

Concern	Applicant's Response
The impact of dispersal of customers	<p>The applicant has prepared a Dispersal Policy and proposed Model Condition 99:</p> <p><i>"A copy of the premises dispersal policy shall be made readily available at the premises for inspection by a police officer and/or an authorised officer of Westminster City Council".</i></p>
Unit 9's proximity to school	<p>The applicant has proposed model condition 47 requiring an age verification policy.</p> <p>The applicant will carefully vet and select a responsible and professional restaurant tenant to operate in Unit 9. The applicant will encourage the Unit 9 restaurant tenant to ensure safeguarding is maintained as a key training objective for staff and encourage engagement with the school.</p>

Policy

12. The premises is located outside the Cumulative Impact Zone and outside all Special Consideration Zones.
13. All three premises will operate as restaurants in accordance with Model Condition 66 and Policy RNT1. Policy RNT1 states that:

"Applications outside the West End cumulative impact zone will generally be granted" [emphasis added]
14. The proposed hours for licensable activities and premises opening are within Core Hours. Core Hours Policy HRS1 states:

"Applications within the core hours set out below in this policy will generally be granted for the relevant premises uses subject to not being contrary to other policies in the statement of licensing policy". [emphasis added]
15. The proposed hours, as amended, are also now less than the hours anticipated and permitted by the planning permission.
16. The new condition "*All outside tables and chairs shall be rendered unusable by 21:00 hours each day*" will

ensure that any future external seating areas close 2 hours earlier than the recommended terminal hour set out in Policy PN1, and will remain subject to the Pavement Licensing process.

17. The comprehensive schedule of robust model licence conditions and limited licensable activities (no regulated entertainment) address the requirements of Policies CD1, PS1, PN1 and CH1.

Summary

18. The applicant submits:

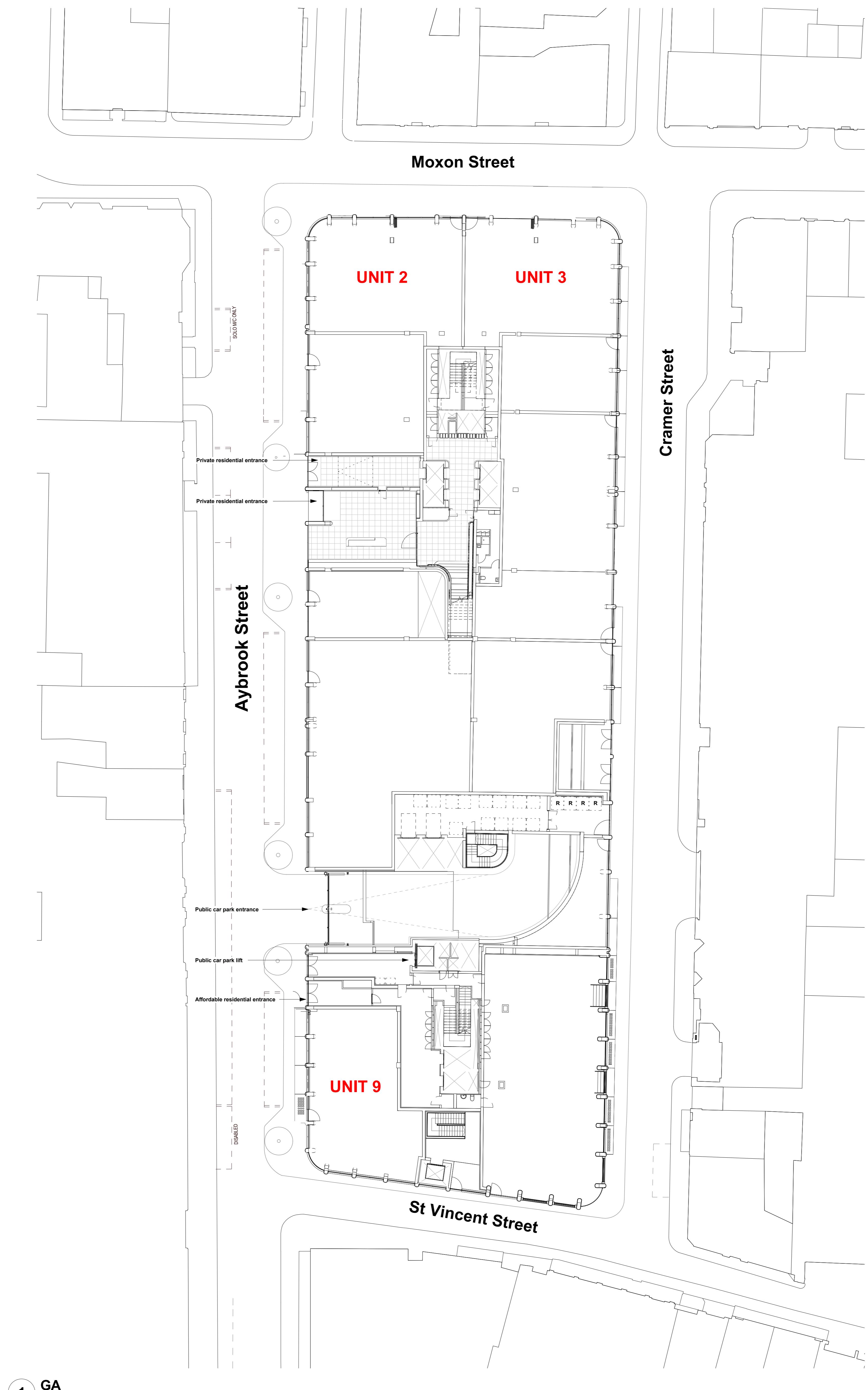
- a. The applicant has engaged with the Responsible Authorities, local stakeholders and objectors to confirm a number of voluntary amendments to the applications directly addressing concerns raised.
- b. The amended applications propose premises licences with hours less than permitted under planning and more restrictive licences than anticipated under pre-application advice.
- c. The comprehensive operating schedule of model conditions promote all four licensing objectives.
- d. The proposed restaurants will be self-policed by the applicant, who is committed to robust estate management ensuring all occupiers of the development co-exist harmoniously. The estate management and strict lease controls imposed on the proposed restaurant tenants will protect existing and new local residents alike.
- e. The Policy states that applications for premises licences on these terms in this area **will generally be granted.**

19. The applicant invites the Licensing Sub-Committee to please grant the amended applications accordingly.

Thomas & Thomas Partners LLP

February 2024

General Notes
 - Dimensions are in millimetres unless stated otherwise.
 - Levels are in millimetres AOD unless stated otherwise.
 - Dimensions govern, please do not scale off drawing.
 - All dimensions to be verified on site before proceeding.
 - All discrepancies to be noted in writing to Simon Bowden Ltd



1 GA
1 : 200

T2 04/11/22 S2 For information
 T1 21/10/22 S2 For information
 Rev. Date. Staff. Reason for issue

E8 Architecture
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 Mentmore Terrace, London E8 3PN
 0203 994 8571
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 W www.e8architecture.co.uk

Client
 Moxon Street Residential
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Project Title
 Marylebone Square

Drawing Title
 GF Plan

Scale 1 : 200 **Format** A0 **Orientation** N

Drawing Number MOX-SBA-XX-A-14-022
Revision Number



City of Westminster

Office Names: Anil Drayan
Designation: Environmental Health Officer
Date: 03/07/2023
Contact number: [REDACTED]
Email: adrayan@westminster.gov.uk
Application/Uniform Ref Number:
23/00726/PREAPM

Address: Car Park, Aybrook Street, London

Existing Licence: N/A	Applicant: Mr Jack Spieglar Thomas And Thomas Solicitors, 38A Monmouth Street London	Cumulative Impact Zone: No Special Consideration Zones: No
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Applicant's advice request and information submitted:

Marylebone Square Development

The application proposes 3 licensed premises within the development, including Unit 2, Unit 3 and Unit 9 (subject to planning).

Please refer to the attached indicative layout plans.

Pre application advice is sought in respect of the proposals generally and technical aspects of the premises.

Please can you base your pre app report on 3 x 1.00 am licences with regulated entertainment and bar use constituting approximately 20% of the overall premises capacity.

Environmental Health advice and recommendations - this advice is provided by Westminster's Environmental Health Consultation Team (Regulatory Support Team 2) and is based on the information supplied above.

1. Westminster's Statement of Licensing Policy.

i. Licensing Policy and Licensing Objectives:

- a) Environmental Health bases any recommendations on achieving compliance with Westminster's Statement of Licensing Policy which details the requirements for promoting the Licensing Objectives. The Policy can be found on the Council's website at the following link:

- <https://www.westminster.gov.uk/node/20023>

Note – this Statement of Licensing Policy was revised by the Council in January 2021. The revised Policy places greater emphasis on licensed premises being able to demonstrate greater compliance

with policy CH1, Protection of Children from Harm, by the pro-active measures being implemented. Licensees are therefore advised to ensure their staff are fully trained as recommended under this Policy which includes access to the free training available (see page 36 in Policy).

Note also – before submitting an application applicants are also advised to take account of paragraphs B1 to B63 which provides advice on ‘Our Approach for Licensing in Westminster’. This details guidance, amongst others, on such issues as ‘Environmental Best Practice in Licensed Premises’

b) The criteria for promoting the Licensing Objectives in the Policy can be found under the following policies:

- PN1- Prevention of Public Nuisance
- PS1 - Promoting Public Safety
- CH1- Protection of Children from Harm
- CD1 - Prevention of Crime and Disorder

ii. Model Conditions (MC)

A list of Model Conditions are also provided on the Council’s website at the following link:

- <https://www.westminster.gov.uk/licensing/licensing-policy-and-strategy/model-conditions-licensing-act>

These should be used as the basis for any conditions proposed in an operating schedule.

Note – applicants can amend wording of MC’s, if appropriate, or provide their own additional conditions but must be worded so that they are readily enforceable

iii. Spatial Policies:

An initial consideration of any proposal is to ascertain if the premises are located in designated ‘spatial’ zones. Additional limitations or requirements normally apply for licensable activities requested in such areas. There are two types of spatial zones:

- Cumulative Impact Zone (CIZ) – where policy CIP1 applies or
- Special Consideration Zones (SCZ) – where policy SCZ1 applies.

As Aybrook Street is not located in the CIZ or any of the SCZ’s any special consideration under them will not therefore necessarily need to be applied.

iv. Premises History

The premises was granted planning permission, reference 14/10918/Full. This permission will need to be varied if the hours of use, capacities etc are not consistent with what might be granted under the Premises Licence application.

2. Proposed operation

I understand all 3 premises wish to operate as restaurants with 20% bar use, regulated entertainments and the licensable hours being to 1am.

As the premises are outside any of the 'spatial' zones policy RNT1 applies This states applications will generally be granted subject to:

1. The application meeting the requirements of policies CD1, PS1, PN1 and CH1.
2. The hours for licensable activities being within the council's Core Hours Policy HRS1.
3. The operation of any delivery services for alcohol and/or late-night refreshment meeting the council's Ancillary Delivery of Alcohol and/or Late-Night Refreshment Policy DEL1.

As the proposals are to operate beyond Core Hours careful consideration should be taken of the advice provided in paragraph F127 in the policy, in particular, '*The granting of later hours for restaurants would depend on the extent to which the service of customers, closing up operations and customers leaving premises would be likely to give rise to public nuisance and crime and disorder.*'

Note should also be taken of paragraph F123 on the nature of any bar and/or entertainment use that is separate from the restaurant use i.e. '*The operation of premises with a new premises licence granted as a restaurant solely under this policy may not include independent use of the bar or entertainment. Bar use and entertainment would have to be specifically sought and considered having regard to other policies within this statement.*'

In order to demonstrate the principal use of the premises are to be as restaurants then Model Conditions 38 or 66 should be submitted with an application. As the premises are not in the West End Cumulative Impact Zone then condition 38 should be sufficient. Using either of these conditions would normally entail specifying how much of the total capacity shall not be required to be ancillary to food or specifying a bar use area on the plans – this area better to be in the basement so that premises do not appear to be a bar to persons looking in from the street,

Alternatively to provide greater flexibility but keeping it as a restaurant use Model Condition 86 may be appropriate i.e. '*The licensable activities authorised by this licence and provided at the premises shall be ancillary to the main function of the as a restaurant.*'

a) The following Public Safety advice with regards to general Fire/Public Safety considerations:

Building Regulations

The scope of the proposals would likely trigger a building control application. This should therefore be considered and building control sign off would form part of our clearance inspection under licensing also.

Health and Safety at Work Act 1974

Ensuring the health and safety of employees, contractors and others who resort to the premises is a key statutory requirement at all times. Once the premises will be operating under a premises licence consideration should be given to the various activities proposed at the premises and these should be suitably assessed by way of risk assessments in addition to any updated documentation required in the premises health and safety policy and supporting documentation.

Means of Escape / Capacities.

In general capacities are initially based on the guidance provided in the District Surveyor's Technical Standards for Places of Entertainment. Thus number of exits, travel distances, width of exits, whether inward or outward opening and standard of fire detection and alarm systems are the principal considerations.

After the initial consideration the other factors that may further limit capacity are usually the following:

- i. Usable space for the proposed uses (e.g., for restaurant use usually require 1m square per patron, for bar use 0.3 – 0.5m square per patron).
- ii. Sanitary accommodation – provision should be at least in line with BS6465.

(Note it has not been able to provide capacity figures based on the plans submitted with this pre-application request as detailed information on the factors outlined above will normally be required. However before an application is submitted, when detailed plans are available, Environmental Health can advise on any proposed capacity).

General Public Safety Guidance

Doors;

Wherever possible all doors should open in direction of escape and where 60 or more people may need to escape the door should always open in the direction of escape (as noted in the above section also).

To clarify the width of a doorway is the clear width measured between the leaves (or, if a single door, the leaf and the frame or doorstop) of the doors when open at right angles to the frame. Door hardware may be ignored if the door opens more than 90 degrees to the frame. Doorways should be not less than 2060mm high except that the height may be reduced to 1960mm in existing buildings. Curtains or drapes should never be hung across doors or escape routes within any of the licensable areas as this could impede any evacuation.

Thresholds;

No door should ideally open immediately over or onto a step. A single step on the line of a doorway is not acceptable. A landing at least as wide as the door and at least as long as the width of the door plus 400mm, should be provided between the door and the first step of any stair.

There should be no upstand or threshold bar across any doorway or escape route, other than a chamfered weather bar or threshold seal for sound insulation protruding a maximum of 6mm and arranged so as not to cause a trip hazard.

Door fastenings;

All exit doors should be free from fastenings when public, entertainers or staff are present or have fastenings that may be readily opened in emergency without using both hands or a key to open the door.

Note 1: This does not preclude the use of a key to open the door from the outside.

Note 2: Any removable devices, such as locks, bolts, chains or padlocks, used to improve security must be removed before the premises are occupied. A door alarm system is preferable to removable security devices where possible.

Where there may be more than 60 people, any fastenings on doors should be panic bolts or panic latches operated by push bars complying with BS EN 1125.

If a room holds less than 60 people, push pads or lever handles complying with BS EN 179 are acceptable. The use of latches operated by lever handles should be avoided in public areas. Round knobs should not be used as they could be difficult to operate.

Any door furniture should be fitted between 800mm and 1200mm above floor level and should provide visual contrast with the surface of the doors. To avoid confusion push plates should usually be fitted for pushing doors and handles to pull doors.

Guarding and Barriers;

Any platforms, temporary or otherwise over 380mm high to which the public have access should be provided with suitable guarding.

Electrical Installations;

The electrical installation including the lighting installation, both normal and emergency, should comply with British Standard 7671. It should be shown to be safe and adequate before the premises operate under their license. This appears to be the case but is given for reference purposes and as guidance.

Any test and/or installation certificates for equipment brought in to support the theatrical performances, should be certified by an approved competent person and should be kept on the premises and available for inspection by authorised officers (Fire Officers, Licensing Officers, Environmental Health Officers etc.).

The approved competent person for the testing and certification of the electrical installation should be one of the following:

- (i) a qualified member of the Institution of Engineering & Technology, or
- (ii) a member of the Electrical Contractors Association, or
- (iii) a contractor enrolled with the National Inspection Council for Electrical Installation Contracting, or
- (iv) a competent person from a similar approved organisation.

All circuits should be protected by MCB over-current protection and all switchgear and distribution boards should be inaccessible to the public.

An independent switched socket should be provided adjacent to where permanent electrical equipment is installed as multi-socket outlet adaptors should not be used. Long flexible cables should be avoided because of the inherent electrical and trip hazards of such arrangements.

Note: Flexible cables should not normally exceed two metres; this includes transportable electrical equipment which is placed in position but not normally moved when connected. This limitation does not apply to mobile electrical equipment such as vacuum cleaners, which is moved while in operation or which may be easily moved from one place to another whilst connected to the electricity supply.

Electrical sockets located in any performance areas (if relevant) should be protected by residual current devices (RCDs) of 30 millamps/30 milliseconds sensitivity complying with BS 4293. Particular reference is drawn to the stage performance area proposed.

Lighting:

The premises should have an adequate supply of both normal and emergency and each system should be sufficient to enable the public, performers (if applicable) and staff to see their way to move around the premises safely and to escape from the premises. Particular attention is drawn to any changes of level proposed.

Adequate emergency lighting in addition to sufficient normal lighting should be provided so that all parts of the premises including toilets and internal and external exit routes leading to the street are illuminated. All emergency lighting should comply with BS 5266: Parts, 1, 7 & 8.

Both supplies of lighting should be independently capable of providing the recommended minimum illuminance. However, whilst both normal and emergency supplies are functioning properly, either or

both supplies may operate at a reduced level so long as the minimum recommended illuminance is provided. In the event of the failure of either supply the remaining supply should be automatically restored to full illuminance.

The lighting and emergency lighting circuits should not normally be switched off by the operation of any RCD. The lighting should be operated by an automatic switching system or remain on when the public are present. Light switches should preferably not be installed in public areas such as the event space but if so installed should be key-operated or otherwise protected from unauthorised operation.

Maintained emergency lighting (that is operating whenever the premises are occupied) should be installed where the normal lighting may be dimmed. Where non-maintained emergency lighting is installed, it should come into operation on the failure of the local normal lighting circuit forming part of the normal lighting.

Lighting fittings should be fixed at least 2100mm above floor level or pitch line of stairs. Suspended fittings, other than small lamp pendants, should be provided with suitable means of suspension independent of the electric cable. Heavy fittings should be rigidly fixed or be provided with two non-combustible independent means of suspension.

People with Impaired Mobility;

A suitable and sufficient method statement should be prepared detailing the physical and management provisions in place to ensure that people who have impaired mobility can escape in the event of a hazard. Reliance on the fire brigade to assist in the evacuation of disabled patrons is not satisfactory and considerable thought should be given to this subject to ensure compliance with the Equalities Act.

Special Effects;

Special effects such as dry ice, smoke, pyrotechnics, lasers, strobe lighting and real flame effects if proposed require specialists for both installation and operation. If the premises intend to use or allow third parties to use such effects on the premises site specific risk assessments should be carried out by the operator and the third party and a suitable condition allowing us to inspect before use should be proposed at the application stage.

Exit Signage;

All exit routes should be suitably signed throughout the floor space to direct people to the exits.

b) Sanitary accommodation

Any sanitary accommodation provision should be based on guidance provided under *British Standard 6465 -1:2006 + A1:2009; Sanitary installations – Part 1: Code of practice for the design of sanitary facilities and scale of provision of sanitary and associated appliances, Restaurants ‘Table 10’*. Once a proposed capacity is worked out I am happy to provide further advice on the precise requirements.

Also note Building Control requirements for new premises or premises undergoing substantial refurbishment usually require provision of a disabled or accessible facility. Environmental Health would normally accept that one of the female facilities can be dual use and thus included as part of the overall provision for customers.

In addition, premises that are food led should also be providing sanitary accommodations that are separate from that provided for the public so as to be in compliance with guidance to food hygiene legislation.

Please note in premises where food and drink is provided all toilets should be separated by a lobby from food eating, storage and preparation areas. If possible, this should include disabled/accessible units but enhanced mechanical air change ventilation may be an acceptable alternative in this situation.

c) Kitchen refurbishment/ prevention of odour and noise nuisance

The planning permission has not specified installation of a particular scheme to prevent odour nuisance. However any scheme should be based on the detailed advice available on the Council's website at:

- <https://www.westminster.gov.uk/westminster-environment-guidance-section-b/section-b-odour>

The whole of Westminster is an Air Quality Management Area (AQMA) under the Clean Air Acts and if there is any intention to employ solid fuel cooking (e.g., wood, charcoal etc) then must also comply with smoke control area requirements – for permissible equipment and/or fuels that can be used in such areas see website at:

- <https://www.gov.uk/smoke-control-area-rules>

3. Conditions Recommended:

As well as the restaurant use conditions advised above the conditions below are recommended to be submitted with an application based on these proposals (please note I have also included conditions that the Police normally request):

MC47:

A Challenge 21 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognized photographic identification cards, such as a driving licence, passport or proof of age card with the PASS Hologram.

MC01:

- (a) The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team.
- (b) All entry and exit points will be covered enabling frontal identification of every person entering in any light condition.
- (c) The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises and will include the external area immediately outside the premises entrance.
- (d) All recordings shall be stored for a minimum period of 31 days with date and time stamping.
- (e) Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the entire 31-day period.

MC02:

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 authorized council officer copies of recent CCTV images or data with the absolute minimum of delay when requested.

MC48:

A record shall be kept detailing all refused sales of alcohol. The record should include the date and time of the refused sale and the name of the member of staff who refused the sale. The record shall be available for inspection at the premises by the police or an authorised officer of the City Council at all times whilst the premises is open

MC49:

An incident log shall be kept at the premises and made available on request to an authorised officer of the City Council or the Police. It must be completed within 24 hours of the incident and will record the following:

- (a) all crimes reported to the venue
- (b) all ejections of patrons
- (c) any complaints received concerning crime and disorder
- (d) any incidents of disorder
- (e) all seizures of drugs or offensive weapons

- (f) any faults in the CCTV system
- (g) any refusal of the sale of alcohol
- (h) any visit by a relevant authority or emergency service.

MC11:

A noise limiter must be fitted to the musical amplification system and maintained in accordance with the following criteria:

- (a) the limiter must be set at a level determined by and to the satisfaction of an authorised Environmental Health Officer, so as to ensure that no noise nuisance is caused to local residents or businesses,**
- (b) The operational panel of the noise limiter shall then be secured by key or password to the satisfaction of the authorised Environmental Health Officer and access shall only be by persons authorised by the Premises Licence holder,**
- (c) The limiter shall not be altered without prior written agreement from the Environmental Health Consultation Team,**
- (d) No alteration or modification to any existing sound system(s) should be affected without prior knowledge of the Environmental Health Consultation Team, and**
- (e) No additional sound generating equipment shall be used on the premises without being routed through the sound limiter device.**

MC12:

No noise generated on the premises, or by its associated plant or equipment, shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.

MC87:

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.

MC51:

Any special effects or mechanical installations shall be arranged, operated and stored so as to minimise any risk to the safety of those using the premises. The following special effects will only be used on 10 days prior notice being given to the licensing authority where consent has not previously been given:

- dry ice and cryogenic fog