

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

Thursday, 3 December 2020

Membership: Councillor Karen Scarborough (Chairman), Councillor Susie Burbridge and Councillor Rita Begum

APPLICATION FOR A NEW PREMISES LICENCE – 1-8 DAVIES MEWS, LONDON W1K 5AB – 20/09233/LIPN

FULL DECISION

Premises

1-8 Davies Mews
London
W1K 5AB

Applicant

Hartshorn Hook Enterprises Limited

Cumulative Impact Area?

No

Ward

West End

Proposed Licensable Activities and Hours

Plays (Indoors)

Monday to Saturday: 10:00 to 23:30 hours
Sunday: 10:00 to 23:00 hours

Seasonal Variation: The premises shall remain open for the sale of alcohol, regulated entertainment and the provision of late-night refreshment from the terminal hour for those activities on New Year's Eve through to the commencement time for those activities on New Year's Day.

Films (Indoors)

Monday to Saturday: 10:00 to 23:30 hours
Sunday: 10:00 to 23:00 hours

Seasonal Variation: The premises shall remain open for the sale of alcohol, regulated entertainment and the provision of late-night refreshment from the terminal hour for those activities on New Year's Eve through to the commencement time for those activities on New Year's Day.

Live Music (Indoors)

Monday to Saturday: 10:00 to 23:30 hours
Sunday: 10:00 to 23:00 hours

Seasonal Variation: The premises shall remain open for the sale of alcohol, regulated entertainment and the provision of late-night refreshment from the terminal hour for those activities on New Year's Eve through to the commencement time for those activities on New Year's Day.

Recorded Music (Indoors)

Monday to Saturday: 10:00 to 23:30 hours
Sunday: 10:00 to 23:00 hours

Seasonal Variation: The premises shall remain open for the sale of alcohol, regulated entertainment and the provision of late-night refreshment from the terminal hour for those activities on New Year's Eve through to the commencement time for those activities on New Year's Day.

Performance of Dance (Indoors)

Monday to Saturday: 10:00 to 23:30 hours
Sunday: 10:00 to 23:00 hours

Seasonal Variation: The premises shall remain open for the sale of alcohol, regulated entertainment and the provision of late-night refreshment from the terminal hour for those activities on New Year's Eve through to the commencement time for those activities on New Year's Day.

Anything of a similar description to that above (Indoors)

Monday to Saturday: 10:00 to 23:30 hours
Sunday: 10:00 to 23:00 hours

Seasonal Variation: The premises shall remain open for the sale of alcohol, regulated entertainment and the provision of late-night refreshment from the terminal hour for those activities on New Year's Eve through to the commencement time for those activities on New Year's Day.

Late Night Refreshment (Indoors)

Monday to Saturday: 23:00 to 23:30 hours

Seasonal Variation: The premises shall remain open for the sale of alcohol, regulated entertainment and the provision of late-night refreshment from the terminal hour for those activities on New Year's Eve through to the commencement time for those activities on New Year's Day.

Sale by Retail of Alcohol (On Sales)

Monday to Saturday: 10:00 to 23:30 hours
Sunday: 10:00 to 23:00 hours

Seasonal Variation: The premises shall remain open for the sale of alcohol, regulated entertainment and the provision of late-night refreshment from the terminal hour for those activities on New Year's Eve through to the commencement time for those activities on New Year's Day.

Hours Premises are open to the Public

Monday to Saturday: 07:30 to 23:30 hours
Sunday: 07:30 to 23:00 hours

Seasonal Variation: The premises shall remain open for the sale of alcohol, regulated entertainment and the provision of late-night refreshment from the terminal hour for those activities on New Year's Eve through to the commencement time for those activities on New Year's Day.

Representations Received

- Environmental Health Service (Dave Nevitt)
- One Local Resident.

Summary of Objections

- Environmental Health state that the application is likely to impact upon public nuisance and public safety.
- We are extremely worried about the amount of noise which will be incurred when the premises are due to open. We understand that it will include music until late in the evenings and this is highly disturbing for young families.

Summary of Application

The Committee has determined an application for a New Premises Licence under the Licensing Act 2003 ("The Act"). The Applicant intends to operate the Premises as a theatre space offering a variety of productions and performances. The Premises are not within the Cumulative Impact Area. The Applicant has applied for a time limited Licence until 31 July 2026 and this was duly noted by the Committee.

SUBMISSIONS AND REASONS

Mr Jackaman, Licensing Officer, summarised the application as set out in the report before the Sub Committee. The application was for a time-limited licence to July 2026. Representations had been received from the Environmental Health Service and one other interested party who was not represented at the hearing. It was noted that the Premises were within the West End Ward and did not fall within any Cumulative Impact Area.

Ms Lana Tricker, Solicitor for the Applicant presented her case to the Sub-Committee. Ms Tricker stated that the application was for a five-year time, limited premises licence for an Immersive Doctor Who Experience. The Applicant was an award-winning theatre company that transformed vacant buildings into live theatre sets. The Committee noted that the Applicant has a premises licence for number 56 Davies Street. Ms Tricker stated that the show would be one of the most expensive immersive theatre productions in London. Shows would have staggered start time, in order that, as one audience of up to 200 persons, having seen the first part of the show descended into the basement area for the second part of the show, a new audience would enter the ground floor area for the start of the next show.

Ms Tricker explained that there could be up to 400 persons in the premises at any one time and there would be no overlapping of the two audiences either entering the

Premises, watching the shows, or exiting the Premises. Ms. Tricker stated that the Applicant planned to open the shows in April 2021, and shows would run Tuesday to Sunday, with no performances on Monday. The show starts from 18:00 hours and finishes at 22:15 hours. Ms. Tricker stated that the hours were considered to promote the licensing objectives.

Ms Tricker stated that entrances would be supervised by SIA door supervisors and there would also be a front of house manager. A show manager who would liaise in letting guests into the pre-show foyer and bar area. Ms Tricker described the procedures that would be followed when checking tickets as guests entered the Premises and how the queues to the shows would be managed. The Sub-Committee noted that the Premises lease contained strict terms and conditions in relation to the use of the Premises for events. In addition, there was a dispersal policy in place specifically for events.

Ms Tricker stated the sale of alcohol was ancillary to guests attending a show and there was no application for off sales. She advised that the application was in accordance with paragraph 2.5.33 of the City Council's SLP which stated that these policies apply to wide-ranging premises including theatres, cinemas, concert halls and other performance venues providing regulated entertainment. She advised further that bars are a normal feature of performance venues, but they should be ancillary to the overall use of the Premises as a performance venue. The hours of the operation of the bar will usually be those related to the times the Premises are open for performances and should not extend later than the hours of performances.

In conclusion, Ms Tricker stated that this was a time limited application and she relied upon the dispersal policy and crowd management plan attached to the submissions before the Sub-Committee.

The Sub-Committee sought confirmation from the Applicant when dealing with dispersal and queueing outside the premises, and to give clarity on the events, Ms Tricker and Mr Collins, the Director, provided the following information: -

- Audiences entered the Premises and moved round the exhibition in such a way that the audiences did not overlap. It was possible that if every member of each audience remained in the bar after the shows, there could be up to 400 people in the bar but that was unlikely.
- Guests would have timed entry tickets and could arrive up to 45 minutes before the start of the show, this would avoid the possibility of queues forming outside the premises. Should guests arrive more than 45 minutes before the start of the show, they would be allowed to enter the venue.
- Events tended to be during the day and are usually corporate events. Occasionally there were birthday events.
- Mr Collins referred to the floor plan and described how an audience would move through the Premises.
- Mr Collins stated that the bar area was similar to a foyer bar in a theatre and, therefore, it was not expected that all 200 guests attending a show would buy drinks at the bar, but the application was for the whole of the floor where the bar was located.

- There was a box office and merchandising section which opened at 7:30am in order that people can buy tickets for shows on their way to and from work.
- The earliest show would be a matinee performance at 12 midday on days when there were matinee performances.

In addition, the Sub-Committee also sought confirmation from the Applicant regarding the provision for smokers and was advised of the following matters:

- There would not be many people wishing to smoke but a smoking area had been identified at the Davis Street end of Davies Mews which would be managed by the SIA door staff.
- Mr Hartshorn, the Operations Director, stated that there would be a number of staff employed and there would be strict adherence to the requirements of social distancing and the Coronavirus Regulations. There have been measures in place to safeguard the audience and members of staff.
- Mr Collins stated discussions had taken place with the local resident who had objected to the application and it was agreed that no noisy works on construction of the sets would take place between 13:00 hours and 15:00 hours.

In response to a further question by the Chairman, Mr Hartshorn stated that, as audiences moved through the show in a linear manner, it would not be possible to host a private function while a show was taking place because, at some point, members of the audience would come to the location where the private function was taking place. Mr Hartshorn advised that the cost of the Doctor Who set alone (not including costumes etc.) was some £1.7 million and the applicants cared-for the set and were mindful of the need to keep it in good order with three waves of audience going through the set each day. Therefore, it was not realistic to hold a vertical drinking function for 400 people and then set up the Premises for a show the following day. Although events were a key ancillary revenue stream, they remained ancillary to the operation of the venue as a theatre. In response to Member's question about whether the applicant would have any objection to the licences being put in the applicant's name, Mr Hartshorn confirmed that Hartshorn Hook Enterprises Ltd would be willing to take responsibility for the management of the Premises.

Mr David Nevitt on behalf of Environmental Health Service addressed the Sub-Committee and referred to a photograph of the Premises where he identified the residential parts of the building which are located above the Premises. He stated that there had been consultation with the Applicant during the pre-application phase of the planning process and concerns about noise, dispersal, capacity and public safety were discussed. He advised that the Applicant had subsequently agreed to the various conditions proposed by the Environmental Health Service, namely the sale of alcohol shall, always, be ancillary to the primary use of the Premises for theatre performances, alcohol shall only be sold for consumption by persons: (i) Attending the performance of a play or theatre production that day and/or, (ii) Attending a pre-booked and bona fides private function or event to which members of the public are not admitted and that a register of persons attending the event shall be kept at the Premises and made available for immediate inspection by police or an authorised officer of the Council.

The Sub-Committee realises that it has a duty to consider each application on its individual merits. It considered the potential of public nuisance that could be caused

due to dispersal of crowds and those residents who lived directly above the Premise. The Sub-Committee welcomed the fact that there had been dialogue between the parties regarding the potential for nuisance in respect of these matters. With this in mind the Sub-Committee was persuaded that the safeguards the Applicant was to put in place by way of managing the Premises and the proposed conditions offered would mitigate the concerns of residents and the Responsible Authorities who had objected. The Sub-Committee took comfort from the fact that the building as confirmed by Mr Nevitt generally had good acoustic integrity so that would help minimise the outbreak of noise likely to affect nearby residents. In this respect the Sub-Committee imposed MC12 which appears below as Condition 15. The Sub-Committee considered that the sale of alcohol should be properly restricted given the nature of the Premises and accordingly conditions numbered 18, 19, 45 and 48 below are imposed on the Premises Licence.

The Sub-Committee decided that the Applicant had provided valid reasons as to why the granting of the application would promote the licensing objectives.

Having carefully considered the committee papers and the submissions made by all the parties, both orally and in writing, **the Sub-Committee has decided**, after taking into account all the circumstances of this application and the promotion of the licensing objectives to **grant** the application with the following permissions:

1. To grant permission for Plays (Indoors)

Monday to Saturday: 10:00 to 23:30 hours
Sunday: 10:00 to 23:00 hours:

Seasonal Variation: The Premises shall remain open for the sale of alcohol, regulated entertainment and the provision of late-night refreshment from the terminal hour for those activities on New Year's Eve through to the commencement time for those activities on New Year's Day.

2. To grant permission for Films (Indoors)

Monday to Saturday: 10:00 to 23:30 hours
Sunday: 10:00 to 23:00 hours:

Seasonal Variation: The Premises shall remain open for the sale of alcohol, regulated entertainment and the provision of late-night refreshment from the terminal hour for those activities on New Year's Eve through to the commencement time for those activities on New Year's Day.

3. To grant permission for Live Music (Indoors)

Monday to Saturday: 10:00 to 23:30 hours
Sunday: 10:00 to 23:00 hours

Seasonal Variation: The Premises shall remain open for the sale of alcohol, regulated entertainment and the provision of late-night refreshment from the terminal hour for those activities on New Year's Eve through to the commencement time for those activities on New Year's Day.

4. To grant permission for Recorded Music (Indoors)

Monday to Saturday: 10:00 to 23:30 hours
Sunday: 10:00 to 23:00 hours

Seasonal Variation: The Premises shall remain open for the sale of alcohol, regulated entertainment and the provision of late-night refreshment from the terminal hour for those activities on New Year's Eve through to the commencement time for those activities on New Year's Day.

5. To grant permission for Performance of Dance (Indoors)

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

Sunday: 10:00 to 23:00 hours

Seasonal Variation: The Premises shall remain open for the sale of alcohol, regulated entertainment and the provision of late-night refreshment from the terminal hour for those activities on New Year's Eve through to the commencement time for those activities on New Year's Day.

6. To grant permission for Anything of a similar description to that above (Indoors)

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

Sunday: 10:00 to 23:00 hours

Seasonal Variation: The Premises shall remain open for the sale of alcohol, regulated entertainment and the provision of late-night refreshment from the terminal hour for those activities on New Year's Eve through to the commencement time for those activities on New Year's Day.

7. To grant permission for Late Night Refreshment (Indoors)

Monday to Saturday: 23:00 to 23:30 hours

Seasonal Variation: The Premises shall remain open for the sale of alcohol, regulated entertainment and the provision of late-night refreshment from the terminal hour for those activities on New Year's Eve through to the commencement time for those activities on New Year's Day.

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

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

Sunday: 10:00 to 23:00 hours

Seasonal Variation: The Premises shall remain open for the sale of alcohol, regulated entertainment and the provision of late-night refreshment from the terminal hour for those activities on New Year's Eve through to the commencement time for those activities on New Year's Day.

9. To grant permission for the Hours Premises are open to the Public

Monday to Saturday: 07:30 to 23:30

Sunday: 07:30 to 23:00 hours

Seasonal Variation: The Premises shall remain open for the sale of alcohol, regulated entertainment and the provision of late-night refreshment from the terminal hour for those activities on New Year's Eve through to the commencement time for those activities on New Year's Day.

10. That the Licence is subject to any relevant mandatory conditions.

11. 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

12. 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 the Police or authorised officer throughout the entire 31-day period.
13. 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.
14. At least 1 SIA licensed door supervisor shall be on duty at the premises after 19:00 hours whilst the premises are open for business.
15. 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.
16. Loudspeakers shall not be located in the entrance lobby or outside the premises building.
17. All windows and external doors shall be kept closed after 21:00 hours, or at any time when regulated entertainment takes place, except for the immediate access and egress of persons.
18. There shall be no sales of alcohol for consumption off the premises.
19. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
20. 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.
21. An attendant shall be on duty in the cloakroom during the whole time that it is in use.
22. The licence holder shall ensure that any queue to enter the premises which forms outside the premises is orderly and supervised by staff so as to ensure that there is no public nuisance or obstruction to the public highway.
23. No waste or recyclable materials, including bottles, shall be moved, removed or placed in outside areas between 23.00 hours and 08.00 hours.
24. No licensable activities shall take at the premises until the capacity of the premises has been determined by the Environmental Health Consultation Team and the licensing authority has replaced this condition on the licence with a condition detailing the capacity so determined.

25. 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.
26. The licence holder shall enter into an agreement with a hackney carriage and/or private carriage firm to provide transport for customers, with contact numbers made readily available to customers who will be encouraged to use such services.
27. No deliveries to the premises shall be arranged between 23.00 and 08.00.
28. A Challenge 25 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport or holographically marked PASS scheme identification cards.
29. All Customer Service Assistants will be fully versed in the transport options available within the vicinity of the premises.
30. A permanently manned direct telephone number for a responsible person who has powers to deal with nuisance, shall be publicly available at all times the premises are open and up to 30 minutes after the scheduled closing time. This telephone number is to be made available to residents, businesses and local Residents' Associations in the vicinity.
31. 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.
32. No advertisements of any kind (including placard, poster, sticker, flyer, picture, letter, sign or other mark) that advertises or promotes the establishment, its premises, or any of its events, facilities, goods or services shall be inscribed or affixed upon the surface of the highway, or upon any building, structure, works, street furniture, tree, or any other property, or be distributed to the public.
33. An incident log shall be kept at the premises, and made available on request to an authorised officer of the City Council or the Police, which will record the following:
 - (a) all crimes reported to the venue;
 - (b) all ejections of patrons;
 - (c) any complaints received concerning crime and disorder;
 - (d) any incidents of disorder;
 - (e) all 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.
34. Any special effects or mechanical installations shall be arranged and stored so as to minimise any risk to the safety of those using the premises. The following special effects will only be used on 10 days prior notice being given to the Licensing Authority where consent has not previously been given.

- dry ice and cryogenic fog
 - smoke machines and fog generators
 - pyrotechnics including fireworks
 - firearms
 - lasers
 - explosives and highly flammable substances.
 - real flame.
 - strobe lighting
35. 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.
 36. 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.
 37. 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.
 38. All emergency doors shall be available at all material times without the use of a key, code, card or similar means.
 39. All emergency doors shall be maintained effectively self-closing and not held open other than by an approved device.
 40. The edges of the treads of steps and stairways shall be maintained so as to be conspicuous.
 41. Curtains and hangings shall be arranged so as not to obstruct emergency safety signs or emergency equipment.
 42. 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.
 43. 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.
 44. All persons entering or re-entering the premises shall have their bags searched by a member of staff and monitored by the premises CCTV system.
 45. The sale of alcohol shall, at all times, be ancillary to the primary use of the premises for theatre performances.
 46. 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.

47. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
48. Patrons permitted to temporarily leave and then re-enter the premises, e.g., to smoke, shall not be permitted to take drinks or glass containers with them.
49. No fumes, steam or odours shall be emitted from the licensed premises so as to cause a nuisance to any persons living or carrying on business in the area where the premises are situated.
- 50 (a) At least 7 days' notice shall be given to the Council of any proposal to use scenery or properties and such scenery or properties shall only be used with the consent of the Council.
 - (b) Scenery and properties shall only be stored in approved areas and where permitted to be stored on the stage shall be limited to the approved amounts.
 - (c) The doors to any scenery store shall be kept closed during performances.
 - (d) The scenery and properties used on an open stage shall be restricted to that of the actual production. No other storage shall be permitted in the stage area.
- 51 (a) Any entertainment which involves special risks (e.g., firearms, skating to music) may only be given with the Council's consent. At least 7 days' notice shall be given to the Council and save in exceptional circumstances exact details of the proposal including the date and time of any proposed rehearsal
 - (b) Smoking shall be strictly prohibited within any stage area (other than as part of the action of the performance). Notices prohibiting smoking shall be prominently displayed.
52. The use of special effects (e.g., lasers, dry ice and smoke machines, strobe lighting, real flame, pyrotechnics) or the bringing onto the premises of any explosive or flammable substance may only be permitted with the consent of the Council. At least seven days' notice shall be given to the Council detailing the exact proposal including the date and time of any proposed rehearsal. Special effects shall only be used where the desired effect cannot be achieved using other safer means (e.g., by mechanical devices).

NOTE: When it is intended to use special effects the inspecting officer that the effects can be assessed and, if satisfactory, approved by the issue of a certificate.

53. Pyrotechnics, explosives or other highly flammable substances shall only be stored in areas approved by the Council and subject to the provisions set out below:
 - Firearms and replica firearms including blank ammunition, shall be stored in a secure area to the satisfaction of the Council and the Police. They shall be under the control of a responsible person, who shall be responsible for the removal and return of all firearms.
 - Firearms shall only be removed from the store (with the amount of ammunition required for the scene) immediately prior to use and returned to the store immediately after use.
 - All discharged cartridges etc. must also be accounted for.

54. Storage areas and containers used shall be indicated by the explosive/inflammable symbol on the door or lid.
55. A minimum of 14 days' notice in writing shall be given to the Council of any intention to use any live animal, bird or fish in a performance at the premises.
- 56 (a) The number of performers and members of any orchestra shall not exceed the number for which in the opinion of the Council, the dressing rooms, staff rooms and retiring-room accommodation is adequate.
 - (b) Temporary dressing rooms shall not be provided except with the consent of the Council.
 - (c) Quick change arrangements which affect the means of escape or safety arrangements shall only be made with the consent of the Council.
57. 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.
58. Alcohol shall only be sold for consumption by persons:

Attending the performance of a play or theatre production that day and/or, attending a pre-booked and bona fide private function or event to which members of the public are not admitted. A register of persons attending the event shall be kept at the premises and made available for immediate inspection by the Police or an authorised officer of the Council.
59. The licensable activities permitted under this Licence shall end after 31 July 2026 and shall cease to have no effect.

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

**The Licensing Sub-Committee
3 December 2020**