

Licensing Sub-Committee Report

Item No:	
Date:	14 June 2018
Licensing Ref No:	18/02769/LIPN - New Premises Licence
Title of Report:	Sports Direct Sixth Floor, Academy House 36 Poland Street London W1F 7LU
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:	Miss Sam Eaton Senior Licensing Officer
Contact details	Telephone: 020 7641 2700 Email: seaton@westminster.gov.uk

1. Application

1-A Applicant and premises			
Application Type:	New Premises Licence, Licensing Act 2003		
Application received date:	13 March 2018		
Applicant:	The Good Eating Company		
Premises:	Sports Direct		
Premises address:	Sixth Floor Academy House 36 Poland Street London W1F 7LU	Ward:	West End
		Cumulative Impact Area:	West End
Premises description:	According to the application form the premises licence is requested for the space are situated on the 6th floor of the above address and will be accessible by a Sports Direct employee only and not open to the general public.		
Premises licence history:	The premises have not previously held a licence as therefore there is no licence history.		
Applicant submissions:	None.		
Plans:	Plans are available to view upon request to the Licensing Authority and they will be made available at Licensing Committee.		
Amendment to Application:	The applicant has amended the application to core hours as proposed by the Environmental Health Service: Monday-Thursday: 10:00 to 23:30 Friday-Saturday:10:00 to 00:00 Sunday: 12:00 to 22:30		

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

Amended Hours following Environmental Health discussions							
Sale by retail of alcohol				On or off sales or both:			On the Premises
Day:	Mon	Tues	Wed	Thur	Fri	Sat	Sun
Start:	10:00	10:00	10:00	10:00	10:00	10:00	12:00
End:	23:30	23:30	23:30	23:30	00:00	00:00	22:30
Seasonal variations/ Non-standard timings:	None.						

Hours premises are open to the public							
Day:	Mon	Tues	Wed	Thur	Fri	Sat	Sun
Start:	10:00	10:00	10:00	10:00	10:00	10:00	12:00
End:	00:00	00:00	00:00	00:00	00:00	00:00	22:30
Seasonal variations/ Non-standard timings:	None.						

2. Representations

2-A Responsible Authorities	
Responsible Authority:	Environmental Health Service
Representative:	Mr Anil Drayan
Received:	10 th May 2018
<p>I refer to the application for a new Premises Licence for the above premises which is located in the West End Cumulative Impact area.</p> <p>The applicant has submitted plans of the premises showing the 6th floor, drawing no 1-06-100 rev C8, dated 04.07.17.</p> <p>The following licensable activity is being sought:</p> <ol style="list-style-type: none"> To provide for the Supply of Alcohol 'On' the premises between 10:00 and 00:00 Monday to Saturday and 12:00 to 22:30 Sunday <p>I wish to make the following representations based on the plans submitted and the supporting operating schedule:</p> <ol style="list-style-type: none"> The hours requested for and the Supply of Alcohol may lead to an increase in Public Nuisance in the West End Cumulative Impact Area <p>The applicant has offered an extensive list of conditions and these are under consideration including their compliance with Cumulative Impact area policy. In addition, clarification is requested as some of these conditions refer to 'Eccleston Square' and 'Ecclestone Place'.</p> <p>There is also no indication of the proposed maximum capacity. I understand that the premises is currently undergoing construction/refurbishment for the proposed use. Nevertheless, a site visit may be useful in determining a potential capacity.</p> <p>The applicant is therefore requested to contact the undersigned to discuss all of the above after which Environmental Health may propose additional conditions.</p> <p>Further correspondence was sent from the applicant to Environmental Health Service on 16th May 2018 as follows:</p> <p>Apologies for the late replay, please find amended application summary attached and reply below.</p>	

I wish to make the following representations based on the plans submitted and the supporting operating schedule:

1. The hours requested for and the Supply of Alcohol may lead to an increase in Public Nuisance in the West End Cumulative Impact Area

I would like to specify this application is for an internal bar providing drinks to Sports Direct staff only and it will not be accessible to member of the public. The bar is situated on the 6th floor.

The applicant has offered an extensive list of conditions and these are under consideration including their compliance with Cumulative Impact area policy. In addition, clarification is requested as some of these conditions refer to 'Eccleston Square' and 'Ecclestone Place'.

The reference to Ecclestone Square was in error, please find amended application summary attached.

There is also no indication of the proposed maximum capacity. I understand that the premises is currently undergoing construction/refurbishment for the proposed use. Nevertheless, a site visit may be useful in determining a potential capacity.

Total capacity is set for 150 employee based on 3 floors, a site visit can be accommodated in order to clarify further queries.

Further correspondence was sent from the applicant to Environmental Health Service on 30th May 2018 as follows:

- a) In your attached list of conditions the application is summarised as;

*Sale of Alcohol / Recorded Music / Films
Mon-Fri: 10:00 to 00:00
Sun: 12:00 to 22:30*

Please note that you did not apply for Recorded Music or Films in your application so these cannot be included on any licence that may be granted – if granted then a variation application shall have to be made if these activities are still required (also note under the Live Music Act 2012 Recorded Music is exempt from requiring to be licenced upto 23:00 hours etc).

Also the premises are in the West End Cumulative impact Area and you should reduce your hours for the 'On' Sale of Alcohol to 'core' hours ie;

- *Sale of Alcohol Mon-Thu: 10:00 to 23:30, Fri-Sat:10:00 to 00:00 and Sun: 12:00 to 22:30*

- b) On further reflection, as the licensable activity is not for public use and restricted to a workplace, Environmental Health do not need to visit the premises and the 'works conditions' numbered 17 and 21 in your list can therefore be removed. However the following conditions should be added:

- i. *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.*
- ii. *No deliveries to the premises shall take place between (23.00) and (08.00) on the following day.*
- iii. *No collections of waste or recycling materials (including bottles) from the premises shall take place between (23.00) and (08.00) on the following day unless collections are arranged during the times for the Council's own commercial waste collection service for the street .*

Further to the agreement of the above conditions the Environmental Health service have withdrawn their representation.

Responsible Authority:	Metropolitan Police Service
Representative:	PC Toby Janes
Received:	8 th May 2018

With reference to the above application, I am writing to inform you that the Metropolitan Police, as a Responsible Authority, make a representation against the above application.

It is our belief that if granted the application would undermine the licensing objectives in relation to the prevention of crime and disorder as there are insufficient conditions within the operating schedule.

The venue is situated in the West End cumulative impact area, a locality where there is traditionally high crime and disorder. We have concerns that this application will cause further policing problems in an already demanding area.

I will be in touch shortly to discuss this application in more detail.

The applicant has responded providing the following information:

Thank you for sharing your concerns, I look forward discussing this further.

In the meantime, I would like to specify this application is for an internal bar providing drinks to Sports Direct staff only and it will not be accessible to member of the public. The bar is situated on the 6th floor.

The Metropolitan Police Service have proposed the following conditions:

1. 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.
2. A minimum of 1 SIA security will be on site at all times during licensable activity.

Hours for the sale of alcohol will be within core hours:

Monday – Thursday: 1000 – 2330,

Friday – Saturday: 1000 – Midnight

Sunday: Midday – 2230.

Could you please confirm if you would be happy to restrict the number of private events per year. At present there is no restriction and an event could be held every night.

3. Policy & Guidance

The following policies within the City Of Westminster Statement of Licensing Policy apply:	
Policy HRS1 applies:	<ul style="list-style-type: none">(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.(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.
Policy CIP1 applies:	<ul style="list-style-type: none">(i) It is the Licensing Authority's policy to refuse applications in the Cumulative Impact Areas for: pubs and bars, fast food premises, and premises offering facilities for music and dancing; other than applications to vary hours within the Core Hours under Policy HRS1.(ii) Applications for other licensable activities in the Cumulative Impact Areas will be subject to other policies, and must demonstrate that they will not add to cumulative impact in the Cumulative Impact Areas.
Policy PB2 applies:	It is the Licensing Authority's policy to refuse applications in the Cumulative Impact Areas other than applications to vary hours within the Core Hours under Policy HRS1.

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

Appendix 1	Premises plans
Appendix 2	Applicant supporting documents
Appendix 3	Premises history
Appendix 4	Proposed conditions
Appendix 5	Residential map and list of premises in the vicinity

Report author:	Miss Sam Eaton Senior Licensing Officer
Contact:	Telephone: 020 7641 2700 Email: seaton@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

1	Licensing Act 2003	N/A
2	City of Westminster Statement of Licensing Policy	7 th January 2016
3	Amended Guidance issued under section 182 of the Licensing Act 2003	April 2018
4	Environmental Health Service Representation	10 th May 2018
5	Metropolitan Police Service Representation	8 th May 2018

Premises Plans



- (f) the extent of the boundary of the building, if relevant, and any external and in See floor plan for boundary of building.
- (g) the location of points of access to and egress from the premises.
- (h) if different from sub-paragraph (3)(b), the location of escape routes from the premises where the premises is to be used for more than one licensed activity.
- (i) if different from sub-paragraph (3)(b), the location of any other
- (j) if different from sub-paragraph (3)(b), the location of any other
- (k) if different from sub-paragraph (3)(b), the location of any other
- (l) if different from sub-paragraph (3)(b), the location of any other
- (m) if different from sub-paragraph (3)(b), the location of any other
- (n) if different from sub-paragraph (3)(b), the location of any other
- (o) if different from sub-paragraph (3)(b), the location of any other
- (p) if different from sub-paragraph (3)(b), the location of any other
- (q) if different from sub-paragraph (3)(b), the location of any other
- (r) if different from sub-paragraph (3)(b), the location of any other
- (s) if different from sub-paragraph (3)(b), the location of any other
- (t) if different from sub-paragraph (3)(b), the location of any other
- (u) if different from sub-paragraph (3)(b), the location of any other
- (v) if different from sub-paragraph (3)(b), the location of any other
- (w) if different from sub-paragraph (3)(b), the location of any other
- (x) if different from sub-paragraph (3)(b), the location of any other
- (y) if different from sub-paragraph (3)(b), the location of any other
- (z) if different from sub-paragraph (3)(b), the location of any other

Applicant Supporting Documents

None.

Premises History

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

9. The venue shall install and maintain a comprehensive CCTV system at the premises as per the minimum requirements of a Metropolitan 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 venue 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. Recordings shall be immediately arranged by a member of staff for hand over to Police or authorised officer following their request, throughout the preceding 31 day period.
10. 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 to the public. This staff member must be able to show a Police or authorised council officer recent data or footage with the absolute minimum of delay when requested.
11. 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.
12. There shall be no advertising displayed on the building of the licensed facilities save for the name and nature of the business.
13. The premises shall operate as a private business club ancillary to the office use of the premises and alcohol may only be sold to:
 - a) Sports Direct Employee - those persons with a minimum three month contract to occupy office space at these or other Sports Direct premises;
 - b) Persons attending a private pre-booked event or function, a list of functions to be kept at reception for inspection by the relevant authorities;
 - c) Directors and employees of the licence holder and its affiliated companies;
 - d) Any guests of the above.
14. 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) any faults in the CCTV system
 - f) any refusal of the sale of alcohol
 - g) any visit by a relevant authority or emergency service.
15. Notices shall be prominently displayed at exits reminding persons leaving to respect the needs of local residents and businesses and to leave the premises quietly.
16. No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
17. No deliveries or collections shall be made to or from the Ecclestone Place entrance.

18. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
19. The edge of the treads of steps and stairways shall be maintained so as to be conspicuous.
20. 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.
21. 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.
22. All emergency doors shall be maintained effectively self closing and not held open other than by an approved device.
23. Off sales of alcohol shall be restricted to consumption within the premises at 84 Eccleston Square, as defined on the attached plans, and shall not be permitted to be taken outside of this premises.
24. 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.
25. 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.
26. The number of persons accommodated at any one time (excluding staff):
 - Sixth Floor TBC
 - To be agreed with the Environmental Health Consultation Team.
27. 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.
28. There shall be no self service of alcohol on the premises.
29. Loudspeakers shall not be located in the entrance lobby or outside the premises building.
30. No licensable activities shall take place at the premises until the premises has been assessed as satisfactory by the Environmental Health Consultation Team at which time this condition shall be removed from the Licence by the licensing authority.

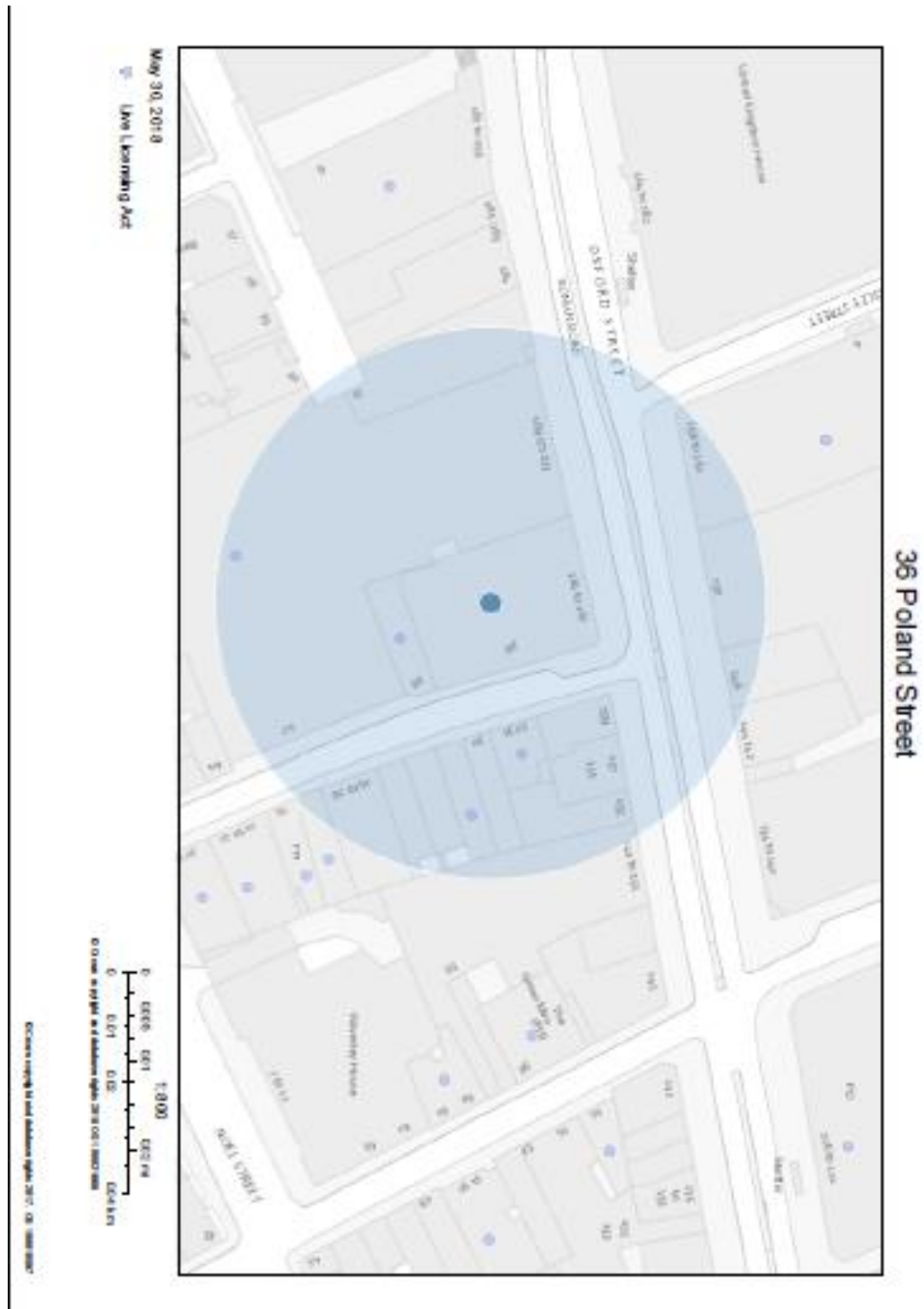
Conditions proposed by the Police and agreed with the applicant to be added to the operating schedule:

31. 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.
32. A minimum of 1 SIA security will be on site at all times during licensable activity.

Conditions proposed by the Environmental Health Service and agreed with the applicant to be added to the operating schedule:

33. *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.*
34. *No deliveries to the premises shall take place between (23.00) and (08.00) on the following day.*
35. *No collections of waste or recycling materials (including bottles) from the premises shall take place between (23.00) and (08.00) on the following day unless collections are arranged during the times for the Council's own commercial waste collection service for the street .*

Residential Map and List of Premises in the Vicinity



Resident Count: 121

Premises within 50 metres of: 36 Poland Street

p / n	Name of Premises	Premises Address	Licensed Hours
84000	The Chippy	Ground Floor 38 Poland Street London W1F 7LY	Monday to Saturday; 10:00 - 00:30 Sunday; 12:00 - 00:00
69778	Arirang Korean Restaurant	31-32 Poland Street London W1F 8QN	Monday to Saturday; 10:00 - 00:30 Sunday; 12:00 - 00:00
69776	Corazon	Ground Floor 29 Poland Street London W1F 8QN	Monday to Saturday; 10:00 - 00:30 Sunday; 12:00 - 00:00
41505	Marks & Spencer Plc	169-173 Oxford Street London W1D 2JR	Monday to Saturday; 07:00 - 23:00 Sunday; 09:00 - 22:30