

Licensing Sub-Committee Report

Item No:	
Date:	3 March 2016
Licensing Ref No:	15/11866/LIPV - Premises Licence Variation
Title of Report:	Cumberland Food & Wine 11 Great Cumberland Place London W1H 7AL
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:	Miss Heidi Lawrance Senior Licensing Officer
Contact details	Telephone: 020 7641 2751 Email: hlawrance@westminster.gov.uk

1. Application

1-A Applicant and prem	1-A Applicant and premises					
Application Type:	Variation of a Premises	Variation of a Premises Licence, Licensing Act 2003				
Application received date:	17 December 2015					
Applicant:	Chelsea Food And Wine	e Company Lim	nited			
Premises:	Cumberland Food & Wir	ne				
Premises address:	11 Great Cumberland Place	Ward:	Bryanston and Dorest Square			
	London W1H 7AL	Cumulative Impact Area:	No			
Premises description:	This Premises currently operates as a convenient store and with on and off sales.					
Variation description:	Application to add Late Night Refreshment from: 23:00 to 01:00 Monday to Sunday and to increase opening hours: 23:00 to 01:00 Monday to Sunday. No other changes are sought.					
Premises licence history:	This premises licence was converted when the new Licensing Act 2003 came into force in 2005. Since this time the Premises Licence has had 6 DPS changes, 2 Transfer, 1 Minor Variation and 2 Variations. For a full history please see Appendix 3.					
Applicant submissions:	The applicant originally a Refreshment both on an amended this to OFF the	d off the premi	ses but has since			

1-B Current and proposed licensable activities, areas and hours							
Late night re	freshm	ent					
Indoors, out	doors o	r both	Currer	nt:		Proposed:	
						Off	
	Current Proposed Licensable Are		Area				
	Start:	End:	Start:	End:	Current:	Proposed:	
Monday	N/A	N/A	23:00	01:00		As per current plans	
Tuesday	N/A	N/A	23:00	01:00		As per current plans	
Wednesday	N/A	N/A	23:00	01:00		As per current plans	
Thursday	N/A	N/A	23:00	01:00		As per current plans	
Friday	N/A	N/A	23:00	01:00		As per current plans	
Saturday	N/A	N/A	23:00	01:00		As per current plans	
Sunday	N/A	N/A	23:00	01:00		As per current plans	

Seasonal	Current:	Proposed:
variations:		N/A
Non-standard	Current:	Proposed:
timings:		N/A

Sale by Reta	il of Alc	ohol						
On sales			Currer	nt:			Pro	posed:
							Unc	hanged
	Current Hours		Proposed Hours		Licensable Area			
	Start:	End:	Start:	End:	Curre	ent:		Proposed:
Monday	08:00	23:00						- 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1
Tuesday	08:00	23:00						
Wednesday	08:00	23:00						
Thursday	08:00	23:00						
Friday	08:00	23:00						
Saturday	08:00	23:00						
Sunday	10:00	22:30			***************************************			
Seasonal variations:	Guri	rent:				Prop	osed	2
Non-standar timings:	d Curi	rent:				Prop	osed	:

Sale by Reta	il of Alc	ohol						
Off sales	Off sales			Current :			Proposed:	
Current Hours		Proposed Hours		Unchanged Licensable Area				
	Start:	End:	Start:	End:	Curre	nt:	Proposed:	
Monday	10:00	23:00						
Tuesday	10:00	23:00						
Wednesday	10:00	23:00						
Thursday	10:00	23:00						
Friday	10:00	23:00						
Saturday	10:00	23:00						
Sunday	12:00	22:30						
Seasonal variations:	Curi	rent:				Propos	ed:	
Non-standar timings:	d Curi	rent:				Propos	ed:	

Hours prem	ises are	open to	o the pu	ıblic		
		rent urs		osed urs	Premises Area	
	Start:	End:	Start:	End:	Current:	Proposed:
Monday	08:00	23:00	08:00	01:00		
Tuesday	08:00	23:00	08:00	01:00		

Wednesday	08:00	23:00	08:00	01:00		
Thursday	08:00	23:00	08:00	01:00		
Friday	08:00	23:00	08:00	01:00		
Saturday	08:00	23:00	08:00	01:00		
Sunday	10:00	22:30	10:00	01:00		
Seasonal variations:	Curi	rent:			Proposed	l:
Non-standar timings:	d Cur	rent:			Proposed	:

1-C Layout alteration

No layout alteration applied for.

1-D Conditions being varied, added or removed

The applicant has not applied for conditions to be varied, added or removed.

Adult entertainment:	Current position:	Proposed position:
	None	None

2. Representations

2-A Responsi	ble Authorities
Responsible Authority:	Environmental Health Consultation Team
Representative:	Maxwell Koduah
Received:	23 rd December 2015

11 Great Cumberland Place, London, W1H 7AL

I refer to the application for variation of existing Premises Licence number for the above premises.

The applicant is seeking the following licensable activities:

1. Provision of late night refreshment indoors and outdoors Monday to Sunday from 23:00 to 01:00 hours

I wish to make the following representations:

1. The provision of late night refreshment indoors and outdoors at the premises and for the hours requested may have the likely effect of increasing Public Nuisance in the area and impact on Public Safety.

Applicant has made reference to existing conditions in the operating schedule and these are under consideration.

The applicant is asked to contact the undersigned to arrange a site visit to assess the premises to ensure the premises is satisfactory and following this, additional conditions may be recommended by Environmental Health to support the licensing objectives Prevention of Public Nuisance and Public Safety.

The granting of the new premises licence as presented would have the likely effect of causing an increase in Public Nuisance and may impact on Public Safety within the area.

Responsible Authority:	Metropolitan Police Service	
Representative:	Reaz Guerra	
Received:	14 th January 2015	

Application for a Premises Licence Variation – Ref 15/11866LIPV

11 Great Cumberland Place, London W1H 7AL

With reference to the above application I am writing to inform you that the Police, as a Responsible Authority, object to your application for a New Premises Licence as it is our belief that if granted the application would undermine the Crime Prevention Objective.

There is insufficient detail in the operating schedule to address the Crime Prevention Objective.

It is for this reason that we are objecting to the application

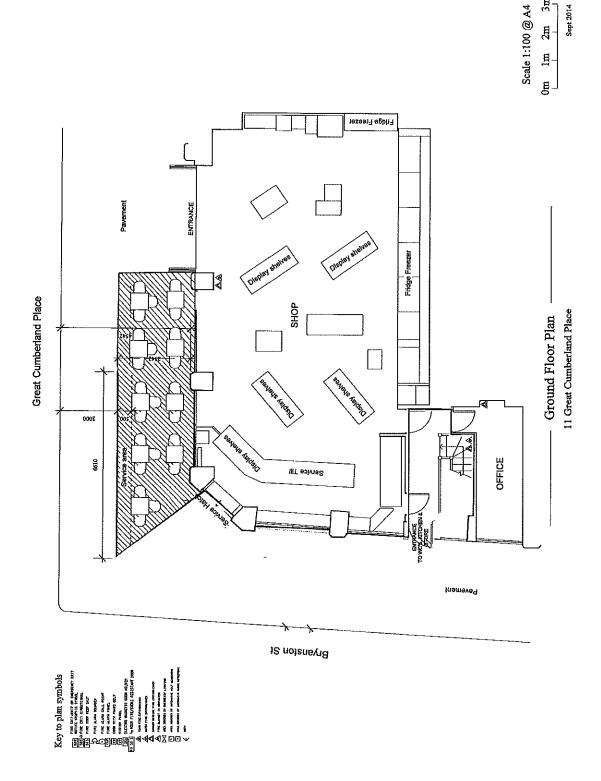
3. Policy & Guidance

The following policies w apply:	ithin the City Of Westminster Statement of Licensing Policy
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 RNT2 applies:	Applications will be granted subject to other policies in this 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.

4. Appendices

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

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



Store Store Store | Kitchen Store Store Store The first principle of the property of the principle of t

Key to plan symbols

0m 1m 2m 3m Sept 2014 Lower Ground Floor Plan 11 Great Cumberland Place

Scale 1:100 @ A4

Appendix 2

None provide.

Licence & Appeal History

Application	Details of Application	Date Determined	Decision
05/10250/LIPC conversation	Conversation with introduction of new legislation	03/10/2005	Granted under Delegated Authority
06/01671/LIPDPS	Vary the Designated Premises Supervisor	09/03/2006	Granted under Delegated Authority
06/12873/LIPDPS	Vary the Designated Premises Supervisor	09/01/2007	Granted under Delegated Authority
07/04910/LIPDPS	Vary the Designated Premises Supervisor	10/07/2007	Granted under Delegated Authority
07/08047/LIPDPS	Vary the Designated Premises Supervisor	12/09/2007	Granted under Delegated Authority
10/01573/LIPT	Transfer the Premises Licence	30/03/2010	Granted under Delegated Authority
10/01570/LIPDPS	Vary the Designated Premises Supervisor	30/03/2010	Granted under Delegated Authority
10/08210/LIPCH	Change of details	02/12/2010	Granted under Delegated Authority
10/08979/LIPDPS	Vary the Designated Premises Supervisor	02/12/2010	Granted under Delegated Authority
13/03692/LIPVM	Minor Variation To add conditions to the premises licence to promote the prevention of crime and disorder and the protection of children from harm licensing objectives.	11/06/2013	Granted under Delegated Authority

14/08680/LIPT	Transfer the Premises Licence	24/10/2014	Granted under Delegated Authority
15/06561/LIPV	Variation To vary the existing premises licence so as to tidy up the licence by: Deleting Condition 5 (historic restrictions) and Condition 15 (duplicated by conditions 14 & 18) - Update the following existing conditions with that of the current model condition wording, as follows:- Condition 7 - MC01 Condition 12 - MC32 Condition 13 - MC29 Condition 16 - MC27 Condition 17 - MC48 Condition 18 - MC47 (Challenge 25) These changes are sought to tidy up the existing licence and better promote the licensing objectives.	07/09/2015	Granted under Delegated Authority
14/09194/LIPV	Part A To permit the sale of alcohol for consumption on the premises in the area hatched black on the attached plan. Part B To add the following conditions in order to promote the licensing objectives: 1)The supply of alcohol at the	24/09/2015	Granted by Licensing Sub- Committee

premises shall only be to a person seated taking a table meal there and for consumption by such a person as ancillary to their meal.	
2)The supply of alcohol shall be by waiter or waitress service only	
3)The number of persons permitted in the area hatched black (excluding staff) shall not exceed 31.	
4)The sale of alcohol for consumption on the premises shall not commence until 10:00 Monday to Saturday and 12:00 on Sunday	
Part C	
To remove condition 6 (alcohol shall not be sold in an open container or be consumed in the licensed premises) from the premises licence.	

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 variation of a 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.
- 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. Alcohol shall not be sold in an open container within the retail convenience store operated within the building itself.
- 10. All sales of alcohol for consumption off the premises shall be in sealed containers only, and shall not be consumed on the premises.
- 11. A direct telephone number for the 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.
- 12. No more than 15% of the sales area shall be used at any one time for the sale, exposure for sale, or display of alcohol.
- All cashiers shall receive refresher training on the relevant alcohol laws and the licence holder's policy on challenging for ID. Such training shall take place at least twice a year. Records shall be maintained at the premises containing information about the training of any person who may make a sale of alcohol including the date of their training and the nature of the training undertaken. The relevant documentation shall be produced on request to a police officer or relevant officer of a responsible authority.
- 14. The licence holder shall ensure that all cashiers are trained to ask any customers attempting to purchase alcohol, who appears under the age of 25 years (or older if the licence so elects) for evidence of age. This evidence shall be photographic, such as passport or photographic driving licence until other effective identification technology (for example thumb print or pupil recognition) is introduced. All cashiers shall be instructed, through training, that a sale shall not be made unless this evidence is produced.

- 15. 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
- 16. The sale and / or consumption of alcohol in the external area hatched black on the plan shall not be permitted until the capacity of that area has been determined by the Environmental Health Consultation Team and the licensing authority has replaced this condition with a condition detailing the capacity so determined.
- 17. The sale of alcohol for consumption on the premises shall not commence until 10:00 Monday to Saturday and 12:00 on Sunday.
- 18. Sales of alcohol for consumption on the premises shall be limited to the area hatched black on the plan.
- 19. 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.
- 20. 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.
- 21. The supply of alcohol for consumption on the premises shall only be to a person seated taking a table meal there and for consumption by such a person as ancillary to their meal.
- 22. The supply of alcohol for consumption on the premises shall be by waiter or waitress service only.
- 23. Substantial food and non-intoxicating beverages shall be available in all parts of the premises where alcohol is sold or supplied for consumption on the premises.
- 24. No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
- 25. The entrance door shall be kept closed after 21:00 hours, except for the immediate access and egress of persons.
- 26. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and leave the area quietly.

- 27. 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.
- 28. All tables and chairs shall be removed from outside the premises by 23.00 hours.
- 29. The pavement from the building line to the kerb edge immediately outside the premises, including gutter/channel at its junction with the kerb edge, shall be swept and or washed, and litter and sweepings collected and stored in accordance with the approved refuse storage arrangements.
- 30. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
- 31. No rubbish, including bottles, shall be moved, removed or placed in outside areas between 2300 hours and 0800 hours.
- 32. The variation of this premises licence will have no effect until the premises have been assessed as satisfactory by the Environmental Health Consultation Team at which time this condition shall be removed from this licence by the licensing authority.
- 33. There shall be no self service of spirits on the premises, save for spirit mixtures less than 5.5% ABV.
- 34. No super-strength beer, lagers, ciders or spirit mixtures of 5.5% ABV (alcohol by volume) or above shall be sold at the premises, except for premium beers and ciders supplied in glass bottles.
- 35. All tills shall automatically prompt staff to ask for age verification identification when presented with an alcohol sale.
- 36. 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.
- 37. 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.

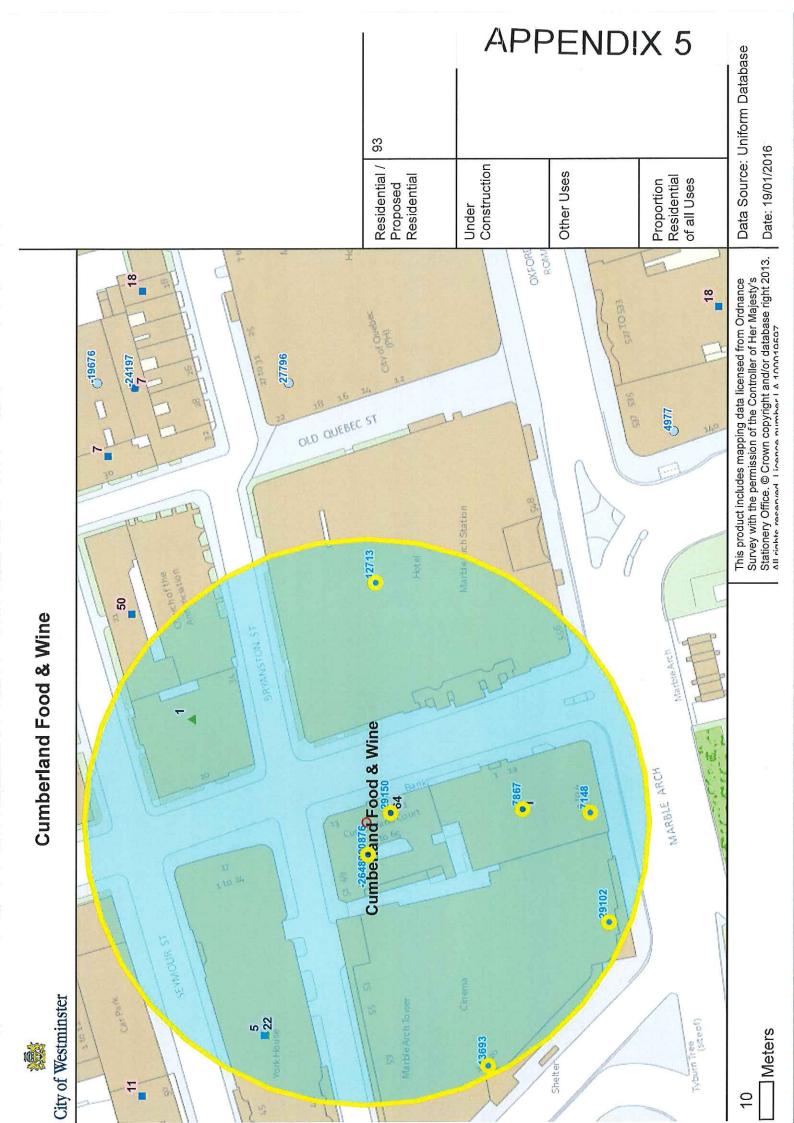
Conditions proposed by Environmental Health Consultation Team – agreed by applicant

- 38. Hot food and/or hot drink sold between 23:00 and 01:00 shall be for consumption off the premises (take away) only.
- 39. The licence holder shall ensure that the number of persons permitted at the premises between 23:00 and 01:00 at any one time (excluding staff) shall not exceed 20 persons.

Condition 15 to be amended to:

15. Prominent signage indicating the permitted hours for the sale of alcohol and provision of late night refreshment shall be displayed so as to be visible before entering the premises, where alcohol, hot food & hot drinks are on public display, and at the point of sale

	have any queries about this report or wish ound papers please contact the report author.	n to inspect one of the
Backgro	ound 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
4	Application form	17 th December 2015



-		Premises within 75 metres of:	T TOTAL PROPERTY LONG.
u/d	Name of Premises	Premises Address	Licensed Hours
-26480	-26490 Spaghett House	47-51 Bryanston Street London W1H 7DN	Monday to Saturday 10:00 - 23:30 Sunday 12:00 - 23:00
-2915	-29150 Cumberland Food & Wine	11 Great Cumberland Place London W1H 7AL	Monday to Saturday 08:00 - 23:00 Sunday 10:00 - 22:30
-2910′	-29102 Sainsbury's	7 Marble Arch London W1H 7EL	Monday to Saturday 08:00 - 23:00 Sunday 10:00 - 22:30
-1271:	-12713 Cumberland Hotel	Cumberiand Hotel Great Cumberiand Place London W1H 7DL	Monday to Sunday 00:00 - 00:00
.982-	-7867 Arch Food & Wine	1A Great Cumberland Place London W1H 7AL	Monday to Sunday 07:00 - 01:00
-714	-7148 McDonald's Restaurants	2 - 4 Marble Arch London W/IH 7EJ	Sunday to Wednesday 05:00 - 01:00 Thursday to Saturday 05:00 - 02:00
1369:	13693 Odeon Cinema	10 Edgware Road London W2 2EN	Monday to Sunday 00:00 - 00:00
2087	20876 Prezzo	7-9 Great Cumberland Place London W1H 7BE	Monday to Sunday 12:00 - 00:00

