

# Licensing Sub-Committee Report

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| Item No:           |   |
| Date:              | 25 January 2018   |
| Licensing Ref No:  | 17/14438/LIPN - New Premises Licence                        |
| Title of Report:   | Itsu<br>38 - 40 Eastcastle Street<br>London<br>W1W 8DT      |
| Report of:         | Director of Public Protection and Licensing                 |
| Wards involved:    | West End  |
| Policy context:    | City of Westminster Statement of Licensing Policy           |
| Financial summary: | None  |
| Report Author:     | Ms Daisy Gadd<br>Senior Licensing Officer                   |
| Contact details    | Telephone: 0207 641 2737<br>Email: dgadd@westminster.gov.uk |

## 1. Application

| 1-A Applicant and premises        |   |                                |          |
|-----------------------------------|---|--------------------------------|----------|
| <b>Application Type:</b>          | New Premises Licence, Licensing Act 2003  |                                |          |
| <b>Application received date:</b> | 5 December 2017   |                                |          |
| <b>Applicant:</b>                 | Itsu Limited  |                                |          |
| <b>Premises address:</b>          | 38 - 40 Eastcastle Street<br>London<br>W1W 8DT  | <b>Ward:</b>                   | West End |
|                                   |   | <b>Cumulative Impact Area:</b> | None     |
| <b>Premises description:</b>      | According to the application, the premises intends to operate as a Japanese Cafe serving sushis, salads and noodle dishes.  |                                |          |
| <b>Premises licence history:</b>  | This is a new premises licence and therefore no history exists.   |                                |          |
| <b>Applicant submissions:</b>     | None  |                                |          |
| <b>Plans:</b>                     | Plans are available to view upon request to the Licensing Authority and they will be made available at Licensing Committee. |                                |          |

| 1-B Proposed licensable activities and hours      |            |             |            |                                 |            |            |            |
|---|------------|-------------|------------|---------------------------------|------------|------------|------------|
| <b>Sale by retail of alcohol</b>                  |            |             |            | <b>On or off sales or both:</b> |            | Both       |            |
| <b>Day:</b>                                       | <b>Mon</b> | <b>Tues</b> | <b>Wed</b> | <b>Thur</b>                     | <b>Fri</b> | <b>Sat</b> | <b>Sun</b> |
| <b>Start:</b>                                     | 10:00      | 10:00       | 10:00      | 10:00                           | 10:00      | 10:00      | 12:00      |
| <b>End:</b>                                       | 23:00      | 23:00       | 23:00      | 23:00                           | 23:00      | 23:00      | 22:30      |
| <b>Seasonal variations/ Non-standard timings:</b> |            |             | None       |                                 |            |            |            |

| Hours premises are open to the public             |            |             |            |             |            |            |            |
|---|------------|-------------|------------|-------------|------------|------------|------------|
| <b>Day:</b>                                       | <b>Mon</b> | <b>Tues</b> | <b>Wed</b> | <b>Thur</b> | <b>Fri</b> | <b>Sat</b> | <b>Sun</b> |
| <b>Start:</b>                                     | 07:00      | 07:00       | 07:00      | 07:00       | 07:00      | 07:00      | 07:00      |
| <b>End:</b>                                       | 23:30      | 23:30       | 23:30      | 23:30       | 23:30      | 23:30      | 23:00      |
| <b>Seasonal variations/ Non-standard timings:</b> |            |             | None       |             |            |            |            |
| <b>Adult Entertainment:</b>                       |            |             | None       |             |            |            |            |

## 2. Representations

|  |  |
|--|--|
| <b>2-A Responsible Authorities</b>   |  |
| <b>Responsible Authority:</b>  | Metropolitan Police Service (withdrawn)            |
| <b>Representative:</b>   | PC Bryan Lewis                                     |
| <b>Received:</b>   | 19 December 2017                                   |
| <b>Our objections relate to the following:</b>   |  |
| <ul style="list-style-type: none"><li>• Insufficient control measures offered to prevent crime and disorder</li></ul>  |  |
| <b>Following the agreement of the Environmental Health proposed conditions, the Metropolitan Police Service have withdrawn their representation.</b>   |  |
| <b>Responsible Authority:</b>  | Environmental Health Consultation Team (withdrawn) |
| <b>Representative:</b>   | Mr Maxwell Koduah                                  |
| <b>Received:</b>   | 21 December 2017                                   |
| <p>I refer to the application for a new Premises Licence.</p> <p>This representation is based on the operating schedule and accompanying plans of basement and ground floors by RMLA Architecture dated 7ovember 2015 ref 1613-1246-P-01</p> <p>The applicant is seeking the following licensable activities</p> <ol style="list-style-type: none"><li>1. Supply of alcohol for consumption "On" and "Off" the premises at the following times:<ul style="list-style-type: none"><li>○ Monday –Saturday: 10:00 – 23:00 hours</li><li>○ Sunday: 12:00 - 22:30</li></ul></li></ol> <p>I wish to make the following representation</p> <ol style="list-style-type: none"><li>1. The supply of alcohol and hours requested will have the likely effect of causing an increase in Public Nuisance and impact on Public Safety within the area</li></ol> <p>The granting of the application as presented would have the likely effect of causing an increase in Public Nuisance and impact on Public Safety within the area.</p> <p>The applicant has provided some conditions in support of the application which are being considered but do not fully address the concerns of Environmental Health.</p> <p>The applicant is asked to contact the undersigned to arrange a site visit to assess the premises to ensure the premises is satisfactory and following this, additional conditions may be recommended by Environmental Health to support the licensing objectives Prevention of Public Nuisance and Public Safety.</p> <p><b>Following the agreement of conditions, Environmental Health have withdrawn their representation.</b></p> |  |

| <b>2-B Other Persons</b>  |                  |
|---|------------------|
| <b>Received:</b>  | 19 December 2017 |
| Our association objects to this application. We are concerned that the premises will be run as a bar unless conditions are offered. There is an accumulation of licensed remises in this area and we are concerned to prevent public nuisance due to noise disturbance on the amenity of local residents. |                  |

### 3. Policy & Guidance

| The following policies within the City Of Westminster Statement of Licensing Policy apply: |  |
|--|--|
| <b>Policy HRS1 applies:</b>  | <p>(i) Applications for hours within the core hours set out below in this policy will generally be granted, subject to not being contrary to other policies in the Statement of Licensing Policy.</p> <p>(ii) Applications for hours outside the core hours set out below in this policy will be considered on their merits, subject to other relevant policies.</p> |

### 4. Equality Implications

The Council in its capacity as Licensing Authority has a duty to have regard to its public sector equality duty under section 149 of the Equality Act 2010. In summary, section 149 provides that a Public Authority must, in the exercise of its functions, have due regard to the need to:

- (a) eliminate discrimination harassment, victimisation and any other conduct that is prohibited by or under this Act;
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- (c) foster good relations between persons who share a relevant protected characteristics and persons who do not share it.

Section 149 (7) of the Equality Act 2010 defines the relevant protected characteristics as age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.

## 5. Appendices

|                   |  |
|-------------------|--|
| <b>Appendix 1</b> | Applicant supporting documents                       |
| <b>Appendix 2</b> | Premises history                                     |
| <b>Appendix 3</b> | Proposed conditions                                  |
| <b>Appendix 4</b> | Residential map and list of premises in the vicinity |

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|-----------------------|---|
| <b>Report author:</b> | Ms Daisy Gadd<br>Senior Licensing Officer                   |
| <b>Contact:</b>       | Telephone: 0207 641 2737<br>Email: dgadd@westminster.gov.uk |

**If you have any queries about this report or wish to inspect one of the background papers please contact the report author.**

### **Background Documents – Local Government (Access to Information) Act 1972**

|          |   |                              |
|----------|---|------------------------------|
| <b>1</b> | Licensing Act 2003  | N/A                          |
| <b>2</b> | City of Westminster Statement of Licensing Policy                   | 7 <sup>th</sup> January 2016 |
| <b>3</b> | Amended Guidance issued under section 182 of the Licensing Act 2003 | March 2015                   |
| <b>4</b> | Representation Metropolitan Police Service                          | 19 December 2017             |
| <b>5</b> | Representation Environmental Health Consultation Team               | 21 December 2017             |
| <b>6</b> | Representation Fitzrovia Neighbourhood Association                  | 19 December 2017             |

## **Applicant Supporting Documents**

## **Appendix 1**

None submitted

## **Premises History**

## **Appendix 2**

There is no licence or appeal history for the premises.

### **CONDITIONS CONSISTENT WITH THE OPERATING SCHEDULE AND CONDITIONS PROPOSED BY A PARTY TO THE HEARING**

When determining an application for a new premises licence under the provisions of the Licensing Act 2003, the licensing authority must, unless it decides to reject the application, grant the licence subject to the conditions which are indicated as mandatory in this schedule.

At a hearing the licensing authority may, in addition, and having regard to any representations received, grant the licence subject to such conditions which are consistent with the operating schedule submitted by the applicant as part of their application, or alter or omit these conditions, or add any new condition to such extent as the licensing authority considers necessary for the promotion of the licensing objectives.

This schedule lists those conditions which are consistent with the operating schedule, or proposed as necessary for the promotion of the licensing objectives by a responsible authority or an interested party as indicated. These conditions have not been submitted by the licensing service but reflect the positions of the applicant, responsible authority or interested party and have not necessarily been agreed

#### **Mandatory Conditions**

1. No supply of alcohol may be made at a time when there is no designated premises supervisor in respect of this licence.
2. No supply of alcohol may be made at a time when the designated premises supervisor does not hold a personal licence or the personal licence is suspended.
3. Every supply of alcohol under this licence must be made or authorised by a person who holds a personal licence.
4.
  - (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
  - (2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises—
    - (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to;
      - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
      - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);



- (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
  - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
  - (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
  - (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).
- 5. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
- 6.
  - (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
  - (2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
  - (3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either—
    - (a) a holographic mark, or
    - (b) an ultraviolet feature.
- 7. The responsible person must ensure that—
  - (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—
    - (i) beer or cider: ½ pint;
    - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
    - (iii) still wine in a glass: 125 ml;

- (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
- (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

A responsible person in relation to a licensed premises means the holder of the premise licence in respect of the premises, the designated premises supervisor (if any) or any individual aged 18 or over who is authorised by either the licence holder or designated premises supervisor. For premises with a club premises certificate, any member or officer of the club present on the premises in a capacity that which enables him to prevent the supply of alcohol.

8(i) A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

8(ii) For the purposes of the condition set out in paragraph 8(i) above -

- (a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;
- (b) "permitted price" is the price found by applying the formula -

$$P = D + (D \times V)$$

Where -

- (i) P is the permitted price,
  - (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
  - (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
- (c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence -
- (i) the holder of the premises licence,
  - (ii) the designated premises supervisor (if any) in respect of such a licence, or
  - (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;
- (d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and

- (e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.
- 8(iii). Where the permitted price given by Paragraph 8(ii)(b) above would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.
- 8(iv). (1) Sub-paragraph 8(iv)(2) below applies where the permitted price given by Paragraph 8(ii)(b) above on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.
- (2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

**Conditions consistent with the operating schedule**

None

**Conditions proposed by Environmental Health and agreed with the applicant and so as to be incorporated within the operating schedule**

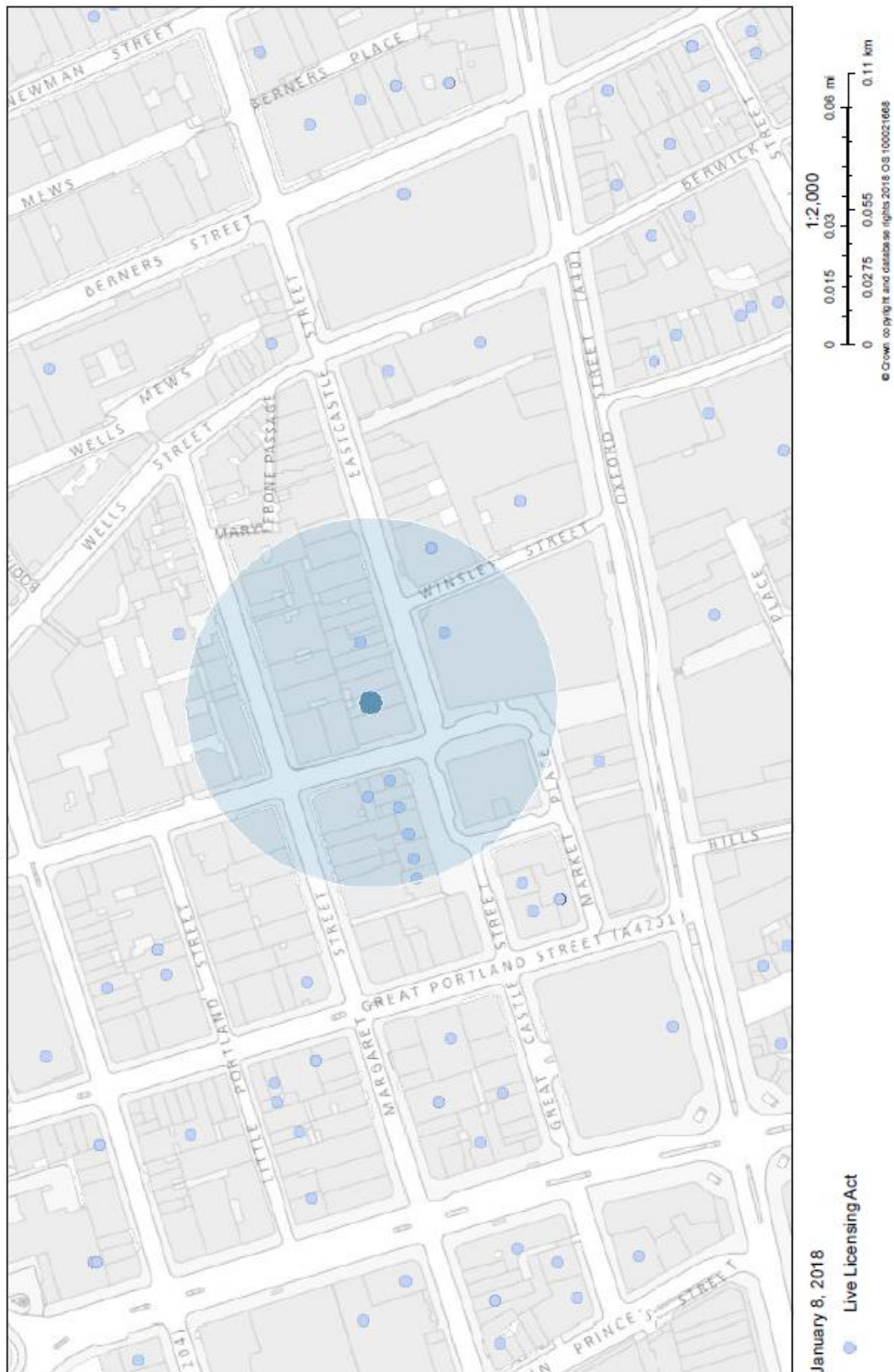
9. Licensable activities are restricted to the ground floor only.
10. The consumption of alcohol on the premises shall only be to a person seated taking a meal there and for consumption by such a person as ancillary to their meal.
11. Sales of alcohol for consumption off the premises shall be in sealed containers only and supplied ancillary to a take away meal.
12. Substantial food and non-intoxicating beverages, including drinking water, shall be available in all parts of the premises where alcohol is sold or supplied for consumption on the premises.
13. 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 proof of age card with the PASS Hologram.
14. 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 is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the preceding 31 day period.

15. 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 is 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.
16. 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
  - (g) any refusal of the sale of alcohol
  - (h) any visit by a relevant authority or emergency service
17. Patrons permitted to temporarily leave and then re-enter the premises, eg to smoke, shall not be permitted to take drinks or glass containers with them.
18. 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.
19. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.

**Conditions proposed by the Police**

None

Itsu, 38 - 40 Eastcastle Street



Resident count = 20

| <b>Licence Number</b> | <b>Trading Name</b>    | <b>Address</b>  | <b>Premises Type</b>   | <b>Time Period</b>   |
|-----------------------|------------------------|---|------------------------|--|
| 06/07055/WCCMAP       | Castle News            | Ground Floor West 34-35 Eastcastle Street London W1W 8DW          | Shop                   | Monday to Friday: 07:00 - 18:30   Saturday: 09:00 - 18:30  |
| 15/07032/LIPCH        | Honest Burgers         | 4 Market Place London W1W 8AD                                     | Restaurant             | Monday to Thursday: 10:00 - 00:00   Friday to Saturday: 10:00 - 00:30   Sunday: 12:00 - 23:00  |
| 16/09297/LIPDPS       | Pho                    | 3 Great Titchfield Street London W1W 8AX                          | Restaurant             | Monday to Saturday: 10:00 - 00:30   Sunday: 12:00 - 00:00  |
| 16/13537/LIPDPS       | Ethos Foods            | 48 Eastcastle Street London W1W 8DX                               | Restaurant             | Monday to Friday: 07:00 - 00:30   Saturday: 08:00 - 00:30   Sunday: 09:00 - 00:00  |
| 17/06532/LIPDPS       | Tortilla               | Ground Floor 6 Market Place London W1W 8AE                        | Restaurant             | Monday to Sunday: 08:00 - 23:30  |
| 14/08090/LIPV         | Carluccio's            | 7-8 Market Place London W1W 8AG                                   | Restaurant             | Monday to Saturday: 10:00 - 00:30   Sunday: 12:00 - 00:00  |
| 17/11093/LIPDPS       | Coppa Club             | Ground Floor 9 - 10 Market Place London W1W 8AJ                   | Restaurant             | Monday to Saturday: 10:00 - 00:30   Sunday: 12:00 - 00:00  |
| 16/08677/LIPDPS       | Busaba Eathai          | 52 Eastcastle Street London W1W 8ED                               | Not Recorded           | Monday to Saturday: 07:00 - 00:30   Sunday: 07:00 - 23:30  |
| 17/10643/LIPDPS       | Yalla Yalla Restaurant | Ground Floor Princess House 10 - 12 Winsley Street London W1W 8HQ | Restaurant             | Monday to Saturday: 10:00 - 00:30   Sunday: 12:00 - 00:00  |
| 13/10188/LIPVM        | Market Place           | 11 - 13 Market Place London W1W 8AH                               | Night clubs and discos | Monday to Wednesday: 08:00 - 00:30   Thursday to Saturday: 08:00 - 02:30   Thursday to Saturday: 08:00 - 01:30   Sunday: 08:00 - 23:00 |