



City of Westminster

# Licensing Sub-Committee Report

Item No:	
Date:	12 January 2016
Licensing Ref No:	15/08088/LIPV - Premises Licence Variation
Title of Report:	Burger Station 11 South Molton Street London W1K 5QL
Report of:	Director of Public Protection and Licensing
Wards involved:	West End
Policy context:	City of Westminster Statement of Licensing Policy
Financial summary:	None
Report Author:	Mr Nick Nelson Senior Licensing Officer
Contact details	Telephone: 020 7641 3431 Email: nnelson@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>	20 October 2015		
<b>Applicant:</b>	Burger Station Ltd		
<b>Premises:</b>	Burger Station		
<b>Premises address:</b>	11 South Molton Street London W1K 5QL	<b>Ward:</b>	West End
		<b>Cumulative Impact Area:</b>	None
<b>Premises description:</b>	The premises is a cafe and restaurant providing hot meals, especially burgers, salads, pastas and other hot dishes, snacks, soft drinks and tea / coffee. The premises has tables and chairs inside and outside.		
<b>Variation description:</b>	To change the layout of the premises so as to add an additional toilet and to increase capacity.		
<b>Premises licence history:</b>	The premises was granted a new premises licence by the Licensing Sub-Committee on 21 May 2015 for the sale by retail of alcohol.		
<b>Applicant submissions:</b>	None.		

1-B Current and proposed licensable activities, areas and hours					
<b>Sale by Retail of Alcohol</b>					
<b>On or off sales</b>		<b>Current :</b>		<b>Proposed:</b>	
		Both		No change	
	<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>Monday</b>	10:00	23:00	No change		Slight reduction of the licensable area on the ground floor by removing 2 tables to accommodate the new toilet facilities.
<b>Tuesday</b>	10:00	23:00	No change		
<b>Wednesday</b>	10:00	23:00	No change		
<b>Thursday</b>	10:00	23:00	No change		
<b>Friday</b>	10:00	23:00	No change		
<b>Saturday</b>	10:00	23:00	No change		
<b>Sunday</b>	12:00	22:30	No change		

Hours premises are open to the public						
	<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	23:30	No change		Ground floor,	No change

<b>Tuesday</b>	08:00	23:30	No change	lower ground floor and basement	
<b>Wednesday</b>	08:00	23:30	No change		
<b>Thursday</b>	08:00	23:30	No change		
<b>Friday</b>	08:00	23:30	No change		
<b>Saturday</b>	08:00	23:30	No change		
<b>Sunday</b>	08:00	23:30	No change		

## 2. Representations

2-A Responsible Authorities	
<b>Responsible Authority:</b>	Environmental Health Service
<b>Representative:</b>	Nicola Curtis
<b>Received:</b>	14 October 2015
<p>Environmental Health originally made a representation. However, following agreement to amend condition 22 on the premises licence if the application is granted, Environmental Health withdrew their representation on 8 December 2015.</p> <p>Condition 22 currently reads:  <i>The maximum number of persons accommodated to consume food and/or drink at the premises shall not exceed 15 persons (excluding staff).</i></p> <p>The agreed condition reads:  <i>The maximum number of persons accommodated to consume food and/or drink at the premises shall not exceed 40 persons excluding staff.</i></p>	

2-B Other Persons			
<b>Name:</b>	Mayfair Residents' Group		
<b>Address and/or Residents Association:</b>	29A Brook Street London W1K 4HE		
<b>Status:</b>	Valid	<b>In support or opposed:</b>	Opposed
<b>Received:</b>	9 November 2015		
<p>The Mayfair Residents Group wishes to oppose any alterations in the original conditions specified by the Council when it granted a licence to this establishment.</p> <p>South Molton Street is purely a small shopping and residential street, wholly unsuited for any significant late night entertainment establishment. Because of this, if the customer capacity of Burger Station is allowed to be increased with the advent of an extra toilet, we feel that it is absolutely necessary for the original license conditions be strictly adhered to, so that the risk of any late night excessive noise and anti-social behaviour is minimised.</p>			
<b>Name:</b>	Residents' Society of Mayfair & St James's		

<b>Address and/or Residents Association:</b>		19 Moore Flats Gilbert Street London W1K 5HN	
<b>Status:</b>	Valid	<b>In support or opposed:</b>	Opposed
<b>Received:</b>	13 October 2015		
<p>As you are no doubt aware Mayfair and St. James's are residential areas and it is to that end the society wish to object to any further extension to the above premises.</p> <p>The Society firmly believes that to grant any extension the applicant has applied for will lead to additional anti-social behaviour and noise pollution. It will absolutely have a negative impact on the residents living in this predominately residential neighbourhood and any additional extensions will only exacerbate an already intolerable situation. Crime and disorder along with a severe public nuisance will surely ensue.</p> <p>The Residents Society of Mayfair &amp; St. James's therefore wishes to register a very strong objection for and on behalf of the residents on that basis.</p>			
<b>Name:</b>		Judy Kuttner	
<b>Address and/or Residents Association</b>		Flat 3 29A Brook Street London W1K 4HE	
<b>Status:</b>	Valid	<b>In support or opposed:</b>	Opposed
<b>Received:</b>	9 November 2015		
<p>This premises has served the street as a local cafe for a number of years. The cafe is frequented by many of the people who work in the street as well as by passers-by. The cafe serves people at tables both inside and outside the premises and also provides a take-away service, but in the past it has normally closed around 6pm if not before.</p> <p>South Molton Street has nearly 60 shops, at least as many offices and 30 flats. It is a pedestrian precinct which is primarily a shopping street that closes down by 8pm with rare exception. It is not heavily travelled during the evening and the noise level drops. There are currently no other premises serving alcohol or food on South Molton Street.</p> <p>Burger Station (Toast) was recently granted a licence for 15 people until 11pm. It now seeks to add a toilet in order to serve 40 people in total. Granting this licence variation raises the potential for public nuisance including noise, litter, loitering and possibly smell, especially because of the café's outdoor and takeaway services.</p> <p>The original licence was granted with conditions which included no takeaway alcohol and outside tables to be disabled by 7pm. If additional people are now to be allowed on the licence, I believe that it is even more important that the original conditions remain in place.</p>			
<b>Name:</b>		Well-Being Business Centre	
<b>Address and/or Residents Association</b>		58 South Molton Street London W1K 5SL	
<b>Status:</b>	Valid	<b>In support or opposed:</b>	Opposed
<b>Received:</b>	30 October 2015		

We had previously written to you on 9th March 2015 in objection to the new licensing for Toast, 11 South Molton Street. We would like to write again to express our discontent for the new licensing.

We had carefully chosen our premise location at 58 South Molton St due to there being no evening activities taking place on the street. This is due to our business being a well-being centre and we require for the surrounding area to be quiet to operate our business successfully. We now understand that the new license will allow for a later closer time, which will disrupt our clients as we are directly opposite to Toast.

We also understand that there will be more covers which will result in more people, causing further disruption and noise.

We request that if the new licence will be upheld, that a 19:00 closing will be retained, and that alcohol is restricted to be consumed indoors only to avoid noise and any potential antisocial behaviour.

### 3. Policy & Guidance

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

#### Policy RNT1 applies

Policy RNT1 applies:

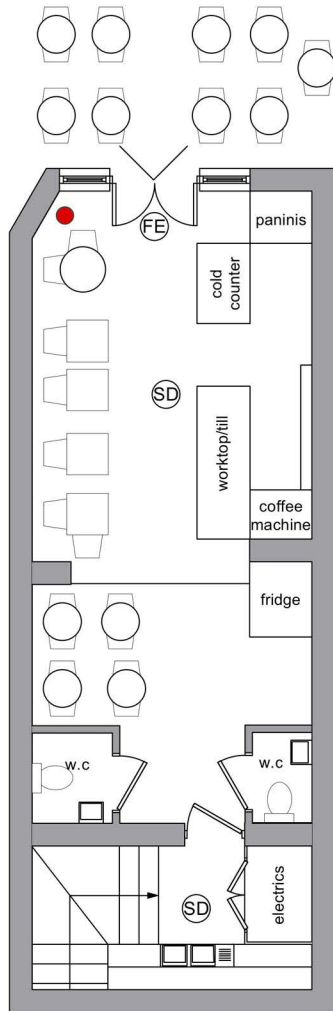
Applications will generally be granted and reviews determined, subject to the relevant criteria in Policies CD1, PS1, PN1 and CH1.

### 4. Appendices

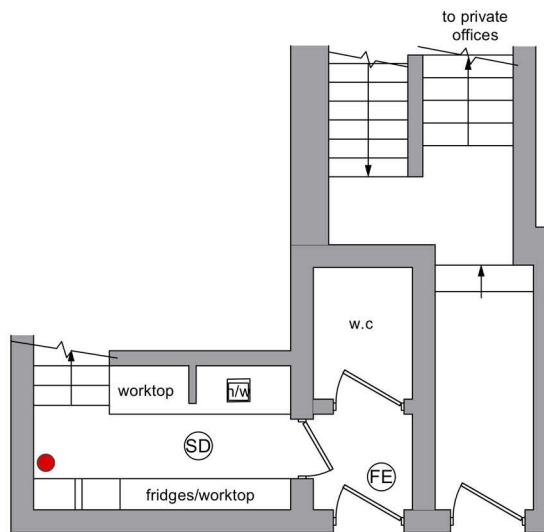
<b>Appendix 1</b>	Premises plans
<b>Appendix 2</b>	Applicant supporting documents - None
<b>Appendix 3</b>	Premises history
<b>Appendix 4</b>	Proposed conditions
<b>Appendix 5</b>	Residential map and list of premises in the vicinity

<b>Report author:</b>	Mr Nick Nelson Senior Licensing Officer
<b>Contact:</b>	Telephone: 020 7641 3431 Email: nnelson@westminster.gov.uk

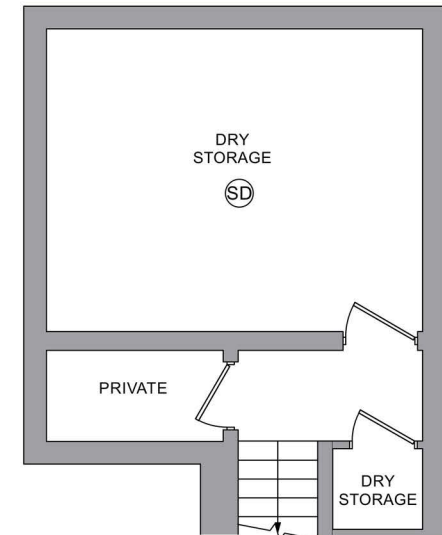
# APPENDIX 1



**PROPOSED GROUND FLOOR PLAN**



**PROPOSED LOWER GROUND FLOOR PLAN**



**PROPOSED BASEMENT FLOOR PLAN**

CLIENT	ADDRESS	PROJECT	DRAWING TITLE	SCALE	DWG NO	NOTES
<b>TOAST</b>	11 South Molton St. London W1K 5QL	Premises License Application	Proposed GA Plan	1:100 @ A4	001	(FE) Fire Exit (SD) Smoke detector ● Fire Extinguisher
				DATE December 2014		

### Licence & Appeal History

<b>Application</b>	<b>Details of Application</b>	<b>Date Determined</b>	<b>Decision</b>
<b>New premises licence 15/00989/LIPN</b>	<b>Application for the sale by retail of alcohol from 10:00 – 23:00 Monday to Saturday and 12:00 – 22:30 Sunday.</b>	<b>21.05.2015</b>	<b>Granted by Licensing Sub-Committee</b>
<b>Change of trading name 15/06963/LIPCHT</b>	<b>Change of trading name from “Toast” to “Burger Station”.</b>	<b>20.08.2015</b>	<b>Granted under delegated authority</b>
<b>Variation application 15/08088/LIPV</b>	<b>Current application.</b>		

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.

## **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 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.
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. 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.
11. Loudspeakers shall not be located in the entrance lobby or outside the premises building.
12. All outside tables and chairs shall be rendered unusable by 19.00 each day.
13. Substantial food and non-intoxicating beverages, including drinking water, shall be available in all parts of the premises where alcohol is sold or supplied for consumption on the premises.
14. 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.

15. 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 are open.
16. No deliveries to the premises shall take place between 23.00 and 08.00.
17. The sale and supply of alcohol for consumption off the premises shall be restricted to alcohol consumed at the outside tables and chairs in an area appropriately authorised for such use on the highway, 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.
18. No waste or recyclable materials, including bottles, shall be moved, removed or placed in outside areas between 23.00 hours and 08.00 hours.
19. The supply of alcohol for consumption on the premises shall only be to a person seated taking a substantial table meal there and for consumption by such a person as ancillary to their meal.
20. The supply of alcohol shall be by waiter or waitress service only.
21. Prominent signage indicating the permitted hours for the sale of alcohol shall be displayed so as to be visible before entering the premises, where alcohol is on public display, and at the point of sale.
22. The maximum number of persons accommodated to consume food and/or drink at the premises shall not exceed 15 persons (excluding staff).
23. The Licence will have no effect until the premise has been assessed as satisfactory by the Environmental Health Consultation Team and this condition has been removed from the Licence.
24. No noise or vibration shall emanate from the premises which give rise to a nuisance.

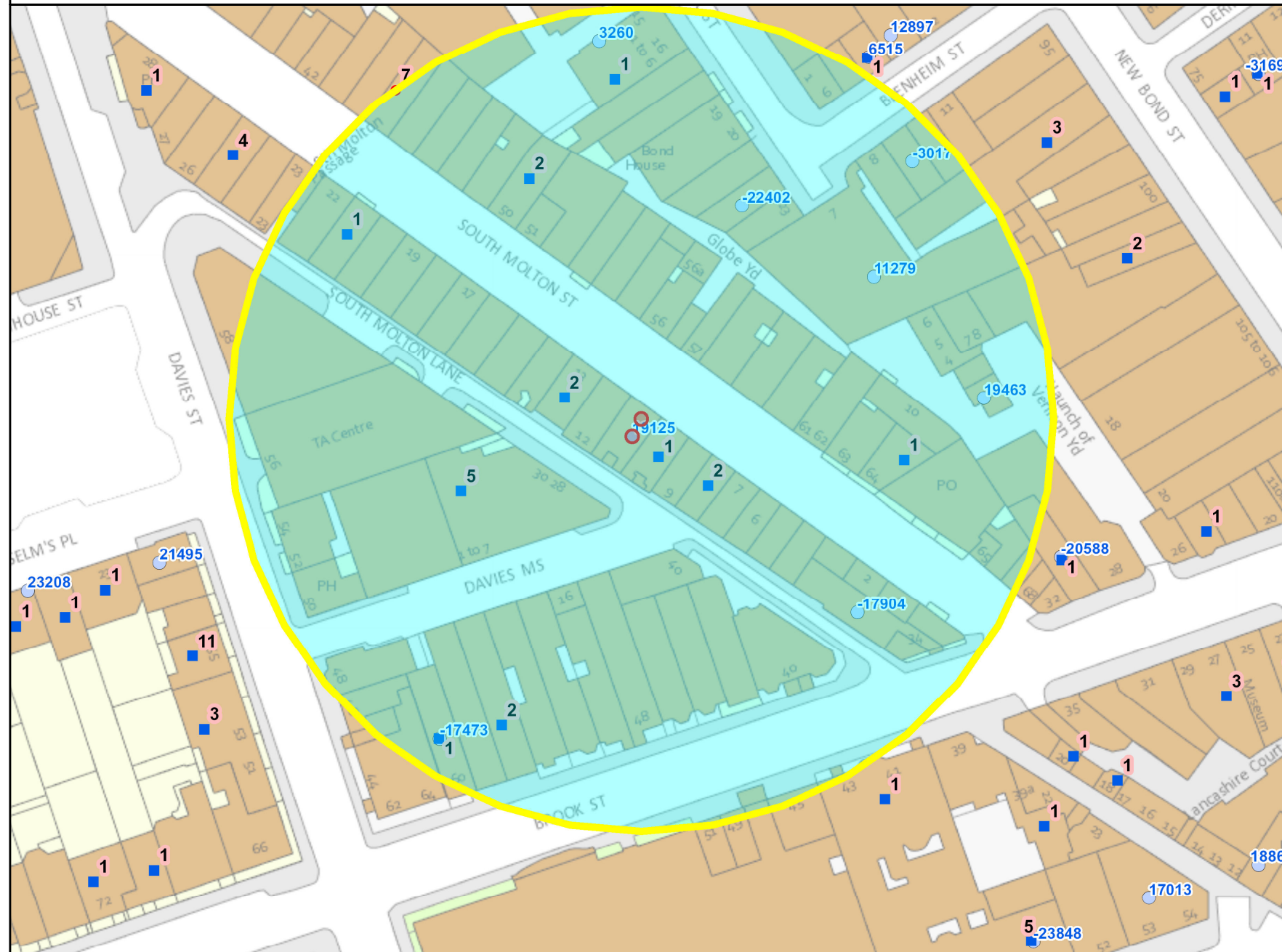
**Condition proposed by Environmental Health and agreed with the applicant:**

To replace condition 22 above:

22. The maximum number of persons accommodated to consume food and/or drink at the premises shall not exceed 40 persons excluding staff.



# Burger Station



Residential / Proposed Residential	18
Under Construction	Not known
Other Uses	Not known
Proportion Residential of all Uses	Not known

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 Meters

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 Date: 29/12/2015

**Premises within 75 metres of: Burger Station, 11 South Molton Street**

<b>p / n</b>	<b>Name of Premises</b>	<b>Premises Address</b>	<b>Opening Hours</b>
15/06963/LIPCHT	Burger Station	11 South Molton Street London W1K 5QL	Monday to Sunday 08:00 - 23:30
14/01662/LIPVM	Bonhams	Blenstock House 7 Blenheim Street London W1S 1LG	Monday to Saturday 08:00 - 23:00 Sunday 10:00 - 22:30
14/02902/LIPDPS	Yo! Sushi	15 Woodstock Street London W1C 2AQ	Sunday 12:00 - 22:30 Monday to Saturday 12:00 - 23:00
12/03704/LIPN	The Refinery	60 Brook Street Mayfair London W1K 5DU	Saturday 09:00 - 18:00 Monday to Tuesday 10:00 - 19:00 Wednesday t
13/07748/LIPN	Bonhams	3 Haunch Of Venison Yard London W1K 5SS	Friday to Saturday 08:00 - 00:00 Monday to Thursday 08:00 - 23:30 Su
14/02767/LIPDPS	Ristorante Semplice	9 Blenheim Street London W1S 1LH	Sunday 10:00 - 00:00 Monday to Saturday 10:00 - 00:30
15/08199/LIPDPS	Gigi's	Ground Floor 22 Woodstock Street London W1C 2AP	Sunday 10:00 - 00:00 Monday to Saturday 10:00 - 01:30
12/00562/LIPDPS	Mayfair Exchange	Basement 34 Brook Street Mayfair London W1K 5DN	Monday to Saturday 07:00 - 00:30 Sunday 12:00 - 23:00

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

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

<b>1</b>	Licensing Act 2003	N/A
<b>2</b>	City of Westminster Statement of Licensing Policy	7 <sup>th</sup> January 2016
<b>3</b>	Amended Guidance issued under section 182 of the Licensing Act 2003	March 2015
<b>4</b>	Application Form	20 October 2015
<b>5</b>	Representation – Environmental Health	14 October 2015
<b>6</b>	Representation – Mayfair Residents' Group	9 November 2015
<b>7</b>	Representation – Mayfair & St James's Residents' Association	13 October 2015
<b>8</b>	Representation – Judy Kuttner	9 November 2015
<b>9</b>	Representation – Well-Being Business Centre	30 October 2015