



**CITY OF WESTMINSTER**

# MINUTES

## **Licensing Sub-Committee (2)**

### **MINUTES OF PROCEEDINGS**

Minutes of a meeting of the **Licensing Sub-Committee (2)** held on **Thursday 13th December, 2018**, Room 3.1, 3rd Floor, 5 Strand, London, WC2 5HR.

**Members Present:** Councillors Tim Mitchell (Chairman), Jim Glen and Aziz Toki

#### **1 MEMBERSHIP**

1.1 There were no changes to the membership.

#### **2 DECLARATIONS OF INTEREST**

2.1 There were no declarations of interest.

#### **1 HYDE PARK, SERPENTINE ROAD, LONDON, W2 2UH11**

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

*Thursday 13th December 2018*

Membership: Councillor Tim Mitchell (Chairman), Councillor Jim Glen and Councillor Aziz Toki

Legal Adviser: Horatio Chance

Committee Officers: Tristan Fieldsend

Presenting Officer: Daisy Gadd

Relevant Representations: Environmental Health, The Mayfair Residents Group, the Residents Society of Mayfair and St. James, The South East Bayswater Residents Association, the Hyde Park Estate Association (supporting the application) and ten local residents

Present: Ms Sarah Le Fevre (Counsel, representing the Applicant), Mr Alan Thomas and Mr Jack Spiegler (Solicitors, representing the Applicant), Mr Alun Mainwaring (Head of Events, Filming and Commercial Development at The Royal Parks), Ms Sarah Collyer (Events and Communications Manager at The Royal Parks), Mr Jim Griffiths (Vanguardia Acoustics), Jim King and

Dan Craig (AEG), Mrs Sally Fabbriatore (Environmental Health), Mr Mark Walsh (Environmental Sciences), Mr Richard Brown (Solicitor, Citizens Advice Bureau Licensing Advice Project, representing the South East Bayswater Residents Association and Mr Mike Dunn, local resident), Mr Alexander Haushildt (local resident), Mr John Zamit (South East Bayswater Residents Association), Mrs Karen Scarborough (local resident), Mr Mike Dunn (local resident), Ms Louis Peltz (local resident) and Mr Richard Cutt (The Residents Society of Mayfair and St James's)

<b>Hyde Park, Serpentine Road, London, W2 2UH ("The Premises") 18/11180/LIPN</b>	
<b>1.</b>	<b>Sale by Retail of Alcohol – On Sales</b>  Monday to Sunday: 12:00 to 22:30
	Amendments to application advised at hearing:  None.
	<p>Decision (including reasons if different from those set out in report):</p> <p>The Sub-Committee considered an application by The Royal Parks Ltd ("The Applicant") for a new premises licence in respect of Hyde Park, Serpentine Road, London, W2 2UH.</p> <p>The Licensing Officer introduced the application and confirmed that the Applicant had amended the application, which was now seeking to permit 7 concerts at a capacity of 64,999, 2 concerts at a capacity of 49,999 and 5 occasions per calendar year where the event capacity was extended from 5,000 to 19,999. It was also confirmed that the Police had withdrawn their representation following the agreement of conditions with the Applicant.</p> <p>Ms Le Fevre, representing the Applicant, advised that there were four key characteristics to the application, namely: i) it was a targeted and specific application, ii) the scope of the application was limited, iii) the application was evidence based and iv) the conditions would have a wider economic benefit to the area. The Royal Parks wished to continue to attract a range of renown artists to its events and these artists would be carefully selected with events rigorously risk assessed. The nature of the events and entertainment would also be carefully considered and as part of this, a sound management plan had been formulated. The mid-week events had proven very popular and it was sought to increase the capacity for these going forward. The proposed conditions offered by the Applicant would have the effect of updating the Licence should the Sub-Committee be minded to grant the application.</p> <p>Ms Le Fevre advised that a major events strategy had been put in place and this had been published following extensive consultation. The Applicant was keen to continue for its operation to strike the right balance in the local area and respect the needs of all stakeholders. The Royal Parks was not seeking to increase the number of events but was seeking permission to improve the events whilst</p>

maximising its financial income. The Sub-Committee noted that an existing licence had been in operation for many years and following a review of that premises Licence in 2012, the Applicant had volunteered to impose restrictions on its operation that included lowering its capacity and decreasing the number of major events held in the park. Another subsequent improvement included a change of promoter to AEG who had helped develop the modern sound technology now employed at the events. It was stated that enhanced operational management procedures had also been implemented and this had seen a drop in complaints per annum from 166 in 2012/13 to 13 in 2016/17.

In terms of the planned 19,999 capacity events, Ms Le Fevre explained that these would continue to be midweek events providing content for children, charity work, educational workshops and fundraising. The application hoped to expand these and provide for greater community involvement. The Applicant was of the opinion that the current 5,000 capacity limit on these midweek events was limiting and by increasing its capacity it would future proof the application. The events would take place within the same footprint of the major events that catered for 64,999 people, therefore there would be no increase in its footprint. All of the events only covered 13% of the parks area and its impact on park users was limited. There would be no increase in capacity at the major events and its capacity limit was significantly less than the 80,000 capacity it was originally allowed. It was also confirmed that no changes to the hours on the licence were being sought.

Ms Le Fevre highlighted that the application sought to increase the number of major events held within the park with a maximum capacity of 64,999 from four to seven. This was because the Royal Parks operated in a competitive market and this would help continue to attract world-class artists to Hyde Park. The application was evidence based and large amounts of time, expertise and money had been invested in ensuring Hyde Park was a first class venue with significant stakeholder consultation being carried out before submitting the application. This included the circulation of fact sheets, meeting local residents and arranging further meetings if necessary to address concerns. The consultation was considered successful and this was evidenced through the representation received from the Hyde Park Estate Association that supported the application. The Sub-Committee was advised that letters from local schools and theatres supporting the application had also been received, copies of which are contained within the body of the Licensing Sub-Committee Report. It was claimed this recognised the vast amount of work undertaken by the Applicant to consult with local stakeholders.

The Sub-Committee was informed by the Applicant of the large scale cleansing operation carried out in the local area following an event. Following suggestions from local residents, it was agreed that this operation could be extended to Connaught Square. The Applicant stated that it wanted to be a good neighbour to residents and this was evidenced by the reduction in the number of complaints received. This reduction was not due to good fortune or complaint fatigue but through improved engagement processes and an improved sound management strategy. For any complaint received, the Applicant would attend the resident's address to measure sound levels and try to resolve any issues identified. For this engagement process to be successful however, it was

important that feedback was received from residents. Details on the sound management plan were provided along with the advanced nature of sound controls in place on site. The Sub-Committee was advised that these controls provided a proper evidential platform to increase the number of events with a capacity of 64,999.

Ms Le Fevre then set out four reasons why the application would promote the licensing objectives. Firstly, the extensive dispersal policy in place was designed to cater for events with a 64,999 capacity with an established egress plan. Secondly, the duration of Park Lane closures was provided and the Sub-Committee was advised how there was no correlation between the size of the event and the closure times. Thirdly, there was no correlation between the number of complaints and the scale of the events held. Fourthly, a condition had been agreed with Environmental Health (EH) limiting the noise levels for the midweek events. This condition was supported by the acoustic report produced by Vanguardia. The condition was designed to ensure there could be no abuse of the midweek events and would ensure they continued to cater for children, charities and community events.

Ms Le Fevre highlighted that the Police had withdrawn their representation as they were satisfied that the application would promote the licensing objectives following the agreement of conditions with the Applicant. The application had received local support and this recognised the amount of work carried out to ensure the events could be successful as well as respectful to residents so as to minimise any impact in terms of nuisance. Finally, if the Sub-Committee was minded to grant the application the conditions to be imposed had been updated and amended with assistance from stakeholders to ensure they were appropriate for the local area.

Mr Jim Griffiths, representing Vanguardia Acoustics, was invited by Ms Le Fevre to address the Sub-Committee regarding the sound technology used at events. Mr Griffiths explained that he worked closely with EH on the noise control procedures used at Hyde Park. An active monitoring system was used which allowed changes to be made immediately and a new MLA sound system had been introduced which had undergone extensive testing and subsequently made a significant reduction in sound propagation off site. Acoustic modelling had also been undertaken and the introduction of delay towers all helped distribute the sound. The results from the testing had been shared with the Council and this formed an important part of the exercise. The location of the stage had also been altered which had reduced noise levels off site. Where the stage location could not be altered noise levels would be reduced to meet the designated off site level. The innovations utilised to reduce noise levels off site had been successful and this was evidenced by the significant reduction in complaints received. The Sub-Committee was advised that moving the location of the stage, upgrading the sound system, changing the profile of the artists performing and liaising closely with the Council and other interested parties had all helped minimise any noise disturbance. It was considered that it was these factors and not the reduction in capacity at the venue that had created the improved situation.

Mrs Fabbicatore, representing Environmental Health, explained that since the

review hearing in 2012 various changes had been implemented, some of these were not conditioned but were instigated by the Applicant. The direction of the stage had been altered resulting in a significant improvement on offsite sound levels. New sound technology had been introduced and the implementation of more proactive community engagement all resulted in an improvement in the situation. Regular meetings with the Royal Parks and the event organisers took place to discuss the choice of artists, assess the noise management plan and suggest any changes. When events were being hosted EH met with the organiser's everyday to proactively manage any issues. A noise management hotline was in place to compile in live time any issues arising as well as to monitor off-site noise levels. The capacity of events was not taken into account when measuring noise levels as this did not affect the off-site noise levels. The agreed noise levels were restrictive, with offsite levels limited to just above what was regarded as ambient noise. It was recognised that the rigorous assessment in artist selection had also been a large factor in the reduction in the number of complaints received.

In terms of public safety Mrs Fabbricatore explained that a multi-agency group entitled the Licensing Safety and Advisory Group (LSAG) regularly met to manage the event process on an operational and day-to-day basis. No concerns had been raised in respect of public safety, there was adequate WC provision and the food and bar units provided were sufficient for the proposed capacities. With regards to public nuisance an offsite noise limit was in place and as such the main concerns were related to dispersal and the impact on residents. For the midweek smaller events, there was not a hard egress which occurred during concerts, instead it was a gradual dispersal and this limited any potential public nuisance issues. It was also noted that the condition proposed by the Police regarding the bar use onsite had been agreed with the applicant.

Finally, with respect to the protection of children from harm licensing objective EH confirmed that a children management plan was in place. EH advised it was a very comprehensive document and the Sub-Committee was assured that licensing site visits were undertaken to the site each year.

Mrs Karen Scarborough, a local resident, explained she lived in the vicinity of Hyde Park and was aware of the issues arising from the events held. The Royal Parks had been very helpful in trying to resolve any issues and had engaged with residents but problems still existed. Noise disturbance from the concerts remained a problem, the issues was generally dependent on the wind direction but it was acknowledged that the change in the location of the stage had helped. It was also understood that funding to the Royal Parks had been reduced and the application would help generate income. However, this income would be shared amongst all the Royal Parks and therefore local residents did not experience the full benefit from a large portion of the park being closed. A large issue centred on the capacity of the events. The Sub-Committee was advised that the larger capacities resulted in more people dispersing through residential areas and the related anti-social behaviour this created. Residents had been enduring these issues for many years and having complained about the issues continuously were now experiencing complaint fatigue. It was therefore suggested that as a compromise the number of major events be limited to 5 or 6 with the midweek capacities increased but restricted to 10,000. Residents also

experienced parking issues on event days and it was suggested the Royal Parks help fund extra parking enforcement in residential areas during the holding of the events. Finally, it was recognised that the event organisers, AEG, had worked hard with regards to sound monitoring and the selection of suitable artists, however concerns still remained over dispersal routes and issues such as cleansing.

Mr Hauschildt, a local resident, informed the Sub-Committee that he lived in close proximity to Hyde Park. He advised that he did not have an issue with Hyde Park holding events, however increasing the capacity of the midweek events from 5,000 to 19,999 would significantly increase pressure on the local area. Traffic problems were a particular issue for residents during these events and it suggested that the Royal Parks should fund additional parking enforcement during these times. It was understood that the Royal Parks had experienced a reduction in funding but it was queried whether this could be offset by increasing the price of the tickets for the events. Mr Hauschildt also suggested that the events be allocated between the Royal Parks and not just Hyde Park.

Ms Peltz, a local resident, was of the opinion that whilst the Royal Parks operated as a charity in reality it functioned as a business. Events held at Hyde Park resulted in various problems associated through dispersal. Local residents and the Park were suffering as a result of the events and residents had given up complaining. The noise from concerts filtered a long way through the local area causing a nuisance. The events were too big and bulky for the Park and very onerous for the residents.

Mr Dunn, a local resident, confirmed that he had been in discussions with the Royal Parks since 2005. Since the review hearing in 2012, the situation around concerts held at Hyde Park had improved considerably. Despite this improvement however, residents living in close proximity to the Park still suffered from noise nuisance, anti-social behaviour from dispersal and disruption through road closures. Many residents had given up complaining as even though they had been advised that noise levels were within agreed limits it was still affecting them. Residents had accepted the balance struck in the local area following the hearing in 2012 but the application before the Sub-Committee would upset this balance and create disturbance. Increasing the capacity of the events would only exacerbate the nuisance already experienced. The suggestion that the increase in capacity was required to attract world-class artists was not agreed and it was important for any artists to abide with the conditions on the licence. Therefore, the Sub-Committee was requested to take into consideration the current nuisance that existed, the increase in capacity was likely to increase levels of nuisance and any changes to the licence would negatively impact on the balance struck in 2012.

Mr Richard Cutt, representing The Residents Society of Mayfair and St James's, explained that residents currently tolerated the inconvenience created through the hosting of events at Hyde Park. It was recognised that the Royal Parks needed to raise funds but it was suggested that any events be distributed across all the Royal Parks. Mr Cutt was of the opinion that the proposed increase in capacity would affect issues relating to dispersal. For the midweek events this

would result in an increase in traffic, a constant steady flow of people filtering through residential areas and the negative effect this would have over a wider area. Cleansing was highlighted as a significant issue that required addressing as littering from attendees of the events often occurred over a large area. Finally, the efforts by the current event organiser to carefully select appropriate artists was welcomed but the licence did not control who performed. Concern was therefore expressed that in future there could be a different organiser who might potentially change the style of artist performing at the events.

Mr Brown, from the Citizens Advice Bureau Licensing Advice Project, representing the South East Bayswater Residents Association and Mr Mike Dunn, addressed the Sub-Committee. It was advised that the events currently held at Hyde Park were a source of nuisance, but admittedly, the levels of disturbance were not at the levels historically experienced. Members had been advised that at the hearing in 2012 a series of measures had been volunteered by the applicant that now appeared on the licence. Mr Brown advised that to provide some context the measures, which included both a reduction in the number of events and a reduction in capacity, had actually both been requested by EH. It was clear from the decision in 2012 that the Council thought the measures imposed were appropriate at that time in order to strike the correct balance in the local area. Residents recognised that the situation had improved since the change of operator and also were aware of the need to hold events in the park to offset funding cuts. However, it was felt that an increase in events would increase disturbance to residents and these factors could not be mitigated satisfactorily. The increase in capacity expected from the proposals was detailed and concerns over dispersal were highlighted. Evidence had been provided by the Applicant regarding dispersal times but this did not take into account that more people would be dispersing into the wider area for a significantly longer period of time. The Sub-Committee was advised that the result of this would be to increase nuisance for residents.

Mr Brown advised that the midweek events were of less concern to residents because, despite the proposal to quadruple their capacity, their nature and the fact they were not standalone events meant they were likely to have less impact. It was also recognised that the current operator was ensuring more appropriate artists were performing in the park than previously. There was a concern however that when the current promoter's contract ended a different promoter could take over the running of the events and introduce less appropriate artists. Concern was also expressed that the applicant had produced a major events strategy but this did not form part of the licence and could therefore be changed without any consultation with the Council. It was therefore proposed that the strategy be tied to the licence to provide residents with some reassurance. With regards to the events with a maximum capacity of 19,999 the Applicant had described that these would be finished by 22:00. This was not reflected in the conditions however and it was requested that this time restriction be imposed if the Sub-Committee was minded to grant the application. It was also requested that the capacity of these midweek events be restricted to 9,999, which was considered more appropriate for the area. Finally, the Applicant had stated that the application was not causing any policy related concerns, as it was not located within a Cumulative Impact Area (CIA). Section PN1 of the Council's Statement of Licensing Policy did however refer to the impact of dispersal and

litter, two areas of concern relating to the application, and then therefore this section of the Policy should apply.

Mr Zamit, representing the South East Bayswater Residents Association, raised a concern over the capacity of the midweek events. Their capacity was proposed to be increased to 19,999 but this related to any one moment of time so in reality there would be much more than this figure attending the events throughout the day. The area where the Royal Parks carried out cleansing operations following an event also required extending due to dispersal into the wider area.

Ms Le Fevre addressed the Sub-Committee to respond to some of the concerns raised. In terms of dispersal, the Applicant had provided extensive evidence detailing dispersal times from the Park and the duration of Park Lane road closures during events. The evidence highlighted that there was no significant distinction between dispersal times and the different scales of events. The road closures were necessary to allow pedestrians to cross the road and ensure emergency vehicles were able to depart the site. With regards to dispersal and noise a comprehensive management plan was in place to deal with these issues. Advice was taken from the Responsible Authorities and marshals were placed on the street as necessary. The Applicant was a member of the Licensing Safety Advisory Group (LSAG) who provided advice when events were being held at Hyde Park. The Applicant stressed the importance of residents contacting them if they were experiencing issues so that they could respond and assist in resolving them. No issues had been raised by EH or directly with the Applicant, but if there were issues, residents needed to raise them.

The Sub-Committee took the views of all those resident objectors into consideration when considering the matter.

Mr Mainwaring, representing the Royal Parks, described the complex egress plan in place when events were held at Hyde Park. The same plan that was used for 64,999 capacity events was used for all events. The extensive use of signage and stewarding was described with the LSAG agreed the stewarding deployment plan 28 days before an event. Concerns relating to dispersal and litter were noted and increasing the area of the cleansing operation would be assessed.

Ms Le Fevre explained that the conditions would prevent any of the midweek events from becoming stand-alone concerts. As such, a proposed condition restricting the events to form part of the British Summer Time series would be accepted. Hyde Park had a capacity of 100,000 with the events footprint only consisting of only 13% of the Park's area. No changes to the nature of the entertainment provided was anticipated. In terms of public toilets, all facilities would be open and free during events with considerable investment in infrastructure that supported toilets being undertaken. It was stated that the Applicant carried out a very extensive cleansing operation but this could be expanded to other areas such as Connaught Square if deemed necessary. Concerns over residents parking during events was noted and ongoing dialogue with the Council was taking place to explore increasing enforcement patrols. To



provide further reassurance to residents the Applicant was content for a condition to be placed on the licence requiring the midweek events to cease by 22:00. It was acknowledged that the current promoter was of a very high calibre and had worked hard to attract appropriate, world-class artists to Hyde Park. However, it would not be possible to condition which artists could perform at the venue.

The Applicant confirmed that if the Sub-Committee was minded to grant the application the current licence would be surrendered.

The Sub-Committee carefully considered the application and noted that with regards to policy terms the application was not situated within a Cumulative Impact Area and therefore had to be considered on its own merits in light of the licensing objectives. In this regard the application had to promote the licensing objectives and the Sub-Committee had particular regard to the protection of children from harm, public safety and the prevention of public nuisance licensing objectives. The significant concerns raised in relation to the impact of the proposed events, in particular with regards to noise disturbance, dispersal, littering and anti-social behaviour had been considered by the Sub-Committee. Following previous large numbers of resident complaints in 2012, a licensing review hearing had taken place and it was acknowledged that residents were experiencing a degree of complaint fatigue. As such, the promoters of the events were encouraged to continue to interact with residents and ensure there were clear lines of communication between all parties to address any issues arising at an early stage. The Council reminded residents that it could only take action if complaints were submitted. The Sub-Committee also noted suggestions made by interested parties regarding spreading the burden of events amongst all the Royal Parks. However, the application before it related to Hyde Park only and the ability of other parks to host events was not relevant to the application and was not considered by the Sub-Committee. The Sub-Committee, duly noted that this was a new application for a premises licence and although a review of the Premises had been undertaken in 2012 its decision had to be based upon the evidence presented before it now and was therefore not bound by the previous decision made.

Therefore, having considered all the evidence provided the Sub-Committee agreed to grant the application. The conditions proposed were considered very comprehensive, in particular conditions relating to the cleansing after events and the deployment of sufficient stewards all provided reassurance that necessary controls were in place to ensure the licensing objectives were promoted. The Sub-Committee was pleased to note that the Applicant was a member of the Licensing Safety Advisory Group and this would help ensure any potential issues could be identified and resolved in advance of an event being held. The importance of this Group was highlighted and provided significant reassurance to the Sub-Committee. Concern was expressed over the issue of dispersal but it was noted that a comprehensive dispersal plan was in place. The Applicant was urged however to take into account changing transport patterns in the local area when formulating future plans along with efforts to try and encourage dispersal away from residential areas. In terms of the capacities and the number of events proposed the Sub-Committee was of the opinion that the increase to 7 concerts at a capacity of 64,999 and 2 at 49,999 was appropriate and proportionate. The

	<p>Sub-Committee had regard to the stringent conditions in place which would reduce any noise disturbance to residents and help control issues relating to dispersal, littering and anti-social behaviour. The proposal to extend the capacity for the smaller midweek events from 5,000 to 19,999 was also granted subject to further conditions and again the Sub-Committee considered these to be appropriate and proportionate. The Sub-Committee required four of the five events to be held in a 21-day period during the British Summertime concert season. These events would also have a terminal hour of 22:00 and be subject to a condition requiring noise levels to be restricted to a maximum of 65dB. The Sub-Committee was of the opinion that these restrictions would mitigate any impact on the local area from the increase in capacity.</p> <p>The Sub-Committee noted the various strategies and plans put in place by the Applicant to address any potential issues including a noise plan and a major events strategy. It was acknowledged that these documents were drafted to provide for a degree of flexibility depending upon the nature of the events held and welcomed the levels of consultation with stakeholders when formulating these. The Applicant was encouraged to continue this consultation going forward, particularly with local residents. The importance of artist selection in considerably reducing levels of noise nuisance to local residents was recognised and it was requested that this careful selection continue in the future. Having taken into account all the evidence, the Sub-Committee was satisfied that the application was suitable for the local area and had addressed the concerns raised. The Applicant had demonstrated that the proposed conditions would ensure the promotion of the licensing objectives.</p>
<b>2.</b>	<p><b>Performance of a Play</b></p> <p>Monday to Sunday: 10:00 to 22:30</p>
	<p>Amendments to application advised at hearing:</p> <p>None.</p>
	<p>Decision (including reasons if different from those set out in report):</p> <p>The Sub-Committee granted the application but placed the following restrictions on the 5 events per calendar year when the capacity was extended to 19,999:</p> <ul style="list-style-type: none"> <li>• the terminal hour be reduced to 22:00 hours;</li> <li>• 4 of the 5 events had to be held during the British Summertime concert season; and</li> <li>• The noise limit for the 5 events be restricted to 65dB.</li> </ul>
<b>3.</b>	<p><b>Exhibition of a Film</b></p> <p>Monday to Thursday: 10:00 to 23:30  Friday to Saturday: 10:00 to 00:00  Sunday: 10:00 to 22:30</p>

	<p><b>Seasonal Variations/Non-Standard Timings:</b></p> <p>Sundays before Bank Holiday Mondays 10:00 to 00:00.</p>
	<p>Amendments to application advised at hearing:</p> <p>None.</p>
	<p>Decision (including reasons if different from those set out in report):</p> <p>The Sub-Committee granted the application but placed the following restrictions on the 5 events per calendar year when the capacity was extended to 19,999:</p> <ul style="list-style-type: none"> <li>• the terminal hour be reduced to 22:00 hours;</li> <li>• 4 of the 5 events had to be held during the British Summertime concert season; and</li> <li>• The noise limit for the 5 events be restricted to 65dB.</li> </ul>
<b>4.</b>	<p><b>Live Music</b></p> <p>Monday to Sunday: 10:00 to 22:30</p>
	<p>Amendments to application advised at hearing:</p> <p>None.</p>
	<p>Decision (including reasons if different from those set out in report):</p> <p>The Sub-Committee granted the application but placed the following restrictions on the 5 events per calendar year when the capacity was extended to 19,999:</p> <ul style="list-style-type: none"> <li>• the terminal hour be reduced to 22:00 hours;</li> <li>• 4 of the 5 events had to be held during the British Summertime concert season; and</li> <li>• The noise limit for the 5 events be restricted to 65dB.</li> </ul>
<b>5.</b>	<p><b>Recorded Music</b></p> <p>Monday to Sunday: 10:00 to 22:30</p>
	<p>Amendments to application advised at hearing:</p> <p>None.</p>
	<p>Decision (including reasons if different from those set out in report):</p> <p>The Sub-Committee granted the application but placed the following restrictions on the 5 events per calendar year when the capacity was extended to 19,999:</p> <ul style="list-style-type: none"> <li>• the terminal hour be reduced to 22:00 hours;</li> </ul>

	<ul style="list-style-type: none"> <li>• 4 of the 5 events had to be held during the British Summertime concert season; and</li> <li>• The noise limit for the 5 events be restricted to 65dB.</li> </ul>
<b>6.</b>	<b>Performance of Dance</b>  Monday to 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 the application but placed the following restrictions on the 5 events per calendar year when the capacity was extended to 19,999: <ul style="list-style-type: none"> <li>• the terminal hour be reduced to 22:00 hours;</li> <li>• 4 of the 5 events had to be held during the British Summertime concert season; and</li> <li>• The noise limit for the 5 events be restricted to 65dB.</li> </ul>
<b>7.</b>	<b>Anything of a Similar Description to that of Live Music, Recorded Music or Performance of Dance</b>  (In the application form, the applicant stated that this entertainment of a like kind would include clowns, puppet shows, mime artists, circus performers, jugglers, arena acts and street artists.)  Monday to 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 the application but placed the following restrictions on the 5 events per calendar year when the capacity was extended to 19,999: <ul style="list-style-type: none"> <li>• the terminal hour be reduced to 22:00 hours;</li> <li>• 4 of the 5 events had to be held during the British Summertime concert season; and</li> <li>• The noise limit for the 5 events be restricted to 65dB.</li> </ul>
<b>8.</b>	<b>Hours Premises are Open to the Public</b>  Monday to Sunday: 05:00 to 00:00

	Amendments to application advised at hearing:  None.
	Decision (including reasons if different from those set out in report):  The Sub-Committee granted the application but placed the following restrictions on the 5 events per calendar year when the capacity was extended to 19,999: <ul style="list-style-type: none"> <li>• the terminal hour be reduced to 22:00 hours;</li> <li>• 4 of the 5 events had to be held during the British Summertime concert season; and</li> <li>• The noise limit for the 5 events be restricted to 65dB.</li> </ul>

<b>Conditions attached to the Licence</b>	
<b><u>Mandatory Conditions</u></b>	
1.	No supply of alcohol may be made at a time when there is no designated premises supervisor in respect of this licence.
2.	No supply of alcohol may be made at a time when the designated premises supervisor does not hold a personal licence or the personal licence is suspended.
3.	Every supply of alcohol under this licence must be made or authorised by a person who holds a personal licence.
4.	<p>(1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.</p> <p>(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises—</p> <p>(a) games or other activities which require or encourage, or are designed to require or encourage, individuals to;</p> <p>(i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or</p> <p>(ii) drink as much alcohol as possible (whether within a time limit or otherwise);</p> <p>(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</p>

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. Admission of children to the premises must be restricted in accordance with the film classification recommended by the British Board of Film Classification or recommended by this licensing authority as appropriate.

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

### **Conditions Consistent with the Operating Schedule**

11. Unless otherwise agreed with the City Council, the total number of people to be accommodated for the purposes of this Licence, in any event site at any one time shall not be more than 64,999 (excluding security, staff, performers and employees).

12. Save for unanticipated occurrences or emergencies, and with the agreement of relevant officer(s) of the Hyde Park Licensing & Safety Advisory Group ("LSAG"), the hours when the licensable activities will be carried out will be no later than the hours set out below:

Regulated Entertainment: Monday to Sunday 10:00 to 22:30

Exhibition of Films: Monday to Thursday 10:00 to 23:30

Friday to Saturday 10:00 to 00:00

Sunday 10:00 to 22:30

Sunday before Bank Holiday 10:00 to Midnight

Alcohol: Monday to Sunday 12:00 to 22:30

13. Risk assessments shall be produced for each event, and these shall be made available to the Environmental Health Consultation Team no less than 28 days before the event where practicable.

14. External organisers of events shall refer to the relevant Guides, copies of which have been deposited with the Licensing Authority.



15. External organisers shall be issued with an agreement for hire of the Park, or part thereof. This agreement shall include the conditions attached to the Premises Licence and, if relevant, those agreed as a result of meetings of the LSAG.

16. Save for events to which conditions 60 and 61 applies, the Licensee will take all reasonable steps to ensure that amplified music will not cause a nuisance in accordance with the sound management plan, the terms of which are to be updated from time-to-time that will help promote the licensing objectives.

17. Each operator selling alcohol shall have a personal licence holder on the premises save as agreed with the Licensing Safety Advisory Group ("LSAG") and in accordance with the Alcohol Management Plan.

18. When alcohol is sold at the event the following conditions shall apply to all bars, both for the public and in hospitality areas:

- a) Unless otherwise agreed with LSAG bars will be closed at least 30 minutes before the event finish time.
- b) Bars will not be permitted to run price promotions, happy hours or other promotions designed to encourage excessive drinking.
- c) Unless otherwise agreed with LSAG drinks will not be sold or served in glass vessels or containers.

19. Unless otherwise agreed by the Police, alcohol will not be sold on more than 20 days in any calendar year. For each of the 20 days the Responsible Authorities must be given a minimum of 28 days notice and the Metropolitan Police will have the right to veto the sale of alcohol at events provided they give notice of their veto no later than 7 days after being notified.

20. Drinks shall not be sold or served in glass vessels or containers or served in any measure greater than a pint, except in designated controlled areas - such as in VIP or Hospitality areas - as pre-agreed by the LSAG.

21. Substantial food and non-intoxicating beverages, including drinking water, shall be available throughout the permitted hours in all parts of the premises where alcohol is sold or supplied for consumption on the premises.

22. A Challenge25 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.

23. All training records shall be made available to Police, officers of the licensing authority and Trading Standards upon request.

24. The premises shall at all times maintain and operate an age-restricted sales refusals recording system (either in book or electronic form) which shall be reviewed by the Designated Premises Supervisor. This refusals recording system shall be available upon request to police, Licensing Authority staff and Trading Standards.

25. Unless otherwise agreed with the LSAG, reasonable prevention methods shall

be undertaken to deter members of the public from bringing any alcohol into, or removing any alcohol from the licensed area.

26. The number of locations where alcohol is sold at the event shall not exceed those indicated on the event plan approved by LSAG.

27. At all locations where alcohol is sold, the name and contact telephone number of the Designated Premises Supervisor shall be displayed in a prominent position on the premises, so that it is clearly visible. The named Personal Licence Holder for that location will also be displayed with their contact telephone number.

### **Conditions applicable to Major Events**

28. Unless the prior consent of the Environmental Health Consultation Team and Westminster City Council has been obtained, the premises may only hold Major Events where the number of persons attending the event (excluding security, staff, performers and employees) is between:

- a) 5,000 – 19,999 on no more than 5 days per calendar year (which will be part of the existing Hyde Park events calendar – none will be staged as stand-alone events and the terminal hour will be 22:00 hours and 4 out of 5 of those events will take place within a 21-day rolling period)
- b) 20,000 – 49,999 on no more than 2 days per calendar year
- c) 50,000 – 64,999 on no more than 7 days per calendar year

With a maximum of 7 such Major Events defined in (b) and (c) above in a rolling 21 day period.

A 'Major Event' is an event where:

- a) The playing of live and/or recorded music and/or the showing of films or recorded images, as defined by the Licensing Act 2003 is the principal reason for attending the event; and
- b) Where the number of persons attending the event (excluding security, staff, performers and employees) exceed 4,999.

29. Unless the prior consent of the Environmental Health Consultation Team has been obtained, the premises may hold Major Events on no more than three days in any calendar year where the showing of films or recorded images, as defined by the Act, is the principal reason for persons attending the Event.

30. Save for Events to which Condition 28 applies, licensable activities after 18:30 shall be restricted to no more than 25 days per annum and such activities shall cease no later than 22:00 with the exception of the showing of films where the hours above apply.

31. Any major events shall be notified to the Responsible Authorities and LSAG with a minimum 28 days notice, unless otherwise agreed. Any member of the LSAG may request a meeting for such other events not included in the definition of Major Event.

32. Membership of the LSAG shall include as a minimum; the Licensee, the event organiser (where the Licensee is not the event organiser), the Licensing Authority, Environmental Health Consultation Team, Westminster Special Events & Emergency Planning, Metropolitan Police Service, LFEPA, London Ambulance Service and Transport for London. Additional members will be invited as appropriate for each meeting.

33. An advertised 'hotline' telephone number to the Licensee shall be available to local residents.

34. Any queue which forms outside the premises shall be stewarded at all times to ensure that minimal disturbance is caused.

35. Patrons shall be encouraged not to congregate outside the premises after the event has finished.

36. Promotional literature and tickets will contain information regarding public transport options and public conveniences and shall request persons to leave the area quietly.

37. One person must be nominated for each major event to act as safety co-ordinator, who is authorised to carry out all reasonable requests made by the LSAG or their authorised representative.

38. The LSAG or their authorised representative must be provided with the particulars of the nominated safety co-ordinator.

39. Unless otherwise agreed, no later than 28 days prior to the event an Event Management Plan must be presented to the LSAG, or their authorised representative for their comment and advice. 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;

40. So far as is reasonably practicable the Event Organiser must ensure that the event is run in accordance with the Event Management Plan.

41. There shall be adequate means of control to ensure that only permitted numbers of persons gain access to the event site.

42. Adequate stewarding within the licensed area must be provided at all times during the licensed event.

43. Upon reasonable request, authorised enforcement officers of the Responsible Authorities: Environmental Health Consultation Team, Metropolitan Police Service and London Fire Brigade, must be provided with security passes for full and free access at all times to each and every part of the licensed area.

44. A communication system must be provided to ensure the effective operation of the site under both normal and emergency evacuation conditions. The Licensee must provide an adequate incident control centre and a rendezvous point for the Police and other emergency services.
45. Adequate rigid barriers or fences designed to adequately resist right-angle and parallel loads commensurate with probable crowd pressure must be provided around any stage and other location where it is necessary to limit crowd pressure in the interests of safety.
46. Details of all marquees, tented structures and temporary structures should be provided including emergency exits and signage, fire warning and fire fighting equipment.
47. 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 the LSAG or their authorised representative.
48. 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.
49. 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 will be safely sustained.
50. 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.
51. After any event any litter remaining will be collected and removed from the site as soon as physically possible, either overnight or starting daybreak the following day if it is considered impractical to collect the litter in darkness.
52. Regular fire patrols must be maintained at all times when the public are present in the licensed area to check for and guard against possible fire hazards. The area underneath the stage to be kept clear of flammable materials.
53. A schedule detailing types and locations of fire fighting equipment must be submitted to the LSAG or their authorised representative as required.
54. Competent persons shall be 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.

55. Emergency exits and entrances to the event area must be kept clear at all times and must be provided with clearly visible signage.

56. All parts of the licensed area intended to be used in the absence of adequate daylight and all essential safety signage shall be suitably illuminable. Details of the locations and level of illumination must be submitted to the LSAG or their authorised representative.

57. Electrical generators, where used, must be:

- (a) Suitably located clear of buildings, marquees and structures, and free from flammable materials, save for that in the generator tank;
- (b) Enclosed to prevent unauthorised access;
- (c) Able to provide power for the duration of the event;
- (d) Back up electrical generators are to be provided to power essential communications, lighting and Safety systems in the event of primary generator failure, unless otherwise agreed by LSAG.

58. 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.

59. Unless otherwise agreed, details of any proposed use and storage of lasers, special effects, fireworks or pyrotechnics shall be presented to the LSAG or their authorised representative, and the Environmental Health Consultation Team 28 days in advance of the event.

60. The following noise conditions shall apply:

- (a) A noise control consultant shall be appointed, who shall liaise between all parties including the Licence Holder, promoter, sound system supplier, sound engineer and the Environmental Health Consultation Team on all matters relating to noise control prior to the event.
- (b) For the purposes of monitoring music noise levels during the event and sound check, the noise control consultant shall contact the Environmental Health Consultation Team and agree noise sensitive locations which are to be used to monitor compliance with conditions (d) and (e).
- (c) A noise propagation test shall be undertaken in consultation with representative(s) of the Environmental Health Consultation Team prior to each Major Event in order to set appropriate control limits at the sound mixer position. The sound system shall be configured and operated in a similar manner as intended for the event. The sound source used for the test shall be similar in character to the music likely to be produced during the event.
- (d) The control limits set at the mixer position shall be adequate to ensure that the Music Noise Level shall not at 1 metre from the façade of any noise sensitive

premises exceed 75 dB(A) over a 5 minute period throughout the duration of the concert.

(e) Rehearsal and sound check times shall be limited between the hours of 10:00 and 20:00. Notification of the time(s) and duration of sound checks shall be provided to the Environmental Health Consultation Team at least 24 hours beforehand.

(f) The promoter, system supplier and all individual sound engineers shall be informed of the sound control limits and that any instructions from the noise control consultant regarding noise levels shall be implemented.

(g) A communications link should be provided to enable condition (f) above to be complied with and any numbers / radios shall be made available to the Environmental Health Consultation Team prior to the event starting.

(h) The appointed noise control consultant shall continuously monitor noise levels at the sound mixer position and advise the sound engineer accordingly to ensure that the noise limits are not exceeded. The Environmental Health Consultation Team shall have access to the results of the noise monitoring at all times. The Environmental Health Consultation Team shall have access and facilities to enable them to carry out their own monitoring.

(i) No members of the audience shall be allowed within 3 metres of any speakers.

(j) The speakers must be located to the satisfaction of the Environmental Health Consultation Team.

(k) Residential properties and the relevant amenity group(s) in the immediate vicinity of the Park will be contacted as soon as reasonable practicable (and in any event no later than 28 days) prior to any Major 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.

61. At Major Events with a capacity between 5,000 and 19,999 defined in condition 28(a) the music noise level shall not at 1 metre from the façade of any noise sensitive premises exceed 65dB(A) over a 5 minute period throughout the duration of the advertised event. To demonstrate this a suitable and sufficient noise management plan shall be provided to the Environmental Health Consultation Team at least 28 days prior to the event.

62. Adequate medical and first aid cover and facilities appropriate to the licensed event must be provided.

63. Adequate drinking water points in suitable locations must be provided and maintained to the satisfaction of the LSAG or their authorised representative.

64. Adequate sanitary accommodation must be provided and maintained to serve the licensed event to at least the standards contained within the "Guide to Health, Safety and Welfare at Pop Concerts and Similar Events", or as advised by the Environmental Health Consultation Team. Suitable arrangements must be made for the collection and disposal of used hand towels, sanitary towels and other refuse from the sanitary accommodation.

65. Details of the proposed location, level of provision and means of effective maintenance and servicing of sanitary accommodation must be submitted to the LSAG or their authorised representative if requested.

66. During the build up and break down of the events site, any activities that might cause noise to be audible outside the Park will be limited to the hours of 08:00 to 20:00 Monday to Friday and 10:00 to 18:00 Saturday to Sunday.

67. Any generators, refrigerators or other machinery running overnight will be silenced, screened or sited so as not to be audible outside the Park.

68. There shall be a welfare point (or equivalent area) for the reporting and management of lost children. The welfare point will be staffed by trained (and appropriately certified by the Disclosure and Barring Service) members of staff who will be in radio contact with the head steward and the safety co-ordinator.

69. The Event Organiser, contractor and any staff employed thereof shall comply with the Conditions of this Licence.

70. All reasonable endeavours shall be undertaken to ensure that all functions relating to the setting up, the executions and dismantling of the event, the licensed area and all equipment are carried out in accordance with the Health and Safety at Work etc. Act 1974 and all related regulations, Codes of Practice and Guidance Notes. All assistance for the necessary inspections relating to Health and Safety both prior to and during the licensed event shall be provided. All documentation required by the Health and Safety at Work etc. Act 1974 relating to contractors and employees must be available for inspection by authorised officers at all times during the licensed event and must be kept at a location at the licensed area to be notified to the LSAG or their authorised representative.

71. Arrangements shall be made, to the satisfaction of WCC, for the cleansing of litter and waste in the vicinity of Hyde Park during and after events.

72. The event organiser will comply with all reasonable requirements of the Environmental Health Consultation Team, Westminster City Council, the London Fire and Emergency Planning Authority and the Metropolitan Police Service.

73. Throughout the duration of the events (including sound checks, rehearsals and concert performances) the Music Noise Levels (MNLs) shall not exceed 15dB (LAeq5 minute) above background (Representative LA90 obtained on a number of equivalent days during the last 4 hours of the proposed concert time without the event running) or 65dB (LAeq 5 minute) whichever is the lowest. The MNL shall be assessed at measurement points greater than 1km to the north and 750 metres to the east (distance measured from the main stage mixer position). These measurement points will not be situated on trunk roads. All measurement points will be prescribed in the Noise Management Plan.

74. Throughout the duration of the events (including sound checks, rehearsals and concert performances) the control limits set at the mixer position shall be adequate to ensure that the 63 Hz and 125 Hz octave frequency bands shall not exceed 75 dB (LZeq 15 minutes) as a result of Music Noise Level (MNL) beyond a 2Km radius (distance measured from the main stage mixer position). The 63 Hz and 125 Hz octave frequency bands shall be assessed in a free field position at measurement points prescribed by Westminster City Council Environmental Health.

75. At events of 30,000 capacity or less, any unnecessary delay towers will be switched off upon the reasonable request of the Environmental Health Consultation Team.
76. Sufficient numbers of stewards/marshals shall be employed as required by the size of the event to ensure that patrons leave the premises safely.
77. Unless otherwise agreed, an Egress Management Plan shall be presented to and agreed by the LSAG or their authorised representative, no later than 28 days prior to the event. Please note: The Egress Management Plan may require the closure of Park Lane or other surrounding roads with the approval of the relevant authorities.
78. Where the number of persons attending an event is between 5,000 and 19,999, and where that event is taking place within a site capacity of 64,999, bars shall be operated at one third or less of the bars operating at 64,999 to reflect the lower capacity audience, an in agreement with LSAG.
79. No licensable activities shall take place at the premises until premises licence 11/07745/LIPDPS (or such other number subsequently issued for the premises) has been surrendered [and is incapable of resurrection].

## **2 MURIELS KITCHEN, 36 OLD COMPTON STREET, LONDON, W1D 4US**

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

*Thursday 13th December 2018*

Membership: Councillor Tim Mitchell (Chairman), Councillor Jim Glen and Councillor Aziz Toki

Legal Adviser: Horatio Chance  
Committee Officer: Tristan Fieldsend  
Presenting Officer: Daisy Gadd

Relevant Representations: The Licensing Authority and Environmental Health

Present: Ms Lana Tricker (Solicitor, representing the Applicant), Ms Allana McCabe and Mr Jim Robertson (Applicants), Mr Dave Nevitt (Environmental Health) and Mr Steve Rowe (Licensing Authority).

#### **Muriels Kitchen, 36 Old Compton Street, London, W1D 4US ("The Premises") 18/11463/LIPV**

##### **1. Sale by Retail of Alcohol – On Sales**

Current:

Monday to Thursday: 10:00 to 23:30  
Friday to Saturday: 10:00 to 00:00

Proposed:

Monday to Wednesday: 08:00 to 00:00



	<p>Sunday: 12:00 to 22:30</p> <p>Thursday to Saturday: 08:00 to 01:00 Sunday: 08:00 to 23:30</p>
	<p>Amendments to application advised at hearing:</p> <p>The Applicant advised that the proposed commencement hours for the sale by retail of alcohol on Saturday and Sunday are to be reduced to 09:00 hours.</p>
	<p>Decision (including reasons if different from those set out in report):</p> <p>The Sub-Committee considered an application by Maxwell's Restaurants Ltd for a variation of a premises licence in respect of Muriels kitchen, 36 Old Compton Street, London, W1D 4US.</p> <p>The Licensing officer introduced the application to the Sub-Committee.</p> <p>Ms Tricker, representing the Applicant, explained that the Premises provided an all-day dining experience within Soho where the average spend was approximately £50 per person. Condition 20 on the existing licence, which would not be changed, ensured the Premises could only operate as a restaurant with the sale of alcohol ancillary to a person seated taking a table meal. It was stated that the application was seeking to extend the hours permitting the sale of alcohol. There would be no extension to the hours permitting late night refreshment and the terminal opening hours would also remain unchanged. It was also sought to allow the Premises to open at an earlier hour in order to cater for the breakfast trade. No objections to the application had been received from either local residents or amenity societies. If the Sub-Committee was minded to grant the application but felt that the 08:00 opening hour at the weekends was too early the Applicant was content for this to be reduced to 09:00. The Premises was not a bar, pub or fast food operation and no regulated entertainment was permitted. No increase in the Premise's capacity was proposed and the staggered dispersal of patrons that currently took place would continue due to no change in the terminal opening hours. The application promoted the licensing objectives and reassurance was provided that staff undertook rigorous training regarding the sale of alcohol.</p> <p>Ms Tricker highlighted that the Police had no objections over the increase in the hours permitting the sale of alcohol and this addressed any crime and disorder concerns. The City Council's Statement of Licensing Policy at paragraph 2.5.12 also recognised that restaurants were unlikely to add to crime and disorder issues in an area. In terms of layout no alterations were planned and the outside area containing tables and chairs would not impact on the application as this area would be cleared by 23:00. It was also confirmed that the application was not seeking any off sales. An SIA was currently employed on Thursday, Friday and Saturday evenings but this could be extended to two if the Sub-Committee deemed it appropriate. The Premises had utilised its full allocation of Temporary Event Notices (TENs) to the hours sought in the application with no issues arising. The Sub-Committee was advised that within the local area a large number of Premises also operated to the hours being sought. The Applicant was also a member of PubWatch and had extensive experience of being a responsible operator. It was considered that the proposed changes to the</p>

conditions on the licence including disposal of waste and noise made them more enforceable and provided greater accountability for the operator.

Mr Robertson, the Applicant, explained that the Premises had been operating for 46 years and had an embedded, extensive training programme in place for all staff. The Premises already opened to the hours sought for the sale of alcohol and the application was just seeking to improve the customers restaurant experience.

The Sub-Committee noted that the licence was conditioned so that seating had to be provided for 90% of the capacity of the Premises. Ms Tricker explained that this was condition 12 on the old licence and was in conflict with the condition requiring all customers to be seated, namely condition 20. As such, it was stated that condition 12 should be removed from the licence. The Sub-Committee was interested to learn why it was not proposed to include the full model restaurant condition on the licence. Ms Tricker advised that the current licence required the Premises to be a food-led operation with alcohol ancillary to customers talking a table meal. The conditions ensured it was a restaurant and therefore it was carefully considered on balance that the full restaurant condition was not required in these circumstances.

Mr Nevitt, representing Environmental Health, confirmed that the Premises had recently undergone a significant refurbishment. As such a recent inspection of the Premises had been undertaken and the Sub-Committee was advised that it was a well established restaurant operation which was not considered a cause for concern. The Premises was already providing late night refreshment until 01:00 hours with Environmental Health's representation maintained for Policy reasons as it would permit 140 people in the Cumulative Impact Area (CIA) to purchase alcohol until 01:30. It was recognised however that currently customers could still consume alcohol at the Premises until 01:30. The full model restaurant condition was not proposed to be included on the licence but the Premises did operate as a restaurant and it was considered that imposing it would not prejudice the operation. The Sub-Committee took the view that each application has to be considered on its individual merits and therefore it did not automatically follow that because a premises operated as a restaurant that MC66 would be imposed as a rule in every scenario because that depended largely upon the style, nature of the premises and its operation. The Sub-Committee was also informed that the majority of the proposed changes to the conditions made the licence more enforceable and more relevant. The changes to the conditions relating to waste disposal were not considered appropriate however as they were a deviation from standard conditions and as there appeared to be no issues with the current situation it was queried why they should be altered. Finally, the proposed condition permitting the sale of no more than two super-strength beers, lagers or ciders was considered acceptable as this condition normally related to off licences. Mr Nevitt reminded the Sub-Committee that if it was minded to grant the application it had to consider if it wanted to extend the hours permitting the sale of alcohol for seven days a week.

In response to a question from the Sub-Committee with regards to waste storage the Applicant confirmed that they were happy for the condition to be amended so that no waste could be placed in outside areas.

	<p>Mr Rowe, representing the Licensing Authority, acknowledged that the Premises was currently permitted to operate until 01:30. However, permitting patrons to purchase alcohol for additional hours had the potential to attract more people into the CIA. The Applicant therefore had to demonstrate that the application would not add to cumulative impact in the local area. It was agreed that restaurant applications were generally granted to later hours outside of the CIA. The policy was much stricter with those located in a CIA however due to the potential impact they may have.</p> <p>Ms Tricker explained that the Premises would not add to cumulative impact as it was a restaurant operation, no increase in capacity was sought and patrons were already currently permitted to finish their drinks until the terminal hour.</p> <p>After carefully considering the application the Sub-Committee agreed to grant the application subject to several amendments. Due to the Premises being a restaurant operation the Sub-Committee considered it an exception to policy with the conditions to be imposed on the licence appropriate to ensure it did not add to cumulative impact in the local area. Patrons were currently permitted to consume alcohol until the terminal hour and extending the hours for the sale of alcohol would actually help the operator control and monitor the sale of alcohol. The proposed change to the waste conditions preventing any waste to be placed in outside areas was accepted along with the condition requiring one SIA door supervisor to be in attendance at the entrance of the Premises on Thursday, Friday and Saturday nights. The Sub-Committee also considered that restricting the commencement hour for the sale by retail of alcohol to 09:00 hours instead of 08:00 on Saturdays and Sundays was appropriate and proportionate for the area. Overall the Sub-Committee was satisfied that the nature of the operation and the conditions offered by the Applicant, including those amended by the Sub-Committee, were restrictive enough to ensure that the Premises would not add to cumulative impact in the CIA, was suitable for the local area and ultimately promoted the licensing objectives.</p>
<b>2.</b>	<p><b>Conditions Proposed to be Removed</b></p> <p><u>Condition 13</u></p> <p>There shall be an intensive 2 weeks training scheme for all staff joining the company and there shall be ongoing training in relation to food hygiene, health and safety, fire safety and sale of age restricted items.</p> <p><u>Condition 14</u></p> <p>The management shall use their best endeavour to make sure they are good neighbours to anyone, residents or businesses within the vicinity.</p>
	<p>Amendments to application advised at hearing:</p> <p>None.</p>

	<p>Decision (including reasons if different from those set out in report):</p> <p>The Sub-Committee granted the application (see reasons for decision in Section 1).</p>										
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	<p>No entertainment, performance, service or exhibition involving nudity or sexual stimulation which would come within the definition of a sex establishment in Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 as amended by the Greater London Council (General Powers) Act 1986 (whether or not locally adopted) shall be provided.</p> <p><b>Condition 28</b></p> <p>The highway and public spaces in the vicinity of the premises are kept free of litter from the premises at all material times to the satisfaction of the Council.</p> <p><b>Condition 30</b></p> <p>No rubbish including bottles will be moved, removed or placed in outside areas between 23:00 hours and 07:00 hours.</p> <p><b>Condition 31</b></p> <p>No collections, including refuse and recyclable food waste, shall take place between 00:00 and 07:00 hours.</p> <p><b>Condition 32</b></p> <p>No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.</p>	<p>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.</p> <p>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.</p> <p>No rubbish, including bottles, shall be moved, removed or placed in outside areas between 0130 hours and 0600 hours or as in compliance with Westminster City Council's own waste contractor collection hours.</p> <p>No collections, including refuse and recyclable food waste, shall take place between 0130 hours and 0600 hours or as in compliance with Westminster City Council's own waste contractor collection hours.</p> <p>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</p>
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	<p>which gives rise to a nuisance.</p> <p><b>Condition 34</b></p> <p>The venue shall install and maintain a comprehensive CCTV system as per the minimum requirements of a Metropolitan Police Crime Prevention Officer. 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. Recordings shall be made available immediately upon the request of Police or authorised officer throughout the preceding 31-day period.</p> <p>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.</p>
	<p>Amendments to application advised at hearing:</p> <p>None.</p>
	<p>Decision (including reasons if different from those set out in report):</p> <p>The Sub-Committee granted the application (see reasons for decision in Section 1).</p>
<b>4.</b>	<p><b>Conditions proposed by the applicant to be added</b></p> <p>The premises may remain open for the sale of alcohol, and the provision of late night refreshment from the terminal hour for those activities on New Year's Eve through to the commencement time for those activities on New Year's Day.</p>
	<p>Amendments to application advised at hearing:</p> <p>None.</p>
	<p>Decision (including reasons if different from those set out in report):</p> <p>The Sub-Committee granted the application (see reasons for decision in Section 1).</p>

## Conditions attached to the Licence

### **Mandatory Conditions**

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

age verification policy.

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

- (a) a holographic mark, or
- (b) an ultraviolet feature.

7. The responsible person must ensure that—

(a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—

- (i) beer or cider: ½ pint;
- (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
- (iii) still wine in a glass: 125 ml;

(b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and

(c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

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

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

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

(a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;

(b) "permitted price" is the price found by applying the formula -  $P = D + (D \times V)$

Where -

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

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



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

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

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

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

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

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

**Conditions Attached after a Hearing by the Licensing Authority**

9. The premises shall operate as a restaurant.
10. Alcohol consumed in the designated outside area shall only be consumed by patrons seated at tables.
11. All staff shall be trained in respect of the Licensing Act requirements and offences, and in particular in respect of underage sales. If there is any doubt about the age of any customers requesting the purchase of alcohol, photographic evidence will be required.
12. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and leave the area quietly.
13. 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.
14. No more than two super-strength beer, lagers or ciders of 5.5% ABV (alcohol by volume) or above shall be sold at the premises.
15. Prominent signage indicating the permitted hours for the sale of alcohol shall

be displayed so as to be visible before entering the premises, where alcohol is on public display, and at the point of sale.

16. The supply of alcohol at the premises shall only be to a person seated taking a table meal there and for consumption by such a person as ancillary to their meal.
17. 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.
18. An incident log shall be kept at the premises, and made available on request to an authorised officer of the City Council or the Police. It must be completed within 24 hours of the incident and will record the following:
  - (a) all crimes reported to the venue
  - (b) all ejections of patrons
  - (c) any complaints received concerning crime and disorder
  - (d) any incidents of disorder
  - (e) all seizures of drugs or offensive weapons
  - (f) any faults in the CCTV system, searching equipment or scanning equipment
  - (g) any refusal of the sale of alcohol
  - (h) any visit by a relevant authority or emergency service.
19. The supply of alcohol shall only be by counter staff or waiter or waitress service.
20. Before any alcohol can be supplied in any Exterior Dining Area a street trading licence under the City of Westminster Act 1999, if necessary, must be obtained. In any case this area must cease to be used after 23:00 hours and any street furniture rendered unusable after this time.
21. Except for in any permitted Exterior Dining Area patrons temporarily leaving the premises, such as for the purposes of smoking, shall not take any drinks with them outside the premises.
22. The number of persons accommodated at any one time (excluding staff) shall never exceed the following on each floor:

Ground Floor: 140  
Mezzanine: 30

Provided always that the combined capacity when the premises is in use under this licence shall never exceed 140 in total (excluding staff).
23. 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.
24. 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.

25. All waste is to be retained on the premises until collection and is not to be left deposited on the public highway at any time.
26. No rubbish, including bottles, shall be moved or removed between 01:30 hours and 08:00 hours or as in compliance with Westminster City Council's own waste contractor collection hours.
27. No collections, including refuse and recyclable food waste, shall take place between 01:30 hours and 06:00 hours or as in compliance with Westminster's City Council's own waste contractor collection hours.
28. 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.
29. Flashing or particularly bright lights from the premises shall not cause a nuisance to nearby properties.
30. 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.
31. 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. This staff member shall be able to show Police or an authorised officer of the Council recent data or footage with the absolute minimum of delay when requested.
32. The premises may remain open for the sale of alcohol, and the provision of late night refreshment from the terminal hour for those activities on New Year's Eve through to the commencement time for those activities on New Year's Day.
33. A minimum of one SIA licensed door supervisor shall be on duty at the entrance of the premises on Thursday, Friday and Saturday nights.

The Meeting ended at 3.50 pm

**CHAIRMAN:** \_\_\_\_\_

**DATE** \_\_\_\_\_