



City of Westminster

# Committee Agenda

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

Meeting Date: **Thursday 16th July, 2020**

Time: **10.00 am**

Venue: **This is a virtual meeting**

Members: **Councillors:**

Karen Scarborough (Chairman)  
Louise Hyams  
Maggie Carman

**This will be a virtual meeting and members of the public are welcome to view the live broadcast via the links on the council's website.**



**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](mailto:kscharlemagne@westminster.gov.uk)  
Tel: 07817054613  
Corporate Website: [www.westminster.gov.uk](http://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 the existence and nature of any pecuniary interests or any other significant interest in matters on this agenda.

**Licensing Applications for Determination**

**1. ROSSO ITALIANO, 2-3 IRVING STREET, LONDON WC2H 7AT**

**(Pages 5 - 78)**

<u>App No</u>	Ward / Cumulative Impact Area	Site Name and Address	App Type	Licensing Ref No.
1.	St James's Ward / West End Cumulative Impact Area	Rosso Italiano 2-3 Irving Street London WC2H 7AT	Premises Licence Variation	20/00086/LIPV

**2. WILDE APARTHOTELS BY STAYCITY, PADDINGTON EXCHANGE, NORTH WHARF ROAD, LONDON, W2 1LF**

**(Pages 79 - 98)**

<u>App No</u>	Ward / Cumulative Impact Area	Site Name and Address	App Type	Licensing Ref No.
2.	Hyde Park Ward/ Not in Cumulative Impact Area	Wilde Aparthotels by Staycity Paddington Exchange North Wharf Road London W2 1LF	New Premises Licence	20/03175/LIPN

**3. 5-14 MARBLE ARCH, 12-22 EDGWARE ROAD, 53-63 BRYANSTON STREET AND CUMBERLAND MEWS, LONDON, W1H**

**(Pages 99 - 130)**

<u>App No</u>	Ward / Cumulative Impact Area	Site Name and Address	App Type	Licensing Ref No.
3.	Bryanston & Dorset Sq Ward/ Edgware Cumulative Impact Area	5-14 Marble Arch, 12-22 Edgware Road, 53-63 Bryanston Street and Cumberland Mews London W1H	New Premises Licence	20/03127/LIPN

**Stuart Love**  
**Chief Executive**  
**10 July 2020**

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 7<sup>th</sup> 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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## **Procedure for virtual hearings held under the Licensing Act 2003**

The purpose of this procedure is to clarify how the Licensing Sub-Committee (“the Sub-Committee”) will conduct virtual licensing hearings made under the Licensing Act 2003 (as amended) and for licensing applications under other regimes. All hearings are conducted with due regard to the Council’s Constitution, relevant legislation and case law, regulations and guidance.

### **Accessing virtual hearings**

Virtual Licensing Sub-Committee hearings will be held on Microsoft Teams as a live Teams event. Each application will be dealt with by a separate Teams meeting. All applicants, responsible authorities and other persons (who have submitted a valid representation) (collectively called “Parties”) will be provided with a link to the meeting beforehand. **Only these parties will be able to participate in the hearing** (together with their adviser) provided they have registered, in advance, with the Licensing Authority, as specified below. A link for the general public to watch the meeting will be available on the Council’s website.

### **Final Submissions before the Hearing**

The parties (or their representatives) should use their best endeavours to ensure that all of their final submissions have been made so as to be included in the Sub-Committee report (typically **no later, than 5.pm, 5 working days** before the Sub-Committee hearing). This means by 5pm on the Thursday, the week before the Sub-Committee hearing is due to take place. Final submissions should set out the key points, policies and conditions that a party wishes the Sub-Committee to take account of in determining the application.

Any final submissions that a party wishes to make, (that have not been submitted so as to have been included in the report), **must** be submitted to the Licensing Service by **no later than 12 noon 3 working days** before the hearing is due to take place. The Licensing email address is: [Licensing@westminster.gov.uk](mailto:Licensing@westminster.gov.uk).

### **Rules during Licensing Hearings**

The following rules must be followed by all parties to ensure the virtual hearing can progress as successfully as possible:

- All parties wishing to participate in the hearing **must** register their wish to participate in the hearing and provide their email addresses to the **Licensing Service at [Licensing@westminster.gov.uk](mailto:Licensing@westminster.gov.uk)** no later than **12 noon on the Monday** before the Thursday hearing is scheduled to take place.
- All parties **should join the virtual hearing at least 15 minutes before the advertised start time** to ensure they are ready to start at the advertised start time. After the advertised start time has passed no registered parties will be allowed to join, except in exceptional circumstances, when permitted by the Chairman, as this could disrupt the meeting.
- All parties must only address the hearing when invited to do so by the Chairman.
- All parties must keep their microphones on mute unless they are speaking. The Chairman has the ability to mute all parties’ microphones.

- If a party wishes to interject, they should put their name in the messaging field. The chairman has the discretion to invite the party to make their comment at an appropriate stage in the hearing.
- All parties are asked to keep their comments as succinct as possible.
- If a party has a question for another party, this must be addressed to the Chairman who will have the discretion to ask the relevant party to respond.
- Parties wishing to make suggestions as to the conditions that may be imposed in the event of the application being granted should do so by reference to the schedule of proposed conditions set out in the Conditions Schedule annexed to the committee papers. In so doing, they should use the same numbering in that schedule. This is to ensure that there is ease of referencing the conditions by all the parties.
- To ensure the smooth running of hearings, a time limit will be placed on each party's submissions. This time limit must be adhered to but the Chairman has the flexibility to amend the time limit when it is considered appropriate to do so.
- When referring to the hearing papers, participants should give the page and paragraph number when appropriate.
- The Chairman has the discretion to amend these rules in any given case where they consider it is appropriate to do so.

### Procedure

1. The Chairman will open the meeting and introduce the members of the Sub-Committee and the other officers attending with the members, including the legal adviser, policy adviser and committee officer.
2. The Chairman will confirm the procedure that the hearing will follow.
3. The Sub-Committee members and officers will be asked to declare any interests they may have and any other procedural business will be transacted.
4. The presenting officer from the licensing service will introduce the application, giving a brief description of the application and introducing all the Parties in attendance for each application
5. Each party who has registered to speak, will be invited to make their representations and will be allowed **a maximum of 10 minutes each**. In order to ensure that the hearing is fair to all parties and is conducted in an orderly manner, the Chairman has the discretion to extend this time limit where it is appropriate for the determination of the application.
6. Parties will normally speak in the following order, (the order may change for other types of licensing applications):
  - a. The applicant
  - b. Responsible authorities
  - c. Other persons
7. The Chairman has the right to grant each party the opportunity to ask questions of each other for the purposes of clarification only where it is appropriate to do so. The Sub-Committee members will then be able to ask questions of the parties.



8. The legal adviser and/or policy officer may ask questions of the parties as they consider appropriate, including in relation to the conditions which should be attached to the application if the Sub-Committee is minded to grant the application.
9. Each party will have an opportunity to make a short closing submission each (not introducing any new evidence or case law) of no more than **5 minutes each**, in the following order:
  - a. Responsible authorities
  - b. Other persons
  - c. The applicant
10. The Chairman shall then **close the meeting** and all parties will leave the meeting. A Decision will not be announced at the end of the hearing unless there is a legal requirement to do so.
11. The Sub-Committee will deliberate in closed session and all parties will be advised of the outcome in a written Summary Decision. Unless otherwise required or permitted by Regulations, summary decisions will be made within a period of five working days of the last day of the hearing. The written summary of the decision (“Summary Decision”) will be sent to all the parties as soon as possible after the Decision has been made. The full Decision, setting out the reasons for the Decision, (Formal Notification) will be sent to the parties as soon as possible thereafter. The time limit for appealing will not commence until the Formal Notification has been sent to the parties.

Dated 15 April 2020

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# Licensing Sub-Committee Report

## Agenda Item 1

Item No:	
Date:	16 July 2020
Licensing Ref No:	20/00086/LIPV - Premises Licence Variation
Title of Report:	Rosso Italiano 2-3 Irving Street London WC2H 7AT
Report of:	Director of Public Protection and Licensing
Wards involved:	St James's
Policy context:	City of Westminster Statement of Licensing Policy
Financial summary:	None
Report Author:	Michelle Steward Senior Licensing Officer
Contact details	Telephone: 020 7641 6500 Email: msteward1@westminster.gov.uk

## 1. Application

1-A Applicant and premises			
<b>Application Type:</b>	Variation of a Premises Licence, Licensing Act 2003		
<b>Application received date:</b>	5 January 2020		
<b>Applicant:</b>	Chahine Brothers Ltd		
<b>Premises:</b>	Rosso Italiano		
<b>Premises address:</b>	2-3 Irving Street London WC2H 7AT	<b>Ward:</b>	St James's
		<b>Cumulative Impact Area:</b>	West End
<b>Premises description:</b>	<p>The premises currently operates as a café offering late night refreshment and the sale by retail of alcohol. The premises also has the benefit of Tables and Chairs Licence 20/01640/STTCF and a copy can be seen at <b>Appendix 4</b>.</p> <p>Planning Permission was granted for the area outside 1 Irving Street on the 31 March 2020. A Tables and Chairs Licence has been granted however since the current restrictions were imposed due to Covid-19, the Licence will commence on the 4 July 2020. The reference for this licence is 20/03266/STTC.</p>		
<b>Variation description:</b>	<p>The changes sought by way of this application are as follows:</p> <ul style="list-style-type: none"> <li>• to change the premises trading name to Rosso Italiano.</li> <li>• to submit a revised plan to reflect a change of layout to the permitted external area by adding the permitted external area outside number 1 Irving Street to the existing premises licence for 2-3 Irving Street in order to join the two areas together</li> <li>• a change in layout to the basement.</li> <li>• to remove condition number 10 at annex 1 &amp; condition number 13 at annex 3.</li> <li>• to amend the wording of clause h) condition 26 annex 3 to read "<i>when police are called, the cad number shall be obtained and recorded in the incident book.</i>".</li> <li>• to add addition conditions as shown at <b>1-D</b> of the report.</li> </ul>		
<b>Premises licence history:</b>	The premises has had the benefit of a Premises Licence since 2005. The current Premises Licence 19/16138/LIPT is attached at <b>Appendix 3</b> of this report together with a full licence history.		
<b>Applicant submissions:</b>	There are submissions from the applicant at <b>Appendix 2</b> of this report.		

1-B Current and proposed licensable activities, areas and hours						
Regulated Entertainment						
Playing of Recorded Music and Private Entertainment consisting of dancing, music, or other entertainment of a like kind for consideration and with a view to profit:						
	Current Hours		Proposed Hours		Licensable Area	
	Start:	End:	Start:	End:	Current:	Proposed:
Monday	Unrestricted		Unrestricted		Basement, Ground Floor	
Tuesday						
Wednesday						
Thursday						
Friday						
Saturday						
Sunday						
Seasonal variations:	Current: None				Proposed: No Variation Sought	
Non-standard timings:	Current: None				Proposed: No Variation Sought	

Late night refreshment						
Indoors, outdoors or both			Current :		Proposed:	
			Indoors		No Variation Sought	
	Current Hours		Proposed Hours		Licensable Area	
	Start:	End:	Start:	End:	Current:	Proposed:
Monday	23:00	00:30	No Variation Sought		Basement and Ground Floor	
Tuesday	23:00	00:30				
Wednesday	23:00	00:30				
Thursday	23:00	00:30				
Friday	23:00	00:30				
Saturday	23:00	00:30				
Sunday	23:00	00:00				
Seasonal variations/ Non-standard timings:	Current: The terminal hour for Late Night Refreshment on New Year's Eve is extended to 05:00 on New Year's Day.				Proposed: No Variation Sought	

Sale by Retail of Alcohol						
Off Sales Only			Current :		Proposed:	
			Off sales only		No Variation Sought	
	Current Hours		Proposed Hours		Licensable Area	
	Start:	End:	Start:	End:	Current:	Proposed:
Monday	10:00	23:00	No Variation Sought		Basement, Ground Floor and external space at 2-3 Irving Street	
Tuesday	10:00	23:00				
Wednesday	10:00	23:00				
Thursday	10:00	23:00				
Friday	10:00	23:00				

<b>Saturday</b>	10:00	23:00			
<b>Sunday</b>	10:00	23:00			
<b>Seasonal variations/ Non-standard timings:</b>	<b>Current:</b>			<b>Proposed:</b>	
	Please see condition 13 of the premises licence as shown at Appendix 3 of this report.			Condition 13 to be removed as part of this variation. This will remove the current restrictive hours for Good Friday and Christmas Day.	

<b>On Sales Only</b>			<b>Current :</b>		<b>Proposed:</b>	
			On Sales Only		No Variation Sought	
	<b>Current Hours</b>		<b>Proposed Hours</b>		<b>Licensable Area</b>	
	<b>Start:</b>	<b>End:</b>	<b>Start:</b>	<b>End:</b>	<b>Current:</b>	<b>Proposed:</b>
<b>Monday</b>	10:00	00:00	No Variation Sought		Basement and Ground Floor Only	No Variation Sought
<b>Tuesday</b>	10:00	00:00				
<b>Wednesday</b>	10:00	00:00				
<b>Thursday</b>	10:00	00:00				
<b>Friday</b>	10:00	00:00				
<b>Saturday</b>	10:00	00:00				
<b>Sunday</b>	10:00	23:30				
<b>Seasonal variations/ Non-standard timings:</b>	<b>Current:</b>			<b>Proposed:</b>		
	Please see condition 13 of the premises licence as shown at Appendix 3 of this report.			Condition 13 to be removed as part of this variation. This will remove the current restrictive hours for Good Friday and Christmas Day.		

<b>Hours premises are open to the public</b>						
	<b>Current Hours</b>		<b>Proposed Hours</b>		<b>Premises Area</b>	
	<b>Start:</b>	<b>End:</b>	<b>Start:</b>	<b>End:</b>	<b>Current:</b>	<b>Proposed:</b>
<b>Monday</b>	08:00	00:30	No Variation Sought		Basement, Ground Floor and external space at 2-3 Irving Street	Basement, Ground Floor, external space at 1, 2 and 3 Irving Street.
<b>Tuesday</b>	08:00	00:30				
<b>Wednesday</b>	08:00	00:30				
<b>Thursday</b>	08:00	00:30				
<b>Friday</b>	08:00	00:30				
<b>Saturday</b>	08:00	00:30				
<b>Sunday</b>	08:00	00:00				
<b>Seasonal variations/ Non-standard timings:</b>	<b>Current:</b>			<b>Proposed:</b>		
	Please see condition 13 of the premises licence as shown at Appendix 3 of this report.			Condition 13 to be removed as part of this variation.		

<b>1-C</b>	<b>Layout alteration</b>
<p>The changes sought to the layout of the premises by way of this variation are as follows:</p> <ul style="list-style-type: none"> <li>reflect a change of layout to the permitted external area by adding the permitted external area outside number 1 Irving Street to the existing premises licence for 2-3 Irving Street in order to join the two areas together.</li> <li>Reconfiguration of the Basement to include the kitchen, 3 WCs and storage area.</li> </ul>	

**1-D Conditions being varied, added or removed**

**Conditions to be removed**

10. No person under fourteen shall be in the bar of the licensed premises during the permitted hours unless one of the following applies:

- (a) He is the child of the holder of the premises licence.
- (b) He resides in the premises, but is not employed there.
- (c) He is in the bar solely for the purpose of passing to or from some part of the premises which is not a bar and to or from which there is no other convenient means of access or egress.
- (d) The bar is in railway refreshment rooms or other premises constructed, fitted and intended to be used bona fide for any purpose to which the holding of the licence is ancillary.

In this condition "bar" includes any place exclusively or mainly used for the consumption of intoxicating liquor. But an area is not a bar when it is usual for it to be, and it is, set apart for the service of table meals and alcohol is only sold or supplied to persons as an ancillary to their table meals.

13. Alcohol shall not be sold, supplied, consumed in or taken from the premises except during permitted hours.

In this condition, permitted hours means:

- (a) Monday to Saturday, other than Christmas Day or Good Friday, 10:00 to 00:00 for sale of alcohol for consumption on the premises and 10:00 to 23:00 for sale of alcohol for consumption off the premises
- (b) On Sundays, other than Christmas Day, 10:00 to 23:30 for sale of alcohol for consumption on the premises and 10:00 to 23:00 for sale of alcohol for consumption off the premises
- (c) On Good Friday, 12:00 to 22:30
- (d) On Christmas Day, 12:00 to 15:00 and 19:00 to 22:30
- (e) On New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day for the sale of alcohol for consumption on the premises.

NOTE - The above restrictions do not prohibit:

- (a) during the first thirty minutes after the above hours the consumption of the alcohol on the premises by persons taking table meals there if the alcohol was supplied for consumption as ancillary to the meals;
- (b) the sale or supply of alcohol to or the consumption of alcohol by any person residing in the licensed premises;
- (c) the ordering of alcohol to be consumed off the premises, or the despatch by the vendor of the alcohol so ordered;
- (d) the sale of alcohol to a trader or registered club for the purposes of the trade or club;
- (e) the sale or supply of alcohol to any canteen or mess, being a canteen in which the sale or supply of alcohol is carried out under the authority of the Secretary of State or an authorised mess of members of Her Majesty's naval, military or air forces;
- (f) the taking of alcohol from the premises by a person residing there;
- (g) the supply of alcohol for consumption on the premises to any private friends of a person residing there who are bona fide entertained by him at his own expense, or the consumption of alcohol by persons so supplied;

(h) the supply of alcohol for consumption on the premises to persons employed there for the purposes of the business carried on by the holder of the licence, or the consumption of liquor so supplied, if the liquor is supplied at the expense of their employer or of the person carrying on or in charge of the business on the premises.

In this condition, any reference to a person residing in the premises shall be construed as including a person not residing there but carrying on or in charge of the business on the premises.

**Conditions proposed to be added:**

1. On a minimum daily basis staff shall check that the CCTV system is operational and the date & time print correctly set and on a minimum weekly basis staff shall check that images are being recorded and stored for a minimum of 31 days and can be instantly downloaded.
2. The dps or a personal licence holder shall be on duty from 19.00 to the end of permitted licensed hours on Friday and Saturday evenings. At other times the dps, a personal licence holder or trained member of staff nominated in writing by the dps shall be on duty until the end of permitted hours.
3. Only trained staff authorised in writing by the dps may sell alcohol. The written authority will be produced to police or authorised officers on request.
4. Customers using the permitted external area outside number 1 Irving street shall be permitted to use the toilets at 2/3 Irving street free of charge.
5. The sale and supply of alcohol for consumption off the premises shall be restricted to alcohol consumed at the outside tables and chairs shown on the licence plan, shall be by waiter or waitress service, served only to a person seated taking a substantial table meal there and for consumption by such a person as ancillary to their meal. The sale and supply of alcohol for consumption off the premises shall be restricted to alcohol consumed by persons who are seated in an area appropriately authorised for the use of tables and chairs on the highway and bona fide taking a substantial table meal there, and where the consumption of alcohol by such persons is ancillary to taking such a meal, and where the supply of alcohol is by waiter or waitress service only.
6. A fire risk assessment & emergency plan will be prepared and regularly reviewed. Staff will receive appropriate fire safety training & refresher training.
7. Management and staff will proactively monitor the outside of the restaurant including customer conduct and smokers. Suitable containers will be provided for cigarette ends.
8. A phone number will be displayed for residents and any local residents association to contact management with any concerns. Details including the outcome will be recorded in the incident book.
9. Staff will call a cab for departing customers on request.
10. The doors will be kept closed during any musical entertainment except for entry and egress.
11. A written dispersal policy will be prepared which shall be kept under review. A copy will be submitted to the licensing authority.
12. A Challenge 21 or 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.

13. All refusals of service will be recorded in the incident book (refusals section) and will be made available to the police or authorised officers on request.
14. Notices will be prominently displayed by the entry door and bar stating that both CCTV & challenge 25 are in operation.
15. Notices will also be displayed advising customers of the provisions of the licensing act regarding underage & proxy sales.
16. Waiting staff will be trained on induction and given refresher training at six monthly intervals. Training will include operating the CCTV system, operation of the challenge 25 proof of age scheme, including identifying persons under 25, making a challenge, acceptable proof of age and checking it, making and recording a refusal plus avoiding proxy sales, avoiding sales to intoxicated persons, avoiding conflict, responsible alcohol retailing & safeguarding children.
17. No child or young person under 18 will be permitted to consume alcohol on the premises at any time.
18. No unaccompanied children will be permitted on the premises after 20.00.

## 2. Representations

### 2-A Responsible Authorities

<b>Responsible Authority:</b>	Licensing Authority
<b>Representative:</b>	Angela Seaward
<b>Received:</b>	20 January 2020

I write in relation to the application submitted for a variation of the premises licence, Caffè Italiano, 2-3 Irving Street, London, WC2H 7AT

As a responsible authority under section 13 (4) of the Licensing Act 2003 as amended under the Police and Social Responsibility Act 2011, the Licensing Authority have considered your application in full. The Licensing Authority has concerns in relation to this application and how the premises would promote the four Licensing Objectives:

- Public Nuisance
- Prevention of Crime & Disorder
- Public Safety
- Protection of children from harm

The application seeks the following variations:

1. To change the premises trading name to Rosso Italiano,
2. change of plan to regularise and show external seating area which extends from number 1 to number 3 Irving Street and to show the internal layout change,
3. Removal of condition 10 and condition 13
4. Rewording condition 26 from;
  - An incident log shall be kept at the premises, and made available on request to an authorised officer of the City Council or the Police, which will record the following: (a) all crimes reported to the venue (b) all ejections of patrons (c) any complaints received concerning crime and disorder (d) any incidents of disorder

(e) all seizures of drugs or offensive weapons (f) any faults in the CCTV system or searching equipment or scanning equipment (g) any refusal of the sale of alcohol (h) any visit by a relevant authority or emergency service.

To read as follows;

- When police are called, the cad number shall be obtained and recorded in the incident book

5. Add additional conditions to the operating schedule as attached to the application.

The application is currently considered under policy HRS1, CIP1 and RNT2

At present, the licensable hours fall within the Westminster's Core Hours Policy HRS1 which states that "Applications for hours within the core hours set out in the policy will generally be granted, subject to not being contrary to other policies in the Statement of Licensing Policy".

The premises currently operates as a restaurant for on and off sales and is conditioned to be fully compliant under RNT2, the Licensing Authority also notes following mediation the applicant has further offered model condition 47 which reads;

- A Challenge 21 or 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.

The premises is situated in the cumulative impact area, CIP1 advises that applications in the cumulative impact area will be subject to other policies and must demonstrate that they will not add to cumulative impact in the cumulative impact area.

Therefore it is for the Licensing Sub-committee to determine that the conditions offered by the applicant are appropriate to support the licensing objectives and that the applicant has sufficiently demonstrated that they will not impact the cumulative impact area.

Please accept this as a formal representation.

<b>Responsible Authority:</b>	Environmental Health Service
<b>Representative:</b>	Mr Dave Nevitt
<b>Received:</b>	31 January 2020

I wish to make Representations on the following grounds:

Representation is made in relation to the application, as the proposals are likely to increase the risk of Public Nuisance.

2-B Other Persons			
<b>Name:</b>	[REDACTED]		
<b>Address and/or Residents Association:</b>	[REDACTED] [REDACTED] [REDACTED] [REDACTED]		
<b>Status:</b>	Valid	<b>In support or opposed:</b>	Opposed
<b>Received:</b>	1 February 2020		

1. This present Application is effectively the same or similar to Application No: 19/08807/LIPN made for a new Premises Licence respect of 1 Irving Street and which Application was withdrawn/refused on 19 November 2019 at the hearing before the Licensing

Sub-Committee. For the purpose of this objection I rely upon my original objections as if they were repeated in this present document in full.

2. So as to make matters clear what the Applicant is endeavouring to do is to extend the present premises licence at No 2/3 so as to incorporate the public highway frontage of No 1 Irving Street but without obtaining a premises licence for No 1. Such circumvention should not be allowed particularly as the No 1 premises is specifically excluded from the proposed licensed area (edged in red on the plan attached to the Application. In simple terms the exterior seating areas of Numbers 1 and 2/3 Irving Street will be joined together and the existing use of No 1 Irving Street which is that of a sandwich bar will be totally abandoned as there has been no indication from the Applicant to the contrary. This will be a sad loss of a useful retail facility in the area as it would be an odd state of affairs for customers to be consuming sandwiches and light snacks purchased at No 1 whilst at the same time other customers are being served hot meals and alcohol from 2/3 Irving Street.

3. I wish to repeat a number of important aspects of the what may be either continuing and/or future breaches of planning use of No 1 and 2/3 Irving street and in respect of which the Applicant has made no reference.

4. The freeholder of Number 1 and 2/3 Irving Street is Westminster City Council. The respective leases of 1 and 2/3 Irving Street provide that the respective uses are those of a sandwich bar and restaurant.

5. However it is significant that the planning use of 2/3 Irving Street specifically excludes any primary cooking process which for the purpose of the planning condition shall be taken to mean the application of heat to raw or fresh food in order to cook the food. To evidence such use I attach a copy of the planning consent dated 8 May 1997 and which is self-explanatory. As is evident from the photographs previously produced by me to the Licensing Sub- Committee and pursuant to the observations carried out at the property and by reference to the menu, hot food is consistently served by the Applicant to customers of 2/3 Irving Street in breach of the planning condition. Furthermore there is an illegal extraction system in operation at No 2/3 and which is creating a nuisance by way of the continual discharge of smoke and smell to the whole area. The Extraction system should expel smoke etc at rooftop level but in fact the extraction system has its extractor fitted at approximately 10 feet above ground level and spews out into Irving Street. If this Application is granted then then this will condone the existing planning breaches as well as more than doubling the present smoke and smell nuisance as a result of potentially expanding the overall premises by an additional 32 persons.

6. There is no existing planning consent for the Public Highway outside No 1 for Tables & Chairs. The last application for Tables and Chairs licence was refused although there is a present pending application which is being considered by Westminster and in respect of which 2 substantial objections have been made.

7. The proposed use of the toilet facilities at No 2/3 by customers using the outside seating area at No 1 is simply not viable. The toilet facilities will be overloaded and which is health and safety issue. The stairway down to the toilets at 2/3 is I believe the same stairway used by the waiting staff to bring food up and down the stairs. There are toilet facilities at Number 1 but the Applicant has chosen to exclude the Number 1 premises from this Application.

8. As indicated previously the customers in the outside seating at No 1 will be ordering food and alcohol to be supplied from Number 2. In reality what is likely to take place is that the outside area of No 1 will effectively become a virtual public house. As previously noted customers are likely to congregate outside the confines of the "outside seating area" as previously used to happen and will spill onto the pavement and obstruct the Irving Street thoroughfare and which is an important conduit between Leicester Square and Charing Cross Rd and which ought not to be blocked in anyway.

9. It is particularly concerning that alcohol was formerly being sold to customers congregating outside No 1 (from 2/3 on an uncontrolled basis) and if this present Application is granted will continue to be sold to the same genre of customers mainly young and possibly underage customers in and who congregate outside No 1 and generally cause a nuisance by their unruly and noise behaviour. Shisha (and unfortunately cannabis) is in common use in particular in the evening and night-time hour and drinking continues past closing time as a result of "off-sales" made to customers. No enforcement action has to my knowledge been taken by Westminster to curb these sales previously. It is hoped that Westminster will be taking action to deal with the continuing and ongoing breaches of planning and public health matters without being confronted with additional issues in relation to licensing and which will result from the grant of this Application. The proximity of the JD Wetherspoon premises in Leicester Square adds to the problems described. The Wetherspoon premises are properly and stringently policed by door staff who deny access to underage customers and often eject drunken or unruly customers. and who are immediately attracted to the closest licensed premises and gravitate ther for their further alcohol consumption and which unfortunately is number 1 Irving Street. The Applicant does not employ door staff and is happy to accommodate those customers who have been ejected or refused entry by Wetherspoons.

10. It is understood that the existing premises Licence for No 2/3 is limited to 30 persons only. If the present Application is granted then this will increase to close to 100 persons and hence as the Licensed Premises are situate within the West End Cumulative Impact Area this will place additional stress upon the area There should be no encouragement for any further growth in alcohol sales and which will actually lead to serious problems of disorder and/or public nuisance and in particular will affect residents, pedestrians and other businesses. In particular and as highlighted above many of the customers who are likely to use the No 1 premises will be those ejected or excluded from Wetherspoons in Leicester Square some of whom are already intoxicated or whose behaviour is already questionable and deemed below the policing standards of existing licensed premises

11. Insofar as the Applicant's proposed conditions are concerned, I rely upon the comments I have previously made in relation to the previous Application. In view of the Applicant's previous history and non-observance of planning consents and breaches of the existing premises Licence I have no faith in the Applicant being able to comply with the conditions it proposes.

12. In such circumstances and for the reasons set out above the present Application should be refused.

<b>Name:</b>		[REDACTED]	
<b>Address and/or Residents Association:</b>		[REDACTED] [REDACTED] [REDACTED]	
<b>Status:</b>	Valid	<b>In support or opposed:</b>	Opposed
<b>Received:</b>	2 February 2020		

I have seen a copy of the Notice of Objection sent to you [REDACTED].

I support his objections to the existing Premises Licence being varied by the inclusion of the exterior frontage of 1 Irving Street (the former Subway Sandwich Bar) and which forms part of the public highway within the Licenced Area. The former Licence Holder was unlawfully selling alcohol to customers without any licence in place.

The grant of this aspect of the variation will restore the previous nuisance and which was in place when there was a Tables & Chairs Consent. Such nuisance has thankfully been almost entirely eliminated following the refusal of the Planning Authority to renew the Table & Chairs consent. As a result the previous problems are now almost non-existent.

The proposed Licence Premises Extension will simply restore the status quo and allow the previous underage drinking and rowdiness to be reinstated (particularly at weekends) and where invariably customers are served with alcohol from staff at 2/3 Irving Street without food. These customers then congregate outside 1 Irving Street and at the junction with Leicester Square. This mainly very young crowd obstruct the thoroughfare and hinder pedestrian traffic and it can be a fearful experience to walk through this assembly. Cannabis was formerly being smoked openly and I anticipate will also take place again. There is absolutely no need for further alcohol sales in an already overcrowded and troublesome area.

As far as toilets are concerned I have no doubt that as previously the lack of sufficient accessible toilets will lead to some customers urinating in the street.

I also endorse the comments made about the smoke and smell nuisance from 2/3 Irving Street which continues unabated and is likely to get worse as no steps have been taken to enforce the planning position and/or to deal with the resiting of the ducting for the extraction system from the basement kitchens at 2/3.

### 3. Policy & Guidance

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

<p><b>Policy HRS1 applies</b></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>  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 supply of alcohol for consumption off the premises:</u>  Monday to Saturday: 08:00 to 23:00  Sundays: 10:00 to 22:30</p> <p><u>For premises for the provision of other licensable activities:</u>  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><b>Policy CIP1 applies</b></p>	<p>(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.</p> <p>(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.</p>
<p><b>Policy RNT2 applies</b></p>	<p>Applications will be granted subject to other policies in this</p>

	Statement and subject to the relevant criteria in Policies CD1, PS1, PN1 and CH1, provided it can be demonstrated that they will not add to cumulative impact in the Cumulative Impact Areas.
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#### 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, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.

#### 4. Appendices

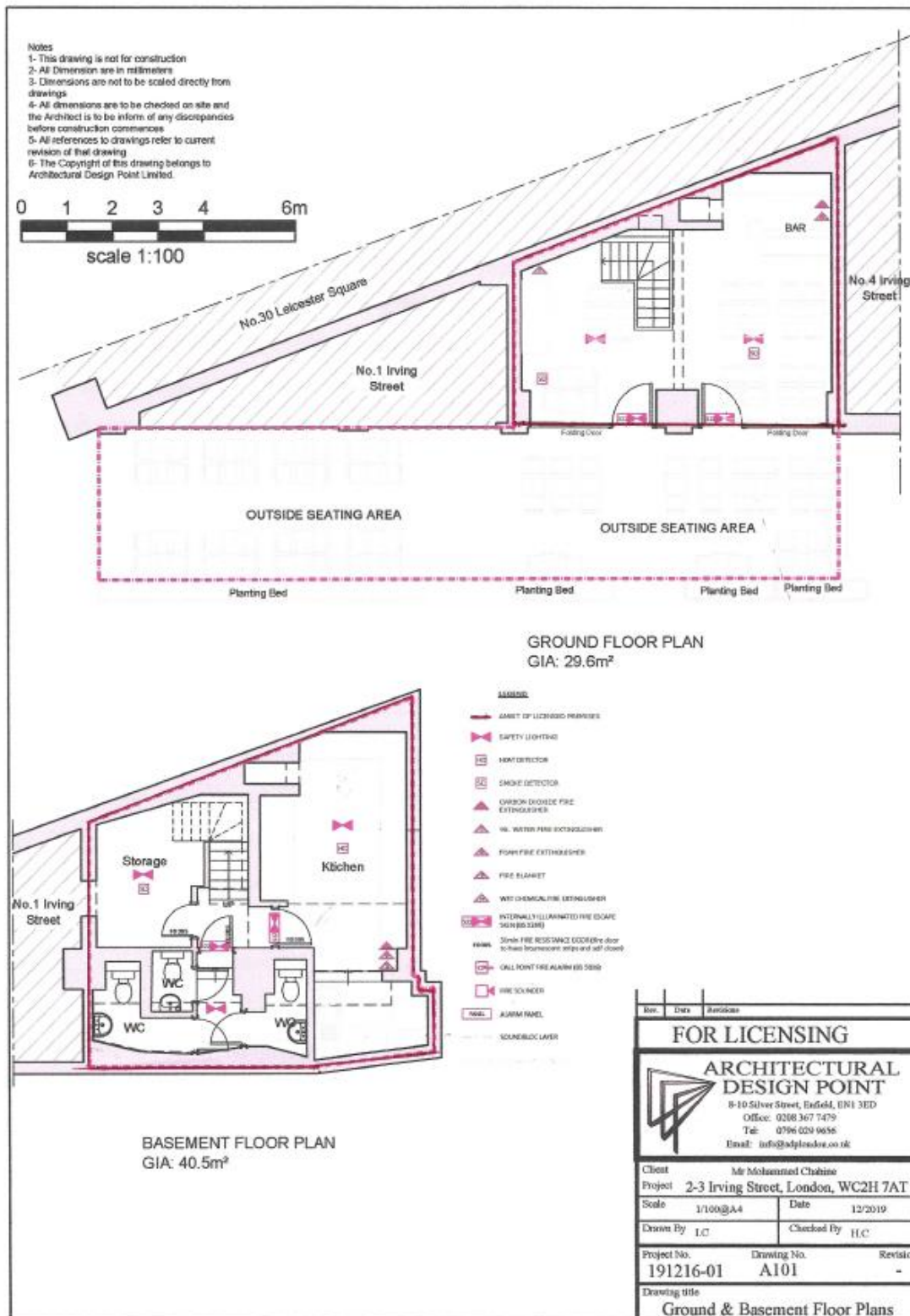
<b>Appendix 1</b>	Premises plans
<b>Appendix 2</b>	Applicant supporting documents
<b>Appendix 3</b>	Submissions from Objector 1
<b>Appendix 4</b>	Tables and Chairs Licences and Planning Permissions
<b>Appendix 5</b>	Premises history and current Premises Licence
<b>Appendix 6</b>	Proposed conditions
<b>Appendix 7</b>	Residential map and list of premises in the vicinity

<b>Report author:</b>	Michelle Steward Senior Licensing Officer
<b>Contact:</b>	Telephone: 020 7641 1872 Email: msteward1@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	April 2018
<b>4</b>	Licensing Authority representation	20 January 2020
<b>5</b>	Environmental Health Service	31 January 2020
<b>6</b>	Representation 1	1 February 2020
<b>7</b>	Representation 2	2 February 2020





There are no submissions from the applicant.

Thank you for your Notice dated 12 February 2020.

I note the hearing date and time of 27 February 2020 @ 10.00am. I hereby give you notice that I intend to be present and to attend the hearing. I may wish to be represented by solicitor or counsel but I have not yet made a decision to do so in the light of what I set out below.

Please note that on the last occasion I attended a hearing in respect of the previous licence application and which was withdrawn/dismissed took me more than 15 minutes from arriving at your ground Floor reception to get to your floor as there was a problem with the lifts and also a lack of a security person to accompany me. Can you please ask your reception to see if access can be quicker on 27 February. .

**You may not be aware that on 10 February 2020 the Applicants Applicant for a Tables & Chairs Licence was refused.** I attach copies of the refusal and the delegated report and you will note that many of my present similar objections (on this Licence Application) were upheld. Can you please ensure that copies of these documents are made available to Committee members in advance of the hearing. I shall be relying on the contents of the Delegated Report. The previous Sub- Committee was concerned at the lack of a tables & chairs Licence at the last hearing and when a previous application had been similarly refused on 28 September 2019..

It has also occurred to me in the light of observations made by the Sub Committee at the hearing of the last Application that you may wish to make an immediate enquiry of the Applicant (or his professional adviser) to see if he wishes to withdraw the present Application. This will save a great deal of time and trouble for all concerned.

I look forward to hearing from you. Please email me any additional documents/reports etc that have been or may be lodged with you in advance of the hearing in order that I can consider these documents together with any lawyer I appoint (if any).

Item No.

<b>Delegated Report</b>	<b>Development Planning</b>
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<b>Address:</b>	2-3 Irving Street, London, WC2H 7AT,
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<b>Case No.:</b>	19/08794/TCH	<b>TP:</b>	PP-08290769
<b>Date Received:</b>	13.11.2019	<b>Date Valid:</b>	13.11.2019
<b>Date amended/ completed:</b>	13.11.2019	<b>8 Wk Date:</b>	08.01.2020
		<b>EoT date:</b>	
<b>Agent:</b>	Mr Jonathan Phillips / Bidwells LLP	<b>On behalf of:</b>	
<b>Development Plan Context:</b>	- London Plan July 2011 - Westminster's City Plan November 2016 - Unitary Development Plan (UDP) January 2007		

<b>LB:</b>		<b>CA:</b>	Leicester Square
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<b>Proposal:</b>
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Use of an area of the public highway at 1 Irving Street measuring 6.00m x 2.95m for placing of 16 tables and 32 chairs within planters to be used only in association with restaurant use at 2-3 Irving Street.

<b>Consultations:</b>
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WESTMINSTER SOCIETY: No response to date.

LEICESTER SQUARE ASSOCIATION: No response to date.

WASTE PROJECTS: No objection.

HIGHWAYS PLANNING: Objects - Tables and chairs should normally be placed on the frontage that they operate from whilst there are concerns that the servicing of the proposed tables and chairs from 2-3 could result in conflict between the users of number 1 and the service staff of 2-3.

PLANNING ENFORCEMENT: The investigation regarding the potential change of use is ongoing and still pending consideration.

**NEIGHBOURING OWNERS/ OCCUPIERS AND OTHER REPRESENTATIONS**

No. consulted: 18

No. of responses: 2 Objections

- Before the tables and chairs were removed from 1 Irving Street following refusal they used to become an overspill from a neighbouring pub.
- Late evening nuisance with underage drinking, cannabis use and shisha outside number 1.
- Number 1 did not have an alcohol licence and so alcohol was served from 2/3 Irving Street.
- Since removal of the tables and chairs following refusal, problems have abated. If tables and chairs are permitted again in connection with 2/3, the problems will return.

- The lawful use of 1 Irving Street is A1 retail and has been unlawfully combined with 2/3, operating as a combined use for some time.
- 2/3 has been serving cooked food- issue of odours and contravention to condition 1 of the planning consent dated 8th May 1997. By allowing additional tables and chairs for use by 2/3 will intensify this unauthorised cooking.
- This application is a blatant attempt to circumvent existing regulations and expand capacity of the

restaurant use at 2/3.

- In practical terms the waiting staff will consistently have to enter onto the pavement in order to make their way between No 1 and No 2/3. There will be breaches of the existing planning consents in respect of both No 1 and No 2/3 as well as a breach of the existing Premises Licence for No 2/3 relating to the sale of and consumption of alcohol.

- The numbers of customers consuming alcohol will significantly increase resulting in a subsequent increase in noise disturbance.

SITE AND PRESS ADVERTISEMENT NOTICE: Yes.

#### Relevant Planning History:

##### 18/01596/TCH

Use of two areas of the public highway measuring 2.2m x 2.4m and 3.85m x 2.4m for the placing of 13 tables, 26 chairs and barriers in connection with existing cafe.

Application Permitted 16 April 2018

##### 15/06761/TCH

Use of two areas of the public highway measuring 2.2m x 2.9m and 3.85m x 2.9m for the placing of 13 tables, 26 chairs, menu stand and barriers in connection with existing café.

Application Permitted 3 December 2015

##### 15/00317/TCH

Use of two areas of the public highway measuring 2.2m x 2.9m and 3.85m x 2.9m for the placing of 13 tables, 26 chairs and barriers in connection with existing café.

Application Permitted 30 March 2015

##### 14/00597/FULL

Variation of Condition 3 of planning permission dated 27 August 2013 (RN: 13/06340) for use of two areas of the public highway measuring 2.2m x 2.9m and 3.85m x 2.9m for the placing of 13 tables, 26 chairs and nine barriers in connection with existing café namely, to extend the hours for the placing of tables and chairs and barriers outside the premises from 08.00 to 01.00 hours Monday to Sunday.

Application Permitted 10 April 2014

#### Considerations:

##### SITE

The application relates to 2-3 Irving Street, a Class A3 restaurant at ground and basement level. The application also relates to the area of pavement to the frontage of neighbouring 1 Irving Street. 1 Irving Street is located on the north western corner of Irving Street where Irving Street adjoins Leicester Square. The property is unlisted and located within the Leicester Square Conservation Area. The nearest residential properties appear to be to the upper floors above with the main residential entrance located at 5 Irving Street which appear to be in close proximity to 1-3 Irving Street.

##### PROPOSAL

Planning permission is sought for the use of the public highway at 1 Irving Street measuring 6.00m x 2.95m for the placing of 16 tables and 32 chairs within planters to be used in connection with the restaurant use at 2-3 Irving Street.

##### PLANNING HISTORY

Given that the proposals relate to the placing of tables and chairs to the frontage of 1 Irving Street the planning history of both 1 Irving Street and 2-3 Irving Street are relevant to the context of this current application.

2-3 Irving Street

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18/01596/TCH

Planning permission was granted 16th April 2018 for the following;

'Use of two areas of the public highway measuring 2.2m x 2.4m and 3.85m x 2.4m for the placing of 13 tables, 26 chairs and barriers in connection with existing cafe.'

This permission is due to expire 30th April 2020.

1 Irving Street

18/00451/TCH

Planning permission was most recently granted on 7th June 2018 for the placing of 16 tables and 32 chairs upon the public highway. During the course of determination of this application no public objections were received whilst permission was granted for the tables and chairs on the basis of their use in connection with the lawful sandwich bar use at no.1, as acknowledged within the Officer's report. This was on the basis of Council records that showed 1 Irving Street to be in use as a sandwich bar. However, following a site visit in July 2019 it became evident that the use of 1 Irving appeared to have changed with its association and operation with 'Rosso Italiano' at 2-3 Irving Street. This potential material change of use of no.1 from A1 to a Sui Generis use is currently being investigated by planning enforcement.

19/04106/TCH

Planning permission was refused 28th September 2019 for the following;

'Use of the public highway for the placing of 16 tables and 32 chairs and a free standing menu in an area measuring 6.00m x 2.95m in connection with the existing ground floor use.'

The reason for refusal was as follows;

'The proposed tables and chairs would unacceptably intensify an existing unauthorised use at the application site. This could cause a nuisance to residents and harm the amenity of the area which would be contrary to Policy TACE 11 and ENV 6 of our Unitary Development Plan that we adopted in January 2007 and S29 and S32 of Westminster's City Plan (November 2016).'

During the course of determination objections were received regarding the use of the table and chairs area outside of 1 Irving Street with objectors claiming that the area was in reality being used in connection with the restaurant use at 2-3 Irving Street as objectors claimed the tables and chairs were being used for shisha smoking, increased alcohol drinking and dining and that there was therefore a subsequent increase in noise and disturbance. The lawful use of 1 Irving Street is A1 Retail and it was considered following site visits and from the shared advertising and associated awning spanning 1-3 Irving Street that the tables and chairs at 1 Irving Street were effectively operating as a combined operation with 2-3 and as such, the unit at 1 Irving Street was not operating as a Class A1 retail use but was operating ancillary to the restaurant at 2-3 and that by permitting tables and chairs for use in connection with restaurant functions, this would contravene the lawful A1 use of number 1. Subsequently the application was refused with the applicant advised to regularise the use of 1 Irving Street.

19/71697/U

Following the above refusal of planning permission there is an ongoing planning enforcement investigation for the separate unit at 1 Irving Street for the 'Unauthorised change of use to a mixed use (Sui Generis) comprising use for retail and restaurant purposes.'

#### CONSIDERATIONS

The planning statement outlines that 1 Irving Street is also within the ownership of the applicant of 2-3 Irving Street. The statement also refers to the refusal of tables and chairs at 1 Irving Street (RN: 19/04106/TCH) due to the perceived intensification of an unauthorised use at no.1. The statement responds to this claiming that in practice the use at No.1 is as a sandwich bar also selling ice creams, cold drinks and cakes and has not materially changed and that this use will continue regardless of the

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placing of tables and chairs to the frontage. The applicant claims that tables and chairs would not be required for the A1 use to continue and that the proposed tables and chairs to the front of 1 Irving Street would be used in connection with the restaurant use at 2-3 Irving Street only.

TACE 11 of the Unitary Development Plan (adopted January 2007) states that permission will be granted for tables and chairs where the proposals would not;

- 1) Unacceptably intensify an existing use.
- 2) Cause obstruction
- 3) Endanger pedestrian and wheelchair users
- 4) Cause or exacerbate a problem with refuse storage or street cleansing
- 5) Have a detrimental effect on the character and appearance of the area, or the setting of a listed building,
- 6) Cause a nuisance to residents
- 7) Harm the amenity of the area
- 8) Create opportunities for crime

The policy also 'recognises that al fresco eating and drinking is popular and can provide opportunities for visitors, residents and workers to experience and contribute to the vibrancy and character of an area. The introduction of tables and chairs on the footway outside shops and eating and drinking premises can provide a pleasant facility for shoppers. However, they can also unacceptably intensify an existing use; cause obstruction to pedestrians, particularly the less mobile; obstruct entrances and fire exits.....lead to a loss of residential amenity through increased noise levels, especially at night'

Policy TRANS 3 of the Unitary Development Plan seeks to improve conditions for pedestrians whilst S41 of Westminster's City Plan (adopted November 2016) states that developments will prioritise pedestrian movement and the creation of an attractive and safe environment for pedestrians.

Paragraph 238 of the 'Westminster Way Public Realm Strategy' (adopted September 2011) states that 'The principal use of the the street is movement with a secondary social element of interaction between people. Commercial activities therefore have to be regarded as an occasionally allowable privilege and carefully managed so that they do not get in the way of the main purpose of the the footway in particular'

The 'Guidelines for the placing of Tables and Chairs on the Highway' Supplementary Planning Guidance (adopted 2005) states 'Placing tables and chairs outside a premises can sometimes change them from a Class A1 use (shop) to a Class A3 use (restaurant/cafe) within the meaning of the Town and Country Planning (Use Classes) Order 1987. In these cases you will also need to apply for planning permission for a change of use. This would be assessed against our policies (Policies TACE 8, 9 and 10). We have to be sure that additional A3 uses will not have a harmful impact on residential amenity or "saturate" an area and put at risk the established character, for example by eroding the number and variety of retail shops, (A1 uses). Where we have these concerns we may refuse planning permission for a change of use, and therefore for tables and chairs.' (Page 24)

Objections have been received from neighbouring occupiers. Objections note that the tables and chairs that were at 1 Irving Street (that were placed prior to the recent refusal) attracted large numbers of customers that appeared to be consuming alcohol and becoming drunk and causing noise, disturbance and nuisance, which objectors claim were exacerbated due to the proximity of surrounding drinking establishments. As these tables and chairs should have been used in association with the A1 use at number 1 there should not have been consumption of alcohol from these tables and chairs and the alcohol was in reality served from the restaurant at 2-3. The comments received note that since the tables and chairs have been removed following the previous refusal this noise disturbance and nuisance has reduced. They also acknowledge that when the tables and chairs were previously used in connection with the previous Subway (consistent with an A1 use), residents did not have significant issues with noise and disturbance. Objectors consider the consumption of alcohol within the external area as the causation of problems. Objectors also note that the current licence of the restaurant at 2-3 restricts the sale and consumption of alcohol to maximum 30 people. They also note that the restaurant is undertaking primary cooking, contrary to condition 1 of the planning permission dated 8th May 1997

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(RN: 96/0A101/FULL) which prohibited primary cooking.

The concerns raised in objections are noted. In regards to the concerns regarding primary cooking, this is considered in a separate investigation by planning enforcement. If this application for 13 tables and 26 chairs were to be approved, to allow further provision of tables and chairs for the 2-3 Irving Street restaurant this would effectively bring the total number of external covers for the restaurant to 29 tables and 58 chairs, given there is an extant permission for tables and chairs for 2-3 (RN: 18/01596/TCH). This is a significant intensification of an A3 use directly below residential occupiers which would result in a noticeable increase in noise, whilst outstanding concerns are outlined within objectors comments. Although the street is located within the CAZ and a very busy street leading to Leicester Square that is characterised by tables, chairs and restaurants, other restaurants within the street do not appear to have windows of residential occupiers directly above. Furthermore it has not been demonstrated that the proposed increase of tables and chairs for 2-3 Irving Street can be managed in an appropriate way to ensure that customers would not cause nuisance by excessive drinking. No operational management plan has been provided whilst the planning statement lacks detail of measures that would be taken for the operation of the proposed area. Therefore it has not been demonstrated that the use would not result in harm to amenity. The considerable increase in the number of tables and chairs to be used by the A3 restaurant would be considered an unacceptable intensification of an A3 use in this case. The principle of tables and chairs in this location is accepted, however this has been historically accepted on the basis of the tables and chairs use being consistent with an A1 use which would generally result in lesser amenity impacts compared to an A3 use that also serves alcohol.

Secondly, the concerns outlined within the delegated report for the refusal of RN: 19/04106/TCH remain relevant, whilst it is also noted that the potential material change of use is still under investigation. Following this refusal, the tables and chairs have been removed from the highway and are being stored in the entirety of 1 Irving Street. As noted within the planning statement, the applicant now claims that 1 Irving Street would remain as an A1 use as a distinct and separate operation to the restaurant at 2-3 Irving Street, despite the proposed pavement frontage being entirely used for restaurant seating. If this were to be the case, then the placing of tables and chairs would cause a significant obstruction to the retail unit at number 1. The proposed seating area would be 4 tables deep encompassing the entire A1 frontage along with planters and with no clear demarcation of the seating area from that of 2-3 due to the proposed functional connection of the pavement area required for the use of the pavement area outside of 1 Irving Street by the 2-3 restaurant. Pedestrians and potential customers would therefore not read the A1 use at number 1 as a separate unit due to this obstruction by furniture whilst it would impede access for customers to the A1 use which combined could jeopardise the viability of this use. Furthermore, as servicing between the pavement area of number 1 and 2-3 would have to occur across the entrance way of number 1 there would likely be a conflict between users of the retail unit at 1 and the waiting staff of number 2-3. This obstruction of a main entranceway to a retail unit would be contrary to TRANS 3, S41 and TACE 11 (parts 2 and 3) whilst it could be argued that by obstructing the entranceway of the retail use this could jeopardise its viability, it could be argued to be contrary to S21 which seeks to protect retail uses.

If the pavement area at 1 Irving Street were to be permitted for use for tables and chairs as an extension to the tables and chairs currently in place for 2-3 Irving Street restaurant seating, this would result in the area of pavement at 1-3 effectively forming one functional tables and chairs area. As such it would impede and obstruct pedestrian access to the retail unit and its entrance at 1 Irving Street. Finally, the proposals would represent an unacceptable intensification of an A3 use due to the number of tables and chairs proposed. Therefore the proposed placing of tables and chairs to the pavement area to the frontage of 1 Irving Street for use in connection with the restaurant use at 2-3 is considered unacceptable.

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<b>Recommendation:</b>
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Refuse planning permission - obstruction to pedestrians and harm to amenity.

<b>Case Officer or Morning Meeting Officer:</b> Jonathon Metcalfe	<b>Date:</b> 30 January 2020
<b>Reason</b> (if over 8/13 wk deadline):	



**DRAFT DECISION LETTER**

**Address:** 2-3 Irving Street, London, WC2H 7AT,

**Proposal:** Use of an area of the public highway at 1 Irving Street measuring 6.00m x 2.95m for placing of 16 tables and 32 chairs within planters to be used only in association with restaurant use at 2-3 Irving Street.

**Plan Nos:** Location Plan; Floor Plan 1 Irving Street

For Further Information;  
Cover Letter by Bidwells dated 13/11/2019 ref. JB566970

**Case Officer:** Jonathon Metcalfe **Direct Tel. No.** 07866038118

**Recommended Condition(s) and Reason(s) or Reason(s) for Refusal:**

- Reason:
- 1 The tables and chairs would block the flow of pedestrians along the pavement by impeding and obstructing access to the shop front of 1 Irving Street. This would not meet S41 of Westminster's City Plan (November 2016) and TRANS 3 and TACE 11 of our Unitary Development Plan that we adopted in January 2007. (X08AC)
- Reason:
- 2 The proposed tables and chairs are to be used in connection with the existing restaurant use at 2-3 Irving Street and are therefore in a remote location. The remote location combined with the use of the table and chairs for Class A3 purposes would cause harm to residential occupiers that overlook the site through increased levels of noise and disturbance. This would be contrary to S29 and S32 of Westminster's City Plan (November 2016) and ENV 6, ENV 13 and TACE 11 of our Unitary Development Plan that we adopted in January 2007.

**Informative(s):**

- 1 In dealing with this application the City Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way so far as practicable. We have made available detailed advice in the form of our statutory policies in Westminster's City Plan (November 2016), Unitary Development Plan, neighbourhood plan (where relevant), supplementary planning documents, planning briefs and other informal written guidance, as well as offering a full pre application advice service. However, we have been unable to seek solutions to problems as the principle of the proposal is clearly contrary to our statutory policies and negotiation could not overcome the reasons for refusal.
- 2 The principle of tables and chairs to the area of pavement outside of 1 Irving Street is not considered unacceptable, provided these items of furniture were to be used in connection with the lawful use of 1 Irving Street.

Item No.

<b>Delegated Report</b>	<b>Development Planning</b>
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<b>Address:</b>	2-3 Irving Street, London, WC2H 7AT,
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<b>Case No.:</b>	19/08794/TCH	<b>TP:</b>	PP-08290769
<b>Date Received:</b>	13.11.2019	<b>Date Valid:</b>	13.11.2019
<b>Date amended/ completed:</b>	13.11.2019	<b>8 Wk Date:</b>	08.01.2020
		<b>EoT date:</b>	
<b>Agent:</b>	Mr Jonathan Phillips / Bidwells LLP	<b>On behalf of:</b>	
<b>Development Plan Context:</b>	- London Plan July 2011 - Westminster's City Plan November 2016 - Unitary Development Plan (UDP) January 2007		

<b>LB:</b>		<b>CA:</b>	Leicester Square
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<b>Proposal:</b>
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Use of an area of the public highway at 1 Irving Street measuring 6.00m x 2.95m for placing of 16 tables and 32 chairs within planters to be used only in association with restaurant use at 2-3 Irving Street.

<b>Consultations:</b>
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WESTMINSTER SOCIETY: No response to date.

LEICESTER SQUARE ASSOCIATION: No response to date.

WASTE PROJECTS: No objection.

HIGHWAYS PLANNING: Objects - Tables and chairs should normally be placed on the frontage that they operate from whilst there are concerns that the servicing of the proposed tables and chairs from 2-3 could result in conflict between the users of number 1 and the service staff of 2-3.

PLANNING ENFORCEMENT: The investigation regarding the potential change of use is ongoing and still pending consideration.

**NEIGHBOURING OWNERS/ OCCUPIERS AND OTHER REPRESENTATIONS**

No. consulted: 18

No. of responses: 2 Objections

- Before the tables and chairs were removed from 1 Irving Street following refusal they used to become an overspill from a neighbouring pub.
- Late evening nuisance with underage drinking, cannabis use and shisha outside number 1.
- Number 1 did not have an alcohol licence and so alcohol was served from 2/3 Irving Street.
- Since removal of the tables and chairs following refusal, problems have abated. If tables and chairs are permitted again in connection with 2/3, the problems will return.

- The lawful use of 1 Irving Street is A1 retail and has been unlawfully combined with 2/3, operating as a combined use for some time.
- 2/3 has been serving cooked food- issue of odours and contravention to condition 1 of the planning consent dated 8th May 1997. By allowing additional tables and chairs for use by 2/3 will intensify this unauthorised cooking.
- This application is a blatant attempt to circumvent existing regulations and expand capacity of the

Item No.

restaurant use at 2/3.

- In practical terms the waiting staff will consistently have to enter onto the pavement in order to make their way between No 1 and No 2/3. There will be breaches of the existing planning consents in respect of both No 1 and No 2/3 as well as a breach of the existing Premises Licence for No 2/3 relating to the sale of and consumption of alcohol.

- The numbers of customers consuming alcohol will significantly increase resulting in a subsequent increase in noise disturbance.

SITE AND PRESS ADVERTISEMENT NOTICE: Yes.

**Relevant Planning History:**

18/01596/TCH

Use of two areas of the public highway measuring 2.2m x 2.4m and 3.85m x 2.4m for the placing of 13 tables, 26 chairs and barriers in connection with existing cafe.

Application Permitted            16 April 2018

15/06761/TCH

Use of two areas of the public highway measuring 2.2m x 2.9m and 3.85m x 2.9m for the placing of 13 tables, 26 chairs, menu stand and barriers in connection with existing café.

Application Permitted            3 December 2015

15/00317/TCH

Use of two areas of the public highway measuring 2.2m x 2.9m and 3.85m x 2.9m for the placing of 13 tables, 26 chairs and barriers in connection with existing café.

Application Permitted            30 March 2015

14/00597/FULL

Variation of Condition 3 of planning permission dated 27 August 2013 (RN: 13/06340) for use of two areas of the public highway measuring 2.2m x 2.9m and 3.85m x 2.9m for the placing of 13 tables, 26 chairs and nine barriers in connection with existing café namely, to extend the hours for the placing of tables and chairs and barriers outside the premises from 08.00 to 01.00 hours Monday to Sunday.

Application Permitted            10 April 2014

**Considerations:**

**SITE**

The application relates to 2-3 Irving Street, a Class A3 restaurant at ground and basement level. The application also relates to the area of pavement to the frontage of neighbouring 1 Irving Street. 1 Irving Street is located on the north western corner of Irving Street where Irving Street adjoins Leicester Square. The property is unlisted and located within the Leicester Square Conservation Area. The nearest residential properties appear to be to the upper floors above with the main residential entrance located at 5 Irving Street which appear to be in close proximity to 1-3 Irving Street.

**PROPOSAL**

Planning permission is sought for the use of the public highway at 1 Irving Street measuring 6.00m x 2.95m for the placing of 16 tables and 32 chairs within planters to be used in connection with the restaurant use at 2-3 Irving Street.

**PLANNING HISTORY**

Given that the proposals relate to the placing of tables and chairs to the frontage of 1 Irving Street the planning history of both 1 Irving Street and 2-3 Irving Street are relevant to the context of this current application.

2-3 Irving Street

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18/01596/TCH

Planning permission was granted 16th April 2018 for the following;

'Use of two areas of the public highway measuring 2.2m x 2.4m and 3.85m x 2.4m for the placing of 13 tables, 26 chairs and barriers in connection with existing cafe.'

This permission is due to expire 30th April 2020.

1 Irving Street

18/00451/TCH

Planning permission was most recently granted on 7th June 2018 for the placing of 16 tables and 32 chairs upon the public highway. During the course of determination of this application no public objections were received whilst permission was granted for the tables and chairs on the basis of their use in connection with the lawful sandwich bar use at no.1, as acknowledged within the Officer's report. This was on the basis of Council records that showed 1 Irving Street to be in use as a sandwich bar. However, following a site visit in July 2019 it became evident that the use of 1 Irving appeared to have changed with its association and operation with 'Rosso Italiano' at 2-3 Irving Street. This potential material change of use of no.1 from A1 to a Sui Generis use is currently being investigated by planning enforcement.

19/04106/TCH

Planning permission was refused 28th September 2019 for the following;

'Use of the public highway for the placing of 16 tables and 32 chairs and a free standing menu in an area measuring 6.00m x 2.95m in connection with the existing ground floor use.'

The reason for refusal was as follows;

'The proposed tables and chairs would unacceptably intensify an existing unauthorised use at the application site. This could cause a nuisance to residents and harm the amenity of the area which would be contrary to Policy TACE 11 and ENV 6 of our Unitary Development Plan that we adopted in January 2007 and S29 and S32 of Westminster's City Plan (November 2016).'

During the course of determination objections were received regarding the use of the table and chairs area outside of 1 Irving Street with objectors claiming that the area was in reality being used in connection with the restaurant use at 2-3 Irving Street as objectors claimed the tables and chairs were being used for shisha smoking, increased alcohol drinking and dining and that there was therefore a subsequent increase in noise and disturbance. The lawful use of 1 Irving Street is A1 Retail and it was considered following site visits and from the shared advertising and associated awning spanning 1-3 Irving Street that the tables and chairs at 1 Irving Street were effectively operating as a combined operation with 2-3 and as such, the unit at 1 Irving Street was not operating as a Class A1 retail use but was operating ancillary to the restaurant at 2-3 and that by permitting tables and chairs for use in connection with restaurant functions, this would contravene the lawful A1 use of number 1. Subsequently the application was refused with the applicant advised to regularise the use of 1 Irving Street.

19/71697/U

Following the above refusal of planning permission there is an ongoing planning enforcement investigation for the separate unit at 1 Irving Street for the 'Unauthorised change of use to a mixed use (Sui Generis) comprising use for retail and restaurant purposes.'

#### CONSIDERATIONS

The planning statement outlines that 1 Irving Street is also within the ownership of the applicant of 2-3 Irving Street. The statement also refers to the refusal of tables and chairs at 1 Irving Street (RN: 19/04106/TCH) due to the perceived intensification of an unauthorised use at no.1. The statement responds to this claiming that in practice the use at No.1 is as a sandwich bar also selling ice creams, cold drinks and cakes and has not materially changed and that this use will continue regardless of the

placing of tables and chairs to the frontage. The applicant claims that tables and chairs would not be required for the A1 use to continue and that the proposed tables and chairs to the front of 1 Irving Street would be used in connection with the restaurant use at 2-3 Irving Street only.

TACE 11 of the Unitary Development Plan (adopted January 2007) states that permission will be granted for tables and chairs where the proposals would not;

- 1) Unacceptably intensify an existing use.
- 2) Cause obstruction
- 3) Endanger pedestrian and wheelchair users
- 4) Cause or exacerbate a problem with refuse storage or street cleansing
- 5) Have a detrimental effect on the character and appearance of the area, or the setting of a listed building,
- 6) Cause a nuisance to residents
- 7) Harm the amenity of the area
- 8) Create opportunities for crime

The policy also 'recognises that al fresco eating and drinking is popular and can provide opportunities for visitors, residents and workers to experience and contribute to the vibrancy and character of an area. The introduction of tables and chairs on the footway outside shops and eating and drinking premises can provide a pleasant facility for shoppers. However, they can also unacceptably intensify an existing use; cause obstruction to pedestrians, particularly the less mobile; obstruct entrances and fire exits....lead to a loss of residential amenity through increased noise levels, especially at night'

Policy TRANS 3 of the Unitary Development Plan seeks to improve conditions for pedestrians whilst S41 of Westminster's City Plan (adopted November 2016) states that developments will prioritise pedestrian movement and the creation of an attractive and safe environment for pedestrians.

Paragraph 238 of the 'Westminster Way Public Realm Strategy' (adopted September 2011) states that 'The principal use of the the street is movement with a secondary social element of interaction between people. Commercial activities therefore have to be regarded as an occasionally allowable priviledge and carefully managed so that they do not get in the way of the main purpose of the the footway in particular'

The 'Guidelines for the placing of Tables and Chairs on the Highway' Supplementary Planning Guidance (adopted 2005) states 'Placing tables and chairs outside a premises can sometimes change them from a Class A1 use (shop) to a Class A3 use (restaurant/cafe) within the meaning of the Town and Country Planning (Use Classes) Order 1987. In these cases you will also need to apply for planning permission for a change of use. This would be assessed against our policies (Policies TACE 8, 9 and 10). We have to be sure that additional A3 uses will not have a harmful impact on residential amenity or "saturate" an area and put at risk the established character, for example by eroding the number and variety of retail shops, (A1 uses). Where we have these concerns we may refuse planning permission for a change of use, and therefore for tables and chairs.' (Page 24)

Objections have been received from neighbouring occupiers. Objections note that the tables and chairs that were at 1 Irving Street (that were placed prior to the recent refusal) attracted large numbers of customers that appeared to be consuming alcohol and becoming drunk and causing noise, disturbance and nuisance, which objectors claim were exacerbated due to the proximity of surrounding drinking establishments. As these tables and chairs should have been used in association with the A1 use at number 1 there should not have been consumption of alcohol from these tables and chairs and the alcohol was in reality served from the restaurant at 2-3. The comments received note that since the tables and chairs have been removed following the previous refusal this noise disturbance and nuisance has reduced. They also acknowledge that when the tables and chairs were previously used in connection with the previous Subway (consistent with an A1 use), residents did not have significant issues with noise and disturbance. Objectors consider the consumption of alcohol within the external area as the causation of problems. Objectors also note that the current licence of the restaurant at 2-3 restricts the sale and consumption of alcohol to maximum 30 people. They also note that the restaurant is undertaking primary cooking, contrary to condition 1 of the planning permission dated 8th May 1997

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(RN: 96/0A101/FULL) which prohibited primary cooking.

The concerns raised in objections are noted. In regards to the concerns regarding primary cooking, this is considered in a separate investigation by planning enforcement. If this application for 13 tables and 26 chairs were to be approved, to allow further provision of tables and chairs for the 2-3 Irving Street restaurant this would effectively bring the total number of external covers for the restaurant to 29 tables and 58 chairs, given there is an extant permission for tables and chairs for 2-3 (RN: 18/01596/TCH). This is a significant intensification of an A3 use directly below residential occupiers which would result in a noticeable increase in noise, whilst outstanding concerns are outlined within objectors comments. Although the street is located within the CAZ and a very busy street leading to Leicester Square that is characterised by tables, chairs and restaurants, other restaurants within the street do not appear to have windows of residential occupiers directly above. Furthermore it has not been demonstrated that the proposed increase of tables and chairs for 2-3 Irving Street can be managed in an appropriate way to ensure that customers would not cause nuisance by excessive drinking. No operational management plan has been provided whilst the planning statement lacks detail of measures that would be taken for the operation of the proposed area. Therefore it has not been demonstrated that the use would not result in harm to amenity. The considerable increase in the number of tables and chairs to be used by the A3 restaurant would be considered an unacceptable intensification of an A3 use in this case. The principle of tables and chairs in this location is accepted, however this has been historically accepted on the basis of the tables and chairs use being consistent with an A1 use which would generally result in lesser amenity impacts compared to an A3 use that also serves alcohol.

Secondly, the concerns outlined within the delegated report for the refusal of RN: 19/04106/TCH remain relevant, whilst it is also noted that the potential material change of use is still under investigation. Following this refusal, the tables and chairs have been removed from the highway and are being stored in the entirety of 1 Irving Street. As noted within the planning statement, the applicant now claims that 1 Irving Street would remain as an A1 use as a distinct and separate operation to the restaurant at 2-3 Irving Street, despite the proposed pavement frontage being entirely used for restaurant seating. If this were to be the case, then the placing of tables and chairs would cause a significant obstruction to the retail unit at number 1. The proposed seating area would be 4 tables deep encompassing the entire A1 frontage along with planters and with no clear demarcation of the seating area from that of 2-3 due to the proposed functional connection of the pavement area required for the use of the pavement area outside of 1 Irving Street by the 2-3 restaurant. Pedestrians and potential customers would therefore not read the A1 use at number 1 as a separate unit due to this obstruction by furniture whilst it would impede access for customers to the A1 use which combined could jeopardise the viability of this use. Furthermore, as servicing between the pavement area of number 1 and 2-3 would have to occur across the entrance way of number 1 there would likely be a conflict between users of the retail unit at 1 and the waiting staff of number 2-3. This obstruction of a main entranceway to a retail unit would be contrary to TRANS 3, S41 and TACE 11 (parts 2 and 3) whilst it could be argued that by obstructing the entranceway of the retail use this could jeopardise its viability, it could be argued to be contrary to S21 which seeks to protect retail uses.

If the pavement area at 1 Irving Street were to be permitted for use for tables and chairs as an extension to the tables and chairs currently in place for 2-3 Irving Street restaurant seating, this would result in the area of pavement at 1-3 effectively forming one functional tables and chairs area. As such it would impede and obstruct pedestrian access to the retail unit and its entrance at 1 Irving Street. Finally, the proposals would represent an unacceptable intensification of an A3 use due to the number of tables and chairs proposed. Therefore the proposed placing of tables and chairs to the pavement area to the frontage of 1 Irving Street for use in connection with the restaurant use at 2-3 is considered unacceptable.

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<b>Recommendation:</b>
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Refuse planning permission - obstruction to pedestrians and harm to amenity.

<b>Case Officer or Morning Meeting Officer:</b> Jonathon Metcalfe	<b>Date:</b> 30 January 2020
<b>Reason</b> (if over 8/13 wk deadline):	

## DRAFT DECISION LETTER

**Address:** 2-3 Irving Street, London, WC2H 7AT,

**Proposal:** Use of an area of the public highway at 1 Irving Street measuring 6.00m x 2.95m for placing of 16 tables and 32 chairs within planters to be used only in association with restaurant use at 2-3 Irving Street.

**Plan Nos:** Location Plan; Floor Plan 1 Irving Street

For Further Information;  
Cover Letter by Bidwells dated 13/11/2019 ref. JB566970

**Case Officer:** Jonathon Metcalfe **Direct Tel. No.** 07866038118

**Recommended Condition(s) and Reason(s) or Reason(s) for Refusal:****Reason:**

- 1 The tables and chairs would block the flow of pedestrians along the pavement by impeding and obstructing access to the shop front of 1 Irving Street. This would not meet S41 of Westminster's City Plan (November 2016) and TRANS 3 and TACE 11 of our Unitary Development Plan that we adopted in January 2007. (X08AC)

**Reason:**

- 2 The proposed tables and chairs are to be used in connection with the existing restaurant use at 2-3 Irving Street and are therefore in a remote location. The remote location combined with the use of the table and chairs for Class A3 purposes would cause harm to residential occupiers that overlook the site through increased levels of noise and disturbance. This would be contrary to S29 and S32 of Westminster's City Plan (November 2016) and ENV 6, ENV 13 and TACE 11 of our Unitary Development Plan that we adopted in January 2007.

**Informative(s):**

- 1 In dealing with this application the City Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way so far as practicable. We have made available detailed advice in the form of our statutory policies in Westminster's City Plan (November 2016), Unitary Development Plan, neighbourhood plan (where relevant), supplementary planning documents, planning briefs and other informal written guidance, as well as offering a full pre application advice service. However, we have been unable to seek solutions to problems as the principle of the proposal is clearly contrary to our statutory policies and negotiation could not overcome the reasons for refusal.
- 2 The principle of tables and chairs to the area of pavement outside of 1 Irving Street is not considered unacceptable, provided these items of furniture were to be used in connection with the lawful use of 1 Irving Street.



NOTES

The Council may revoke this licence on certain specified grounds e.g. for misconduct, failure to comply with licence conditions.

The holder may employ any other person to ASSIST him/her in the conduct of the business without any further licence being required, but the licence may not be transferred to any other person nor may it be altered or tampered with in any way. Any failure by an Assistant to comply with licence conditions will be deemed to be a failure by the licence holder.

Any breach of this licence is punishable by a penalty not exceeding Level 3.



**City of Westminster**

CITY OF WESTMINSTER ACT 1

TEMPORARY LICENCE  
FOR THE USE OF  
TABLES AND CHAIRS

La Chandelle  
2-3 Irving Street  
London  
WC2H 7AT

**LICENCE NO:  
20/01640/STTCF**

1. THE WESTMINSTER CITY COUNCIL hereby grants to Chahine Brothers Ltd

A temporary licence to engage in the use of tables and chairs in the City of Westminster from the street outside La Chandelle, 2-3 Irving Street, London, WC2H 7AT

2. This licence authorises the holder to trade solely in the articles, and in the manner, and at the places and times specified in the Schedule to the licence and is granted subject (1) to the conditions made under Section 21(2)(b) of the City of Westminster Act 1999; (2) to any Act amending the same and to any Orders made thereunder; and (3) to any other statutory enactment which is in force for the time being.

3. This licence is valid from 27 February 2020 and shall remain in force until 26 August 2020 unless it is cancelled or revoked by the Council.



**Ms Simone Murray**  
Senior Licensing Officer

**Dated this: 10 February 2020**  
On Behalf of the Director of Public Protection & Licensing

**SCHEDULE**

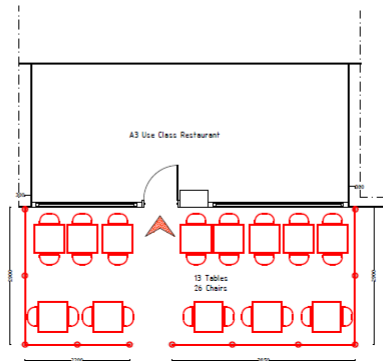
Number Of Places	26						
Type and number of other approved furniture	TABLES: 13 CHAIRS: 26 HEATERS: NIL PLANTERS: NIL						
Location / Premises	La Chandelle, 2-3 Irving Street, London, WC2H 7AT						
Dimensions of private forecourt	WIDTH: NONE DEPTH: NONE						
Dimensions of area licensed	WIDTH: Use of two areas of the public highway measuring 2.2m x 2.4m and 3.85m x 2.4m DEPTH:						
Day	Mon	Tues	Wed	Thurs	Fri	Sat	Sun
From Time	08:00	08:00	08:00	08:00	08:00	08:00	08:00
To Time	01:00	01:00	01:00	01:00	01:00	01:00	01:00

**FURTHER CONDITIONS**

(i) No space heaters shall be permitted within the licensed area.

(i) No space heaters shall be permitted within the licensed area.

(ii) The approved furniture shall be removed from the highway each day no later than the terminal hour stated above and shall not be returned to the highway until the commencement time on the following day.



EXISTING and PROPOSED GROUND FLOOR  
SCALE:1/100



Drawing Title Existing and Proposed Ground Floor Plan Scale 1:100	Client: Mr. Abdul Husseinbor	Revision: June 2013	<b>ARCH PLANNING &amp; LICENSING</b> 33b Grand Parade, Green Lanes, Haringey, London N4 1LG Telephone: (020) 8809 2320 Mobile: (078) 4241 0527 E-Mail: info@archpl.co.uk Website: www.archpl.co.uk
	Address: La Chandelle 2-3 Irving Street London WC2H 7AT	Scale: 1:100 @ A4	
	ALL DIMENSIONS TO BE VERIFIED ON SITE	13.0140.01	

## Planning Permission for 2-3 Irving Street

Westminster City Council

Development Planning  
Westminster City Council  
PO Box 732  
Redhill, RH1 9FL

westminster.gov.uk



City of Westminster

Your ref: La chandelle  
My ref: 18/01596/TCH

**Please reply to:**  
Tel No:

Nikki Mitchell  
020 7641 2681

Mr Ahmad Chahine

2-3 Irving Street  
Wc2h 7at

**Development Planning**  
Westminster City Council  
PO Box 732  
Redhill, RH1 9FL

16 April 2018

Dear Sir/Madam

### **TOWN AND COUNTRY PLANNING ACT 1990 PERMISSION FOR DEVELOPMENT (CONDITIONAL)**

The City Council has considered your application and permits the development referred to below subject to the conditions set out and in accordance with the plans submitted. Unless any other period is stated in the Schedule this permission, by virtue of Section 91(1) of the Town and Country Planning Act 1990 (as amended) is subject to a condition that the development shall be commenced within 3 years of the date of this decision. Your attention is drawn to the Applicant's Rights.

#### **SCHEDULE**

**Application No:** 18/01596/TCH

**Application Date:**

**Date Received:** 24.02.2018

**Date Amended:** 24.02.2018

**Plan Nos:** Site Plan; Existing and Proposed Ground Floor Plan; Photograph.

**Address:** 2-3 , Irving Street, London, WC2H 7AT

**Proposal:** Use of two areas of the public highway measuring 2.2m x 2.4m and 3.85m x 2.4m for the placing of 13 tables, 26 chairs and barriers in connection with existing cafe.

See next page for conditions/reasons.

Yours faithfully

**John Walker**  
Director of Planning

**Condition(s):**

- 1 The development hereby permitted shall be carried out in accordance with the drawings and other documents listed on this decision letter, and any drawings approved subsequently by the City Council as local planning authority pursuant to any conditions on this decision letter.

Reason:

For the avoidance of doubt and in the interests of proper planning.

- 2 You must not put the tables and chairs in any other position than that shown on the approved Existing and Proposed Ground Floor Plan. (C25AA)

Reason:

In the interests of public safety and to avoid blocking the road as set out in S41 of Westminster's City Plan (November 2016) and TACE 11 of our Unitary Development Plan that we adopted in January 2007. (R25AC)

- 3 You can only put the tables and chairs on the pavement between 08.00 and 01.00. (C25BA)

Reason:

To protect neighbouring residents from noise and disturbance as set out in S29 and S32 of Westminster's City Plan (November 2016) and ENV 6 and TACE 11 of our Unitary Development Plan that we adopted in January 2007.

- 4 The tables and chairs must only be used by customers of the cafe at 2-3 Irving Street. (C25CA)

Reason:

In the interests of public safety and to avoid blocking the road as set out in S41 of Westminster's City Plan (November 2016) and TACE 11 of our Unitary Development Plan that we adopted in January 2007. (R25AC)

- 5 This use of the pavement may continue until 30 April 2020. You must then remove the tables and chairs. (C25DA)

Reason:

We cannot give you permanent permission as the area in question is, and is intended to remain, public highway and Section 130 (1) of the Highways Act 1980 states that "It is the duty of the highway authority to assert and protect the rights of the public to the use and enjoyment of any highway for which they are the highway authority". We also need to assess the effect of this activity regularly to make sure it meets S41 of Westminster's City Plan (November 2016) and TACE 11 of our Unitary Development Plan that we adopted in January 2007. For the above reasons, and not because this is seen a form of trial period, we can therefore only grant a temporary permission.

- 6 You can only put out on the pavement the tables, chairs and other furniture/ equipment/ screening shown on drawing 'Existing and Proposed Ground Floor Plan' and photographs.

Note:

- The Plain English Crystal Mark applies to those conditions, reasons and informatives in this letter which have an associated reference number with the prefix C, R, X or I.
- The terms 'you' and 'your' include anyone who owns or occupies the land or is involved with the development.
- The terms 'us' and 'we' refer to the Council as local planning authority.



**Reason:**

To make sure that the type and appearance of the tables and chairs (and where appropriate other furniture or equipment) is suitable and that no additional furniture, equipment or screening is placed on the pavement to the detriment of the character and appearance of the area. This is as set out in TACE 11 and DES 7 of our Unitary Development Plan that we adopted in January 2007.

**Informative(s):**

- 1 In dealing with this application the City Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way. We have made available detailed advice in the form of our statutory policies in Westminster's City Plan (November 2016), Unitary Development Plan, Supplementary Planning documents, planning briefs and other informal written guidance, as well as offering a full pre application advice service, in order to ensure that applicant has been given every opportunity to submit an application which is likely to be considered favourably. In addition, where appropriate, further guidance was offered to the applicant at the validation stage.
- 2 You cannot put tables and chairs in the area unless you have a street trading licence.  
  
If you want to know about the progress of your application for a licence, you can contact our Licensing Service on 020 7641 8549. If you apply for a licence and then decide to change the layout of the tables and chairs, you may have to apply again for planning permission. You can discuss this with the planning officer whose name appears at the top of this letter.  
  
Please remember that once you have a licence you must keep the tables and chairs within the agreed area at all times. (I47AB)
- 3 You must keep the tables and chairs within the area shown at all times. We will monitor this closely and may withdraw your street trading licence if you put them outside this area. (I48AA)

**Note:**

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- The terms 'us' and 'we' refer to the Council as local planning authority.





## City of Westminster

TOWN AND COUNTRY PLANNING ACT 1990  
PLANNING (LISTED BUILDINGS AND CONSERVATION AREAS) ACT 1990

### Applicant's Rights and General Information

#### 1. Applicant's Rights (refusals and conditional approvals)

##### a) *Appeals to the Planning Inspectorate*

If your application has been **refused** by the City Council or **granted subject to conditions** that you are not happy with, you have the right to appeal to the Planning Inspectorate (under Section 78 of the Town and Country Planning Act 1990 or Section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990). The Planning Inspectorate is an Executive Agency reporting to the Secretary of State for Communities and Local Government.

The time limits for submitting an appeal may vary. The period after the date of the City Council's decision within which an appeal must be received by the Secretary of State is:

- **28 days** in the case of an appeal against refusal of a planning application relating to the same or substantially the same land and development as is already the subject of an enforcement notice.
- **8 weeks** in the case of an appeal against refusal of advertisement consent.
- **12 weeks** in the case of appeals made under s78(1) against refusal of any 'householder application' – that is,
  - refusal of an application for planning permission to alter or extend a house, or for works within the curtilage of a house.
  - Refusal to approve details submitted as required by a condition imposed on a permission granted for a householder application.
  - Refusal of prior approvals relating to dwelling houses, including the neighbours' consultation scheme for larger home extensions under Class A of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order.
- **12 weeks** in the case of 'minor commercial applications that is,
  - refusal of an application for development of an existing building or part of a building currently in use for any purposes in Classes A1, A2, A3, A4 and A5 where the proposal does not include a change of use, a change to the number of units, development that is not wholly at ground floor level and/or does not increase the gross internal area of the building.
  - Interested parties have no right to comment on an appeal with regards to a minor commercial development (specifically a shopfront).
- **6 months** in the case of all other appeals made under s78(1) or s20 of the above Acts relating to a decision on a planning application or listed building consent application. The 6 month time limit also applies to any appeal made under s78 (2) of the Act in respect of a failure to give a decision within the statutory period.

**Note:**

- The Plain English Crystal Mark applies to those conditions, reasons and informatives in this letter which have an associated reference number with the prefix C, R, X or I.
- The terms 'you' and 'your' include anyone who owns or occupies the land or is involved with the development.
- The terms 'us' and 'we' refer to the Council as local planning authority.



If you want to appeal, you must use the correct appeal form from the following list: Planning, Householder, Minor Commercial, Listed Building Consent or Certificate of Lawful Use or Development.

The Planning Inspectorate has an online appeals service: [www.planningportal.gov.uk/pcs](http://www.planningportal.gov.uk/pcs). The Inspectorate will publish details of your appeal on the internet (on the Appeals area of the Planning Portal). This may include a copy of the application form and associated documents and the completed appeal documents. Please ensure that you only provide information, including personal information, that you are happy will be made available to others in this way. If you supply personal information belonging to a third party please ensure that you have their permission to do so. More detailed information about data protection and privacy matters is available on the Planning Portal. Alternatively, you can obtain a form from the **Customer Support Team, Planning Inspectorate, 3/08a, Kite Wing, Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN Tel: 0303 4440000**. An extension of time for lodging an appeal is unlikely to be granted except in special circumstances. There is a guide and other useful advice about appeals on line at [www.planningportal.gov.uk/planning/appeals/online/makeanappeal](http://www.planningportal.gov.uk/planning/appeals/online/makeanappeal)

**APPROVAL OF DETAILS:**

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**2. General information relating to all approvals**

**a) Other legislative requirements**

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**Land Drainage:** Where major works are involved, Land Drainage Consent may be required under the Water Resources Act 1991 and Thames Region Land Drainage By Laws 1981. You are advised to contact the Environment Agency, Apollo Court ,2 Bishop's Square Business Park, St Albans Road West Hatfield AL10 9EX Tel: 03708 506 506 or email:enquiries@environment-agency.gov.uk.

#### ***b) Provision of access and facilities for disabled people***

Designing new buildings and adapting existing buildings to meet the needs of people with disabilities results in a safer and more convenient environment for all. General advice is available from planning and building control officers who can also direct you to appropriate sources of technical/specialist advice.

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## Table and Chairs Licence for 1 Irving Street

### NOTES

The Council may revoke this licence on certain specified grounds e.g. for misconduct, failure to comply with licence conditions.

The holder may employ any other person to ASSIST him/her in the conduct of the business without any further licence being required, but the licence may not be transferred to any other person nor may it be altered or tampered with in any way. Any failure by an Assistant to comply with licence conditions will be deemed to be a failure by the licence holder.

Any breach of this licence is punishable by a penalty not exceeding Level 3.



City of Westminster

CITY OF WESTMINSTER ACT 1999

TEMPORARY LICENCE  
FOR THE USE OF  
TABLES AND CHAIRS

Cafe Italiano  
1 Irving Street  
London  
WC2H 7AT

**LICENCE NO:  
20/03266/STTC**

1. THE WESTMINSTER CITY COUNCIL hereby grants to Chahine Brothers Ltd

A temporary licence to engage in the use of tables and chairs in the City of Westminster from the street outside Cafe Italiano, 1 Irving Street, London, WC2H 7AT

2. This licence authorises the holder to trade solely in the articles, and in the manner, and at the places and times specified in the Schedule to the licence and is granted subject (1) to the conditions made under Section 21(2)(b) of the City of Westminster Act 1999; (2) to any Act amending the same and to any Orders made thereunder; and (3) to any other statutory enactment which is in force for the time being.

3. This licence is valid from 4 July 2020 and shall remain in force until 3 January 2021 unless it is cancelled or revoked by the Council.



**Ms Simone Murray**  
Senior Licensing Officer

**Dated this: 30 June 2020**  
**On Behalf of the Director of Public Protection & Licensing**

**SCHEDULE**

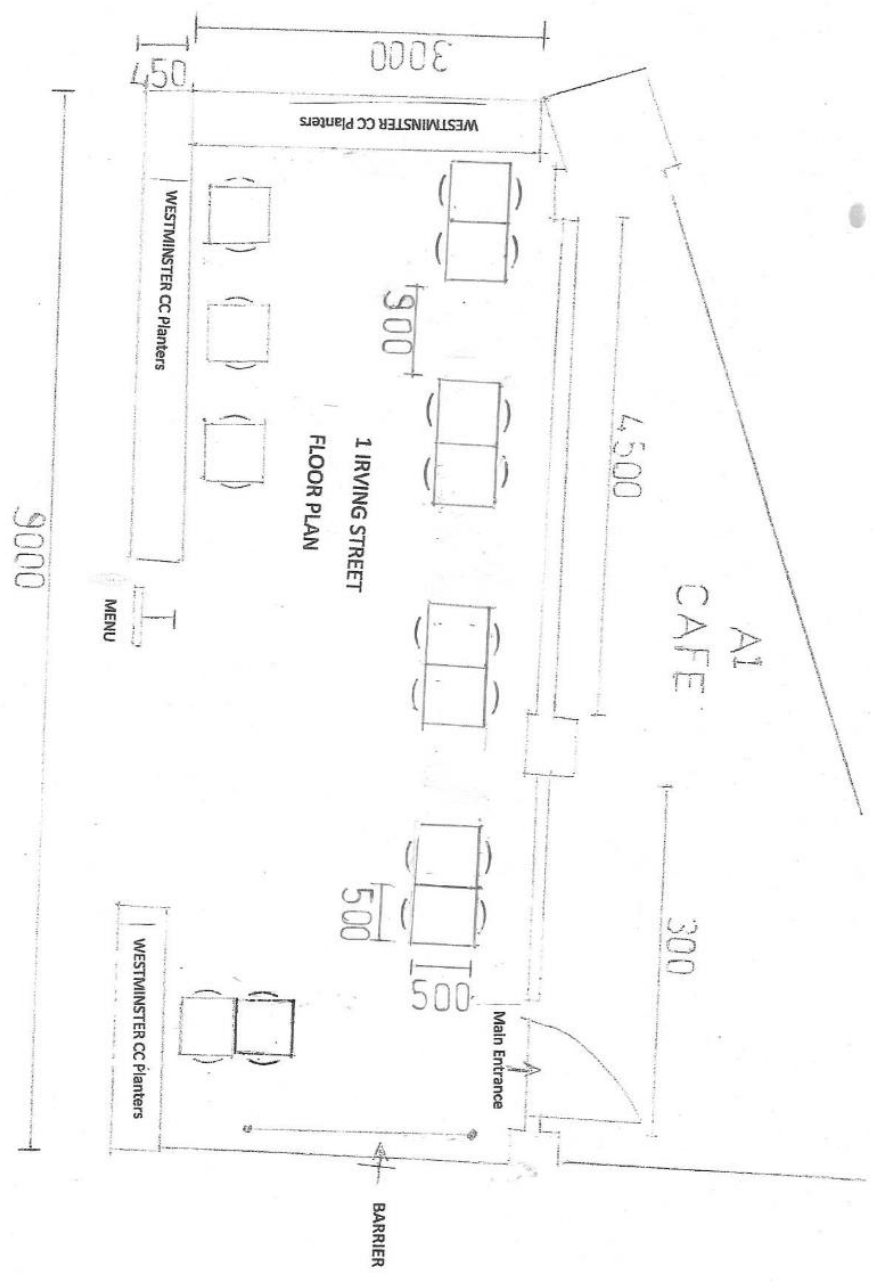
Number Of Places	26						
Type and number of other approved furniture	TABLES: 13 CHAIRS: 26 HEATERS: NIL PLANTERS: NIL FREE STANDING MENU						
Location / Premises	Cafe Italiano, 1 Irving Street, London, WC2H 7AT						
Dimensions of private forecourt	NONE						
Dimensions of area licensed	WIDTH: 9m DEPTH: 3m						
Day	Mon	Tues	Wed	Thurs	Fri	Sat	Sun
From Time	08:00	08:00	08:00	08:00	08:00	08:00	08:00
To Time	23:00	23:00	23:00	23:00	23:00	23:00	23:00

#### FURTHER CONDITIONS

- (i) No space heaters shall be permitted within the licensed area.
- (ii) The approved furniture shall be removed from the highway each day no later than the terminal hour stated above and shall not be returned to the highway until the commencement time on the following day.
- (iii) The authorised use of the outside area under this permit will only be allowed subject to the availability of public toilets at 2 - 3 Irving Street, London WC2H 7AT for use by customers using the outside area at 1, Irving Street, London WC2H 7AT.



PROPOSED EXTERNAL SEATING AREA  
SCALE 1:50



## Planning Permission for 1 Irving Street

Westminster City Council

Development Planning  
Westminster City Council  
PO Box 732  
Redhill, RH1 9FL

westminster.gov.uk



Your ref: Cafe 1  
My ref: 20/01135/TCH

Mr Mohamad chahine  
1 Irving street  
wc2h 7at

Please reply to:  
Tel No:

Jonathon Metcalfe  
07866038118

Development Planning  
Westminster City Council  
PO Box 732  
Redhill, RH1 9FL

31 March 2020

Dear Sir/Madam

### TOWN AND COUNTRY PLANNING ACT 1990 PERMISSION FOR DEVELOPMENT (CONDITIONAL)

The City Council has considered your application and permits the development referred to below subject to the conditions set out and in accordance with the plans submitted. Unless any other period is stated in the Schedule this permission, by virtue of Section 91(1) of the Town and Country Planning Act 1990 (as amended) is subject to a condition that the development shall be commenced within 3 years of the date of this decision. Your attention is drawn to the Applicant's Rights.

#### SCHEDULE

Application No: 20/01135/TCH

Application Date:

Date Received: 17.02.2020

Date Amended: 19.02.2020

Plan Nos: Site Location Plan; 1 Irving Street Floor Plan- Proposed External Seating Area

For Further Information Only:

Design and Access Statement Caffe Italiano; Caffe Italiano Sample Menu

Address: 1 Irving Street, London, WC2H 7AT,

Proposal: Use of the public highway for the placing of 13 tables and 26 chairs and a free standing menu in an area measuring 3m x 9m in connection with the existing ground floor use.

See next page for conditions/reasons.

Yours faithfully

A handwritten signature in cursive script that reads "Deirdra Armsby".

Deirdra Armsby  
Director of Place Shaping and Town Planning

Apex/19/03

**Condition(s):**

- 1 The development hereby permitted shall be carried out in accordance with the drawings and other documents listed on this decision letter, and any drawings approved subsequently by the City Council as local planning authority pursuant to any conditions on this decision letter.

**Reason:**

For the avoidance of doubt and in the interests of proper planning.

- 2 You must not put the tables and chairs and, where relevant, other furniture, equipment or screening hereby approved in any other position than that shown on drawing '1 Irving Street Floor Plan- Proposed External Seating Area'. (C25AA)

**Reason:**

In the interests of public safety and to avoid blocking the road as set out in S41 of Westminster's City Plan (November 2016) and TACE 11 of our Unitary Development Plan that we adopted in January 2007. (R25AC)

- 3 You can only put the tables and chairs and, where relevant, other furniture, equipment or screening hereby approved on the pavement between 08:00 and 23:00. (C25BA)

**Reason:**

To protect neighbouring residents from noise and disturbance as set out in S29 and S32 of Westminster's City Plan (November 2016) and ENV 6 and TACE 11 of our Unitary Development Plan that we adopted in January 2007. (R25BD)

- 4 The tables and chairs must only be used by customers of 1 Irving Street. (C25CA)

**Reason:**

To protect neighbouring residents from noise and disturbance as set out in S29 and S32 of Westminster's City Plan (November 2016) and ENV 6 and TACE 11 of our Unitary Development Plan that we adopted in January 2007. (R25BD)

- 5 This use of the pavement may continue until 31st March 2021. You must then remove the tables and chairs and, where relevant, other furniture, equipment or screening hereby approved. (C25DA)

**Reason:**

We cannot give you permanent permission as the area in question is, and is intended to remain, public highway and Section 130 (1) of the Highways Act 1980 states that "It is the duty of the highway authority to assert and protect the rights of the public to the use and enjoyment of any highway for which they are the highway authority". We also need to assess the effect of this activity regularly to make sure it meets S41 of Westminster's City Plan (November 2016) and TACE 11 of our Unitary Development Plan that we adopted in January 2007. For the above reasons, and not because this is seen a form of trial period, we can therefore only grant a temporary permission.

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- 6 You can only put out on the pavement the tables and chairs and, where relevant, other furniture, equipment or screening hereby approved shown on drawing '1 Irving Street Floor Plan- Proposed External Seating Area'. No other furniture, equipment or screening shall be placed on the pavement in association with the tables and chairs hereby approved.

**Reason:**

To make sure that the type and appearance of the tables and chairs (and where appropriate other furniture or equipment) is suitable and that no additional furniture, equipment or screening is placed on the pavement to the detriment of the character and appearance of the area. This is as set out in TACE 11 and DES 7 of our Unitary Development Plan that we adopted in January 2007. (R25EA)

**Informative(s):**

- 1 In dealing with this application the City Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way. We have made available detailed advice in the form of our statutory policies in Westminster's City Plan (November 2016), Unitary Development Plan, neighbourhood plan (where relevant), supplementary planning documents, planning briefs and other informal written guidance, as well as offering a full pre application advice service, in order to ensure that applicant has been given every opportunity to submit an application which is likely to be considered favourably. In addition, where appropriate, further guidance was offered to the applicant at the validation stage.
- 2 You cannot put tables and chairs in the area unless you have a street trading licence, which can be applied for at the following link: [www.westminster.gov.uk/tables-and-chairs-licence](http://www.westminster.gov.uk/tables-and-chairs-licence).
- If you want to know about the progress of your application for a licence, you can contact our Licensing Service by email to [streettradinglicensing@westminster.gov.uk](mailto:streettradinglicensing@westminster.gov.uk). If you apply for a licence and then decide to change the layout of the tables and chairs, you may have to apply again for planning permission. You can discuss this with the planning officer whose name appears at the top of this letter.
- Please remember that once you have a licence you must keep the tables and chairs within the agreed area at all times.
- 3 You must keep the tables and chairs within the area shown at all times. We will monitor this closely and may withdraw your street trading licence if you put them outside this area. (I48AA)

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## City of Westminster

TOWN AND COUNTRY PLANNING ACT 1990  
PLANNING (LISTED BUILDINGS AND CONSERVATION AREAS) ACT 1990

### Applicant's Rights and General Information

#### 1. Applicant's Rights (refusals and conditional approvals)

##### a) Appeals to the Planning Inspectorate

If your application has been **refused** by the City Council or **granted subject to conditions** that you are not happy with, you have the right to appeal to the Planning Inspectorate (under Section 78 of the Town and Country Planning Act 1990 or Section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990). The Planning Inspectorate is an Executive Agency reporting to the Secretary of State for Communities and Local Government.

The time limits for submitting an appeal may vary. The period after the date of the City Council's decision within which an appeal must be received by the Secretary of State is:

- **28 days** in the case of an appeal against refusal of a planning application relating to the same or substantially the same land and development as is already the subject of an enforcement notice.
- **8 weeks** in the case of an appeal against refusal of advertisement consent.
- **12 weeks** in the case of appeals made under s78(1) against refusal of any 'householder application' – that is,
  - refusal of an application for planning permission to alter or extend a house, or for works within the curtilage of a house.
  - Refusal to approve details submitted as required by a condition imposed on a permission granted for a householder application.
  - Refusal of prior approvals relating to dwelling houses, including the neighbours' consultation scheme for larger home extensions under Class A of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order.
- **12 weeks** in the case of 'minor commercial applications that is,
  - refusal of an application for development of an existing building or part of a building currently in use for any purposes in Classes A1, A2, A3, A4 and A5 where the proposal does not include a change of use, a change to the number of units, development that is not wholly at ground floor level and/or does not increase the gross internal area of the building.
  - Interested parties have no right to comment on an appeal with regards to a minor commercial development (specifically a shopfront).
- **6 months** in the case of all other appeals made under s78(1) or s20 of the above Acts relating to a decision on a planning application or listed building consent application. The 6 month time limit also applies to any appeal made under s78 (2) of the Act in respect of a failure to give a decision within the statutory period.

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With immediate effect, prospective appellants requesting an inquiry into their appeal must notify the Local Planning Authority and Planning Inspectorate at least 10 days prior to appeal submission.

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Schedule 12  
Part A

WARD: St James's  
UPRN: 100023431715

## City of Westminster

64 Victoria Street, London, SW1E 6QP

Premises licence

Regulation 33, 34

Premises licence number:

19/16138/LIPT

Original Reference:

05/10347/LIPC

### Part 1 – Premises details

#### Postal address of premises:

Stephanos Cafe La Chandelle  
2-3 Irving Street  
London  
WC2H 7AT

#### Telephone Number:

#### Where the licence is time limited, the dates:

Not applicable

#### Licensable activities authorised by the licence:

Playing of Recorded Music  
Late Night Refreshment  
Private Entertainment consisting of dancing, music or other entertainment of a like kind for consideration and with a view to profit  
Sale by Retail of Alcohol

#### The times the licence authorises the carrying out of licensable activities:

##### Playing of Recorded Music

Unrestricted

##### Late Night Refreshment

Monday to Saturday:

23:00 to 00:30

Sunday:

23:00 to 00:00

##### Private Entertainment consisting of dancing, music or other entertainment of a like kind for consideration and with a view to profit

Unrestricted

##### Sale by Retail of Alcohol

Monday to Sunday:

10:00 to 23:00 (Off Sales)

Monday to Saturday:

10:00 to 00:00 (On Sales)

Sunday:

10:00 to 23:30 (On Sales)

*For times authorised for Christmas, New Year and Good Friday see conditions at Annex 1&3*

**The opening hours of the premises:**

Monday to Saturday: 08:00 to 00:30  
Sunday: 08:00 to 00:00

**Where the licence authorises supplies of alcohol, whether these are on and/or off supplies:**

Alcohol is supplied for consumption both on and off the Premises.

**Part 2**

**Name, (registered) address, telephone number and email (where relevant) of holder of premises licence:**

Chahine Brothers Ltd  
First Floor,  
244 Edgware Road,  
London W2 1DS  
W2 1DS

**Registered number of holder, for example company number, charity number (where applicable)**

07608688

**Name, address and telephone number of designated premises supervisor where the premises licence authorises the supply of alcohol:**

**Name:** Ahmad Chahine

*Please note: It is the policy of the Licensing Authority not to display the address details of a designated premises supervisor.*

**Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises for the supply of alcohol:**

**Licence Number:** 11/10556/LIPERS  
**Licensing Authority:** City Of Westminster Council

**Date:** 20 December 2019

This licence has been authorised by Mary Pring on behalf of the Director - Public Protection and Licensing.

## Annex 1 – 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 shall take all reasonable steps to 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 in a manner which carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance, or harm to children;
  - (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 (other than any promotion or discount available to an individual in respect of alcohol for consumption at a table meal, as defined in section 159 of the Act);
  - (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;
  - (d) provision of free or discounted alcohol in relation to the viewing on the premises of a sporting event, where that provision is dependent on;
    - (i) the outcome of a race, competition or other event or process, or
    - (ii) the likelihood of anything occurring or not occurring;
  - (e) 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.
5. The responsible person shall ensure that no alcohol is dispensed 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).
6. The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.
7. (1) The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.  
  
(2) 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 a holographic mark.
8. The responsible person shall 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; and
- (b) customers are made aware of the availability of these measures.

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.

9(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.

9(ii) For the purposes of the condition set out in paragraph 9(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.

9(iii). Where the permitted price given by Paragraph 9(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.

- 9(iv). (1) Sub-paragraph 9(iv)(2) below applies where the permitted price given by Paragraph 9(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 which reproduce the effect of any restriction imposed on the use of the premises by specified enactment**

10. No person under fourteen shall be in the bar of the licensed premises during the permitted hours unless one of the following applies:
- (a) He is the child of the holder of the premises licence.
  - (b) He resides in the premises, but is not employed there.
  - (c) He is in the bar solely for the purpose of passing to or from some part of the premises which is not a bar and to or from which there is no other convenient means of access or egress.
  - (d) The bar is in railway refreshment rooms or other premises constructed, fitted and intended to be used bona fide for any purpose to which the holding of the licence is ancillary.

In this condition "bar" includes any place exclusively or mainly used for the consumption of intoxicating liquor. But an area is not a bar when it is usual for it to be, and it is, set apart for the service of table meals and alcohol is only sold or supplied to persons as an ancillary to their table meals.

11. The terminal hour for Late Night Refreshment on New Years Eve is extended to 05:00 on New Years Day.



**Annex 2 – Conditions consistent with the operating Schedule**

None

### **Annex 3 – Conditions attached after a hearing by the licensing authority**

12. Substantial food and suitable beverages other than intoxicating liquor (including drinking water) shall be available during the whole of the permitted hours in all parts of the premises where intoxicating liquor is sold or supplied.

#### **Conditions which reproduce the effect of any restriction imposed on the use of the premises by specified enactment**

13. Alcohol shall not be sold, supplied, consumed in or taken from the premises except during permitted hours.

In this condition, permitted hours means:

- (a) Monday to Saturday, other than Christmas Day or Good Friday, 10:00 to 00:00 for sale of alcohol for consumption on the premises and 10:00 to 23:00 for sale of alcohol for consumption off the premises
- (b) On Sundays, other than Christmas Day, 10:00 to 23:30 for sale of alcohol for consumption on the premises and 10:00 to 23:00 for sale of alcohol for consumption off the premises
- (c) On Good Friday, 12:00 to 22:30
- (d) On Christmas Day, 12:00 to 15:00 and 19:00 to 22:30
- (e) On New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day for the sale of alcohol for consumption on the premises.

NOTE - The above restrictions do not prohibit:

- (a) during the first thirty minutes after the above hours the consumption of the alcohol on the premises by persons taking table meals there if the alcohol was supplied for consumption as ancillary to the meals;
- (b) the sale or supply of alcohol to or the consumption of alcohol by any person residing in the licensed premises;
- (c) the ordering of alcohol to be consumed off the premises, or the despatch by the vendor of the alcohol so ordered;
- (d) the sale of alcohol to a trader or registered club for the purposes of the trade or club;
- (e) the sale or supply of alcohol to any canteen or mess, being a canteen in which the sale or supply of alcohol is carried out under the authority of the Secretary of State or an authorised mess of members of Her Majesty's naval, military or air forces;
- (f) the taking of alcohol from the premises by a person residing there;
- (g) the supply of alcohol for consumption on the premises to any private friends of a person residing there who are bona fide entertained by him at his own expense, or the consumption of alcohol by persons so supplied;
- (h) the supply of alcohol for consumption on the premises to persons employed there for the purposes of the business carried on by the holder of the licence, or the consumption of liquor so supplied, if the liquor is supplied at the expense of their employer or of the person carrying on or in charge of the business on the premises.

In this condition, any reference to a person residing in the premises shall be construed as including a person not residing there but carrying on or in charge of the business on the premises.

14. No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
15. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.

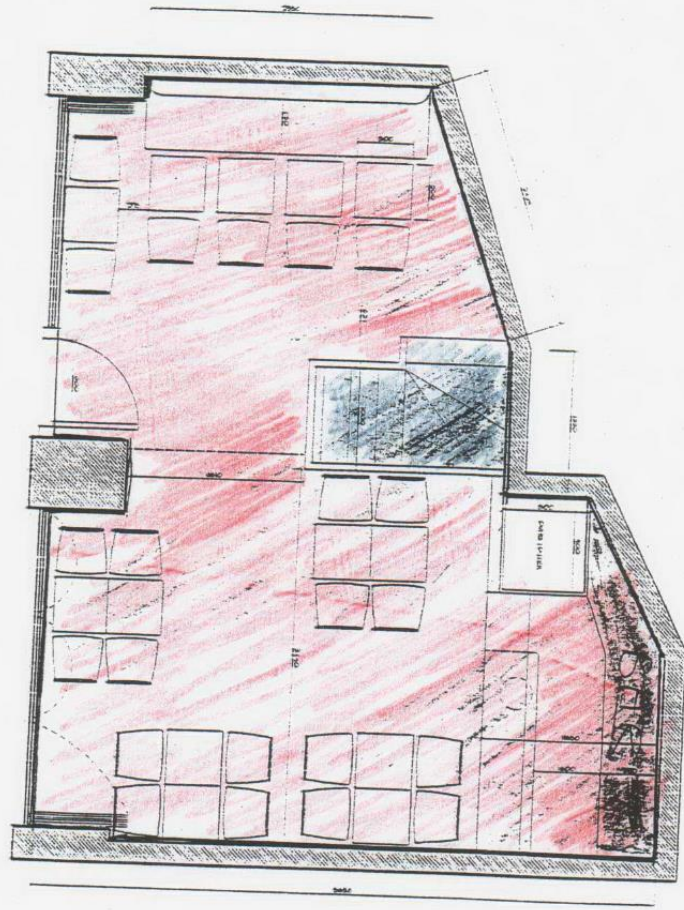
16. Notices shall be prominently displayed at any area used for smoking requesting patrons to respect the needs of local residents and use the area quietly.
17. After 23:00 Patrons temporarily leaving the premises e.g. to smoke shall not be allowed to take any alcoholic drinks with them.
18. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
19. No waste of recyclable materials, including bottles, shall be moved, removed from or placed in outside areas between 23:00 hours and 08:00 hours on the following day.
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 sweepings collected and stored in accordance with the approved refuse storage arrangements by close of business.
21. The number of persons permitted in the premises at any one time (including staff) shall not exceed 30 persons.
22. 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.
23. 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.
24. 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.
25. The premises, including any permitted external area, shall only operate as a restaurant
  - (i) in which customers are shown to their table,
  - (ii) where the supply of alcohol is by waiter or waitress service only,
  - (iii) which provide food in the form of substantial table meals that are prepared on the premises and are served and consumed at the table using non disposable crockery,
  - (iv) which do not provide any take away service of food or drink for immediate consumption, save for consumption at tables and chairs outside the premises granted by a temporary licence under the City of Westminster Act 1999,
  - (v) which do not provide any take away service of food or drink after 23.00, and
  - (vi) where alcohol shall not be sold or supplied, otherwise than for consumption by persons who are seated in the premises and bona fide taking substantial table meals there, and provided always that the consumption of alcohol by such persons is ancillary to taking such meals.

Notwithstanding this condition customers are permitted to take from the premises part consumed and resealed bottles of wine supplied ancillary to their meal.
26. An incident log shall be kept at the premises, and made available on request to an authorised officer of the City Council or the Police, which will record the following: (a) all crimes reported to the venue (b) all ejections of patrons (c) any complaints received concerning crime and disorder (d) any incidents of disorder (e) all seizures of drugs or offensive weapons (f) any faults in the CCTV system or searching equipment or scanning equipment (g) any refusal of the sale of alcohol (h) any visit by a relevant authority or emergency service.
27. Tables and chairs outside the premises shall be rendered unusable or removed by 23:30.



Stephanos  
2/3 Irving Street

2-Proposed Plan  
(New)



STEPHANOS CAFE  
LEICESTER SQ  
SCALE: 1:50



**City of Westminster**  
64 Victoria Street, London, SW1E 6QP

**Premises licence  
summary**

Regulation 33, 34

**Premises licence number:**

19/16138/LIPT

**Part 1 – Premises details**

**Postal address of premises:**

Stephanos Cafe La Chandelle  
2-3 Irving Street  
London  
WC2H 7AT

**Telephone Number:**

**Where the licence is time limited, the dates:**

Not applicable

**Licensable activities authorised by the licence:**

Playing of Recorded Music  
Late Night Refreshment  
Private Entertainment consisting of dancing, music or other entertainment of a like kind for consideration and with a view to profit  
Sale by Retail of Alcohol

**The times the licence authorises the carrying out of licensable activities:**

<b>Playing of Recorded Music</b>	Unrestricted
<b>Late Night Refreshment</b>	
Monday to Saturday:	23:00 to 00:30
Sunday:	23:00 to 00:00
<b>Private Entertainment consisting of dancing, music or other entertainment of a like kind for consideration and with a view to profit</b>	Unrestricted
<b>Sale by Retail of Alcohol</b>	
Monday to Sunday:	10:00 to 23:00 (Off Sales)
Monday to Saturday:	10:00 to 00:00 (On Sales)
Sunday:	10:00 to 23:30 (On Sales)
Non-standard Timings: N/A	

*For times authorised for Christmas, New Year and Good Friday see conditions at Annex 1&3*

**The opening hours of the premises:**

Monday to Saturday: 08:00 to 00:30  
Sunday: 08:00 to 00:00

**Where the licence authorises supplies of alcohol, whether these are on and/or off supplies:**

Alcohol is supplied for consumption both on and off the Premises.

**Name and (registered) address of holder of premises licence:**

Chahine Brothers Ltd  
First Floor,  
244 Edgware Road,  
London W2 1DS  
W2 1DS

**Registered number of holder, for example company number, charity number (where applicable)**

07608688

**Name of designated premises supervisor where the premises licence authorises for the supply of alcohol:**

**Name:** Ahmad Chahine

**State whether access to the premises by children is restricted or prohibited:**

Restricted

**Date:** 20 December 2019

**This licence has been authorised by Mary Pring on behalf of the Director - Public Protection and Licensing.**

### Licence & Appeal History

<b>Application</b>	<b>Details of Application</b>	<b>Date Determined</b>	<b>Decision</b>
05/10347/LIPC	Conversion of the Premise Licence number the Licensing Act 2003	24 November 2005	<b>Granted under delegated authority</b>
06/08681/WCCMAP	Master Licence	24 November 2005	Granted under delegated authority
08/01631/LIPT	Application to transfer Premises Licence	3 August 2005	Granted under delegated authority
08/01978/LIPDPS	Application to vary the Designated Premises Supervisor	3 August 2005	Granted under delegated authority
14/00705/LIPV	Application to vary the Premises Licence	10 April 2014	Granted at Licensing Sub-Committee
19/02589/LIPDPS	Application to vary the Designated Premises Supervisor	1 August 2019	Granted under delegated authority
19/16138/LIPT	Application to transfer the Premises Licence	17 December 2019	Granted under delegated authority

**There is no appeal history**



*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 appropriate for the promotion of the licensing objectives.

This schedule lists those conditions which are consistent with the operating schedule, or proposed as appropriate 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

**Conditions: On Current Licence -**

**Mandatory:**

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 which reproduce the effect of any restriction imposed on the use of the premises by specified enactment**

***Condition proposed by the applicant to be removed from the operating schedule by way of this variation:***

10. No person under fourteen shall be in the bar of the licensed premises during the permitted hours unless one of the following applies:
- (a) He is the child of the holder of the premises licence.
  - (b) He resides in the premises, but is not employed there.
  - (c) He is in the bar solely for the purpose of passing to or from some part of the premises which is not a bar and to or from which there is no other convenient means of access or egress.
  - (d) The bar is in railway refreshment rooms or other premises constructed, fitted and intended to be used bona fide for any purpose to which the holding of the licence is ancillary.

In this condition "bar" includes any place exclusively or mainly used for the consumption of intoxicating liquor. But an area is not a bar when it is usual for it to be, and it is, set apart for the service of table meals and alcohol is only sold or supplied to persons as an ancillary to their table meals.

11. The terminal hour for Late Night Refreshment on New Years Eve is extended to 05:00 on New Years Day.

#### **Annex 2 – Conditions consistent with the operating Schedule**

None

#### **Annex 3 – Conditions attached after a hearing by the licensing authority**

12. Substantial food and suitable beverages other than intoxicating liquor (including drinking water) shall be available during the whole of the permitted hours in all parts of the premises where intoxicating liquor is sold or supplied.

**Conditions which reproduce the effect of any restriction imposed on the use of the premises by specified enactment**

***Condition proposed by the applicant to be deleted from the operating schedule by way of this variation:***

13. Alcohol shall not be sold, supplied, consumed in or taken from the premises except during permitted hours.

In this condition, permitted hours means:

- (f) Monday to Saturday, other than Christmas Day or Good Friday, 10:00 to 00:00 for sale of alcohol for consumption on the premises and 10:00 to 23:00 for sale of alcohol for consumption off the premises
- (g) On Sundays, other than Christmas Day, 10:00 to 23:30 for sale of alcohol for consumption on the premises and 10:00 to 23:00 for sale of alcohol for consumption off the premises
- (h) On Good Friday, 12:00 to 22:30
- (i) On Christmas Day, 12:00 to 15:00 and 19:00 to 22:30

- (j) On New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day for the sale of alcohol for consumption on the premises.**

**NOTE - The above restrictions do not prohibit:**

- (i) during the first thirty minutes after the above hours the consumption of the alcohol on the premises by persons taking table meals there if the alcohol was supplied for consumption as ancillary to the meals;**
- (j) the sale or supply of alcohol to or the consumption of alcohol by any person residing in the licensed premises;**
- (k) the ordering of alcohol to be consumed off the premises, or the despatch by the vendor of the alcohol so ordered;**
- (l) the sale of alcohol to a trader or registered club for the purposes of the trade or club;**
- (m) the sale or supply of alcohol to any canteen or mess, being a canteen in which the sale or supply of alcohol is carried out under the authority of the Secretary of State or an authorised mess of members of Her Majesty's naval, military or air forces;**
- (n) the taking of alcohol from the premises by a person residing there;**
- (o) the supply of alcohol for consumption on the premises to any private friends of a person residing there who are bona fide entertained by him at his own expense, or the consumption of alcohol by persons so supplied;**
- (p) the supply of alcohol for consumption on the premises to persons employed there for the purposes of the business carried on by the holder of the licence, or the consumption of liquor so supplied, if the liquor is supplied at the expense of their employer or of the person carrying on or in charge of the business on the premises.**

**In this condition, any reference to a person residing in the premises shall be construed as including a person not residing there but carrying on or in charge of the business on the premises.**

- 14. No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
- 15. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
- 16. Notices shall be prominently displayed at any area used for smoking requesting patrons to respect the needs of local residents and use the area quietly.
- 17. After 23:00 Patrons temporarily leaving the premises e.g. to smoke shall not be allowed to take any alcoholic drinks with them.
- 18. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
- 19. No waste of recyclable materials, including bottles, shall be moved, removed from or placed in outside areas between 23:00 hours and 08:00 hours on the following day.

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 sweepings collected and stored in accordance with the approved refuse storage arrangements by close of business.
21. The number of persons permitted in the premises at any one time (including staff) shall not exceed 30 persons.
22. 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.
23. 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.
24. 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.
25. The premises, including any permitted external area, shall only operate as a restaurant
  - (i) in which customers are shown to their table,
  - (ii) where the supply of alcohol is by waiter or waitress service only,
  - (iii) which provide food in the form of substantial table meals that are prepared on the premises and are served and consumed at the table using non disposable crockery,
  - (iv) which do not provide any take away service of food or drink for immediate consumption, save for consumption at tables and chairs outside the premises granted by a temporary licence under the City of Westminster Act 1999,
  - (v) which do not provide any take away service of food or drink after 23.00, and
  - (vi) where alcohol shall not be sold or supplied, otherwise than for consumption by persons who are seated in the premises and bona fide taking substantial table meals there, and provided always that the consumption of alcohol by such persons is ancillary to taking such meals.

Notwithstanding this condition customers are permitted to take from the premises part consumed and resealed bottles of wine supplied ancillary to their meal.

26. An incident log shall be kept at the premises, and made available on request to an authorised officer of the City Council or the Police, which will record the following: (a) all crimes reported to the venue (b) all ejections of patrons (c) any complaints received concerning crime and disorder (d) any incidents of disorder (e) all seizures of drugs or offensive weapons (f) any faults in the CCTV system or searching equipment or scanning equipment (g) any refusal of the sale of alcohol (h) any visit by a relevant authority or emergency service.
27. Tables and chairs outside the premises shall be rendered unusable or removed by 23:30.

**Conditions proposed by the applicant by way of this variation so as to form part of the operating schedule:**

28. On a minimum daily basis staff shall check that the CCTV system is operational and the date & time print correctly set and on a minimum weekly basis staff shall check that images are being recorded and stored for a minimum of 31 days and can be instantly downloaded.
29. The dps or a personal licence holder shall be on duty from 19.00 to the end of permitted licensed hours on Friday and Saturday evenings. At other times the dps, a personal licence holder or trained member of staff nominated in writing by the dps shall be on duty until the end of permitted hours.
30. Only trained staff authorised in writing by the dps may sell alcohol. The written authority will be produced to police or authorised officers on request.
31. Customers using the permitted external area outside number 1 Irving street shall be permitted to use the toilets at 2/3 Irving street free of charge.
32. The sale and supply of alcohol for consumption off the premises shall be restricted to alcohol consumed at the outside tables and chairs shown on the licence plan, shall be by waiter or waitress service, served only to a person seated taking a substantial table meal there and for consumption by such a person as ancillary to their meal. The sale and supply of alcohol for consumption off the premises shall be restricted to alcohol consumed by persons who are seated in an area appropriately authorised for the use of tables and chairs on the highway and bona fide taking a substantial table meal there, and where the consumption of alcohol by such persons is ancillary to taking such a meal, and where the supply of alcohol is by waiter or waitress service only.
33. A fire risk assessment & emergency plan will be prepared and regularly reviewed. Staff will receive appropriate fire safety training & refresher training.
34. Management and staff will proactively monitor the outside of the restaurant including customer conduct and smokers. Suitable containers will be provided for cigarette ends.
35. A phone number will be displayed for residents and any local residents association to contact management with any concerns. Details including the outcome will be recorded in the incident book.
36. Staff will call a cab for departing customers on request.
37. The doors will be kept closed during any musical entertainment except for entry and egress.
38. A written dispersal policy will be prepared which shall be kept under review. A copy will be submitted to the licensing authority.
39. A Challenge 21 or 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.
40. All refusals of service will be recorded in the incident book (refusals section) and will be made available to the police or authorised officers on request.

41. Notices will be prominently displayed by the entry door and bar stating that both CCTV & challenge 25 are in operation.
42. Notices will also be displayed advising customers of the provisions of the licensing act regarding underage & proxy sales.
43. Waiting staff will be trained on induction and given refresher training at six monthly intervals. Training will include operating the CCTV system, operation of the challenge 25 proof of age scheme, including identifying persons under 25, making a challenge, acceptable proof of age and checking it, making and recording a refusal plus avoiding proxy sales, avoiding sales to intoxicated persons, avoiding conflict, responsible alcohol retailing & safeguarding children.
44. No child or young person under 18 will be permitted to consume alcohol on the premises at any time.
45. No unaccompanied children will be permitted on the premises after 20.00.

**Conditions proposed by the Environmental Health Service**

None



**Residential Map and List of Premises in the Vicinity**

**Appendix 7**



**Resident Count: 16**

<b>Licensed Premises within 75 metres of Rosso Italiano, 2-3 Irving Street, London, WC2H 7AT</b>				
<b>Licence Number</b>	<b>Trading Name</b>	<b>Address</b>	<b>Premises Type</b>	<b>Time Period</b>
19/16495/LIPDPS	TGI Fridays	29-30 Leicester Square London WC2H 7LA	Not Recorded	Monday; 09:00 - 01:30   Tuesday; 09:00 - 01:30   Wednesday; 09:00 - 01:30   Thursday; 09:00 - 01:30   Friday; 09:00 - 01:30   Sunday; 09:00 - 01:00   Sundays before Bank Holidays; 09:00 - 01:30
18/05674/LIPDPS	Global Radio	29-30 Leicester Square London WC2H 7LA	Office	Monday to Friday; 07:00 - 00:00

19/04918/LIPVM	Il Padrino	6-7 Irving Street London WC2H 7AT	Not Recorded	Monday; 10:00 - 05:00   Tuesday; 10:00 - 05:00   Wednesday; 10:00 - 05:00   Thursday; 10:00 - 05:00   Friday; 10:00 - 05:00   Sunday; 11:00 - 01:30
18/14488/LIPT	Wox	8 Irving Street London WC2H 7AT	Cafe	Monday to Saturday; 23:00 - 05:00
18/07437/LIPVM	Moon Under Water	28 Leicester Square London WC2H 7LE	Public house or pub restaurant	Monday to Thursday; 07:00 - 23:30   Friday to Saturday; 07:00 - 00:00   Sunday; 07:00 - 22:50   Sundays before Bank Holidays; 07:00 - 00:00
19/09073/LIPN	Shadow Licence	28A Leicester Square London WC2H 7LE	Night clubs and discos	Monday to Saturday; 09:00 - 03:30   Sunday; 09:00 - 01:00
20/00423/LIPVM	The Lost Alhambra	28A Leicester Square London WC2H 7LE	Night clubs and discos	Monday; 09:00 - 03:30   Monday to Wednesday; 09:00 - 03:30   Tuesday; 09:00 - 03:30   Wednesday; 09:00 - 03:30   Thursday; 09:00 - 03:30   Thursday to Saturday; 09:00 - 06:00   Friday; 09:00 - 03:30   Saturday; 09:00 - 03:30   Sunday; 09:00 - 01:00
17/12395/LIPVM	Not Recorded	9A Irving Street	Cafe	Monday to Saturday;

		London WC2H 7AT		08:00 - 23:30   Sunday; 08:00 - 23:00
06/12648/WCCMAC	Beefsteak Club	Basement To First Floor 9 Irving Street London WC2H 7AH	Club or institution	Monday to Friday; 17:30 - 23:30   Monday to Friday; 13:00 - 15:00
10/05756/LIPN	Pompidou	9A Irving Street London WC2H 7AT	Cafe	Monday to Saturday; 07:00 - 23:30   Sunday; 09:00 - 23:00
18/14963/LIPDPS	MOD Pizza	17 - 18 Irving Street London WC2H 7AU	Restaurant	Monday to Saturday; 07:00 - 00:30   Sunday; 07:00 - 00:00   Christmas Eve; 07:00 - 02:30   New Year's Eve; 07:00 - 07:00
17/09529/LIPN	Not Recorded	Basement And Ground Floor 16 Irving Street London WC2H 7AU	Restaurant	Monday to Saturday; 07:00 - 01:00   Sunday; 07:00 - 00:00   Christmas Eve; 07:00 - 02:30   New Year's Eve; 07:00 - 07:00
18/09520/LIPDPS	Bella Italia	10 Irving Street London WC2H 7AT	Restaurant	Monday to Saturday; 09:00 - 01:00   Sunday; 09:00 - 00:00   Sundays before Bank Holidays; 09:00 - 01:00
19/10538/LIPDPS	Garfunkels Restaurants	Ground Floor 19 - 20 Irving Street London WC2H 7RR	Restaurant	Monday to Saturday; 10:00 - 00:30   Sunday; 12:00 - 00:00
19/00179/LIPT	The Halal Guys	Basement And Ground Floor 14-15 Irving Street London WC2H 7AU	Restaurant	Monday to Saturday; 10:00 - 23:30   Sunday; 23:30 - 23:00
18/14184/LIPDPS	Wagamama	14A Irving Street	Restaurant	Monday to Saturday;

		London WC2H 7AF		10:00 - 00:30   Sunday; 12:00 - 00:00
18/09120/LIPDPS	Radisson Hampshire Hotel	31-36 Leicester Square London WC2H 7LH	Hotel, 4+ star or major chain	Monday to Sunday; 00:01 - 00:00
18/01279/LIPDPS	Saravana Bhavan	17 Charing Cross Road London WC2H 0EP	Restaurant	Monday to Sunday; 10:00 - 00:30
19/01132/LIPVM	Steak & Co	Ground Floor 3 - 5 Charing Cross Road London WC2H 0HA	Restaurant	Monday to Saturday; 10:00 - 00:30   Sunday; 12:00 - 00:00
16/00395/LIPT	Maharaja Of India	19A Charing Cross Road London WC2H 0ET	Restaurant	Monday to Saturday; 10:00 - 23:30   Sunday; 12:00 - 23:00
19/11008/LIPVM	Odeon Cinema	24 - 27 Leicester Square London WC2H 7JY	Cinema	Monday to Sunday; 00:00 - 00:00
19/05778/LIPCH	Odeon Cinema	24 - 27 Leicester Square London WC2H 7JY	Cinema	Monday to Sunday; 00:00 - 00:00
18/12523/LIPT	Assembly Hotel	Basement And Ground Floor Part Alhambra House 27 - 31 Charing Cross Road London WC2H 0AU	Hotel, 3 star or under	Monday to Thursday; 10:00 - 00:00   Friday to Saturday; 10:00 - 01:00   Sunday; 10:00 - 22:30
15/07167/LIPDPS	Bella Italia	22 Leicester Square London	Restaurant	Monday to Saturday; 09:00 - 01:00   Sunday; 09:00 - 00:00   Sundays before Bank Holidays; 09:00 - 01:00

Item No:	
Date:	16 July 2020
Licensing Ref No:	20/03175/LIPN - New Premises Licence
Title of Report:	Wilde Aparthotels by Staycity Paddington Exchange North Wharf Road London W2 1LF
Report of:	Director of Public Protection and Licensing
Wards involved:	Hyde Park
Policy context:	City of Westminster Statement of Licensing Policy
Financial summary:	None
Report Author:	Kevin Jackaman Senior Licensing Officer
Contact details	Telephone: 0207 641 6500 Email: kjackaman@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>	25 March 2020		
<b>Applicant:</b>	Staycity Uk Limited		
<b>Premises:</b>	Wilde Aparthotels by Staycity,		
<b>Premises address:</b>	Paddington Exchange North Wharf Road London W2 1LF	<b>Ward:</b>	Hyde Park
		<b>Cumulative Impact Area:</b>	None
<b>Premises description:</b>	According to the application form, the application is for an Aparthotel		
<b>Premises licence history:</b>	This is an application for a new premises licence and therefore has no licence history.		
<b>Applicant submissions:</b>	<p>The applicant operates Aparthotels in London, (notably Staycity Strand, York, Birmingham, Liverpool, Manchester and Edinburgh. In addition the applicant Staycity operates other Aparthotels internationally.</p> <p>The unit is intended to be licensed at North Wharf Gardens will offer serviced apartments consisting of studios, one bedroom and two bedroom apartments.. Each studio / apartment will offer cooking facilities but the applicant will offer a coffee area which is intended to extend a limited food and beverage offer.</p> <p>The application is limited to the provision of licensable activities of sale of alcohol and late night refreshment.</p> <p>This application seeks to licence the premises specifically to authorise under the Licensing Act 2003 the following activities:</p> <ol style="list-style-type: none"> <li>1.The sale of alcohol.</li> <li>2.Recorded music</li> <li>3.The provision of late night refreshment after 23.00.</li> </ol> <p>It is not anticipated that the proposed development will adversely affect crime and disorder or public nuisance. It is believed that the site is not within any cumulative impact policy area</p>		

1-B Proposed licensable activities and hours							
<b>Recorded music</b>				<b>Indoors, outdoors or both:</b>			Indoors
<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>	23:20	23:20	23:20	23:20	00:00	00:00	22:30
<b>Seasonal variations/ Non-standard timings:</b>				None			

<b>Late Night Refreshment:</b>				<b>Indoors, outdoors or both</b>			Indoors
<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>	23:00	23:00	23:00	23:00	23:00	23:00	
<b>End:</b>	23:30	23:30	23:30	23:30	00:00	00:00	
<b>Seasonal variations/ Non-standard timings:</b>		23:00 on New Year's Eve to 05:00 on 2 <sup>nd</sup> January					

<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>	23:30	23:30	23:30	23:30	00:00	00:00	22:30
<b>Seasonal variations/ Non-standard timings:</b>		To permit the sale of alcohol from 10:00 on New Year's Eve to 00:30 on 2 <sup>nd</sup> January					

<b>Hours premises are open to the public</b>							
<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>	00:00	00:00	00:00	00:00	00:00	00:00	00:00
<b>End:</b>	00:00	00:00	00:00	00:00	00:00	00:00	00:00
<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
<b>Representative:</b>	Reaz Guerra
<b>Received:</b>	8 April 2020
<p>With reference to the above application, I am writing to inform you that the Metropolitan Police, as a Responsible Authority, will be objecting to this application as it is our belief that if granted the application would undermine the Licensing Objectives.</p> <p>The hours sought exceed Westminster's Core Hour Policy and there is insufficient detail contained within the operating schedule to promote the licensing objectives.</p> <p>It is for these reasons that we are objecting to the application</p>	
<b>Responsible Authority:</b>	Environmental Health Service
<b>Representative:</b>	Maxwell Koduah,
<b>Received:</b>	2 April 2020
<p>I refer to the application for a new Premises Licence for the above-mentioned premises. The premises is located within the West End Cumulative Impact Area. I have considered the information that you have provided within and accompanying this application. I have also</p>	

considered the proposed variation in line with the relevant policies within the Councils Statement of Licensing Policy dated January 2016.

**The applicant is seeking the following licensable activities:**

**1. Playing of recorded music “Indoors & Outdoors” at the following times**

Monday to Thursday: 10:00 – 23:20 hours  
Friday to Saturday 10:00 – 00:00 hours  
Sunday 12:00 – 22:30 hours

**2. Provision of late-night refreshment “Indoors” at the following times**

Monday to Thursday: 23:00 – 23:30 hours  
Friday to Saturday 23:00 – 00:00 hours  
New Year’s Eve 23:00 - 05:00 hours

**3. Supply alcohol for consumption “on” and “off” the premises at the following times:**

Monday to Thursday: 10:00 – 23:30 hours  
Friday to Saturday 10:00 – 00:00 hours  
Sunday 12:00 – 22:30 hours  
New Year Eve to 2<sup>nd</sup> Jan 10:00 – 00:30 hours  
24-hour supply of alcohol to residents

**Following consideration of the application and how it may affect the Licensing Objectives and meeting the requirements of the Council’s Statement of Licensing Policy I wish to make the following representations:**

1. The playing of recorded music and the hours requested to supply alcohol may have the likely effect of causing an increase in Public Nuisance within the area
2. The provision of late-night refreshment and the hours requested to supply alcohol may have the likely effect of causing an increase in Public Nuisance and may affect Public Safety within the area
3. The supply of alcohol and the hours requested to supply alcohol may have the likely effect of causing an increase in Public Nuisance and may affect Public Safety within the area

It is my view that there is insufficient information to address the concerns of Environmental Health and the granting of this application as presented would have the likely effect of causing an increase in Public Nuisance and may affect Public Safety within the area

Applicant is asked to contact the undersigned for further discussion and following this, additional conditions may be recommended by Environmental Health to support the licensing objectives Prevention of Public Nuisance and Public Safety

2-B Other Persons	
Name:	[REDACTED]
Address and/or Residents Association:	[REDACTED] [REDACTED] [REDACTED] [REDACTED]
Received:	20 April 2020
Our comments are made as an Amenity Society recognised by Westminster City Council. We are officially charged with working towards the preservation and enhancement of the	



architectural and environmental quality of Little Venice, Maida Vale and the Paddington Waterway area (including planning and licensing issues).

We recognise that these premises are run as a business and we are aware that it has to be a viable operation, providing services for locals as well as people who are not residents in this area. We are very keen to ensure that an appropriate balance is maintained between the legitimate rights of business and the equally legitimate and important rights of residents.

### Introduction

With that in mind, this application raises a significant number of issues which lead us to conclude that, if granted as applied for, it will constitute an unacceptable risk to the licensing objectives. We would ask that if the licensing authority is minded to grant the application, it should be with amendments and additional conditions.

Our representation is made on the basis that the likely impact of the application, if granted, would be to harm the licensing objective of prevention of public nuisance.

### The application

We note that the application seeks a new premises licence for a large new development. There also new and large residential buildings being developed in the vicinity. As such, we are scrutinising all licence applications in this vicinity. We are aware that there is residential use planned and are concerned about potential impact on that.

The premises is described as offering '*serviced apartments consisting of studios, one bedroom and two bedroom apartments. A location plan accompanies this application. Each studio / apartment will offer cooking facilities but the applicant will offer a coffee area which is intended to extend a limited food and beverage offer as identified on the plans deposited with this application.*

*The application is limited to the provision of licensable activities of sale of alcohol and late night refreshment.*

*This application seeks to licence the premises specifically to authorise under the Licensing Act 2003 the following activities:*

- 1. The sale of alcohol.*
- 2. Recorded music*
- 3. The provision of late night refreshment after 23.00'.*

The application seeks provision of licensable activities 24/7 for 'residents'. However, the application also seeks provision of licensable activities to members of the public, to 11.30pm Mon-Thurs, midnight Fri-Sat, 10.30pm Sun. Opening times to the public are not specified.

Whilst some conditions have been proposed, they fall some way short of the safeguards we would want in order to be content with the application.

### Reasons for representation

We have the following concerns at present:

1. The immediate vicinity of the application site has had many new premises licences granted in recent years. We are concerned that a 'cumulative impact' of these premises is beginning to manifest.
2. The hours for licensable activities and opening are likely to impact adversely on the licensing objectives.

3. It seems from the conditions that the proposed style of operation is as a vertical drinking bar with no requirement to be seated.
4. As the application is for apartments, why is the applicant applying to provide licensable activities for members of the public at all?
5. And why to as late as 'core hours'?
6. The conditions talk about 'hotel bedrooms', but we were under the impression that the premises is to be serviced apartments rather than a hotel?
7. The conditions also refer to door staff and dispersal. Is this just a boilerplate error, or is it because the premises would be a destination venue?
8. We would expect servicing of the premises to be undertaken during sociable hours.
9. We may propose other conditions once we are more fully aware of what the nature of the operation is.

For these reasons, we object to this licence being granted as presented.

Conclusion

We are aware that applications are often amended to take into account concerns raised by responsible authorities or other persons. Please let us know if any amendments are made to this application so that we can consider if they resolve our concerns and, if appropriate, liaise with local residents.

If a hearing takes place, we will endeavour to attend. Or appoint Richard Brown to represent us.

<b>Name:</b>	[REDACTED]
<b>Address and/or Residents Association:</b>	[REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]
<b>Received:</b>	27 April 2020

[REDACTED] objects to this Premises Licence application on the grounds of potential loss of amenity and nuisance (noise etc) and potential crime & disorder, particularly outside the premises and in the surrounding area which has a large number of residential units.

We wish understand why premises are wanting to serve food and drink to the general public and to stay open to WCC 'Core Hours' and kindly request a full explanation. Are the premises aiming to be a 'destination venue'?

Subject to classification of above, if alcohol is to be sold to public, we would hours reduced and standard conditions imposed for CCTV, hours of deliveries, hours of refuse & recycling collections, no alcohol to be taken from outside the premises etc.

We also request condition requiring persons to be seated with waiter/waitress service with sale of alcohol to be ancillary to the taking of a substantial meal.

We also would want a condition that public are 'off the premises' at the end of permitted hours for the sale of alcohol. (We note that under Section O of application it states premises are open to public 24 hours a day).

The plans submitted are not that clear on proposed layout of eating & drinking area and we assume no drinking area outside as could not see any on the plans.

Also we wish to know the location of an outside 'smoking area'.

We also object to the application for 'Off Sales' and we note hours applied for exceed those normally permitted for in Westminster.

We also note no condition offered restricting sale of 'Off Sales' of beer or cider exceeding 5.5% APV and would want this condition.

As always, [REDACTED] is more than happy to engage with applicant, and /or their agents, on their application to more fully understand the application in order to resolve our concerns.

We are content for our contact details to be given to the applicant.

### 3. Policy & Guidance

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

<p><b>Policy HRS1 applies</b></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>  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>  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><b>Policy PB1 applies</b></p>	<p>Applications will only be granted if it can be demonstrated that the proposal meets relevant criteria in Policies CD1, PS1, PN1 and CH1.</p>
<p><b>Policy HOT1 applies</b></p>	<p>Subject to the effect on the promotion of the licensing objectives and other relevant policies in this Statement, premises licences for hotels will generally be granted so that:</p> <p>(a) Alcohol is permitted to be sold at any time to people staying in hotel rooms for consumption on the premises.</p>

	<p>(b) The hours of serving alcohol to the general public will be subject to conditions limiting the sale of alcohol after a specified time to those attending pre-booked events held at the hotel.</p> <p>(c) The exhibition of film, in the form of recordings or nonbroadcast television programmes to be viewed in hotel bedrooms, will generally be permitted.</p>
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#### 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, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.

#### 5. Appendices

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

<b>Report author:</b>	Kevin Jackaman Senior Licensing Officer
<b>Contact:</b>	Telephone: 0207 641 6500 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.**

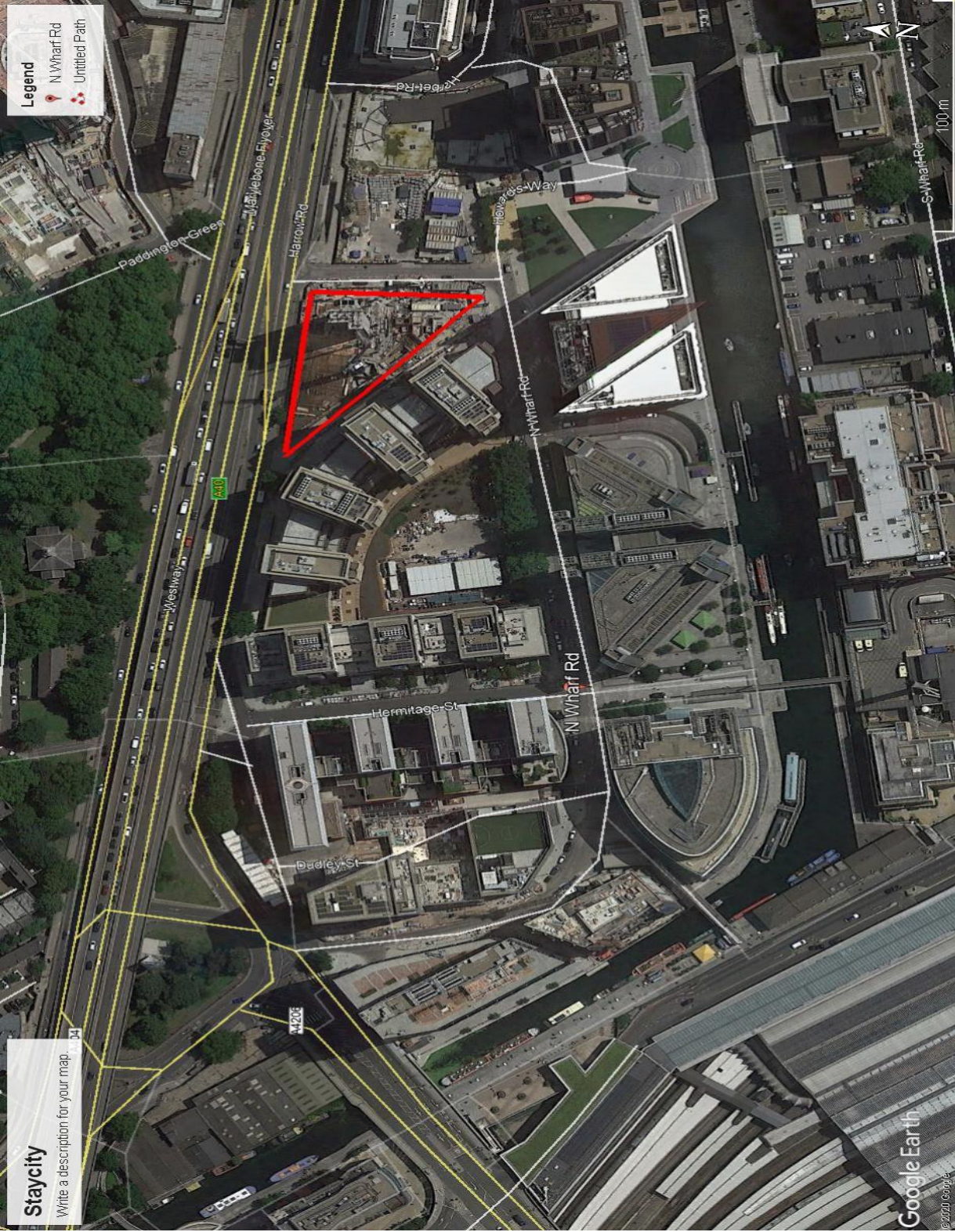
#### **Background Documents – Local Government (Access to Information) Act 1972**

<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	April 2018
<b>4</b>	Metropolitan Police Service Representation	8 April 2020
<b>5</b>	Environmental Health Service Representation	2 April 2020
<b>6</b>	Interested Party Representation (1)	20 April 2020
<b>7</b>	Interested Party Representation (2)	27 April 2020



Location Plan



None submitted



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 use of door staff will be risk assessed on an ongoing basis by the licence holder of premises supervisor. Where engaged, door staff shall be licensed by the Security Industry Authority.
10. Alcoholic and other drinks may not be removed from the premises save for consumption in the hotel bedrooms.
11. Staff will receive training on matters concerning underage sales, drugs policies and operating procedures to include safety, evacuation and use of emergency equipment as required.
12. There shall be a zero tolerance policy in relation to drugs at the premises and there shall be regular checks by management to prevent the use of drugs by patrons. Drugs seized shall be stored securely and handed to the police.
13. The premises shall operate a proof of age scheme and will require photographic identification from any person who appears to be under the age of 21 years.
14. The management of the premises will liaise with police on issues of local concern or disorder.
15. The premises shall install and maintain a CCTV system as per the minimum requirements of 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 at 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 proper request of Police or authorised Officers during the preceding 31-day period.
16. A staff member who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises is open to non-residents of the hotel. The staff member must be able to provide a Police or authority Council Officer copies of recent CCTV images or data with the absolute minimum of delay when properly requested.
17. There shall be no striptease or nudity in the public licensed area 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.
18. No advertisements of any kind that advertise or promotes the establishment, its premises or any of its events, facilities, goods or services shall be inscribed or affixed upon the surface of the highway, upon any building, structure, works, street furniture, tree or any other property or be distributed to the public.
19. There shall be no drinks promotions at the premises which are inconsistent with the need to promote responsible drinking.
20. There shall be no self-service of alcohol on the premises.
21. A record shall be kept detailing all refused sales of alcohol. The record shall 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 when the premises are open to non-residents.

22. To comply with the reasonable requirements of the fire officer from time to time.
23. The premises will have adequate safety and fire fighting equipment, and such equipment will be maintained in good operational order.
24. Spillages and breakages will be removed as soon as possible to reduce the risk to patrons and staff.
25. Toughened glasses will be used in the premises where appropriate.
26. Fire Exits and means of escape shall be kept clear and in good operational condition
27. Where appropriate, prominent, clear and legible notices shall be displayed at all exits requesting the public respect the needs of local residents and to leave the premises and area quietly.
28. Patrons will be encouraged by staff to leave quietly and respect the interests of the occupiers of any nearby noise sensitive premises, Where appropriate the licensee or a suitable staff member will monitor patrons leaving at the closing time
29. Noise or vibration shall not emanate from the premises so as to cause a nuisance to nearby properties.
30. Contact numbers for local taxi firm(s) shall be kept at the premises and made available to patrons requiring a taxi.
31. No films or videos of any description will be shown so that they can be viewed by persons under the age of any applicable BBFC/Local Authority certification.
32. Children under the age of 16 shall not be permitted to enter the premises after 21:00 unless dining with an adult or attending a pre booked function or resident in the hotel.
33. There shall be adequate controls in place including staff training to safeguard against the sale of alcohol to persons under 18 years.
34. The premises supervisor or appointed staff member shall ensure that when children are admitted to the premises their presence is not inconsistent with the style of operation of the premises at that time and the licensable activities that are being carried out.
35. Policies in relation to children shall be adequately communicated to patrons by staff or through appropriate signage.
36. 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) any faults in the CCTV
  - (f) any visit by a relevant authority or emergency service

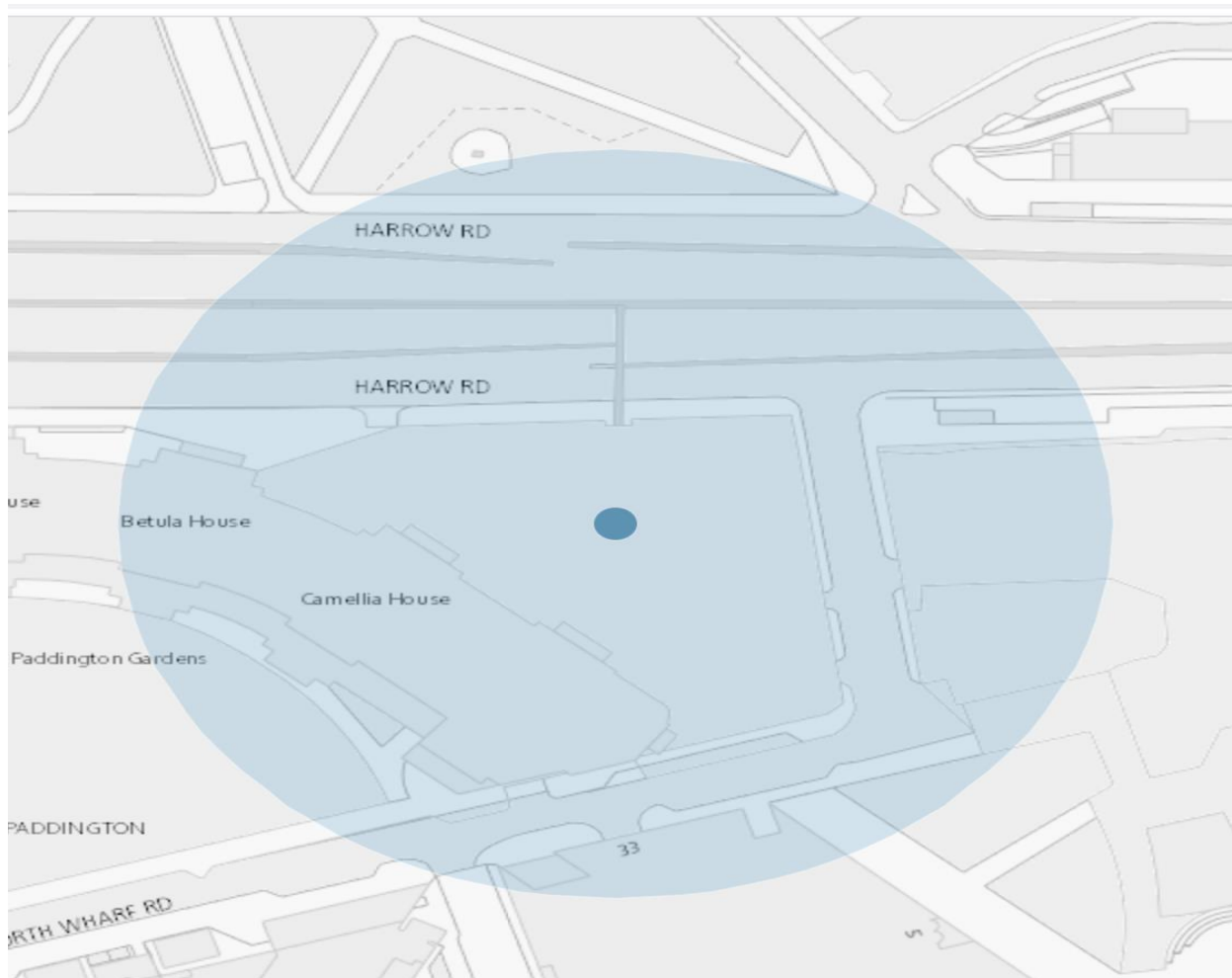
**Conditions proposed by the Environmental Health and agreed by the applicant so as to form part of the operating schedule**

37. The licensable activities authorised by this licence and provided at the premises shall be ancillary to the main function of the (premises as serviced apartments / Aparthotel

38. After 23:00 hours, the sales of alcohol for consumption off the premises shall be restricted to residents and up to 4 of their bona fide guests
39. 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
40. All sales of alcohol for consumption off the premises shall be in sealed containers only
41. 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
42. All windows and external doors in the licensed area shall be kept closed after 21:00 hours, or at any time when regulated entertainment takes place, except for the immediate access and egress of persons
43. A direct telephone number for the duty manager at the premises shall be publicly available at all times the premises is open. This telephone number is to be made available to residents and businesses in the vicinity
44. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times
45. No waste or recyclable materials, including bottles, shall be moved, removed from or placed in outside areas between **21.00** hours and **07.00** hours on the following day
46. No collections of waste or recycling materials (including bottles) from the premises shall take place between 21.00 and 07.00 on the following day
47. No deliveries to the premises shall take place between 21.00 and 07.00 on the following day
48. 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
49. 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.
50. A Challenge 21 or 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
51. 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.
52. No licensable activities shall take place at the premises until the premises have 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**

None



Resident count: 0

Licence premises within 75m of Paddington Exchange, North Wharf Road, London, W2				
Licence Number	Trading Name	Address	Premises Type	Time Period
16/06697/LIPRW	Heist Bank	3 - 15 North Wharf Road London W2 1LA	Wine bar	Monday to Thursday; 08:00 - 23:30   Friday to Saturday; 08:00 - 00:00   Sunday; 09:00 - 22:30   Sundays before Bank Holidays; 08:00 - 00:00



Item No:	
Date:	16 July 2020
Licensing Ref No:	20/03281/LIPN - New Premises Licence
Title of Report:	Odeon Cinema Marble Arch Luxe and Dine, 5-14 Marble Arch, 12-22 Edgware Road, 53-63 Bryanston Street and Cumberland Mews London
Report of:	Director of Public Protection and Licensing
Wards involved:	Bryanston And Dorset Square
Policy context:	City of Westminster Statement of Licensing Policy
Financial summary:	None
Report Author:	Jessica Donovan Senior Licensing Officer
Contact details	Telephone: 020 7641 6500 Email: Jdonovan@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>	18 March 2020		
<b>Applicant:</b>	Odeon Cinema Ltd		
<b>Premises:</b>	Odeon Cinema Luxe and Dine		
<b>Premises address:</b>	5-14 Marble Arch, 12-22 Edgware Road, 53-63 Bryanston Street and Cumberland Mews London	<b>Ward:</b>	Bryanston & Dorset Square
		<b>Cumulative Impact Area:</b>	Edgware
<b>Premises description:</b>	This is an application for a new premises licence which intends to operate as a cinema		
<b>Premises licence history:</b>	This is a new premises application and therefore no Premises Licence history exist.		
<b>Applicant submissions:</b>	The application follows pre-application advice ref: 19/17147/PREAPM. A copy of this report can be found at <b>Appendix 2</b> along with additional information provided by the applicant following the Licensing Authority's representation.		

1-B Proposed licensable activities and hours							
<b>Plays:</b>				<b>Indoors, outdoors or both</b>			Indoors
<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>	00:00	00:00	00:00	00:00	00:00	00:00	00:00
<b>End:</b>	00:00	00:00	00:00	00:00	00:00	00:00	00:00
<b>Seasonal variations/ Non-standard timings:</b>			N/A				

<b>Films</b>				<b>Indoors, outdoors or both</b>			Indoors
<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>	00:00	00:00	00:00	00:00	00:00	00:00	00:00
<b>End:</b>	00:00	00:00	00:00	00:00	00:00	00:00	00:00
<b>Seasonal variations/ Non-standard timings:</b>			N/A				

<b>Live Music</b>				<b>Indoors, outdoors or both</b>			Indoors
<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>	00:00	00:00	00:00	00:00	00:00	00:00	00:00
<b>End:</b>	00:00	00:00	00:00	00:00	00:00	00:00	00:00
<b>Seasonal variations/ Non-standard timings:</b>			N/A				

<b>Recorded Music</b>				<b>Indoors, outdoors or both</b>			Indoors
<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>	00:00	00:00	00:00	00:00	00:00	00:00	00:00
<b>End:</b>	00:00	00:00	00:00	00:00	00:00	00:00	00:00
<b>Seasonal variations/ Non-standard timings:</b>		N/A					

<b>Performance of Dance</b>				<b>Indoors, outdoors or both</b>			Indoors
<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>	00:00	00:00	00:00	00:00	00:00	00:00	00:00
<b>End:</b>	00:00	00:00	00:00	00:00	00:00	00:00	00:00
<b>Seasonal variations/ Non-standard timings:</b>		N/A					

<b>Anything of a similar description to that falling within (e), (f) or (g)</b>				<b>Indoors, outdoors or both</b>			Indoors
<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>	00:00	00:00	00:00	00:00	00:00	00:00	00:00
<b>End:</b>	00:00	00:00	00:00	00:00	00:00	00:00	00:00
<b>Seasonal variations/ Non-standard timings:</b>		N/A					

<b>Late Night Refreshment</b>				<b>Indoors, outdoors or both</b>			Indoors
<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>	23:00	23:00	23:00	23:00	23:00	23:00	23:00
<b>End:</b>	05:00	05:00	05:00	05:00	05:00	05:00	05:00
<b>Seasonal variations/ Non-standard timings:</b>		N/A					

<b>Sale by retail of alcohol</b>				<b>On or off sales or both</b>			On
<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>	00:00	00:00	00:00	00:00	00:00	00:00	00:00
<b>End:</b>	00:00	00:00	00:00	00:00	00:00	00:00	00:00
<b>Seasonal variations/ Non-standard timings:</b>		N/A					

<b>Hours premises are open to the public</b>							
<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>	00:00	00:00	00:00	00:00	00:00	00:00	00:00
<b>End:</b>	00:00	00:00	00:00	00:00	00:00	00:00	00:00
<b>Seasonal variations/ Non-standard timings:</b>		N/A					

## 2. Representations

2-A Responsible Authorities	
<b>Responsible Authority:</b>	Environmental Health Service
<b>Representative:</b>	14 April 2020
<b>Received:</b>	Dave Nevitt
<p>I wish to make Representations on the following grounds:</p> <p>Representation is made in relation to the application, as the proposals are likely to increase the risk of Public Nuisance and may impact upon Public Safety.</p> <p>The hours sought for Licensable activities are beyond the 'Core Hours' as defined by the City Council's Licensing Policy. The premises is located in a Cumulative Impact Area.</p>	
<b>Responsible Authority:</b>	Licensing Authority
<b>Representative:</b>	Angela Seaward
<b>Received:</b>	15 April 2020
<p>I write in relation to the application submitted for a new premises licence for Odeon Cinema 5-14 Marble Arch, 12-22 Edgware, Bryanston Street, London.</p> <p>As a responsible authority under section 13 (4) of the Licensing Act 2003 as amended under the Police and Social Responsibility Act 2011, the Licensing Authority have considered your application in full. The Licensing Authority has concerns in relation to this application and how the premises would promote the four Licensing Objectives:</p> <ul style="list-style-type: none"> <li>• Public Nuisance</li> <li>• Prevention of Crime &amp; Disorder</li> <li>• Public Safety</li> <li>• Protection of children from harm</li> </ul> <p>The application seeks the following:</p> <ul style="list-style-type: none"> <li>• <b>Plays, Films, Live &amp; Recorded Music, Performance of Dance, Anything of a similar description to e,f or g,</b> Monday to Sunday 00:00 to 00:00</li> <li>• <b>Late Night Refreshment</b> Monday to Sunday 23:00 to 05:00</li> <li>• <b>Supply of Alcohol On Premises</b> Monday to Sunday 00:00 to 00:00</li> <li>• <b>Opening Hours to Public</b> Monday to Sunday 00:00 to 00:00</li> </ul> <p>The premises is located within the West End Cumulative Impact Area and as such various policy points must be considered, namely CIP1, HRS1 and PVC2.</p> <p>At present, the operating hours applied for licensable activities currently fall outside of</p>	

Westminster's core hours. Paragraph 2.3.2 states that Policy HRS1 is not a policy to refuse applications for hours longer than the core hours and consideration will in all cases be given to the individual merits of an application. Where a proposal is made to operate outside these core hours each application will be considered on its merits against the criteria as set out in paragraph (ii) that applications for hours outside the core hours set out below in this policy will be considered on their merits, subject to other policies stated within the Westminster licensing policy.

### **Supply of Alcohol On the Premises**

Monday to Thursday 10:00 to 23:30

Friday to Saturday 10:00 to 00:00

Sunday 12:00 to 22:30

### **Other Licensable activities**

Monday to Thursday 09:00 to 23:30

Friday to Saturday 09:00 to 00:00

Sunday: 09:00 to 22:30

It is the intention to generally grant licences or variations to licences where the hours when customers are permitted to be on the premises are within the 'core hours' as set out in Policy HRS1, therefore the licensing authority would encourage the applicant too consider reducing the licensable activities to be within these hours.

The application proposes to operate as a cinema, and therefore the application is considered under Westminster's PVC2 Policy. Paragraph 2.5.33 advises that bars are a normal feature of performances venues but they should be ancillary to the overall use of the premises as a performance venue. The hours of the operation of the bar will usually be those related to the times the premises are open for performances and should not extend later than the hours of performances. Any more general use of these bars in Cumulative Impact Areas will only be granted as an exception to policy which will have to be argued for on grounds that it will not add to cumulative impact in the Cumulative Impact areas and will promote the licensing objectives and the overall aims of the Statement of Licensing Policy of promoting a variety of non alcohol led activities

The Licensing Authority notes the proposed conditions within the operating schedule are as follows;

*21. Licensable activities permitted under this licence shall be ancillary to the main specified function of the premises as a cinema*

*22. The primary use of the premises shall remain ancillary to the main specified function of the premises as a cinema.*

However as the times applied for the licensable activities are for 24 hours a day, the licensing authority would encourage the applicant to provide further submissions on the times the premises intends to operate performances in order to access that there is no extended bar use that would be contrary to policy PVC2.

The submitted plans also indicate two private hire areas, the applicant is encourage to provide further submissions with regard to how these areas will be operated. In order for the premises to comply with the proposed condition above will, the private hire area only be used in conjunction with the showing of a film? Or is the intension to use these area in connection with the condition below;

*20. No sale of intoxicating liquor shall be made except to:*

*a) persons admitted to the premises by purchasing a ticket*

*b) employees and bona fide guests of Odeon Cinema Limited*

*c) persons for whom admittance payment has been made.*

Furthermore the licensing authority encourage the applicant to provide further submissions on how the bona fide guests will be operated and controlled also if there is a limit to the number of guests that will be permitted. In order to fully assess the application, the applicant is encouraged to explain what part (c) of the condition means, what is the admittance payment, if this is ancillary to a performance and if this payment is made in advance or at the door at the time of entry.

Policy PVC2 advises that applications will be granted subject to other policies in this Statement, provided it is demonstrated that they will not add to cumulative impact in the Cumulative Impact Areas.

The licensing authority therefore encourages the applicant to provide further submissions as to how the premises will not add to cumulative impact in the West End cumulative impact area, together in accordance with policy CIP1.

I look forward to receiving the applicant further submissions, please accept this email as a formal representation.

<b>Responsible Authority:</b>	Metropolitan Police Service ( <i>Withdrawn 15 April 2020</i> )
<b>Representative:</b>	PC Adam Deweltz
<b>Received:</b>	06 April 2020

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

The venue is situated within the Cumulative Impact Area. It is our belief that if granted the application would undermine the Licensing Objectives in relation to The Prevention of Crime and Disorder.

I look forward to hearing from you.

**Following agreement of additional conditions, the Metropolitan Police Service withdrew their representation on 15 April 2020.**

### 3. Policy & Guidance

The following policies within the City Of Westminster Statement of Licensing Policy apply:	
<b>Policy CIP1 applies</b>	<p>(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.</p> <p>(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.</p>
<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> <p><b>For premises for the supply of alcohol for consumption on the premises:</b></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><b>For premises for the supply of alcohol for consumption off the premises:</b></p> <p>Monday to Saturday: 08:00 to 23:00            Sundays: 10:00 to 22:30</p>
<b>Policy PVC2 applies</b>	Applications will be granted subject to other policies in this Statement, provided it is demonstrated that they will not add to cumulative impact in the Cumulative Impact Areas.

### 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, Marriages and Civil Partnerships, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.

## 5. Appendices

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

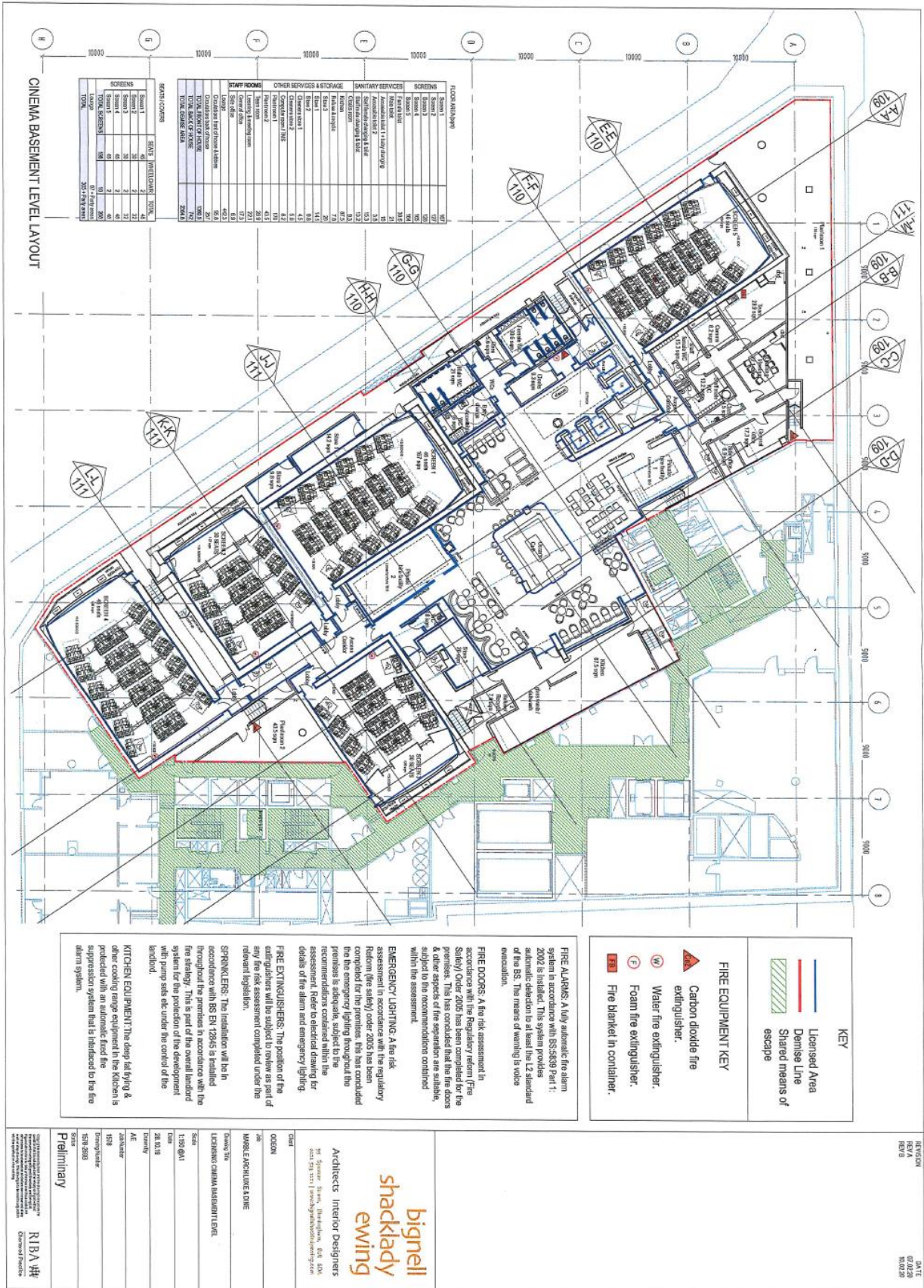
<b>Report author:</b>	Jessica Donovan Senior Licensing Officer
<b>Contact:</b>	Telephone: 020 7641 6500 Email: Jdonovan@westminster.gov.uk

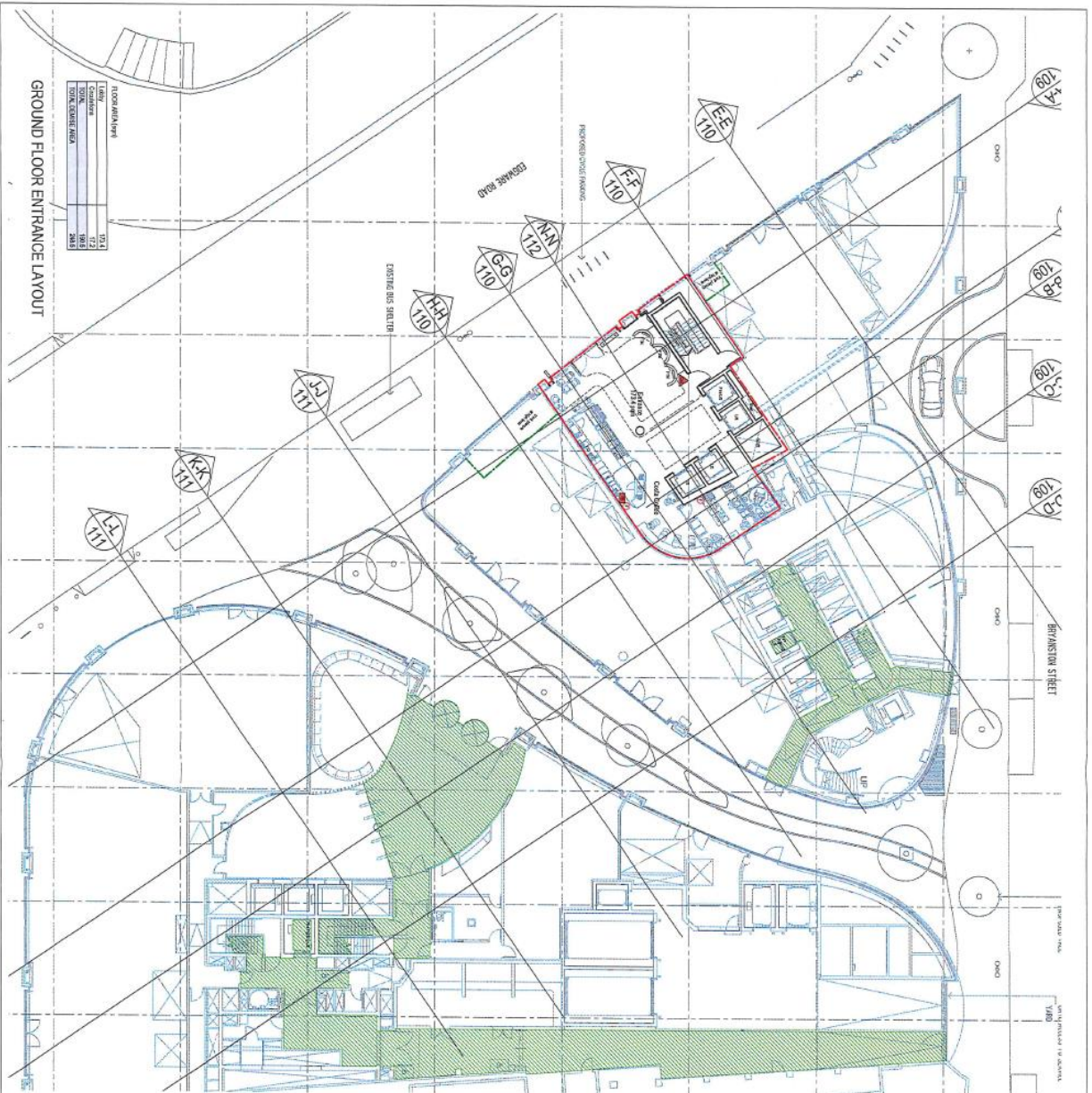
**If you have any queries about this report or wish to inspect one of the background papers please contact the report author.**

### **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 January 2016
<b>3</b>	Amended Guidance issued under section 182 of the Licensing Act 2003	April 2018
<b>4</b>	Environmental Health Representation	14 April 2020
<b>5</b>	Licensing Authority Representation	15 April 2020
<b>6</b>	Metropolitan Police Representation ( <b><i>Withdrawn 15 April 2020</i></b> )	06 April 2020







**KEY**

- Leased Area
- Demise Line
- Shared means of escape

**FIRE EQUIPMENT KEY**

- Carbon dioxide fire extinguisher.
- Water fire extinguisher.
- Foam fire extinguisher.
- Fire blanket in container.

**FIRE ALARMS:** A fully automatic fire alarm system in accordance with BS 5839 Part 1: 2002 is installed. This system provides automatic detection to at least the L2 standard of the BS. The means of warning is voice evacuation.

**FIRE DOORS:** A fire risk assessment in accordance with the Regulatory Reform (Fire Safety) Order 2005 has been completed for the premises. This has concluded that the fire doors & other aspects of fire separation are suitable, subject to the recommendations contained within the assessment.

**EMERGENCY LIGHTING:** A fire risk assessment in accordance with the Regulatory Reform (Fire Safety) Order 2005 has been completed for the premises. This has concluded the emergency lighting throughout the premises is adequate, subject to the recommendations contained within the assessment. Refer to electrical drawing for details of fire alarm and emergency lighting.

**FIRE EXTINGUISHERS:** The position of the extinguishers will be subject to review as part of any fire risk assessment completed under the relevant legislation.

**SPRINKLERS:** The installation will be in accordance with BS EN 12845 as installed throughout the premises in accordance with the fire strategy. This is part of the overall fire strategy for the protection of the development with pump sets sit under the control of the landlord.

**KITCHEN EQUIPMENT:** The deep fat frying & other cooking range equipment in the kitchen is protected with an automatic fixed fire suppression system that is maintained by the fire alarm system.

REVISION  
REV A  
DATE  
07/02/20

**bignell  
shacklady  
ewing**  
Architects Interior Designers  
14 Spenser Place, Bishops Cleeve, L20  
0151 531 1211 | [www.bignellshackladyewing.com](http://www.bignellshackladyewing.com)

CLIENT  
OZSON

LOCATION  
LIVE & LOBE HOTEL & RCH

DRAWING TITLE  
LIFE SAFETY DESIGN DOCUMENTATION

DATE  
11/01/20

DESIGNED BY  
28/11/20

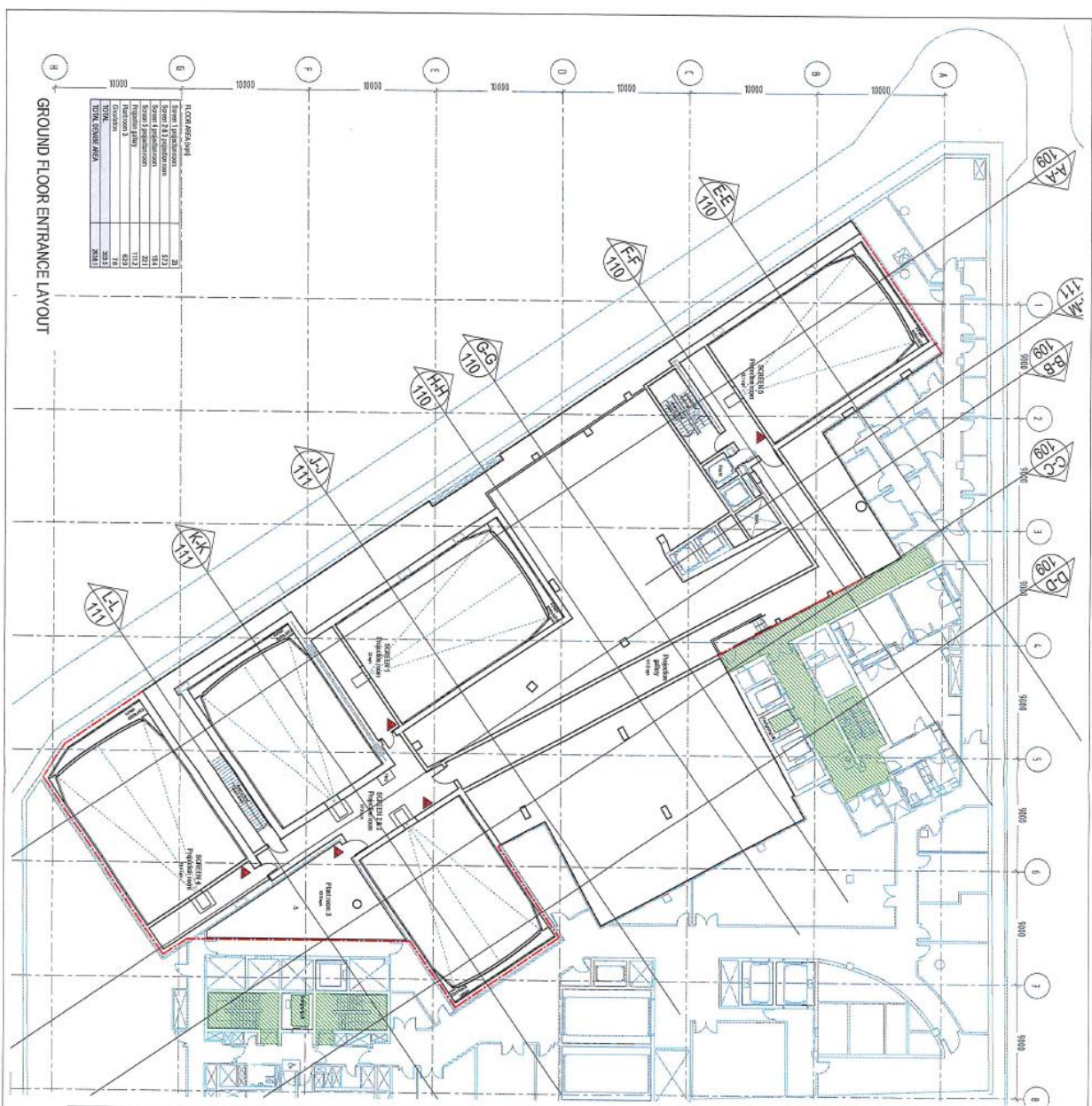
DRAWN BY  
AE

CHECKED BY  
SBM

APPROVED BY  
WFR/SVA

Scale  
Preliminary

RIBA #



GROUND FLOOR ENTRANCE LAYOUT

**KEY**

- Licensed Area
- Demise Line
- ▨ Shared means of escape

**FIRE EQUIPMENT KEY**

- ▲ Carbon dioxide fire extinguisher.
- Ⓜ Water fire extinguisher.
- Ⓣ Foam fire extinguisher.
- Fire blanket in container.

**FIRE ALARMS:** A fully automatic fire alarm system in accordance with BS-5839 Part 1: 2002 is installed. This system provides automatic detection to at least the 12 standard of the BS. The means of warning is voice evacuation.

**FIRE DOORS:** A fire risk assessment in accordance with the Regulatory Reform (Fire Safety) Order 2005 has been completed for the premises. This has concluded that the fire doors & other aspects of the separation are suitable, subject to the recommendations contained within the assessment.

**EMERGENCY LIGHTING:** A fire risk assessment in accordance with the Regulatory Reform (Fire Safety) Order 2005 has been completed for the premises. It has been concluded that the emergency lighting throughout the premises is adequate, subject to the recommendations contained within the assessment. Refer to electrical drawing for details of fire alarm and emergency lighting.

**FIRE EXTINGUISHERS:** The position of the extinguishers will be subject to review as part of any fire risk assessment completed under the relevant legislation.

**SPRINKLERS:** The premises will be in accordance with BS EN 12943 IS installed throughout the premises in accordance with the fire strategy. This is part of the overall standard system for the protection of the development with pump sets etc under the control of the landlord.

**KITCHEN EQUIPMENT:** The deep fat frying & other cooking range equipment in the Kitchen is protected with an automatic food fire suppression system that is inducted to the fire alarm system.

REVISION  
REV/A

DATE  
07/02/20

**bignell shacklady ewing**  
Architects Interior Designers  
51, Southgate Road, Exmouth, EX9 6JX  
Tel: 01392 331111 Fax: 01392 331112  
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OWNER  
LIVE & ONE VARIABLE ANCH

DESIGNER  
Landscape Protection UELP

DATE  
28.01.20

SCALE  
A/E

NO. SHEETS  
010

TOTAL NO. SHEETS  
109/208

DATE  
2020

RIBA #

**Pre-Application Advice report**



**City of Westminster**

Office Name: Dave Nevitt  
 Designation: EHO  
 Date: 05.02.2020  
 Contact number: 020 7641 3188  
 Email: [dnevitt@westminster.gov.uk](mailto:dnevitt@westminster.gov.uk)  
 Uniform Reference: 19/17147/PREAPM

Trading name of business and Address: <b>ODEON CINEMAS: MARBLE ARCH &amp; LEICESTER SQUARE</b>		
Reference Number if Applicable: <b>19/17147/PREAPM</b>		
Licence: <b>N/A</b>	Applicant: <b>Suzanne Davies</b> <div style="background-color: black; height: 15px; width: 100%;"></div>	Cumulative Impact Area: <b>WEST END &amp; EDGWARE ROAD</b>
Type of Business: <b>CINEMAS</b>		
<p><b><u>PROPOSED:</u></b></p> <p><i>2 new cinemas</i></p> <p><b><u>EH COMMENTS &amp; ADVICE:</u></b></p> <p><b>Both sites are located in Cumulative Impact Areas and applications for Premises Licences will therefore be subject to the following Policy as set out in the City Council’s Licensing Policy:</b></p> <p><b><i>‘Theatres, cinemas, other performance venues, and qualifying clubs in the Cumulative Impact Areas Policy - PVC2</i></b>  <i>Applications will be granted subject to other policies in this Statement, provided it is demonstrated that they will not add to cumulative impact in the Cumulative Impact Areas.’</i></p> <p><b><u>2.5.33 of the Policy states:</u></b></p> <p><i>‘Bars are a normal feature of performances venues but they should be ancillary to the overall use of the premises as a performance venue. The hours of the operation of the bar will usually be those related to the times the premises are open for performances and should not extend later than the hours of performances. Any more general use of these bars in Cumulative Impact Areas will only be granted as an exception to policy which will have to be argued for on grounds that it will not add to cumulative impact in the Cumulative Impact areas and will promote the licensing objectives and the overall aims of the Statement of Licensing Policy of promoting a variety of non alcohol led activities’</i></p> <p><b><u>2.5.36 of the Policy states:</u></b></p>		

*'The council as the Licensing Authority accepts that these types of uses are unlikely to be linked with crime and disorder, and generally have less impact on residents than other licensable activities. The substitution of these types of uses in the Cumulative Impact Areas in place of pubs, bars and alcohol led music and dance venues will be likely to promote the licensing objectives.'*

**The applicant would like to apply for hours for Licensable activities that are significantly in excess of the Core Hours as defined in the Licensing Policy. As an operator, the applicant has experience in operating their cinemas beyond the Core Hours and has done so without complaint or cause for concern. The Odeon Cinema at 24-27 Leicester Square operates under Licence ref:19/11008/LIPVM which includes the following Conditions:**

*14. The primary use of the premises shall remain as a cinema otherwise the licence shall cease to have effect.*

*18. No sale of intoxicating liquor shall be made except to:*

- (a) persons admitted to the premises by purchasing a ticket, or*
- (b) employees and bona fide guests of Odeon Cinemas Limited, or*
- (c) persons for whose admittance payment has been made.*

*19. No unaccompanied children under the age of 12 years to be admitted to film performances commencing after 20:00 hours.*

*20. No unaccompanied children under the age of 15 to be admitted to film performances commencing after 22:00.*

*Annex 3 – Conditions attached after a hearing by the licensing authority:*

*25. Alcohol shall not be sold, supplied, consumed in or taken from the premises except during permitted hours.*

*In this condition, permitted hours means:*

- (a) Monday to Sunday from 09:00 to 00:00*
- (b) On New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day (or, if there are no permitted hours on the following day, midnight on 31st December).*

*26. Performance of Plays shall take place in the main auditorium only and plays ancillary to films elsewhere from 00:00 to 23:59.*

*27. On not more than 12 occasions per year films may be exhibited between the hours of 03:00 and 09:00 hours. On those occasions at least ten working days notice shall be given to the City Council's Environmental Health Consultation Team and the Borough Police Licensing Unit.*

*28. On the 12 occasions when films are exhibited between the hours of 03:00 and 09:00 hours Late Night Refreshment may be provided from 03:00 to 05:00 hours.*

**I recommend that the applicant includes a number of suitable conditions in the**

Operating Schedule from the WCC list of 'Model Conditions' in order to show how the premises will operate in a way that does not add to cumulative impact. The applicant should include conditions along the lines of those set out above. Such conditions need not be identical to those attached to 19/11008/LIPVM but should clearly boundary and define how the licensable activities are provided beyond the Core Hours.

The application will need to be adjudicated at a Hearing of the Licensing Sub-Committee and it is likely that the Ctee will wish to be satisfied that the premises can be operated late at night without adding to Cumulative Impact. The Responsible Authorities or Committee may wish to suggest alternative wording to the above Conditions.

The applicant should also include Conditions detailing the SIA provision at each site (MC05 & 06)

Other helpful Conditions would include: MC01 & MC02, MC13, MC21, MC37, MC47, MC48, MC49, MC50, MC57, MC72-MC78.

The proposed cinema in the West End CIA is located at Basement level with a main entrance/reception and small foyer at GF level. The film screening and food and drink areas are to be located entirely at BMT level. Access to licensable activities at the premises is only via the GF entrance.

The Marble Arch site, however, will have much more of a shop front with a café on the GF and clearly visible to passers-by. Whilst the applicant may seek longer hours for licensable activities in relation to the other floors I recommend that the application limits the licensable activities on the GF to the 'Core Hours' as defined in the City Council's Licensing Policy so that it is not likely to be used as a 'fast food' premises in it's own right.

The applicant is advised to submit a suitably detailed set of plans so that the Public Safety implications of use of the premises by patrons can be fully assessed. This should include information about Means of Escape (e.g. widths of doors, passageways, and staircase, fire separation and protection of escape routes, emergency lighting).

Based on the plans already seen the District Surveyor makes the following Comments:

#### **District Surveyor Comments**

##### **Means of Escape - General**

- With regard to the Leicester Sq Venue it appears there are two core staircases providing exit provision from the basement. We would recommend that the widths to these stairs are in line with the Technical Standards for Places of Entertainment. If a different approach is taken we would ask for full details of occupancy calculations for

further comment. Both stairs should be lobbied from all risk areas to ensure that a storey exit only needs to be discounted and not the whole staircase.

- With regard to the screen exits at Leicester Sq we would request clearer plans showing the dedicated routes from each screen and their prescribed widths. We can then comment fully on the capacities proposed.
- With regard to the Marble Arch Venue it is slightly unclear from the current plans provided just how many protected staircase there are serving the premises. It appears there may be three in addition to the main entrance/exit stair. We would recommend that the widths to these stairs are in line with the Technical Standards for Places of Entertainment. If a different approach is taken we would ask for full details of occupancy calculations for further comment. The stair enclosures should be lobbied from all risk areas to ensure that a storey exit only needs to be discounted and not the whole staircase, unless this is justified in a fire strategy document.
- For both venues there will need to be a method statement in place with regard to disabled access and egress. It appears there are dedicated refuge areas in the Marble Arch scheme but non shown on plan for the Leicester Sq venue. We would ask that the method statements for each venue clearly highlight the strategy for disabled ingress and egress with the required amount of evacuation chairs provided to suitably exit the venues in the required time. It is the venues responsibility to evacuate disabled patrons and this cannot be passed onto the fire brigade therefore the method statement should also detail staff training and appropriate roles and responsibilities in any evacuation.
- With regard to the new seat layouts in the auditoriums proposed across both venues we would request scale plans asap so we can assess and advise. Key things to consider would be appropriate numbers of seats in each row and appropriate seatway widths. We would refer to the requirements of the Technical Standards for Places of Entertainment as detailed below in Table 1.

Table 1 – *Maximum number of seats in a row*

Recommended maximum number of seats in a row		
Seatway width mm	Maximum number of seats in a row	
	Gangway on one side only	Gangway on both sides
300 to 324	7	14
325 to 349	8	16
350 to 374	9	18
375 to 399	10	20
400 to 424	11	22
425 to 449	Not more than 12 seats if escape only possible in one direction	24
450 to 474		26
475 to 499		28
500 or more		Limited by travel distance

Notes:

1. No seatway should be less than 300mm wide
2. A seatway in front of a block of seating should be regarded as a gangway if it exceeds 900mm in width – see Recommendation C2.28 of Technical Standards for Places of Entertainment (Tech Standards)
3. Seatways at the front of balconies should not exceed 530mm in width if a barrier of less than 1100mm high is provided – see section D2 of Tech Standards.
4. This table does not apply to seating in boxes

- With regard to the proposed foyer/bar/dining areas at both venues it is recommended that full details of the layout for this area are submitted so we can assess and respond fully. These areas will be multi-functional and the appropriate number of exit routes will need to be provided for the capacities proposed for the spaces in their own right and the floor space capacities should be calculated based on the proposed uses. See Floor Factor table 2 below for example guidance also on calculating appropriate floor space figures.

**Table 2 – Floor space factors example**

Area	Overall available public area M <sup>2</sup> (approx)	Capacity at 0.5 M <sup>2</sup> per person (club/dancing)	Banquette style seating at 0.45m per person	Capacity at 1.0 M <sup>2</sup> per person (dining)	Max operational capacity
Foyer Bar	150 (eg)	$80 \div 0.5 = 160$	$20 \div 0.45 = 44$	$50 \div 1 = 50$	254

**NB: Any additional infrastructure introduced that imposes upon the available floor space as detailed in the plans above should be measured and the appropriate corresponding number taken off the maximum capacity**

**General Fire/Public Safety Considerations for both venues to support any application**

- Confirmation of the viewing angles proposed should be provided. The maximum viewing angle for cinema screens should generally be 35 degrees between the top of the screen and a line taken from the eye parallel to the seat (eye taken as 1065mm above floor and 150mm in front of backrest). Where this is not possible we would need justification and recommend that children do not occupy affected seats as they are most susceptible to neck strain.
- Gangways in the screens should be generally 1100mm wide except where they are intended for use by not more than 60 people, which may be not less than 900mm. If they are to be used by people with impaired mobility however they should be at least 1000mm in all cases.



- Handrails should be provided on walls adjacent to stepped or sloping gangways. Handrails should be provided on both sides of any stepped gangway where the rake exceeds 1 in 2 (25 degrees above the horizontal). These should clearly be discontinuous across the end of each row of seats to allow access to the gangway. It is suggested that in general handrails are considered on both sides to assist the frail and infirm.
- Means of escape from the premises should be based on a simultaneous evacuation upon activation of the fire detection and alarm system. It is not clear what the specification of the alarm system is but it is recommended that an L1/2 standard alarm would be suitable and the provision of a voice alarm would assist given the proposed capacities.
- All protected exit routes to be provided with 30 minutes fire separation to other parts of the premises.
- All Fire doors protecting escape routes will be provided with intumescent strips and smoke seals and all fire doors will comply with the relevant provisions of Table B1 of ADB.
- Every escape route (other than those in ordinary use) will be marked by emergency exit signs complying with BS 5499: Part 1 and these will be located in accordance with the recommendations of BS 5499: Part 4

In general terms the proposals appear adequate but would expect to see copies of fire strategies if produced and fire risk assessments when appropriate so we can assess and give further feedback.

It should be ensured the following condition is attached also to support any special effects use at the two premises:

The following special effects or mechanical installations shall be arranged and stored so as to minimise any risk to the safety of those using the premises.

- a. dry ice and cryogenic fog;
- b. smoke machines and fog generators;
- c. pyrotechnics including fireworks;
- d. firearms;
- e. lasers;
- f. explosives and highly flammable substances;
- g. real flame;
- h. strobe lighting.

In addition the following normal works condition should be attached to both applications and the following plans condition:

- 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 by way of variation.

**THE MATTER MAY NEED TO BE ADJUDICATED AT A HEARING OF THE LICENSING SUB CTEE AND THE APPLICATION WILL BE DETERMINED ON ITS MERITS IN RELATION TO THE CITY COUNCIL'S LICENSING POLICY. IT WILL BE FOR THE APPLICANT TO SHOW HOW THE LICENSING OBJECTIVES WILL BE PROMOTED.**

**Please note that any advice given will not guarantee that your application will be granted by the Licensing Service and the Environmental Health Consultation Team may still choose to make a representation to the application submitted.**

## **Applicant's response to Licensing Authority's representation**

**From:** [REDACTED]  
**To:** Angela: WCC Seaward; Karyn: WCC Abbott; Licensing: WCC  
**Subject:** Odeon Marble Arch - New premises licence application  
**Date:** 27 April 2020 12:10:26

Dear Angela,

I write with reference to your email of 15th April in connection with the application for a new premises licence for the proposed Odeon Marble Arch ("OMA"), 5-14 [Marble Arch/12-22 Edgware Road](#), Bryanston Street. I have now had the opportunity to discuss the contents with my client and I have set out the responses below.

### **Proposed hours**

The applicant proposes a 24 hour offer at the cinema located in the West End. The cinema is located primarily in an underground site. For the avoidance of doubt it is not intended that the cinema will operate to the maximum hours each day of the week. The applicant seeks maximum flexibility given the nature of the entertainment provided. As will be appreciated, the times that films are presented will vary depending on the film which is being shown. However, the nature of film offers has significantly changed in a challenging business environment. By way of example, popular films that enjoy a substantial fan base are released "one minute past midnight" so that fans can enjoy their favourite movies as soon as possible on the day of release. A second example is that when a blockbuster is released eg James Bond, Star Wars etc, there is extremely high demand for tickets and as such cinemas will hold round the clock, consecutive screenings of the film.

Accordingly, applying for the core hours for licensable activities would not assist the applicant in being able to provide the full offer that it would like to be able to do for guests. Whilst for the majority of the time films would not be shown on a "rolling" or "one minute after midnight" basis, there are many occasions during the year when such flexibility is required.

### **Policy PCV2**

As you have indicated in your email it is the intention of the premises to operate primarily as a cinema with the sale of alcohol as an ancillary service for guests who visit the site principally to view a film. Food and drinks will be provided via waiter and waitress service and will be provided in conjunction with the showing of a film or occasionally if there is a private event eg when the space is hired for a conference or private screening. The supply of alcohol is therefore an ancillary feature to the overall use of the premises as a performance venue and will be related to the times the premises are open for performances and events and will not extend later than such provision.

### **Private hire**

It is proposed that, in line with the usual offer provided by Odeon Cinemas Limited in other venues across its estate, facilities will be available for spaces to be hired for use for conference and meeting events eg for training purposes or team building exercises. These will not always be linked to the screening of a film but this will usually be the case. If the private hire areas are hired out for such purposes then payment will be taken in advance in the usual way that corporate events of this nature are organised. Food or drinks which will be supplied will be part of a private hire package arrangement and will fall within Condition 20c) ie a person for whom admittance payment has been made.

## **Condition 20**

Condition 20 currently operates as a condition on the premises licence for Odeon Leicester Square which assists operationally to ensure that members of the public cannot purchase alcohol without purchasing a ticket or without falling into one of the other categories included in the condition. Given that issues do not arise for the police or any other of the Authorities at that venue in part due to this condition, it was felt prudent to include the same as part of this application.

The inclusion of Condition 20 (b) anticipates employees of Odeon attending the cinema who have the benefit of a concession directly from Odeon Cinemas Limited for them and their guest to enjoy a film without payment (albeit that they also fall within category 20 (a). Staff must produce their valid film card for identification purposes and they will then be issued with a ticket. Tickets cannot be purchased in advance, they can only be obtained on the day of viewing. The tickets issued have a barcode for staff identification purposes which indicates the category of person attending ie an employee of Odeon or a guest of an employee. An employee is limited to 12 guests over a three month period, Such concessions are not usually taken up in large numbers and mostly comprise couples or family members. The numbers involved make up a very small element of attendance and therefore do not impact the capacity at the venue to any great extent. The overall numbers permitted would obviously be determined by the capacity at the premises.

The condition also anticipates a situation where senior management may wish to provide corporate hospitality at the venue in the form of hosting a meeting or private screening to a handful of guests. This would happen on an extremely infrequent basis and identification of those attending would be required by Duty Management before admission would be permitted. The inclusion of condition 20 (c) anticipates a situation where a couple attend the cinema together and one has bought the tickets and the other would like to buy a drink for them both ie admittance has been paid for on behalf of the latter by the former (the latter does not comply with condition a) because they have not purchased a ticket but they have had one purchased on their behalf.)

**Please note Condition 20 has now been superseded by the agreed Condition 38.**

## **Cumulative impact**

The premises intend to operate as a cinema which is a form of entertainment recognised by Westminster City Council's ("WCC") Licensing Policy as a form of entertainment which is unlikely to adversely effect cumulative impact. According to Paragraph 2.5.36 " The Council as the Licensing Authority accepts that these types of uses are unlikely to be linked with crime and disorder and generally have less impact on residents than other licensable activities". This is reflected in this application by the withdrawal of the representation to the application by the police and based on the actual experience of the Odeon Cinemas throughout the country, including Odeon Leicester Square which is already located in WCC's cumulative impact area and which is not a source of concern to the police or to any of the other responsible authorities.

A cinema used to be located on this site again which did not pose any difficulties for the Authorities. The capacity proposed for this site is 198 plus 10 wheelchair spaces which is a significantly reduced capacity than the number permitted at the previous cinema which was 982.

Whilst it is recognised that the applicant seeks hours beyond those of core hours it is contended that the provision of a cinema is a form of entertainment which would not add to cumulative impact despite this and indeed the nature of the offer, as opposed to a public house or bar etc being located in the West End, is likely to promote the licensing objectives as recognised by WCC's licensing policy at Paragraph 2.5.36 "The situation of these types of uses in the Cumulative Impact Areas in place of pubs, bars and alcohol led music and dance venues will be likely to promote the licensing objectives." Such form of entertainment encourages families and

all age groups into the area which, like theatres, assists with minimising the impact of alcohol led venues.

The premises are not alcohol led, the provision of alcohol is an ancillary service for guest of the cinema, in the same way that it is at the theatre. Only those who have purchased a ticket and other limited categories of person may purchase alcohol. On average guests purchase one or two alcoholic drinks and substantial food is available at all times delivered by waiter/waitress service. The principal purpose for resorting to the premises is to watch a film and not to drink such as is the case for a destination venue like a pub. Disturbance due to guests being inebriated would not be tolerated by the applicant and staff are trained extensively to ensure such does not happen. Importantly too, other guests also would not tolerate such behaviour as it would disturb enjoyment of the film, so it is essential that the film experience is not interrupted and staff are accordingly extremely vigilant to maintain the applicant's reputation as a provider of top quality film entertainment.

Additionally, a small area on the ground floor of the premises will be used for the collection and purchase of tickets to include the provision of a Costa Coffee concession. Accordingly, the bar servery where food and drinks will be delivered to guests by waiter/waitress service will be located in the lower levels of the building and will therefore not be visible to members of the public passing the premises which again distinguishes the premises from other venues. The Costa Coffee concession will not operate beyond 22.00 hours and the ground floor will therefore only be used for ticket collection/purchase and access beyond this time.

I trust that this has addressed the issues raised in your email but should you have any further queries please do not hesitate to contact me.

Kind regards  
Suzanne Davies  
Director  
Clifton Davies Consultancy Limited

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

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**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.
9. Admission of children to the premises must be restricted in accordance with the film classification recommended by the British Board of Film Classification or recommended by this licensing authority as appropriate.

## Conditions consistent with the operating schedule

10. 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.
11. 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.
12. Loudspeakers shall not be located in the entrance lobby or outside the premises building
13. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
14. The number of persons permitted in the premises at any one time (excluding staff) shall not exceed (X) persons.
15. 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.
16. 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.
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, searching equipment or scanning equipment
  - (g) any refusal of the sale of alcohol
  - (h) any visit by a relevant authority or emergency service.
18. No licensable activities shall take place at the premises until the licensing authority are satisfied that the premises is constructed or altered in accordance with the appropriate provisions of the District Surveyor's Association – Technical Standards for Places of Entertainment and the reasonable requirements of Westminster Environmental Health Consultation Team, at which time this condition shall be removed from the licence by the licensing authority.
19. 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.

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 exit doors shall be available at all material times without the use of a key, code, card or similar means.
23. All emergency doors shall be maintained effectively self closing and not held open other than by an approved device.
24. The edges of the treads of steps and stairways shall be maintained so as to be conspicuous.
25. Curtains and hangings shall be arranged so as not to obstruct emergency safety signs or emergency equipment.
26. All fabrics, curtains, drapes and similar features including materials used in finishing and furnishing shall be either non-combustible or be durably or inherently flame-retarded fabric. Any fabrics used in escape routes (other than foyers), entertainment areas or function rooms, shall be non-combustible.
27. There shall be no licensable activities permitted on the ground floor of the premises.
28. Licensable activities permitted under this licence shall be ancillary to the main specified function of the premises as a cinema.
29. The primary use of the premises shall remain as a cinema otherwise the licence shall cease to have effect.
30. Substantial food and non-intoxicating beverages, including water, shall be available in all parts of the premises where alcohol is sold or supplied for consumption on the premises when alcohol is available for sale.
31. Waiter/waitress service shall be available at all times that the premises are open to the public.
32. There shall be no sales of food or hot drink for consumption off the premises after 22.00.
33. There shall be no off sales of alcohol.
34. The premises licence holder shall operate a radio scheme at the premises.
35. No unaccompanied children under the age of 12 years to be admitted to film performances commencing after 20.00 hours.
36. No unaccompanied children under the age of 15 years to be admitted to film performances commencing after 22.00 hours.

**Conditions proposed by the Environmental Health and agreed with the applicant so as to form part of the operating schedule**

37. The retail outlet on the ground floor level shall close no later than 22.00 on Mondays to Sundays.

**Conditions proposed by the Licensing Authority and agreed with the applicant so as to form part of the operating schedule**

38. The sale of alcohol shall only be to:

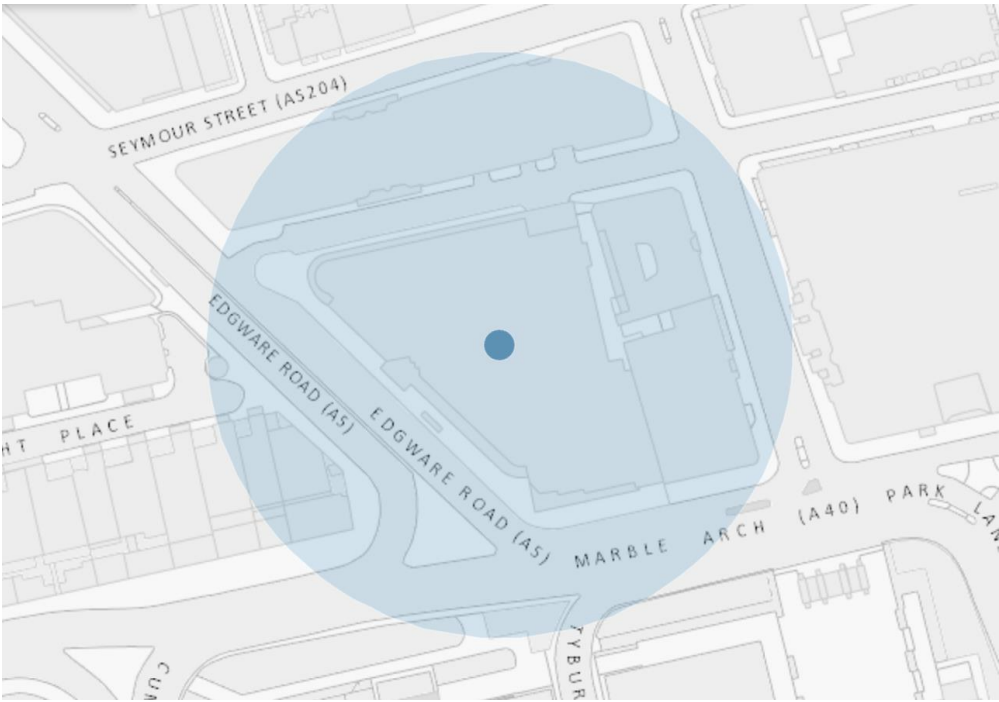
- (a) Persons who have purchased or who have been given a ticket to view the showing of a screened event or performance at the premises on that day or who are attending a private, pre-booked event to which members of the public are not admitted. A register of persons attending a private, pre-booked event shall be kept at the premises and made available for immediate inspection by police or an authorised officer of the Council.
- (b) Employees & bona fide guests of Odeon Cinemas Limited.

**Conditions proposed by the Licensing Authority**

39. On not more than 12 occasions per year films may be exhibited between the hours of 03:00 and 09:00 hours. On those occasions at least ten working days notice shall be given to the City Council's Environmental Health Consultation Team and the Borough Police Licensing Unit.

**Conditions proposed by the Police and agreed with the applicant so as to form part of the operating schedule**

40. The SIA security requirement will be risk assessed and signed off by a senior member of the management on a weekly basis or as necessary. A written record will be kept and shall be provided to the Responsible Authorities upon request.



Resident Count: 93

**Licensed premises within 75 Metres of 5-14 Marble Arch, 12-22 Edgware Road, 53-63 Bryanston Street and Cumberland Mews, London**

<b>Licence Number</b>	<b>Trading Name</b>	<b>Address</b>	<b>Premises Type</b>	<b>Time Period</b>
18/03367/LIPST	RU5, Marble Arch Place	Development Site At 5-9 Marble Arch, 2-20 (evens) Edgware Road & 53-59 (odd) Bryanston Street London	Cafe	Monday to Thursday; 08:00 - 00:00   Friday to Saturday; 08:00 - 00:30   Sunday; 08:00 - 23:00
18/03368/LIPST	RU6, Marble Arch Place	Development Site At 5-9 Marble Arch, 2-20 (evens) Edgware Road & 53-59 (odd) Bryanston Street London	Not Recorded	Monday to Thursday; 08:00 - 00:00   Friday to Saturday; 08:00 - 00:30   Sunday; 08:00 - 23:00
18/03362/LIPST	RU2, Marble Arch Place	Development Site At 5-9 Marble Arch, 2-20 (evens) Edgware Road & 53-59 (odd) Bryanston Street London	Restaurant	Monday to Saturday; 08:00 - 00:00   Sunday; 08:00 - 23:00
18/03364/LIPST	RU3, Marble Arch Place	Development Site At 5-9 Marble Arch, 2-20 (evens) Edgware Road & 53-59 (odd) Bryanston Street London	Cafe	Monday to Thursday; 08:00 - 00:00   Friday to Saturday; 08:00 - 00:30   Sunday; 10:00 - 22:30
18/03365/LIPST	RU4, Marble Arch Place	Development Site At 5-9 Marble Arch, 2-20 (evens) Edgware Road & 53-59 (odd) Bryanston Street London	Restaurant	Monday to Thursday; 08:00 - 00:00   Friday to Saturday; 08:00 - 00:30   Sunday; 08:00 - 23:00
20/02443/LIPN	Not Recorded	Marble Arch Tower 55 Bryanston Street London W1H 7AA	Shop (very large)	Monday to Sunday; 07:00 - 23:00
14/05500/LIPDPS	Sainsbury's	7 - 9 Marble Arch London	Shop	Monday to Saturday; 08:00 - 23:00   Sunday; 10:00 - 22:30
16/09835/LIPT	The Tyburn	The Tyburn 20	Public house or	Monday to

		Edgware Road London W2 2EN	pub restaurant	Thursday; 07:00 - 23:30   Friday to Saturday; 07:00 - 00:00   Sunday; 07:00 - 22:50   Sundays before Bank Holidays; 07:00 - 00:00
19/13112/LIPDPS	Prezzo	7 - 9 Great Cumberland Place London W1H 7LU	Restaurant	Monday to Sunday; 12:00 - 00:00
15/06410/LIPDPS	Spaghetti House	47-51 Bryanston Street London W1H 7DN	Restaurant	Monday to Saturday; 10:00 - 23:30   Sunday; 12:00 - 23:00
18/02536/LIPDPS	Spaghetti House	47-51 Bryanston Street London W1H 7DN	Restaurant	Monday to Saturday; 10:00 - 23:30   Sunday; 12:00 - 23:00
16/12791/LIPT	Arch Food & Wine	1A Great Cumberland Place London W1H 7AL	Shop	Monday to Sunday; 07:00 - 01:00
20/03272/LIPV	Cumberland Food & Wine	11 Great Cumberland Place London W1H 7LU	Shop	Monday; 08:00 - 05:00   Tuesday; 08:00 - 05:00   Wednesday; 08:00 - 05:00   Thursday; 08:00 - 05:00   Friday; 08:00 - 05:00   Saturday; 08:00 - 05:00   Sunday; 08:00 - 05:00
17/05472/LIPN	Marble Arch Theatre	Western Traffic Island Marble Arch London W1H 7DX	Theatre	Monday to Saturday; 12:00 - 23:30   Sunday; 12:00 - 23:00

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