



CITY OF WESTMINSTER

MINUTES

Licensing Sub-Committee (4)

MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (4)** held on **Thursday, 17th June 2021**, This was a MS Teams virtual meeting.

Membership: Councillor Karen Scarborough (Chairman); Councillor Heathe Acton; and Councillor Aisha Less

Officer Support: Legal Advisor: Vivienne Walker
Policy Officer: Kerry Simpson
Committee Officer: Cameron MacLean
Presenting Officer: Kevin Jackaman

1. MEMBERSHIP

There were no changes to the Membership of the Sub-Committee.

2. DECLARATIONS OF INTEREST

There were no Declarations of Interest.

APPLICATIONS

2.1. 10.00 AM: VAN GOGH ALIVE

Premises

Van Gogh Alive, East Albert Lawns, Kensington Gardens Square, London SW7 2AJ

Applicant

Active Sport & Entertainment Ltd [represented by Andrew Wells]

Cumulative Impact Area (CIA)/Special Considerations Zone (SCZ)

CIA: N/A

SCZ: N/A

Ward

Lancaster Gate

Summary of Application

The Premises proposed to operate as a van Gogh Digital Art Experience with a gift shop, café, and bar. The application was for a time-limited licence and was proposed to end on 26 September 2021.

Representations Received

Representations were received from –

1. The Metropolitan Police Service (MPS) (subsequently withdrawn)
2. The Environmental Health Service (EHS)
3. A Local Resident

SUMMARY OF PROCEEDINGS

Presentation by the Applicant

Mr Andrew Wells, General Manager, Active Sport Entertainment Ltd, stated that the exhibition had opened on 4 June 2021 and was operating under a Temporary Event Notice (TEN). He stated that a temporary building had been constructed on the East Albert Lawn for what he described as a digitally projected immersive Van Gough experience. The main focus of the experience was a 45–50-minute loop of projected images of Van Gough's artworks with a musical score, and an Educational Zone describing the paintings that were being projected.

As part of the Guest service, and an important part of the Exhibition's revenue stream, was a gift shop and café. Mr Wells stated that the Exhibition had been operating with a Royal Parks Licence and in accordance with a TEN. In so doing, the organisers had worked with the Safety Advisory Group and proposed Premises Licence Conditions had been agreed with the Police.

Mr Wells stated that, in the two weeks since the Exhibition had opened, approximately 1800 visitors a day had visited the exhibition and there had been no issues regarding the operation of the exhibition. He stated that entry to the Exhibition was by timed-entry ticket only and tickets had to be purchased in advance of attending the exhibition. Approximately 125 persons were admitted to the exhibition every half hour. Therefore, over a 12-hour period, there was a steady stream of visitors.

Referring to the objection to the application by a local resident, he noted that the resident was located near to the Albert Hall and probably experienced a large exodus of patrons from the Albert Hall at the end of a performance at that venue. He stated that, given the steady stream of visitors to the Van Gough Exhibition, there was no mass exodus of customers from the Premises.

Mr Wells stated that the Exhibition itself was enclosed in a soundproof structure and, following sound tests, no sound from inside structure could be heard from a distance of about 5 to 10 metres outside the structure. In addition, there had been no issues with noise from the café and terrace area which was ancillary to the Exhibition.

In conclusion, Mr Wells stated that the organisers were happy with the Premises Licence conditions that had been agreed and which they were operating under the TEN.

In response to questions by Members of the Sub-Committee, Mr Wells provided the following information.

1. Regarding Condition 15 set out on Page 36 of Appendix 4 of the Report by the Director of Public Protection & Licensing, which stated that –

“The provision of alcohol shall be in accordance with the relevant parts of The Royal Parks Hyde Park Alcohol Management Policy 2020 or as agreed by the LOSPG for this event”,

Mr Wells stated that the key elements were that there was always a Designated Premises Supervisor (DPS) and/or Personal Licence Holder on the Premises [during the hours of operation]; there was a “Challenge 25” policy in place; and that the café and bar were operated by Benugo, who operated other venues within the Royal Parks as well as the cafés and restaurants other museums and galleries and were experienced in managing this type of operation.

Therefore, the purpose of the condition and the policy was to control the consumption of alcohol, which was ancillary to the Exhibition.

2. There had been no noise complaints since the Exhibition had opened on 4 June. Last entry to the Exhibition, Sunday to Thursday, was 8 PM, with visitors staying for between one and two hours. Therefore, there was a gradual dispersal of up to 200 visitors [from 9 PM]. On Friday’s and Saturday’s, last entry to the Exhibition was 9 PM with guests leaving between 10 PM and 11 PM. In addition, there were stewards on duty to control the dispersal of guests and to direct them to the gate located south of the Albert Memorial and opposite the Albert Hall.
3. Ticket sales were managed by Ticketmaster and were sold in advance. However, there were QR codes on display outside the Exhibition and, if someone were to scan the QR code with a smart phone, they could then book a ticket for the next available slot [using the “Fever” app]. It was estimated that, of the 1,800 visitors a day, approximately 20 to 30 casual visitors booked slots to see the Exhibition.
4. If customers arrived early, they would be admitted to the structure where they would be directed to the café and the terrace area where they would wait until there was space in the Exhibition. Because the exhibition was operating on a reduced capacity, it was usually possible to let people who arrived early into the Exhibition upon their arrival. This allowed for a gradual flow of visitors as some visitors would arrive late.

The Chairman noted that there were some discrepancies in the numbering of the proposed Premises Licence conditions and that, if the sub-committee was minded to grant the application, it would be necessary to amend the numbering of the proposed Premises Licence conditions.

Presentation(s) by Responsible Authorities

Mr Anil Drayan, Environmental Health Officer, On Behalf of the Environmental Health Service (EHS)

Mr Drayan stated that the EHS had no objections to the application and had simply maintained their representations so that they might be able to assist the Members of the Sub-Committee should they have any questions regarding the application.

He stated that officers had visited the Exhibition before its opening to ensure that the applicant had complied with the “Works” condition proposed by EHS.

Mr Drayan noted that the Exhibition structure was opposite the Royal Geographical Society and the Albert Hall. Consequently, there were no residents facing the Exhibition structure, and there was a busy main road between the structure and the nearest residents. He confirmed that the Resident who had made a representation lived around the corner from the Royal Geographical Society and the Albert Hall and, therefore, had no direct line of sight of the Exhibition.

In conclusion, Mr Drayan stated that no noise complaints had been received relating to the Exhibition and that the applicant had complied with all the conditions proposed by EHS.

In response to questions by Members of the Sub-Committee, Mr Drayan provided the following information.

1. The 700-person capacity of the Premises had been restricted to meet social distancing, was more than adequate for its operation.
2. The Exhibition relied on the use of diesel generators. However, the applicant had agreed to comply with the Non-Road Mobile Emission Standards applicable to building site generators.

Mr Drayan stated that the applicant had been advised that the EHS would look to see that the applicant was implementing all measures possible in relation to air quality.

In addition, the applicant switched from using diesel generators during the day to an overnight backup battery generator which provided enough power for overnight protection.

Mr Drayan confirmed that Construction Site Regulations relating to the use of generators had been adapted by the Council and Event Organisers had been advised that they would be expected to comply with these adapted standards.

It was noted by Cllr Acton that Mr Wells had posted in the Meeting Chat that the applicant was using biodiesel to run the Exhibition's generators. Mr Wells confirmed that the use of the generators was kept to a minimum with the generators operating from either 9 AM or 10 AM until about 10:30 PM, or 11 PM at the latest, when the battery generator would take over.

Summing Up

The Chairman then invited the parties to sum up their presentations.

Environmental Health Service

At this stage in the proceedings, Mr Drayan formally withdrew the Environmental Health Service (EHS) representations on the application by.

Adjournment

Having heard Mr Wells briefly sum up his presentation, the Chairman closed the live part of the meeting to allow the Members of the Sub-Committee to adjourn to consider their decision.

DECISION

It was the Sub-Committee's decision to **APPROVE** the application.

The **Full Reasoned Decision**, finalised by the Council's Legal Officers, is attached as an appendix to these minutes.

REASONS FOR THE DECISION

Having read the report by the Director of Public Protection and Licensing that was before it; the written submissions of the applicant and those parties objecting to the application; and, having heard presentations and representations by, and/or on behalf of, those parties present at the proceedings, as well as the responses by those parties to questions put to them by Members of the Sub-Committee, the Sub-Committee was satisfied that, in accordance with the Home Office Guidance,¹ and on the evidence before it, it was reasonable, appropriate and proportionate, in all the circumstances, to **APPROVE** the application.

In reaching its decision, the Sub-Committee took the following matters into consideration –

1. From Friday, 4 June 2021, when the Exhibition had opened, it had been operating Under a Temporary Event Notice (TEN) without complaint.
2. The applicant had agreed the Premises Licence conditions proposed by –
 - (i) The Metropolitan Police Service (MPS); and
 - (ii) The Environmental Health Service (EHS)both of which had subsequently withdrawn their representations.
3. The Proposed Premises Licence Conditions were sufficient to promote the Licensing Objectives.
4. The applicant was managing the Exhibition in accordance with a Parks Licence granted by the Royal Parks, and in accordance with The Royal Parks Hyde Park Alcohol Management Policy 2020.
5. The steady dispersal of visitors from the Exhibition and the employment of stewards in the evening to guide visitors from the Exhibition to the exit nearest the Royal Albert Hall ameliorated any concerns the Members of the Sub-Committee might have had regarding noise affecting residents
6. The EHS had visited the Premises following the opening of the Exhibition and was satisfied that the applicant was managing the Premises in accordance with the conditions proposed by the EHS and the MPS and the terms of the TEN.

OPERATING SCHEDULE AND CONDITIONS

1. To grant permission for Films – (Indoors)

Monday to Sunday: 09:00 to 23:00 hours.

There are no seasonal variations

2. To grant permission for Live Music – Indoors and Outdoors

Monday to Sunday: 09:00 to 23:00 hours.

There are no seasonal variations.

3. To grant permission for Recorded Music – (Indoors)

¹ Revised Guidance issued under section 182 of the Licensing Act 2003, April 2018

Monday to Sunday: 09:00 to 23:00 hours.

There are no seasonal variations.

4. To grant permission for Sale by Retail of Alcohol – (On Sales)

Monday to Sunday: 09:00 to 22:30 hours.

There are no seasonal variations.

5. To grant permission for the Hours Premises are Open to the Public

Monday to Sunday: 09:00 to 23:00 hours.

There are no seasonal variations.

6. To grant permission for a time limited Premises Licence

To authorise licensable activities until 26 September 2021.

7. That the Premises Licence shall be time limited to 26 September 2021 and the licensable activities so authorised shall be restricted to this date after which time this Licence shall cease and have no effect as specified in condition 44 below.
8. That the Licence is subject to relevant mandatory conditions as specified in the agenda papers.
9. That the Licence is subject to the following additional conditions imposed by the Committee which are considered appropriate and proportionate to promote the licensing objectives.

CONDITIONS IMPOSED BY THE COMMITTEE AFTER A HEARING

10. The use of this licence shall be agreed through the Licensing, Operational and Safety Planning Group (LOSPG) process and shall have had 'no objection' raised by the representatives on the LOSPG.
11. The Licensing, Operational and Safety Planning Group (LOPSG) shall be chaired by a representative of The Royal Parks.
12. Membership of the Licensing, Operational and Safety Planning Group (LOSPG) shall normally consist of invited representatives of the designated event organiser, the Metropolitan Police Service, Officers of the Council from Emergency Planning, the Environmental Health Consultation Team (EHCT), London Fire Brigade, and any other appropriate and specialist advisor as required by the chairman of the LOSPG to achieve 'no objection' and to meet the objectives of the Licensing Act.
13. Unless otherwise agreed, no later than 28 days prior to the event the Premises Licence holder must ensure a provisional Event Management Plan is presented to the members of the LOSPG for their comments.
14. Patrons attending the site shall only be those who have pre-purchased a ticket.
15. The provision of alcohol shall be in accordance with relevant parts of The Royal Parks Hyde Park Alcohol Management Policy 2020 or as agreed at the LOSPG for this event.

16. 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.
17. A challenge 25 proof of age scheme for the sale of alcohol 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.
18. Any special effects or mechanical installations shall be arranged, operated, and stored so as to minimise any risk to the safety of those using the premises. The following special effects will only be used after prior approval from EHCT and/or London Fire Brigade 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.
19. 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.
20. The number of persons accommodated in the premises (excluding staff) shall not exceed 700 persons at any one time.
21. 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.
22. 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.
23. All emergency exit doors shall be available at all material times without the use of a key, code, card, or similar means.
24. All parts of the licensed area including access and egress paths from the Park intended to be used in the absence of adequate daylight and all essential safety signage shall be suitably illuminable. Details of the locations and level of illumination must be submitted to the LOSPG or their authorised representative.
25. Curtains and hangings shall be arranged so as not to obstruct emergency safety signs or emergency equipment.

26. 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, entertainment areas, shall be non-combustible.
27. All fabric, including curtains and drapes used on stage for tents and marquees, or plastic and weather sheeting, shall be inherently or durably flame retardant to the relevant British Standards. Certificates of compliance must be available upon request by an authorised officer of Westminster City Council and/or The London Fire Brigade.
28. Any moving flown equipment must contain a device or method whereby failure in the lifting system would not allow the load to fall. All hung scenery and equipment must be provided with a minimum of two securely fixed independent suspensions such that in the event of failure of one suspension the load shall be safely sustained.
29. The certificates listed below shall be submitted to an authorised officer on request:
 - Any permanent or temporary emergency lighting battery or system
 - Any permanent or temporary electrical installation
 - Any permanent or temporary emergency warning system
 - Any ceiling inspection
30. 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).
31. A sufficient number of easily identifiable, readily accessible receptacles for refuse must be provided, including provisions for concessions. Arrangements must be made for regular collection. Public areas must be kept clear of refuse and other combustible waste prior to, and so far, as is reasonably practicable, during the licensed event.
32. For licensable events the Music Noise Level shall not exceed 5dB LAeq (15 minutes) above the ambient level in the area one metre from the nearest noise sensitive façade. (Final level to be determined at time of works clearance).
33. The minimum number of toilet accommodation shall be agreed with EHCT (final level to be determined at time of works clearance).
34. Full structural design details and calculations of all and any structures to be erected must be submitted for approval to Westminster City Council Building Control. A certificate from a competent person or engineer that a completed structure has been erected in accordance with the structural drawings and design specification must be available for inspection prior to a relevant structure being used during the licensed event.
35. The Premises Licence Holder must ensure that competent persons are employed to assess the electrical requirements at the event and the compatibility of the electricity supply with the equipment to be used. Appropriate safety devices (such as 30mA Residual Current Devices at Source) must be used for electrical apparatus, particularly for any electrical equipment exposed to adverse conditions or electrical equipment to be used

in association with hand-held devices (e.g., microphones). The competent person must make a certificate of inspection of the electrical installation available for inspection.

36. 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 are open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the entire 31-day period.
37. 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.
38. A minimum of 3 SIA licensed door supervisors shall be on duty at the premises at all times whilst it is open for business.
39. During private/corporate events the number of SIA required will be risk assessed by the management, a copy of this assessment shall be available at the premises for inspection by a Police officer and/or an authorised officer of Westminster City Council.
40. A copy of the premises' dispersal policy shall be available at the premises for inspection by a Police officer and/or an authorised officer of Westminster City Council.
41. The Premises Licence Holder shall ensure that the management team register and successfully complete the nationally recognised counter terrorism training product referred to as ACT eLearning package or can demonstrate that the ACT eLearning product has been successfully completed within the preceding 12 months and that all staff employed by or at the premises complete the ACT eLearning within a reasonable period not exceeding 3 months from the day, they start their employment.
42. The Premises Licence Holder shall present the Event Management Plan (upon request) to authorised officers at least 28 days before the first event day. The Event Management Plan shall include as a minimum:
 - (a) Covid-19 Statement (if appropriate);
 - (b) Access Management Plan;
 - (c) Adverse Weather Plan;
 - (d) Alcohol Management Plan;
 - (e) Cancellation Procedure;
 - (f) CCTV Plan;
 - (g) Communications Plan;
 - (h) Child & Vulnerable Adults Policy;
 - (i) Crowd Management Plan (including Security and Stewarding Plan);
 - (j) Egress Management Plan;
 - (k) Emergency Evacuation procedures;
 - (l) Event Control Statement of Intent;
 - (m) Event Medical Plan;

- (n) Event Safety Plan including Risk Assessment;
- (o) Fire Safety Management Plan;
- (p) Ingress Management Plan;
- (q) Lighting Plan;
- (r) Noise Management Plan;
- (s) Public Liability Insurance;
- (t) Security and Crime Reduction Plan;
- (u) Site Plans;
- (v) Sustainability Statement;
- (w) Terms and Conditions of Entry;
- (x) Trader Food Management Plan;
- (y) Transport Assessment;
- (z) Waste Management Plan.

43. The Premises Licence Holder shall ensure that the event is run in accordance with the Event Management Plan.

44. No licensable activities shall take place at the Premises after 26 September 2021 for the avoidance of doubt.

The meeting ended at: 10:30 AM

Chairman:

Date:

2.2.1.00 PM: UNDERBELLY, CAVENDISH SQUARE W1G 9DB

Premises

Underbelly Festival, Open Space in Centre, Cavendish Square, London W1G 9DB

Applicant

Underbelly Ltd: represented by Jack Spiegler, Solicitor (Thomas & Thomas Partners LLP) and Ed Bartlett & Bertie Woodhead of Underbelly Ltd.

Cumulative Impact Area (CIA)/Special Considerations Zone (SCZ)

CIA: N/A

SCZ: N/A

Ward

West End

Summary of Application

The application was for a time limited Premises Licence for the Underbelly Festival, a live performance venue. It was proposed that the Premises Licence, which would permit licensable activities in Cavendish Square, would be time-limited until 30 September 2021.

Representations Received

Representations had been received from –

1. The Metropolitan Police Service (MPS)
2. The Environmental Health Service (EHS)
3. Local Residents

SUMMARY OF PROCEEDINGS

PRESENTATION BY THE APPLICANT

Mr Jack Spiegler, Solicitor (Thomas & Thomas Partners LLP) On Behalf of the Applicant

Mr Spiegler referred the Members of the Sub-Committee to the Operating Event Management Plan (OEMP) included in the Additional Information Pack that was before Members. He stated that he hoped that Members of the Sub-Committee would find the OEMP comprehensive and that it reassured Members about the management of the Underbelly Festival (“the Festival”), as well as addressing the concerns of those parties that had made representations.

Mr Spiegler then described the operation of the Festival, noting that the application was for a time-limited Premises Licence for licensable activities from 1 July to 26 September 2021, which consistent with the Planning Permission granted for the Festival.

[Mr Spiegler then described the events and activities that would be taking place at the Festival and access to the Festival, including ticketed events].

Mr Spiegler then introduced Ed Bartlett of the Applicant company.

Ed Bartlett, Co-Founder and Director of Underbelly

Mr Bartlett outlined the history of the Festival, which had become a London cultural flagship event with accessibility and affordability to live performance at the heart of its ambitions. He described the nature and variety of the performances which took place in the Spiegel Tent Theatre

Mr Bartlett then referred to the Applicant's experience in organising events in sensitive areas in London and elsewhere in the UK, noting that, in the 11 years the Festival had taken place on the South Bank, it had done so without any complaints from local residents or stakeholders about noise or antisocial behaviour. He then detailed the consultations that had taken place with local residents, stakeholders, and various authorities, including the Police, in preparation for holding the Festival for the first time at Cavendish Square, and the security measures that would be put in place.

In conclusion, Mr Bartlett noted that, access to events at the Festival would be ticketed, but that Cavendish Square would remain open to Members of the Public. The Spiegel Tent Theatre would be a smaller but similar version to the one used at last year's Underbelly Festival at Marble Arch, and that there would be no foyer area at Cavendish Square, unlike the Marble Arch Spiegel Tent Theatre.

Mr Spiegler then expanded on the Applicant's experience as an Events Organiser; the consultations that had taken place with the Responsible Authorities and the Licensing Operational and Safety Planning Group (LOSPG); and the proposed Premises Licence Conditions agreed with the various authorities, as set out in his submission in the Additional Information Pack that was before the Sub-Committee.

Mr Spiegler then referred to the letter the Applicant had sent to local residents offering to meet with them to discuss any concerns, noting that the Residents that had made representations had not responded to the Applicant's invitation. He then addressed the concerns of local residents, including concerns about noise, rubbish, queueing, the sale of alcohol, and the proximity of the Festival venue to Residents, as set out in their representations.

Mr Spiegler then invited Mr Bartlett to address the Sub-Committee on the issue of the sale of alcohol and the proximity of the venue to residents, as set out in the representations before the Sub-Committee.

Mr Bartlett stated that the ethos of the Festival was one of informality and often family focused enjoyment. He stated that it was an Arts Festival and it had never been the intention to create a large area where people congregated to drink.

Mr Spiegler then addressed the Sub-Committee on policy considerations, noting that the Premises was outside the West End cumulative impacts zone. He stated that the proposed Premises Licence Conditions were commensurate with the Premises' location in a Special Considerations Zone, as set out in the Council's Statement of Licensing Policy, Policy SCZ1, Paragraph D48.

Mr Spiegler then addressed the Sub-Committee on the Council's Cinemas, Cultural Venues, Live Sporting Premises & Outdoor Spaces Policy (CCSOS1), as set out in the Council's Statement of Licensing Policy, and referred to in his submission in the Additional Information Pack.

In conclusion, Mr Spiegler invited the Sub-Committee to grant the application.

Mr Spiegler then responded to several points raised by the Chairman regarding the proposed Premises Licence Conditions, noting that all the conditions proposed by the Responsible Authorities had been agreed with the Applicant. The Chairman stated that [should the application be granted] it would be necessary to amend the wording of some of the proposed conditions to reflect the Council's policy on the use of polycarbonate drinking vessels and to clarify the precise terms of certain conditions.

Declarations of Interest

At this stage of the proceedings, and before asking the Applicant any questions, the Chairman and Councillor Acton declared an interest in that both had attended the Underbelly Festival held at Marble Arch in 2020.

Questions by Members of the Sub-Committee

Mr Spiegler, Mr Bartlett, and Mr Woodhead then answered several questions by Members of the Sub-Committee.

PRESENTATIONS BY RESPONSIBLE AUTHORITIES

PC Adam Deweltz, Westminster Police Licensing Unit

PC Deweltz stated that he was joined today by Ben Turner, a Counter Terrorism Security Adviser from Protective Security Operations. He stated that the Police had maintained its representation on the basis of the Promotion of the Licensing Objectives of the Prevention of Crime and Disorder, and Public Safety. The MPS were not opposed to the application being granted but did have some concerns which they wished to highlight to the Members of the Sub-Committee.

PC Deweltz went through the various concerns set out in the correspondence between the Metropolitan Police and the Applicant, which was reproduced in Appendix 2 [Pages 56 to 59] of the Report of the Director of Public Protection & Licensing that was before the Sub-Committee. He then described the nature and character of this part of the West End and the implications this had for the Police and Crime and Disorder.

Ben Turner- Counter Terrorism Security Adviser

Mr Turner give a brief overview of the implications of the application in relation to counterterrorism, and the extent to which the Operating Event Management Plan (OEMP) addressed those implications.

Mr Turner then described the types of protective security measures that he would wish to see included in the OEMP, including managing access to Cavendish Square, the Festival, and to the Spiegeltent; and suitable training for non-security management and staff members.

Questions by Members of the Sub-Committee

PC Deweltz, Mr Turner and Mr Woodhouse answered several questions by Members of the Sub-Committee.

Mr Anil Drayan, Environmental Health Officer, Environmental Health Services

Mr Drayan stated that the EHS had maintained its representation to allow Members of the Sub-Committee to ask the Environmental Health Service (EHS)

any questions that it might wish to raise with the EHS when considering the application.

Mr Drayan stated that he had asked that the Applicant's proposed Premises Licence Condition No. 2, be amended to read, as follows –

2. *The operational use of this licence shall be agreed through the Licensing, Operational and Safety Planning Group (LOSPG) process where –*
 - i. *The LOSPG shall be chaired by a representative of the City Council's City Promotions, Events and Filming Team (CPEF); and*
 - ii. *Membership of the LOSPG shall normally consist of invited representatives of the designated event organiser, the Metropolitan Police Service, Officers of the City Council from CPEF and the Environmental Health Consultation Team (EHCT), London Fire Brigade, and any other appropriate and specialist adviser as required by the Chairman of the LOSPG to achieve agreement and to meet the objectives of the Licensing Act [2003].*

Mr Drayan then explained the rationale behind the proposed amended Premises Licence Condition 2.

He stated that he also wished to add the following condition to the list of proposed Premises Licence Conditions –

“The noise levels within the performance venue shall be monitored and adjusted to ensure that they do not exceed 85dB(A) Leq over any 15-minute period when measured at the mixing/control desk.”

Mr Drayan stated that if this proposed condition was agreed, then he would not expect any noise breakout from the Spiegeltent to cause significant concern to Residents or businesses.

Mr Drayan stated that his main concern regarding noise nuisance was the possibility of the Festival attracting pedicabs and that he had discussed the matter with the Applicant's SIA security company, including possible measures to ask pedicab operators to turn down any live music that they might be playing, and/or to report pedicab drivers to the Council's Noise Team with a view to the Council taking enforcement action.

Mr Drayan informed the Sub-Committee that the Applicant had agreed that any generators used would comply with the Non-Road Mobile Machinery Regulations emission standards. In addition, the EHS had a Particulate/Air Monitoring Station at this site as part of the Council's Environmental Sustainability Measures and would be monitoring the effects of this event on air quality.

Questions by Members of the Sub-Committee

Mr Drayan answered several questions by Members of the Sub-Committee.

PRESENTATIONS BY PARTIES OBJECTING TO THE APPLICATION

Richard Brown, Citizens Advice Westminster, Licensing Project (On Behalf of Several Residents)

Mr Brown stated that Mr Thomas Wroblewski, who had submitted a written representation, was unable to participate in the meeting and, therefore, Mr Brown would speak on his behalf. He stated that Mr Wroblewski had submitted a

further email, included in the Additional Information Pack at Page 43, in which he, with the support of other residents in the building in which he lived, had made five points about the unsuitability of the venue for the Underbelly Festival.

[Mr Brown then summarised the points made by Mr Wroblewski in his email].

Mr Brown noted that the Spiegeltent had a capacity of 600 and that the overall capacity of the venue was, according to the Planning Permission, 2,000. Therefore, there would be 1,400 people who were not in the tent when the Premises was operating at its capacity. As no application had been made for regulated entertainment other than in the Spiegeltent, it was the activities of those persons who were not in the Spiegeltent that was of concern for Residents.

Mr Brown stated it was not clear why the organisers had moved the Festival from the South Bank to other venues and why they had selected this venue for the Festival which was very different from previous Festival venues.

Mr Brown then reviewed the Operating Schedule, noting that there were a number of discrepancies, and that the closing time was 22:00 hours Sunday to Wednesday, and 23:30 hours Thursday to Saturday. Residents were of the view that this meant that, Thursdays to Saturdays, the Square would not be cleared of all activity until sometime between 00:30 hours and 01:00 hours, or possibly later. Also, there would be a mass dispersal of people at 11:30 PM at the end of the last performance in the Spiegeltent.

Mr Brown then referred to the Operating Event Management Plan (OEMP) noting that there were discrepancies in the Standard Site Advertising Opening Times;² the Premises Licence application; and the Planning Permission.

Regarding proposed Premises Licence Conditions, Mr Brown noted that a requirement regarding noise limiters had not been included in the proposed conditions and there was no reference to Model Condition (MC) 12.³

In conclusion, Mr Brown stated it was not clear what provision would be made to prevent public urination when there was a mass dispersal of persons from the Spiegeltent and the Premises late at night. Also, it was a matter for the Members of the Sub-Committee to determine whether the provisions at Paragraph 13.10 in the OEMP regarding litter were sufficient.

Mr Spiegler & Mr Bartlett

In response to an invitation by the Chairman, Mr Spiegler and Mr Bartlett addressed the points raised by Mr Brown in his submission.

QUESTIONS BY OFFICERS

In response to questions by the Sub-Committee's Legal Adviser, Ms Vivienne Walker, regarding the proposed Premises Licence Conditions, Mr Spiegler provided the rationale for some of the proposed Conditions and agreed several amendments and additions to the proposed conditions.

Summing Up

² Page 11 of the Additional Information Pack

³ MC12: 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.

The Chairman then invited the parties to sum up their presentations.

Environmental Health Service

Regarding consultations on the Planning application and the Premises Licence application, Mr Drayan noted that, although consultation letters on both applications had been sent to the same persons, different parties had responded to the applications. He confirmed that the Marylebone Society had sent a “No objection” response to the Planning application.

Richard Brown, Citizens Advice Westminster, Licensing Project

Mr Brown asked whether it would be possible to promote the Licensing Objectives when there could be up to 2,000 people at the Premises, which was located in a Special Considerations Zone (SCZ), when operating at its full capacity.

It was noted that there were residents in close proximity to the Festival’s previous location on the South Bank. However, there were a lot of other activities taking place on the South Bank when the Festival was not taking place, giving it a very different character to that of Cavendish Square.

Given the discrepancies in the proposed Operating Hours in the various documents; the Applicant’s explanation that the terminal hour for the Spiegeltent would be 11:30 PM on Fridays and 10 PM on other days of the week; and the proposal that the site would close at 11 PM, Mr Brown asked whether it was necessary to grant the Operating Hours as set out in the Premises Licence application.

In conclusion, Mr Brown noted that Cavendish Square was governed by the London Squares Preservation Act (1931)⁴ and that Cavendish Square offered residents and office workers some greenery on their doorstep. Consequently, Residents urged the Sub-Committee to take into consideration this loss of amenity during the three months of the Festival.

Mr Spiegler (On Behalf of the Applicant)

Mr Spiegler stated that the Applicant was grateful for the general comments by the Metropolitan Police Service (MPS) in support of the application

Regarding concerns about crime, antisocial behaviour, and counterterrorism, Mr Spiegler noted that additional sensitive security content in the Operating Event Management Plan (OEMP) had been redacted and that the Applicant had accepted the proposals of the MPS in relation to crime, antisocial behaviour, and counterterrorism. It had also been acknowledged by all the parties that the OEMP was constantly evolving and that it would adapt in response to any concerns. Accordingly, the Applicant would continue to work with all the Members of the Licensing, Operational and Safety Planning Group (LOSPG).

In conclusion, Mr Spiegler asked the Sub-Committee to consider the Applicant’s proven track record in providing accessible and affordable cultural entertainment,

⁴ The purpose of the act was to protect certain squares, gardens, and enclosures in greater London. In so doing, it limited the use of London squares to "ornamental pleasure grounds or grounds for play, rest and recreation", and the only buildings and structures allowed were those which were "necessary or convenient for, and in connection with, the use and maintenance of such squares".

the importance of which was recognised in the Council's Cinemas, Cultural Venues, Live Sporting Premises & Outdoor Spaces Policy (CCSOS1), as set out in the Council's Statement of Licensing Policy.

Mr Bartlett, Applicant

Mr Bartlett asked that the Sub-Committee consider the Applicant's track record and the positive impact culturally, economically, and socially, that the Festival provided, giving people, including families, a sense of fun.

Regarding crime and antisocial behaviour, Mr Bartlett stated that if events such as the Underbelly Festival were well-run, it could decrease crime and antisocial behaviour and assist the Police by the employment of SIA security staff and the use of CCTV.

In conclusion, Mr Bartlett stated it would no longer be necessary to use generators as a power supply, as originally planned, as the Applicant now had access to mains power. Not having to use generators would have a significant impact on noise levels and the environment. He stated that there would now only be one small generator in use to provide air conditioning and ventilation in the Spiegeltent.

Adjournment

Having heard the various parties sum up their presentations, the Chairman closed the live part of the meeting to allow the Members of the Sub-Committee to adjourn to consider their decision.

DECISION

It was the Sub-Committee's decision to **APPROVE** the application.

The Full Reasoned Decision, finalised by the Council's Legal Officers, is attached as an appendix to these minutes.

REASONS FOR THE DECISION

Having read the report by the Director of Public Protection and Licensing that was before it; the written submissions of the Applicant and those parties objecting to the application; and, having heard presentations and representations by, and/or on behalf of, those parties present at the proceedings, as well as the responses by those parties to questions put to them by Members of the Sub-Committee, the Sub-Committee was satisfied that, in accordance with the Home Office Guidance,⁵ and on the evidence before it, it was reasonable, appropriate and proportionate, in all the circumstances, to **APPROVE** the application.

In reaching its decision, the Sub-Committee took the following matters into consideration –

1. The Sub-Committee was satisfied that the requirement to set up a Licensing, Operational and Safety Planning Group (LOSPG) to promote the Licensing Objectives and oversee the Applicant's operation of the Premises Licence, in accordance with the proposed Premises Licence Condition, as amended by

⁵ Revised Guidance issued under section 182 of the Licensing Act 2003, April 2018

Environmental Health Service (EHS), and agreed by the parties, was sufficient to allay the various concerns expressed by Residents in their representations opposing the application.

2. The Applicant's willingness to work with, and to accept the Premises Licence Conditions proposed by, the Responsible Authorities, satisfied the Members of the Sub-Committee that the proposed Premises Licence Conditions would promote the Licensing Objectives, as follows –
 - i. The Prevention of Crime and Disorder
 - ii. Public Safety
 - iii. The Prevention of Public Nuisance
 - iv. The Protection of Children from Harm.
3. The Applicant had produced a comprehensive Operating Event Management Plan (OEMP) which had been approved by the Responsible Authorities, and which would evolve, under the auspices of the LOSPG, in response to any concerns that might arise during the course of the three months of the Underbelly Festival.
4. The Applicant had a proven track record of organising and managing the Underbelly Festival for several years at various locations without complaint.
5. The Festival was in accordance with the Council's Cinemas, Cultural Venues, Live Sporting Premises & Outdoor Spaces Policy (CCSOS1), which was intended to promote cultural events within Westminster, as set out in the Council's Statement of Licensing Policy
6. The Underbelly Festival would take place during Core Hours and the Sub-Committee was satisfied that the measures set out in the Applicant's OEMP, and the proposed Premises Licence Conditions agreed by the Applicant, were sufficient to address any concerns regarding noise nuisance and antisocial behaviour that might occur when large numbers of visitors dispersed from the Premises following Friday night performances at the Spiegel tent.

OPERATING SCHEDULE AND PREMISES LICENCE CONDITIONS

1. **To grant permission for the Provision of Plays, Films, Live Music, Recorded Music, Performance of Dance and Anything of a similar description – (Indoors)**

Monday to Wednesday: 10:00 to 22:00 hours
Thursday to Saturday: 10:00 to 23:30 hours and
Sunday: 10:00 to 22:00 hours.

There are no seasonal variations.

2. **To grant permission for the Sale by Retail of Alcohol (On Sales)**

Monday to Sunday: 10:00 to 23:00 hours.

There are no seasonal variations.

3. **To grant permission for the Hours the Premises are Open to the Public**

Monday to Wednesday: 10:00 to 23:30 hours
Thursday to Saturday: 10:00 to 00:00 hours and

Sunday: 10:00 to 23:30 hours.

There are no seasonal variations.

4. To grant permission for a time limited Premises Licence

To authorise licensable activities between 1 July 2021 to 26 September 2021.

5. That the Premises Licence shall be time limited for the period 1 July 2021 to 26 September 2021 and the licensable activities so authorised shall be restricted to this period after which time this Licence shall cease and have no effect as specified in condition 68 below.
6. That the Licence is subject to any relevant mandatory conditions.
7. That the Licence is subject to the following additional conditions and informative imposed by the Committee which are considered appropriate and proportionate to promote the licensing objectives.

CONDITIONS IMPOSED BY THE COMMITTEE AFTER A HEARING

8. At least one SIA licensed door supervisor shall be on duty at each entrance and exit of the premises at all times whilst it is open for business.
9. The operational use of this licence shall be agreed through the Licensing, Operational and Safety Planning Group (LOSPG) process where:
 - i. The LOSPG shall be chaired by a representative of the City Council's City Promotions, Events & Filming Team (CPEF) and
 - ii. Membership of the LOSPG shall normally consist of invited representatives of the designated event organiser, the Metropolitan Police Service, Officers of the City Council from CPEF and the Environmental Health Consultation Team (EHCT), London Fire Brigade and any other appropriate and specialist advisor as required by the chairman of the LOSPG to achieve agreement and to meet the objectives of the Licensing Act.
10. Unless otherwise agreed, no later than 28 days prior to the event the Premises Licence holder must ensure an Event Management Plan is presented to the parties listed in the above conditions for their comments. The Event Management Plan shall include, as a minimum:
 - a. Emergency and Evacuation procedures;
 - b. Crowd management and Dispersal Policy;
 - c. A detailed plan showing site layout and emergency egress points;
 - d. A detailed plan showing CCTV locations installed by the Premises Licence Holder;
 - e. Risk Assessments;
 - f. A schedule detailing types and locations of emergency equipment;
 - g. Sanitary accommodation;
 - h. The capacity of fully enclosed locations where alcohol is sold;
 - i. A detailed Counter Terrorism risk assessment;
 - j. Security/Stewarding arrangements;
 - k. Search Policy.

11. So far as is reasonably practicable the Premises Licence Holder shall ensure that the event is run in accordance with the Event Management Plan.
12. There shall be at least one personal licence holder on site during operational hours. Details of the personal licence holder (including name and contact number) shall be displayed in a prominent position on site.
13. No alcohol shall be taken outside of the boundary of the licensable area.
14. Notices shall be prominently displayed at all exits (including the Spiegeltent) requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
15. 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.
16. A challenge 25 proof of age scheme for the sale of alcohol 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.
17. The age of the audience members to the Spiegeltent shall be appropriate to the performance.
18. A record shall be kept detailing all refused sales of alcohol. The record should include the date and time of the refused sale and the name of the member of staff who refused the sale. The record shall be available for inspection at the premises by the Police or an authorised officer of the City Council at all times whilst the premises are open.
19. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team. All entry will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises are 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 the Police or authorised officer throughout the entire 31-day period.
20. An incident log shall be kept at the premises and made available on request to an authorised officer of the City Council or the Police. It must be completed within 24 hours of the incident and will record the following:
 - (a) all crimes reported to the venue
 - (b) all ejections of patrons
 - (c) any complaints received concerning crime and disorder
 - (d) any incidents of disorder
 - (e) all seizures of drugs or offensive weapons
 - (f) any refusal of the sale of alcohol
 - (g) any formal visit by a relevant authority or emergency service.
21. Any special effects or mechanical installations shall be arranged, operated, and stored so as to minimise any risk to the safety of those using the premises. The following special effects will only be used on 10 days prior

notice being given to the licensing authority where consent has not previously been given.

- dry ice and cryogenic fog
 - smoke machines and fog generators
 - pyrotechnics including fireworks
 - firearms
 - lasers
 - explosives and highly flammable substances
 - real flame
 - strobe lighting.
22. 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.
23. Licensable activities at events in the Spiegeltent shall only be provided to persons who are a ticket holder for that event.
24. The number of persons accommodated in the Spiegeltent (including staff) shall not exceed 600.
25. The licence holder shall ensure that any queuing for the Spiegeltent performances shall take place within the licensed area.
26. The safe capacity of the Square shall be continuously reviewed, and action taken, if necessary, to ensure the capacity remains at a safe capacity.
27. All drinking vessels used in the venue shall be made from compostable material other than glass, except for wine or sparkling wine (including champagne) in the Spiegeltent. There shall be no glass allowed into the auditorium or external areas.
28. 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.
29. 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.
30. All emergency exit doors shall be available at all material times without the use of a key, code, card, or similar means.
31. The edges of the treads of steps and stairways shall be maintained so as to be conspicuous.
32. Curtains and hangings shall be arranged so as not to obstruct emergency safety signs or emergency equipment.
33. 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.

34. 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
35. There shall be no external entertainment beyond 22.00 hours.
36. No waste or recyclable materials, including bottles, shall be moved, removed from, or placed in outside areas between 23.00 hours and 07.00 hours on the following day.
37. No deliveries to the premises shall take place between 23.00 and 07.00 on the following day.
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. No fumes, steam or odours shall be emitted from the licensed area so as to cause a nuisance to any persons living or carrying on business in the area where the premises are situated.
40. A sufficient number of easily identifiable, readily accessible receptacles for refuse must be provided, including provisions for concessions. Arrangements must be made for regular collection. Public areas must be kept clear of refuse and other combustible waste prior to, and so far, as is reasonably practicable, during the licensed event.
41. A minimum of 28 days prior to the event a Noise Management Plan to promote the prevention of public nuisance shall be provided to Westminster City Council's Environmental Health Consultation Team for approval. The Noise Management Plan shall state the maximum permitted music noise level applicable at the nearest noise sensitive premises. Once approved in writing it shall be implemented by the Premises Licence Holder.
42. Residential properties and the relevant amenity group(s) in the immediate vicinity of Cavendish Square will be contacted as soon as reasonably practicable (and in any event no later than 28 days) prior to the Event advising them of the times of the Event and any sound check or rehearsal times and giving them a telephone number to contact in the event that they have any complaints.
43. Any generators, refrigerators or other machinery running overnight will be silenced, screened, or sited so as not to be audible outside the boundary of the Gardens.
44. Electrical generators, where used, must be:
 - i. Suitably located clear of buildings, marquees, and structures, and free from flammable materials.
 - ii. Enclosed to prevent unauthorised access.
 - iii. Able to provide power for the duration of the event.

- iv. Backed up electrical generators are to be provided to power essential communications, lighting, and safety systems in the event of primary generator failure.
- 45. The minimum number of toilet accommodation shall include:
 - 14 Women's Cubicles
 - 3 Men's Cubicles
 - 10 Urinals.
- 46. Details of all marquees, tented structures and temporary structures should be provided including emergency exits and signage, fire warning and firefighting equipment.
- 47. Full structural design details and calculations of all and any structures to be erected within the licensed area must be submitted to the Westminster City Council Building Control. A certificate from a competent person or engineer that a completed structure has been erected in accordance with the structural drawings and design specification must be available for inspection prior to a relevant structure being used during the licensed event.
- 48. All fabric, including curtains and drapes used on stage for tents and marquees, or plastic and weather sheeting, shall be inherently or durably flame retardant to the relevant British Standards. Certificates of compliance must be available upon request by an authorised officer of Westminster City Council and the London Fire Brigade.
- 49. Any moving flown equipment must contain a device or method whereby failure in the lifting system would not allow the load to fall. All hung scenery and equipment must be provided with a minimum of two securely fixed independent suspensions such that in the event of failure of one suspension the load shall be safely sustained.
- 50. The Premises Licence Holder must maintain a regular safety patrol at all times when the public are present in the licensed area to check for and guard against possible emergency hazards. The area underneath any stage and fixed seating areas are to be kept clear of flammable materials.
- 51. The Premises Licence Holder must ensure that competent persons are employed to assess the electrical requirements at the event and the compatibility of the electricity supply with the equipment to be used. Appropriate safety devices (such as 30mA Residual Current Devices at Source) must be used for electrical apparatus, particularly for any electrical equipment exposed to adverse conditions or electrical equipment to be used in association with handheld devices (e.g., microphones). The competent person must make a certificate of inspection of the electrical installation available for inspection.
- 52. All spare fuel, including LPG, must be kept, and stored safely in accordance with relevant Health and Safety legislation and suitable safety signage and firefighting equipment provided.
- 53. No licensable activities shall take place at the premises until the Licensing Authority are satisfied that the premises are constructed or altered in accordance with the appropriate provisions of the District Surveyor's Association – Technical Standards for Places of Entertainment and the

reasonable requirements of Westminster Environmental Health Consultation Team, at which time this condition shall be removed from the licence by the licensing authority.

54. The noise levels within the performance venue shall be monitored and adjusted to ensure that they do not exceed 85dB(A) LAeq over any 15-minute period when measured at the mixing/control desk.
55. For the external entertainment there shall be no striptease or nudity, and all persons shall be decently attired at all times, except when the premises are operating under the authority of a Sexual Entertainment Venue licence.
56. Regulated entertainment shall be restricted to the Spiegeltent.
57. The premises licence holder shall ensure that the management team register and successfully complete the nationally recognised counter terrorism training product referred to as ACT eLearning package or can demonstrate that the ACT eLearning product has been successfully completed within the preceding 12 months (before the start of the proposed event/open to the public) and that all staff employed by or at the premises, including contracted and 3rd party complete the "ACT eLearning" training prior to them being employed on the premises.
58. A copy of the premises Dispersal Policy will be available at the premises for inspection by a Police Officer and/or an authorised Officer of Westminster City Council.
59. The Premises Licence Holder shall ensure that alcohol is not allowed to be brought into the licensed area by members of the public.
60. The name and contact telephone number of the Designated Premises Supervisor shall be displayed in a prominent position on site, so that it is clearly visible.
61. A written search policy will be in place and security staff will be briefed on the provisions of such policy to be aware of their responsibilities and actions required by that policy. Such policy will include the procedure for searching prior to entry of customers into the licensed area of Cavendish Square, which will include randomised body and bag searches by hand to ensure that no alcohol is brought on site. Any customer refusing to permit to the search procedure will be refused entry into the licensed area of Cavendish Square. Any queues formed at the entry to the site shall be supervised by security staff to prevent disorder and anti-social behaviour.
62. The Premises Licence Holder shall ensure that:
 - (a) All licensed SIA door staff on duty at the event shall be equipped with Body Worn Video (BWV), capable of recording audio and video in any light condition as per the minimum requirements of the Westminster Police Licensing Team,
 - (b) All recordings shall be stored for a minimum period of 31 days with date and time stamping, and
 - (c) the viewing of BWV recordings shall be made available immediately upon the request of Police or authorised officer throughout the preceding 31-day period.

63. Beer, Lager or Cider shall not be served in any measure greater than a pint.
64. A minimum of 3 SIA licensed stewards shall be on duty at the premises at all times whilst it is open for business. When more than 1 of the site entrances are open, a minimum of 4 SIA licensed stewards shall be on duty at the premises at all times whilst it is open for business. The Premises Licence Holder shall regularly risk assess the requirement for additional SIA licensed stewards to be on duty. Regular patrols within the licensed area of Cavendish Square will be conducted by those SIA licensed stewards on duty.
65. All SIA licensed door supervisors will wear high visibility jackets or vests.
66. 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.
67. 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.
68. No licensable activities shall take place at the Premises after 26 September 2021 for the avoidance of doubt.

INFORMATIVE

The Sub-Committee welcomed the Applicants' willingness to work with the Licensing Operational and Safety Planning Group ("LOSPG") to ensure the smooth running of the various festival events to be held in Cavendish Square during the period of the licence that will help the promotion of the licensing objectives.

The Sub-Committee welcomed the Applicants offer to stagger the operations of the events on some nights with less hours to give some respite to residents in accordance with the terms of the Event Management Plan.

The Sub-Committee also welcomed the measures proposed by the Applicant in the Event Management Plan to address counter terrorism and its ongoing commitment to work with the Metropolitan Police Service in order to uphold the crime and disorder licensing objective.

The Applicant will ensure that appropriate measures are taken to discourage pedicabs operating within the vicinity of the premises late at night so as to prevent public nuisance.

This is a summary of the decision reached by the Licensing Sub-Committee. The fully reasoned decision will be sent out to all parties as soon as possible.

**Licensing Sub-Committee
17 June 2021**

The meeting ended at:

Chairman:

Date:

WESTMINSTER CITY COUNCIL LICENSING SUB- COMMITTEE NO. 4
("The Committee")

Thursday 17 June 2021

Membership: Councillor Karen Scarborough (Chairman), Councillor Heather Acton and Councillor Aicha Less

Application for a New Premises Licence in respect of Van Gogh Alive East Albert Lawns Kensington Gardens Square London SW7 2AJ – 21/03050/LIPN

FULL DECISION

Premises

East Albert Lawns
Kensington Gardens Square
London SW7 2AJ

Applicant

Active Sport & Entertainment Limited

Cumulative Impact Area?

N/A

Special Consideration Zone

N/A

Ward

Lancaster Gate

Proposed Licensable Activities and Hours

Films – (Indoors)

Monday to Sunday: 09:00 to 23:00 hours

Seasonal Variations: None

Live Music – Indoors and Outdoors

Monday to Sunday: 09:00 to 23:00 hours

Seasonal Variations: None

Recorded Music – (Indoors)

Monday to Sunday: 09:00 to 23:00 hours

Seasonal Variations: None

Sale by Retail of Alcohol – (On Sales)

Monday to Sunday: 09:00 to 22:30 hours

Seasonal Variations: None

Hours Premises are Open to the Public

Monday to Sunday: 09:00 to 23:00 hours

Seasonal Variations: None

Representations Received

- Metropolitan Police Service (PC Cheryl Boon)(Withdrawn)
- Environmental Health Service (Anil Drayan)
- One local resident

Summary of Objections

- The Environmental Health Service raised concerns based on the plans submitted and the supporting operating schedule, namely, that the hours requested for and the supply of alcohol on the premises, the hours requested for, and the provision of regulated entertainment may lead to an increase in Public Nuisance in the area.
- The local resident raised concerns about how the installation and event is to be situated under her window and there are elderly people living in the flat and they would like to have some quiet times. We will have no peace as the event is aimed at attracting crowds, playing music and selling alcohol and is proposed to last for a very long time (4 months). Especially since the proposed operating times are until 11 p.m. every day.

Summary of Application

This is an application for a new premises licence under the Licensing Act 2003 ("The Act"). The Premises propose to operate a Van Gogh digital art experience with a gift shop, café and bar. This application is for a time limited licence and is proposed to end on 26th September 2021. The premises previously had the benefit of a time limited licence (12/03248/LIPN) in 2012.

Policy Position

Under Policy HRS1, applications for hours within the Core Hours, would generally, be granted. Applications for hours outside Core Hours would be considered on their merits, subject to other relevant policies.

Under Policy CCSOS1, applications outside the West End Cumulative Zones will generally be granted, subject to other relevant policies.

SUBMISSIONS AND REASONS

Ms Karyn Abbott, Senior Licensing Officer, outlined the application. Representations had been received from Environmental Health Service (EHS), Metropolitan Police Service (MPS) and one interested party. She advised that the Police subsequently withdrew their representations. The premises are situated within the Lancaster Gate Ward and do not fall within any of the Cumulative Impact Area.

Mr Andrew Wells, General Manager, on behalf of the Applicant, stated that the exhibition had opened on 4 June 2021 and was operating under a Temporary Event Notice (TEN). He stated that a temporary building had been constructed on the East Albert Lawn for what he described as a digitally projected immersive Van Gough experience. The main focus of the experience was a 45–50-minute loop of projected images of Van Gough's artworks with a musical score, and an Educational Zone describing the paintings that were being projected.

Mr Wells stated that the Exhibition had been operating with a Royal Parks Licence and in accordance with a TEN. In so doing, the organisers had worked with the Safety Advisory Group and proposed Premises Licence Conditions had been agreed with the Police.

Mr Wells stated that, in the two weeks since the Exhibition had opened, approximately 1800 visitors a day had visited the exhibition and there had been no issues regarding the operation of the exhibition. He stated that entry to the Exhibition was by timed-entry ticket only and tickets had to be purchased in advance of attending the exhibition. Approximately 125 persons were admitted to the exhibition every half hour. Therefore, over a 12-hour period, there was a steady stream of visitors.

Mr Wells stated that the Exhibition itself was enclosed in a soundproof structure and, following sound tests, no sound from inside the structure could be heard from a distance of about 5 to 10 metres outside the structure. In addition, there had been no issues with noise from the café and terrace area which were ancillary to the Exhibition.

In response to Members' questions, Mr Wells stated that:

1. the key elements were that there was always a Designated Premises Supervisor (DPS) and/or Personal Licence Holder on the Premises during the hours of operation, there was a "Challenge 25" policy in place; and that the café and bar were operated by Benugo, who operated other venues within the Royal Parks as well as the cafés and restaurants other museums and galleries and were experienced in managing this type of operation.
2. There had been no noise complaints since the Exhibition had opened on 4 June. Last entry to the Exhibition, Sunday to Thursday, was 8 p.m., with visitors staying for between one and two hours. Therefore, there was a gradual dispersal of up to 200 visitors from 9 p.m. On Friday's and Saturday's, last entry to the Exhibition was 9 p.m. with guests leaving between 10 p.m. and 11 p.m. In addition, there were stewards on duty to control the dispersal of guests and to direct them to the gate located south of the Albert Memorial and opposite the Albert Hall.
3. Ticket sales were managed by Ticketmaster and were sold in advance. However, there were QR codes on display outside the Exhibition and, if someone were to scan the QR code with a smart phone, they could then book a ticket for the next available slot using the "Fever" app. It was estimated that, of the 1,800 visitors a day, approximately 20 to 30 casual visitors booked slots to see the Exhibition.
4. If customers arrived early, they would be admitted to the structure where they would be directed to the café and the terrace area where they would wait until there was space in the Exhibition. Because the exhibition was operating on a reduced capacity, it was usually possible to let people who arrived early into the Exhibition upon their arrival. This allowed for a gradual flow of visitors as some visitors would arrive late.

Mr Drayan, on behalf of Environmental Health Service (EHS) stated that the EHS had no objections to the application and had simply maintained their representations so that they might be able to assist the Members of the Sub-Committee should they have any questions regarding the application.

He stated that officers had visited the Exhibition before its opening to ensure that the applicant had complied with the "Works" condition proposed by EHS.

Mr Drayan noted that the Exhibition structure was opposite the Royal Geographical Society and the Albert Hall. Consequently, there were no residents facing the Exhibition structure, and there was a busy main road between the structure and the nearest residents. He confirmed that the Resident who had made a representation lived around the corner from the Royal Geographical Society and the Albert Hall and, therefore, had no direct line of sight of the Exhibition.

In conclusion, Mr Drayan stated that no noise complaints had been received relating to the Exhibition and that the applicant had complied with all the conditions proposed by EHS.

In response to questions by Members of the Sub-Committee, Mr Drayan provided the following information.

1. The 700-person capacity of the Premises had been restricted to meet social distancing, was more than adequate for its operation.

2. The Exhibition relied on the use of diesel generators. However, the applicant had agreed to comply with the Non-Road Mobile Emission Standards applicable to building site generators.

Mr Drayan stated that the applicant had been advised that the EHS would look to see that the applicant was implementing all measures possible in relation to air quality. In addition, the applicant switched from using diesel generators during the day to an overnight backup battery generator which provided enough power for overnight protection.

Mr Drayan confirmed that Construction Site Regulations relating to the use of generators had been adapted by the Council and Event Organisers had been advised that they would be expected to comply with these adapted standards.

Mr Wells confirmed that the use the generators has been kept to a minimum with the generators operating from either 9 a.m. or 10 a.m. until about 10:30 p.m. or 11 p.m. at the latest, when the battery generator would take over.

Conclusion

The Sub-Committee has a duty to consider the application on its individual merits and took into account all of the committee papers, submissions made by the Applicant and the oral evidence given by all parties during the hearing in its determination of the matter.

The Sub-Committee noted that the MPS and EHS had withdrawn their representations and welcomed the conditions agreed by the Applicant with the Responsible Authorities. The Sub-Committee had regard to the fact that the Applicant had been operating under a Temporary Event Notice since June 2021, without complaints.

The Sub-Committee welcomed the fact that the Applicant was managing the Exhibition in accordance with a Parks Licence granted by the Royal Parks under the terms of the Royal Parks Hyde Park Alcohol Management Policy 2020.

The Sub-Committee noted that EHS had visited the premises following the opening of the Exhibition and they were satisfied that the Applicant was managing the premises in accordance with the agreed conditions proposed by the Responsible Authorities. Accordingly, the Sub-Committee concluded that the licence would promote the licensing objectives.

Having carefully considered the committee papers and the submissions made by all of the parties, both orally and in writing, **the Committee has decided**, after taking into account all of the individual circumstances of this application and the promotion of the four licensing objectives:

1. **To grant permission for Films – (Indoors)** Monday to Sunday: 09:00 to 23:00 hours. **There are no seasonal variations**
2. **To grant permission for Live Music – Indoors and Outdoors** Monday to Sunday: 09:00 to 23:00 hours. **There are no seasonal variations.**
3. **To grant permission for Recorded Music – (Indoors)** Monday to Sunday: 09:00 to 23:00 hours. **There are no seasonal variations.**
4. **To grant permission for Sale by Retail of Alcohol – (On Sales)** Monday to Sunday: 09:00 to 22:30 hours. **There are no seasonal variations.**

5. **To grant permission for the Hours Premises are Open to the Public** Monday to Sunday: 09:00 to 23:00 hours. **There are no seasonal variations.**
6. **To grant permission for a time limited Premises Licence** to authorise licensable activities until 26 September 2021.
7. That the Premises Licence shall be time limited to 26 September 2021 and the licensable activities so authorised shall be restricted to this date after which time this Licence shall cease and have no effect as specified in condition 44 below.
8. That the Licence is subject to relevant mandatory conditions.
9. That the Licence is subject to the following additional conditions imposed by the Committee which are considered appropriate and proportionate to promote the licensing objectives.

Conditions imposed by the Committee after a hearing

10. The use of this licence shall be agreed through the Licensing, Operational and Safety Planning Group (LOSPG) process and shall have had 'no objection' raised by the representatives on the LOSPG.
11. The Licensing, Operational and Safety Planning Group (LOPSG) shall be chaired by a representative of The Royal Parks.
12. Membership of the Licensing, Operational and Safety Planning Group (LOSPG) shall normally consist of invited representatives of the designated event organiser, the Metropolitan Police Service, Officers of the Council from Emergency Planning, the Environmental Health Consultation Team (EHCT), London Fire Brigade, and any other appropriate and specialist advisor as required by the chairman of the LOSPG to achieve 'no objection' and to meet the objectives of the Licensing Act.
13. Unless otherwise agreed, no later than 28 days prior to the event the Premises Licence holder must ensure a provisional Event Management Plan is presented to the members of the LOSPG for their comments.
14. Patrons attending the site shall only be those who have pre-purchased a ticket.
15. The provision of alcohol shall be in accordance with relevant parts of The Royal Parks Hyde Park Alcohol Management Policy 2020 or as agreed at the LOSPG for this event.
16. 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.
17. A challenge 25 proof of age scheme for the sale of alcohol 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.

18. Any special effects or mechanical installations shall be arranged, operated and stored so as to minimise any risk to the safety of those using the premises. The following special effects will only be used after prior approval from EHCT and/or London Fire Brigade 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.
19. 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.
20. The number of persons accommodated in the premises (excluding staff) shall not exceed 700 persons at any one time.
21. 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.
22. 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.
23. All emergency exit doors shall be available at all material times without the use of a key, code, card or similar means.
24. All parts of the licensed area including access and egress paths from the park intended to be used in the absence of adequate daylight and all essential safety signage shall be suitably illuminable. Details of the locations and level of illumination must be submitted to the LOSPG or their authorised representative.
25. Curtains and hangings shall be arranged so as not to obstruct emergency safety signs or emergency equipment.
26. 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, entertainment areas, shall be non-combustible.

27. All fabric, including curtains and drapes used on stage for tents and marquees, or plastic and weather sheeting, shall be inherently or durably flame retardant to the relevant British Standards. Certificates of compliance must be available upon request by an authorised officer of Westminster City Council and/or The London Fire Brigade.
28. Any moving flown equipment must contain a device or method whereby failure in the lifting system would not allow the load to fall. All hung scenery and equipment must be provided with a minimum of two securely fixed independent suspensions such that in the event of failure of one suspension the load shall be safely sustained.
29. The certificates listed below shall be submitted to an authorised officer on request:
 - Any permanent or temporary emergency lighting battery or system
 - Any permanent or temporary electrical installation
 - Any permanent or temporary emergency warning system
 - Any ceiling inspection
30. 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).
31. A sufficient number of easily identifiable, readily accessible receptacles for refuse must be provided, including provisions for concessions. Arrangements must be made for regular collection. Public areas must be kept clear of refuse and other combustible waste prior to, and so far, as is reasonably practicable, during the licensed event.
32. For licensable events the Music Noise Level shall not exceed 5dB LAeq (15 minutes) above the ambient level in the area one metre from the nearest noise sensitive façade. (final level to be determined at time of works clearance).
33. The minimum number of toilet accommodation shall be agreed with EHCT (final level to be determined at time of works clearance).
34. Full structural design details and calculations of all and any structures to be erected must be submitted for approval to Westminster City Council Building Control. A certificate from a competent person or engineer that a completed structure has been erected in accordance with the structural drawings and design specification must be available for inspection prior to a relevant structure being used during the licensed event.
35. The Premises Licence Holder must ensure that competent persons are employed to assess the electrical requirements at the event and the compatibility of the electricity supply with the equipment to be used. Appropriate safety devices (such as 30mA Residual Current Devices at Source) must be used for electrical apparatus, particularly for any electrical equipment exposed to adverse conditions or electrical equipment to be used in association with hand-held devices (e.g., microphones). The competent

person must make a certificate of inspection of the electrical installation available for inspection.

36. 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 are open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the entire 31-day period.
37. 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.
38. A minimum of 3 SIA licensed door supervisors shall be on duty at the premises at all times whilst it is open for business.
39. During private/corporate events the number of SIA required will be risk assessed by the management, a copy of this assessment shall be available at the premises for inspection by a Police officer and/or an authorised officer of Westminster City Council.
40. A copy of the premises' dispersal policy shall be available at the premises for inspection by a Police officer and/or an authorised officer of Westminster City Council.
41. The Premises Licence Holder shall ensure that the management team register and successfully complete the nationally recognised counter terrorism training product referred to as ACT eLearning package or can demonstrate that the ACT eLearning product has been successfully completed within the preceding 12 months and that all staff employed by or at the premises complete the ACT eLearning within a reasonable period not exceeding 3 months from the day, they start their employment.
42. The Premises Licence Holder shall present the Event Management Plan (upon request) to authorised officers at least 28 days before the first event day. The Event Management Plan shall include as a minimum:
 - (a) Covid-19 Statement (if appropriate);
 - (b) Access Management Plan;
 - (c) Adverse Weather Plan;
 - (d) Alcohol Management Plan;
 - (e) Cancellation Procedure;
 - (f) CCTV Plan;
 - (g) Communications Plan;
 - (h) Child & Vulnerable Adults Policy;
 - (i) Crowd Management Plan (including Security and Stewarding Plan);
 - (j) Egress Management Plan;

- (k) Emergency Evacuation procedures;
- (l) Event Control Statement of Intent;
- (m) Event Medical Plan;
- (n) Event Safety Plan including Risk Assessment;
- (o) Fire Safety Management Plan;
- (p) Ingress Management Plan;
- (q) Lighting Plan;
- (r) Noise Management Plan;
- (s) Public Liability Insurance;
- (t) Security and Crime Reduction Plan;
- (u) Site Plans;
- (v) Sustainability Statement;
- (w) Terms and Conditions of Entry;
- (x) Trader Food Management Plan;
- (y) Transport Assessment;
- (z) Waste Management Plan.

- 43. The Premises Licence Holder shall ensure that the event is run in accordance with the Event Management Plan.
- 44. No licensable activities shall take place at the Premises after 26 September 2021 for the avoidance of doubt.

**This is the Full Decision reached by the Licensing Sub-Committee.
This Decision takes immediate effect.**

**Licensing Sub-Committee
17 June 2021**

WESTMINSTER CITY COUNCIL LICENSING SUB-COMMITTEE NO.4
("The Committee")

Thursday 17 June 2021

Membership: Councillor Karen Scarborough (Chairman), Councillor Heather Acton and Councillor Aicha Less

Officer Support: Legal Advisor: Vivienne Walker
Policy Officer: Kerry Simpson
Committee Officer: Cameron MacLean
Presenting Officer: Kevin Jackaman

Application for a New Premises Licence in respect of Underbelly Festival
Open Space in Centre Cavendish Square London W1G 9DB – 21/03706LIPN

FULL DECISION

Premises

Underbelly Festival, Open Space in Centre, Cavendish Square, London W1G 9DB

Applicant

Underbelly Limited

Cumulative Impact Area

N/A

Ward

West End

Summary of Application

This is an application for a new premises licence under the Licensing Act 2003 ("The Act") for the Underbelly Festival described as a live performance venue, a feast of fun and affordable live entertainment. The proposed Premises Licence will be time limited until 30 September 2021.

Proposed Licensable Activities and Hours

The Provision of Plays, Films, Live Music,
Recorded Music, Performance of Dance and
Anything of a similar description – (Indoors)

Monday to Wednesday: 10:00 to 22:00 hours
Thursday to Saturday: 10:00 to 23:30 hours
Sunday: 10:00 to 22:00 hours

Seasonal Variations: None

Sale by Retail of Alcohol – (On Sales)

Monday to Sunday: 10:00 to 23:00 hours

Seasonal Variations: None

Hours Premises are Open to the Public

Monday to Wednesday: 10:00 to 23:30 hours

Thursday to Saturday: 10:00 to 00:00 hours

Sunday: 10:00 to 23:30 hours

Representations Received

- Metropolitan Police Service (PC Adam Deweltz)
- Environmental Health Service (Anil Drayan)
- 3 Local Residents

Summary of Objections

- MPS objected on the basis that the application would undermine the licensing objectives in relation to the Prevention of Crime and Disorder.
- EHS made representations on the basis that the proposals may undermine the licensing objectives of Prevention of Public Nuisance, Public Safety and Protection of Children from Harm.
- Interested Parties expressed concerns about noise, pollution, littering and queues.

Policy Position

Policies HRS1 and CCSOS1 apply under the City Council's Statement of Licensing Policy. There is no policy presumption to refuse this application subject to the requirements of policies CD1, PS1, PN1, CH1 and SCZ1 being met.

SUBMISSIONS AND REASONS

Mr Kevin Jackaman, Senior Licensing Officer outlined the application. He explained that the application was for a time limited Premises Licence. The Applicant had applied for regulated entertainment and the retail of sale of alcohol. He advised that representations had been received from the Metropolitan Police Service (MPS), Environmental Health (EH) and three interested parties.

Mr Spiegler acting on behalf of the Applicant referred the Members of the Sub-Committee to the Operating Event Management Plan (OEMP) included in the Additional Information Pack that was before Members. He stated that he hoped that Members of the Sub-Committee would find the OEMP comprehensive and that it

reassured Members about the management of the Underbelly Festival (“the Festival”), as well as addressing the concerns of those parties that had made representations. He stated that the OEMP had and continued to be scrutinised by expert advisers in the licensing operational and safety planning group. The Applicant had agreed a licence condition which required the event to be operated in accordance with the procedure set out in the OEMP.

Mr Spiegler then described the operation of the Festival, noting that the application was for a time-limited Premises Licence for licensable activities from 1 July to 26 September 2021, which was consistent with the Planning Permission granted for the Festival. Mr Spiegler then introduced Mr Ed Bartlett, Co-Founder and Director of Underbelly, Mr Bartlett outlined the history of the Festival, which had become a London cultural flagship event with accessibility and affordability to live performance at the heart of its ambitions. He described the nature and variety of the performances which took place in the Spiegeltent Theatre.

Mr Bartlett then referred to the Applicant’s experience in organising events in sensitive areas in London and elsewhere in the UK, noting that, in the 11 years the Festival had taken place on the South Bank, it had done so without any complaints from local residents or stakeholders about noise or antisocial behaviour. He then detailed the consultations that had taken place with local residents, stakeholders and various authorities, including the Police, in preparation for holding the Festival for the first time at Cavendish Square, and the security measures that would be put in place.

In conclusion, Mr Bartlett noted that, access to events at the Festival would be ticketed, but that Cavendish Square would remain open to Members of the Public.

Mr Spiegler then expanded on the Applicant’s experience as an Events Organiser, the consultations that had taken place with the Responsible Authorities and the Licensing Operational and Safety Planning Group (LOSPG); and the proposed Premises Licence Conditions agreed with the various authorities, as set out in his submission in the Additional Information Pack that was before the Sub-Committee.

Mr Spiegler referred to the letter the Applicant had sent to local residents offering to meet with them to discuss any concerns, noting that the Residents that had made representations had not responded to the Applicant’s invitation. He then addressed the concerns of local residents, including concerns about noise, rubbish, queueing, the sale of alcohol, and the proximity of the Festival venue to residents, as set out in their representations.

Mr Spiegler addressed the Sub-Committee on policy considerations, noting that the Premises was outside the West End cumulative impacts zone. He stated that the proposed Premises Licence Conditions were commensurate with the Premises’ location in a Special Considerations Zone, as set out in the Council’s Statement of Licensing Policy, Policy SCZ1, Paragraph D48.

Mr Spiegler then addressed the Sub-Committee on the Council’s Cinemas, Cultural Venues, Live Sporting Premises & Outdoor Spaces Policy (CCSOS1), as set out in the Council’s Statement of Licensing Policy.

In response to Members’s questions, Mr Bartlett provided the following information:

- (a) He was looking forward to the opportunity to bring their flagship Underbelly festival to London, Cavendish Square;
- (b) They have two key ambitions, affordability and accessibility to live performance;

- (c) All shows take place inside the Spiegeltent Theatre and there will be no live outdoor entertainment within the Square;
- (d) The whole site will be designed, delivered and managed to a high quality.
- (e) They have 21 years' experience in providing events in sensitive city locations.
- (f) They have worked with the Police to agree CCTV, 24 hours stewarding and mandatory bag search.

PC Deweltz for the MPS who was joined by Mr Ben Turner, Counter Terrorism Security Adviser, stated that the Police had maintained its representation on the basis of the Promotion of the Licensing Objectives of the Prevention of Crime and Disorder, and Public Safety. The MPS were not opposed to the application being granted as they felt that it would be good for Westminster but did have some concerns which they wished to highlight to the Members of the Sub-Committee.

PC Deweltz went through the various concerns set out in the correspondence between the Metropolitan Police and the Applicant, which was reproduced in Appendix 2 [Pages 56 to 59] of the Report which was before the Sub-Committee. He then described the nature and character of the West End and the implications this had for the Police and Crime and Disorder.

Mr Turner give a brief overview of the implications of the application in relation to counterterrorism, and the extent to which the Operating Event Management Plan (OEMP) addressed those implications.

Mr Turner then described the types of protective security measures that he would wish to see included in the OEMP, including managing access to Cavendish Square, the Festival, and to the Spiegeltent and suitable training for non-security management and staff members.

Mr Anil Drayan, on behalf of EH stated that he was confident the level of noise breakout from amplified music would not be a concern. He stated that his main concern breakout was the attraction of pedicabs within the area. He explained that he had discussions with the SIA security company and advised them to politely ask pedicabs to turn down any music they are playing and to report pedicab drivers to the Council's Noise Team with a view to the Council taking enforcement action.

In response to Members' questions, Mr Drayan stated that before the event open, he would be in discussion with the persons operating the sound systems at the sound mixing desks. He would look to see what controls they have in place for measuring the 85 decibel levels.

Mr Richard Brown on behalf of several residents, explained that he had noted that the Spiegeltent had a capacity of 600 and that the overall capacity of the venue was, according to the Planning Permission, 2,000. Therefore, there would be 1,400 people who were not in the tent when the Premises was operating at its capacity. As no application had been made for regulated entertainment other than in the Spiegeltent, it was the activities of those persons who were not in the Spiegeltent that was of concern for Residents.

In response to Mr Brown's question Mr Spiegler stated that model condition not to cause a nuisance was not usually imposed on open space events. He stated it was a temporary festival that was only there for a limited amount of time. Due to the nature of the event, there was a risk on occasional times when there may be a sound test where it would be louder than usual. This was proactively dealt with under the OEMP and the Licensing Operational and Safety Planning Group meetings.

Conclusion

The Sub-Committee has a duty to consider the application on its individual merits and took into account all of the committee papers, supplementary submissions made by the Applicant and the oral evidence given by all parties during the hearing in its determination of the matter.

The Sub-Committee noted that the Applicant had positively and proactively engaged with the responsible authorities and residents. The Sub-Committee noted that this was a time limited application.

The Sub-Committee noted that the Applicant was an experienced operator and had run cultural entertainment for all ages in Westminster for over 10 years and there have been no complaints.

The Sub-Committee welcomed the Applicant's offer to operate events on some nights with reduced hours and the number of Informatives agreed by the Applicant.

Taken together, the Sub Committee were of the view that the application accorded with the relevant policy criteria and would promote the licensing objectives.

Having carefully considered the committee papers and the submissions made by all of the parties, both orally and in writing, **the Committee has decided**, after taking into account all of the individual circumstances of this application and the promotion of the four licensing objectives:

1. **To grant permission for the Provision of Plays, Films, Live Music, Recorded Music, Performance of Dance and Anything of a similar description – (Indoors)** Monday to Wednesday 10:00 to 22:00 hours Thursday to Saturday 10:00 to 23:30 hours and Sunday 10:00 to 22:00 hours. **There are no seasonal variations.**
2. **To grant permission for the Sale by Retail of Alcohol (On Sales)** Monday to Sunday 10:00 to 23:00 hours. **There are no seasonal variations.**
3. **To grant permission for the Hours the Premises are Open to the Public** Monday to Wednesday 10:00 to 23:30 hours Thursday to Saturday 10:00 to 00:00 hours and Sunday 10:00 to 23:30 hours. **There are no seasonal variations.**
4. **To grant permission for a time limited Premises Licence** to authorise licensable activities between 1 July 2021 to 26 September 2021.
5. That the Premises Licence shall be time limited for the period 1 July 2021 to 26 September 2021 and the licensable activities so authorised shall be restricted to this period after which time this Licence shall cease and have no effect as specified in condition 68 below.
6. That the Licence is subject to any relevant mandatory conditions.
7. That the Licence is subject to the following additional conditions and informative imposed by the Committee which are considered appropriate and proportionate to promote the licensing objectives.

Conditions imposed by the Committee after a hearing

8. At least one SIA licensed door supervisor shall be on duty at each entrance and exit of the premises at all times whilst it is open for business.
9. The operational use of this licence shall be agreed through the Licensing, Operational and Safety Planning Group (LOSPG) process where:
 - i. The LOSPG shall be chaired by a representative of the City Council's City Promotions, Events & Filming Team (CPEF) and
 - ii. Membership of the LOSPG shall normally consist of invited representatives of the designated event organiser, the Metropolitan Police Service, Officers of the City Council from CPEF and the Environmental Health Consultation Team (EHCT), London Fire Brigade and any other appropriate and specialist advisor as required by the chairman of the LOSPG to achieve agreement and to meet the objectives of the Licensing Act.
10. Unless otherwise agreed, no later than 28 days prior to the event the Premises Licence holder must ensure an Event Management Plan is presented to the parties listed in the above conditions for their comments. The Event Management Plan shall include, as a minimum:
 - a. Emergency and Evacuation procedures;
 - b. Crowd management and Dispersal Policy;
 - c. A detailed plan showing site layout and emergency egress points;
 - d. A detailed plan showing CCTV locations installed by the Premises Licence Holder;
 - e. Risk Assessments;
 - f. A schedule detailing types and locations of emergency equipment;
 - g. Sanitary accommodation;
 - h. The capacity of fully enclosed locations where alcohol is sold;
 - i. A detailed Counter Terrorism risk assessment;
 - j. Security/Stewarding arrangements;
 - k. Search Policy.
11. So far as is reasonably practicable the Premises Licence Holder shall ensure that the event is run in accordance with the Event Management Plan.
12. There shall be at least one personal licence holder on site during operational hours. Details of the personal licence holder (including name and contact number) shall be displayed in a prominent position on site.
13. No alcohol shall be taken outside of the boundary of the licensable area.
14. Notices shall be prominently displayed at all exits (including the Spiegel tent) requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
15. 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.

16. A challenge 25 proof of age scheme for the sale of alcohol 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.
17. The age of the audience members to the Spiegeltent shall be appropriate to the performance.
18. A record shall be kept detailing all refused sales of alcohol. The record should include the date and time of the refused sale and the name of the member of staff who refused the sale. The record shall be available for inspection at the premises by the Police or an authorised officer of the City Council at all times whilst the premises are open.
19. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team. All entry will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises are 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 the Police or authorised officer throughout the entire 31-day period.
20. An incident log shall be kept at the premises and made available on request to an authorised officer of the City Council or the Police. It must be completed within 24 hours of the incident and will record the following:
 - (a) all crimes reported to the venue
 - (b) all ejections of patrons
 - (c) any complaints received concerning crime and disorder
 - (d) any incidents of disorder
 - (e) all seizures of drugs or offensive weapons
 - (g) any refusal of the sale of alcohol
 - (h) any formal visit by a relevant authority or emergency service.
21. Any special effects or mechanical installations shall be arranged, operated and stored so as to minimise any risk to the safety of those using the premises. The following special effects will only be used on 10 days prior notice being given to the licensing authority where consent has not previously been given.
 - dry ice and cryogenic fog
 - smoke machines and fog generators
 - pyrotechnics including fireworks
 - firearms
 - lasers
 - explosives and highly flammable substances
 - real flame
 - strobe lighting.
22. 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.

23. Licensable activities at events in the Spiegeltent shall only be provided to persons who are a ticket holder for that event.
24. The number of persons accommodated in the Spiegeltent (including staff) shall not exceed 600.
25. The licence holder shall ensure that any queuing for the Spiegeltent performances shall take place within the licensed area.
26. The safe capacity of the Square shall be continuously reviewed, and action taken if necessary, to ensure the capacity remains at a safe capacity.
27. All drinking vessels used in the venue shall be made from compostable material other than glass, except for wine or sparkling wine (including champagne) in the Spiegeltent. There shall be no glass allowed into the auditorium or external areas.
28. 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.
29. 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.
30. All emergency exit doors shall be available at all material times without the use of a key, code, card or similar means.
31. The edges of the treads of steps and stairways shall be maintained so as to be conspicuous.
32. Curtains and hangings shall be arranged so as not to obstruct emergency safety signs or emergency equipment.
33. 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.
34. 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
35. There shall be no external entertainment beyond 22.00 hours.

36. No waste or recyclable materials, including bottles, shall be moved, removed from or placed in outside areas between 23.00 hours and 07.00 hours on the following day.
37. No deliveries to the premises shall take place between 23.00 and 07.00 on the following day.
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. No fumes, steam or odours shall be emitted from the licensed area so as to cause a nuisance to any persons living or carrying on business in the area where the premises are situated.
40. A sufficient number of easily identifiable, readily accessible receptacles for refuse must be provided, including provisions for concessions. Arrangements must be made for regular collection. Public areas must be kept clear of refuse and other combustible waste prior to, and so far, as is reasonably practicable, during the licensed event.
41. A minimum of 28 days prior to the event a Noise Management Plan to promote the prevention of public nuisance shall be provided to Westminster City Council's Environmental Health Consultation Team for approval. The Noise Management Plan shall state the maximum permitted music noise level applicable at the nearest noise sensitive premises. Once approved in writing it shall be implemented by the Premises Licence Holder.
42. Residential properties and the relevant amenity group(s) in the immediate vicinity of Cavendish Square will be contacted as soon as reasonably practicable (and in any event no later than 28 days) prior to the Event advising them of the times of the Event and any sound check or rehearsal times and giving them a telephone number to contact in the event that they have any complaints.
43. Any generators, refrigerators or other machinery running overnight will be silenced, screened or sited so as not to be audible outside the boundary of the Gardens.
44. Electrical generators, where used, must be:
 - i. Suitably located clear of buildings, marquees and structures, and free from flammable materials.
 - ii. Enclosed to prevent unauthorised access.
 - iii. Able to provide power for the duration of the event.
 - iv. Backed up electrical generators are to be provided to power essential communications, lighting and safety systems in the event of primary generator failure.
45. The minimum number of toilet accommodation shall include:
14 Women's Cubicles
3 Men's Cubicles
10 Urinals.

46. Details of all marquees, tented structures and temporary structures should be provided including emergency exits and signage, fire warning and fire fighting equipment.
47. Full structural design details and calculations of all and any structures to be erected within the licensed area must be submitted to the Westminster City Council Building Control. A certificate from a competent person or engineer that a completed structure has been erected in accordance with the structural drawings and design specification must be available for inspection prior to a relevant structure being used during the licensed event.
48. All fabric, including curtains and drapes used on stage for tents and marquees, or plastic and weather sheeting, shall be inherently or durably flame retardant to the relevant British Standards. Certificates of compliance must be available upon request by an authorised officer of Westminster City Council and the London Fire Brigade.
49. Any moving flown equipment must contain a device or method whereby failure in the lifting system would not allow the load to fall. All hung scenery and equipment must be provided with a minimum of two securely fixed independent suspensions such that in the event of failure of one suspension the load shall be safely sustained.
50. The Premises Licence Holder must maintain a regular safety patrol at all times when the public are present in the licensed area to check for and guard against possible emergency hazards. The area underneath any stage and fixed seating areas are to be kept clear of flammable materials.
51. The Premises Licence Holder must ensure that competent persons are employed to assess the electrical requirements at the event and the compatibility of the electricity supply with the equipment to be used. Appropriate safety devices (such as 30mA Residual Current Devices at Source) must be used for electrical apparatus, particularly for any electrical equipment exposed to adverse conditions or electrical equipment to be used in association with hand held devices (e.g. microphones). The competent person must make a certificate of inspection of the electrical installation available for inspection.
52. All spare fuel, including LPG, must be kept and stored safely in accordance with relevant Health and Safety legislation and suitable safety signage and fire fighting equipment provided.
53. No licensable activities shall take place at the premises until the Licensing Authority are satisfied that the premises are constructed or altered in accordance with the appropriate provisions of the District Surveyor's Association – Technical Standards for Places of Entertainment and the reasonable requirements of Westminster Environmental Health Consultation Team, at which time this condition shall be removed from the licence by the licensing authority.
54. The noise levels within the performance venue shall be monitored and adjusted to ensure that they do not exceed 85dB(A) LAeq over any 15 minute period when measured at the mixing/control desk.

55. For the external entertainment there shall be no striptease or nudity, and all persons shall be decently attired at all times, except when the premises are operating under the authority of a Sexual Entertainment Venue licence.
56. Regulated entertainment shall be restricted to the Spiegel tent.
57. The premises licence holder shall ensure that the management team register and successfully complete the nationally recognised counter terrorism training product referred to as ACT eLearning package or can demonstrate that the ACT eLearning product has been successfully completed within the preceding 12 months (before the start of the proposed event/open to the public) and that all staff employed by or at the premises, including contracted and 3rd party complete the "ACT eLearning" training prior to them being employed on the premises.
58. A copy of the premises Dispersal Policy will be available at the premises for inspection by a Police Officer and/or an authorised Officer of Westminster City Council.
59. The Premises Licence Holder shall ensure that alcohol is not allowed to be brought into the licensed area by members of the public.
60. The name and contact telephone number of the Designated Premises Supervisor shall be displayed in a prominent position on site, so that it is clearly visible.
61. A written search policy will be in place and security staff will be briefed on the provisions of such policy to be aware of their responsibilities and actions required by that policy. Such policy will include the procedure for searching prior to entry of customers into the licensed area of Cavendish Square, which will include randomised body searches and compulsory searches of all bags by hand to ensure that no alcohol is brought on site. Any customer refusing to permit to the search procedure will be refused entry into the licensed area of Cavendish Square. Any queues formed at the entry to the site shall be supervised by security staff to prevent disorder and anti-social behaviour.
62. The Premises Licence Holder shall ensure that:
 - (a) All licensed SIA door staff on duty at the event shall be equipped with Body Worn Video (BWV), capable of recording audio and video in any light condition as per the minimum requirements of the Westminster Police Licensing Team,
 - (b) All recordings shall be stored for a minimum period of 31 days with date and time stamping, and
 - (c) the viewing of BWV recordings shall be made available immediately upon the request of Police or authorised officer throughout the preceding 31-day period.
63. Beer, Lager or Cider shall not be served in any measure greater than a pint.
64. A minimum of 3 SIA licensed stewards shall be on duty at the premises at all times whilst it is open for business. When more than 1 of the site entrances

are open, a minimum of 4 SIA licensed stewards shall be on duty at the premises at all times whilst it is open for business. The Premises Licence Holder shall regularly risk assess the requirement for additional SIA licensed stewards to be on duty. Regular patrols within the licensed area of Cavendish Square will be conducted by those SIA licensed stewards on duty.

65. All SIA licensed door supervisors will wear high visibility jackets or vests.
66. 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.
67. 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.
68. No licensable activities shall take place at the Premises after 26 September 2021 for the avoidance of doubt.

INFORMATIVE

69. **The Sub-Committee welcomed the Applicants' willingness to work with the Licensing Operational and Safety Planning Group ("LOSPG") to ensure the smooth running of the various festival events to be held in Cavendish Square during the period of the licence that will help the promotion of the licensing objectives.**
70. **The Sub-Committee welcomed the Applicants offer to stagger the operations of the events on some nights with reduced hours to give some respite to residents in accordance with the terms of the Event Management Plan.**
71. **The Sub-Committee also welcomed the measures proposed by the Applicant in the Event Management Plan to address counter terrorism and its ongoing commitment to work with the Metropolitan Police Service in order to uphold the crime and disorder licensing objective.**
72. **The Applicant will ensure that appropriate measures are taken to discourage pedicabs operating within the vicinity of the premises late at night so as to prevent public nuisance.**

**This is the Full Decision reached by the Licensing Sub-Committee.
This Decision takes immediate effect.**

**Licensing Sub-Committee
17 June 2021**