



CITY OF WESTMINSTER

# MINUTES

## Licensing Sub-Committee (2)

### MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (2)** Committee held on **Thursday 6th October, 2016**, Rooms 5, 6 & 7 - 17th Floor, City Hall, Westminster City Hall, 64 Victoria Street, London SW1E 6QP.

**Members Present:** Councillors Nickie Aiken (Chairman), Susie Burbridge and Rita Begum

#### 1 MEMBERSHIP

There were no changes to the Membership.

#### 2 DECLARATIONS OF INTEREST

There were no declarations of interest.

#### 1 FERNANDEZ & WELLS LIMITED, 73 BEAK STREET W1

### LICENSING SUB-COMMITTEE No. 2

*Thursday 6th October 2016*

Membership: Councillor Nickie Aiken (Chairman), Councillor Susie Burbridge and Councillor Rita Begum

Legal Adviser: Barry Panto  
Policy Adviser: Chris Wroe  
Committee Officer: Jonathan Deacon  
Presenting Officer: Claire Hayes

Relevant Representations: Environmental Health, 1 Ward Councillor, 8 local residents and 1 business.

Present: Mr Thomas O'Maoileoin (Solicitor, representing the Applicant), Mr Rick Wells (Chief Executive Officer, Applicant Company), Ms Sally Thomas (Environmental Health), Councillor Glenys Roberts (West End Ward Councillor), Mr Richard Brown (Solicitor, Citizens Advice Bureau Licensing Advice Project – on behalf of Mrs Liz Callingham, Mr Bijan Seghatchian

and Dr Joshua Sofaer), Mrs Liz Callingham and Mr Bijan Seghatchian (local residents).

<b>Fernandez &amp; Wells Limited, 73 Beak Street, W1 16/06672/LIPN</b>	
<b>1.</b>	<b>Sale by Retail of Alcohol (On)</b>
	Monday to Saturday: 10:00 to 23:00 Sunday: 12:00 to 22:00
	Amendments to application advised at hearing:  During the hearing, Mr Wells offered to reduce the terminal hour on Monday to Saturday to 22:00 hours.
	Decision (including reasons if different from those set out in report):  The Sub-Committee asked Mr O'Maoileoin, representing the Applicant, to particularly focus when addressing Members on responding to the concerns that had been raised by Mr Seghatchian prior to the hearing and also on how the application would not add to cumulative impact in the West End Cumulative Impact Area. Mr Seghatchian had brought to Members' attention that he had been corresponding with Glynn Franks, City Inspector at the City of Westminster, regarding customers eating and drinking in the outside area at the Applicant's premises in Lexington Street. This was not part of the licensed area on the premises licence. Mr Seghatchian had provided what appeared to be photographic evidence to the Sub-Committee. The Enforcement Team had confirmed that the communications referred to by Mr Seghatchian had taken place with the premises licence holder.  Mr O'Maoileoin stated it was his understanding that matters at Lexington Street had been resolved. The issue of the use of the outside area had occurred because there had been a misunderstanding on the part of staff where the licensed area starts and ends. He advised the Sub-Committee that the lease for the premises included the outside area. It had been pointed out by Mr Franks that the outside area did not form part of the licensed premises and this was now accepted by the licence holder. Mr Wells, addressing the Sub-Committee, apologised that residents had been adversely affected by the use of the outside area and accepted that it needed to be addressed. He made the point that if it had been a constant issue for residents, he had not been aware of it. He had been aware of the recent complaint following the visit by Mr Franks. There had been a misunderstanding that the lightwell formed part of the licensed premises. He believed the problem had now been dealt with. Mr Wells added that Mr Franks had been of the view that the operation of the premises was not a major concern to the Council. Mr O'Maoileoin clarified that there were now no tables and chairs outside the Lexington Street premises.  Mr O'Maoileoin described the premises at 73 Beak Street as a small restaurant /

café / delicatessen in the West End Cumulative Impact Area which had been owned by Mr Wells for ten years. He explained that the sale of alcohol was permitted at five other Fernandez & Wells premises. None of the company's premises were drink led. Sales of alcohol were almost exclusively glasses of wine with substantial meals. The Applicant was content with a restaurant condition being attached to the Beak Street premises licence. Alcohol would be ancillary to a substantial meal and would be served to seated customers by waiter or waitress service. The substantial meals would include casseroles and omelettes and food with a Spanish theme. Mr O'Maoileoin confirmed that off-sales were not sought and there would be no regulated entertainment. The proposed hours in the evening were less than those set out in the Council's Core Hours policy.

Mr O'Maoileoin informed Members that another firm had been instructed at the time when the application had been submitted and in hindsight it would have been advisable for his client to have undertaken a pre-application process and consulted residents. He believed that if residents had been aware of the proposed conditions and hours being offered now at an earlier stage their concerns would have been less. He was aware that there were issues with customers drinking outside on the pavement and in the road at pubs in the area. He added that the original application did not specify that the premises would operate as a restaurant and therefore the residents would have had reasons at the time to be concerned. However it was now a food led premises.

Ms Thomas on behalf of Environmental Health stated that the reason for her representation was that 73 Beak Street is located in the West End Cumulative Impact Area. The Applicant had restricted the licensable activities being proposed and the proposed conditions required the premises to operate as a restaurant. She advised that she had now agreed a capacity condition with the Applicant for a maximum of twenty people in the premises at any one time excluding staff. This number was slightly more than the recommended figure for one lavatory in British Standard 6465 but was an improvement over that originally requested by the Applicant. She confirmed that there had been no complaints received by the Noise Team in respect of the premises.

Mr Brown addressed the Sub-Committee on behalf of local residents. He referred to Dr Sofaer's written representation regarding the potential for outside drinking. Mr Brown stated that the fear of residents continued to be that there would be drinking outside the premises at Beak Street. These concerns were still strong because of the issues that had arisen at Lexington Street. Residents could not be confident that the licence holder would keep to the conditions on the premises licence. Mr Brown made the point that whilst the outside area was included on the lease, the licence holder would have had access to the plans for the Lexington Street premises. He observed that Mr Franks could not have been much clearer in alerting the licence holder to the fact that the premises licence conditions were not being fully complied with and yet there had continued to be breaches after he had brought it to his attention. It had been a long standing issue prior to that. It was also a problem if the outside area was not proactively managed as the pavement was narrow in both Beak Street and Lexington Street, particularly for parents with prams such as Mr Seghatchian and also for the disabled.

Mr Brown also addressed the Sub-Committee on the premises in Beak Street adding to cumulative impact. He referred to Mrs Callingham's written representation that in the last five years at least thirty restaurants had opened in the locality. He believed that the Applicant's commitment to alcohol being ancillary to substantial table meals and operating as a restaurant was an important amendment but that the Council's policy was that applications would only be granted, provided it could be demonstrated that the application would not add to cumulative impact in the cumulative impact areas. Mr Brown used the analogy of the dripping tap and asked the rhetorical question 'at what point does the bath overflow?' even if the capacity was relatively small in this instance.

Mr Seghatchian provided some background to the concerns he had set out in his written representations. He had no concerns regarding the premises operating as a coffee shop but did have concerns in the event it sold alcohol. He had spoken to Mr Wells when the Applicant had submitted an application involving alcohol a couple of years ago and Mr Wells had withdrawn the application given the concerns residents had. He added that it had not been long after that when leaners were introduced outside the windows at the Beak Street and Lexington Street locations. Mr Seghatchian informed Members that because Mr Wells had responded to residents' concerns when he had withdrawn his application including the sale of alcohol, he had not felt it reasonable to complain about issues in the outside area. He was particularly worried following the current application having been submitted. He was attempting to push the pram of his young child along the narrow pavement at Beak Street and the coffee sign was blocking it. Mr Seghatchian stated that he was prepared to contact Mr Franks if there were issues with the outside area at either of the Applicant's locations but he had a life to lead.

Mr Seghatchian had concerns beyond noise from patrons' use of the area at the front of the premises, including smokers. There were toilets at the rear of the premises which could only be accessed via the courtyard. The flats at the back of Beak Street were potentially adversely affected by noise. He added that he hoped that the Applicant would again decide to withdraw the application and not sell alcohol at the café/deli, opening for the currently limited hours (07:30 to 18:30).

Mrs Callingham stated that she did not believe that an Applicant Company that felt it could put a leaner shelf and seats outside its premises when the outside area was not permitted to be used would comply with their premises licences in the future. It was her view that management had also felt that signs could be left outside the premises blocking the narrow pavements to local residents, including those with pushchairs and the disabled. She was concerned that a new licence would attract more people to the locality within the cumulative impact area and believed that the large accumulation of premises licences endangered local residents.

Councillor Roberts asked whether in the light of the Applicant agreeing that there would be no off-sales at 73 Beak Street, it would be possible for customers to take home partly consumed bottles. Mr O'Maoileoin replied that it was permitted

within the Council's model restaurant condition but that his client was willing for this part of the condition to be removed. Mr O'Maoileoin also provided clarification to Councillor Roberts that there was no intention to build a new kitchen. Councillor Roberts expressed the view that the reality was that patrons would behave better if they were drinking coffee than alcohol. Beak Street was not a sensible place to have more premises offering alcohol given the narrowness of the pavements. There were late night servicing issues such as the collection of bottles. She was keen to see the cumulative impact policy adhered to.

Mr Wells was given the opportunity to respond to the comments of the objectors. He commented that he appreciated their concerns. The error at Lexington Street had been addressed. He did not want to turn the premises into a bar and he did not believe there would be noisy customers. He was asked how staff would manage people wanting to go outside and smoke. Mr Wells replied that there was a sign that customers should not take glasses outside when they went outside to smoke. Ms Thomas made the point that there was also an agreed proposed condition requiring this. Mr O'Maoileoin offered to have a condition on the licence which limited the number of smokers outside. Mr Wells offered to close the premises at 22:00 if this allayed concerns regarding 73 Beak Street becoming a late night premises.

The Sub-Committee asked Mr Wells why he had not looked to consult local residents, particularly Mr Seghatchian about the new application at Beak Street as they had maintained a dialogue when Mr Wells had withdrawn the previous application. He replied that he regretted not consulting local residents prior to the application being submitted. Mr Wells was also asked whether the leaner outside the Beak Street premises was used. He did not believe that it was being used. Mr Seghatchian informed the Sub-Committee that he had found it necessary to tell the staff in Beak Street that customers should not be sitting outside the premises. He believed that it was obvious what the leaner had been put there for.

Mr Seghatchian was asked what his view was of the current situation at the premises in Lexington Street. He responded that it was important to bear in mind that customers would not be sitting outside in October in the same way that they would during the summer months. He had seen signs on the windows and doors that customers were not allowed to take drinks outside. However, he expressed the view that there was no way that once the weather was better and there were greater numbers of people at the premises the behaviour of the customers would all be monitored.

Mr O'Maoileoin disputed that there were customers standing outside the Beak Street premises. It was accepted that errors had been made at Lexington Street. One of the reasons the plans had been misinterpreted at Lexington Street was that they had been photocopied in black and white and there was no red line. Mr O'Maoileoin added that Thomas & Thomas had managed to obtain a copy from the Council's Licensing Register so that it was apparent what the licensing area was. The matter had not been resolved for a number of weeks after Mr Franks' advice that the outside area should not be used had been received because staff still thought the lightwell formed part of the licensed

premises. Mr O'Maoileoin stated that his client did not believe the leaner was being used in Beak Street but the Applicant Company was prepared to remove it should the Sub-Committee require it.

Prior to the decision being announced, the opening hours were discussed. Mr Panto referred to the fact that it had been brought to Members' attention during the hearing that the Applicant currently opened the Beak Street premises at 07:30 hours. The opening hours applied for were 10:00 Monday to Saturday and midday on Sundays. He had raised this as there was the potential if the Applicant opened at 07:30 it would be reported as a breach. Mr O'Maoileoin responded that he was in the Sub-Committee's hands. If the Sub-Committee was willing to accept the earlier opening hours as it did not involve licensable activities, that was fine or it could be dealt with via a minor variation. Mr Panto stated that the Licensing Authority's position in relation to the Licensing Act legislation was that hours could not be granted beyond those applied for. Mr O'Maoileoin commented that it would therefore be sensible to submit a minor variation rather than open at an earlier hour and for it to be the source of a complaint.

Members of the Sub-Committee, in reaching a decision, had some concerns about the Applicant's approach towards managing the premises and in particular the outside area. This was as a result of local residents' representations, notably Mr Seghatchian's written representations and comments at the hearing. It was the case at the Lexington Street premises within the local area there had not been the sort of response the Licensing Authority would have hoped for to the issues Mr Franks had raised with the licence holder. Drinking and eating had taken place outside a number of weeks after Mr Franks had advised conditions on the licence were being breached. Residents had concerns that leaner shelves had previously been introduced at the front of both the Lexington Street and Beak Street premises which gave a clear impression that outside use was intended. The Sub-Committee had no reason not to believe Mr Seghatchian's comments that he had found it necessary to tell the staff in Beak Street that customers should not be sitting outside the premises. It was important also that the Applicant took into account local residents' public safety concerns and that they were not obstructed on the highway, including by signage.

The Sub-Committee noted that the Applicant had demonstrated a willingness to be flexible in respect of the application, including in terms of agreeing the restaurant condition and to remove the leaner shelf at the front of the premises. Members were therefore minded to give the Applicant the opportunity to demonstrate that the Beak Street premises could be well managed when alcohol was sold there. They decided that the sale and consumption of alcohol would be permitted until 20:00 with the premises being able to stay open until 23:00 subject to a further condition being added to the licence to prevent the consumption of alcohol after 20.00. In the event that the Applicant was able to demonstrate that with the addition of on-sales the premises could be operated in keeping with the conditions attached to the licence and in accordance with the licensing objectives, there was the option of applying for a variation in hours. Equally, should there be significant issues with the operation of the premises and the conditions and licensing objectives not be adhered to, there was the

	<p>option for local residents or Responsible Authorities to submit a review application of the premises licence.</p> <p>The Applicant had offered in the operating schedule that the sale of alcohol would not be advertised externally. Mr O'Maoileoin had also offered a condition that the number of smokers outside would be limited. The Sub-Committee decided that the maximum number of smokers outside the premises at any one time would be two based on it being 10% of the capacity.</p>
<b>2.</b>	<b>Opening Hours</b>
	<p>Monday to Saturday:                      10:00 to 23:00  Sunday:    12:00 to 22:00</p>
	<p>Amendments to application advised at hearing:</p> <p>None.</p>
	<p>Decision (including reasons if different from those set out in report):</p> <p>Granted, subject to conditions as set out below.</p>

<b>Conditions attached to the Licence</b>
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### **Mandatory Conditions**

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



request to customers where it is reasonably available.

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

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

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

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

Where -

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

**Additional Conditions**

9. The premises shall only operate as a Restaurant (i) where the supply of alcohol is by waiter or waitress service only, (ii) which provide food in the form of substantial table meals that are prepared on the premises and are served and consumed at the table using non disposable crockery, (iii) which do not provide any take away service of food or drink for immediate consumption, (iv) which do not provide any take away service of food or drink after 23.00, and (v) where alcohol shall not be sold or supplied, otherwise than for consumption by persons who are seated in the premises and bona fide taking substantial table meals there and provided always that the consumption of alcohol by such persons is ancillary to taking such meals.
10. No noise generated on the premises, or by its associated plant or equipment, shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
11. 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.
12. Notices shall be prominently displayed at any area used for smoking requesting patrons to respect the needs of local residents and use the area quietly.
13. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
14. All waste to be properly presented and placed out for collection no earlier than 30 minutes before the schedule collection times.
15. No rubbish, including bottles, shall be moved, removed or placed in outside areas between 23:00 hours and 08:00 hours.
16. No deliveries shall be made to the premises between 23:00 and 08:00 hours.
17. During the hours of operation of the premises, the licence holder shall ensure sufficient measures are in place to remove and prevent litter or waste arising or accumulating from customers in the area immediately outside the premises, and that this area shall be swept and or washed, and litter and sweepings collected and stored in accordance with the approved refuse storage arrangements by close of business.
18. The number of persons permitted in the premises at any one time (excluding staff) shall not exceed 20 persons.
19. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Viewing of recordings shall be made available immediately upon the request of Police or authorised

officer throughout the entire 31-day period.

20. 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.
21. A Challenge 21 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport or proof of age card with the PASS Hologram.
22. An incident log shall be kept at the premises, and made available on request to an authorised officer of the City Council or the Police, which will record the following:
  - (a) all crimes reported to the venue
  - (b) all ejections of patrons
  - (c) any complaints received
  - (d) any incidents of disorder
  - (e) any faults in the CCTV system
  - (f) any visit by a relevant authority or emergency service.
23. Patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, shall be limited to 2 persons at any one time.
24. The consumption of alcohol on the premises shall cease at 20:00 hours.
25. The sale of alcohol at the premises shall not be advertised externally.
26. The licence shall have no effect until the leaner shelf outside the front of the premises has been permanently removed.

## **2 LEICESTER SQUARE GARDENS, LEICESTER SQUARE WC2**

### **LICENSING SUB-COMMITTEE No. 2**

*Thursday 6th October 2016*

Membership: Councillor Nickie Aiken (Chairman), Councillor Susie Burbridge and Councillor Rita Begum

Legal Adviser: Barry Panto

Policy Adviser: Chris Wroe

Committee Officer: Jonathan Deacon

Presenting Officer: Sue Patterson

Relevant Representations: Environmental Health, Metropolitan Police, Licensing Authority and 1 local resident.

Present: Mr Alun Thomas (Solicitor, representing the Applicant), Mr Charlie Wood (Managing Director, Applicant Company), Ms Sarah Fleming (Operations Manager, Applicant Company), Ms Sally Thomas (Environmental Health), Sergeant Paul Hoppe (Metropolitan Police) and Mr Steve Rowe (Licensing Authority).

<b>Leicester Square Gardens, Leicester Square, WC2 16/08044/LIPN</b>	
<b>1.</b>	<b>Regulated Entertainment: Plays and Performance of Dance (Indoors)</b>
	Monday to Thursday: 10:00 to 23:00 Friday to Saturday: 10:00 to 00:00 Sunday: 10:00 to 22:30
	Amendments to application advised at hearing:  None.
	Decision (including reasons if different from those set out in report):  This was an application for a new premises licence to operate on a seasonal basis for three years. The dates applied for were 11 November 2016 to 8 January 2017, 10 November 2017 to 7 January 2018 and 9 November 2018 to 6 January 2019. The Sub-Committee heard from Mr Thomas, representing the Applicant that bar use was sought for the 600 seater Spiegel tent and also in relation to the Christmas market. The Spiegel tent would contain the show La Soiree which Mr Thomas and Mr Wood stated had been held at South Bank for a number of years and had not caused any complaints. The show had also had a two years run at Hippodrome and had received an Olivier award. It had also been featured in Edinburgh and Hong Kong. The show was described as a 'concoction of cabaret' and included musicians, singers, acrobats, magicians and contortionists. Mr Thomas commented that in respect of the Christmas market that there would be 27 stalls including merchandise, food and background music.  Mr Thomas clarified in response to a question from the Sub-Committee that there would be mandatory bag searches. He also confirmed that there would be no off-sales. Mr Thomas raised some of the reasons as to why he believed that the application should be seen as an exception to policy in the West End Cumulative Impact Area. These included that he believed that the area was covered by the Council's area licences. They had not been used in this instance

because they were not deemed to be fit for purpose. However, the Applicant Company had worked closely with the Council's Special Events Team and there were more conditions proposed for this application than in the area licences. Mr Thomas also referred to the application being an exception on the basis that there was combined use and it was a performance venue under Policy PVC2. In order to obtain alcohol in the Spiegeltent, it was necessary to purchase a ticket. It was also the view of the Applicant that the primary use was not to consume alcohol and that there would be a steady turnover of customers. There were two floors where alcohol could be consumed in the Christmas Market area, the ground and first floors and the maximum capacity proposed for the first floor was 90. A further exception Mr Thomas referred to during the hearing was that the Applicant Company, Underbelly, had very experienced operators. There had been 2.85 million footfall in Edinburgh when the show had been held there and there had been no issues raised at all.

Mr Thomas also advised that there were no live acts in the Christmas Market area. Only background music would be featured there. Operational and noise management plans had been discussed with the Responsible Authorities and the Applicant was satisfied that there would be no noise outbreak. Mr Thomas informed the Sub-Committee that there were two performances in the La Soiree show which featured some nudity but this did not require a Sexual Entertainment Venues licence. Mr Wood confirmed that there were appropriate age descriptions for the show and that a young person would have to be accompanied by a parent. The box office would give advice on the age policy when customers contacted them.

Mr Wood stated that one of the advantages of the site was that Leicester Square Gardens was a small area and self-contained. There was no seated furniture in the garden so people would not dwell there. It was possible only to use two entrances and exits. There would be a manager and security on site at all times.

Mr Thomas addressed the Sub-Committee on the proposals for New Year's Eve. This was believed to be the Police's only remaining concern relating to the application. It had been agreed with the Police that the Christmas Market would be closed at 18:00 on New Year's Eve but that the Spiegeltent would be open for the show until 02:00. Mr Wood added that the first show would be 19:00 to 21:00 and customers would then be guided through the theatre area and out into the gardens. The second show would end shortly before midnight. A ratio of 1 SIA steward to 50 customers had been agreed so if the Spiegeltent was operating to capacity there would be 12 stewards on duty until an hour after the end of licensable activities or as otherwise agreed with the Police Bronze Commander. The Police had not wanted customers to leave into Leicester Square at midnight. It had been agreed that all performers would stay on and mingle with the audience.

Police Sergeant Hoppe referred to some additional submissions from the Police prior to the hearing. He confirmed that the Police's concerns all related to operations on New Year's Eve. A key aspect was to protect people in the event of a terrorist attack. There was currently no intelligence that there would be such an attack at this location but it would be a high profile venue and there would be a lot of people moving around London on New Year's Eve. Decisions

were yet to be made what the Policing plans would be. Sergeant Hoppe wished to emphasise that the Police did not act as security for private events and there were no increased Police resources for this event. It was up to the Applicant Company to fund it. He confirmed that the Police had concerns about people leaving at midnight. It was best to keep them in an area of safety and allow people to gradually disperse from the area. He was pleased that there had been an agreement with the Applicant on an increase in male and female SIA stewards to ensure safe egress and to search customers prior to entry. There had also been an agreement that the performance could be stopped or cancelled on the direction of the Police Bronze Commander if there were particular concerns on New Year's Eve. He had no particular view on the capacity.

Ms Thomas for Environmental Health stated that she had maintained her representation as the venue would be located in the West End Cumulative Impact Area. Due to the duration of the event and the potential footfall, the operating schedule and the management plan would need to be agreed with the Applicant. This had been reflected in the proposed conditions which had been discussed and agreed with the Applicant.

Ms Thomas addressed Members on the various aspects of the application. She referred to the fact that the bar in the Gardens was a concern as it was not in keeping with the cumulative impact policy. She was proposing that the consumption of alcohol was in plastic and paper cups, that there was a Challenge 25 policy in place and there were no straight spirits available. She had agreed with the Applicant that the bar area in the Gardens would close at 22:00 and that it would only operate when at least 50% of the Christmas Market stalls were in operation in order to prevent the outside bar becoming a destination area. It should be ancillary to the Christmas event. The capacity for this area was 90 people. In respect of the Spiegeltent, Ms Thomas made the point that it was ticketed and it was controlled who would be coming in and out. Her main concern there was the potential for noise breakout. She was of the view that the noise plan needed some tweaking but could be worked with so that noise nuisance concerns were minimised.

Ms Thomas advised that a condition she had proposed enabled Environmental Health to liaise with the Applicant before and during the event. Le Soiree had only been definitely confirmed for 2016-17 and it was possible that the event in the Spiegeltent in future years would be a different show. The condition provided flexibility rather than setting actual noise levels over a three year period. Queuing for the Spiegeltent would be limited to the perimeter of the event and would not impact on the public highway. She informed Members that if Environmental Health was unhappy with the means of escape it would be possible to amend it as a result of the works condition.

Ms Thomas advised that the number of WCs provided for the whole premises were sufficient given that the capacity of 3000 was unlikely to be reached at all times. The entertainment for the outside area constituted background music and would stop at 22:00. In respect of the Gardens area, Ms Thomas was of the view that setting a capacity would be too difficult to enforce. Litter would need to be managed by the Applicant Company. She advised that the noise

management plan was sufficient to control noise levels in the event there was noise breakout and it was therefore not being proposed that there should be a 'no noise shall emanate' condition.

Mr Rowe for the Licensing Authority stated that his representation had been maintained on policy grounds. He referred to the proposed hours for the venue being within the Council's Core Hours policy except for New Year's Eve. He commented that it was for the Sub-Committee to consider whether the conditions that had been proposed addressed concerns in relation to New Year's Eve. He also made the point that the Council's policy in the cumulative impact areas indicated refusal for new applications involving bars and music and dancing, were intended to be strict and would only be overridden in exceptional circumstances. It was for the Applicant to demonstrate that there were exceptional circumstances in this case. Mr Rowe added that the Applicant had placed an emphasis on the application being in keeping with Policy PVC2. However, PVC2 set out that applications would only be granted subject to other policies in the Statement of Licensing Policy and provided it was demonstrated that they would not add to cumulative impact in the Cumulative Impact Areas.

Members of the Sub-Committee raised their concerns about the application with the Applicant. The capacity of the Spiegel tent was 600 and there were potentially up to another 2400 people at the premises in the West End Cumulative Impact Area. A significant number could be vertically drinking. Such an application would not generally be granted in a cumulative impact area. Mr Thomas replied that there would be a maximum of 90 people in the bar area at any one time. He also believed that people would not remain at the site and use it as a destination drinking venue. Mr Wood commented that he was not seeking to have 3000 people on site at the same time as this would equate to two people per square metre. He also stated that the maximum length of the bar was six metres and it would be very difficult to serve more than 12 people at any one time. It would not be possible overall to serve anything like 1500 people.

Mr Wroe advised that in policy terms the application was drink led. There was no proposed condition where alcohol was ancillary to food. Mr Thomas responded that there was a Leicester Square Area Licence which permitted the sale of alcohol. Ms Patterson and Mr Panto brought to Members' attention that the Leicester Square Area Licence permitted alcohol until 20:30. Mr Panto added that there was a separate Leicester Square Gardens premises licence which did not permit the sale of alcohol at all. Mr Thomas emphasised that whilst there may have been a limited terminal hour for the area licences and it was open to Members to limit the terminal hour for the sale of alcohol to 20:30 or 21:00, there was not a limit on capacity and those who were able to consume alcohol in the area licences. Mr Wroe stated that the concept behind the area licences was that the Council could authorise individual licences within the area including small charity events and the events were under the direct control of the Council. There was not an indeterminate number of people at these events. Mr Thomas made the point that the area licences could still be used for the purpose sought by the Applicant. The Applicant had only sought not to use an area licence because they wanted a bespoke application. He referred to Pride as an example of an event adding to cumulative impact. The Chairman responded that Pride was held once a year. Mr Thomas raised the question whether there



was the potential to configure the bar to prevent it being used by a substantial number of people. Mr Wood had concerns about this approach and expressed the view that he would rather agree a smaller capacity for the site or an earlier closure of the bar.

In response to questions from the Sub-Committee during the hearing Mr Wood informed Members that the only other time it was intended that the Spiegeltent would be used apart from Le Soiree performances would be for carol concerts during the day. He was also not seeking to amend the application in future years. It was likely Le Soiree would continue to be the feature show in years 2 and 3 as well as year 1. Mr Wood and Mr Thomas also confirmed there would be no alcohol sold in the Market stalls, regulated entertainment would be limited to the Spiegeltent and music outside of that area would be background music. One possible change in future years would be to add a live choir stage. The Applicant would also be seeking that there would be no entry or re-entry to the Premises after 22.10 hours on New Year's Eve. It was clarified that the show was pre-booked but it was intended that people could purchase tickets on arrival. There was a VIP area in the Spiegeltent but as in the case of the other customers they could not be served alcohol beyond the ten minutes after the interval cut off point apart from New Year's Eve. Plastic glasses would be used throughout the site but bottles of wine or champagne could be purchased in the Spiegeltent.

Mr Thomas took Members through the amended conditions based on discussions with the Responsible Authorities. Mr Wroe made the point that with other major events there had been the option for the Responsible Authorities to veto aspects of the management plan if they were dissatisfied. A condition that 'so far as is reasonably practicable the Premises Licence Holder shall ensure that the event is run in accordance with the Event Management Plan' potentially had little value. Mr Thomas responded that it did appear as though the operational management plan did not have to be agreed. However in reality there was considerable agreement between the Applicant and the Responsible Authorities. Ms Thomas clarified that it was the organiser's plan and it was not intended that Environmental Health should have legal liability for it. It was for Environmental Health to comment on it. She was content with the wording of the conditions relating to the Event Management Plan.

The Sub-Committee took the view that there was evidence as a result of its previous operations (Underbelly being the event producer for "Pride" and the production partner for "West End Live") that the Applicant Company would be a responsible premises licence holder. Members decided to grant the proposed hours for licensable activities in the Spiegeltent on the basis that those activities would be ancillary to the principal use of the tent as a performance venue. Members' concerns related to the areas outside the Spiegeltent and in particular the first floor bar where up to 90 people could drink vertically in the area. This was potentially a destination drinking area in the West End Cumulative Impact Area. It was not accepted that the area licences held by the Council amounted to an exceptional reason for granting the hours sought in this particular application, especially as one area licence did not allow the sale of alcohol at all and the other restricted the sale of alcohol to 20.30. Alcohol was therefore not permitted in the upstairs bar and was restricted to the ground floor open hatch with a

	terminal hour of 22:00. Members considered that alcohol should be ancillary to the performance of the show or to visiting the Market stalls. As requested by Environmental Health and the Applicant had agreed, the bar in the Gardens would only operate when at least 50% of the Market stalls were in operation. The Applicant had also agreed that alcohol would not be sold at any of the Market stalls except the ground floor bar and a condition was attached to the premises by the Sub-Committee to this effect.
<b>2.</b>	<b>Regulated Entertainment: Films, Live Music, Recorded Music, Anything of a similar description to Live Music, Recorded Music or Performance of Dance</b>
	Monday to Thursday: 10:00 to 23:00 Friday to Saturday: 10:00 to 00:00 Sunday: 10:00 to 22:30
	Amendments to application advised at hearing:  None.
	Decision (including reasons if different from those set out in report):  Granted, subject to conditions as set out below. A condition was attached to the premises licence that regulated entertainment would only be provided in the Spiegeltent as had been agreed by the Applicant.
<b>3.</b>	<b>Sale by retail of alcohol (On)</b>
	Monday to Thursday: 10:00 to 23:00 Friday to Saturday: 10:00 to 00:00 Sunday: 10:00 to 22:30
	Amendments to application advised at hearing:  None.
	Decision (including reasons if different from those set out in report):  The Sub-Committee granted on-sales as applied for in the Spiegeltent. They were only permitted until 22:00 from the external market bar at the ground floor open hatch but were not permitted at the proposed first floor of the external market bar.
<b>4.</b>	<b>Hours premises are open to the public</b>
	Monday to Thursday: 10:00 to 23:30 Friday to Saturday: 10:00 to 00:00

	Sunday: 10:00 to 23:00
	Amendments to application advised at hearing:  None.
	Decision (including reasons if different from those set out in report):  Granted, subject to conditions as set out below.
<b>5.</b>	<b>Seasonal Variations / Non standard timings</b>
	<b><u>Regulated Entertainment: Plays and Performance of Dance (Indoors), Regulated Entertainment: Films, Live Music, Recorded Music, Anything of a similar description to Live Music, Recorded Music or Performance of Dance, Sale by retail of alcohol (On) and Hours premises are open to the public</u></b>  From the end of permitted hours on New Year's Eve to 02:00 on New Year's Day.
	Amendments to application advised at hearing:  None.
	Decision (including reasons if different from those set out in report):  The Sub-Committee granted this aspect of the application, subject to conditions as set out below. The Applicant had applied for the licensable activities from the end of permitted hours on New Year's Eve to 02:00 on New Year's Day in the Spiegeltent. It was noted that an agreement had been reached with the Police that the Christmas Market would be closed at 18.00 on New Year's Eve.

**Conditions attached to the Licence**

**Mandatory Conditions**

1. No supply of alcohol may be made at a time when there is no designated premises supervisor in respect of this licence.
2. No supply of alcohol may be made at a time when the designated premises supervisor does not hold a personal licence or the personal licence is

suspended.

3. Every supply of alcohol under this licence must be made or authorised by a person who holds a personal licence.
4.
  - (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
  - (2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises—
    - (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to;
      - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
      - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
    - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
    - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
    - (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
    - (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).
5. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
6.
  - (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
  - (2) The designated premises supervisor in relation to the premises licence

must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.

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

7. The responsible person must ensure that—

- (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—
- (i) beer or cider: ½ pint;
  - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
  - (iii) still wine in a glass: 125 ml;
- (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
- (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

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

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

8(ii) For the purposes of the condition set out in paragraph 8(i) above -

- (a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;
- (b) "permitted price" is the price found by applying the formula -

$$P = D+(DxV)$$

Where -

- (i) P is the permitted price,
- (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
- (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;

(c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence -

- (i) the holder of the premises licence,
- (ii) the designated premises supervisor (if any) in respect of such a licence, or
- (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;

(d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and

(e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.

8(iii). Where the permitted price given by Paragraph 8(ii)(b) above would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

8(iv). (1) Sub-paragraph 8(iv)(2) below applies where the permitted price given by Paragraph 8(ii)(b) above on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.

(2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

### **Additional Conditions**

9. Licensable activities shall be restricted to a maximum of 10 weeks only operating between November and January in any calendar year where this licence is in effect.

10. At least one SIA licensed door supervisor shall be on duty at each entrance of the premises at all times whilst it is open for business.

11. The Premises Licence Holder shall comply with all reasonable requirements of Westminster Police Licensing Team, Environmental Health Consultation Team, Westminster City Council, the London Fire and Emergency Planning Authority and the Metropolitan Police Service.
12. Unless otherwise agreed, no later than 28 days prior to the event the Premises Licence holder must ensure an Event Management Plan is presented to the parties listed in the above conditions for their comments. The Event Management Plan shall include, as a minimum:
  - a. Emergency and Evacuation procedures;
  - b. Crowd management and stewarding arrangements;
  - c. A detailed plan showing site layout and emergency egress points;
  - d. A detailed plan showing CCTV locations installed by the Premises License Holder;
  - e. Risk Assessments
  - f. A schedule detailing types and locations of emergency equipment
  - g. Sanitary accommodation
  - h. The capacity of fully enclosed locations where alcohol is sold.
13. So far as is reasonably practicable the Premises Licence Holder shall ensure that the event is run in accordance with the Event Management Plan.
14. There shall be at least one personal licence holder on site during operational hours. Details of the personal licence holder (including name and contact number) shall be displayed in a prominent position on site.
15. The external market bar in the Gardens shall only operate when at least 50% of the Christmas Market stalls are in operation.
16. No alcohol shall be taken outside of the boundary of the licensable area.
17. The sale of spirits shall be limited to the Spiegeltent bar only unless as an integral ingredient of mulled wine, 'hot toddies' or mulled cider sold in the market.
18. All staff engaged outside the entrance to the premises, or supervising or controlling queues, shall wear high visibility jackets or vests.
19. Notices shall be prominently displayed at all exits (including the Spiegeltent) requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
20. Substantial food and non-intoxicating beverages, including drinking water, shall be available in all parts of the premises where alcohol is sold or supplied for consumption on the premises.
21. In relation to the sale of alcohol, a Challenge 25 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport or proof of age card with the PASS Hologram.

22. The age of the audience members to the Spiegeltent shall be appropriate to the performance.
23. A record shall be kept detailing all refused sales of alcohol. The record should include the date and time of the refused sale and the name of the member of staff who refused the sale. The record shall be available for inspection at the premises by the police or an authorised officer of the City Council at all times whilst the premises is open.
24. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team. All entry will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the entire 31 day period.
25. An incident log shall be kept at the premises, and made available on request to an authorised officer of the City Council or the Police. It must be completed within 24 hours of the incident and will record the following:
  - (a) all crimes reported to the venue
  - (b) all ejections of patrons
  - (c) any complaints received concerning crime and disorder
  - (d) any incidents of disorder
  - (e) all seizures of drugs or offensive weapons
  - (f) any refusal of the sale of alcohol
  - (g) any formal visit by a relevant authority or emergency service.
26. Any special effects or mechanical installations shall be arranged, operated and stored so as to minimise any risk to the safety of those using the premises. The following special effects will only be used on 10 days prior notice being given to the licensing authority where consent has not previously been given.
  - dry ice and cryogenic fog
  - smoke machines and fog generators
  - pyrotechnics including fireworks
  - firearms
  - lasers
  - explosives and highly flammable substances.
  - real flame.
  - strobe lighting.
27. No person shall give at the premises any exhibition, demonstration or performance of hypnotism, mesmerism or any similar act or process which produces or is intended to produce in any other person any form of induced sleep or trance in which susceptibility of the mind of that person to suggestion or direction is increased or intended to be increased. NOTE: (1) This rule does not apply to exhibitions given under the provisions of Section 2(1A) and 5



of the Hypnotism Act 1952.

28. Licensable activities at events in the Spiegeltent shall only be provided to persons who are ticket holders for that event.
29. The number of persons accommodated in the Spiegeltent (including staff and performers) shall not exceed 600.
30. The licence holder shall ensure that any queuing for the Spiegeltent performances shall take place within the licensed area.
31. The safe capacity of the Gardens shall be continuously reviewed and action taken if necessary to ensure the capacity remains at a safe capacity.
32. All drinks shall be served in paper, plastic or polycarbonate containers only. No drinks shall be served in glass containers in the auditorium or external areas except for bottles of wine, sparkling wine or champagne served to customers in the Spiegeltent.
33. Save for New Year's Eve, in the Spiegeltent alcohol shall not be served later than 10 minutes after the end of the interval of the show.
34. Beer, Lager or Cider shall not be served in any measure greater than a pint.
35. 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.
36. 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.
37. All emergency exit doors shall be available at all material times without the use of a key, code, card or similar means.
38. The edges of the treads of steps and stairways shall be maintained so as to be conspicuous.
39. Curtains and hangings shall be arranged so as not to obstruct emergency safety signs or emergency equipment.
40. All fabrics, curtains, drapes and similar features including materials used in finishing and furnishing shall be either non-combustible or be durably or inherently flame-retarded fabric. Any fabrics used in escape routes (other than foyers), entertainment areas or function rooms, shall be non-combustible.
41. The certificates listed below shall be submitted to the licensing authority upon written request:
  - a. Any permanent or temporary emergency lighting battery or system
  - b. Any permanent or temporary electrical installation

c. Any permanent or temporary emergency warning system

42. There shall be no external entertainment beyond 22.00 hours.
43. There shall be no entry or re-entry to the Premises after 22.10 hours on New Year's Eve.
44. No waste or recyclable materials, including bottles, shall be moved, removed from or placed in outside areas between 23.00 hours and 07.00 hours on the following day.
45. No deliveries to the premises shall take place between 23.00 and 07.00 on the following day.
46. Flashing or particularly bright lights on or outside the premises shall not cause a nuisance to nearby properties (save insofar as they are necessary for the prevention of crime).
47. No fumes, steam or odours shall be emitted from the licensed area so as to cause a nuisance to any persons living or carrying on business in the area where the premises are situated.
48. A sufficient number of easily identifiable, readily accessible receptacles for refuse must be provided, including provisions for concessions. Arrangements must be made for regular collection. Public areas must be kept clear of refuse and other combustible waste prior to, and so far as is reasonably practicable, during the licensed event.
49. A minimum of 28 days prior to the event a Noise Management Plan to promote the prevention of public nuisance shall be provided to Westminster City Council's Environmental Health Consultation Team for approval. The Noise Management Plan shall state the maximum permitted music noise level applicable at the nearest noise sensitive premises. Once approved in writing it shall be implemented by the Premises Licence Holder.
50. Residential properties and the relevant amenity group(s) in the immediate vicinity of Leicester Square will be contacted as soon as reasonably practicable (and in any event no later than 28 days) prior to the Event advising them of the times of the Event and any sound check or rehearsal times and giving them a telephone number to contact in the event that they have any complaints.
51. Any generators, refrigerators or other machinery running overnight will be silenced, screened or sited so as not to be audible outside the boundary of the Gardens.
52. Electrical generators, where used, must be:
  - i. Suitably located clear of buildings, marquees and structures, and free from flammable materials;
  - ii. Enclosed to prevent unauthorised access;
  - iii. Able to provide power for the duration of the event;
  - iv. Backed up electrical generators are to be provided to power essential

communications, lighting and safety systems in the event of primary generator failure.

53. The minimum number of toilet accommodation shall include :  
14 Womens Cubicles  
3 Mens Cubicles  
10 Urinals.
54. Details of all marquees, tented structures and temporary structures should be provided including emergency exits and signage, fire warning and fire fighting equipment.
55. Full structural design details and calculations of all and any structures to be erected within the licensed area must be submitted to the Westminster City Council Building Control. A certificate from a competent person or engineer that a completed structure has been erected in accordance with the structural drawings and design specification must be available for inspection prior to a relevant structure being used during the licensed event.
56. All fabric, including curtains and drapes used on stage for tents and marquees, or plastic and weather sheeting, shall be inherently or durably flame retardant to the relevant British Standards. Certificates of compliance must be available upon request by an authorised officer of Westminster City Council, The London Fire Brigade.
57. Any moving flown equipment must contain a device or method whereby failure in the lifting system would not allow the load to fall. All hung scenery and equipment must be provided with a minimum of two securely fixed independent suspensions such that in the event of failure of one suspension the load shall be safely sustained.
58. The Premises Licence Holder must maintain a regular safety patrol at all times when the public are present in the licensed area to check for and guard against possible emergency hazards. The area underneath any stage and fixed seating areas is to be kept clear of flammable materials.
59. The Premises Licence Holder must ensure that competent persons are employed to assess the electrical requirements at the event and the compatibility of the electricity supply with the equipment to be used. Appropriate safety devices (such as 30mA Residual Current Devices at Source) must be used for electrical apparatus, particularly for any electrical equipment exposed to adverse conditions or electrical equipment to be used in association with hand held devices (e.g. microphones). The competent person must make a certificate of inspection of the electrical installation available for inspection.
60. All spare fuel, including LPG, must be kept and stored safely in accordance with relevant Health and Safety legislation and suitable safety signage and fire fighting equipment provided.
61. No licensable activities shall take place at the premises 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 shall be removed from the licence by the licensing authority.

62. For the external entertainment 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.
63. On New Year's Eve only (unless otherwise agreed in writing with the MPS):
  - a) All persons to be thoroughly searched before entry as agreed in writing with the Police
  - b) A minimum ratio of SIA security personnel (both male and female) to be to a ratio of 1:50 persons and to be on site for an hour after the end of licensable activities or as otherwise agreed with the Police Bronze Commander
  - c) On the direction of the Police Bronze Commander the performance to be stopped or cancelled and direction taken from the senior officer on scene.
64. There shall be no sale or consumption of alcohol at the first floor of the external market bar.
65. Alcohol shall not be sold at any of the market stalls except the market bar.
66. Regulated entertainment shall only be provided at the Spiegel tent.