

Licensing Sub-Committee Report

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Item No:	,
Date:	15 December 2015
Licensing Ref No:	15/09478/LIPV - Premises Licence Variation
Title of Report:	Tommi's Burger Joint Basement And Ground Floor 30 Thayer Street London
Report of:	Director of Public Protection and Licensing
Wards involved:	Marylebone High Street
Policy context:	City of Westminster Statement of Licensing Policy
Financial summary:	None
Report Author:	Miss Heidi Lawrance Senior Licensing Officer
Contact details	Telephone: 020 7641 2751

Email: hlawrance@westminster.gov.uk

1. Application

1-A Applicant and prem	ises				
Application Type:	Variation of a Premises	Licence, Licer	nsing Act 2003		
Application received date:	27 October 2015				
Applicant:	Tommi's Burger Joint Ltd				
Premises:	Tommi's Burger Joint				
Premises address:	Basement And Ground Floor 30 Thayer Street	Ward:	Marylebone High Street NO		
	London W1U 2QP	Area:			
Premises description:	Burger Restaurant				
Variation description:	1. Permit off sales by deliv	ery only			
	and the second s	ion 12 to read 'The supply of alcohol for the premises shall be by waiter and waitress			
	 3. Add a new condition 'Sales of alcohol for consumption off the premises shall only be supplied with, and ancillary to take away meal when delivered to the customers home address trained delivery drivers' 4. Add a new condition 'All sales of alcohol for consumption the premises shall be in sealed containers only, and shall no be consumed on the premises' 				
	5. Add a new condition 'A challenge 21 or Challenge 25 p of age scheme shall be operated in relation to home deliv of alcohol where the only acceptable forms of identification recognised photographic identification cards, such as a dilicence, passport or proof of age card with the PASS hologram.				
	N.B – The applicant had in 18, this amendment has be remain.				
Premises licence history:	The premises has had a premises licence since September 2013				
Applicant submissions:			,		

1-B Current and proposed licensable activities, areas and hours

Late night re	fresh	ment						
Indoors, outdoors or both		Currer	Current :			Proposed:		
		Indoors			No	Variation Applied For		
	Current Hours				Licer	sable	Area	
	Star	t: End:	Start:	End:	Curre	ent:		Proposed:
Monday	23:0	23:30		*		П		
Tuesday	23:0	23:30						
Wednesday	23:0	23:30						
Thursday	23:0	23:30	8					
Friday	23:0	23:30						
Saturday	23:0	23:30			8			
Sunday	23:0	23:30	y					
Seasonal	Cı	ırrent:				Prop	osed	
variations:		m 23:00 or New Year's		ır's Eve to	05:00			
Non-standar timings:		ırrent:				Prop	osed	

On or off sales		Current :			Proposed: On & Off Sale – Delivery Only			
		On sales						
		rent urs	SECTION AND AND PROPERTY.	osed urs	Licer	nsable	Area	
	Start:	End:	Start:	End:	Curre	ent:		Proposed:
Monday	10:00	23:00	10:00	23:00				-
Tuesday	10:00	23:00	10:00	23:00				H
Wednesday	10:00	23:00	10:00	23:00				×
Thursday	10:00	23:00	10:00	23:00				
Friday	10:00	23:00	10:00	23:00		r	,	
Saturday	10:00	23:00	10:00	23:00				×
Sunday	10:00	23:00	10:00	23:00				
Seasonal	Cur	rent:				Prop	osed	
			time on New Year's Eve time on New Year's Day			From the start time on New Year's Evenuntil the finish time on New Year's Day		
Non-standar	Control of the Contro	rent:					osed	

		Current Hours				Prem	nises Area	
	Start:	End:	Start:	End:	Curr	ent:	Proposed:	
Monday	10:00	23:30						
Tuesday	10:00	23:30						
Wednesday	10:00	23:30				11		
Thursday	10:00	23:30						
Friday	10:00	23:30						
Saturday	10:00	23:30						
Sunday	10:00	23:30					*	
Seasonal	Curi	rent:				Propose	ed:	
variations:	Contract of		time on N time on N					
Non-standar	SECTION AND DESCRIPTIONS	rent:				Propose	ed:	
timings:						-		

1-C Layout alteration

No changes to the layout are being made

1-D Conditions being varied, added or removed				
Condition	Proposed variation			
12 The supply of alcohol shall be by waiter or waitress service only.	The supply of alcohol for consumption on the premises shall be by waiter and waitress service only			
	Sales of alcohol for consumption off the premises shall only be supplied with, and ancillary to take-away meal when delivered to the customers home address by trained delivery drivers.			
	All sales of alcohol for consumption off the premises shall be in sealed containers only, and shall not be consumed on the premises			
	Add a new condition 'A challenge 21 or Challenge 25 proof of age scheme shall be operated in relation to home deliveries of			

		identification identification	re the only acceptable forms of are recognised photographic a cards, such as a driving sport or proof of age card with ologram.
Adult entertainment:	Current posi	tion:	Proposed position:
	None		None

2. Representations

2-A Responsible Authorities				
Responsible Authority:	Environmental Health Consultation Team			
Representative:	Mr David Nevitt			
Received:	24 th November 2015			

LICENSING ACT 2003

APPLICATION FOR A VARIATION TO A PREMISES LICENCE

TOMMI'S BURGER JOINT, 30 THAYER STREET, W1

I refer to the above application which seeks a Variation to Premises Licence 13/04689/LIPN to include the following:

Permit 'Off' Sales by delivery;

Amend existing Condition 12;

Add three new Conditions in relation to 'Off' Sales of Alcohol and a Proof of Age Scheme.

I wish to make Representations on the following grounds:

Representation is made in relation to the application, as the proposals are likely to impact upon Public Safety and may increase Public Nuisance.

Name: Address and/or Residents Association:		Navid Ostadian-Binai	
		Flat 1 12 Bulstrode Street London W1U 2JF	
Status:	Valid	In support or opposed:	Support
Received:	7 th November	2015	9 9

It is great having Tommi's Burger Joint as a neighbour. We enjoy their high-quality food, drinks and service, and we therefore support their application fully.

Name: Address and/or Residents Association:		Andrew Lane	
		21 Bulstrode Street London W1U 2JP	٠
Status:	Valid	In support or opposed:	Opposed
Received:	23 rd November	er 2015	

Section L of the Variation Application - removal of condition 18 - Myself and my family feel that removing this section of the licence would cause disturbance to ourselves / our neighbours and the local community. The noise from customers outside the premises already affects us and we are unable to open our windows in the evenings.

Delivery vehicles (Bikes / Motor Bikes / Scooters / Cars) used to distribute off site sales will cause additional noise nuisance to the area as well as traffic congestion.

Whilst drivers are waiting for orders they will also be causing obstruction to local residents and will create a noise nuisance contravening Annex 3 section 18.

Name:		Richard Hillier	
Address and/or Residents Association		21 Bulstrode Street London W1U 2JP	
Status:	Valid	In support of opposed:	Opposed
Received:	8 th November	2015	

We have 2 concerns. By far the most important is the proposed removal of Condition 18 from the original license (see section L of the variation application), i.e. the condition that requires "no noise shall emanate from the premises nor vibration be transmitted

through the structure of the premises which gives rise to a nuisance". This remains a vitally important condition and must be retained. To remove the condition seems unreasonable and the potential to cause disturbance to us and other local residents would be high.

Our second concern is the potential for the delivery drivers to cause noise and/or obstruction in Bulstrode Street, which could easily occur as they are waiting around for orders, and possibly the noise of driving motorbikes or vehicles away. We have no objection to them parking and waiting in Thayer Street where the pavement is wider and there is already more traffic.

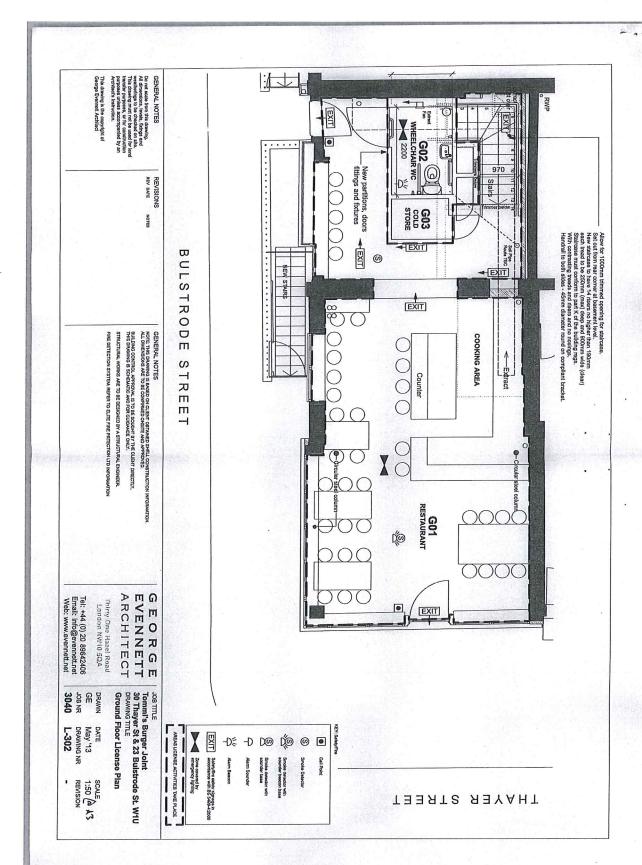
3. Policy & Guidance

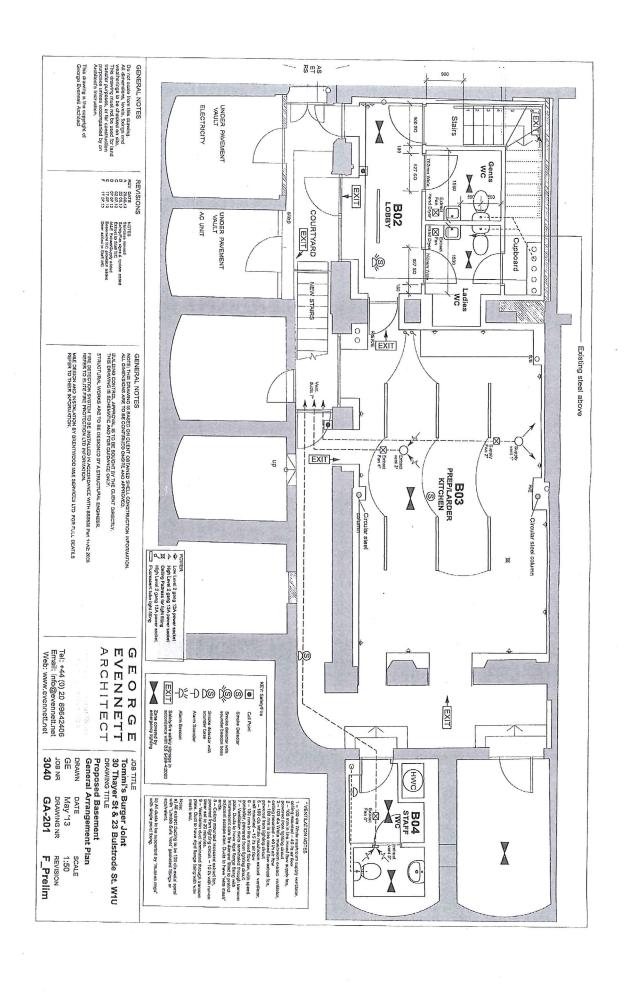
The following policies w apply:	ithin the City Of Westminster Statement of Licensing Policy
Policy HRS1 applies:	Policy HRS1 applies:
	(i) Applications for hours within the core hours set out below in this policy will generally be granted, subject to not being contrary to other policies in the Statement of Licensing Policy.
	(ii) Applications for hours outside the core hours set out below in this policy will be considered on their merits, subject to other relevant policies.
Policy RNT1 applies:	Applications will generally be granted and reviews determined, subject to the relevant criteria in Policies CD1, PS1, PN1 and CH1.

4. Appendices

Premises plans
Applicant supporting documents
Premises history
Proposed conditions
Residential map and list of premises in the vicinity

Report author:	Miss Heidi Lawrance
	Senior Licensing Officer
Contact:	Telephone: 020 7641 2751 Email: hlawrance@westminster.gov.uk





Applicant Support Documents

Appendix 3

Licence & Appeal History

Application	Details of Application	Date Determined	Decision
New Premises Licence Application	Applied for: Sale of Alcohol (On Sales) 10:00 to 23:00 Late Night Refreshment 23:00 to 23:30	15 th August 2013	Granted by Licensing Sub- Committee

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+(DxV)

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 subparagraph 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.

Annex 2 – Conditions consistent with the operating Schedule

None

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

- 9. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of a Metropolitan Police Crime Prevention Officer. 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. Recordings shall be made available immediately upon the request of Police or authorised officer throughout the preceding 31 day period.
- 10. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises is open to the public. This staff member must be able to show a Police or authorised council officer recent data or footage with the absolute minimum of delay when requested.
- 11. The premises shall only operate as a restaurant (i) in which customers are shown to their table, (ii) 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, (iii) which do not provide any take away service of food or drink for immediate consumption, and (iv) where intoxicating liquor shall not be sold, supplied, or consumed on the premises otherwise than to persons who are bona fide taking substantial table meals and provided always that the consumption of intoxicating liquor by such persons is ancillary to taking such meals.
- 12. The supply of alcohol shall be by waiter or waitress service only.
- 12.a The supply of alcohol for consumption on the premises shall be by waiter and waitress service only

- 13. A log shall be kept detailing all refused sales of alcohol. The log should include the date and time of the refused sale and the name of the member of staff who refused the sale. The log 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.
- 14. There shall be no sales of hot food or hot drink for consumption off the premises after 22.30.
- 15. The maximum number of persons accommodated at the premises any one time shall not exceed (excluding staff) 30 persons.
- 16. Substantial food and non-intoxicating beverages shall be available throughout the permitted hours in all parts of the premises where alcohol is sold or supplied for consumption on the premises.
- 17. There shall be no self service to alcoholic drinks.
- 18. No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
- 19. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
- 20. 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.
- 21. During the hours of operation 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 the aforementioned 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.
- 22. All waste is to be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
- 23. All outside tables and chairs shall be rendered unusable by 9pm Mon-Sat, 8pm Sun.
- 24. No deliveries shall be made to the premises between 23.00 and 08.00.
- 25. The licence holder shall ensure that any queue to enter the premises which forms outside the premises is orderly and supervised by door staff so as to ensure that there is no public nuisance or obstruction to the public highway.
- 26. No rubbish, including bottles, will be moved, removed or placed in outside areas between 10pm and 8am.

- 27. No fumes, steam or odours shall be emitted from the licensed premises so as to cause a nuisance to any persons living or carrying on business in the area where the premises are situated, after 1st January 2014.
- 28. The Bulstrode Street entrance shall not be used by customers of the premises except in an emergency.

N.B It is not the applicant's intention to remove this condition the Licence.

Proposed Conditions by applicant EH Comments:

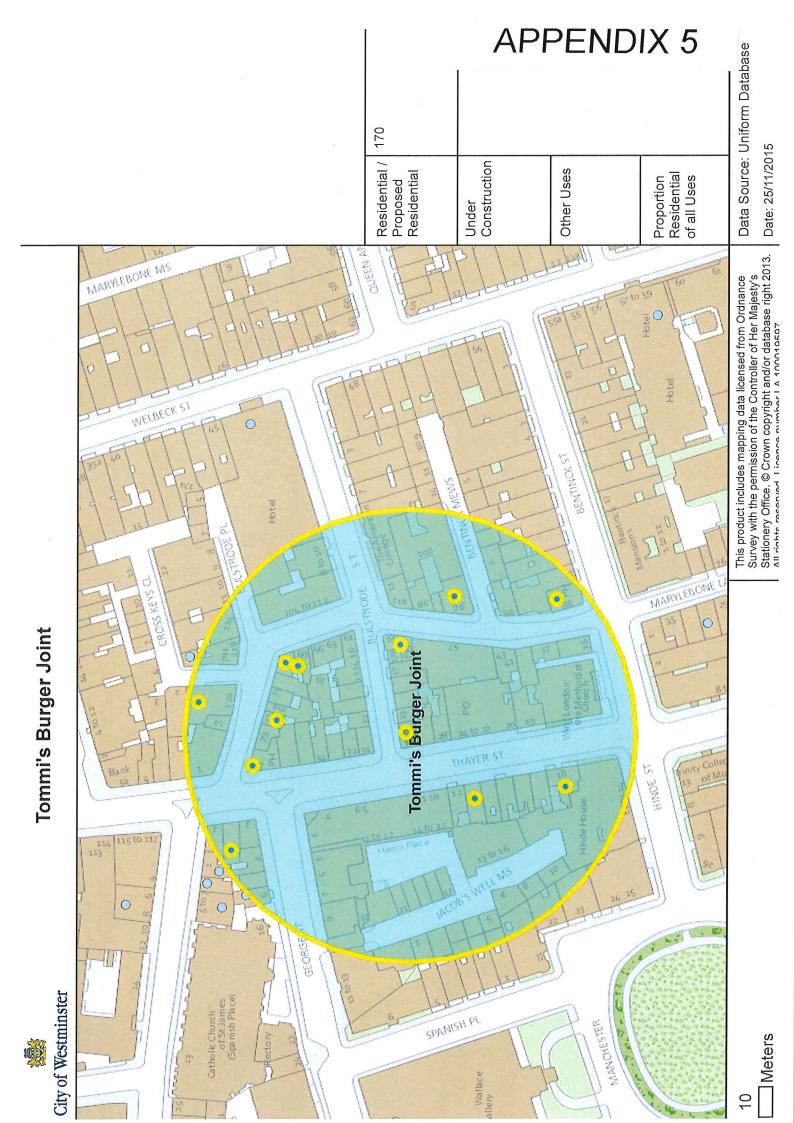
- 29. Permit off sales by delivery only
- 30. Sales of alcohol for consumption off the premises shall only be supplied with, and ancillary to take-away meal when delivered to the customer's home address by trained delivery drivers

Amend to as per EH suggestion:

Sales of alcohol for consumption off the premises shall only be supplied with and ancillary to a take away meal when delivered to the customer's home or business address, by trained delivery drivers.

- 31. Add a new condition 'All sales of alcohol for consumption off the premises shall be in sealed containers only, and shall not be consumed on the premises'
- 32. Add a new condition 'A challenge 21 or Challenge 25 proof of age scheme shall be operated in relation to home deliveries of alcohol 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.
- 33. There shall be no deliveries to be taken from the premises after 22.30

If you have any queries about this report or wish to inspect one of th background papers please contact the report author.						
Backgr	Background Documents – Local Government (Access to Information) Act 1972					
1	Licensing Act 2003	N/A				
2	City of Westminster Statement of Licensing Policy	7 th January 2011				
3	Amended Guidance issued under section 182 of the Licensing Act 2003	March 2015				



		Premises
p / n	Name of Premises	Premises Address
925	Golden Eagle Public House	59 Marylebone Lane London W1U 2NY
		×
3592	Coach Makers	88 Marylebone Lane London W1U 2PY
32074	The Golden Hind	Basement And Ground Floor 71 Marylebone Lane London W1U 2PJ
-23936	The Angel In The Fields Public House	37 Thayer Street London
7888	Pachamama Bar + Kitchen	18 Thayer Street London W1U 3JU
		*
24606	Verru	Ground Floor 69 Marylebone Lane London W1U 2PH
	V 0	
27505	Union Cafe	96 Marylebone Lane London W1U 2QA
-19861	Woodlands Restaurant	77 Marylebone Lane London W1U 2PS
-16964	PizzaExpress	Basement To First Floor 13-14 Thayer Street London W1U 3JR
-15852	Bonne Bouche	2 - 3 Thayer Street London W1U 3JA
6000	Tommi's Burger Joint	Basement And Ground Floor 30 Thayer Street London W1U 2QP
0900	Tominio Bargor donit	Passantia And Ground From the Trial of Calent London Williams
17189	Le Relais De Venise 'L' Entrecote'	120 Marylebone Lane London W1U 2QG

n 75 metres of:		
	ensed Hours	×
Friday to Saturday 10:00 - 00:00 Monday to Thursday 10:00 - 23:30 S	Sunday 12:00 - 23:00	
Monday to Saturday 10:00 - 01:30 Sunday 12:00 - 01:00		2
Friday to Saturday 08:00 - 00:00 Monday to Thursday 08:00 - 23:30 \$	Sunday 09:00 - 23:30	
Monday to Saturday 10:00 - 23:30 Sunday 12:00 - 23:00		
Friday to Saturday 10:00 - 00:00 Monday to Thursday 10:00 - 23:30 S	Sundays before Bank Holidays 12:00 - 00:00 Sunday 12:00 - 22:3	80
Monday to Saturday 12:00 - 00:00 Sunday 12:00 - 22:00		200
Monday to Saturday 08:00 - 01:30 Sunday 09:00 - 00:30		
Monday to Saturday 10:00 - 00:30 Sunday 12:00 - 00:00		
Monday to Saturday 10:00 - 00:30 Monday to Saturday 10:00 - 23:30	0 Sunday 12:00 - 00:00 Sunday 12:00 - 23:00	
Monday to Saturday 07:00 - 20:00 Sunday 08:00 - 18:00		
Monday to Sunday 10:00 - 23:30		
Monday to Saturday 10:00 - 00:30 Sunday 12:00 - 00:00		

