



City of Westminster

# Licensing Sub-Committee Report

Item No:

Licensing Ref No:

**19/02509/LIREVP**

Date:

**12 November 2019**

Classification:

**For General Release**

Title of Report:

**100 Wardour  
Ground Floor  
100 Wardour Street  
London  
W1F 0TN**

Report of:

**Director of Public Protection and Licensing**

Policy context:

**City of Westminster Statement of Licensing Policy**

Financial summary:

**None**

Report Author:

**Miss Michelle Steward  
Senior Licensing Officer**

Contact Details:

**Telephone: 0207 641 1872  
E-mail: msteward1@westminster.gov.uk**

## 1. APPLICATION DETAILS

<b>Application Type:</b>	A review of premises licence application under the Licensing Act 2003.		
<b>Applicant:</b>	David Steele, Andy Mackay, Lucinda Mackay, Alan Geeves and Isaac Romanov	<b>Date Application Received:</b>	25 February 2019
<b>Premises Name and Address:</b>	100 Wardour Ground Floor 100 Wardour Street London W1F 0TN		
<b>Ward Name:</b>	West End	<b>Cumulative Impact Area:</b>	West End
<b>Description of Premises:</b>	The premises currently operates as a restaurant and bar.		
<b>Preliminary Note:</b>	This matter was first heard on 16 May 2019 and the Licensing Sub-Committee following that hearing determined that this should be adjourned for the period of 3 months to allow the Environmental Health Service to set a noise limiter at the Premises to ensure that the complaints about the noise escaping from the premises and disturbing residents were permanently resolved once and for all. This period would allow for the testing of the new sound equipment and carry out acoustic testing from the neighbouring properties.		

## 2. SUMMARY OF APPLICATION

- 2.1 An application has been submitted by David Steele, Andy Mackay, Lucinda Mackay, Alan Geeves and Isaac Romanov), for a review of the premises licence for 100 Wardour, Ground Floor, 100 Wardour Street, London, W1F 0TN. This application was received on 1 March 2019 on the grounds of prevention of public nuisance. A full copy of the application can be found at **Annex 1**.
- 2.2 Guidance issued under section 182 of the Licensing Act 2003 (para 11.2) states that at any stage following the grant of a premises licence, a responsible authority, such as the Police or the Environmental Health Service, or any other person who can seek a review, may ask the Licensing Authority to review the premises licence because of a matter arising at the premises in connection with any of the four licensing objectives.
- 2.3 As such, in accordance with section 52(2) of the above-mentioned Act, the Licensing Authority must hold a hearing to consider the application and any relevant representations. The requirement to hold a hearing is mandatory in nature.
- 2.4 The premises currently benefits from a premises licence that permits:

### Regulated Entertainment:

#### Performance of Dance

Monday to Wednesday: 09:00 to 02:00  
Thursday to Saturday: 09:00 to 03:00

#### Performance of Live Music

Monday to Wednesday: 09:00 to 02:00  
Thursday to Saturday: 09:00 to 03:00



## Sunday

- (a) On Sundays, other than Christmas Day or New Year's Eve, 12:00 noon to 22:30;
- (b) On New Year's Eve on a Sunday, 12:00 to 22:30;
- (c) On New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day (or, if there are no permitted hours on the following day, 00:00 midnight on 31st December).

NOTE - The above restrictions do not prohibit:

- (a) during the first twenty minutes after the above hours the consumption of the alcohol on the premises;
- (b) during the first twenty minutes after the above hours, the taking of the alcohol from the premises unless the alcohol is supplied or taken in an open vessel;
- (c) during the first thirty minutes after the above hours the consumption of the alcohol on the premises by persons taking table meals there if the alcohol was supplied for consumption as ancillary to the meals;
- (d) the sale or supply of alcohol to or the consumption of alcohol by any person residing in the licensed premises;
- (e) the ordering of alcohol to be consumed off the premises, or the despatch by the vendor of the alcohol so ordered;
- (f) the sale of alcohol to a trader or registered club for the purposes of the trade or club;
- (g) the sale or supply of alcohol to any canteen or mess, being a canteen in which the sale or supply of alcohol is carried out under the authority of the Secretary of State or an authorised mess of members of Her Majesty's naval, military or air forces;
- (h) the taking of alcohol from the premises by a person residing there;
- (i) the supply of alcohol for consumption on the premises to any private friends of a person residing there who are bona fide entertained by him at his own expense, or the consumption of alcohol by persons so supplied;
- (j) the supply of alcohol for consumption on the premises to persons employed there for the purposes of the business carried on by the holder of the licence, or the consumption of liquor so supplied, if the liquor is supplied at the expense of their employer or of the person carrying on or in charge of the business on the premises.

## Late Night Refreshment:

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

- 2.5 These review proceedings are brought under the licensing objectives on the grounds of prevention of public nuisance. Further documents that were submitted as part of the review application can be found at **Annex 1**.
- 2.6 The applicant states that there are number of issues relating to noise and dispersal of patrons.
- 2.7 On submission of this application, the applicant provided an in-depth description of the issues relating to the premises which stated the following:

## Music Noise:

- Music/beats emanating from the premises. This has occurred to a greater or lesser extent ever since the building was redeveloped in the mid 1990s.
- Numerous complaints have been made to Westminster City Council's 24 hour noise Team.
- Numerous interventions in over the years from the regulatory authorities with no permanent solution.
- Nuisance has been witnessed by Council Officers.
- At least one noise abatement notice has been served.

- Conditions breached on the Premises Licence to ensure that there is no music emanation.
- Noise has increased in frequency and intensity over the last six months.
- The noise limiter are either not fit for purpose and/or not working properly.

### **Dispersal of Customers**

- The premises has a late licence, and applicants feel that customer dispersal could be managed better.

### **Protection of Children from Harm**

- The noise keeps children in the flats awake and is detrimental to their education and well-being.
- The applicants feel that it will benefit all parties; the residents, the licence holder and the regulatory authority; in the long term for this issue to be resolved once and for all.

2.8 A copy of the existing Premises Licence (16/10215/LIPDPS) is attached at **Appendix 1** of the application.

2.9 Additional submissions received from the applicant can be found at **Annex 4**. These are in the form of correspondence from the applicant to relevant authorities regarding noise disturbance together with a witness statement from Noise Expert.

2.10 Additional submissions received from the premises licence holder can be found at **Annex 7**.

### **3. REPRESENTATIONS:**

3.1 The application has also received documentation in support of the review from the Environmental Health Service on the 28 March 2019 on the grounds of prevention of public nuisance and can be found at **Annex 5**.

3.2 The application has also received documentation in support of the review from the Licensing Authority and the City Inspectors Team on the grounds of prevention of public nuisance and protection of children from harm and can be found at **Annex 5**.

3.3 The application has also received documentation in support of the review from members of the public on the grounds of prevention of public nuisance and can be found at **Annex 5**.

3.4 The Premises Licence Holders have provided a copy of the Acoustic Report dated 29<sup>th</sup> March 2019 and can be found at **Annex 7**.

### **4. UPDATE SINCE THE HEARING OF THE 16<sup>TH</sup> MAY 2019**

4.1 Supplemental documents received as late submissions prior to the hearing of the 16<sup>th</sup> May 2019 as shown at annex 8 of this report:

- Minor Variation Application and supporting plan received on the 19<sup>th</sup> October 2015
- Autograph Noise Statement for hearing dated 16<sup>th</sup> May 2019
- Correspondence from Mr David Steele including a time line and supporting emails
- Letter from Soho Parish C of E Primary
- Witness Statement from John Crockford dated 9 May 2019
- Witness Statement from Sarah Lutaaya dated 11<sup>th</sup> May 2019

4.2 **Submissions from the Environmental Health Service received on the 30<sup>th</sup> October 2019:**

Environmental Health carried out the last setting of the limiter between 1.30pm and 6pm on Wednesday 23 October. The sound level set in the basement was 91dB LAeq approximately 5m from the stage. Together with the removal of the sub-woofer on the ground floor colleagues ascertained in flats where they had access (flats 35, 15, 16 and 18) that at this level the system was inaudible and thus compliant with the licence conditions.

Subsequent to this last setting no nuisance has been reported occurring since then including over the weekend of 25/26 Oct. Following a further weeks monitoring Environmental Health shall provide a detailed report setting out actions taken since the last review hearing. This shall include previous settings and subsequent complaints of nuisance. Also will be provided suggested additional conditions to prevent recurrence. For the Full Report and submissions see **Annex 6**.

#### **4.2** Submissions from the applicant since the hearing as shown at **Annex 8**:

- Report from the Applicant
- Statement from a Resident present at the Sound Testing

#### **5. OPTIONS:**

5.1 On submission of this application to review the premises, the applicants stated in the application that they are happy to work with the Premises Licence Holder to secure a workable solution whereby the Premises Licence Holder can operate the premises as they see fit but so as not to cause music noise to emanate from the premises. The applicant has suggested conditions be updated and added to the operating schedule and can be found at **Annex 1**

5.2 The Authority must, having regard to the application and the representations, take such steps (if any), as it considers appropriate for the promotion of the licensing objectives. The steps are:

- (a) to modify the conditions of the licence;
- (b) to exclude a licensable activity from the scope of the licence;
- (c) to remove the designated premises supervisor;
- (d) to suspend the licence for a period not exceeding three months;
- (e) to revoke the licence;

and for this purpose the conditions of the licence are modified if any of them is altered or omitted or any new condition added.

5.3 In accordance with section 52(6) of the 2003 Act, if the authority takes measures to modify conditions or exclude licensable activities from the licence, it may stipulate that the modification or exclusion is to have effect for only such period (not exceeding three months) as it may specify.

5.4 The licensing authority's determination of this application does not have effect until the 21 day appeal period has expired or if the decision is appealed the date the appeal is determined and/or disposed of.

## **6 LICENSING ACT 2003 APPLICATIONS AND APPEAL HISTORY**

6.1 Any applications under the Licensing Act 2003 are set out in **Annex 3**.

**List of Annexes:**

- Annex 1 – Review Application and supporting documents
- Annex 2 – Current Premises Licence 19/11795/LIPDPS and Plans
- Annex 3 – Premises History
- Annex 4 - Expert Witness Evidence from the applicant
- Annex 5 – Representations
  - Maxwell Koduah (Environmental Health)
  - Roxsana Haq (Licensing Authority)
  - Racheal Ejuetami (City Inspectors)
  - [REDACTED]
  - [REDACTED]
  - [REDACTED]
  - [REDACTED]
  - [REDACTED]
  - [REDACTED]
- Annex 6 – Submissions from Environmental Health
- Annex 7 – Acoustic Report from Premises Licence Holder
- Annex 8 – Supplemental documents received as late submissions
- Annex 9 – Decision Notice from the hearing dated 16 May 2019

**Annex 1**

**Application for a Review and Supporting Documents from the Applicant**



# City of Westminster

## APPLICATION FOR REVIEW

Please forward one copy of your completed application and any supporting documentation to:

Licensing Service  
Westminster City Council  
Westminster City Hall  
4th Floor  
64 Victoria Street  
London  
SW1E 6QP

### AND

You must give one copy of your application and any supporting documentation to the Holder of the Premises Licence and each of the following responsible authorities on the same day that the application is served on the Licensing Service:

1. **The Chief Officer of Police**  
Westminster Police Liaison Team  
4<sup>th</sup> Floor, Westminster City Hall  
64 Victoria Street, London, SW1E 6QP
2. **Fire Safety Regulation:**  
South West Area 4  
169 Union Street London SE1 0LL
3. **Premises Management (Environmental Health; Health & Safety; Weights and Measures)**  
Westminster City Council  
Environmental Health Consultation Team  
4<sup>th</sup> Floor, Westminster City Hall  
64 Victoria Street, London, SW1E 6QP

Continued.....

**4. Development Planning Services**

Westminster City Council  
64 Victoria Street  
London  
SW1E 6QP

**5. Area Child Protection Committee**

Head of Commissioning – Child Protection & Quality, Social and Community  
Services – Children and Families  
4 Frampton Street  
NW8 8LF

**6. Public Health**

Estates Lead  
NHS Central London Clinical Commissioning Group  
15 Marylebone Road  
London  
NW1 5JD

**For boats only:**

The Navigation Authority (for vessels not permanently moored)

Tidal Thames

The Harbour Master

The Port of London Authority, 7 Harp Lane, London EC3R 6LB

Non Tidal Thames

The Environment Agency Recreation and Navigation, Thames Region, Kings  
Meadow House, Kings Meadow Road, Reading, RG1 8DQ

Canals

The Leisure Manager

British Waterways Board

1 Sheldon Square, Paddington Central, London W2 6TT

And

The Surveyor General

The Maritime & Coastguard Agency, Orpington Marine Office, Central Court, 1 Knoll  
Rise

**Application for the review of a premises licence or club premises certificate under the Licensing Act 2003**

**PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST**

Before completing this form please read the guidance notes at the end of the form.  
If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary.  
You may wish to keep a copy of the completed form for your records.

We David Steele, Andy Mackay, Lucinda Mackay, Alan Geeves and Isaac Romanov

*(Insert name of applicant)*

**apply for the review of a premises licence under section 51 of the Licensing Act 2003 for the premises described in Part 1 below**

**Part 1 – Premises or club premises details**

<b>Postal address of premises or, if none, ordnance survey map reference or description</b> 100 Wardour 100 Wardour Street	
<b>Post town</b> London	<b>Post code (if known)</b> W1F 0TN

<b>Name of premises licence holder or club holding club premises certificate (if known)</b> 100 Wardour Limited
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<b>Number of premises licence or club premises certificate (if known)</b> 16/10215/LIPDPS Original reference: 05/08588/LIPC
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**Part 2 - Applicant details**

I am

Please tick ✓ yes

1) an individual, body or business which is not a responsible authority (please read guidance note 1, and complete (A) or (B) below)

✓

2) a responsible authority (please complete (C) below)

3) a member of the club to which this application relates (please complete (A) below)

**(A) DETAILS OF INDIVIDUAL APPLICANT (fill in as applicable)**

Please tick ✓ yes

Mr            Mrs            ✓ Miss     Ms            Other title  
(for example, Rev)

**Surname**

Steele

**First names**

David

Please tick ✓ yes

I am 18 years old or over

✓

**Current postal address if different from premises address**

[Redacted]

**Post town**

London

**Post Code**

[Redacted]

**Daytime contact telephone number**

**Email preferred contact**

**E-mail address (optional)**

[Redacted]

**(B) DETAILS OF OTHER APPLICANT**

**Other applicants:**

Andy Mackay, [Redacted]  
Lucinda Mackay, [Redacted]  
Alan Geeves, [Redacted]  
Isaac Romanov, [Redacted]

**Telephone number (if any)**  
**Email preferred contact**

**E-mail address (optional)**

**(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT**

Name and address
Telephone number (if any)
E-mail address (optional)

**This application to review relates to the following licensing objective(s)**

- 1) the prevention of crime and disorder
- 2) public safety
- 3) the prevention of public nuisance
- 4) the protection of children from harm

Please tick one or more boxes ✓

✓  
✓

**Please state the ground(s) for review (please read guidance note 2)**

Prevention of public nuisance -

**Music noise:**

- Music/beats emanating from the premises. This has occurred to a greater or lesser extent ever since the building was redeveloped in mid-1990s.
- Many complaints have been made to Westminster City Council's 24 hour Noise Team.
- There have been numerous interventions in the years since from the regulatory authorities, but a permanent resolution has never been achieved by the licence holder.
- Nuisance has been witnessed by Council officers.
- At least one noise abatement notice has been served.
- Conditions on the premises licence should ensure that there is no music emanation.
- In the last 6 months the noise has increased in frequency and intensity.
- The noise limiter(s) are either not fit for purpose and/or not working properly.

**Dispersal of customers:**

- The premises has a late licence, and we feel that customer dispersal could be managed better.

Protection of children from harm

- The noise keeps children in flats awake and is detrimental to their education and well-being.

We feel that it will benefit all parties – residents, the licence holder, and the regulatory authorities - in the long term for this issue to be resolved once and for all.

Please provide as much information as possible to support the application (please read guidance note 3)

### Introduction and overview

The applicants live in Soho Lofts, 90 Wardour Street. Soho Lofts is a residential block situated between the Peter Street junction with Wardour Street and the Broadwick Street junction with Wardour Street. We have attached at Appendix 1 an illustrative map and photo for ease of reference.

100 Wardour Street ("the premises") is located immediately adjacent to [REDACTED], to the north. The premises and Soho Lofts are part of the same development, and the premises share party walls and structural aspects. This probably accounts for the noise transmission we experience. The premises is on the ground floor and basement. There is a glazed atrium very close to our flats, through which noise also emanates.

We are all long term residents of Soho. [REDACTED] is our primary residence. We have each produced a witness statement detailing our own personal circumstances and experiences. We set out in the application form itself a brief narrative of the decades of noise nuisance, focusing on more recent years and in particular the last 6 or 7 months.

Living in the middle of Soho, we expect to experience some noise as part and parcel of living in a busy, vibrant area. However, we do not expect to hear noise transmit through from a licensed premises to our flats, particularly when the regulatory framework in place should prevent this from happening.

The premises has been described in various licence applications simply as 'restaurant'. The premises website refers to a bar/lounge on the ground floor, and a restaurant/club in the basement, with dancing into the early hours. We recognise this latter description more so than the former; the nuisance we experience is redolent of a nightclub rather than a restaurant. A number of online reviews reference music which is too loud to hold conversations.

We produce at Appendix 3 some video and photos by way of example. The video can be seen here: [insert link].

At Appendix 4 we produce relevant correspondence. There is a great deal of correspondence over the years between ourselves and the Council and the premises management, and we have not included it all for the sake of relative brevity.

The reason that we have decided, after great thought, to ask the licensing authority to review the operation of the premises licence at this time is threefold:

1. The problem has become more acute in the last 6 or 7 months. The noise is louder, more intrusive and more frequent. The reason for this is unclear, given the clear stipulations of the licence conditions (see below).
2. We have become slightly frustrated with what we see as mixed messages from Council officers. We are not experts, and simply want this issue resolved, finally, once and for all.
3. Noise occurs both before and after 11pm. We have been advised that the only way to disapply the deregulation provisions of s177 Licensing Act 2003 (As amended) is by way of a licence review.

We would like to emphasise that we have no objection whatsoever to the premises providing the relevant licensable activities. Clearly, however, we should not be disturbed by music transmission through the premises into our flats, keeping us and our children awake.

We have thought carefully about what resolution would restore and maintain an appropriate balance between our right not to be disturbed and awoken by noise, and the licence holder's equally legitimate right to run their business.

We do not ask that the licence is revoked or suspended, or that the DPS is removed, as long as the licensing authority can be satisfied that a lesser step will ensure the cessation of the issues. We do ask that the conditions on the licence (detailed in the next section) are demonstrably complied with and/or enforced, and that the licensing authority are satisfied that the licence holder will adhere to the licence

conditions and ensure that the issues do not reoccur. We also suggest that conditions are added to the licence, and that the deregulation provisions in s177 Licensing Act 2003 (as amended) are disapplied.

We feel that this approach is proportionate to the issues, and will enable all parties – the premises, residents, and indeed Council officers who have expended a great deal of time on this issue – to move on.

#### **Current Premises Licence**

A copy of the current premises licence is attached at Appendix 5.

The premises has a terminal hour of 2am Mon-Weds, 3am Thurs-Sat, 10.30pm Sunday for sale of alcohol. The terminal hour for regulate entertainment is the same except for Sundays, and with the exception of recorded music, which is unrestricted. The premises closes 30 minutes after the terminal hour for sale of alcohol. The DPS is Leslie Kwarteng.

We are advised that the licence is largely unchanged from previous permissions which existed prior to conversion when Licensing Act 2003 came in to force.

The licence is subject to a number of conditions which are relevant to the issues:

14. Music levels at the premises shall be maintained at such a level as is specified by Environmental Health from time to time so as to ensure that music shall not be audible nor otherwise cause other nuisance to occupiers of the residential properties above.

15. Without prejudice to condition 14 above, a noise limiter to be fitted to the musical amplification system in agreement and to the satisfaction of officers from the Environmental Health noise section. The operational panel shall then be secured and the system shall not be altered without prior agreement with the Environmental Health Officer.

16. No alteration or modification to any existing sound system(s) should be effected without prior knowledge of an authorised Officer of the Environmental Health Department.

17. Any additional sound generating equipment shall not be used on the premises without being routed through the sound limiter device.

18. That on the ground floor music is limited to either:

(a) the playing of pre-recorded music until 01:00 only; or (b) premises management through the dedicated DJ station until 01:00 only; or (c) live performance of unamplified acoustic music (not to exceed 5 musicians at any one time) until 00:00 midnight only.

31. Mondays to Saturdays:

(a) Subject to the following paragraphs, the permitted hours shall commence at 10:00 and extend until 02:00 Monday to Wednesday and to 03:00 Thursday to Saturday the following morning except -

(i) the permitted hours shall end at midnight on any day on which music and dancing is not provided after midnight; and (ii) on any day that music and dancing end between 00:00 midnight and 02:00 Monday to Wednesday, and 03:00 Thursday to Saturday the following morning, the permitted hours shall end when the music and dancing end.

(c) The sale of alcohol must be ancillary to the use of the premises for music and dancing and substantial refreshment.

41. All speakers in the new area will be routed through the existing noise limiters in accordance with conditions 16 and 17 of the existing Premises Licence.

#### **Basis for the application: the licensing objectives**

The issues fall under the licensing objectives of prevention of public nuisance and protection of children from harm. We each give our individual perspectives in our witness statements, but we have set out a general summary below.

## Prevention of public nuisance

### Music noise emanating from the premises

Music noise has transmitted through the premises for as long as the premises has been open. The Noise Team were first contacted as long ago as 1995. As can be seen from our individual statements, the nuisance has affected different residents at different times over the years.

There used to be a pattern of sorts in that the nuisance occurred only at weekends. More recently, we have experienced the nuisance on weekdays too. Noise transmission can continue until the terminal hour, despite the licence condition requiring music on the ground floor to cease at 1am.

The other discernible pattern is one that has repeated time and again over the years: music noise becomes an issue; we complain to the Council and/or management; there is an improvement; we stop complaining; then the nuisance starts again. It is precisely this pattern which we are seeking to break with this licence review. This pattern also suggests that there is no good reason why the licence holder cannot permanently resolve the issue. Indeed, we feel like we are currently three-quarters of the way through this pattern: since our complaints at the end of 2018, the nuisance has stopped – for now.

Residents have had to phone the City Council's Noise Team on countless occasions over the years. We are aware that at least on noise abatement notice has been served under s80 Environmental Protection Act 1990. We presume that further details can be provided by the Environmental Health Consultation Team should they make a relevant representation.

About 6 or 7 months ago, the noise nuisance became noticeably worse. Correspondence is produced at appendix 4. On Monday 17<sup>th</sup> December David Steele received an email from John Crockford of WCC as follows:

*'I have though informed the relevant officers that there is an ongoing issue with the sound limiter and that it is not set to the satisfaction of Environmental Health as the licence requires.'*

Upon querying this, we received the following response:

*'It is partly a question of semantics. The limiter has been set as we have visited twice in the last couple of months (including once with the live band) and the limiter setting has been checked. However, there is a continuing problem with noise escaping from the premises which is either as a result of a fault with the limiter, someone tampering with it or other equipment which bypasses the limiter. This is an unknown.'*

*To further check the limiter it is proposed that a further sound limiter test be carried out at night when the premises is in full operation. 100 Wardour Street have been trying to organise this through Danish Ahmad as managing agent for the building but have been unsuccessful so far. I wonder if you and the other residents are willing to participate in this. If so I will try to arrange a convenient for very early on in the New Year.'*

We are willing to participate in this, but we feel strongly that the time has come for this be done though and as part of a licence review.

Please note that the number of calls to the Noise Team in no way reflects the number of times residents have been woken or kept awake. On many occasions, residents have not phoned the Noise Team because they did not want to wait for a noise officer to turn up, staying awake for even longer. In these circumstances, we sometimes choose simply to try to get back to sleep.

After countless visits from noise officers and the noise limiters being set and re-set repeatedly, noise transmission remains an issue after 23 years! There seems to be 4 possibilities:

1. The noise limiter is wrongly set.
2. The noise limiter is not performing the function it is intended to.
3. Some or all of the amplification is not routed through the sound limiter.
4. The limiter is being altered by a person or persons unknown. In 2012, WCC officers confirmed that it had been disconnected.

On a review of a premises licence, section 177A(3) of the 2003 Act (as amended) permits a licensing authority to lift the suspension of conditions related to live and/or recorded music provided by the deregulation provisions of s177A, and to give renewed effect to an existing condition relating to the music. Similarly, under section 177A(4), a licensing authority may when determining a review add a condition relating to music as if music were regulated entertainment, and as if that premises licence or club premises certificate licensed the music (amended s182 Guidance para 15.55).

It is clearly appropriate, necessary and proportionate for the licensing authority to remove the effect of the deregulation provided by s177A (as amended) for the licensable activities of live music and recorded music.

We do not of course object to live or recorded music being provided as long as there is no noise outbreak.

#### Dispersal of customers

There is significant noise on dispersal of customers, including taxi noise. We feel that the licence holder could be more proactive in controlling this and ensuring swift dispersal.

#### Protection of children from harm

The music noise transmission has made it impossible for children to sleep or get back to sleep once awakened. This is having an adverse effect on their development, school life etc.

Please see statements for more details.

#### **Efforts to resolve the problems**

Residents have had a great deal of contact with premises management, the DPS, Council officers and ward councillors over the years.

We are very appreciative of the effort put in by the Council officers over many, many years, but it has not led to a permanent resolution.

Neither have our complaints to/correspondence with premises management resulted in the nuisance ceasing permanently.

We produce relevant correspondence at Appendix 4.

#### **Westminster City Council's Statement of Licensing Policy 2016**

The City Council's Policy regarding public nuisance (PN1) anticipates the potential for problems from music noise.

Para 2.2.11 of the Policy states:

'Playing of music can cause nuisance both through noise breakout, transmission through the structure of the building and also by its effect on patrons, who become accustomed to high sound levels and to shouting to make themselves heard, which can lead to them being noisier when leaving premises. The later that music is played, the greater the potential for nuisance. Other major sources of noise nuisance are vehicles collecting customers; the slamming of car doors and the sounding of horns resulting from congestion and pressure for on-street parking space and the need for the servicing of premises. These noises can be particularly intrusive at night when ambient noise levels are lower. Other impacts include: noise from customers smoking, drinking, and eating in the open-air, the servicing of premises, and noise and smells from ducts and ventilation equipment. There are similar issues that apply to the operation of events at open air sites.'

The Policy therefore recognises the potential for these types of issues to arise.

#### **Conclusion**

Noise testing, setting and resetting of noise limiters and the like have not resulted in a solution to this problem. We respectfully ask that the Licensing Sub-Committee takes such action as it considers

appropriate and necessary to ensure compliance with the licence conditions. We are happy to work with the premises licence holder and the Environmental Health Consultation Team as part of the licence review process to secure a workable solution whereby the licence holder can run the premises as they see fit, but that this does not cause music noise to emanate into residential flats above.

We suggest the following conditions as a basis for discussion. We feel that these conditions are necessary, appropriate and proportionate, and we would invite the licence holder to agree to the conditions.

Proposed conditions:

- That the licensing authority removes the effect of the deregulation provided for by s177A Licensing Act 2003 (as amended) so that any additional conditions are imposed as if the music was licensable, and that a statement is included on the licence to the effect that s177A Licensing Act 2003 (as amended) does not apply
- Replace conditions 15, 16, 17 and 41 with: 'A noise limiter must be fitted to the musical amplification system set at a level determined by and to the satisfaction of an authorised officer of the Environmental Health Service and in conjunction with affected residents, so as to ensure that no noise nuisance is caused to local residents or businesses. The operational panel of the noise limiter shall then be secured by key or password to the satisfaction of officers from the Environmental Health Service and access shall only be by persons authorised by the Premises Licence holder. The limiter shall not be altered without prior agreement with the Environmental Health Service. No alteration or modification to any existing sound system(s) should be effected without prior knowledge of an authorised Officer of the Environmental Health Service. No additional sound generating equipment shall be used on the premises without being routed through the sound limiter device.'
- Add condition: '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.'
- Reduce the hours permitted for recorded music and live music throughout the premises.
- Require the licence holder to install a permanent sound level recording device so that it is easier for WCC officers to ensure compliance with the above conditions.
- The premises licence holder shall ensure that any patrons leaving the premises do so in an orderly manner and are supervised by staff so as to ensure that there is no public nuisance.
- A direct telephone number for the manager at the premises shall be publicly available at all times the premises is open to the public. This telephone number is to be made available to residents in the vicinity of the premises.

Any other such conditions as may be proposed and as the Sub-Committee decides are appropriate and proportionate following consideration of this application, submissions from the licence holder, and any representations from responsible authorities and other persons.

All timings etc to be as the Sub-Committee decides are appropriate and proportionate following consideration of this application, submissions from the licence holder, and any representations from responsible authorities and other persons.

Have you made an application for review relating to the premises before

No

If yes please state the date of that application

Day	Month	Year

If you have made representations before relating to the premises please state what they were and when you made them

n/a

Please tick ✓ yes

- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate ✓
- I understand that if I do not comply with the above requirements my application will be rejected ✓

**IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION**

**Part 3 – Signatures** (please read guidance note 4)

Signature of applicant or applicant's solicitor or other duly authorised agent (please read guidance note 5). If signing on behalf of the applicant please state in what capacity.

Signature

*[Handwritten signature]* *[Handwritten signature: Vinodhoy A. Marik]*

Date

*Feb 25 2019*

Capacity

*(on behalf of) Applicants*

<b>Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 6)</b> See previous contact details given for Applicants	
<b>Post town</b>	<b>Post Code</b>
<b>Telephone number (if any)</b>	
<b>If you would prefer us to correspond with you using an e-mail address your e-mail address (optional)</b>	

**Notes for Guidance**

1. A responsible authority includes the local police, fire and rescue authority and other statutory bodies which exercise specific functions in the local area.
2. The ground(s) for review must be based on one of the licensing objectives.
3. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
4. The application form must be signed.
5. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
6. This is the address which we shall use to correspond with you about this application.

**Application to review the premises licence for '100 Wardour',  
100 Wardour Street, London W1F 0TN**

**s51 Licensing Act 2003**

**List of appendices to review application**

1. Map of area and photos of premises
2. Statements in support of application
  - 2.1 Statement of David Steele
  - 2.2 Statement of Lucinda Mackay and Andy Mackay
  - 2.3 Statement of Isaac Romanov
  - 2.4 Statement of Alan Geeves
  - 2.5 Statement of Mustafa Abdo
3. Video clip
4. Supporting emails from other parties
5. Relevant correspondence between residents and licence holder/WCC
  - 5.1 David Steele correspondence
  - 5.2 Lucinda and Andy Mackay correspondence
  - 5.3 Alan Geeves correspondence
6. Current premises licence for '100 Wardour'



Google Maps 117 Wardour St

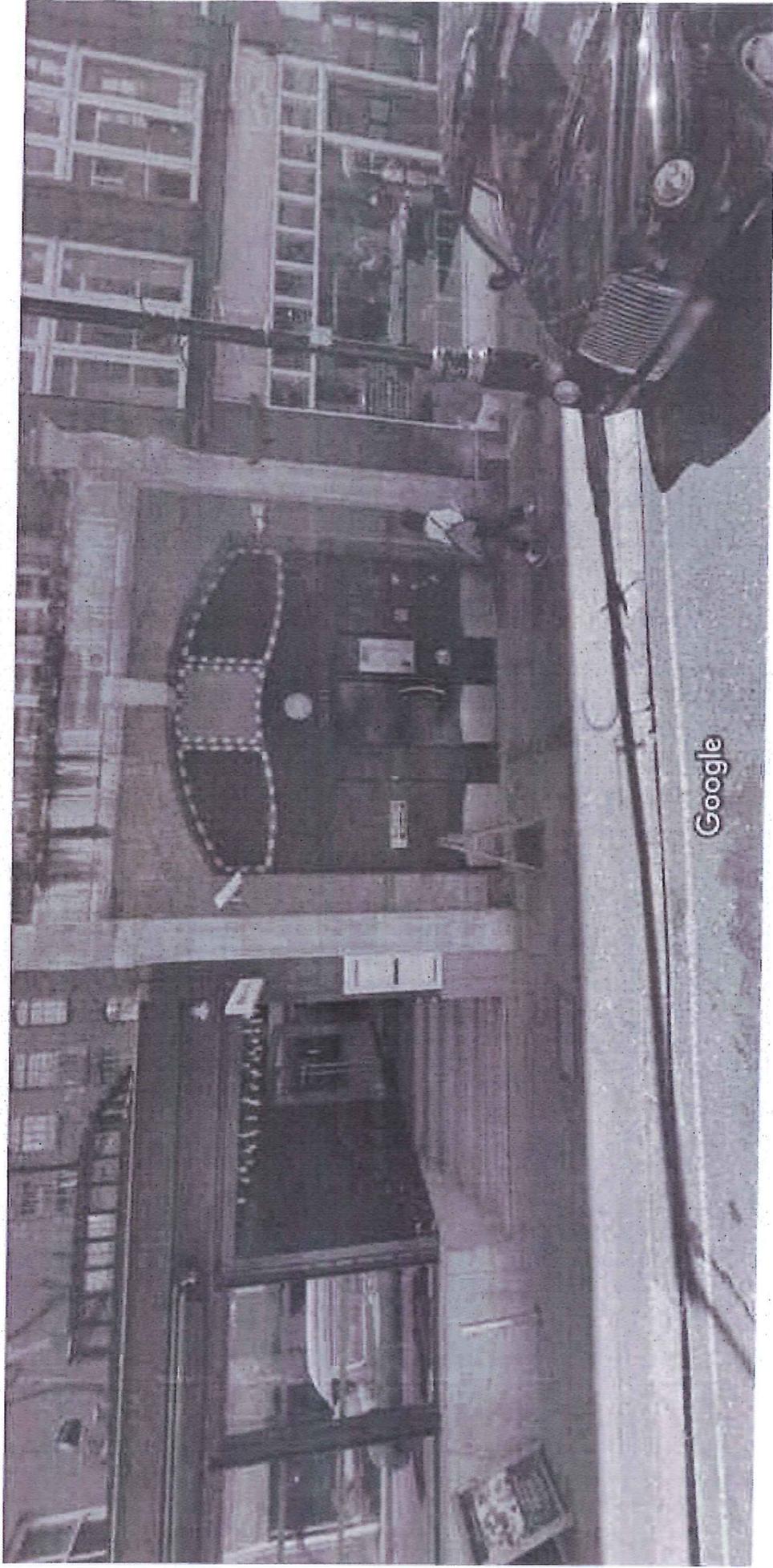


Image capture: Apr 2018 © 2019 Google

London, England

Google

Street View - Apr 2018



**Statement in support of application to review the premises licence for 100 Wardour, 100 Wardour Street, London W1F 0TN**

**S51 Licensing Act 2003 Premises licence ref: 16/10215/LIPDPS**

My name is David Steele, I live at [REDACTED] I have lived here for 25 years. I live with my children, [REDACTED]. The flat is my main residence. The children live over half the time in Soho Lofts, but also spend time with their mother.

[REDACTED] the premises. We share the same building.

I have prepared this statement in support of the application to review the premises licence for 100 Wardour Street. I am one of the applicants for the licence review. The statement sets out my own personal experiences of i) nuisance emanating from 100 Wardour Street; ii) the impact it has on my life; and iii) ongoing efforts to resolve the issues. I deal with these in turn.

I have [REDACTED] and noise or music nuisance has been an ongoing problem since the day the premises opened. I first called the Noise Team in 1995 because of very loud music and most recently called the Noise Team in November 2018. Over the years there have been too many serious incidents to list here, but I will provide a few examples. The night before an operation at Great Ormond St Hospital my young son was kept awake until the early hours of the morning by music coming from the premises. In March 2012 my partner was heavily pregnant and due to go into labour at any moment. Music was very loud making it impossible to sleep at 1.20am. I went down to the restaurant and explained the situation and also pointed out they were in breach of their license. Music levels were not turned down even after I spoke to Lesley Kwarteng, the present manager. Later in that year I complained to Westminster Council about music levels and when visited by Environmental Health, it was discovered that Sound Limiters had been removed from the ground floor level and disabled in the basement area, an extremely serious breach of the licence. Living with 3 young children you can imagine all the many different circumstances when it is essential that they get a good night sleep. There are certainly times I would like a good night's sleep too.

.Generally the problem has tended to occur at the weekend, but over the last few months very loud music has been audible in our flats during the weekdays too. I am applying for a review now because the situation has become completely out of control. Put simply, it is impossible to live a normal life while being subjected to constant late night disturbance from the restaurant below. I am particularly concerned at the affect this is having on my children.

There is a very strong possibility that the Sound Limiters are being bypassed or disabled. The current management of 100 Wardour St have previously been found to be doing this by Westminster Council Officers.