

**WESTMINSTER CITY COUNCIL LICENSING SUB-COMMITTEE NO.1  
("The Committee")**

**Thursday, 19 November 2020**

**Membership:** Councillor Heather Acton (Chairman), Councillor Susie Burbridge and Councillor Maggie Carman

**Present:** Jeremy Joseph (Applicant); Craig Baylis (BCLP Solicitors for the Applicant); Richard Brown (Citizens Advice Westminster, Licensing Advice Project); and two Local Residents objecting to the application (represented by Richard Brown and referred to as Guest No. 3 and Guest No. 5, respectively, for the purposes of these proceedings).

**APPLICATION FOR THE RENEWAL OF A SEX ESTABLISHMENT LICENCE -  
HEAVEN THE ARCHES LONDON WC2N 6NG (20/06600/LISEVR)**

**FULL DECISION**

**Applicant**

Mr Jeremy Joseph

**Ward**

St James's

**Summary of Application**

The Committee has considered an application for the renewal of a Sex Establishment Licence under the Local Government (Miscellaneous Provisions) Act 1982 (as amended) ("the Act") for the Premises known as Heaven situated at the Arches, London WC2N 6NG. which was licensed to operate as a Sexual Entertainment Venue (SEV). The Premises have had the benefit of a Licence which expired on 30 September 2020.

**Representations Received**

Five representations objecting to the application had been received from residents of Villiers Street, all of whom wished to remain anonymous. There were no representations from Responsible Authorities.

**Summary of Objections**

- Patrons queue on our street and are mainly drunk when they arrive.
- Heaven's security staff do nothing to manage the queues of people.
- Tighter control measures are required by way of any additional conditions to include but not limited to matters such as security, posting of notices so patrons when dispersing do not cause a nuisance and respect the area as well as smoking.

## **Policy Considerations**

Policies; SU1, SU2, NO1, LO1, LO2 and LO3 apply under the City Council's Sexual Entertainment Venues Statement of Licensing Policy 2012

## **SUBMISSIONS AND REASONS**

Ms Donovan, Licensing Officer, summarised the application that was before the Sub Committee. Ms Donovan advised that additional submissions had been received from Richard Brown and the two residents who attended the hearing. The submissions had been circulated in the Additional Information Pack sent to the Sub-Committee and the various parties.

Mr Craig Baylis Solicitor on behalf of Mr Joseph, the Applicant addressed the Sub-Committee by stating that in his opinion the Sub-Committee was not the appropriate forum for the objectors to air their grievances about the application.

Mr Baylis stated that the objectors' concerns were in relation to a premises licence under the Licensing Act 2003 and not a Sex Establishment Licence. He stated that what was before the Sub Committee for consideration was a renewal of the Sex Establishment Licence and the activities associated with that Licence.

Mr Baylis stated that the licence had only been used 9 times since January 2020. Whenever the Premises had been used it had operated at lower capacities than the 1,625 authorised by the premises licence, namely 1,100 and 155 when operating in compliance with the Coronavirus Regulations.

He stated that when the Premises were not operating as a Sex Establishment Venue ("SEV"), they operated as a nightclub and music venue, and his client had managed these Premises for many years without difficulty, while maintaining a good relationship with many residents with whom he has liaised on a regular basis.

Mr Baylis stated also that there was no evidence of any linkage between the allegations to the actual use of the SEV. No dates had been provided by the objectors as to when the problems had occurred.

In response to questions raised by Mr Baylis of the Applicant, Mr Joseph provided the following information:

- a) Before Lockdown, G-A-Y: Porn Idol ran on a Thursday night and it was rare for there to be a queue outside the premises on those nights. Queues tended to form on Friday and Saturday nights.
- b) The reason for the queues is due to the extensive security measures implemented when letting customers into the premises and to comply with coronavirus social distancing requirements.
- c) Since the introduction of the 22:00 hour curfew, the Premises had been used as an SEV only on four occasions on a Sunday and the capacity had been restricted to 155 customers.
- d) There were SIA security staff at the entrance who implemented the coronavirus "track and trace" requirements and there were security staff on Villiers Street to safeguard customers leaving the premises, as there had been an increase in the incidence of gang-related violence in Villiers street.

e) Regular meetings were held with residents to discuss their concerns and these meetings were attended by the Police and Council Officers.

Mr Joseph described to the Sub Committee how the queues were managed and operated according to how many customers were queueing to enter the Premises on any given night, and due to the reduced capacity of the Premises on G-A-Y: Porn Idol nights, he believed that those nights are less noisy than other nights. Mr Joseph stated that they have worked very hard with the Police and Council Officers.

The Sub Committee noted that the Premises were regularly inspected by Council Officers, and there have been no complaints by Officers about queues forming outside of the Premises.

Mr Brown on behalf of the local residents who had objected (Guests 3 and 5 who chose to remain anonymous) stated that on a point of clarification those residents objecting to the application had not done so in previous years because they had been unaware of the application having been made. Mr Brown stated that, contrary to Mr Baylis's assertion that the objections were not relevant and that the grounds on which the Sub Committee could refuse the renewal of the application were very limited was not true. He stated that the statutory grounds for objecting to an SEV application were not circumscribed. However, case law suggested that moral objections to an application would not be relevant and that none of the residents were objecting to the application on moral grounds.

Mr Brown stated that the proposal that the Sub Committee ignore the objections had not previously been raised and, therefore, he had not dealt with this matter in his written submission. He stated that the objections clearly related to the nights that G-A-Y Porn Idol events took place and, therefore, were relevant. Mr Brown then summarised the Resident's objections which were set out in Appendix D of the report that was before the Sub Committee, and in the supplementary statements in the Additional Information Pack]. In support of his argument that the objections were relevant,

Mr Brown referred the Sub Committee to Paragraph 12(3)(d) of Schedule 3 of the Act, as set out in his written submission in the Additional Information Pack. He stated that the objectors were not asking that the application be refused, but that mitigating measures be put in place which would address the concerns of residents.

Mr Brown then referred to the Council's Statement of SEV Licensing Policy (the "SEV Policy"), the relevant parts of which were set out in his written submission in the Additional Information Pack. The Sub Committee heard oral evidence from Guests 3 and 5 in attendance at the hearing who both amplified their written representations by giving an account of their daily living when living in such close proximity to the Premises and how the management of the Premises impacts their lives when it came to issues caused by nuisance. These heartfelt and passionate submissions were noted and considered by the Sub Committee in its determination of the matter.

However, the role of the Sub Committee is to consider each application on its individual merits. It therefore concurred with the Applicant's contention that many of the concerns raised by Objectors related to matters that fell for consideration under the premises licence and not the current application to renew the SEV licence. In so doing, the Sub Committee noted that residents had the remedy of applying for a review of the premises licence under the provisions of the Licensing Act 2003 as a means of addressing their concerns.

That said, the Sub Committee was satisfied that the concerns raised by local residents in relation to public nuisance, crime and disorder and public safety applied equally to when the premises operated as a SEV, notably on the nights that G-A-Y Porn Idol events took place, as well as other nights when the premises operated as a nightclub.

The Sub-Committee welcomed the Applicant's offer to liaise directly with local residents and their representatives, so as to encourage and maintain a fruitful dialogue, in respect of those matters relating specifically to nuisance. The Sub-Committee considered that the Additional Conditions numbered 33-36 below and imposed on the SEV Licence are appropriate and proportionate and will mitigate the concerns raised by residents when it came to those issues of nuisance.

The Sub-Committee having carefully considered the application and the representations made on behalf of the objectors decided to **grant** the renewal of the Licence for a twelve-month period subject to the mandatory and additional conditions specified below.

### **Conditions imposed by the Sub Committee after a hearing**

1. Whilst Relevant Entertainment is taking place no person under the age of 18 shall be on the licensed premises and a clear notice to that effect shall be displayed at the entrance in a prominent position so that it can be easily read by persons entering the premises.
2. Whenever persons under the age of 18 are admitted to the premises there will be no promotional or other material on display within the premises which depicts nudity or partial nudity.
3. The licence or a clear copy shall be prominently displayed at all times so as to be readily and easily seen by all persons using the premises.
4. No provision of relevant entertainment, or material depicting nudity or relevant entertainment, shall be visible from outside the premises.
5. Menus and drinks price lists shall be clearly displayed at the front entrance of the club, reception area, tables and bar at such a position and size as to be easily read by customers. This price list shall show all consumable items and any minimum tariff including charges and fees applicable to Performers.
6. Except with the consent of the Licensing Authority, no advertisements of any kind (including placard, poster, sticker, flyer, picture, letter, sign or other mark) shall be inscribed or affixed at the premises, on the surface of the highway or on any building, structure, works, street furniture, tree or any other property or be distributed in the street to the public that advertises or promotes the relevant entertainment at the premises.
7. The licence holder or other person concerned in the conduct or management of the premises shall not seek to obtain custom by means of personal solicitation or touting, nor enter into any agreement with a third party to do so.
8. Adequate toilets, washing and changing facilities for use by the Performers shall be provided.

9. Either the licence holder or a named responsible person shall be present throughout the time the Relevant Entertainment takes place.
10. The premises will install and maintain a comprehensive CCTV system as per the minimum requirements of a Metropolitan Police Crime Prevention Officer that ensures all areas of the licensed premises are monitored including all entry and exit points will be covered enabling frontal identification of every person entering any light condition. All cameras shall continually record whilst the premises 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. Recordings shall be made available immediately upon the request of Police or authorised officer throughout the preceding 31-day period together with facilities for viewing.
11. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises are open to the public and this staff member should be able to show the Police recent data and footage with the absolute minimum of delay of the request.
12. An incident log shall be kept at the premises, and made available on request to the Licensing Authority or the Police, which will record the following:
  - (a) all crimes reported to the venue;
  - (b) all ejections of patrons;
  - (c) any complaints received;
  - (d) any incidents of disorder;
  - (e) seizures of drugs or offensive weapons;
  - (f) any faults in the CCTV system or searching equipment or scanning equipment;
  - (g) any refusal of the sale of alcohol;
  - (h) any visit by a relevant authority or emergency service;
  - (i) any breach of licence conditions reported by a Performer.
13. The licence holder shall produce a Code of Conduct setting out rules and obligations between the licence holder and performers whilst performing. All Performers shall sign the Code of Conduct in their proper name acknowledging that they have read, understood and are prepared to abide by the said Code of Conduct, and a copy so signed shall be retained by the licence holder and shall be readily available for inspection by the Police and/or authorised persons upon reasonable request. Individual records shall be kept at the premises of the real names, stage names and addresses of all Performers working at the premises. The record will include either a copy of their birth certificate, current passport, EU driving licence or national

identity card and shall be made immediately available for inspection by the Police and/or the Licensing Authority upon

14. Details of all work permits and/or immigration status relating to persons working at the premises shall be retained by the licence holder and be readily available for inspection by the Licensing Authority, a Police Officer or Immigration Officer.
15. Relevant Entertainment shall be given only by Performers and the audience shall not be permitted to participate in the relevant entertainment.
16. There shall be no physical contact between Performers whilst performing.
17. Performers will not request or give out any telephone number, address or any other contact information from or to any customer. Any such information given by a customer shall be surrendered to the premises manager as soon as is practicable.
18. Relevant Entertainment shall take place only in the designated areas approved by the Licensing Authority as shown on the licence plan. Arrangements for access to the dressing room shall be maintained at all times whilst Relevant Entertainment is taking place and immediately thereafter.
19. Customers must remain fully clothed at all times. The Performer must not remove any of the customer's clothing at any time.
20. Where Relevant Entertainment is provided in booths, or other areas of the premises where private performances are provided, the booth or area shall not have a door or other similar closure, the area shall be constantly monitored by CCTV, and access to the booth or other area shall be adequately supervised.
21. Whenever Relevant Entertainment is being provided there shall be no physical contact between Performers and customers or between customers and Performers except for the exchanging of money or tokens at the beginning or conclusion of the performance and only for the purpose of that performance. Clearly legible notices to this effect shall clearly be displayed in each private booth and in any performance area.
22. Performers must redress fully immediately after each performance.
23. The provision of the Porn Idol talent competition or similar entertainment when unpaid members of the public participate as performers, shall be permitted to be held for a two-hour period one day a week, during which time standard conditions 14, 15, 16 and 20 (above) shall not apply.
24. The maximum number of persons accommodated within the premises at any one time (excluding staff) shall not exceed 1625 persons with maximum local capacities at any one time for the following areas (as marked on drawing no's 08.001 Rev Land 8.002

Rev K) being: the ground floor main dance floor - 1300,'VIP' bar - 50, the 'Artist Bar and Cinema' - 550 and first floor total - 390 provided that there shall be a maximum capacity in the Dakota Smoke Bar of 280.

25. All emergency doors shall be maintained effectively self closing and not held open other than by an approved device.
26. The edges of the treads of steps and stairways shall be maintained so as to be conspicuous.
27. Curtains and hangings shall be arranged so as not to obstruct emergency signs.
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 exit doors shall be available at all material times without the use of a key, code, card or similar means.
31. Any special effects or mechanical installations shall be arranged and stored so as to minimise any risk to the safety of those using the premises. The following special effects will only be used on 10 days prior notice being given to the Licensing Authority where consent has not previously been given:
  - i. pyrotechnics including fire works
  - ii. firearms
  - iii. lasers
  - iv. explosives and highly flammable substances.
  - v. real flame.
  - vi. strobe lighting.
32. No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
33. Notices shall be prominently displayed at any area used for smoking requesting patrons to respect the needs of local residents and use the area quietly.
34. A direct telephone number for the manager at the premises shall be publicly available at all times the premises are open.
35. This telephone number is to be made available to residents and businesses in the vicinity.
36. The licence holder shall ensure that any queue to enter the premises

which forms outside the premises is orderly and supervised by door staff so as to ensure that there is no public nuisance or obstruction on the public highway.

### **INFORMATIVE**

The Sub Committee welcomed the Applicants offer to meet, as soon as circumstances permitted, with the Objectors and their representative, Richard Brown of Citizens Advice Westminster, Licensing Advice Project, in a public forum at a time when objectors and residents would be available to attend such a meeting i.e., an evening meeting.

The Sub Committee also welcomed the Applicants offer to manage any queues that might form outside the premises, either on G-A-Y Porn Idol nights, or any other night, in such a way as to prevent queues of customers waiting to enter the premises from extending into Villiers Street - this would be possible by splitting the queue into two sections and that he would make arrangements for this to be done as indicated by the Applicant.

**This is the full decision reached by the Licensing Sub-Committee.  
The Decision takes immediate effect.**

**The Licensing Sub-Committee  
19 November 2020**