancing club known as “The Lodge” at Oxpens Road in Oxford.

The statutory background.

2. As originally enacted, the provisions in Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (“LGMPA 1982”) concerning the licensing of “sex establishments” were limited to the regulation of sex cinemas and sex shops. They did not include other sexual entertainment venues such as strip clubs or lap-dancing clubs, which were subject to the licensing regime under the Licensing Act 2003. However in 2009 Parliament brought lap-dancing clubs within the licensing regime of Schedule 3 to LGMPA 1982. Section 27 of the Policing and Crime Act 2009 (“PCA 2009”) amended the definition of “sex establishments” in paragraph 2 of Schedule 3 to LGMPA 1982 so as to include a “sexual entertainment venue”. Local authorities were given the option of adopting Schedule 3 as amended so as to give effect to the new regime in their area.
3. By resolution passed on 19 April 2010 Oxford City Council resolved to adopt the amended Schedule 3 to LGMPA 1982. The resolution included the following statement:
 - “(c) That “Sexual Entertainment Venues” are not generally appropriate near or in locations or areas containing any of the following:
 - (i) Historic buildings or tourist attractions.
 - (ii) Schools, play areas, nurseries, children’s centres or similar premises.
 - (iii) Shopping complexes.
 - (iv) Residential areas.
 - (v) Places of worship.”
4. Whereas previously, under the Licensing Act 2003, licences had been of an indefinite duration, under the LGMPA 1982 licences for lap-dancing clubs may only be granted for a maximum of a year and therefore have to be renewed at least annually. Paragraph 8 of Schedule 3 gives appropriate authorities the power to grant or renew SEV licences and draws no distinction between fresh applications and renewal applications.

5. The statutory grounds for grant or renewal or refusal are set out in paragraph 12 of Schedule 3. Paragraph 12(2)(a) provides that the authority may refuse an application for the grant or renewal of a licence on one or more of the grounds specified in Paragraph 12(3) which provides as follows:

“(3) The grounds mentioned in sub-paragraph (2) above are—

(a) that the applicant is unsuitable to hold a licence by reason of having been convicted of an offence or for any other reason;

(b) that if the licence were to be granted, renewed or transferred the business to which it relates would be managed by or carried on for the benefit of a person, other than the applicant, who would be refused the grant, renewal or transfer of such a licence if he made the application himself;

(c) that the number of sex establishments, or of sex establishments of a particular kind, in the relevant locality at the time the application is determined is equal to or exceeds the number which the authority consider is appropriate for that locality;

(d) that the grant or renewal of the licence would be inappropriate, having regard—

(i) to the character of the relevant locality; or

(ii) to the use to which any premises in the vicinity are put; or

(iii) to the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.

(4) Nil may be an appropriate number for the purposes of sub-paragraph (3)(c) above.

(5) In this paragraph “the relevant locality” means —

(a) in relation to premises, the locality where they are situated; and

(b)”

Paragraph 10(2) of Schedule 3 provides:

“Where the appropriate authority refuse to grant, renew or transfer a licence, they shall give him a statement in writing of the reasons for their decision.”

6. The effect of paragraph 27 of Schedule 3 is that appeals against refusals on the grounds specified in paragraph 12(3)(a) and (b) are to a Magistrates’ Court and then

the Crown Court, whereas refusals on the grounds specified in paragraph 12(3)(c) and (d) are subject only to review by the High Court.

7. The Home Office Guidance on Sexual Entertainment Venues published in March 2010 states (at para. 3.36) that “the relevant locality” does not have to be a clearly pre-defined area and that local authorities are free to conclude that it simply refers to the area which surrounds the premises.

The Pennyfarthing Place premises.

8. The appellant had previously operated a similar establishment, also called The Lodge, at premises at Pennyfarthing Place in Oxford. A Public Entertainment Licence had been in force in respect of those premises from at least 1996. From 2007 the appellant and his business partner, Mr. Opher, ran The Lodge as a bar and nightclub as tenants of the landlord and licensee, Greene King Retailing Limited (“Greene King”).
9. On 14 October 2009 Greene King applied for a licence variation to alter the layout of the premises in Pennyfarthing Place and to add the licensable activities of “film, performance of dance, facilities for making music and anything of a similar description”. This variation was sought in preparation for the operation of the premises as a lap-dancing club. Objections were made to the variation, particularly in light of the proximity of the premises to St. Ebbe’s Church. On 10 December 2009 Greene King’s application for variation of the licence was granted. An appeal against the grant of the licence by the Rector of St. Ebbe’s Church was subsequently dismissed by Oxford Magistrates’ Court on 30 June 2010.
10. On 10 February 2010 the Council granted a licence to the claimants specifically for the operation of the Pennyfarthing Place premises as a lap-dancing club. The Lodge operated as a lap-dancing club continuously thereafter until March 2011 when a renewal of the licence was refused.
11. Following the Council resolution of 19 April 2010 adopting the new licensing regime under the amended Schedule 3 to the LGMPA 1982, the appellant had to apply for a licence under the new regime to enable the Pennyfarthing Place premises to continue to operate as a lap-dancing club. On 2 March 2011 the Council’s Licensing and Registration Sub-Committee (“the Sub-Committee”) heard the appellant’s application for an SEV licence for the Pennyfarthing Place premises. The application was refused. On 1 April 2011 the appellant lodged a claim for judicial review of the refusal. The premises at Pennyfarthing Place were closed on 10 June 2011. The application for judicial review was subsequently discontinued on 22 September 2011 following the grant of an SEV licence in respect of the Oxpens Road premises.

The Oxpens Road premises.

12. The appellant decided to move the club to a new location at premises in Oxpens Road, Oxford, which had previously been occupied by a bar called The Coven. On 19 May 2011 he made an application for an SEV licence for those premises in Oxpens Road which are located about half a mile from the centre of Oxford.

13. On 12 July 2011 the Licensing and Registration Sub-Committee of the Council heard the application in respect of the Oxpens Road premises. The Committee was addressed by Mr. Gouriet QC on behalf of the appellant and by a number of objectors, including Mr. John Payne, Solicitor, for St. Ebbs Church. At the meeting Mr. Gouriet amended the application so that the licence, if granted, would permit the premises to open at 11.00 p.m. rather than 9.00 p.m.
14. On 18 July 2011 the Sub-Committee published its decision granting to the appellant an SEV licence for the premises at Oxpens Road for one year (“the 2011 decision”). It is necessary to set out the reasons in full:

“[The Sub Committee examined all the documents submitted and considered all the representations made at the hearing. It had particular regard to the written objections concerning the location of the premises and the Council resolution of 19/04/2010 (the Resolution) concerning generally inappropriate locations for sexual entertainment venues.

2. The Sub Committee noted that government guidance and case law made clear that moral objections to sexual entertainment were not relevant to consideration of the Application. With this in mind the Sub Committee disregarded any passages within the representations received which expressed moral concerns.

3. The Resolution states that “sexual entertainment venues are not generally appropriate near or in locations / or areas containing any of the following:

- Historic buildings or tourist attractions,
- Schools, play areas, nurseries, children’s centres or similar premises,
- Shopping complexes,
- Residential areas,
- Places of worship,”

4. The Sub Committee noted that relevant locality is not defined in The Resolution nor in the applicable legislation or government guidance. Without a full assessment of the entire area The Sub Committee felt that it had insufficient information to allow it to define the dimensions of an exact area as the relevant locality, nor to reach a decision on the appropriate number of sex establishments in such an area.

5. However, for the purposes of deciding the Application the Sub Committee found that the relevant area in this case is the area near to the proposed premises. It further found that the

only buildings sufficiently near the proposed premises to engage the Resolution, and which could fall within the categories set out, are the Oxford Ice Rink and Oxford and Cherwell Valley College. Neither fall squarely within any of the categories but the College is similar to a school and the Ice Rink does attract many children and tourists.

6. Despite the location of the College and Ice Rink the Sub Committee were satisfied that with the amended hours of operation at the proposed premises the College would be closed and public skating sessions over well before any sexual entertainment began. There was evidence that private skating sessions took place after 23:00 but the Sub Committee found the risk of these sessions bringing children or vulnerable people into contact with the Premises was very low.

7. The Sub Committee noted the representations concerning proximity of the proposed premises to residential and shopping areas but found that whilst the premises are between the residential areas of St Ebbe's and St Thomas's they could not reasonably be considered to be in or sufficiently near them to engage The Resolution. Nor are they sufficiently near the Westgate shopping centre.

8. The Sub Committee also considered the representations concerning incompatibility of the proposed premises with planning policy aspirations for the west end of Oxford City. However, the Sub Committee had to base their view on the character of the relevant locality and nearby premises at the time of application and not as it may develop in the future. If granted any licence would in any event require annual renewal which would take into account the character of the locality at the relevant time.

9. The Sub Committee noted the Applicant had the benefit of a good track record in operating a sexual entertainment venue (SEV) at a similar Oxford premises and that Thames Valley Police did not object to the application. It was significant that the Applicant appeared willing and, from his track record, able to operate premises discreetly, anonymously and with no external indication as to the nature of entertainment taking place. Given the location of the Ice Rink, the College and coach parking area the Sub Committee found it particularly important that any SEV in the proposed location have no external indication of the type of premises or entertainment being carried on.

10. In considering The Resolution the Sub Committee focused on the harm it seeks to address or objectives it aims to achieve. In the absence of any specific detail in the Resolution on these points the Sub Committee found that among the primary

concerns should be the welfare of children and prevention of nuisance and crime. With appropriate conditions the Sub Committee felt that the premises could operate without aggravating these aims.

11. Taking all these factors into account the Sub Committee found that whilst the Resolution was engaged at a low level in relation to the Ice Rink and College there were good reasons to believe the premises would not be inappropriate in the proposed location and an exception to the general position should be made in this case.

12. The Sub Committee found that in order to ensure the proper running of the premises it is necessary to attach conditions to the license. The Licensing Authorities Standard Conditions for Sexual Entertainment Venues should apply together with all conditions on the Applicant's existing premises licence at The Lodge so far as they relate to the carrying on of sexual entertainment, also the additional conditions offered by the Applicant during the hearing. These conditions should be combined in one clear schedule avoiding any duplication.

13. The Sub Committee had regard to the Human Rights Act 1998 and European Convention on Human Rights as well as its duty under the Crime and Disorder Act 1998. However, it found that it had heard no evidence that any person's human rights would be infringed by granting the application nor sufficient to convince it that any significant crime and disorder would be caused by the grant.

Decision: The Application as amended is granted subject to the conditions set out on the attached Schedule.”

15. On 17 November 2011 The Lodge opened as a lap-dancing club in the premises at Oxpens Road.
16. In July 2012 the appellant applied to the Council to renew the licence. On 24 September 2012 a differently constituted Licensing and Registration Sub- Committee heard the application for the renewal of the SEV licence. On this occasion the appellant was represented by Mr. James Rankin of counsel who submitted that the question whether a licence for such an activity would be inappropriate having regard to the character of the relevant locality or the use to which the premises were to be put had been examined in detail by the Sub- Committee in July 2011 and that there had been no change of circumstances since. He submitted that, in the light of the Sub-Committee's decision in 2011 that the grant of the licence would not be inappropriate on these grounds, to say otherwise now would be perverse.
17. A dozen objectors were present at the meeting, including a representative of the St. Ebbe's New Development Residents' Association. The Sub-Committee also had

before it a large number of written objections to the application. A full account of those objections is given by Haddon-Cave J. in his judgment. For present purposes it is sufficient to refer to the following matters. First, there were objections on the ground that the renewal of the licence would be inappropriate having regard to the character of the locality and the use to which the premises were put. These focussed on The Lodge's proximity to the Ice Rink, the Oxford and Cherwell Valley College, the Oxpens Road Car and Coach Park and residential accommodation. A member of the City Council, objecting on behalf of some of his constituents, expressed the matter as follows:

“[T]he granting of such a renewal would frustrate the four licensing objectives adopted by the Council in line with the national legislative requirements. The provision of a sexual entertainment venue at this unsuitable location close to the city centre, to housing and to major tourist and leisure facilities, will jeopardise the prevention of crime and disorder, public safety, and the prevention of nuisance. The proximity of such an establishment to two distinct quiet residential areas also risks clear and egregious conflict with all four objectives most critically, the fourth objective to secure the protection of children from harm because of the nature of sexual entertainment to be provided.”

Secondly, the Oxford Feminist Network submitted the results of a survey it had conducted of female local residents, seeking their views and experiences following the licensing of the Oxpens Road premises as an SEV. Some 108 responses were said to have been received. These included allegations of harassment by individuals who had left the club.

18. The judge considered that the gravamen of the objections was best summed up in the following passage from the written objection by the chair of St. Ebbe's New Development Residents' Association:

“The Oxpens location is most inappropriate for entertainment of this sort. It is immediately opposite the Oxford and Cherwell Valley College, which is open for use by its adolescent pupils until 10.00pm. It abuts onto the coach park which is used regularly and frequently by school parties by all nationalities. It is about 100 yards from the Ice Rink which has night time sessions which are much used by student sporting groups. It would be hard to find a place in Oxford more full of impressionable young people to be intrigued by advertisement and present in the vicinity during the hours of operation of the club.”

19. On 24 September 2012 the Sub-Committee published its decision refusing to renew the SEV license for the premises at Oxpens Road. It is, once again, necessary to set out the decision and reasons in full.

“[T]he Sub Committee examined all the documents submitted and considered all the representations made at the hearing. The Sub Committee had particular regard to the written objections concerning the location of the premises and the Council resolution of 19/04/2010 concerning generally inappropriate locations for sexual entertainment venues.

2. The Resolution of 19/04/2010 states that “sexual entertainment venues are not generally appropriate near or in locations / or areas containing any of the following:

- Historic buildings or tourist attractions,
- Schools, play areas, nurseries, children’s centres or similar premises,
- Shopping complexes,
- Residential areas,
- Places of worship,”

3. The Sub Committee found that the relevant locality for the purposes of deciding the application is the area near to the premises.

4. Taking into account the ground of refusal at paragraph 12 (d) of Schedule 3 of the Act the Sub Committee found that renewal of the license would be inappropriate having regard to the character of the relevant locality or use to which premises in the vicinity are put.

The Sub Committee reached this conclusion for the following reasons:

- [1] The premises are near to Oxford Ice Rink, Oxford and Cherwell Valley College and the Oxpens car and coach park. The Ice Rink is a facility which attracts many children, young people, families and tourists and the College is similar to a school. The Sub Committee therefore felt the Resolution of 19/04/2010 on generally inappropriate locations was engaged in respect of the Ice Rink and College.
- [2] The Oxpens car and coach car park, whilst not an ‘attraction’ in itself, nevertheless brings many tourists, visitors and local residents into the area of the premises at all hours. The operation of a sexual entertainment venue in the locality was therefore not appropriate.

- [3] The Oxpens road is a busy transport link and pedestrian route for visitors and residents living in the St Thomas and St Ebbs areas, a sexual entertainment venue was not appropriate in such a well used location.
- [4] The increasing concentration of student accommodation in the area, including development of student housing at Luther Court, Mill Street and Park End St, meant an increased use of the locality by young and possibly vulnerable students as a route to and from their accommodation.
- [5] Many of the representations received indicated there had been a negative change in the character of the vicinity brought about by the opening of the premises.
- [6] Many of the representations received indicated that the operation of premises had created a hostile atmosphere in the locality and a heightened fear of the risk of sexual violence. Whilst acknowledging there was no evidence of any violent incidents attributable to the operation of the premises, the Sub Committee gave weight to the representations and felt the heightened fear reported was at least in part due to the existence of the premises and the type of entertainment it operated. The Sub Committee were mindful of the Council's duty under section 17 of the Crime and Disorder Act 1998 to take reasonable steps to prevent crime and disorder.
- [7] Of particular concern were reports contained in the representation of Louise Livesey concerning incidents of harassment by users of The Lodge toward a user of the Ice Rink. Whilst recognising these reports were both anonymous and hearsay and accordingly carried limited weight the Sub Committee nevertheless took some account of them.

5. The Sub Committee recognised that its findings were a departure from the Council's decision to grant the license in July 2011 but found that as a differently constituted Sub Committee with the benefit of evidence concerning the operation of the premises over the last year they were entitled to reach a different conclusion.

6. The Sub Committee were aware of the human rights considerations as set out in paragraphs 26 and 27 of the Head of Environmental Development's report, but found that the Applicant's right to protection of his licence was not a right so significant as to override their own calculation of the public interest.

Decision: The Application is refused on the grounds that a sexual entertainment venue at the Premises would be inappropriate, having regard to the character of the relevant locality and the use to which other premises in the vicinity are put.”

The Judicial Review.

20. In his application for judicial review the appellant sought to challenge the Council’s decision of 24 September 2012 on three grounds.
 - (1) Apparent bias on the part of a member of the Sub-Committee.
 - (2) Insufficiency of reasons.
 - (3) Taking into account irrelevant and/or inaccurate considerations.
21. The judge dealt with the allegation of apparent bias at the start of the hearing. He dismissed this part of the application on the ground that the appellant had failed to raise any objection to the composition of the Sub-Committee prior to or at the meeting on 24 September 2012. (See *Locabail (UK) Limited v Bayfield Properties* [2000] QB 451, per Lord Bingham at para 69.) In his reserved judgment the judge stated (at para 39) that he would in any event have dismissed the apparent bias ground on the merits. There has been no attempt to challenge this ruling.
22. On the challenge based on the adequacy of reasons given by the Sub-Committee, the judge considered that when the reasons were read fairly, as a whole and against the background of the representations made at the hearing by the parties, the reasons were intelligible, adequate and enabled the informed reader to understand the principal important controversial issues and why the application for renewal had been refused when previously a licence had been granted. Furthermore the reasons were “properly relevant to the ground for refusal”. In this regard he considered that six of the specific matters referred to by the Sub Committee were new or substantially new matters and that three related to entirely fresh factors or circumstances, namely the reported effect of the operation of the club on the area in the previous twelve months. In his judgement, when considered cumulatively, they represented a reasonable, comprehensive and comprehensible catalogue of reasons explaining objectively a change of heart from the 2011 decision and a refusal to renew in 2012.
23. So far as the third ground is concerned, it had been submitted on behalf of the appellant that the Sub-Committee erred in taking into account an “increasing concentration of student accommodation in the area” because incomplete developments were not relevant to assessing the present character of the area and there was insufficient evidence to justify such findings. The judge concluded that the Sub-Committee was entitled to take into account both the present and future character of the area under Paragraph 12(3)(d). He considered that prospective licences required a prospective view. The fact that an area was developing and in a continued state of change was a relevant consideration as to why renewal might be appropriate. Furthermore he considered that there was ample evidence before it to justify the conclusion of the Sub Committee.

Ground 1: The learned judge was wrong to hold that the reasoning of the Court of Appeal in *Dunster Properties Ltd v. The First Secretary of State* [2007] EWCA Civ 236 (duty to explain departure from decision of previous planning inspector) was not applicable to licensing cases.

Ground 2: The judge was wrong to reject the appellant's claim that the licensing sub-committee refusing him renewal of his licence (granted the previous year under Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982) had failed to give an adequate and intelligible explanation for departing from the reasoned decision of the differently constituted sub-committee that granted him the licence.

24. Grounds 1 and 2 may conveniently be considered together.
25. The Schedule 3 regime gives a wide discretion to licensing authorities, in particular in forming value judgements as to whether the grant or renewal of a licence would be appropriate having regard to the character of the locality. This is reflected in the provisions of paragraph 27 of Schedule 3 which distinguishes between appeals against refusals on the grounds specified in paragraph 12(3)(a) and (b) which are subject to appeal to the magistrates' court and the Crown Court, and appeals against refusals on the grounds specified in paragraph 12(3)(c) and (d) which are subject only to review by the High Court. As the judge pointed out, this indicates an intention to give local authorities a wide discretion under sub-paragraphs (c) and (d). Moreover, the fact that the maximum term of an SEV licence is twelve months indicates that local authorities are to keep these matters under frequent review.
26. The argument before us centred on the significance of a previous decision in which a differently constituted Sub-Committee had come to a different conclusion on the question of whether the grant or renewal of a licence would be appropriate having regard to the character of the locality and the use to which the premises in the vicinity were put.
27. In *R v Birmingham City Council ex parte Sheptonhurst Limited* [1990] 1 All ER 1026 the applicant sought judicial review of decisions by four local authorities refusing to renew licences for sex shops in their respective districts under the LG(MP)A 1982, the provisions applicable in the present case. The main question for consideration was whether the discretion to refuse to renew a licence is different from the discretion to refuse to grant a licence and, if so, what limitations there are upon the discretion to renew. The applicant had submitted that the renewable licence could not be refused on ground 3(d)(i) unless there had been some change in the character of the relevant locality since the grant or renewal of the licence. In two of the cases, Mann LJ, sitting as an additional judge of the Queen's Bench Division, had rejected this submission:

“It is to be observed that the statute imposes no constraint upon a Local Authority's discretion when it is considering a renewal. The legislature must be taken to know that a Local Authority is a body of changing composition and shifting opinion, whose changes and shifts reflect the views of the local electorate. In my judgement it is not perverse to refuse a renewal where there is no change in the character of the relevant locality or in the use to which any premises in the locality are put. What is

“appropriate” may be the subject of different perceptions by different elected representatives. In assessing what is “appropriate” any particular body of elected representatives confronted with an application for a renewal should take into account the previous grant, but in my judgement their obligation is no more than that. In both cases before me the previous licence was a factor before the decision takers. In both cases the principle ground of challenge therefore fails.”

28. The Court of Appeal agreed. O’Connor L.J. stated:

“...[W]here Parliament, having expressly limited the grounds on which a licence may be refused, has drawn no distinction between grant and renewal of the licence and provided that a licence shall not last for more than a year, then it seems to me that to accede to Mr. Tabachnik’s submission [that Parliament cannot have intended that the vagaries of local opinion should be determinative of an existing trader’s rights to continue to trade] would be to introduce a fetter on the discretion of the Local Authority in cases of renewal which Parliament has not done. However, although the discretion is unfettered, there is a difference between an application for grant and an application for renewal and that distinction, as the cases have pointed out, is that when considering an application for renewal the Local Authority has to give due weight to the fact that a licence was granted in the previous year and indeed for however many years before that. It is of particular importance that the licensing authority should give due weight to this fact in this field, for I do not doubt that there is opposition to sex shops on grounds outside the limits imposed by paragraph 12 of the Schedule. I have come to the conclusion that the licensing authority were entitled to have a fresh look at the matter... In a case where there has been no change of circumstances, if the licensing authority refuses to renew on the ground that it would be inappropriate having regard to the character of the relevant locality, it must give its reasons for refusal: see paragraph 10(20) of the Schedule. If the reasons given are rational, that is to say properly relevant to the ground for refusal, then the court cannot interfere. I believe this to be the true protection for a licence holder applying for renewal against a wayward and irrational exercise of discretion. The fact that in previous years the licensing authority did not chose to invoke those reasons for refusing to grant or renew the licence does not make the reasons irrational.”

29. On behalf of the appellant it is suggested that the judge misinterpreted this passage. The appellant submits that in the present case the judge concluded that it was sufficient if it could be inferred objectively why the refusing Sub-Committee came to a different decision. There is no basis for this criticism. While the judge concluded that there was no reason why the 2012 decision needed to comment seriatim on the

reasons for the 2011 decision, he clearly proceeded on the basis that there was a need to provide an explanation for the departure. In his view adequate reasons were given. Accordingly I can see no distinction between the approach of the judge in the present case and that of Sales J. in *R (KVP ENT Limited) v. South Buckinghamshire District Council* [2013] EWHC 926 (Admin).

30. Another decision to the same effect is that of the Court of Appeal in *North Wiltshire DC v. SSE* (1992) P & CR 137 where Mann L.J. emphasised that in such circumstances the decision maker is free to disagree with the earlier judgment but before doing so he should have regard to the importance of consistency and give his reasons for departure from the previous decision.
31. The appellant also relies on *Dunster Properties Ltd v. First Secretary of State* [2007] EWCA Civ. 236. There, Dunster had sought planning permission for a first floor extension to a residential property in Chelsea. There were two successive decisions by planning inspectors. The first inspector, Mr. Sargent, rejected an objection in principle to there being any extension at first floor level but dismissed the appeal on the basis of the particular designs. Dunster then applied for planning permission on the basis of different designs. On this occasion, when the matter came on appeal before a different inspector, Mr. Mead, the inspector rejected the planning authority's objections to the particular design but upheld the objection in principle. Mr. Mead clearly took an entirely different view on the issue of principle from that expressed by Mr. Sargent. However the only reference in the second decision to the earlier decision was this statement:

“I have no comments on either of those two remarks other than to state that each case is judged on its own merits and my conclusions on the current scheme are given above.”

32. The Court of Appeal quashed the second decision. It considered that it was for Mr. Mead to exercise his planning judgement in relation to the application before him. Not only was he not in any sense bound by the reasoning in the previous decision but it was not even a starting point for his process of judgement and reasoning. Nevertheless Mr. Sargent's conclusions on the point of principle were a material consideration which Mr. Mead had to take into account. The Court of Appeal considered that, although not much may have been called for by way of reasons, those given by Mr. Mead were inadequate. Lloyd L.J. (at paragraphs 21 – 23) observed that in that case the reader could not tell why the inspector had disagreed with his predecessor on this issue and that, accordingly, the salutary safeguard of requiring reasons in order to demonstrate that the decision was based on relevant and rational grounds had not performed its intended function. In his view it appeared that Mr. Mead had not faced up to his duty to have regard to the previous decision and had failed to “grasp the intellectual nettle of the disagreement, which was what was needed if he was to have proper regard to the previous decision”. Either he did not have a proper regard to it, in which case he had failed to fulfil the duty to do so, or he had done so but had not explained his reasons, in which case he had not discharged the obligation to give his reasons.

33. In the present case the judge considered *Dunster* of limited assistance and sought to distinguish it on three grounds. First, he considered that *Dunster* was “a pure planning case” and not a licensing case, whereas in the present context local authorities were entitled to take a fresh look at the matter and effectively were entitled to change their mind from one year to the next. Secondly, it was a decision on its own particular facts, involving a refusal by the second inspector to give reasons for differing from the previous decision notwithstanding a specific request to do so. Thirdly, *Dunster* involved a static matter, namely the aesthetic significance of retaining a gap above a house, whereas the present case involved consideration of dynamic matters.
34. To my mind, the principles stated in *Dunster* are of general application and are not limited to planning cases. The explanation provided by Lloyd L.J. as to why the reasons provided were inadequate was in no sense dependent on the planning context; on the contrary it flows from the function of reasons as a safeguard of sound decision making. Moreover, I do not consider that *Dunster* turned on its particular facts or the refusal to give reasons following a request. Accordingly, I consider that while it was open to the Sub-Committee in the present case to depart from the decision of its predecessor, it was under a duty to take account of the earlier decision, to grasp the nettle of any disagreement with the earlier decision and to state its reasons for coming to a different conclusion. That obligation to give reasons arises at common law but is reinforced in the present case by paragraph 10(2) of Schedule 3. The third ground of distinction relied on by the judge – that the present case was concerned with dynamic matters – is better considered in the context of the actual decision.
35. In summary, therefore:
- (1) On an application to renew an SEV licence it is not necessary for an objector to demonstrate that something has changed since the decision granting the licence. Were the position otherwise, the efficacy of annual reconsideration would be much reduced.
 - (2) However, the decision maker has to have due regard to the fact that a licence was previously granted.
 - (3) If there is no relevant change of circumstances, the decision maker has to give his reasons for departing from the earlier decision.
36. Mr. Gouriet placed at the forefront of his oral submissions the 2011 decision which found that the only buildings sufficiently near the proposed premises to engage the Council’s resolution were the Ice Rink and Oxford and Cherwell College. While neither fell squarely within any of the categories of the resolution, the Sub-Committee accepted that a College is similar to a school and that the Ice Rink attracted many children and tourists (paragraphs. 4, 5). However, it was satisfied that the effect of the amended hours of operation – the application had been amended at the meeting so that the club would not open until 11.00 pm – would be that the College would be closed and public skating sessions over well before any sexual entertainment began (paragraph 6). Furthermore, Mr. Gouriet pointed to the treatment of representations concerning the impact of the club on the character of the locality. Here the Committee attached considerable weight to the fact that the appellant appeared willing and, from his track record, able to operate premises discreetly, anonymously and with no external indication as to the nature of the entertainment taking place (paragraph 9). On

this basis, he submitted, the Committee concluded that while the resolution was engaged at a low level in relation to the Ice Rink and the College, there were good reasons to believe that the premises would not be inappropriate in the proposed location and an exception to the general position under the resolution should be made in this case (paragraph 11).

37. Turning to the 2012 decision that the renewal of the licence would be inappropriate having regard to the character of the relevant locality or use to which premises in the locality are put, Mr. Gouriet submitted that the dominant factors said to support the decision were points 1 -3 in paragraph 4. In particular, he submitted that point 1 draws attention to the existence of the Ice Rink and the College – institutions addressed in the 2011 decision – while failing to address at all the solution provided by opening hours which was accepted by the Committee in 2011. Mr. Gouriet submits that while, in principle, that conclusion in the 2011 decision might be overcome by other factors, the 2012 decision fails to identify any such factors. Similarly, he draws attention, as dominant considerations in the reasoning of the 2012 decision, to points 2 and 3 which relate to the presence in the area of tourists, visitors and local residents at all hours because of the car and coach park, and the busy pedestrian and transport link along Oxpens Road. These considerations, the 2012 decision concludes, show that the operation of a sexual entertainment venue in the locality was not appropriate. In so concluding, Mr. Gouriet submits, the Committee failed to address the solution accepted in the 2011 decision, namely the anonymity and discrete character of the premises.
38. In these circumstances, it is submitted on behalf of the appellant, that the Committee in taking its 2012 decision failed to give due weight to decisive factors in the 2011 decision and failed to grasp the nettle by explaining its departure from the earlier decision.
39. To my mind, the answer to this submission is provided by the Committee’s statement at paragraph 5 of the 2012 decision that it recognised that its findings were a departure from the 2011 decision but that it considered that, as a differently constituted Committee “with the benefit of evidence concerning the operation of the premises over the last year”, they were entitled to reach a different conclusion. When that passage is read in the light of the preceding discussion of matters relating to the impact of the club on the nearby area, it is clear that the Committee was persuaded that what had been seen as solutions in 2011 – limitation of opening hours and anonymity of the premises - were insufficient to meet the perceived mischief.
40. Contrary to the submission of Mr. Gouriet, it does not appear that points 1 – 3 are given any primacy in the decision. They refer in turn to static land use and other land use and provide a description of the area which is necessary for what follows which relates to changing circumstances of different kinds. Point 4 finds an increased use of the locality by students as a thoroughfare. Point 5 refers to representations indicting that there had been a negative change in the character of the vicinity brought about by the opening of the premises. Point 6 states that many of the representations indicated that the operation of the premises had created a hostile atmosphere in the locality and heightened fear of the risk of sexual violence. Point 7 refers to reports of incidents of harassment of members of the public by users of the club.

41. Although Mr. Gouriet sought to question the weight and reliability of the evidence on which the Committee relied in coming to its conclusions in relation to the impact of the club's operation on the area, there was in fact a considerable body of evidence relating to the impact of the club on the area in the first year of its operation. The Oxford Feminist Network made written submissions objecting to the renewal of the licence. This included the results of its survey of local residents to which 108 responses had been received. There were direct quotations from the responses of four women. The first states that men coming from the club had jeered and "made horrible comments about my body and way I dress" in a manner which made her feel threatened. (I am satisfied that the terms and context of this quotation make it clear that it does refer to The Lodge and is not a general statement about such clubs.) A second explains that she has to go past The Lodge every Wednesday as she goes to midnight ice hockey; she states that she has often felt uncomfortable walking past it and has on two separate occasions been harassed in the street by individuals who have left the club. The third, who lives in Oxpens Road, states that she feels threatened when she has to walk or cycle home at night; she feels isolated when the only other people there are on their way to or from the club. The fourth states that when walking past The Lodge she has had cars stop and ask if she is a prostitute and has had sexual expletives shouted at her from other cars. She tries to avoid the area, especially after dark, as she fears that one day the problem will escalate to something worse than verbal abuse. Doorstep consultations with other residents had led to reports of men leaving the club shouting sexually explicit epithets whilst walking down the street, urinating in doorways, ripping drainpipes and other fixtures from their holdings and, more rarely, climbing fences into gardens whilst drunk, leaving residents feeling unsafe and being forced to ring the police on more than one occasion. Local businesses reported that their staff and customers were racially abused by men leaving the club, demanding the use of a payphone to telephone prostitutes. I accept, as did the Committee, that this evidence is hearsay evidence from anonymous sources and therefore carries less weight than might otherwise be the case. Nevertheless, I consider that the Committee was entitled to have regard to this evidence and that it is capable of sustaining the Committee's conclusions.
42. On a fair reading of the 2012 decision, it is clear that the Committee concluded on the evidence relating to the club's operation over the previous year that the limitation of opening times and absence of external indications as to the nature of the activities taking place had not been sufficient to protect the character of the area.
43. I should refer at this point to a further matter concerning points 3 and 4 of paragraph 4 of the 2012 decision. Point 3 draws attention to the fact that Oxpens Road is a busy transport and pedestrian route. Point 4 states that the increased concentration of student accommodation in the area has given rise to an increased use of the locality by students as a route to and from accommodation. This was clearly a matter to which the Committee attached weight. In my view, subject to certain other objections which are considered subsequently, it was a further new matter to which the Committee was entitled to have regard and did regard in departing from the 2012 decision.
44. Both Mr. Gouriet and Mr. Philip Kolvin QC, in his written submissions on behalf of the intervener, have submitted that before a decision maker may depart from an earlier decision in relation to the same matter he must address each material consideration in the earlier decision and explain whether and, if so, why he takes a different view as to

its significance. This seems to me to go much too far and to place an undue burden on the decision maker. I consider that the guidance as to what is required by way of reasons in a planning context provided by Lord Brown in *South Buckinghamshire District Council v Porter (No. 2)* [2004] UKHL 33 (at paragraphs 35-6) applies equally in this context. In the present case it is sufficient that the 2012 decision makes clear on a fair reading that evidence concerning the operation of the premises over the preceding twelve months, other changed circumstances and the features of the matters previously addressed which it considered significant led it to a different overall conclusion.

45. Finally, in this regard, I should record that, contrary to the submission of Mr. Kolvin QC on behalf of the intervener, I can see nothing in the statutory scheme for SEV licences, the approach of the Sub-Committee or in its 2012 decision which conflicts in any way with the Services Directive (2006/123 EC) which is implemented in the United Kingdom by the Provision of Services Regulations (SI 2009/2999). In particular the nature of the activities licensed is such that there are compelling justifications for limiting the period of authorisation and for granting to local authorities a wide discretion on applications to renew.

Ground 3. The judge was wrong to hold that in assessing the “character of the relevant locality” for the purposes of deciding (under paragraph 12(3)(d) of Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982) whether the renewal of a licence would be appropriate having regard to that character, a licensing authority was entitled to have regard to proposed future development; in particular, to applications for planning permission, believed by the authority to be pending, but not yet lodged at the time of the licensing hearing.

46. On behalf of the appellant Mr. Gouriet submits that the Committee in coming to its 2012 decision had regard to irrelevant considerations namely building developments which had not been completed. The evidence before the Administrative Court was that the developments of student housing refers to the following developments:
- (1) A development at Luther St. including 82 student study rooms for which planning permission was granted on 7 November 2012, subject to a legal agreement which at 4 June 2013 had not been completed.
 - (2) A development at the rear of Mill Street including 55 student study rooms for which planning permission was granted in February 2012 and which had not been implemented.
 - (3) A development at the rear of Park End Street including 44 student study rooms. This scheme was first submitted to the Council in 2011. Planning permission was granted on 9 February 2013 and construction began in March 2013.
 - (4) A development at Pembroke College including 123 student study rooms construction of which began in 2010 or 2011 and which has been in use since October 2012.

It is only the first three which are referred to in point 4 of paragraph 4 of the 2012 decision.

47. Mr. Gouriet submits that unless it can be demonstrated that a proposed development will actually be completed within the time period of a licence, it should not be taken into account. Furthermore, he submits that if it is shown that a development which would make the grant of a licence inappropriate will have been completed within a period of twelve months, a Council should grant a licence for a shorter period. In this regard he draws attention to the following statement in the 2011 decision:

“The Sub Committee also considered the representations concerning incompatibility of the proposed premises with planning policy aspirations for the west end of Oxford City. However, the Sub Committee had to base their view on the character of the relevant locality and nearby premises at the time of application and not as it may develop in the future. If granted any licence would in any event require annual renewal which would take into account the character of the locality at the relevant time.”

48. The appellant relies on an observation of Turner J. in *R v. Wandsworth LBC, ex parte Darker Enterprises Ltd.* (1999) 1 LGLR 601. There the Council had refused to renew an SEV licence on the ground that the locality had changed so that the premises were no longer in keeping with the changed circumstances. The judge observed that on the occasion of the previous renewal it would not have been open to the Council to have refused the application on this ground because the process of improvement was, at that time, incomplete.
49. I have difficulty in accepting that there is room in this context for such a rigid rule limiting consideration to developments which are complete or which will be completed within the period of the licence. Under Schedule 3, LG(MP)A 1982, a Council is given a wide discretion in the assessment of whether the grant or renewal of a licence would be appropriate having regard to the character of the relevant locality. It seems to me that in making that assessment it should be permitted, at least, to have regard to an imminent development of which it is aware, even if there can be no certainty that it will be completed and operational within the period of the licence. In this regard I note that in *Sheptonhurst*, in the appeal concerning the decision of Norwich City Council, this court appears to have accepted that planned or ongoing development was relevant to an assessment of the character of the locality and to the appropriateness of grant or renewal. (See O’Connor L.J. at pp. 15-16.)
50. Nevertheless, the ability to take account in this context of forthcoming developments cannot be open-ended. The fact that SEV licences can be granted for very short periods which may not, in any event, exceed twelve months has an important bearing on this. Accordingly, I would suggest that it would not be open to a Council to rely, in refusing to grant an SEV licence, on a Development Plan which contemplated development say some five years in the future.
51. However, it is not necessary to decide this issue because I am satisfied that the point being made by the Committee in point 4 is a very different one. It is not saying that new student accommodation in the vicinity would *per se* make the presence of the club inappropriate. (In this regard, I note that the developments referred to are not in

the immediate vicinity of the club.) Rather it is making a point about the use which is made of Oxpens Road as a pedestrian route to and from student accommodation. It states that the increasing concentration of student accommodation in the area means an increased use of the locality by young and possibly vulnerable students as a route to and from their accommodation. As such it is a development of the point made in point 3 that Oxpens Road is a busy transport link and pedestrian route for visitors and residents. The references to individual developments may be to developments still in design or construction, but they are put forward as examples of the general proposition that student accommodation is increasing. The decision might, instead, have referred to the development at Pembroke College which was occupied in October 2012, a matter of days after the decision.

52. For these reasons I do not consider that the Committee took account of an irrelevant consideration in referring to the increasing use of Oxpens Road as a route to and from student accommodation.

Ground 4. The learned judge did not address the appellant's complaint that he had been denied the opportunity at the licensing hearing to respond to the alleged 'future development', because the matter was not raised then, and appeared for the first time in the authority's written decision of 18 September 2012."

53. Mr. Gouriet submits that the appellant was given no advance notice of the point relating to new student accommodation in the area, no reference having been made to the matter until it appeared in the written decision of 24 September 2012. Accordingly, he submits that Mr. James Rankin, who represented the appellant at the meeting, was disadvantaged. Had proper notice of this point been given, Mr. Gouriet suggests, it would have been possible to make enquiries as to the likely date of completion of the projects referred to and to demonstrate that the three referred to in the decision lay some way in the future. Moreover, it is submitted that had the appellant and his advisers been aware that these matters were considered significant, it would have been possible to seek a licence for a shorter period than twelve months.
54. This point, which is really a point on natural justice, does not appear to be addressed by the judge.
55. For reasons set out earlier in this judgment, I consider that the point being made in the decision is not that new student accommodation per se makes the grant of a licence inappropriate. Rather, the point being made goes to the use of Oxpens Road as a pedestrian route to and from student accommodation. The use of Oxpens Road as a busy transport link and pedestrian route was not a new point and cannot have taken Mr. Rankin by surprise. It was clearly in issue at the meeting of the Committee. Thus, for example, the report by the Oxford Feminist Group includes a number of references to the use of Oxpens Road by members of the public who have to pass the club. Indeed the point is made that these are in very high numbers because of the proximity of the club to major transport hubs.
56. Notwithstanding the fact that this was a live issue of which the appellant had notice prior to the meeting, Mr. Rankin's address to the meeting does not appear to have dealt with the point at all. This, I would suggest, is entirely understandable. His case was that the restriction of opening hours and advertising had addressed any problem

that might otherwise arise from the presence of the club in this area. The extent of pedestrian use of Oxpens Road was irrelevant to that submission. In these circumstances, it is unrealistic to suggest that had he been provided with this information about student accommodation in advance he would have addressed it or that the appellant has been prejudiced in any way as a result.

Conclusion.

57. I would dismiss the appeal.

LORD JUSTICE LONGMORE:

58. I agree.

THE MASTER OF THE ROLLS:

59. I also agree.



Schedule 12
Part A

WARD: West End
UPRN: 010033531502

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

Premises licence

Regulation 33, 34

Premises licence number:

14/06652/LIPV

Original Reference:

05/03985/LIPCV

Part 1 – Premises details

Postal address of premises:

Vanity Bar And Nightclub
Basement To First Floor
4 Carlisle Street
London
W1D 3BJ

Telephone Number: Not Supplied

Where the licence is time limited, the dates:

Not applicable

Licensable activities authorised by the licence:

Performance of Dance
Performance of Live Music
Playing of Recorded Music
Anything of a similar description to Live Music, Recorded Music or Performance of Dance
Late Night Refreshment
Private Entertainment consisting of dancing, music or other entertainment of a like kind for consideration and with a view to profit
Sale by Retail of Alcohol

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

Performance of Dance

Monday to Thursday:	09:00 to 23:30
Friday to Saturday:	09:00 to 02:00
Sunday:	09:00 to 23:00

Performance of Live Music

Monday to Thursday:	09:00 to 23:30
Friday to Saturday:	09:00 to 02:00
Sunday:	09:00 to 23:00

Playing of Recorded Music

Unrestricted

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

Monday to Thursday:	09:00 to 23:30
Friday to Saturday:	09:00 to 02:00

Sunday:	09:00 to 23:00
Late Night Refreshment	
Monday to Saturday:	23:00 to 03:30
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	
Sale by Retail of Alcohol	
Monday to Saturday:	10:00 to 03:00
Sunday:	12:00 to 00:30
<i>For times authorised for Christmas, New Year and Good Friday see conditions at Annex 1 & 3</i>	

The opening hours of the premises:	
Monday to Saturday:	09:00 to 03:30
Sunday:	09:00 to 01:00

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:

Nags Head Limited
 17-19 Whitechapel Road
 London
 E1 1DU
Electronic Mail : manpal_singh-clair@hotmail.com

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

06251735

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

Name: Manpal Singh

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: P00539
Licensing Authority: London Borough Of Redbridge

Date: 3 February 2015

This licence has been authorised by Mr Ola Owojori on behalf of the Operational Director - Premises Management.

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

Conditions reproducing the effect of conditions subject to which the relevant existing licenses have effect.

Conditions relating to regulated entertainment:

10. 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).
11. The entertainment provided at the premises shall be of the type commonly known as discotheque, karaoke and striptease.
12. Only activities which have previously been agreed by the council shall take place.
13. The basement door going onto the street shall be kept closed at all times, except for emergency use.
14. All doors giving access/egress to the premises shall not be fixed open after 23:00.

Conditions for Sale of Alcohol

15. Substantial food and 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.
16. There shall be no payment made by or on behalf of the licensees to any person for bringing customers to the premises.

Conditions which reproduce the effect of any restriction imposed on the use of the premises by specified enactments.

17. Alcohol shall not be sold, supplied or consumed in or taken from the premises except during permitted hours.
- (a) Subject to the following paragraphs, the permitted hours on weekdays shall commence at 10.00 (12.00 on Christmas Day and Good Friday) and extend until 03.00 on the morning following, except that -
 - (i) the permitted hours shall end at 00.00 midnight on any day on which music and dancing is not provided after midnight; and
 - (ii) on any day that music and dancing end between 00.00 midnight and 03.00, the permitted hours shall end when the music and dancing end;
 - (b) In relation to the morning on which summer time begins, paragraph (a) of this condition shall have effect-
 - (i) with the substitution of references to 04.00 for references to 03.00.
 - (c) Except on Sundays immediately before bank holidays (apart from Easter Sunday), the permitted hours on Sundays shall commence at 12.00 and extend until 00.30 on the morning following, except that-
 - (i) the permitted hours shall end at 00.00 midnight on any Sunday on which music and dancing is not provided after midnight;
 - (ii) where music and dancing end between 00.00 midnight on any Sunday and 00.30, the permitted hours on that Sunday shall end when the music and dancing end.
 - (d) On Sundays immediately before bank holidays (other than Easter Sunday), the permitted hours shall commence at 12.00 and extend until 03.00 on the morning following, except that-
 - (i) the permitted hours shall end at 00.00 midnight on any Sunday on which music and dancing is not provided after 00.00 midnight;
 - (ii) where music and dancing end between 00.00 midnight on any Sunday and 03.00, the permitted hours on that Sunday shall end when the music and dancing end.
 - (iii) The terminal hour for late night refreshment shall extend to 30 minutes after the end of permitted hours for the sale of alcohol set out in d(i) and (ii) above.
 - (e) The permitted hours on New Year's Eve will extend to the start of permitted hours on the following day, or if there are no permitted hours on 1 January, to 00.00 on New Year's Eve.

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 the alcohol from the premises unless the alcohol is supplied or taken in an open vessel;
- (c) the sale or supply of alcohol to or the consumption of alcohol by any person residing in the licensed premises;

- (d) the ordering of alcohol to be consumed off the premises, or the despatch by the vendor of the alcohol so ordered;
- (e) the sale of alcohol to a trader or registered club for the purposes of the trade or club;
- (f) 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;
- (g) the taking of alcohol from the premises by a person residing there;
- (h) 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;
- (i) 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.

18. 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.

19. 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 (or the holder of the club premises certificate):
- (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.
20. The terminal hour for late night refreshment on New Year's Eve is extended to 05:00 on New Year's Day.

Annex 2 – Conditions consistent with the operating Schedule

21. No Noise or vibration shall emanate from the premises in to adjacent residential premises.

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

22. The licensee will adopt a street management plan to be agreed with the Environmental Health Officer. Such plan to include the following:
 - Ordering taxis from inside the premises
 - Encouraging patrons waiting for taxis to remain inside the premises
 - Asking taxi drivers to turn off their engines whilst waiting
 - Control of smokers
 - Control of patrons leaving the premises.
23. At least one Personal Licence Holder shall be present during the whole time alcohol is sold, supplied or consumed.
24. The sale of alcohol shall be ancillary to the use of the premises for either i) music and dancing and substantial refreshment or ii) Relevant Entertainment and substantial refreshment.
25. A noise limiter must be fitted to the musical amplification system set at a level determined by and to the satisfaction of an authorised officer of the Environmental Health Service, Premises Management so as to ensure that no noise nuisance is caused to local residents or businesses. The operational panel of the noise 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.
26. Where the premises is used for Licensable Activities other than Relevant Entertainment, SIA registered security staff are to be employed on a 1:50 ratio (staff/customers).
27. A direct telephone number for the manager at the premises shall be publicly available at all times the premises is open. This telephone number is to be made available to residents and businesses in the vicinity.
28. Except where Relevant Entertainment is provided The number of persons accommodated (excluding staff) shall not exceed:

Basement - 70,
Ground Floor - 80,
First Floor - 25.
29. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the preceding 31 day period.
30. 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.

31. 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.
32. Patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, shall be limited to 7 persons at any one time.
33. Patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, shall not be permitted to take drinks or glass containers with them.
34. There shall be no striptease or nudity, and all persons shall be decently attired at all times, except when the premises are operating under the authority of a Sexual Entertainment Venue licence.
35. All emergency doors shall be maintained effectively self closing and not held open other than by an approved device.
36. The edges of the treads of steps and stairways shall be maintained so as to be conspicuous.
37. Curtains and hangings shall be arranged so as not to obstruct emergency signs.
38. 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.
39. 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.
40. All exit doors shall be available at all material times without the use of a key, code, card or similar means.
41. Any special effects or mechanical installations shall be arranged and stored so as to minimise any risk to the safety of those using the premises. The following special effects will only be used on 10 days prior notice being given to the Licensing Authority where consent has not previously been given.
 - i. pyrotechnics including fire works
 - ii. firearms
 - iii. lasers
 - iv. explosives and highly flammable substances.
 - v. real flame.
 - vi. strobe lighting.
42. Works:
 - a. Applying to the basement only:
 - i. Licensable activity is not to take place until Licensing Authority are satisfied that the premises is constructed or altered in accordance with the appropriate provisions of the District Surveyor's Association – Technical Standards for Places of Entertainment and the reasonable requirements of Westminster Environmental Health Consultation Team, at which time this condition will be removed from the licence.
 - ii. Before this area opens to the public, the plans as deposited will be checked by the Environmental Health Consultation Team to ensure they are an accurate reflection of the premises constructed. Where the premises layout has changed during the course of construction new plans shall be provided to the Environmental Health Consultation Team and the Licensing Authority.

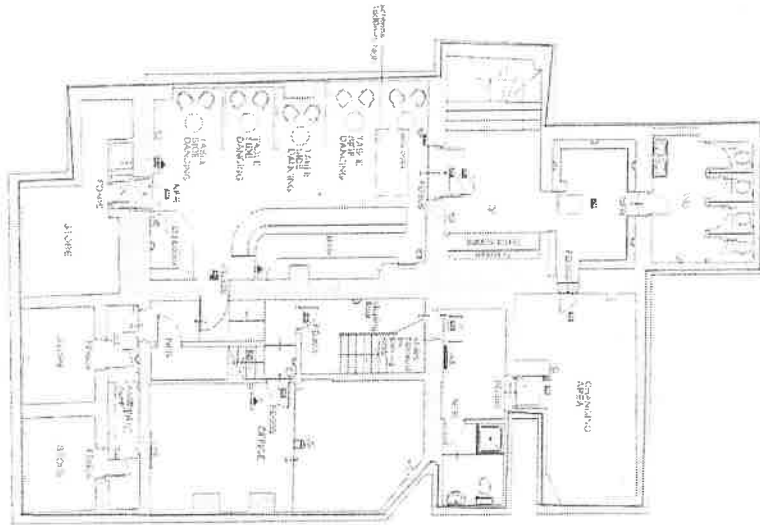
b. Applying to the ground floor only:

- i. Licensable activity is not to take place until Licensing Authority are satisfied that the premises is constructed or altered in accordance with the appropriate provisions of the District Surveyor's Association – Technical Standards for Places of Entertainment and the reasonable requirements of Westminster Environmental Health Consultation Team, at which time this condition will be removed from the licence.
- ii. Before this area opens to the public, the plans as deposited will be checked by the Environmental Health Consultation Team to ensure they are an accurate reflection of the premises constructed. Where the premises layout has changed during the course of construction new plans shall be provided to the Environmental Health Consultation Team and the Licensing Authority.

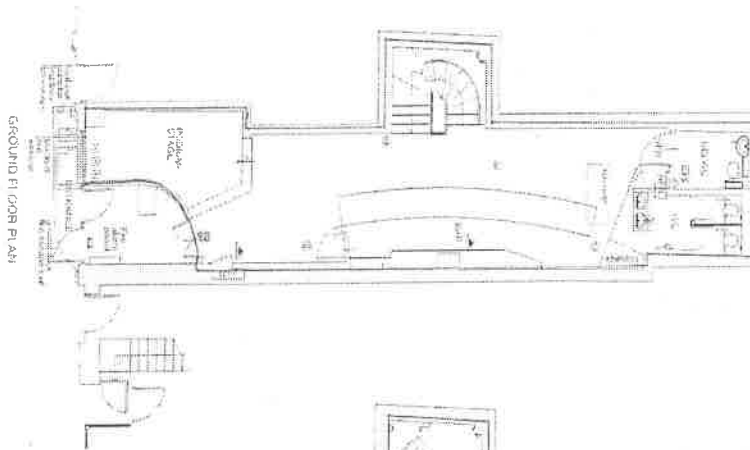
c. Applying to the first floor/mezzanine only:

- i. Licensable activity is not to take place until Licensing Authority are satisfied that the premises is constructed or altered in accordance with the appropriate provisions of the District Surveyor's Association – Technical Standards for Places of Entertainment and the reasonable requirements of Westminster Environmental Health Consultation Team, at which time this condition will be removed from the licence.
- ii. Before this area opens to the public, the plans as deposited will be checked by the Environmental Health Consultation Team to ensure they are an accurate reflection of the premises constructed. Where the premises layout has changed during the course of construction new plans shall be provided to the Environmental Health Consultation Team and the Licensing Authority.

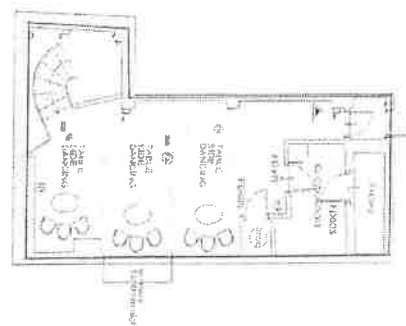
Annex 4 – Plans



LOWER GROUND FLOOR PLAN



GROUND FLOOR PLAN



All reasonable advice has been given regarding the use and care of the equipment shown on this plan. The location of the equipment is shown as it is on the date of the plan. It may be moved or replaced with the effect.

Dated 05/10/2012

LITL

- 1. Fire alarm
- 2. Fire extinguisher
- 3. Fire escape
- 4. Fire door
- 5. Fire blanket
- 6. Fire hose
- 7. Fire bucket
- 8. Fire extinguisher
- 9. Fire extinguisher
- 10. Fire extinguisher
- 11. Fire extinguisher
- 12. Fire extinguisher
- 13. Fire extinguisher
- 14. Fire extinguisher
- 15. Fire extinguisher
- 16. Fire extinguisher
- 17. Fire extinguisher
- 18. Fire extinguisher
- 19. Fire extinguisher
- 20. Fire extinguisher

Take Motion / Analysis
 1. Fire alarm
 2. Fire extinguisher
 3. Fire escape
 4. Fire door
 5. Fire blanket
 6. Fire hose
 7. Fire bucket
 8. Fire extinguisher
 9. Fire extinguisher
 10. Fire extinguisher
 11. Fire extinguisher
 12. Fire extinguisher
 13. Fire extinguisher
 14. Fire extinguisher
 15. Fire extinguisher
 16. Fire extinguisher
 17. Fire extinguisher
 18. Fire extinguisher
 19. Fire extinguisher
 20. Fire extinguisher



City of Westminster

64 Victoria Street, London, SW1E 6QP

Schedule 12
Part B

Premises licence
summary

WARD: West End
UPRN: 010033531502

Regulation 33, 34

Premises licence number:

14/06652/LIPV

Part 1 – Premises details

Postal address of premises:

Vanity Bar And Nightclub
Basement To First Floor
4 Carlisle Street
London
W1D 3BJ

Telephone Number: Not Supplied

Where the licence is time limited, the dates:

Not applicable

Licensable activities authorised by the licence:

Performance of Dance
Performance of Live Music
Playing of Recorded Music
Anything of a similar description to Live Music, Recorded Music or Performance of Dance
Late Night Refreshment
Private Entertainment consisting of dancing, music or other entertainment of a like kind for consideration and with a view to profit
Sale by Retail of Alcohol

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

Performance of Dance

Monday to Thursday:	09:00 to 23:30
Friday to Saturday:	09:00 to 02:00
Sunday:	09:00 to 23:00

Performance of Live Music

Monday to Thursday:	09:00 to 23:30
Friday to Saturday:	09:00 to 02:00
Sunday:	09:00 to 23:00

Playing of Recorded Music

Unrestricted

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

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

Friday to Saturday: 09:00 to 02:00
Sunday: 09:00 to 23:00

Late Night Refreshment

Monday to Saturday: 23:00 to 03:30
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

Sale by Retail of Alcohol

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

For times authorised for Christmas, New Year and Good Friday see conditions at Annex 1 & 3

The opening hours of the premises:

Monday to Saturday: 09:00 to 03:30
Sunday: 09:00 to 01:00

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:

Nags Head Limited
17-19 Whitechapel Road
London
E1 1DU

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

06251735

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

Name: Manpal Singh

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

Restricted

Date: 3 February 2015

This licence has been authorised by Mr Ola Owojori on behalf of the Operational Director - Premises Management.

PROPOSED

SEX ESTABLISHMENT LICENCE

Sexual Entertainment Venue

Premises licence number:	14/11173/LISEVR
Original Reference:	12/02694/LISEVN

The CITY OF WESTMINSTER, under the provisions of the Local Government (Miscellaneous Provisions) Act 1982 as amended by the Policing and Crime Act 2009

hereby licences:
to use the premises:

Nags Head Limited
Vanity Bar and Nightclub
4 Carlisle Street
London
W1D 3BJ

as a Sexual Entertainment Venue.

This licence will expire on the

Relevant Entertainment (namely striptease, including full nudity) may be provided during the following times:

Monday to Saturday	19:00 to 03:00
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Relevant Entertainment may only be provided in the permitted areas outlined in red shown on the plans attached at Appendix 1.

This licence is granted subject to the conditions attached at Appendix 2.

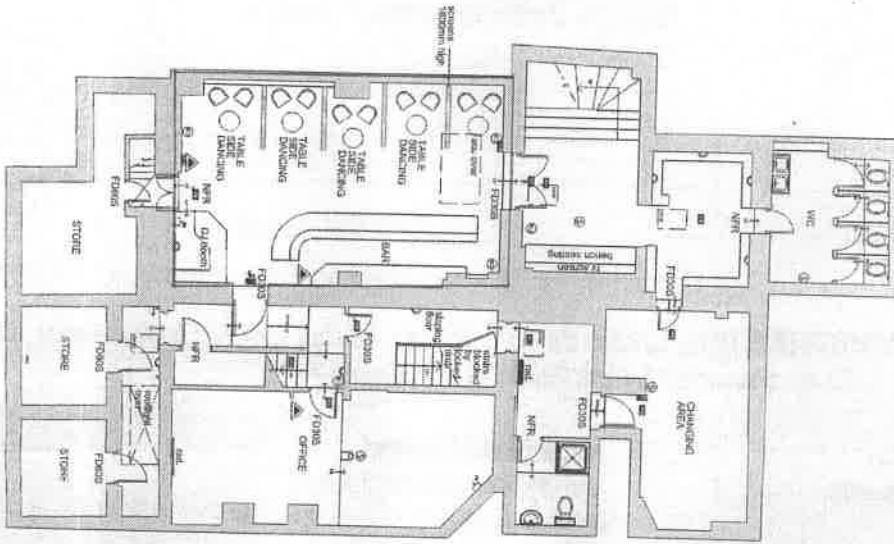
DATE:

**SIGNED: On behalf of the Operational Director -
Premises Management**

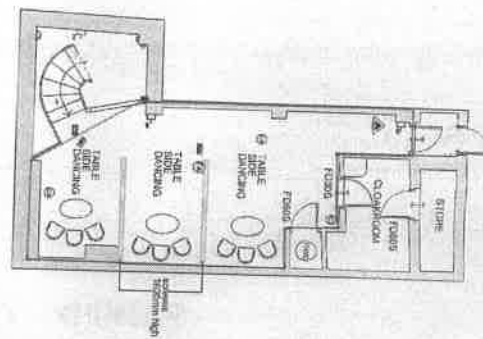
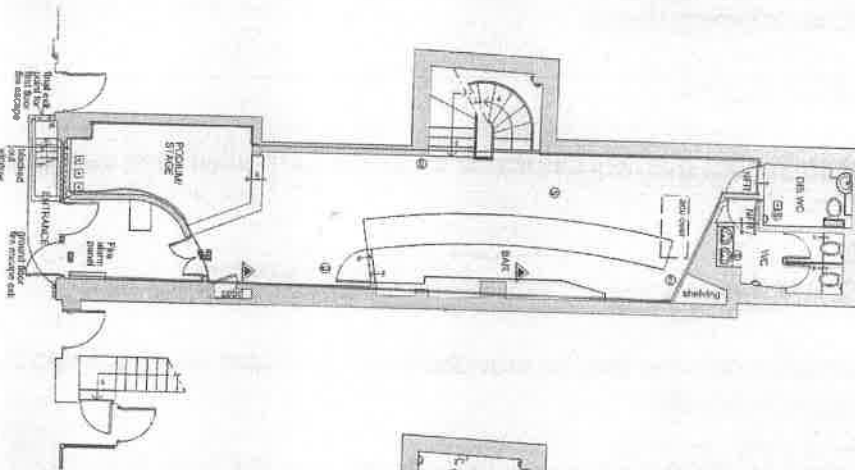


Appendix 1 – Plans

LOWER GROUND FLOOR PLAN



GROUND FLOOR PLAN



Relevant Entertainment may take place anywhere within the red line
 Loose furniture is shown for indicative diagrammatic purposes only.
 Fire equipment is shown as of 01/06/17, and may be
 subject to change following consultation with the Fire Officer

SEVI

- red walls
- red brick walls
- glassed walls
- air
- blue glass wall
- fire alarm
- smoke detector
- Emergency lighting
- Carbon dioxide extinguisher
- Emergency Exit Storage
- Fire door rating
- Fire door rating

Notes
 1. All fire alarm equipment is to be installed in accordance with the Fire Alarm Regulations 2002.
 2. All fire alarm equipment is to be installed in accordance with the Fire Alarm Regulations 2002.
 3. All fire alarm equipment is to be installed in accordance with the Fire Alarm Regulations 2002.

01/06/17 17:00:00

Toko Montan / Architects

100/100 STREET
 100/100 STREET
 100/100 STREET

PROPOSED FLOOR PLANS

NO.	DATE	BY	CHKD	APP'D
01	01/06/17			
02	01/06/17			
03	01/06/17			
04	01/06/17			
05	01/06/17			
06	01/06/17			
07	01/06/17			
08	01/06/17			
09	01/06/17			
10	01/06/17			

Appendix 2 – Conditions

Standard Conditions:

1. Whilst Relevant Entertainment is taking place no person under the age of 18 shall be on the licensed premises and a clear notice to that effect shall be displayed at the entrance in a prominent position so that it can be easily read by persons entering the premises.
2. Whenever persons under the age of 18 are admitted to the premises there will be no promotional or other material on display within the premises which depicts nudity or partial nudity.
3. The licence or a clear copy shall be prominently displayed at all times so as to be readily and easily seen by all persons using the premises.
4. No provision of relevant entertainment, or material depicting nudity or relevant entertainment, shall be visible from outside the premises.
5. Menus and drinks price lists shall be clearly displayed at the front entrance of the club, reception area, tables and bar at such a position and size as to be easily read by customers. This price list shall show all consumable items and any minimum tariff including charges and fees applicable to Performers.
6. Except with the consent of the Licensing Authority, no advertisements of any kind (including placard, poster, sticker, flyer, picture, letter, sign or other mark) shall be inscribed or affixed at the premises, on the surface of the highway or on any building, structure, works, street furniture, tree or any other property or be distributed in the street to the public that advertises or promotes the relevant entertainment at the premises.
7. The licence holder or other person concerned in the conduct or management of the premises shall not seek to obtain custom by means of personal solicitation or touting, nor enter into any agreement with a third party to do so.
8. Adequate toilets, washing and changing facilities for use by the Performers shall be provided.
9. Either the licence holder or a named responsible person shall be present throughout the time the Relevant Entertainment takes place.
10. The premises will install and maintain a comprehensive CCTV system as per the minimum requirements of a Metropolitan Police Crime Prevention Officer that ensures all areas of the licensed premises are monitored including all entry and exit points will be covered enabling frontal identification of every person entering any light condition. All cameras shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Recordings shall be made available immediately upon the request of Police or authorised officer throughout the preceding 31 day period together with facilities for viewing.

Continued..

11. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises is open to the public and this staff member should be able to show Police recent data and footage with the absolute minimum of delay of the request.
12. An incident log shall be kept at the premises, and made available on request to the Licensing Authority or the Police, which will record the following:
 - (a) all crimes reported to the venue;
 - (b) all ejections of patrons;
 - (c) any complaints received;
 - (d) any incidents of disorder;
 - (e) seizures of drugs or offensive weapons;
 - (f) any faults in the CCTV system or searching equipment or scanning equipment;
 - (g) any refusal of the sale of alcohol;
 - (h) any visit by a relevant authority or emergency service;
 - (i) any breach of licence conditions reported by a Performer
13. The licence holder shall produce a Code of Conduct setting out rules and obligations between the licence holder and performers whilst performing. All Performers shall sign the Code of Conduct in their proper name acknowledging that they have read, understood and are prepared to abide by the said Code of Conduct, and a copy so signed shall be retained by the licence holder and shall be readily available for inspection by the Police and/or authorised persons upon reasonable request.
14. Individual records shall be kept at the premises of the real names, stage names and addresses of all Performers working at the premises. The record will include either a copy of their birth certificate, current passport, EU driving licence or national identity card and shall be made immediately available for inspection by the Police and/or the Licensing Authority upon request.
15. Details of all work permits and/or immigration status relating to persons working at the premises shall be retained by the licence holder and be readily available for inspection by the Licensing Authority, a Police Officer or Immigration Officer.
16. Relevant Entertainment shall be given only by Performers and the audience shall not be permitted to participate in the relevant entertainment.
17. There shall be no physical contact between Performers whilst performing.
18. Performers will not request or give out any telephone number, address or any other contact information from or to any customer. Any such information given by a customer shall be surrendered to the premises manager as soon as is practicable.
19. Relevant Entertainment shall take place only in the designated areas approved by the Licensing Authority as shown on the licence plan. Arrangements for access to the dressing room shall be maintained at all times whilst Relevant Entertainment is taking place and immediately thereafter.

Continued..

20. Customers must remain fully clothed at all times. The Performer must not remove any of the customer's clothing at any time.
21. Where Relevant Entertainment is provided in booths, or other areas of the premises where private performances are provided, the booth or area shall not have a door or other similar closure, the area shall be constantly monitored by CCTV, and access to the booth or other area shall be adequately supervised.
22. Whenever Relevant Entertainment is being provided there shall be no physical contact between Performers and customers or between customers and Performers except for the exchanging of money or tokens at the beginning or conclusion of the performance and only for the purpose of that performance. Clearly legible notices to this effect shall clearly be displayed in each private booth and in any performance area.
23. Performers must redress fully immediately after each performance.

Additional Conditions

24. No Relevant Entertainment shall take place unless CCTV adequately covers and monitors the stage area to the satisfaction of the Environmental Health Consultation Team and the Licensing Service.
25. Relevant Entertainment shall be restricted to the area outlined in red. On the ground floor performers may only perform on the stage area.
26. Whilst Relevant Entertainment is taking place at the premises, the maximum number of persons accommodated at any one time (excluding staff and dancers) shall not exceed 10 persons in the basement, 70 persons on the ground floor and 9 persons on the first floor.
27. All emergency doors shall be maintained effectively self closing and not held open other than by an approved device.
28. The edges of the treads of steps and stairways shall be maintained so as to be conspicuous.
29. Curtains and hangings shall be arranged so as not to obstruct emergency signs.
30. The approved arrangements at the premises, including means of escape provisions, emergency warning equipment, the electrical installation and mechanical equipment, shall at all material times be maintained in good condition and full working order.
31. The means of escape provided for the premises shall be maintained unobstructed, free of trip hazards, be immediately available and clearly identified in accordance with the plans provided.
32. All exit doors shall be available at all material times without the use of a key, code, card or similar means.

Continued..

33. Any special effects or mechanical installations shall be arranged and stored so as to minimise any risk to the safety of those using the premises. The following special effects will only be used on 10 days prior notice being given to the Licensing Authority where consent has not previously been given.
- i. pyrotechnics including fire works
 - ii. firearms
 - iii. lasers
 - iv. explosives and highly flammable substances.
 - v. real flame.
 - vi. strobe lighting.
34. No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
35. There shall be at least one SIA registered door supervisor on duty on every floor where Relevant Entertainment is provided for the entire time the Relevant Entertainment is provided.
36. a) Applying to the basement only:
- i. Licensable activity is not to take place until the Licensing Authority are satisfied that the premises is constructed or altered in accordance with the appropriate provisions of the District Surveyor's Association - Technical Standards for Places of Entertainment and the reasonable requirements of Westminster Environmental Health Consultation Team, at which time this condition will be removed from the licence.
 - ii. Before this area opens to the public, the plans as deposited will be checked by the Environmental Health Consultation Team to ensure they are an accurate reflection of the premises constructed. Where the premises layout has changed during the course of construction new plans shall be provided to the Environmental Health Consultation Team and the Licensing Authority.
- b) Applying to the ground floor only:
- i. Licensable activity is not to take place until the Licensing Authority are satisfied that the premises is constructed or altered in accordance with the appropriate provisions of the District Surveyor's Association - Technical Standards for Places of Entertainment and the reasonable requirements of Westminster Environmental Health Consultation Team, at which time this condition will be removed from the licence.
 - ii. Before this area opens to the public, the plans as deposited will be checked by the Environmental Health Consultation Team to ensure they are an accurate reflection of the premises constructed. Where the premises layout has changed during the course of construction new plans shall be provided to the Environmental Health Consultation Team and the Licensing Authority.

Continued..

c) Applying to the first floor / mezzanine only:

- i. Licensable activity is not to take place until the Licensing Authority are satisfied that the premises is constructed or altered in accordance with the appropriate provisions of the District Surveyor's Association - Technical Standards for Places of Entertainment and the reasonable requirements of Westminster Environmental Health Consultation Team, at which time this condition will be removed from the licence.
- ii. Before this area opens to the public, the plans as deposited will be checked by the Environmental Health Consultation Team to ensure they are an accurate reflection of the premises constructed. Where the premises layout has changed during the course of construction new plans shall be provided to the Environmental Health Consultation Team and the Licensing Authority.

37. All windows and external doors shall be kept closed at any time when Relevant Entertainment takes place, except for the immediate access and egress of persons.
38. A noise limiter must be fitted to the musical amplification system set at a level determined by and to the satisfaction of an authorised officer of the Environmental Health Service, Premises Management so as to ensure that no noise nuisance is caused to local residents or businesses. The operational panel of the noise 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.
39. No sexual entertainment performances will take place which will involve the passing round of a glass or jar or any other container that has to be filled with money before the performers remove any clothing.

LICENSING SUB-COMMITTEE No. 1*Thursday 18 December 2014*

Membership: Councillor Tim Mitchell (Chairman), Councillor Susie Burbridge and Councillor Patricia McAllister

Legal Adviser: Barry Panto

Policy Adviser: Chris Wroe

Committee Officer: Jonathan Deacon

Relevant Representations: Environmental Health, Licensing Inspectorate and 11 other interested parties (includes local residents, businesses, residents' association and a Councillor).

Present: Mr Julian Skeens (Solicitor, representing the Applicant), Mr Manpal Singh (Applicant Company), Mr Adrian Studd (Licensing Consultant), Ms Mary Hennessy (Trainee Solicitor on behalf of Applicant), Ms Sally Thomas (Environmental Health), Mr James Hayes (Licensing Inspectorate), PC Jim Sollars (Metropolitan Police), Mr Richard Brown (Solicitor, Citizens Advice Bureau Licensing Advice Project – on behalf of The Soho Society and other residents), Ms Alice Dugdale (local resident) and Mr Robert Nadler (local business owner).

**Vanity Bar & Nightclub, 4 Carlisle Street, W1
14/06704/LISEVV**

Application:

Application to vary the sexual entertainment venue licence under the Local Government (Miscellaneous Provisions) Act 1982 as follows:

- To amend the plans and remove condition 25 to allow Relevant Entertainment on the ground and first floor of the premises. The licence currently restricts Relevant Entertainment to the basement.
- To increase the terminal hours for Relevant Entertainment Monday to Thursday by 3.5 hours from 23:30 to 03:00.
- To increase the terminal hours for Relevant Entertainment Friday to Saturday by 1 hour from 02:00 to 03:00.

Amendments to application advised at hearing:

None.

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

At the beginning of the hearing, Mr Skeens, representing the Applicant, informed the Sub-Committee that the Metropolitan Police had intended to submit a representation in respect of the application to vary the sexual entertainment venue ('SEV') licence in addition to the Licensing Act 2003 application but this had been overlooked administratively. Mr Skeens stated that he did not wish to request that the Police were prevented from making a submission regarding the SEV application. However, he was not aware of the Police's grounds for their objection and would be at a distinct disadvantage in terms of responding to any points PC Sollars might make. PC Sollars confirmed that he did wish to speak at the hearing, specifically on the grounds of crime and disorder. Mr Panto advised that there were different regulations for SEV hearings than Licensing Act hearings as objections could potentially be considered out of time. However, it was also important that the applicant was not disadvantaged in being faced with a point they were not prepared for and might not be in a position to adequately respond to. The Sub-Committee agreed to allow PC Sollars to speak at the hearing on the basis that he might be able to assist Members and that he did not introduce new aspects to the hearing which had not previously been raised. All parties would be able to ask the Police questions. Mr Panto added that it was open to Mr Skeens to make a submission if he felt his client was being prejudiced by something that was said by the Police during the hearing.

Mr Skeens addressed Members on the nature of the application. The existing SEV licence restricted relevant entertainment to the basement. His client, in applying for Relevant Entertainment on Monday to Saturday until 03:00 for the basement, ground floor and first floor of the premises, was seeking to bring the SEV hours in line with the hours permitted on the premises licence. Paragraph 2.5.1 (Policy HR1) of the SEV Statement of Licensing Policy 2012 stated that 'where a premises is licensed under the 2003 Act (Premises Licence) for hours beyond the "core hours" the council will have regard to those hours and generally grant a SEV licence to the hours authorised for other licensable activities, subject to the provision of a winding down period if appropriate'. The existing premises licence already permitted a nightclub or late night bar on the ground floor and first floor until 03:00 (Mr Panto did not accept that there could be a late night bar or an establishment purely for the purposes of drinking alcohol as it had to be ancillary to music and dancing). A SEV licence would be preferable as customers did not go to lapdancing venues merely to drink. Consuming alcohol tended to be an expensive option at such venues. The clientele for SEVs tended to be more mature and less intrusive. Mr Skeens referred to there being no change in terms of the licensable activities being sought but the maximum capacity would be significantly reduced when the premises acted as a SEV. Vanity Bar and Nightclub was located in the core CAZ north area designated for such establishments. In response to residents' written representations, Mr Skeens made the points that noise prevention measures had been taken which prevented noise emanating from the basement and conditions to prevent noise both from inside and outside the premises were proposed, including the use of a sound limiter and a SIA registered door supervisor being on duty where Relevant Entertainment was provided. No premises in the locality were adversely affected by the premises, including the hostel. Vanity Bar and Nightclub showed little outward sign of being a SEV except a notice on the door. There would be no external advertising. The doors would be closed. Mr Skeens did not believe that there was a case that Crossrail and its effect on the area should be a reason for the application to be refused. He stated

that it would aid people to disperse from the area.

Mr Skeens called Mr Studd as a witness. Mr Studd stated that in his previous role as a Chief Inspector in the Metropolitan Police Service Clubs and Vice Unit he had found that SEVs did not cause additional public nuisance or crime and order. In fact they tended to lead to less nuisance and crime and disorder than other types of premises. He was familiar with the premises when it had been the Candy Bar. It had been a venue which attracted celebrities and also crime and disorder and public nuisance. The conditions being proposed for the current application would greatly reduce the potential for such issues. The existing licence would permit the premises to operate as a nightclub. It would be expected that SEVs would be quieter than nightclubs, including the type of clientele. There would also be seating and in this case there was a reduced capacity when the premises operated as a SEV. Measures could be taken to ensure that noise was not able to transmit through the building.

Mr Skeens also advised of one additional condition and one amended condition. He was content for a condition to be attached to the licence in keeping with Councillor Glanz's representation that customers would not be able to collect money in a jug before stripping. The amended condition was that 'whilst Relevant Entertainment is taking place at the premises, the maximum number of persons accommodated at any one time (excluding staff and dancers) shall not exceed 10 persons in the basement, 70 persons on the ground floor and 9 persons on the first floor'. The 9 people on the first floor would be enclosed in 3 booths. The original condition proposed 20 in the basement, 70 on the ground floor and 15 on the first floor.

The Sub-Committee next heard from PC Sollars. The premises had traded latterly as a nightclub in the basement. There was an existing SEV licence for this area. Whilst there had been instances of public nuisance relating to the premises, the Police had no particular concerns regarding crime and disorder at the premises. The Police did have some concerns that the style of premises could be lower end of the market, which was considered to be similar to the Applicant's premises in Whitechapel, The Nag's Head. PC Sollars did stress that there was not a record of crime and disorder at The Nag's Head. There had been two instances of reviews of SEV licences for lower end of the market establishments in Westminster. The Police did not have concerns about the continued use of the basement. There were concerns that if the application was granted the whole premises would be operating under a SEV licence which would potentially add to crime and disorder.

Mr Hayes informed the Sub-Committee that he had with the Applicant's co-operation visited The Nag's Head and no issues had been apparent there. He advised those present that the licensing inspectorate carried out four rigorous inspections a year at SEV premises in Westminster. The proposed operation was quite different to many of the SEVs currently operating in Westminster. It included a larger bar and standing area. In terms of enforcement more attention would be required for 3 floors operating rather than just the 1. Mr Hayes had submitted an objection on the basis of there not being sufficient door supervisors at the premises but the Applicant had addressed this with a proposed condition.

Ms Thomas for Environmental Health stated that a previous issue with noise

transmitting from the basement elsewhere in the premises had been resolved. Relevant Entertainment was now being proposed for the ground and first floors and she was requesting that the Council's model condition for the use of a sound limiter was also added to the SEV premises licence in addition to being on the Licensing Act 2003 licence if Members were minded to grant the application. This was in order to prevent the potential for residents in the flats above being adversely affected. It was the case that the noise level would be expected to be lower than that of a bar or nightclub. Ms Thomas made the point that a condition was being proposed that the works to the different floors would be phased. If the Applicant were to look to use big sound systems this would come to light during the phased works. She also recommended that all windows and external doors were kept closed at any time when Relevant Entertainment took place and that the rules of management safety conditions were attached to both the SEV premises licence and Licensing Act 2003 licence if Members were minded to grant the application.

Mr Brown, representing The Soho Society and a number of residents including Mrs Dugdale and Mr Nadler, addressed the Sub-Committee. The SEV premises licence for the premises when known as Candy Bar had been operated infrequently. A premises licence had previously lapsed in 2013 and when the new application for a SEV licence had been granted in December 2013 it had continued to be operated in the basement only. There was a wide discretion afforded to the licensing authority in determining SEV applications and the licensing authority was entitled to take into account the locality in which the premises is situated and also future changes, when considering the 'character of the relevant locality' as set out in a Court of appeal decision for *Thompson v Oxford City Council*. The current changes included Mr Nadler's hotel opened in July 2013 and the new renovated hostel which had recently been granted a premises licence and would be known as Sohostel. The major future change to the area would be Crossrail. The nature of the area had changed and was changing which made the SEV use inappropriate.

Mr Brown stated that The Soho Society representation was specifically on the grounds that the application would add to public nuisance and crime and disorder. The Soho Society questioned how a 3am SEV licence would promote the function of the area. Whether customers would seek entertainment rather than alcohol was a subjective view. Mrs Dugdale, who Mr Brown was also representing, had experienced long standing problems of noise nuisance which she did not believe conditions would address. Works to the basement had addressed the issue of noise transmitting from there but extending the application to the ground floor and first floor was likely to cause Mrs Dugdale nuisance. Objector 9, who Mr Brown was representing, had referred to groups of men seeking SEV style entertainment not having a positive impact on the area. There was a marked difference between a 'Stringfellows style establishment' and a lower end of the market establishment. Mr Brown added that 2.5.1 did state 'where a premises is licensed under the 2003 Act for hours beyond the core hours the council will have regard to those hours and generally grant a SEV licence to the hours authorised for other licensable activities'. However, when applying the SEV policy, it was necessary to look at the application as a whole. Paragraph 2.4.4 of the SEV policy was relevant in that 'sexual entertainment venues cater for a particular adult audience and by attracting those customers can affect the character of the locality in which they are situated'. Paragraph 2.4.8 refers to 'the nature of the clientele that sexual entertainment

venues may attract, and their behaviour outside the premises, may also be inappropriate in the context of the character of the locality in which the premises are situated'. There was high profile retail in the Oxford Street locality. It was also the case that Relevant Entertainment was sought until 03:00 and not all licensable activities for the Licensing Act premises licence were permitted until 03:00. Mr Brown made the point that in paragraph 1.6 of the SEV policy the aim was 'to promote the 4 licensing objectives identified in the 2003 Act, and also to promote the improvement in the character and function of the city, or areas of it'. It was his case that the application did not promote the licensing objectives. It was also the case that the Applicant was not experienced in operating SEV licences in Soho.

Mrs Dugdale and Mr Nadler, who were content to reveal their identities and not remain anonymous as was their right under the Local Government (Miscellaneous Provisions) Act 1982, added their comments. Mrs Dugdale expressed concerns regarding the proposed expansion of the SEV licence to the ground and first floors. There had always been sound transmitting from these floors to flats above, including the flat where she lived and there was no evidence that noise could be controlled there. The use of sound limiters had not previously been effective. It was the case that the sound transmission issues from the basement had now been addressed. She queried what type of music would be played on the ground and first floors. Would there be live music or dance music played there? The Applicant had agreed a condition regarding having door supervisors but it was often the case that they made a nuisance. Once the pubs were closed, premises were not operating so Carlisle Street would otherwise be quiet. There had been some activity at the premises earlier in the year but since then it had hardly ever operated. The proposed operation would have a considerably greater impact on residents. She had concerns regarding where the performers would be located on the first floor including whether this was within the demise of the premises and where the other smokers would be situated at the front of the building. If performers were supposed to be segregated from the audience, she questioned how this could happen if the stage was in the corner of the ground floor and performers needed to get to the staircase and the dressing rooms.

Mr Nadler stated that the variation application was substantial and the changes considerable which would have a very detrimental effect on residents and businesses. Vanity Bar and Nightclub was located in the West End Stress Area and there was an intensification of use in terms of the SEV application, including an increase in hours beyond the Council's core hours policy and an addition to cumulative impact. Mr Nadler concurred with Mr Brown's point that the character of the area had changed, including with the arrival of the hotel. There was the potential for more people to be disturbed by the premises, including new residents towards Soho Square. This area of Soho had changed in a beneficial way and was not a red light area anymore. A different clientele was coming to the area and the granting of a SEV licence would be regressive.

Mr Skeens responded to some of the points that had been raised. These included emphasising that there had not been any crime and disorder at The Nag's Head. Platinum Lace was an example of a venue where the capacity had been reduced and had changed clientele following the change from the CC Club. The SEV licence had been operated between April and July 2014 and residents had not apparently been

aware of this so no nuisance had been caused. The sound limiter was one of the tools being used to deal with noise being transmitted through the building. It would be tamper proof. If it was broken into, his client would have breached the condition on the licence. Due to the phased works, each of the floors would not be used until Environmental Health were content. In order to be content, Environmental Health would need to be satisfied that there was no noise outbreak. Mr Skeens commented that in terms of the visual impact on the locality, the future impact would be no different from that of the existing impact. There was already a SEV licence for the basement. It was difficult to understand how the use of two further floors for a SEV licence affected anyone outside the premises. There would not be anti-social behaviour or crime and disorder. The clientele came to a SEV specifically for a purpose and were generally more mature, drank less and were less intrusive.

Members of the Sub-Committee decided to grant the application. In reaching their decision, they carefully took into account the concerns of the objectors, including that the use of the three floors was akin to a new application being submitted. The Sub-Committee agreed that the application was significant in terms of the proposed changes to the use being made of the premises themselves. In that sense, it felt that it was required to consider whether granting the application until 03:00 on the ground floor and first floor in addition to the basement was appropriate having regard to the character of that locality and the use of premises in that locality. Having regard to the entirety of both applications and the conditions proposed, Members could not conclude that the granting of the variation sought was inappropriate. To the extent that there were concerns about the possibility of an increase in public nuisance, the Sub-Committee considered that a key issue was that the premises licence already permitted a nightclub to operate until at least 02.00 and possibly until 03:00 on these floors. The Applicant was offering a significantly reduced capacity when the premises operated as a SEV (89 as opposed to 175 for the nightclub licence). It was also accepted that there was less likelihood of patrons being intoxicated at a SEV than at a nightclub.

The Chairman reminded those present that the SEV licence had to be renewed on an annual basis. A case had been made by those making representations against the application that there had been a substantial change in the character of the area. The Sub-Committee had not at the present time been persuaded that there had been a substantial change to the locality. However there was the potential for the Sub-Committee to examine in the future whether to revise licensing policies including SEV policy on the basis of future changes such as Crossrail. The Chairman also advised the objectors that if conditions on the licence were breached or the licensing objectives were undermined, including the prevention of public nuisance, they or the Responsible Authorities would have the option of submitting a review of the premises licence.

The Sub-Committee attached additional conditions to the SEV licence including the revised capacity, one SIA registered door supervisor being on duty on each floor providing Relevant Entertainment, phased works conditions for the three floors, all windows and external doors being kept closed at any time when Relevant Entertainment takes place, the requirement for a noise limiter to be fitted to the musical amplification system and no sexual entertainment performances taking place which will involve the passing round of a glass or jar or any other container that has

to be filled with money before the performers remove any clothing.

Conditions attached to the Licence

Standard Conditions:

1. Whilst Relevant Entertainment is taking place no person under the age of 18 shall be on the licensed premises and a clear notice to that effect shall be displayed at the entrance in a prominent position so that it can be easily read by persons entering the premises.
2. Whenever persons under the age of 18 are admitted to the premises there will be no promotional or other material on display within the premises which depicts nudity or partial nudity.
3. The licence or a clear copy shall be prominently displayed at all times so as to be readily and easily seen by all persons using the premises.
4. No provision of Relevant Entertainment, or material depicting nudity or Relevant Entertainment, shall be visible from outside the premises.
5. Menus and drinks price lists shall be clearly displayed at the front entrance of the club, reception area, tables and bar at such a position and size as to be easily read by customers. This price list shall show all consumable items and any minimum tariff including charges and fees applicable to Performers.
6. Except with the consent of the Licensing Authority, no advertisements of any kind (including placard, poster, sticker, flyer, picture, letter, sign or other mark) shall be inscribed or affixed at the premises, on the surface of the highway or on any building, structure, works, street furniture, tree or any other property or be distributed in the street to the public that advertises or promotes the Relevant Entertainment at the premises.
7. The licence holder or other person concerned in the conduct or management of the premises shall not seek to obtain custom by means of personal solicitation or touting, nor enter into any agreement with a third party to do so.
8. Adequate toilets, washing and changing facilities for use by the Performers shall be provided.
9. Either the licence holder or a named responsible person shall be present throughout the time the Relevant Entertainment takes place.
10. The premises will install and maintain a comprehensive CCTV system as per the minimum requirements of a Metropolitan Police Crime Prevention Officer that ensures all areas of the licensed premises are monitored including all entry and exit points will be covered enabling frontal identification of every person entering

any light condition. All cameras shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Recordings shall be made available immediately upon the request of Police or authorised officer throughout the preceding 31 day period together with facilities for viewing.

11. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises is open to the public and this staff member should be able to show Police recent data and footage with the absolute minimum of delay of the request.
12. An incident log shall be kept at the premises, and made available on request to the Licensing Authority or the Police, which will record the following:
 - (a) all crimes reported to the venue;
 - (b) all ejections of patrons;
 - (c) any complaints received;
 - (d) any incidents of disorder;
 - (e) seizures of drugs or offensive weapons;
 - (f) any faults in the CCTV system or searching equipment or scanning equipment;
 - (g) any refusal of the sale of alcohol;
 - (h) any visit by a relevant authority or emergency service;
 - (i) any breach of licence conditions reported by a Performer.
13. The licence holder shall produce a Code of Conduct setting out rules and obligations between the licence holder and performers whilst performing. All Performers shall sign the Code of Conduct in their proper name acknowledging that they have read, understood and are prepared to abide by the said Code of Conduct, and a copy so signed shall be retained by the licence holder and shall be readily available for inspection by the Police and/or authorised persons upon reasonable request.
14. Individual records shall be kept at the premises of the real names, stage names and addresses of all Performers working at the premises. The record will include either a copy of their birth certificate, current passport, EU driving licence or national identity card and shall be made immediately available for inspection by the Police and/or the Licensing Authority upon request.
15. Details of all work permits and/or immigration status relating to persons working at the premises shall be retained by the licence holder and be readily available for inspection by the Licensing Authority, a Police Officer or Immigration Officer.
16. Relevant Entertainment shall be given only by performers and the audience shall not be permitted to participate in the Relevant Entertainment.
17. There shall be no physical contact between Performers whilst performing.
18. Performers will not request or give out any telephone number, address or any other contact information from or to any customer. Any such information given by

a customer shall be surrendered to the premises manager as soon as is practicable.

19. Relevant Entertainment shall take place only in the designated areas approved by the Licensing Authority as shown on the licence plan. Arrangements for access to the dressing room shall be maintained at all times whilst Relevant Entertainment is taking place and immediately thereafter.
20. Customers must remain fully clothed at all times. The Performer must not remove any of the customer's clothing at any time.
21. Where Relevant Entertainment is provided in booths, or other areas of the premises where private performances are provided, the booth or area shall not have a door or other similar closure, the area shall be constantly monitored by CCTV, and access to the booth or other area shall be adequately supervised.
22. Whenever Relevant Entertainment is being provided there shall be no physical contact between Performers and customers or between customers and Performers except for the exchanging of money or tokens at the beginning or conclusion of the performance and only for the purpose of that performance. Clearly legible notices to this effect shall clearly be displayed in each private booth and in any performance area.
23. Performers must redress fully immediately after each performance.

Additional conditions

24. No Relevant Entertainment shall take place unless CCTV adequately covers and monitors the stage area to the satisfaction of the Environmental Health Consultation Team and the Licensing Service.
25. Relevant Entertainment shall be restricted to the area outlined in red. On the ground floor performers may only perform on the stage area.
26. Whilst Relevant Entertainment is taking place at the premises, the maximum number of persons accommodated at any one time (excluding staff and dancers) shall not exceed 10 persons in the basement, 70 persons on the ground floor and 9 persons on the first floor.
27. All emergency doors shall be maintained effectively self closing and not held open other than by an approved device.
28. The edges of the treads of steps and stairways shall be maintained so as to be conspicuous.
29. Curtains and hangings shall be arranged so as not to obstruct emergency signs.
30. The approved arrangements at the premises, including means of escape provisions, emergency warning equipment, the electrical installation and mechanical equipment, shall at all material times be maintained in good condition

and full working order.

31. The means of escape provided for the premises shall be maintained unobstructed, free of trip hazards, be immediately available and clearly identified in accordance with the plans provided.
32. All exit doors shall be available at all material times without the use of a key, code, card or similar means.
33. Any special effects or mechanical installations shall be arranged and stored so as to minimise any risk to the safety of those using the premises. The following special effects will only be used on 10 days prior notice being given to the Licensing Authority where consent has not previously been given.
 - i. pyrotechnics including fire works
 - ii. firearms
 - iii. lasers
 - iv. explosives and highly flammable substances.
 - v. real flame.
 - vi. strobe lighting.
34. No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
35. There shall be at least one SIA registered door supervisor on duty on every floor where Relevant Entertainment is provided for the entire time the Relevant Entertainment is provided.
36. a) Applying to the basement only:
 - i. Licensable activity is not to take place until the Licensing Authority are satisfied that the premises is constructed or altered in accordance with the appropriate provisions of the District Surveyor's Association – Technical Standards for Places of Entertainment and the reasonable requirements of Westminster Environmental Health Consultation Team, at which time this condition will be removed from the licence.
 - ii. Before this area opens to the public, the plans as deposited will be checked by the Environmental Health Consultation Team to ensure they are an accurate reflection of the premises constructed. Where the premises layout has changed during the course of construction new plans shall be provided to the Environmental Health Consultation Team and the Licensing Authority.
- b) Applying to the ground floor only:
 - i. Licensable activity is not to take place until the Licensing Authority are satisfied that the premises is constructed or altered in accordance with the appropriate provisions of the District Surveyor's Association – Technical Standards for Places of Entertainment and the reasonable

requirements of Westminster Environmental Health Consultation Team, at which time this condition will be removed from the licence.

- ii. Before this area opens to the public, the plans as deposited will be checked by the Environmental Health Consultation Team to ensure they are an accurate reflection of the premises constructed. Where the premises layout has changed during the course of construction new plans shall be provided to the Environmental Health Consultation Team and the Licensing Authority.

c) Applying to the first floor / mezzanine only:

- i. Licensable activity is not to take place until the Licensing Authority are satisfied that the premises is constructed or altered in accordance with the appropriate provisions of the District Surveyor's Association – Technical Standards for Places of Entertainment and the reasonable requirements of Westminster Environmental Health Consultation Team, at which time this condition will be removed from the licence.
- ii. Before this area opens to the public, the plans as deposited will be checked by the Environmental Health Consultation Team to ensure they are an accurate reflection of the premises constructed. Where the premises layout has changed during the course of construction new plans shall be provided to the Environmental Health Consultation Team and the Licensing Authority.

37. All windows and external doors shall be kept closed at any time when Relevant Entertainment takes place, except for the immediate access and egress of persons.

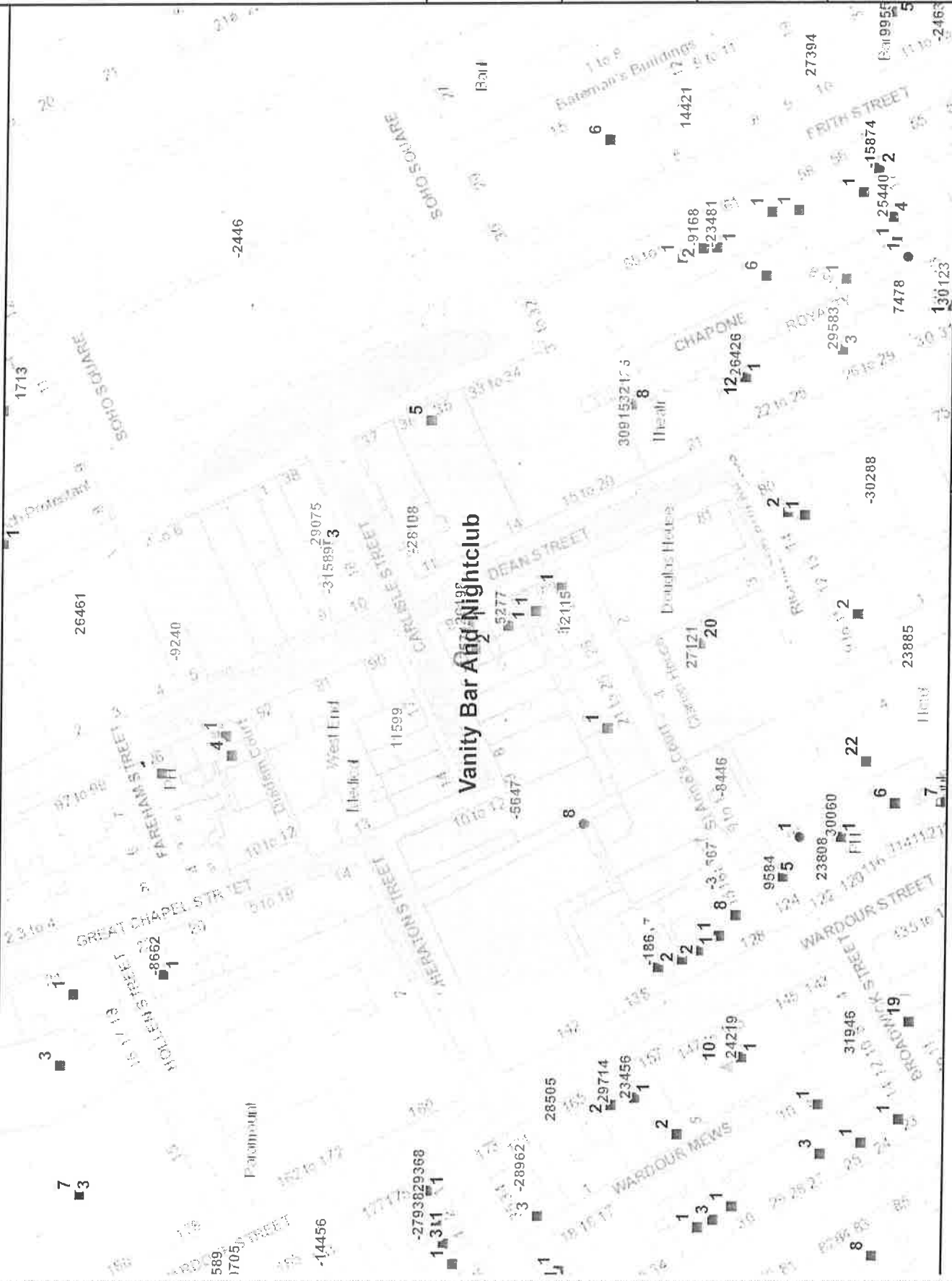
38. A noise limiter must be fitted to the musical amplification system set at a level determined by and to the satisfaction of an authorised officer of the Environmental Health Service, Premises Management so as to ensure that no noise nuisance is caused to local residents or businesses. The operational panel of the noise 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.

39. No sexual entertainment performances will take place which will involve the passing round of a glass or jar or any other container that has to be filled with money before the performers remove any clothing.



Vanity Bar And Nightclub, 4 Carlisle Street, London, W1D 3BJ

City of Westminster



Residential / Proposed Residential	61
Under Construction	0
Other Uses	119
Proportion Residential of all Uses	33.9%

APPENDIX E

Data Source: Uniform Datab
Date: 07/10/2014

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10 Meters

Premises within 75 metres of: Vanity Bar And Nightclub, 4 Carlisle Street, London, W1D 3BJ

p / n	Name of Premises	Premises Address	Licensed Hours
26198	Nellie Dean Public House	89 Dean Street London W1D 3SU	Monday to Saturday 10:00 - 23:30 Sunday 12:00 - 23:00
27121	Samck Deli	2 St Anne's Court London W1F 0AZ	Friday to Saturday 10:00 - 00:00 Monday to Thursday 10:00 - 23:30 Sunday 12:00 - 22:30
-32571	Vanity Bar And Nightclub	Basement To First Floor 4 Carlisle Street London W1D 3BJ	Sunday 09:00 - 01:00 Monday to Saturday 09:00 - 03:30
-28108	Pizza Pilgrims	11 Dean Street London W1D 3RP	Monday to Saturday 10:00 - 00:30 Sunday 12:00 - 00:00
-8446	Piccolo Fomo Pizzeria	9-12 St Anne's Court London W1F 0BB	Sunday 10:00 - 22:30 Monday to Saturday 10:00 - 23:30
-9240	Pierre Victoire Restaurant	Ground Floor 5 Dean Street London W1D 3RQ	Monday to Saturday 10:00 - 00:30 Sunday 12:00 - 00:00
5277	Rippon Newsagents	Ground Floor 88 Dean Street London W1D 3ST	Monday to Saturday 08:00 - 23:00 Sunday 10:00 - 22:30
32126	Soho Theatre	Basement And Ground Floor 21 Dean Street London W1D 3NE	Monday to Saturday 10:00 - 01:30 Sunday 12:00 - 01:00
29075	The Toucan	19 Carlisle Street London W1D 3BY	Monday to Saturday 10:00 - 23:30 Sunday 12:00 - 23:00
30915	Soho Theatre Company	First Floor To Second Floor 21 Dean Street London W1D 3NE	Monday to Saturday 09:00 - 00:00 Sunday 12:00 - 23:30 Bank Holiday 14:00 - 23:30
-31589	Pizza Express	Basement And Ground Floor 10 Dean Street London W1D 3RW	Sunday 09:00 - 00:00 Monday to Saturday 09:00 - 03:30 Monday to Saturday 10:00 - 00:30 Sunday 12:00 - 00:00
-5647	Base2Stay Hotel	The Nadler Soho 10 - 12 Carlisle Street London W1D 3BR	Monday to Sunday 00:00 - 00:00
11599	Soho Business Club	16 Carlisle Street London W1D 3BT	Friday to Saturday 08:00 - 00:00 Sunday 08:00 - 22:30 Monday to Thursday 08:00 - 23:30
12115	Thai Square	27 - 28 St Anne's Court London W1F 0BN	Monday to Saturday 10:00 - 00:30 Sunday 12:00 - 00:00



