



City of Westminster

Committee Agenda

Title: **Licensing Sub-Committee (4)**

Meeting Date: **Thursday 4th April, 2019**

Time: **10.00 am**

Venue: **Rooms 18.01 & 18.03, 18th Floor, 64 Victoria Street, London, SW1E 6QP**

Members: **Councillors:**

Karen Scarborough (Chairman)
Peter Freeman
Aziz Toki

Members of the public are welcome to attend the meeting and listen to the discussion Part 1 of the Agenda

Admission to the public gallery is via a visitor's pass which is available from the main ground floor reception at 5 Strand from 9.30am. If you have a disability and require any special assistance please contact the Committee Officer (details listed below) in advance of the meeting.



An Induction loop operates to enhance sound for anyone wearing a hearing aid or using a transmitter. If you require any further information, please contact the Committee Officer, Kisi Smith-Charlemagne, Senior Committee and Governance Officer.

Email: kscharlemagne@westminster.gov.uk Tel: 020 7641 2783

Corporate Website: www.westminster.gov.uk

Note for Members: Members are reminded that Officer contacts are shown at the end of each report and Members are welcome to raise questions in advance of the meeting. With regard to item 2, guidance on declarations of interests is included in the Code of Governance; if Members and Officers have any particular questions they should contact the Director of Law in advance of the meeting please.

AGENDA

PART 1 (IN PUBLIC)

1. MEMBERSHIP

To report any changes to the membership.

2. DECLARATIONS OF INTEREST

To receive declarations by Members and Officers of any personal or prejudicial interests in matters on this agenda.

Licensing Applications for Determination

1. 42 NORTH AUDLEY STREET, LONDON, W1K 6WG

(Pages 1 - 16)

App No	Ward / Cumulative Impact Area	Site Name and Address	Application	Licensing Reference Number
1.	West End Ward/ Not in Cumulative Impact Area	42 North Audley Street, London, W1K 6WG	New Premises Licence	19/01613/LIPN

**Stuart Love
Chief Executive
28 March 2019**

In considering applications for premises licences under the Licensing Act 2003, the sub-committee is advised of the following:

POLICY CONSIDERATIONS

The Licensing Sub-Committee is required to have regard to the City of Westminster statement of Licensing Policy, effective from 7th January 2016.

GUIDANCE CONSIDERATIONS

The Licensing Sub-Committee is required to have regard to any guidance issued by the Secretary of State under Section 182 the Licensing Act 2003. The most recent version was published in April 2018.

CORE HOURS WHEN CUSTOMERS ARE PERMITTED TO BE ON THE PREMISES (As set out in the Council's Statement of Licensing Policy 2016)

- For premises for the supply of alcohol for consumption on the premises:

Friday and Saturday: 10:00 to midnight
Sundays immediately prior to Bank Holidays: Midday to midnight
Other Sundays: Midday to 22:30
Monday to Thursday: 10:00 to 23:30.

- For premises for the supply of alcohol for consumption off the premises:

Monday to Saturday: 08:00 to 23:00
Sundays: 10:00 to 22:30.

- For premises for the provision of other licensable activities:

Friday and Saturday: 09.00 to midnight
Sundays immediately prior to Bank Holidays: 09.00 to midnight
Other Sundays: 09.00 to 22.30
Monday to Thursday: 09.00 to 23.30.

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Item No:	
Date:	4 April 2019
Licensing Ref No:	19/01613/LIPN - New Premises Licence
Title of Report:	42 North Audley Street London W1K 6WG
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:	Kevin Jackaman Senior Licensing Officer
Contact details	Telephone: 0207 641 8094 Email: kjackaman@westminster.gov.uk

1. Application

1-A Applicant and premises			
Application Type:	New Premises Licence, Licensing Act 2003		
Application received date:	8 February 2019		
Applicant:	Grosvenor West End Properties		
Premises address:	42 North Audley Street London W1K 6WG	Ward:	West End Ward
		Cumulative Impact Area:	None
Premises description:	According to the application form the premises are a Restaurant over ground and basement level.		
Premises licence history:	This is a new premises licence and therefore no history exists.		
Applicant submissions:	None		

1-B Proposed licensable activities and hours							
Late Night Refreshment:				Indoors, outdoors or both			Indoors
Day:	Mon	Tues	Wed	Thur	Fri	Sat	Sun
Start:	23:00	23:00	23:00	23:00	23:00	23:00	N/A
End:	23:30	23:30	23:30	23:30	00:00	00:00	N/A
Seasonal variations/ Non-standard timings:		From the end of permitted hours on New Years' Eve to the start of permitted hours on New Years' Day. Until midnight Sundays before bank holiday Mondays.					

Sale by retail of alcohol				On or off sales or both:			Both
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:		From the end of permitted hours on New Years' Eve to the start of permitted hours on New Years' Day. Until midnight Sundays before bank holiday Mondays.					

Hours premises are open to the public							
Day:	Mon	Tues	Wed	Thur	Fri	Sat	Sun
Start:	07:30	07:30	07:30	07:30	07:30	07:30	07:30
End:	00:00	00:00	00:00	00:00	00:00	00:00	22:30
Seasonal variations/ Non-standard timings:		From the end of permitted hours on New Years' Eve to the start of permitted hours on New Years' Day. Until midnight Sundays before bank holiday Mondays.					

2. Representations

2-A Responsible Authorities	
Responsible Authority:	Environmental Health Service
Representative:	Anil Drayan
Received:	7 March 2019

I refer to the application for a new Premises Licence for the above premises

The following plans have been submitted in support of the application:

- Ground floor and Lower Ground Floor, drawing no PR.001, dated 12.02.06

The applicant is seeking the following licensable activities:

1. Supply of alcohol 'on' and 'off' the premises from 10:00 to 23:30 hours Monday to Thursday, 10:00 to 00:00 hours Friday and Saturday and 12:00 to 22:30 Sunday. Non Standard times these hours to be extended: from the end of permitted hours on New Years' Eve to the start of permitted hours on New Years' Day and until midnight Sundays before bank holiday Mondays.
2. Late Night Refreshment from 23:00 to 23:30 hours Monday to Thursday and 23:00 to 00:00 hours Friday and Saturday. Non Standard times these hours to be extended: from the end of permitted hours on New Years' Eve to the start of permitted hours on New Years' Day and until midnight Sundays before bank holiday Mondays.

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

1. The supply of Alcohol and for the hours requested may have the effect of increasing Public Nuisance in the area.
2. The provision of Late Night Refreshment may have the effect of increasing Public Nuisance in the area.

Environmental health also makes the following further comments:

- Conditions have been offered in the operating schedule and these are under consideration as to whether they there are sufficient to allay Environmental Health concerns.
- It is unclear if the premises has already been constructed for the proposed use and will in any case need to be inspected for Public Safety prior to commencement of any licensable activities
- The food preparation/cooking facilities will need to be assessed in order to evaluate whether Public Nuisance may arise from cooking odour and/or noise from the operation of any plant and machinery.
- The provision of sanitary accommodation for any proposed capacity is recommended to be in line with at least the minimum requirements as set out in British Standard 6465.

The applicant is therefore requested to contact the undersigned to discuss the above issues and arrange a site visit after which Environmental Health may propose additional conditions for the proposed use.

2-B Other Persons	
Name:	[REDACTED]
Address and/or Residents Association:	[REDACTED] [REDACTED] [REDACTED] [REDACTED]
Received:	5 March 2019

[REDACTED] objects to the grant of this application as it stands, on the grounds that there are inadequate safeguards for public safety, and for prevention of noise nuisance to local residents during late evenings. In WCC responses to the planning application for this premises, there was underestimation of its impacts on the local environment, perhaps in part because the local acoustic dynamics affecting the residential area east of North Audley Street was not taken into account.

The premises is located on the corner of North Audley Street and Lees Place,. Residents live above and close to the premises on North Audley Street, Lees Place is residential, and Providence Court, almost opposite the premises, has residential properties.

Noise from this part of North Audley Street, such as bottle 'cascades' and deliveries, shopfitting, waste/recycling collections, carries down Providence Court into the residential neighbourhood around Balderton Street and Brown Hart Gardens. This residential 'square' comprises a built amplifier, so noise gets louder and echoes around the neighbourhood.

The community around Brown Hart Gardens is also affected by commercial properties' servicing and deliveries because North Audley Street is one way, and the residential side streets are used as rat-runs to and from Duke Street, or as a turning-loop (involving North Row eastern section where there are residents).

Conditions 13, 14 and 15 prevent deliveries and waste/recycling collections from taking place between 11pm and 7am, and prevent movement of waste/recycling materials including bottles between the same hours.

To permit these activities as early as 7am and as late as 11pm is to allow deliveries, waste and recycling vehicles to roar through residential side streets before 7am and after 11pm. There are no restrictions proposed on other types of servicing, such as shopfitting, or the annual deep clean that some restaurants carry out. These services are typically carried out throughout the night, often for a number of nights running, with power equipment, electric or even powered by diesel generator, being used outside premises on the pavement.

These hours should be changed to between 8pm and 7am for some essential food deliveries, and 8pm and 8am for waste, recycling, all other deliveries, servicing and movement of goods outside the premises.

Customers of existing local A3 premises often park in the local residential streets; in winter, customers' chauffeurs park outside residents' flats with engines running for long periods, trying to keep warm. The noise amplifies in the narrow streets and courtyards, causing noise nuisance, and the fumes get into people's homes. Neither London Met Police nor WCC have late evening or night-time officials available to stop this behaviour.

If the premises is unable to provide a chauffeur's/private hire drivers' room for winter use, there should be a policy for ensuring that staff direct chauffeured vehicles to nearby car parks, and ask them not to run engines while waiting.

There is also concern about proposed Condition 17, which seems to imply that there will be an application for a sexual entertainment license. This is not a use that would be appropriate for this locality.

There seems to be no Operational Management Plan with this application.

3. Policy & Guidance

The following policies within the City Of Westminster Statement of Licensing Policy apply:

<p>Policy HRS1 applies</p>	<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> <p><u>For premises for the supply of alcohol for consumption on the premises:</u></p> <p>Monday to Thursday: 10:00 to 23:30 Friday and Saturday: 10:00 to midnight Sundays immediately prior to Bank Holidays: Midday to midnight Other Sundays: Midday to 22:30</p> <p><u>For premises for the provision of other licensable activities:</u></p> <p>Monday to Thursday: 09:00 to 23.30 Friday and Saturday: 09:00 to midnight Sundays immediately prior to Bank Holidays: 09:00 to midnight Other Sundays: 09:00 to 22:30</p>
<p>Policy RTN1 applies</p>	<p>Applications will only be granted if it can be demonstrated that the proposal meets the relevant criteria in Policies CD1, PS1, PN1 and CH1</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

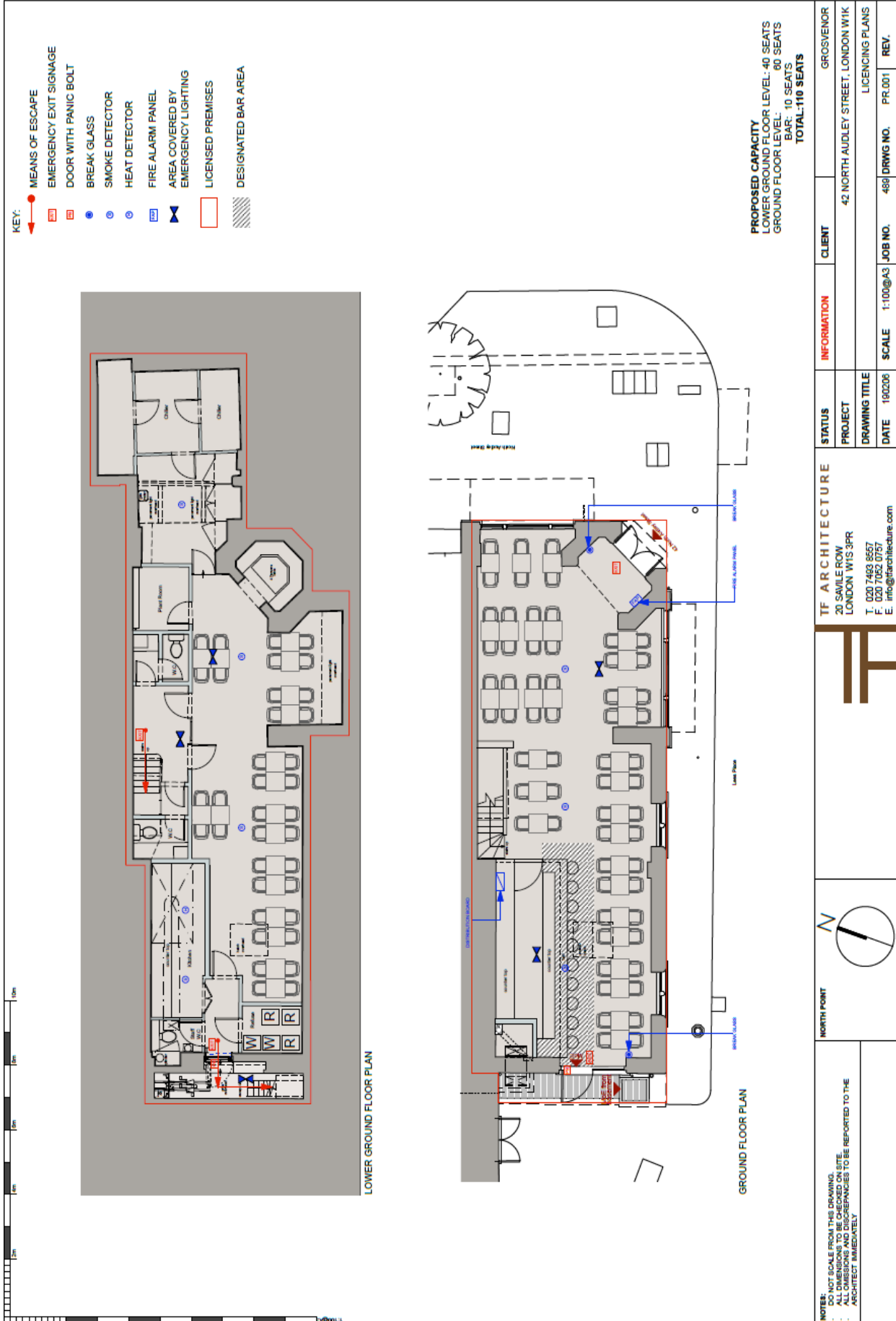
Appendix 1	Premises plans
Appendix 2	Applicant supporting documents
Appendix 3	Premises history
Appendix 4	Proposed conditions
Appendix 5	Residential map and list of premises in the vicinity

Report author:	Kevin Jackaman Senior Licensing Officer
Contact:	Telephone: 0207 641 8094 Email: kjackaman@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 January 2016
3	Amended Guidance issued under section 182 of the Licensing Act 2003	April 2018
4	Environmental Health Service Representation	7 March 2019
5	Interested Party Representation	5 March 2019



Applicant Supporting Documents

Appendix 2

None submitted

Premises History

Appendix 3

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.

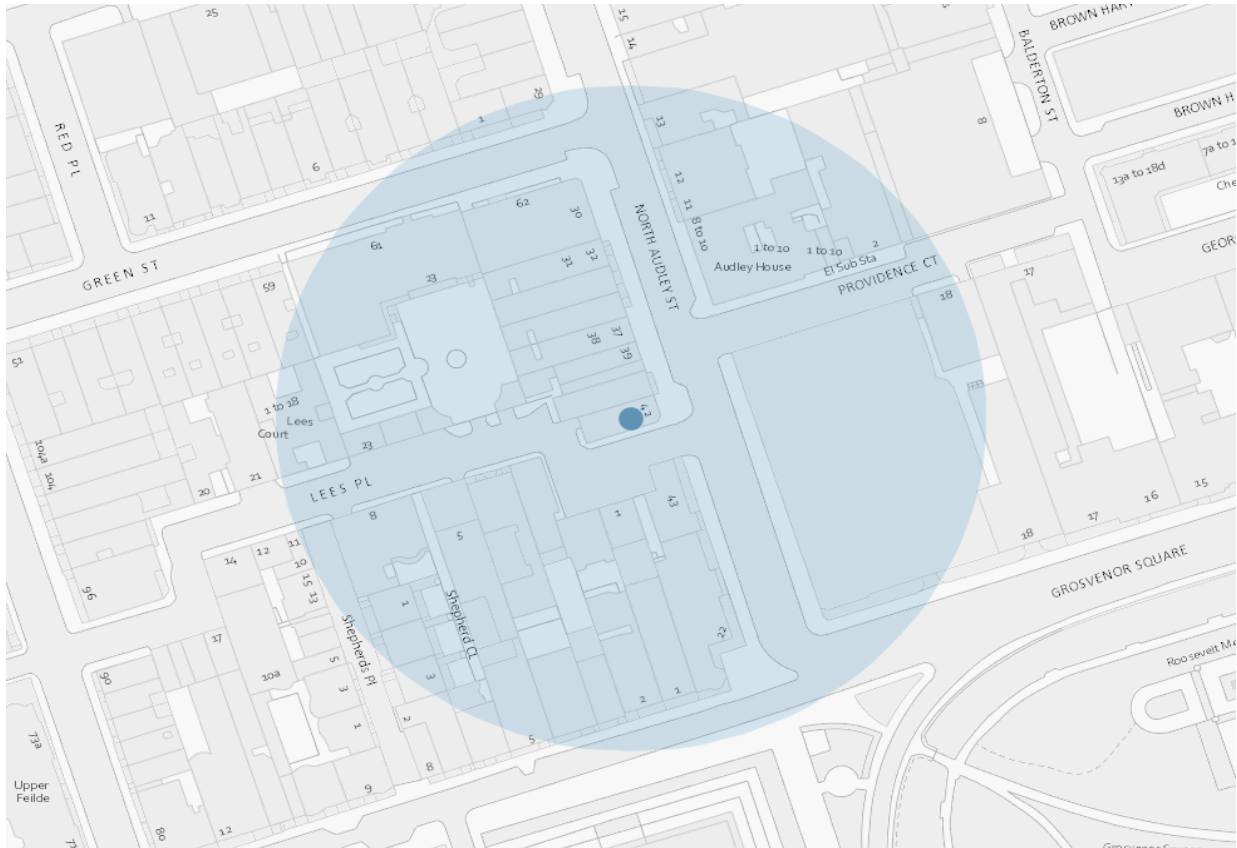
A responsible person in relation to a licensed premises means the holder of the premise licence in respect of the premises, the designated premises supervisor (if any) or any individual aged 18 or over who is authorised by either the licence holder or designated premises supervisor. For premises with 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 supply of alcohol at the premises shall only be to a person seated taking a substantial table meal there and for consumption by such a person as ancillary to their meal.
10. In the designated bar area, hatched black on the licence plans, alcohol can only be served to persons before, during or after a substantial table meal consumed at the premises.
11. The supply of alcohol on the premises shall be by waiter or waitress service only.
12. There shall be no sales of hot food or hot drink for consumption off the premises after 23.00.
13. 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.
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 entire 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. Challenge 21, a 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 or passport.
17. 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
18. 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.
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. 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 sweeping collected and stored in accordance with the approved refuse storage arrangements by close of business.
21. No waste or recyclable materials, including bottles, shall be moved, removed from or placed in outside areas between 23.00 hours and 07.00 hours on the following day.
22. No deliveries to the premises shall take place between 23.00 and 07.00 on the following day.
23. No collections of waste or recycling materials (including bottles) from the premises shall take place between 23.00 and 07.00 on the following day.
24. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
25. 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.
26. Loudspeakers shall not be located in the entrance lobby or outside the premises building.
27. The number of persons permitted in the premises at any one time (excluding staff) shall not exceed 110 persons.
28. The Licence will have no effect until the works shown on the plans appended to the application have been assessed as satisfactory by the Environmental Health Consultation Team and this condition has been removed from the Licence.
29. Before the premises open to the public, the plans as deposited will be checked by the Environmental Health Consultation Team to ensure they are an accurate reflection of the premises constructed. Where the premises layout has changed during the course of construction, new plans shall be provided to the Environmental Health Consultation Team and the Licensing Authority.



Resident Count: 110

Licensed premises within 75 metres of 42 North Audley Street, London W1K 6WG

Licence Number	Trading Name	Address	Premises Type	Time Period
17/06324/LIPDPS	Truc Vert	Ground Floor 42 North Audley Street London W1K 6ZR	Restaurant	Monday to Saturday; 10:00 - 23:30 Sunday; 12:30 - 23:00
18/04306/LIPV	North Audley Canteen	41 North Audley Street London W1K 6ZP	Wine bar	Monday to Thursday; 10:00 - 00:00 Friday to Saturday; 10:00 - 00:30 Sunday; 10:00 - 23:30 Sundays before Bank Holidays; 10:00 - 00:30

09/00662/LIPDPS	La Genova Restaurant	32 North Audley Street London W1K 6ZG	Restaurant	Monday to Saturday; 10:00 - 00:30 Sunday; 12:00 - 00:00
16/05656/LIPV	Mayfair Garden	8-10 North Audley Street London W1K 6ZD	Restaurant	Monday to Saturday; 10:00 - 01:30 Sunday; 12:00 - 01:00
18/12392/LIPDPS	Mayfair Garden	8-10 North Audley Street London W1K 6ZD	Restaurant	Monday to Saturday; 10:00 - 01:30 Sunday; 12:00 - 01:00
18/05410/LIPDPS	Roka Mayfair	30 North Audley Street London W1K 6ZF	Restaurant	Monday to Sunday; 07:30 - 01:30