

Licensing Sub-Committee Report

Item No:	
Date:	7 April 2016
Licensing Ref No:	16/00536/LIPN - New Premises Licence
Title of Report:	Shake Shack Unit 13, Nova Development Victoria Street London
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:	Miss Heidi Lawrance Senior Licensing Officer
Contact details	Telephone: 020 7641 2751 Email: hlawrance@westminster.gov.uk

1. Application

1-A Applicant and premises			
Application Type:	New Premises Licence, Licensing Act 2003		
Application received date:	18 January 2016		
Applicant:	Victoria Circle Limited Partnership		
Premises:	Shake Shack, Unit 13		
Premises address:	Victoria Street London	Ward:	St James's
		Cumulative Impact Area:	No
Premises description:	<p>According to the application the premises will operate as a restaurant and café with takeaway facilities.</p> <p>Although substantial food must be available for customers the application does not require the consumption of alcohol to ancillary to food or a table meal.</p>		
Premises licence history:	The premises is part of the new Nova development. No Licence history exists.		
Applicant submissions:			

1-B Proposed licensable activities and hours							
Late Night Refreshment:				Indoors, outdoors or both			Both
Day:	Mon	Tues	Wed	Thur	Fri	Sat	Sun
Start:	23:00	23:00	23:00	23:00	23:00	23:00	23:00
End:	00:00	00:00	00:00	00:00	00:00	00:00	00:00
Seasonal variations:							
Non-standard timings:							

Sale by retail of alcohol				On or off sales or both:			Both
Day:	Mon	Tues	Wed	Thur	Fri	Sat	Sun
Start:	07:00	07:00	07:00	07:00	07:00	07:00	07:00
End:	00:00	00:00	00:00	00:00	00:00	00:00	00:00
Seasonal variations:							
Non-standard timings:							

Recorded Music				Indoors, outdoors or both			Indoors
Day:	Mon	Tues	Wed	Thur	Fri	Sat	Sun
Start:	07:00	07:00	07:00	07:00	07:00	07:00	07:00
End:	00:00	00:00	00:00	00:00	00:00	00:00	00:00
Seasonal variations:							
Non-standard timings:							

Hours premises are open to the public							
Day:	Mon	Tues	Wed	Thur	Fri	Sat	Sun
Start:	07:00	07:00	07:00	07:00	07:00	07:00	07:00
End:	00:00	00:00	00:00	00:00	00:00	00:00	00:00
Seasonal variations:							
Non-standard timings:							
Adult Entertainment:		None					

2. Representations

2-A Responsible Authorities	
Responsible Authority:	Environmental Health Consultation Team
Representative:	David Nevitt
Received:	3 rd February 2016

LICENSING ACT 2003

APPLICATION FOR A PREMISES LICENCE

SHAKE SHACK, UNIT 13, NOVA DEVELOPMENT, VICTORIA STREET, SW1

I refer to the above application which seeks a Premises Licence to include the following Licensable activities:

Regulated Entertainment *Recorded Music* 0700hrs-2400hrs, 7 Days a Week;

Late Night Refreshment until 2400hrs, 7 Days a Week;

The Supply of Alcohol 'On' and 'Off' the premises 0700hrs, 7 Days a Week.

The applicant has proposed conditions which are under consideration.

I wish to make Representations on the following grounds:

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

Should you wish to discuss the matter further please do not hesitate to contact me.

Responsible Authority:	Metropolitan Police Service
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Representative:	Reaz Guerra
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Received:	12 th February 2016
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Application for New Premises Licence(s)

NOVA Development, Victoria Street/Buckingham Palace Road/Bressenden Place Units 13

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.

Should you wish to discuss the matter further please contact PC Reaz Guerra.

The Metropolitan Police Service have withdrawn their representation.

3. Policy & Guidance

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

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
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Policy BP1 applies:	relevant policies. Applications will only be granted if it can be demonstrated that the proposal meets the relevant criteria in Policies CD1, PS1, PN1 and CH1.
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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
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BUILDING 6b

BUILDING 6a

BUILDING 7b/c

VICTORIA PALACE THEATRE

BUILDING 7a

BUILDING 5

12

11

10

8

9

7

6

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4

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18

17

16

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14

13

None

Appendix 2

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 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 records 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. 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.
12. The sales of alcohol for consumption on the premises shall be to persons who will only be permitted to consume such alcohol when seated at tables.
13. Off sales of alcohol shall be in sealed containers.
14. All outside tables and chairs within the dedicated ground floor outside seating area shall be rendered unusable by 23:00 hours each day.
15. Patrons permitted to temporarily leave and then re-enter the premises and any dedicated outside ground floor seating area, e.g. to smoke, shall not be permitted to take drinks or glass containers with them.
16. 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; and
 - h) any visit by a relevant authority or emergency service
17. Notices shall be displayed at the exit of the premises requesting customers leaving the premises to respect the needs of local residents and business and leave the area quietly.

18. A Challenge 21 or Challenge 25 proof of age scheme shall be operated at the premises where the only acceptable form of identification are recognised photographic identification cards, such as a driving licence, passport or proof of age card with the PASS hologram.
19. No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
20. Other than where deliveries take place in accordance with the NOVA development delivery arrangements allowing delivery to the dedicated basement delivery area, no deliveries to the premises shall take place between 23:00 and 08:00 on the following day.
21. Other than where refuse is disposed of and collected in accordance with the NOVA refuse collection arrangements allowing collections from the dedicated basement area, all waste shall be properly present and placed out for collection no earlier than 30 minutes before the scheduled collection times.
22. This Premises Licence will have no effect until the Licensing Authority are satisfied that the premises is constructed or altered in accordance with the reasonable requirements of Westminster Environmental Health Consultation Team, at which time this condition will be removed from the Licence.
23. Before the premises are open to the public, the plans 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 a variation application may be required.

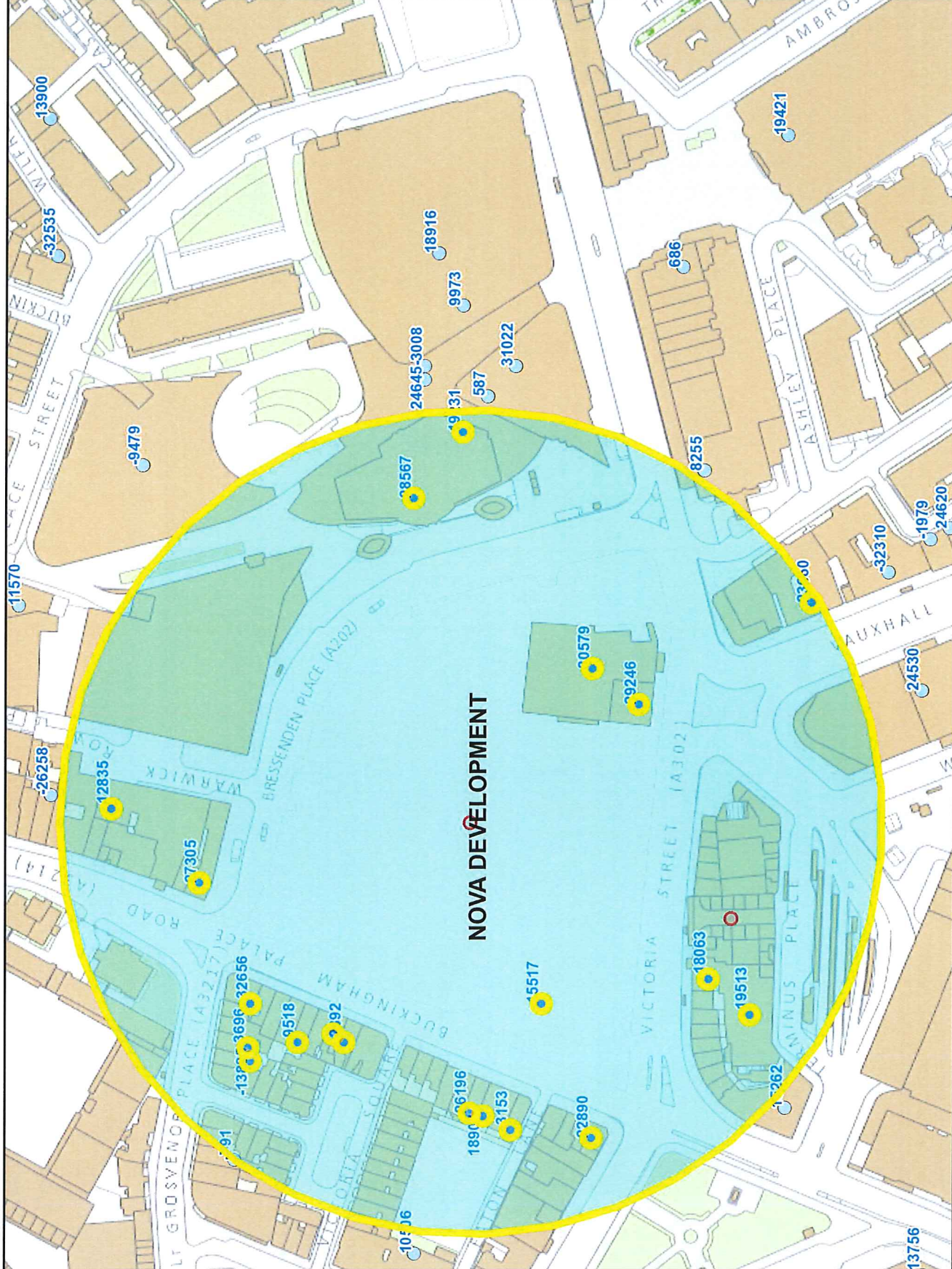
Conditions proposed by the Environmental Health

1. 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. *(To replace proposed condition).*
2. All windows and external doors shall be kept closed after **23:00** hours, or at any time when regulated entertainment takes place, except for the immediate access and egress of persons.
3. Between 07:00-10:00 hours the sale of alcohol for consumption on the premises and for consumption in the external area shall be limited to pre-booked and private functions or for consumption ancillary to food only.
4. All sales of alcohol for consumption off the premises shall be in sealed containers only, save for the designated external seating area where customer shall be seated at tables and shall be served by waiter/waitress only. *(To replace proposed condition).*
5. Between the hours of 07:00 to 08:00 sales of alcohol for consumption off the premises shall be limited to the external tables and chairs only.

6. No licensable activities shall take at the premises until the capacity of the premises has been determined by the Environmental Health Consultation Team and the licensing authority has replaced this condition on the licence with a condition detailing the capacity so determined.
7. The maximum capacity of the premises excluding staff shall not exceed (TBC)



Nova Development



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Data Source: Uniform Database

Date: 23/02/2016

Residential/ Proposed Residential	110
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Under Construction	
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Other Uses	
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Proportion Residential of all Uses	
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Appendix 5

Premises within 150 Metres of: Nova Development

p/n	Name of premises	Premises Address	
16665	New Noodle Noodle Restaurant	Basement And Ground Floor 18 Buckingham Palace Road London SW1W 0QP	Monday to Saturday 10:00 - 00:30 Sunday 12:00 - 00:00
18904	Patisserie Valerie	Basement And Ground Floor 38 Buckingham Palace Road London SW1W 0RE	Monday to Sunday 06:00 - 00:00
19231	Browns	2 Cardinal Walk London SW1E 5JE	Monday to Sunday 08:00 - 00:30
27305	BBAR	43 Buckingham Palace Road London SW1W 0PP	Sunday 12:00 - 00:00 Monday to Saturday 12:00 - 00:30
-12835	The Rubens At The Palace Hotel	37-39 Buckingham Palace Road London SW1W 0PS	Monday to Sunday 00:00 - 00:00
-3153	Buckingham Balti House	42 Buckingham Palace Road London SW1W 0RE	Monday to Saturday 10:00 - 00:30 Sunday 12:00 - 00:00
-2892	Cafe Paninni	20 Buckingham Palace Road London SW1W 0QP	Monday to Saturday 10:00 - 23:30 Sunday 12:00 - 23:00
22890	Balls Brothers Of London	50-52 Buckingham Palace Road London SW1W 0RN	Monday to Saturday 07:00 - 00:30 Sunday 07:00 - 23:00
28567	Browns (Redevelopment)	Portland House Bressenden Place London SW1E 5BH	Monday to Sunday 08:00 - 00:30

30579	Victoria Palace Theatre	126 Victoria Street London SW1E 5EA	Monday to Sunday 09:00 - 00:00
-32656	Bag O Nails	6 Buckingham Palace Road London SW1W 0QP	Monday to Saturday 10:00 - 00:00 Friday to Saturday 10:00 - 00:00 Sundays before Bank Holidays 10:00 - 00:00 Sunday 10:00 - 22:30 Monday to Thursday 10:00 - 23:30 Sunday 10:00 - 23:30
-19513	The Qube Project	Ground Floor And First Floor 191 Victoria Street London SW1E 5NE	Monday to Saturday 10:00 - 06:00 Sundays before Bank Holidays 12:00 - 03:00 Sunday 12:00 - 06:00
-18063	Capital	193A Victoria Street London SW1E 5NE	Sunday to Thursday 10:00 - 02:00 Friday to Saturday 10:00 - 03:00
-13835	Cafe Bella Maria	Basement And Ground Floor 4 Lower Grosvenor Place London SW1W 0EJ	Monday to Sunday 07:00 - 20:00
-9518	Maverick	Basement And Ground Floor 14 Buckingham Palace Road London SW1W 0QP	Sunday 08:00 - 00:00 Monday to Wednesday 08:00 - 00:30 Thursday to Saturday 08:00 - 01:00
-3696	The Sekara Restaurant	Ground Floor 3 Lower Grosvenor Place London SW1W 0EJ	Monday to Saturday 10:00 - 23:30 Sunday 12:00 - 23:00
15517	L'arco Restaurant	Ground Floor 79 Buckingham Palace Road London SW1W 0QJ	Monday to Sunday 10:00 - 02:00

23660	Cafe Italia	326 Vauxhall Bridge Road London SW1V 1AA	Monday to Saturday 07:00 - 23:30 Sunday 08:00 - 22:30
26196	Tiles Wine Bar	36 Buckingham Palace Road London SW1W 0RE	Monday to Saturday 10:00 - 23:30 Sunday 12:00 - 23:00
29246	Duke Of York Public House	130 - 134 Victoria Street London SW1E 5LA	Sunday 07:00 - 00:00 Monday to Saturday 07:00 - 00:30

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

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

1	Licensing Act 2003	N/A
2	City of Westminster Statement of Licensing Policy	7 th January 2016
3	Amended Guidance issued under section 182 of the Licensing Act 2003	March 2015
4	Application Form	18 th January 2016