



**CITY OF WESTMINSTER**

# MINUTES

## **Licensing Sub-Committee (6)**

### **MINUTES OF PROCEEDINGS**

Minutes of a meeting of the **Licensing Sub-Committee (6)** held on **Thursday 9th May, 2019**, Room 18.01-03, 18th Floor, Westminster City Hall, 64 Victoria Street, London, SW1E 6QP.

**Members Present:** Councillors Peter Freeman, Angela Harvey (Chairman) and Shamim Talukder

#### **1 MEMBERSHIP**

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

#### **1 THE GASLIGHT CLUB, 4 DUKE OF YORK STREET, LONDON, SW1Y 6LA**

#### **LICENSING SUB-COMMITTEE No. 6**

*Thursday 9th May 2019*

Membership: Councillor Angela Harvey (Chairman), Councillor Peter Freeman and Councillor Shamim Talukder.

Legal Adviser: Horatio Chance  
Committee Officer: Kisi Smith-Charlemagne  
Presenting Officer: Michelle Steward

Relevant Representations: Gaslight of James's Limited, Environmental Health Services and one Anonymous objector.

Present: Ms Suzanne Davis (Agent for the Applicant), Mr Paul Philport (Manager, Applicant), Mr Gary Nichols (Venue Manager) and Mr Dereck Jarwood Doorman all appearing on behalf of the Applicant and Mr Ian Watson (Environmental Health Services)

<b>The Gaslight Club, 4 Duke of York Street, London, SW1Y 6LA ("The Premises") 19/02770/LISEVV</b>
--

1.	<b>Variation of Sexual Entertainment Licence</b>
	<p><b>1. To vary the layout of the premises as follows:</b></p> <ul style="list-style-type: none"> <li>• the location of fixed seating, stage and podium;</li> <li>• the configuration of the bar servery;</li> <li>• WC provision and</li> <li>• include a staff area as part of the public area.</li> </ul> <p><b>2. To amend the following Condition 35:</b></p> <p>No admission or re-admission to the premises shall be permitted, except for smokers, later than one hour before the terminal hour for the provision of relevant entertainment.</p> <p><b>To be varied to read as follows:</b></p> <p>No admission or re-admission to the premises shall be permitted, except for smokers, later than half an hour before the terminal hour for the provision of relevant entertainment.</p> <p><b>3. To amend condition 25:</b></p> <p>By adding the wording as contained within the square brackets and bold:</p> <p>The maximum number of persons accommodated at any one time in the basement (excluding staff) shall not exceed 110 persons after 2.30 am <b>[on Mondays to Saturdays and 22.30 on Sundays]</b>. The number of persons on the premises (excluding performers and staff) will be reduced from 110 to 70 save for any private pre-booked functions in respect of which the booking shall have been made at least 24 hours beforehand and the records relating to such booking shall be retained for a maximum period of 30 days following the function.</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 Chair noted that the objector was anonymous and therefore was unable to say with any certainty, that she or any member of the Sub-Committee did in fact know the objector. The Chair advised that she wanted to make this point clear for it could potentially impact on any declarations of interest by the Sub-</p>

Committee.

Ms Michelle Stewart (Presenting Officer), advised the Sub-Committee that they had before them an application for a variation of a sexual entertainment venue licence and the Applicant sought to vary the layout of the Premises and to amend conditions 25 and 35 regarding re-admission of smokers and capacity in the basement area. Ms Stewart confirmed that the Premises was in St James's ward and not within the cumulative impact area.

Ms Suzanne Davis (Agent for the Applicant addressed the Sub-Committee and explained that she approached the Licensing Authority when the anonymous objection was received as it did cause some practical issues, for example trying to serve the appropriate notices or engage with the objector. The Legal Advisor, to the Sub-Committee stated that Ms Davis's point regarding the objector was noted by the Sub-Committee, however the objection was still valid. Ms Davis advised that her arguments were merely trying to put the objection in to context.

Ms Davis requested that the Sub-Committee view the submitted plans and explained the very slight changes, which included new fix seating, new booths and the layout of the toilet provisions. The Sub-Committee also queried the changes to the staff area, Mr Paul Philport (Manager, appearing on behalf of the Applicant) advised that the changes to the staff area included a new staff changing area which is closer to the toilet facilities. Ms Davis advised that the principle changes related to the reduction in hours for last entry time for both licences. She explained that currently there was a one-hour difference between last entry and closing time and what was sought was an amended last entry time to half an hour before the terminal hour. Ms Davis stated that the Police had raised objections, but the Applicant had since agreed those specific conditions with the Police. She confirmed that she had met with Mr Ian Watson from the Environmental Health (EH) services, who confirmed he had not received any complaints or any issues with enforcement.

Ms Davis felt that in her opinion the proposed variation to the Premises was modest and confirmed that there were no changes sought to the entertainment element of the licence. She stated that the primary reason the Applicant was seeking the variation was due to the closure of one their premises in London, Euston which stayed open until 06:00hrs. Ms Davis went on to explain that when patrons arrived after last entry or wanted a venue that was open much later, the Applicant would refer these patrons to their venue in Euston. Ms Davis advised the other change sought would be to Sunday evening and the later terminal hour in order to accommodate a Sunday evening charity event that was held at the premises in Euston.

Ms Davis advised that as far as she was aware there were no objections from local residents in the building next door to the Premises, and that the Applicant liaised with the management company to ensure resident engagement had taken place during the application process. The Sub-Committee duly noted the letter of support provided by the Applicant from Bray Housing Management Limited, who confirmed that the Applicant was indeed a good neighbour and they had no concerns with the application. Returning to the anonymous objector, Ms Davis advised that the objection should carry no weight due to the reasons she gave at the start of the hearing.

Ms Davis advised that with regards to the objector, she did not believe that this was a resident from the actual building or a local resident at all. She referred to the complaint made regarding the bottles found in plant box, "The entrance to 4-5 Duke of York Street has 19 apartments and their entrance should remain clear and clean at all times", pointing out that the word "their" suggested that this was not a resident of the building and possibly not a local resident at all. Ms Davis advised the Sub-Committee that the main concern raised in the objection related to men soliciting people on the street for dancers, she advised that the Applicant did not accept this or had understood the objection as dancers are not permitted outside of the Premises other than to smoke and even then they are only permitted on at a time and must wear a long coat to cover themselves when outside in accordance with company policy and procedures.

With regards to the other complaints from the objections, Ms Davis advised that the head doorman had been employed by the Applicant since 2013 and had worked for the operator prior to 2013 so there had been consistency to the operation, and there was zero tolerance for the kind of behaviour suggested in the objection. Ms Davis advised the Sub-Committee that with regards to parking, regular users were known to staff and most walked or used taxis', she also confirmed that there are double yellow lines outside the Premises so parking is not permitted in any event. Ms Davis stated that the premise next door is often rented for Airbnb use and could quite possibly be the source of people standing on the steps.

Ms Davis advised that with regards to the urination allegation, the Premises had more than adequate facilities available, the Premises was rarely at capacity, so the facilities are not busy. She advised further that the doormen are responsible for recording any occurrences and no such incidences have occurred and that all doormen were SIA approved. Ms Davis concluded by advising that with regards to the parking complaints from Apple Tree Yard and Ormond Yard, she confirmed that there had been no complaints from any residents in that area.

Dereck Jarwood (Doorman appearing on behalf of the Applicant), addressed the Sub-Committee and advised that he had worked for the Applicant for seven and a half years. He advised that the Premises received some patrons from other clubs in St James's Square and like the East India Club and the Royal Automobile Club (RAC) in Pall Mal. He confirmed that taxis arrive with patrons for the Gaslight Club or some arrive by foot. He stated that he and the Applicant had a good relationship with their neighbours upstairs and that only 5 or 6 owner occupiers that still live in the building.

The Sub-Committee declared that they were members of a number of clubs in the area including Chattam House and the Royal Automobile Club (RAC), and apologised for the late mention, but this only came to mind when the St James's clubs were discussed. However, the Sub-Committee did not believe that these declarations would impact the application in any way but in the interests of openness and transparency were nevertheless noted.

The Sub-Committee then heard from Mr Watson (Environmental Health Services), who explained that this was an established premise with some 20 years' operating experience. He informed the Sub-Committee that the current licence still contained historical conditions which related to when it was a hostess bar, before the license was converted in 2012 to a Sexual Entertainment Venue. Mr Watson confirmed that he visited the premises with the Applicant representative in early April the site to look at the alterations. He advised the Sub-Committee that the actual scope of change is quite limited because it is a basement venue. Mr Watson advised the Sub-Committee that the changes to what was the downstairs changing room, which was previously a basic area had now become a seated area with CCTV as per conditions. He also advised that the changes to the toilets and the bar areas had been minimal in scope and were satisfactory, therefore he had no public safety concerns relating to the premises.

Mr Watson confirmed that the other two main points were the change of the last entry time and the extension on the Sunday hours. He advised that back in 2014 when the premises last came before the Sub-Committee which was for a variation to extend hours, it was the applicant who suggested a reduction in the last entry time to 1 hour in order to satisfy residents, however were now asking for that to be reduced by 30 minutes with the modification of conditions to reflect that. Mr Watson advised that he had looked at the conditions for this Premises going along way back, he confirms that the Premises were very well run and there was no history of complaints from activities associated inside or outside the Premises.

Mr Watson advised the Sub-Committee that he had also spoken to Mr Franks who inspected SEV premises and the comments from Mr Franks were about the

consistency of the Doorman who was always on the door, he advised that his gives comfort to the inspectors. Mr Watson advised that he had looked at the objections and reviewed Ormond Yard and Apple Tree Yard which are part residential and commercial areas and there had been no complaints in relation to the Premises. Mr Watson advised that the hours on Sunday would not change and the Premises has set capacities for when they provide SEV entertainment of 110, after 02:30hrs that will be reduced down to 70. He stated that if there is a private event the capacity is 150 which is inclusive of staff.

The Sub-Committee sought further confirmation from the EH officers visit and asked further questions regarding the plan and capacity for each of the new booths. Mr Gary Nichols (Venue Manager for the Applicant) addressed the Sub-Committee and confirmed that the capacity for each booth was six or seven however there was one larger booth which seats approximately 8 to 9 people. The Legal Advisor to the Sub-Committee asked Ms Davies whether the increase by one and a half hours on Sunday was to accommodate charitable events. In reply Ms Davies confirmed that in part this was correct but not exclusively. She advised that the increase in hours for this purpose afforded the Applicant a degree of flexibility and again referred to the closed premises in Euston which were open to 06:00hrs Ms Davis confirmed that the Premises did have parties and host special occasions which never reached the full capacity of 110 are usually for approximately 60 to 70 people.

The Sub-Committee sought further clarification on why the Applicant wanted to keep the capacity and how many special or private events they expected to take place over a 12-month period. Ms Davies responded to the query and advised the Sub-Committee that the Applicant required a degree of flexibility. The Sub-Committee carefully considered all of the evidence on its individual merits and decided to grant the application before them with the amended Conditions now imposed on the Licence. The Sub-Committee noted that it was advised by the Environmental Health Service that the Premises had a record of being well run and this gave trust and confidence to the Sub-Committee in the management of the Premises.

### **Standard Conditions**

1. Whilst Relevant Entertainment is taking place no person under the age of 18 shall be on the licensed premises and a clear notice to that effect shall be displayed at the entrance in a prominent position so that it can be easily read by persons entering the premises.
2. Whenever persons under the age of 18 are admitted to the premises there will be no promotional or other material on display within the premises which depicts nudity or partial nudity.
3. The licence or a clear copy shall be prominently displayed at all times so

as to be readily and easily seen by all persons using the premises.

4. No provision of relevant entertainment, or material depicting nudity or relevant entertainment, shall be visible from outside the premises.
5. Menus and drinks price lists shall be clearly displayed at the front entrance of the club, reception area, tables and bar at such a position and size as to be easily read by customers. This price list shall show all consumable items and any minimum tariff including charges and fees applicable to Performers.
6. Except with the consent of the Licensing Authority, no advertisements of any kind (including placard, poster, sticker, flyer, picture, letter, sign or other mark) shall be inscribed or affixed at the premises, on the surface of the highway or on any building, structure, works, street furniture, tree or any other property or be distributed in the street to the public that advertises or promotes the relevant entertainment at the premises.
7. The licence holder or other person concerned in the conduct or management of the premises shall not seek to obtain custom by means of personal solicitation or touting, nor enter into any agreement with a third party to do so.
8. Adequate toilets, washing and changing facilities for use by the Performers shall be provided.
9. Either the licence holder or a named responsible person shall be present throughout the time the Relevant Entertainment takes place.
10. The premises will install and maintain a comprehensive CCTV system as per the minimum requirements of a Metropolitan Police Crime Prevention Officer that ensures all areas of the licensed premises are monitored including all entry and exit points will be covered enabling frontal identification of every person entering any light condition. All cameras shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Recordings shall be made available immediately upon the request of Police or authorised officer throughout the preceding 31 day period together with facilities for viewing.
11. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises is open to the public and this staff member should be able to show Police recent data and footage with the absolute minimum of delay of the request.
12. An incident log shall be kept at the premises, and made available on request to the Licensing Authority or the Police, which will record the following:
  - (a) all crimes reported to the venue;

- (b) all ejections of patrons;
  - (c) any complaints received;
  - (d) any incidents of disorder;
  - (e) seizures of drugs or offensive weapons;
  - (f) any faults in the CCTV system or searching equipment or scanning equipment;
  - (g) any refusal of the sale of alcohol;
  - (h) any visit by a relevant authority or emergency service;
  - (i) any breach of licence conditions reported by a Performer.
13. The licence holder shall produce a Code of Conduct setting out rules and obligations between the licence holder and performers whilst performing. All Performers shall sign the Code of Conduct in their proper name acknowledging that they have read, understood and are prepared to abide by the said Code of Conduct, and a copy so signed shall be retained by the licence holder and shall be readily available for inspection by the Police and/or authorised persons upon reasonable request.
  14. Individual records shall be kept at the premises of the real names, stage names and addresses of all Performers working at the premises. The record will include either a copy of their birth certificate, current passport, EU driving licence or national identity card and shall be made immediately available for inspection by the Police and/or the Licensing Authority upon request.
  15. Details of all work permits and/or immigration status relating to persons working at the premises shall be retained by the licence holder and be readily available for inspection by the Licensing Authority, a Police Officer or Immigration Officer.
  16. Relevant entertainment shall be given only by Performers and the audience shall not be permitted to participate in the relevant entertainment.
  17. There shall be no physical contact between Performers whilst performing.
  18. Performers will not request or give out any telephone number, address or any other contact information from or to any customer. Any such information given by a customer shall be surrendered to the premises manager as soon as is practicable.
  19. Relevant Entertainment shall take place only in the designated areas approved by the Licensing Authority as shown on the licence plan. Arrangements for access to the dressing room shall be maintained at all times whilst Relevant Entertainment is taking place and immediately thereafter.
  20. Customers must remain fully clothed at all times. The Performer must not remove any of the customer's clothing at any time.
  21. Where relevant entertainment is provided in booths, or other areas of the premises where private performances are provided, the booth or area shall

not have a door or other similar closure, the area shall be constantly monitored by CCTV, and access to the booth or other area shall be adequately supervised.

22. Whenever Relevant Entertainment is being provided there shall be no physical contact between Performers and customers or between customers and Performers except for the exchanging of money or tokens at the beginning or conclusion of the performance and only for the purpose of that performance. Clearly legible notices to this effect shall clearly be displayed in each private booth and in any performance area.
23. Performers must redress fully immediately after each performance.

**Additional Conditions:**

24. All public areas of the premises shall be sufficiently illuminated to afford the licensee a clear view of the hostesses.
25. The maximum number of persons accommodated at any one time in the basement (excluding staff) shall not exceed 110 persons. After 2.30am **on Mondays to Saturdays and 22.30 on Sundays** the number of persons on the premises (excluding performers and staff) will be reduced from 110 to 70 save for any private pre-booked functions in respect of which the booking shall have been made at least 24 hours beforehand and the records relating to such booking shall be retained for a minimum period of 30 days following the function.
26. All emergency doors shall be maintained effectively self closing and not held open other than by an approved device.
27. The edges of the treads of steps and stairways shall be maintained so as to be conspicuous.
28. Curtains and hangings shall be arranged so as not to obstruct emergency signs.
29. The approved arrangements at the premises, including means of escape provisions, emergency warning equipment, the electrical installation and mechanical equipment, shall at all material times be maintained in good condition and full working order.
30. The means of escape provided for the premises shall be maintained unobstructed, free of trip hazards, be immediately available and clearly identified in accordance with the plans provided.
31. All exit doors shall be available at all material times without the use of a key, code, card or similar means.
32. Any special effects or mechanical installations shall be arranged and stored so as to minimise any risk to the safety of those using the premises. The following special effects will only be used on 10 days prior notice being given to the Licensing Authority where consent has not previously been

given.

- i. pyrotechnics including fireworks
- ii. firearms
- iii. lasers
- iv. explosives and highly flammable substances.
- v. real flame.
- vi. strobe lighting.

- 33. No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
- 34. Customers will be encouraged to utilize the preferred taxi company of the licence holder and also to remain in the premises whilst awaiting arrival of their taxi.
- 35. No admission or re-admission to the premises shall be permitted, except for smokers, later than half an hour before the terminal hour for the provision of relevant entertainment.
- 36. At times when a Temporary Event Notice is in force extending the permitted hours for licensable activities at these premises under the Licensing Act 2003, the hours for the provision of relevant entertainment (as defined in the Local Government (Miscellaneous Provisions) Act 1982) will be similarly extended without the need for a separate variation application in respect of this licence.

**2 THE GASLIGHT OF ST JAMES'S, 4 DUKE OF YORK STREET, LONDON, SW1Y 6LA**

**LICENSING SUB-COMMITTEE No. 6**

*Thursday 9th May 2019*

Membership: Councillor Angela Harvey (Chairman), Councillor Peter Freeman and Councillor Shamim Talukder.

Legal Adviser: Horatio Chance  
Committee Officer: Kisi Smith-Charlemagne  
Presenting Officer: Michelle Steward

Relevant Representations: Gaslight of James's Limited, Environmental Health Services and one Anonymous objector.

Present: Ms Suzanne Davis (Agent for the Applicant), Mr Paul Philport, Manager appearing on behalf of the Applicant and Mr Ian Watson (Environmental Health Services)

**1. Variation of Premises Licence**

**1. To vary the layout at the premises as follows:**

- Location of fixed seating, podium and stage
- Configuration of the bar servery
- WC provision
- Staff area as part of public area

**2. To amend condition 30 which states:**

The maximum capacity at the premises when licensable activities consisting of the sale of supply of alcohol or the provision of late night refreshment are taking place shall be 150 persons (including staff). Whenever regulated entertainment is also provided or provided independently, then the maximum capacity of the premises shall be 110 (excluding staff). After 2.30 am the number of persons on the premises (excluding performers and staff) will be reduced from 110 to 70 save for any private pre-booked functions in respect of which the booking shall have been made at least 24 hours beforehand and the records relating to such booking shall be retained for a minimum period of 30 days following the function.

**To be varied to read as follows:**

The maximum capacity at the premises when licensable activities consisting of the sale of supply of alcohol or the provision of late night refreshment are taking place shall be 150 persons (including staff). Whenever regulated entertainment is also provided or provided independently, then the maximum capacity of the premises shall be 110 (excluding staff). **[After 2.30am on Mondays to Saturdays and after 22.30 pm on Sundays]** the number of persons on the premises (excluding performers and staff) will be reduced from 110 to 70 save for any private pre-booked functions in respect of which the booking shall have been made at least 24 hours beforehand and the records relating to such booking shall be retained for a minimum period of 30 days following the function.

**3. To amend condition 33 which states:**

No admission or re-admission to the premises shall be permitted, except for smokers, later than one hour before the terminal hour for the sale of alcohol.

**To be varied to read as follows:**

No admission or re-admission to the premises shall be permitted, except for smokers, later than half an hour before the terminal hour for the sale of alcohol, Mondays to Saturdays and on 22.30pm on Sundays.

	<p><b>4. To amend the terminal hour for the sale of alcohol to 00:00 on Sundays.</b></p>
	<p>Amendments to application advised at hearing:</p> <p><b>To amend the opening hours to 00:30 on Sundays.</b></p>
	<p>Decision (including reasons if different from those set out in report):</p> <p>The Chair noted that the objector was anonymous and therefore was unable to say with any certainty, that she or any member of the Sub-Committee did in fact know the objector. The Chair advised that she wanted to make this point clear for it could potentially impact on any declarations of interest by the Sub-Committee.</p> <p>Ms Michelle Stewart (Presenting Officer) advised the Sub-Committee that they had before them an application for a variation of a premises licence and the Applicant sought to vary the layout of the Premises to amend conditions 30 and 33 regarding re-admission of smokers and capacity in the basement area and amend the terminal hour for the sale of alcohol. Ms Stewart informed the Sub-Committee that the Premises was in St James's ward and not within any cumulative impact area.</p> <p>Ms Suzanne Davis (Agent for the Applicant) addressed the Sub-Committee and explained that she approached the Licensing Authority when the anonymous objection was received as it did cause some practical issues, for example trying to serve the appropriate notices or engage with the objector. The Legal Advisor to the Sub-Committee stated that Ms Davis's point regarding the objector was noted by the Sub-Committee, however the objection was still valid. Ms Davis advised that her arguments were merely trying to put the objection in to context.</p> <p>Ms Davis requested that the Sub-Committee view the submitted plans and explained the very slight changes, which included new fix seating, new booths and the layout of the toilet provisions. The Sub-Committee also queried the changes to the staff area, Mr Paul Philport Manager, appearing on behalf of the Applicant advised that the changes to the staff area included a new staff changing area which is closer to the toilet facilities. Ms Davis advised that the principle changes related to the reduction in hours for last entry time for both licences. She explained that currently there was a one-hour difference between last entry and closing time and what was sought was an amended last entry time</p>

to half an hour before the terminal hour. Ms Davis stated that the Police had raised objections, but the Applicant had since agreed those specific conditions with the Police. She confirmed that she had met with Mr Ian Watson from the Environmental Health (EH) services, who confirmed he had not received any complaints or any issues with enforcement.

Ms Davis felt that in her opinion the proposed variation to the Premises was modest and confirmed that there were no changes sought to the entertainment element of the licence. She stated that the primary reason the Applicant was seeking the variation was due to the closure of one of their premises in London, Euston which stayed open until 06:00hrs. Ms Davis went on to explain that when patrons arrived after last entry or wanted a venue that was open much later, the Applicant would refer these patrons to their venue in Euston. Ms Davis advised the other change sought would be to Sunday evening and the later terminal hour in order to accommodate a Sunday evening charity event that was held at the premises in Euston.

Ms Davis advised that as far as she was aware there were no objections from local residents in the building next door to the Premises, and that the Applicant liaised with the management company to ensure resident engagement had taken place during the application process. The Sub-Committee duly noted the letter of support provided by the Applicant from Bray Housing Management Limited, who confirmed that the Applicant was indeed a good neighbour and they had no concerns with the application. Returning to the anonymous objector, Ms Davis advised that the objection should carry no weight due to the reasons she gave at the start of the hearing.

Ms Davis advised that with regards to the objector, she did not believe that this was a resident from the actual building or a local resident at all. She referred to the complaint made regarding the bottles found in plant box, "The entrance to 4-5 Duke of York Street has 19 apartments and their entrance should remain clear and clean at all times", pointing out that the word "their" suggested that this was not a resident of the building and possibly not a local resident at all. Ms Davis advised the Sub-Committee that the main concern raised in the objection related to men soliciting people on the street for dancers, she advised that the Applicant did not accept this or had understood the objection as dancers are not permitted outside of the Premises other than to smoke and even then they are only permitted on at a time and must wear a long coat to cover themselves when outside in accordance with company policy and procedures.

With regards to the other complaints from the objections, Ms Davis advised that the head doorman had been employed by the Applicant since 2013 and had worked for the operator prior to 2013 so there had been consistency to the operation, and there was zero tolerance for the kind of behaviour suggested in

the objection. Ms Davis advised the Sub-Committee that with regards to parking, regular users were known to staff and most walked or used taxis', she also confirmed that there are double yellow lines outside the Premises, so parking is not permitted in any event. Ms Davis stated that the premise next door is often rented for Airbnb use and could quite possibly be the source of people standing on the steps.

Ms Davis advised that with regards to the urination allegation, the Premises had more than adequate facilities available, the Premises was rarely at capacity, so the facilities are not busy. She advised further that the doormen are responsible for recording any occurrences and no such incidences have occurred and all doormen were SIA approved. Ms Davis concluded by advising that with regards to the parking complaints from Apple Tree Yard and Ormond Yard, she confirmed that there had been no complaints from any residents in that area.

Dereck Jarwood (Doorman appearing on behalf of the Applicant, addressed the Sub-Committee and advised that he had worked for the Applicant for seven and a half years. He advised that the Premises received some patrons from other clubs in St James's Square and like the East India Club and the Royal Automobile Club (RAC) in Pall Mal. He confirmed that taxis arrive with patrons for the Gaslight Club or some arrive by foot. He stated that he and the Applicant had a good relationship with their neighbours upstairs and that only 5 or 6 owner occupiers that still live in the building.

The Sub-Committee declared that they were members of a number of clubs in the area including Chattam House and the Royal Automobile Club (RAC), and apologised for the late mention, but this only came to mind when the St James's clubs were discussed. However, the Sub-Committee did not believe that these declarations would impact the application in any way but in the interests of openness and transparency were nevertheless noted.

The Sub-Committee then heard from Mr Watson (Environmental Health Services), who explained that this was an established premise with some 20 years' operating experience. He informed the Sub-Committee that the current licence still contained historical conditions which related to when it was a hostess bar, before the licence was converted in 2012 to a Sexual Entertainment Venue. Mr Watson confirmed that he visited the Premises with the Applicant representative in early April the site to look at the alterations. He advised the Sub-Committee that the actual scope of change is quite limited because it is a basement venue. Mr Watson advised the Sub-Committee that the changes to what was the downstairs changing room, which was previously a basic area had now become a seated area with CCTV as per conditions. He also advised that the changes to the toilets and the bar areas had been minimal in scope and were satisfactory, therefore he had no public safety concerns relating to the

Premises.

Mr Watson confirmed that the other two main points were the change of the last entry time and the extension on the Sunday hours. He advised that back in 2014 when the Premises last came before the Sub-Committee which was for a variation to extend hours, it was the Applicant who suggested a reduction in the last entry time to 1 hour in order to satisfy residents, however were now asking for that to be reduced by 30 minutes with the modification of conditions to reflect that. Mr Watson advised that he had looked at the conditions for this Premises going along way back, he confirms that the Premises were very well run and there was no history of complaints from activities associated inside or outside the Premises.

Mr Watson advised the Sub-Committee that he had also spoken to Mr Franks who inspected SEV premises and the comments from Mr Franks were about the consistency of the Doorman who was always on the door, he advised that this gives comfort to the inspectors. Mr Watson advised that he had looked at the objections and reviewed Ormond Yard and Apple Tree Yard which are part residential and commercial areas and there had been no complaints in relation to the Premises. Mr Watson advised that the hours on Sunday would not change and the Premises has set capacities for when they provide SEV entertainment of 110, after 02:30hrs that will be reduced down to 70. He stated that if there is a private event the capacity is 150 which is inclusive of staff.

The Sub-Committee sought further confirmation from the EH officers visit and asked further questions regarding the plan and capacity for each of the new booths. Mr Gary Nichols (Venue manager for the Applicant) addressed the Sub-Committee and confirmed that the capacity for each booth was six or seven however there was one larger booth which seats approximately 8 to 9 people. The Legal Advisor to the Sub-Committee asked Ms Davies whether the increase by one and a half hours on Sunday was to accommodate charitable events. In reply Ms Davies confirmed that in part this was correct but not exclusively. She advised that the increase in hours for this purpose afforded the Applicant a degree of flexibility and would be useful, and again referred to the premises in Euston which were open to 06:00hrs. Ms Davis confirmed that the premises did have parties and host special occasions which never reached the full capacity of 110 are usually for approximately 60 to 70 people.

The Sub-Committee sought further clarification on why the Applicant wanted to keep the capacity and how many special or private events the Applicant expected to take place over a 12-month period. Ms Davies responded to the query and advised the Sub-Committee that the Applicant required a degree of flexibility. The Sub-Committee determined the application on its individual merits having carefully considered all of the evidence in the matter and decided

to grant the application before them, with conditions on the basis that the licensing objections would be promoted, further the Sub-Committee noted that the comments made by the Environmental Health Officer in relation to the Premises record of being well run gave comfort to the Sub-Committee that overall the licensing objectives would be promoted.

## **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 shall take all reasonable steps to 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 in a manner which carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance, or harm to children;
  - (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 (other than any promotion or discount available to an individual in respect of alcohol for consumption at a table meal, as defined in section 159 of the Act);
  - (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;
  - (d) provision of free or discounted alcohol in relation to the viewing on the premises of a sporting event, where that provision is dependent on;
    - (i) the outcome of a race, competition or other event or process, or
    - (ii) the likelihood of anything occurring or not occurring;
  - (e) 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.

5. The responsible person shall ensure that no alcohol is dispensed 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).

6. The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.

7. (1) The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.

(2) 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 a holographic mark.

8. The responsible person shall 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; and

(b) customers are made aware of the availability of these measures.

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.

9(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.

9(ii) For the purposes of the condition set out in paragraph 9(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.

9(iii) Where the permitted price given by Paragraph 9(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.

9(iv). (1) Sub-paragraph 9(iv)(2) below applies where the permitted price given by Paragraph 9(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.

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.

### **Operating Schedule**

11. From 8:00pm on Thursdays, Fridays and Saturdays when licensable activities are taking place and premises are being used as a hostess club, then at least one personal licence holder shall be present on the premises.

12. CCTV with time and date recording facility shall be installed at the premises in accordance with the advice of a Metropolitan Police Officer Prevention Officer. Recordings shall be made and retained for at least thirty-one days and shall be readily available for inspection by the Police or Westminster City Council.

13. On Mondays to Saturdays, when the premises are being used as a hostess club, after 11:00pm intoxicating liquor shall not be sold or supplied to persons unless a minimum entry fee of £7 has been paid for admission to the premises or an annual admission fee of £250 (not to be credited against consumables). However, notwithstanding the above, intoxicating liquor may be sold or supplied after 11:00pm to the following persons who have not paid an admission fee:-
  - a) Persons who are taking a table meal where the consumption of alcohol is ancillary to that meal;
  - b) Any person attending a bona fide private function at the premises;
  - c) Artistes or persons working at the premises;
  - d) Bona fide guests of the proprietor, a list of whom shall be kept at the reception for inspection by the appropriate authorities;
14. Suitable beverages other than intoxicating liquor including drinking water shall be available at the premises.
15. The sound limiting device shall be set at such a level and sealed and maintained to the satisfaction of the Environmental Health Office and noise and vibration from mechanical equipment or from music provided at the premises shall not be audible in nearby residential property so as to constitute a nuisance.
16. Should there be any change to the management structure plan, deposited with Westminster City Council Licensing Authority, the licensee shall notify the Licensing Authority as soon as reasonable practical and, in any event, within seven days.
17. Whenever the premises are used for the provision of regulated entertainment, the internal lobby doors shall remain closed except for customer access and exit and in the event of emergency.
18. Clearly legible notices shall be displayed at all exits from the premises requesting patrons to respect the needs of the local residents and to leave the premises and area quietly.
19. The licensee and managers shall ensure that staff do not cause noise or disturbance when entering or exiting the premises or when carrying out their duties at the door or outside the premises.
20. Noise and disturbance arising from taxis picking up and setting down clients at the premises shall be minimised as far as possible.
21. At least one registered door supervisor shall be employed at the premises when the premises are open for the provision of regulated entertainment to the public.
22. Whenever hostesses are working at the premises, customers shall be informed as soon as their bills reach £2,000 (such figure may be adjusted with the written agreed of the Police or Licensing Authority to take inflation into account) and customers should sign their agreement at this point and again

upon the bills reaching £4,000, £6,000 and such further multiples of £2,000. All bills shall clearly show the numbers of customers in the party and the number and names of the hostesses who have entertained them and be signed by the customer. All bottles of champagne shall be signed for. These bills shall be retained for ninety days and shall be readily available to the Police and/or the Licensing Authority upon reasonable request.

23. Menus and drinks price lists shall be clearly displayed at the front entrance of the club, reception area, tables and bar at such a position and size as to be easily read by customers. This price list shall show all consumable items and any minimum tariff including charges and fees applicable to hostesses.
24. A permanent written record shall be maintained in the form of a "refusals book" kept at the premises. This record shall be signed by or on behalf of the licensee on a daily basis and record the details of any customer who refuses to pay his/her bill giving details of the customer's name, contact details and a detailed copy of the bill. These records shall be retained for a period of ninety days and be made available to the Police and/or the Licensing Authority upon reasonable request.
25. A notice outlining the Code of Conduct for the customer "as agreed with the Police" shall be positioned at the entrance, reception, bar area and table menus. It shall be of an adequate size (font 16) so that it can be easily read by the customer.
26. All hostesses activities shall be conducted openly and at no time shall hostesses entertain customers in areas to the premises that are screened, hidden by curtains or not in public use.
27. No payment shall be made by on behalf of the licensee to unlicensed minicabs for bringing customers to the premises and there shall be no soliciting of custom by means of persons on the public highway other than by means of handing out flyers outside the vicinity of the premises.
28. All refuse is paid, properly presented and placed out for collection no earlier than thirty minutes before collection time. Refuse cannot be left on the highway for more than two hours and thirty minutes.
29. No unauthorised advertisements of any kind (including placard, poster, sticker, flyer, picture, letter, sign or other mark) is indicated or affixed up on the surface of the highway or up on any building, structure, works, street furniture, tree or any other property or is distributed in the street to the public that advertises or promotes the establishment its premises or any of its events, facilities, goods or services.
30. The maximum capacity at the premises when licensable activities consisting of the sale of supply of alcohol or the provision of late night refreshment are taking place shall be 150 persons (including staff). Whenever regulated entertainment is also provided or provided independently, then the maximum capacity of the premises shall be 110 (excluding staff). **After 2.30am on Mondays to Saturdays and after 22.30 pm on Sundays** the number of

persons on the premises (excluding performers and staff) will be reduced from 110 to 70 save for any private pre-booked functions in respect of which the booking shall have been made at least 24 hours beforehand and the records relating to such booking shall be retained for a minimum period of 30 days following the function.

31. Draught beer shall not be sold or supplied within the premises without the approval of the Environmental Health Officer and if necessary an amendment to the layout drawings of the premises.
32. Music and/or dancing and/or food shall be available within the premises.
33. No admission or re-admission to the premises shall be permitted, except for smokers, later than half an hour before the terminal hour for the sale of alcohol, Mondays to Saturdays and on 22.30pm on Sundays.
34. After 02:00 on the morning following Monday to Saturday the sale of alcohol must be ancillary to the use of the premises for relevant entertainment (as defined in the Local Government (Miscellaneous Provisions) Act 1982).
35. There shall be no off-sales after 02:00 hours.
36. Customers will be encouraged to utilize the preferred taxi company of the licence holder and also to remain in the premises whilst awaiting arrival of their taxi.
37. A direct telephone number for the manager at the premises shall be publicly available at all times the premises is open. This telephone number is to be made available to residents and businesses in the vicinity.

### **3 BASEMENT AND GROUND FLOOR, 117 MOUNT STREET, LONDON, W1K 3LA**

#### **LICENSING SUB-COMMITTEE No. 6**

*Thursday 9th May 2019*

Membership: Councillor Angela Harvey (Chairman), Councillor Peter Freeman and Councillor Shamim Talukder.

Legal Adviser: Horatio Chance  
Committee Officer: Kisi Smith-Charlemagne  
Presenting Officer: Michelle Steward

Relevant Representations: Environmental Health Services and Local residents represented by CAB Project Officer.

Present: Mr Alun Thomas (Solicitor representing the Applicant Company), Mr Carlo Bisaro (Applicant Company), Mr Sharon Cohen (Technical Director,

Applicant Company) Mr Stefano Ganiboth (Applicant Company), Arwed Taun (Applicant Company), Mr Anil Drayan (Environmental Health), Mr Richard Brown (CAB Project Officer, representing Local Resident Objector's) and Objector no. 2.

<b>Basement and Ground Floor 117 Mount Street London W1K 3LA ("The Premises") 18/19/02973/LIPN</b>	
<b>1.</b>	<b>Sale by retail of Alcohol: Both On and Off sales</b>
	<p>Monday to Saturday: 10:00 to 21:00          Sunday: 12:00 to 21:00</p> <p>Seasonal Variations/Non-standard timings: None</p>
	<p>Amendments to application advised at hearing:</p> <p>None.</p>
	<p>The Chairman noted that she and the other members of the Licensing Sub-Committee had served as Councillors alongside one of the Objectors, Ms Glenys Roberts. The Chairman further noted that Ms Roberts had not approached any members of the Licensing Sub-Committee and all members of the Committee felt fit to hear the application.</p> <p>Decision (including reasons if different from those set out in report):</p> <p>Ms Michelle Steward (Presenting Officer) introduced the application, advising the Licensing Sub-Committee that this was a new premises licence application Marchesi 1824 UK (Applicant Company) for a premise intending to operate as a Café/Deli. It was noted that the Applicant sought the sale by retail of alcohol, for both on and off sales at the premises. Ms Steward informed the Licensing Sub-Committee that the application had received a number of objections from local residents and the Environmental Health Services. Ms Steward informed all parties that an error was made in the late submission circulated by Thomas and Thomas, it incorrectly stated (in third column) that there were 6 chairs instead of 4 chairs. Ms Steward advised the Sub-Committee that the premises were in West End ward and not in the Cumulative Impact Area (CIA).</p> <p>Mr Alun Thomas (Solicitor representing the Applicant Company) introduced Mr Sharon Cohen, Technical Director from the Applicant company to the Licensing Sub-Committee. Mr Cohen informed the Members that Marchesi was the surname of the person name who built the first patisserie in 1824, it is the second oldest patisserie in Milan, and it is recognised as an institution in Milan.</p> <p>Mr Cohen informed the Licensing Sub-Committee that in 2015, Prada decided that it wanted to enter their food and beverage industry and instead of finding a new brand, Prada entered into negotiation with Marchesi and bought the license.</p>

Mr Thomas informed the Licensing Sub-Committee that Mr Cohen had been on site for past 6 months, the works had been completed and the premises were due to open subject to the outcome of today's hearing. Mr Thomas describe the project as a grade 2 and noted that the Applicant had been working with the Grosvenor Group, who were the Applicant's Landlord. He also advised the Licensing Sub-Committee that the Applicant has been working with their neighbours to ensure that the build had been constructed without too much disruption or difficulties.

Mr Thomas advised the Licensing Sub-Committee that the premises would operate as a café/delicatessen who sought to offered alcohol such as wine and beers. Mr Cohen advised the Licensing Sub-Committee that the idea was to bring the concept of the aperitif from Italy. Mr Thomas advised the Licensing Sub-Committee that he and his client had had a good conversation with one of the Objector's, he apologised as he felt there had been a slight breakdown in communication between with Mr Brown regarding the two conditions that had been agreed.

Mr Thomas referred the Licensing Sub-Committee to the conditions on page 105, The Licensing Sub-Committee sought confirmation from Mr Thomas that the conditions had been circulated to all parties. Members of the Licensing Sub-Committee noted that that not all parties had seen the conditions. The Licensing Sub-Committee confirmed that it was happy to accept the new conditions. Mr Thomas advised the Licensing Sub-Committee that there was an existing license held by Dean and DeLuca, who acquired the license and then did not complete the build at the premises. Mr Thomas noted that there were two reasons why his client had not transferred the license, firstly that Dean and DeLuca has not consented to a transfer and secondly to make a clean break.

Mr Thomas confirmed the wording of the agreed conditions, he advised that condition 11 should now include the words 'to person seated', he also confirmed that the conditions 13 and 22 regarding the 6 external chairs has also been agreed. Mr Thomas noted his client's intention not to apply for more than six external chairs. Licensing Sub-Committee viewed images of the exterior of the premises and Mr Thomas used the images to show the Licensing Sub-Committee where the external seating would be placed, and the CGI images of the premises finished interior. The Licensing Sub-Committee also viewed the menu from Milan which would be identical to the menu at Mount Street.

Mr Anil Drayan EH, noted the temperature-controlled storage environment and additional work undertaken in a listed building, he explained that the Applicant needed to dig a well for borehole. Mr Cohen informed the Licensing Sub-Committee that's the borehole was the most quiet and sustainable option.

Mr Thomas confirmed the agreed conditions;

33. The premises licence holder shall ensure that any patrons drinking and/or smoking outside the premises do so in an orderly manner and are supervised by staff so as to ensure that there is no public nuisance or obstruction of the public highway.

24. All tables and chairs shall be removed from the outside area by 21:00 each day.
40. New Condition - After 6pm patrons permitted to temporarily leave and re-enter the premises e.g. to smoke, shall be limited to more than 5 persons at any time.
41. New Condition - Patrons permitted to temporarily leave and re-enter the premises e.g. to smoke, shall not be permitted to take drinks or glass containers with them. (model condition 57)
42. New condition: All sales of alcohol for consumption off the premises shall be in sealed containers only, and shall not be consumed on the premises. (Model condition 17)

Mr Thomas rebuked the objection from office premises above the premises, he advised that each case should be determined on its own merits and the Licensing Sub-Committee could only consider the inform of them today. Mr Thomas noted that that is client's application was less than Dean and DeLuca application granted 18 months ago.

Mr Richard Brown (CAB Officer) advised the Licensing Sub-Committee that the Objectors that he represented, were all long-term residents who want to ensure that the Applicant does not add to the current problems occurring on Mount Street. Mr Brown advised that he has set out a list of conditions that reflected the discussions had with the Applicant and include the external table and chairs.

Local resident Mr Ahmed advised the Licensing Sub-Committee that he was now looking forward to the opening and the great food. He advised that he made objection as he was fearful of a premises license transfer, and that he would not know who the next tenant would be and what controls would be put in place.

The Licensing Sub-Committee made further queries regarding deliveries and referred to conditions 29, 30 and 32. Mr Horatio Chance (Council's Legal Advisor) referred to the objection on p.95 where the objector requested background music only, avoiding placing speakers in places that would cause nuisance, no music outside, and no live music. Mr Thomas confirmed that it was his clients intention to play background music only, he also wanted it noted that there would be no more than 6 chairs outside.

The Licensing Sub-Committee carefully considered and granted the variation license, adding the new conditions to the license. The Licensing Sub-Committee noted that there had been further dialog between the applicant and residents, which led to an agreement on the conditions to which have been agreed. The Licensing Sub-Committee also noted that the applicant requested that the following be recorded as part of the official minutes:

1. Recorded music will be played at background level as not to cause a public nuisance and speakers will be positioned in such a way as to not cause a public nuisance whether in or outside the premises.

	2. The applicant commits to not apply for more than 6 chairs in the external area either through Licensing or Planning.
<b>2.</b>	<b>Hours Premises Open to the Public</b>
	Monday to Saturday: 08:00 to 21:00 Seasonal Variations/Non-standard timings: None
	Amendments to application advised at hearing: None.

<b>Mandatory Conditions</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 particular characteristic in a manner which carries a significant risk of undermining a licensing objective;</p> <p>(c) provision of free or discounted alcohol or any other thing as a prize to</p>

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.

#### **Conditions consistent with the operating schedule**

9. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the preceding 31 day period.
10. 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 premise is open. This staff member must be able to provide a Police or authorised council officer copies of recent CCTV images or data with the absolute minimum of delay when requested.
11. The supply of alcohol for consumption 'On' the premises shall be by waiter or waitress service only to persons seated.
12. 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.
13. The number of persons consuming alcohol on the ground floor of the premises building shall be limited to a maximum of 24 persons (plus 6 in the external area) at any one time.
14. An incident log shall be kept at the premises, and made available on request to an authorise officer of the City Council or the Police, which will record the following:
- (a) all crimes reported to the venue
  - (b) all ejections of patrons
  - (c) any complaints received concerning crime and disorder
  - (d) any incidents of disorder

- (e) all seizures of drugs or offensive weapons
- (f) any faults in the CCTV system
- (g) any visit by a relevant authority or emergency service.

15. No super-strength beer, lagers or ciders of 5.5% ABV (alcohol by volume) or above shall be sold at the premises except for premium beers sold in glass bottles.
16. 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.
17. The approved arrangements at the premises, including means of escape provisions, emergency warning equipment, the electrical installation and mechanical equipment, shall at all material times be maintained in good condition and full working order.
18. The means of escape provided for the premises shall be maintained unobstructed, free of trip hazards, be immediately available and clearly identified in accordance with the plans provided.
19. All emergency exit doors shall be available at all material times without the use of a key, code, card or similar means.
20. All emergency doors shall be maintained effectively self-closing and not held open other than by an approved device.
21. The edges of the treads of steps and stairways shall be maintained so as to be conspicuous.
22. Alcohol consumed outside the premises building shall only be consumed by patrons seated at tables and limited to 6 persons.
23. There shall be no self-service of alcohol on the premises.
24. All tables and chairs shall be removed from the outside area by 21:00 each day.
25. 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.
26. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
27. A direct telephone number and email address for the manager at the

premises shall be publicly available at all times the premises is open. This telephone number and email address is to be made available to residents and businesses in the vicinity.

28. 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.
29. No waste or recyclable materials, including bottles, shall be moved, removed or placed in outside areas between 20.00 hours and 08.00 hours.
30. No collections of waste or recycling materials (including bottles) from the premises shall take place between 20.00 and 08.00 on the following day.
31. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
32. Save for fresh produce delivered between 07:00 and 08:00 hours, no deliveries to the premises shall take place between 21.00 and 08.00 hours.
33. The premises licence holder shall ensure that any patrons drinking and/or smoking outside the premises do so in an orderly manner and are supervised by staff so as to ensure that there is no public nuisance or obstruction of the public highway.
34. A Challenge 25 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport or proof of age card with the PASS Hologram.
35. A record shall be kept detailing all refused sales of alcohol. The record should include the date and time of the refused sale and the name of the member of staff who refused the sale. The record shall be available for inspection at the premises by the police or an authorised officer of the City Council at all times whilst the premise is open.
36. The premises shall be used primarily as a retail gourmet delicatessen and the provision of alcohol shall remain ancillary to the main use of the premises as a retail gourmet delicatessen.
37. Delivery of takeaways shall only be permitted between 09:00 and 18:00 Monday to Sunday.
38. The Licence will have no effect until the premises have been assessed as satisfactory by the Environmental Health Consultation Team and this condition has been removed from the Licence.
39. Before the premises open to the public, the plans as deposited will be checked by the Environmental Health Consultation Team to ensure they are an accurate reflection of the premises constructed. Where the premises layout has changed during the course of construction new plans shall be

provided to the Environmental Health Consultation Team and the Licensing Authority.

40. After 6pm patrons permitted to temporarily leave and re-enter the premises shall be limited to no more than 5 persons
41. Patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, shall not be permitted to take drinks or glass containers with them.
42. All sales of alcohol for consumption off the premises shall be in sealed containers only and shall not be consumed on the premises.

#### **4 CAVELL HOUSE, 2A CHARING CROSS ROAD, LONDON, WC2H 0NN**

##### **Licensing Sub-Committee No. 6**

*Thursday 9th May 2019*

Membership: Councillor Angela Harvey (Chairman), Councillor Peter Freeman and Councillor Shamim Talukder.

Legal Adviser: Horatio Chance  
Committee Officer: Kisi Smith-Charlemagne  
Presenting Officer: Michelle Steward

Relevant Representations: Environmental Health Services, Licensing Authority and Local residents represented by CAB Project Officer.

Present: Mr Jack Spiegler (Solicitor representing the Applicant), Mr Ronald Mind (Applicant company), Mr Anil Drayan (Environmental Health Services), Roxanna Haq (Licensing Authority) Mr Richard Brown representing local resident objector's David Lamoury, Dr A Lamoury, Seven Ward and Tom Hasking.

#### **Cavell House 2A Charing Cross Road London WC2H 0NN ("The Premises") 18/19/02049/LIPN**

##### **1. Sale by retail of Alcohol: On sales**

Monday to Thursday: 10:00 to 00:00  
Friday to Saturday: 10:00 to 00:30  
Sunday: 12:00 to 23:30

Seasonal Variations/Non-standard timings: 00:30 on Sundays before Bank Holiday Mondays. From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Eve Day.

Amendments to application advised at hearing:

Core hours only

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

Ms Michelle Steward (Presenting Officer) confirmed that this was a new premises licence application made by Arboretum Lounge Ltd (Applicant), noting that the Premises intended to operate as a refreshment and function space for employees working in offices within the Premises. She advised that the application had received a number of objections from local residents, Environmental Health (EH) and the Licensing Authority (LA). Ms Steward noted that a letter dated 28<sup>th</sup> March was not received by the residents. She also confirmed that the Premises were in St James's Ward and in the West End Cumulative Impact Area (CIA).

With reference to the letter dated the 28th of March, Mr Spiegler advised the Sub-Committee that the Applicant had hand delivered letters to local residents setting out the proposals for the Premises but this had not been received the residents and was the reason why a follow-up letter (24th April refers and contained within the committee papers) was sent to the residents. Mr Spiegler advised that with regard to the letters, his client had hoped to have conversations with the residents before the hearing, unfortunately this did not happen. Mr Spiegler stated that Mr Ronald Mind was the founder of the company and was also the founder of the Library, a private members club which he founded in 2013. Using Streetmap, Mr Spiegler highlighted the location of the Library in relation to the new premises for the Arboretum, he also showed the distance between the Premises and the entrance to the resident's properties. Mr Spiegler also highlighted the servicing yard on St Martin's Lane.

Mr Spiegler noted that the Library's premises licence was included in the Applicants report pack, he advised that the application for this premises licence was almost identical to the application for the Library's premises licence. Mr Spiegler advised that the application was exactly the same as the Library, with the only difference being the categories they were seeking to provide licensable activities for. He confirmed that there were 3 different categories, he explained that residents were fairly comfortable with category one, somewhat comfortable with category two, however category 3 (events) was where residents had concerns. The Sub-Committee asked for further information regarding categories one and two.

Mr Spiegler asked the Sub-Committee to review condition 10A on page 139 of the committee papers, he advised that persons working in the offices are located within the Premises was labelled as category one, he informed the Sub-Committee that he believed that residents had little concern regarding option A. Mr Spiegler noted that the main lounge was at ground floor level and there were five floors of offices, housing up to 600 workers with approximately 400 currently located at the Premises. He stated that it was becoming very popular for offices to have a lounge area where residents of the buildings can use the space for eating, drinking, socialising and networking. With regards to category 2, Mr Spiegler requested that condition 10B be reviewed, which referred to members of a private club, he then suggested that Mr Mind address the Sub-Committee to

provide further details.

Mr Mind advised the Sub-Committee that the word Arboretum meant Botanical Gardens and the concept is one of an indoor living garden. He said that the idea was to bring together people who were interested in saving the planet. Mr Mind advised that in 2007 he started a company to bridge the gap between environmental charities and corporate companies, he stated that when the opportunity came up to acquire 2A Charing Cross Road, he felt that it was the perfect chance to encourage people who were interested in the environment to collaborate on good ideas and was therefore a perfect meeting space to engage, generate ideas and transform them into reality.

Mr Mind felt that the concept needed a range of activities to take place within the space, he advised that the lounge would be used for meetings and coffee allowing members to come into the space with their laptops. Mr Mind advised that the idea was to increase the co-working spaces and transform it into an evening space for drinking or holding events and seminars. Mr Mind stated that he had applied for a Temporary Event Notice (TEN) recently in April and had held a weekend of successful seminars and events held which he confirmed would be similar to the types of events that he intends holding at Cavell House.

The Sub-Committee Chairman made a declaration, informing all parties that for five years the Botanical Gardens Conservation International was a client in her professional career. The Chairman advised that she was able to determine the application with an open mind and was fit to hear the application. All parties present agreed that they had no concerns with the declaration made by the Chairman.

Mr Spiegler advised that with regard to proposed condition 10B, this had been taken directly from model conditions 88 and 89, except for the additional requirement of a 'minimum annual admission fee of £250' which was in addition to the Council's usual requirements. Mr Spiegler stated that this was not a qualifying club, however did share some similarities as per paragraph 2.4.9 of the City Council's Statement of Licensing Policy ("SLP"), he advised that there was a vetting process and the club had been organised for a specific group of people who share an interest in the environment. Mr Spiegler noted that alcohol would only be supplied to members and their guests, he also confirmed that there was a 48-hour waiting period after applications are submitted.

Mr Spiegler advised that the club had more in common with a qualifying club than the types of proprietary clubs that the Sub-Committee, residents and policy might be concerned with. He felt that the policy recognised that these types of clubs, when well-managed, do not impact on crime, disorder or public nuisance. Mr Spiegler stated that the Applicant held experience with the Library since 2013, he confirmed that no complaints had been received regarding the Library whatsoever. Mr Spiegler stated also that the Objectors were not too overly concerned with category 2 and sought confirmation from Mr Richard Brown. Mr Brown advised that the residents were fine with the concept of category 2, however still had some minor concerns with the conditions. With regard to category 3; events, Mr Mind addressed the Sub-Committee and confirmed that temporary event notices had been applied for events held in April.

Mr Mind summarised a number of events on the weekend of 11 April, describing a preview party which showcased the space, he informed Members that during the event there were several DJs, a musician and approximately 300 people. He informed the Sub-Committee that it was his intention to contact the residents on the 28th March inviting them to the event for comments and feedback and if they felt they had been impacted in anyway. Mr Mind produced images for the Sub-Committee to view, he also advised that on the day of the event he assessed the buildings noise levels and acoustics. Mr Mind advised that on the 12 April he held an open day where members were registered and held exhibitions showcasing five charities. The Sub-Committee observed a programme from the day's events and queried how the space would be used and sought further images showing how the space was used for the events in April. All parties agreed that the images provided was a true reflection of the Premises.

Mr Mind provided brochures and materials for all parties to view, he advised that over 3000 people were registered to attend the weekend events. Mr Mind confirmed that approximately 150 people arrived on Friday, 6000 people arrived on Saturday between 10:00 hours and 23:00 hours on the Sunday approx. 200 people arrived for the Wellness event. Mr Mind confirmed that all events occurred on the ground floor, he also described the layout of the space, trees, plants and green wall which he advised had plumbing and all features were permanent and sustainable. Mr Mind also discussed his work with University College London on the impact of plants and air quality in the working environment.

Mr Spiegler advised that in terms of the events, the Applicant recognised that the SLP expresses concerns with regard to premises presenting themselves as members clubs and then promoting themselves as a private events space. Mr Spiegler confirmed that he was presenting a bona fida members club with all the controls mentioned previously. He further advised that the policy referred to instant membership, online membership and nominal fees, and that the Applicant had none of those attributes.

Mr Spiegler referred to paragraph 2.4.11 of the SLP and referenced 'the promotion of private functions' which was not intended for the Premises. He informed the Sub-Committee that the events intended to be held were to allow environmentalists to come together and share their good ideas, have debates and seminars. Mr Spiegler stated that the cumulative impact would be low as a result, and in his opinion the policy was not intended to restrict that type of activity in the West End. Mr Spiegler then went onto state that Mr Mind required flexibility to make the project work, he agreed that it would generate an income, but the main purpose was to bring like-minded environmentalists together. Mr Spiegler informed the Sub-Committee that he had proposed a condition in order to confirm the purpose of the Premises " *The provision of licensable activities and the holding of private events at the Premises shall at all times remain ancillary to the use of the Premises as a licensed facility for persons in the upper floor offices and the Arboretum environmentalists private members club*".and this condition appears below as Condition 9 and was imposed by the Sub-Committee.

Mr Spiegler advised that the Applicant did recognise that this was an exception to the policy, he sought to provide further reassurance and informed all parties that Mr Mind was an Applicant with a proven track record, as he already provided this type of event at his Library venue around the corner. Mr Spiegler advised the Sub-Committee that with regard to the Licensing Authority's contention that cumulative impact would arise in respect of the events namely category 3, the Applicant had provided membership rules, and these had been circulated to the Sub-Committee. He advised that the Licensing Authority had also raised concerns regarding the hours of operation, however the hours proposed were identical to the hours of operation proposed and granted for the Library.

Mr Spiegler advised that he was very grateful to the Environmental Health team and Mr Anil Drayan (Environmental Health Officer) who made two visits to the club, he advised that Mr Anil had proposed three conditions which were agreed in their entirety (conditions 27, 45 and 46). Mr Anil Drayan addressed the Sub-Committee, informing them that the conditions were listed on page 140, he advised that condition 27 refers to the capacity (approximately 300) which could be split between the main offices, he confirmed that the figures excluded staff. Mr Spiegler addressed the Sub-Committee confirming that condition 45 was in relation to a suitable and sufficient Event Management Plan being drawn up by a competent person for each event and which must be made available on request to the Responsible Authorities. Mr Spiegler confirmed that the Applicant had also agreed to condition 46, however did need to change an error in the first line of the condition and remove the words 'in the Drill Hall'.

Mr Spiegler stated that no representations had been made by the Police. He then spoke about the objections from the local resident's which were mainly concerned with noise transference and noise outbreak, Mr Spiegler said that the Applicant would address noise concerns with a noise limiter condition. Mr Spiegler also advised that the previous events held in April had produced no noise complaints as far as he was aware. Mr Spiegler confirmed that the second area of concern were the number and nature of the events, Mr Spiegler highlighted the conditions from Richard Brown that were proposed by residents, (Page 120 of the Committee Papers, conditions 1-20 refers). Mr Spiegler advised that conditions one and two related to the categories, condition 3 was in respect of the noise limiter and this was agreed, with condition 16 being replaced, conditions 5 and 6 related to the servicing yard. Mr Spiegler advised that there was some interaction between the Library premises and the Arboretum premises, he informed the Sub-Committee that the servicing yard was a dedicated servicing area and walkway for staff between the two premises. Mr Spiegler stated that if the Applicant was unable to use the walkway in for servicing yard, the alternative would see members of staff walk around the building, along St Martin's Lane and past the resident's entrance to the entrance of the Arboretum. He felt that it was smarter and safer to use the servicing yard and for those reasons feel that proposed conditions 5 and 6 should not be imposed.

The Sub-Committee sought further clarity on condition 5, wanting to know if the condition referred to members of staff only or also included members of the club. Mr Spiegler advised that condition seven would be agreed if 22:00 hours was

inserted in brackets. He confirmed condition 8 had been agreed, condition 9 was covered with the environmental health condition and that condition 10 would not be viable for the Premises. Mr Spiegler confirmed that conditions 11 and 12 were more restrictive than the conditions proposed with the application, however was prepared to swap 08:00 hours to 07:00 hours to allow for small scale refuse and the delivery of products such a dairy and bread etc.

Mr Mind addressed the Sub-Committee and informed them that he had made arrangements to combine the waste and refuse collection with the three premises using the servicing yard, so instead of three refuse collections there will only be one which will help to improve the traffic flow in the servicing yard. Mr Spiegler returned to proposed condition 13, requesting the Sub-Committee to view the plan on page 131 of the Committee papers, he showed the Sub-Committee where the resident's entrance was located. He advised that with regard to proposed condition 14, (the entrance) the Applicant needed to use this entrance until 21:00 hours and not 06:30 hours as requested by local residents. With regard to some of the points raised under condition 14, Mr Spiegler stated that there were no kitchen facilities at the Premises. Mr Mind advised that there will be a Deli in the Library venue and it is his intention that club members can go across to the restaurant in the Library; and canapés be brought across to the Arboretum for events.

Mr Mind advised that the distance between the two premises was approximately 10 steps, the distance was confirmed by Mr Drayan, who also advised that there would be greenery and a canopy to cover the area. Mr Spiegler stated that if the Sub-Committee were minded to grant the application, he hoped that they would be the hours the Applicant had applied for, and if not, then the Applicant would be open to consider core hours for the last entry time, meaning no further entry after 23:30 hours Monday-Saturday, Midnight Friday to Saturday and 23:30 hours on Sunday. With regard to the last point of concern on (page 122 of the Committee papers), Mr Spiegler agreed that the Applicant would be happy to undertake this as an action or as a condition, Mr Drayan advised that there was a suitable model condition namely model condition 80.

Addressing the Sub-Committee Mr Drayan advised that it was for the Sub-Committee to decide if the application based on the evidence before it came within the exceptionality rule. He advised that from a public safety perspective he was satisfied, that the added works conditions had been applied for and currently a maximum capacity of 300 had been agreed, however once the inspection was completed and the work order is cleared, the capacity figure could indeed be lower. Mr Drayan felt that the biggest potential for public nuisance would come from the events. He felt that the vast majority of events could potentially cause nuisance to local residents if they are similar to the events that were held in April. Mr Drayan also felt that the events most likely to cause nuisance would be those with music and operated to a late hour. He concluded that it was for this reason that Environmental Health Services wanted a noise limiter fitted in the Premises. The Sub-Committee noted that the Applicant had agreed to all the Environmental Health conditions.

Mr Drayan advised the Sub-Committee that he had given his contact details to the residents so that they could be present when he sets the level for the noise

limiter, he felt that this would help to address concerns, as there was the potential for noise transferences. Mr Drayan said that the second condition proposed 45 was in relation to the Event Management Plan, he felt that the plans should be assessed annually to ensure the best dispersal, access, if security is needed and which entrance to use so as not to cause nuisance.

Ms Roxanne Haq addressed the Sub-Committee and advised that she had had some helpful discussions with the Applicant, however had maintained their representation due to the number of resident's objections and the hours were outside of policy. Ms Haq suggested limiting the number of private events which would address some of the resident's concerns. She felt that the Applicant should be permitted to host 20-25 events after core hours and 15 TENs per annum was suitable for the Premises.

Mr Brown addressed the Sub-Committee and confirmed which residents were in attendance with him. He confirmed the uses of the categories 1-3 and that the principal objection was with category 3 (events), he stated that the residents had become frustrated with not being able to meet with the Applicant and was disappointed that no contact details had been provided until today's meeting. Mr Brown advised that with regard to categories 1 and 2 (office and private members club) the residents were not particularly concerned with the concept, as long as it was a well-run, quiet premise that didn't disturb and cause nuisance to local residents.

Mr Brown advised the Sub-Committee that the main points of the resident's concern were set out in the representation pages of the report, he advised that the major differences between this Premises and the Library club was the party wall between the Arboretum and the resident flats (East side of Arboretum) and the potential to impact via noise transference. Mr Brown also stated that the servicing courtyard as a source of resident's concerns. Mr Brown advised the Sub-Committee that with all the will in world and good intention, the Applicant could not promise that there would be no noise transference. Mr Brown stated that even though there was a number of event in April, residents either were not home or did not know the events were taking place, Mr Brown advised that the Sub-Committee needed to be reassured by the Applicant that the Premises would not cause a nuisance.

Mr Brown advised that the servicing courtyard had been raised in the representations and it had been very helpful to see the map and the route that would be taken from the Library to the Arboretum. Mr Brown advised that residents were also concerned with windows being open during the summer months, he also queried what the food offer would be. Mr Brown referred to the functions and what was meant under the application, the Premises would be able to have functions until 12:30 am every night of the week in the cumulative impact area which is directly contrary to policy, he felt that the Applicant would need to prove exceptional circumstances.

Mr Brown did not feel that the concept Arboretum crossed the threshold for exceptional circumstances as far as distinct ability regarding the private events. Mr Brown suggested that the Sub-Committee could look at the number of private events permitted, he advised that residents felt that if private events are going to

be granted that it should be done under the TENS regime. Mr Brown did not have confidence that the Applicant would uphold the promotion of the licensing objectives. He raised concerns with the capacity of 300 people during the later hours was far more likely to (paragraph 2.4.11 of the SLP) to contribute to the CIA in the busy Charing Cross area. Mr Brown advised the Sub-Committee that residents would be happy if the hours remained at core hours, he advised that the Library venue had no direct resident neighbours, unlike the Arboretum and was not a new premises licence, but a converted licence from the old Agency Club.

Mr Brown went through the conditions that he had proposed, he confirmed that conditions 1 and 2 and were still not agreed, conditions 3 and 4 were agreed, but he still had issues with conditions 5 and 6 regarding the servicing courtyard. Mr Brown advised that resident's required condition 7 which stipulated closure of windows and doors by 06:00 hours and was not yet agreed. Mr Brown confirmed that condition 8 was agreed, 9 agreed however nothing had been fixed. Mr Brown advised the Sub-Committee that condition 10 had not been agreed and with regard to conditions 11 and 12 (model condition 35) regarding the movement of waste, residents would like to stick with the hours that they proposed. Mr Brown stated that with regards to condition 13, residents wanted this restricted to core hours with dispersal happening through the furthest door away from residents at 06:00 hours. Mr Brown concluded by saying that he and the residents were not against well run premises at core hours, however the Sub-Committee would need to be satisfied with exceptional circumstances although contrary to policy.

Mr Tom Haskins (Local Resident) advised that he shared a wall with the Premises and had concerns regarding loud music and live recorded music. He advised that he could not comment on the specific events in April as he was away and did not know about them. Mr Haskins advised that he welcomed the installation of a noise limiter and was concerned because not all noise or music used amplification systems. Mr Anil Drayan (Environmental Health Officer) advised the sing Sub-Committee that it was unusual for music from percussion instruments to transfer through the building. Mr Haskins also raised concerns regarding the entrance as it was close to his building entrance, he also felt that no entrance after 9pm was far too late.

Mr David Lamoury (Local Resident) addressed the Sub-Committee and advised that he was unsure of the Arboretum concept and had concerns regarding the private events for up to 300 people in a busy area, he felt that this should be kept to a minimum. He was also concerned with anti-social behaviour such as smoking, drunk individuals and disorder generally. Mr Lamoury raised concerns regarding the side door next to the main entrance and 06:00 hours restrictions, as the doorway had had problems in the past with rough sleepers. He raised further concerns regarding the potential for noise and requested further information on the different type of events.

Mr Steve Ward addressed the Sub-Committee advising that the number of events should be limited to 15, he suggested that the Applicant could apply for TENS. He was also concerned with the proximity of the door and the servicing courtyard being used to access to the Library. Mr Ward explained that he had

concerns regarding the kitchen and the food on offer, he felt that the Arboretum was a large space and had the potential to be turned into a vertical drinking space. Mr Ward raised further concerns regarding the noise emanating from bottle collections, odours coming from the courtyard and if the courtyard would be used for smokers. Mr Ward queried if the Applicant provided the Event Management Plan, would they also decide what entrance is used? He also felt that the noise limiter would be useful.

Mrs Lamoury repeated the concerns raised by her fellow residents and added that some consideration and respect should be given to the local area (Cavell House and National Portrait Gallery). She advised that the area was very beautiful and should be maintained in that way.

Mr Spiegler advised that the licence for the Library was post the CIA policy and whilst the Library had no residential neighbours, it did have a hotel above it. Mr Spiegler advised that with regard to category 3, policy 2.4.10 and 2.4.11 of the City Council's SLP applied to proprietary clubs, he again advised that these were not the characteristics of the Arboretum. With regard to the number of events, Mr Spiegler advised that 15 events per year was not enough, he also agreed with the Environmental Health Officer's suggestion that there should be no limit on events before core hours.

The Sub-Committee sought clarification as to whether the promoted events would attract outsourcing to external promoters. Mr Spiegler confirmed that there would be no promoting of events or any outside promoters. He confirmed that all activities would be ancillary to the function of the club as the agreed proposed condition. Mr Mind sought to reassure the Sub-Committee and informed the Members that he had been a responsible operator for over 10 years, without any complaints and that he was very open to go back with the residents and engaging in open dialogue.

The Legal Advisor to the Sub-Committee requested that Mr Spiegler provide four key points outlining why the application should be regarded as an exception to policy, Mr Spiegler referred to policy 2.4.10 and 2.4.11 of the City Councils SLP, stating that the policy did not apply to this application as it was not a propriety club, however did hold private functions and events.

1. The type of values promoted with the venue
2. These were not the type of events which would contribute to the CIA
3. The location is tied in with the office therefore self-policing, model cannot be used in any other way because of the policy.
4. The conditions imposed restrict how the premises could be used, ancillary to the function of the club

The Sub-Committee noted that the papers provided by the Applicant could have been better presented but this did not affect the determination of the application by the Sub-Committee because points of clarification were obtained on any issue of ambiguity. The Sub-Committee noted that this was not the usual preparatory club and that the club promoted environmental values and was self-policing. After carefully considering the evidence before it on its individual merits the Sub-Committee granted the application accordingly with core hours only.

	<p>The Sub-Committee was satisfied that the conditions it had imposed on the Premises Licence would have the overall effect of promoting the licensing objectives. The Sub-Committee noted the concerns raised by local residents but was persuaded by the Applicant in his submissions that he was an experienced Operator that would run his business in a professional manner that would lead to the promotion of the licensing objectives. The Sub-Committee encouraged the Applicant to rebuild relations with residents going forward and this was helped by the conditions imposed.</p>
<b>2.</b>	<b>Late Night Refreshment:</b>
	<p>Monday to Thursday: 23:00 to 00:00  Friday to Saturday: 23:00 to 00:30  Sunday: 23:00 to 23:30</p> <p>Seasonal Variations/Non-standard timings: 00:30 on Sundays before Bank Holiday Mondays. From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Eve Day.</p>
	<p>Amendments to application advised at hearing:</p> <p>None.</p>
<b>3.</b>	<b>Live Music:</b>
	<p>Monday to Thursday: 10:00 to 00:00  Friday to Saturday: 10:00 to 00:30  Sunday: 12:00 to 23:30</p> <p>Seasonal Variations/Non-standard timings: 00:30 on Sundays before Bank Holiday Mondays. From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Eve Day.</p>
	<p>Amendments to application advised at hearing:</p> <p>None.</p>
<b>4.</b>	<b>Recorded Music:</b>
	<p>Monday to Thursday: 10:00 to 00:00  Friday to Saturday: 10:00 to 00:30  Sunday: 12:00 to 23:30</p> <p>Seasonal Variations/Non-standard timings: 00:30 on Sundays before Bank Holiday Mondays. From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Eve Day.</p>
	<p>Amendments to application advised at hearing:</p> <p>None.</p>
<b>5.</b>	<b>Hours Premises Open to the Public:</b>

	<p>Monday to Thursday: 08:00 to 00:00  Friday to Saturday: 08:00 to 00:30  Sunday: 08:00 to 23:30</p> <p>Seasonal Variations/Non-standard timings: 00:30 on Sundays before Bank Holiday Mondays. From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Eve Day.</p>
	<p>Amendments to application advised at hearing:</p> <p>None.</p>

### **Mandatory Conditions**

1. No supply of alcohol may be made at a time when there is no designated premises supervisor in respect of this licence.
2. No supply of alcohol may be made at a time when the designated premises supervisor does not hold a personal licence or the personal licence is suspended.
3. Every supply of alcohol under this licence must be made or authorised by a person who holds a personal licence.
4.
  - (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
  - (2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises—
    - (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to;
      - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
      - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
    - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
    - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a

period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;

- (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
- (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).

5. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.

6. (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.

(2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.

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

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

7. The responsible person must ensure that—

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

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

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

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

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

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

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

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

- (b) "permitted price" is the price found by applying the formula -

$$P = D + (D \times V)$$

Where -

- (i) P is the permitted price,
  - (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
  - (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
- (c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence -
    - (i) the holder of the premises licence,
    - (ii) the designated premises supervisor (if any) in respect of such a licence, or
    - (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;
  - (d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
  - (e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.

- 8(iii). Where the permitted price given by Paragraph 8(ii)(b) above would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.
- 8(iv). (1) Sub-paragraph 8(iv)(2) below applies where the permitted price given by Paragraph 8(ii)(b) above on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.
- (2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

**Conditions imposed by the Licensing Authority after a hearing:-**

9. The provision of Licensable activities and the holding of private events at the premises shall at all times remain ancillary to the use of the upper floor offices, the Arboretum Club and the Clubs Environmental purposes.
10. Licensable activities may only be provided to:
- a) Persons working in the offices located in the premises building and their bona fide guests with a maximum of 4 guests per adult office worker;
- b) Members of the private club operating at the premises and their bona fide guests (not exceeding 4 guests per member) who have paid a minimum annual admission fee of at least £250. No person shall be admitted to membership of the private club or be entitled to take advantage of any of the privileges' of membership without an interval of at least 48 hours between their nomination or application for membership and their admission. A list of names and addresses of members of the club shall be kept on the premises at all times together with a book showing the names and dates of attendance of any guest introduced by members. Both the list and the book shall be produced on demand for inspection by the police or an authorised officer of the Council;
- c) Persons attending a pre-booked and bona fide private function or event to which members of the public are not admitted. A register of persons attending the event shall be kept at the premises and made available for immediate inspection by police or an authorised officer of the Council.
- (d) Artistes or persons employed on the premises.
11. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times

when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the preceding 31 day period.

12. 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 are open. This staff member must be able to provide a Police or authorised council officer copies of recent CCTV images or data with the absolute minimum of delay when requested.
13. 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.
14. A Challenge 21 or Challenge 25 scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as driving licence, passport or proof of age card with the PASS Hologram.
15. An incident log shall be kept at the premises, and made available on request to an authorised officer of the City Council or the Police, which will record the following:
  - (a) all crimes reported to the venue
  - (b) all ejections of patrons
  - (c) any complaints received regarding crime disorder
  - (d) any incidents of disorder
  - (e) any faults in the CCTV system
  - (f) any refusal of the sale of alcohol
  - (g) any visit by a relevant authority or emergency service.
16. 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.
17. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of the local residents and businesses and leave the area quietly.
18. Notices shall be prominently displayed at any area used for smoking requesting patrons to respect the need of local residents and use the area quietly.
19. 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.
20. The pavement from the building line to the kerb edge immediately outside the premises, including gutter/channel; at its junction with the kerb edge, is swept and or washed and litter and sweepings collected and stored in accordance

with the approved refuse storage arrangements.

21. No collection or movement of waste or recycling materials (including bottle) from the premises shall take place between 21:00 and 08:00 on the following day.
22. No deliveries to the premises shall take place between 21:00 and 08:00 on the following day.
23. All waste is to be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
24. The maximum number of persons accommodated at the premises at any one time (excluding staff) shall not exceed [TBC – but it shall not be more than 300] persons.
25. Any special effects or mechanical installations shall be arranged and stored so as to minimise any risk to the safety of those using the premises. The following special effects will only be used on 10 days prior notice being given to the Licensing Authority where consent has not previously been given.
  - dry ice and cryogenic fog
  - smoke machines and fog generators
  - pyrotechnics including fireworks
  - firearms
  - lasers
  - explosives and highly flammable substances. - real flame.
  - strobe lighting.
26. No person shall give at the premises any exhibition, demonstration or performance of hypnotism, mesmerism or any similar act or process which produces or is intended to produce in any other person any form of induced sleep or trance in which susceptibility of the mind of that person to suggestion or direction is increased or intended to be increased.

NOTE: (1) This rule does not apply to exhibitions given under the provisions of Section 2(1A) and 5 of the Hypnotism Act 1952.
27. Patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, shall not be permitted to take drinks or glass containers with them.
28. All external emergency exit doors shall be fitted with sensor alarms and visible indicators to alert staff when the doors have been opened.
29. The premises licence holder shall ensure that any patrons smoking outside the premises do so in an orderly manner and are supervised by staff so as to ensure that there is no public nuisance or obstruction of the public highway.
30. The approved arrangements at the premises, including means of escape provisions, emergency warning equipment, the electrical installation and mechanical equipment, shall at all material times be maintained in good

condition and full working order.

31. The means of escape provided for the premises shall be maintained unobstructed, free of trip hazards, be immediately available and clearly identified in accordance with the plans provided.
32. All emergency exit doors shall be available at all material times without the use of a key, code, card or similar means.
33. All emergency doors shall be maintained effectively self closing and not held open other than by an approved device.
34. The edges of the treads of steps and stairways shall be maintained so as to be conSpieglar cuous.
35. Curtains and hangings shall be arranged so as not to obstruct emergency safety signs or emergency equipment.
36. All fabrics, curtains, drapes and similar features including materials used in finishing and furnishing shall be either non-combustible or be durably or inherently flame- retarded fabric. Any fabrics used in escape routes (other than foyers), entertainment areas or function rooms, shall be non-combustible.
37. The certificates listed below shall be submitted to the Licensing Authority upon written request.
  - a) Any permanent or temporary emergency lighting battery or system
  - b) Any permanent or temporary electrical installation
  - c) Any permanent or temporary emergency warning system
38. Flashing or particularly bright lights on or outside the premises shall not cause a nuisance to nearby properties, save insofar as they are necessary for the prevention of crime.
39. The entrance lobby will have a manned concierge whenever licensable activities are taking place.
40. No licensable activities shall take place at the premises until the premises has been assessed as satisfactory by the Environmental Health Consultation Team at which time this condition shall be removed from the licence by the licensing authority.
41. A suitable and sufficient Event Management Plan to promote the licensing objectives shall be drawn up by a competent person for each event which must be made available on request to the Responsible Authorities. This should be kept for at least one year and must contain information and assessments, as a minimum, on the following aspects where relevant:
  - i. Details of responsible persons including at least one person with

- management responsibilities of the licence holder
- ii. Stewarding and Emergency Evacuation Plan
- iv. Use of Special Effects
- iv. Noise Management Plan including arrival and dispersal arrangements
- v. Maximum capacity and provision of sanitary accommodation

42. A noise limiter must be fitted to the musical amplification system set at a level determined by and to the satisfaction of an authorised officer of the Environmental Health Service, so as to ensure that no noise nuisance is caused to local residents or businesses. The operational panel of the noise limiter shall then be secured by key or password to the satisfaction of officers from the Environmental Health Service and access shall only be by persons authorised by the Premises Licence holder. The limiter shall not be altered without prior agreement with the Environmental Health Service. No alteration or modification to any existing sound system(s) should be affected without prior knowledge of an authorised Officer of the Environmental Health Service. No additional sound generating equipment shall be used on the premises without being routed through the sound limiter device.
43. All windows and external doors shall be kept closed after 21:00 hours, or at any time when regulated entertainment takes place, except for the immediate access and egress of persons.'
44. All guests of a club member must be accompanied by the club member at all times.
45. Patrons shall be off the premises by 11.30pm Monday-Thursday, midnight Friday and Saturday, and 10.30pm Sunday.
46. After 18.30, patrons shall only enter and leave the premises via the main door or the north western door.
47. Flashing or particularly bright lights on or outside the premises shall not cause a nuisance to nearby properties, save insofar as they are necessary for the prevention of crime (MS80).

**The following informative does not form part of the conditions imposed on the licence but is provided to advise on matters relating to the conditions:**

The courtyard area as shown on the Premises Licence Plan shall have no more than 20 persons smoking at any one time.

The Meeting ended at Time Not Specified

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

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

