

Licensing Sub-Committee Report

Item No:	
Date:	1 September 2016
Licensing Ref No:	16/06722/LIPN - New Premises Licence
Title of Report:	Ole & Steen 56 Haymarket No. 2 St James's Market London SW1Y 4RJ
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:	Mr David Sycamore Senior Licensing Officer
Contact details	Telephone: 020 7641 8556 Email: dsycamore@westminster.gov.uk

1. Application

1-A Applicant and premises			
Application Type:	New Premises Licence, Licensing Act 2003		
Application received date:	29 June 2016		
Applicant:	Danish Bake UK Limited		
Premises:	Ole & Steen 56 Haymarket No. 2 St James's Market London SW1Y 4RJ		
Premises address:	Ground Floor Finland House 56 Haymarket London	Ward:	St James's
		Cumulative Impact Area:	West End
Premises description:	Café/bakery operating in the basement, ground and mezzanine floors.		
Premises licence history:	None.		

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	n/a
End:	23:30	23:30	23:30	23:30	00:00	00:00	n/a
Seasonal variations/ Non-standard timings:		23:00 – Midnight Sunday before bank holiday.					

Sale by retail of alcohol				On or off sales or both:			Both
Day:	Mon	Tues	Wed	Thur	Fri	Sat	Sun
Start:	10:00	10:00	10:00	10:00	10:00	10:00	12:00
End:	23:30	23:30	23:30	23:30	00:00	00:00	22:30
Seasonal variations/ Non-standard timings:		12:00 - midnight Sundays before Bank Holidays.					

Hours premises are open to the public							
Day:	Mon	Tues	Wed	Thur	Fri	Sat	Sun
Start:	06:30	06:30	06:30	06:30	06:30	06:30	06:30
End:	23:30	23:30	23:30	23:30	00:00	00:00	22:30
Seasonal variations/ Non-standard timings:		12:00 - midnight Sundays before Bank Holidays					
Adult Entertainment:		None					

2. Representations

2-A Responsible Authorities	
Responsible Authority:	Environmental Health
Representative:	Nicola Curtis
Received:	7 th July 2016
<p>The provision of Late Night Refreshment both 'indoors' and 'outdoors' will have the likely effect of causing an increase in Public Nuisance in the West End Cumulative Impact Area. The Supply of Alcohol both 'on' and 'off' the premises will have the likely effect of causing an increase in Public Nuisance in the West End Cumulative Impact Area and may impact upon Public Safety. The non-standard timing requested for the provision of Late Night Refreshment and the Supply of Alcohol will have the likely effect of causing an increase in Public Nuisance in the West End Cumulative Impact Area. The applicant has provided additional information and conditions with the operating schedule which is being considered but does not fully address the concerns of Environmental Health.</p> <p>The granting of the new Premises Licence as presented would have the likely effect of causing an increase in Public Nuisance in the West End Cumulative Impact area and may impact on Public Safety.</p> <p>Further comments added -</p> <p>WCC do not accept unisex sanitary facilities, particularly in the cumulative impact areas. Please amend this on the scheme. As a new build I would expect compliance with BS6465.</p> <p>There are no staff sanitary or changing facilities shown on the plans – where are these to be located and how many will be provided? As above, as a new build I would expect compliance with BS6465 and H&S regulations.</p> <p>The licensed area includes an outside area – please clarify whether this is public highway (which cannot be included as licensed area) or private forecourt? We can update my proposed conditions as necessary.</p> <p>The above is the concerns which are now resulting in Environmental Health maintaining their representations.</p>	

Responsible Authority:	Metropolitan Police (withdrawn)
Representative:	Sandy Russell
Received:	6 th July 2016

With reference to the above application, I am writing to inform you that the Metropolitan Police, as a responsible authority, will be objecting to this application. It is our belief that if granted the application would undermine the Licensing Objectives.

The venue is located within the Cumulative Impact Area. There are concerns that this application will cause further policing problems in an already demanding area. It is for these reasons that we are objecting to the application at this stage in the application process.

The police have withdrawn their representation as proposed conditions have been agreed by the Applicant.

3. Policy & Guidance

The following policies within the City Of Westminster Statement of Licensing Policy apply:	
Policy HRS1 applies	<p>(i) Applications for hours within the core hours set out below in this policy will generally be granted, subject to not being contrary to other policies in the Statement of Licensing Policy.</p> <p>(ii) Applications for hours outside the core hours set out below in this policy will be considered on their merits, subject to other relevant policies</p>
Policy CIP1 applies	<p>(i) It is the Licensing Authority's policy to refuse applications in the Cumulative Impact Areas for: pubs and bars, fast food premises, and premises offering facilities for music and dancing; other than applications to vary hours within the Core Hours under Policy HRS1.</p> <p>(ii) Applications for other licensable activities in the Cumulative Impact Areas will be subject to other policies, and must demonstrate that they will not add to cumulative impact in the Cumulative Impact Areas.</p>

4. Appendices

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

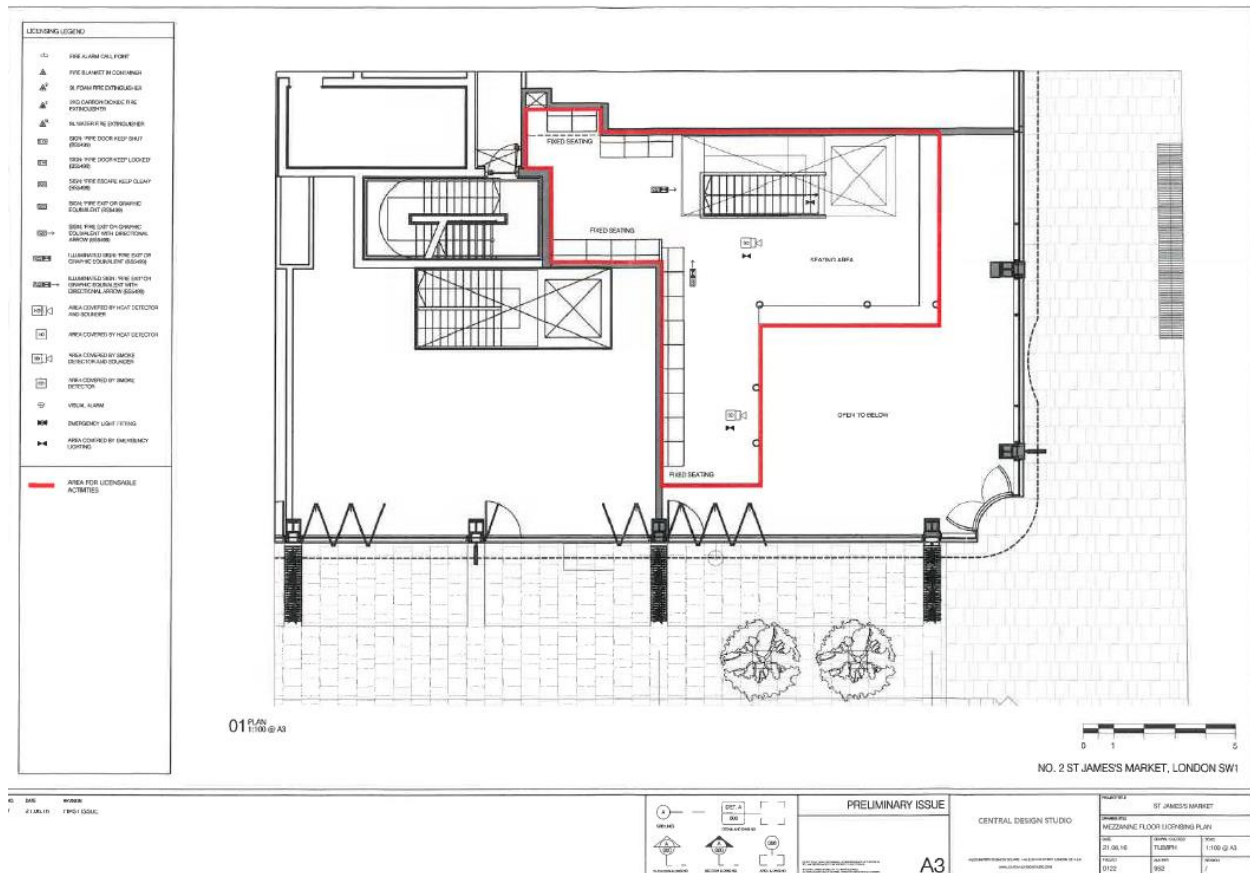
Report author:	Mr David Sycamore Senior Licensing Officer
Contact:	Telephone: 020 7641 8556 Email: dsycamore@westminster.gov.uk

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

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

1	Licensing Act 2003	N/A
2	City of Westminster Statement of Licensing Policy	January 2016
3	Amended Guidance issued under section 182 of the Licensing Act 2003	March 2015
4	Police Representation	6 th July 2016
	EH Representation	7 th July 2016
4	Proposed Conditions from Police.	August 2016
5	Proposed conditions from EH	August 2016
6	Solicitor confirms meeting with EH re Toilets	August 2016

Plans



Applicants Submission taken from the Operating Schedule

This is an application by Danish Bake Limited for a new Premises Licence for premises on the ground floor and basement in the development at St James's Market, 56 Haymarket.

The premises will trade as Ole & Steen which is a shortened form of the names of the two founders. Both are bakers from Denmark with considerable experience and of some repute and have a number of successful bakery/café businesses there. The premises will open early for breakfast and then trade all day and into the evening. At the heart will be an open bakery; the products will range from snacks to substantial food and will all be baked and cooked to the highest quality.

The atmosphere will be informal and relaxed with a mixture of self-service "grab and go" and waiter/waitress service to seated customers. The applicant is aware that the premises are in the west end stress area but this application is for core hours (other than opening), is food led without entertainment and contains a restaurant condition limiting the supply of alcohol to persons who are seated taking a table meal. Elements of the more substantial model restaurant condition (use of crockery, takeaways forbidden and customers shown to tables) whilst appropriate for more formal dining, are not consistent with this more casual bakery/café concept. The applicant is happy to discuss the application with the Responsible Authorities and agree other conditions if necessary, appropriate and reasonable during the consultation period.

Appendix 3

Application	Details of Application	Date Determined	Decision
05/09564/LIPN	Application for a premises licence	Granted by Licensing Sub Committee	16.11.2005
05/13270/LIPDPS	Application to Vary a Premises Licence to specify an individual as Designated Premises Supervisor	Granted under Delegated Authority	23.01.2006
06/00351/LIPDPS	Application to Vary a Premises Licence to specify an individual as Designated Premises Supervisor	Granted under Delegated Authority	20.01.2006
06/11985/LIPV	Application for Variation of the premises licence	Refused by Licensing Sub Committee	16.01.2007
10/02716/LIPDPS	Application to Vary a Premises Licence to specify an individual as Designated Premises Supervisor	Granted under Delegated Authority	21.05.2010

There is no 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 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 CCTV shall be on the premises at all times when the premises are open to the public. This staff member shall be able to show Police recent data or footage with the absolute minimum of delay when requested.
11. There will be no sale of alcohol for consumption off the premises after 10pm.
12. 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 refusal of sale of alcohol;
 - g) any visit by a relevant authority or emergency service.
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. The supply of alcohol at 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.
15. A challenge 21 or challenge 25 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards such as a driving licence, passport or proof of age card with the PASS hologram or such other form of identification that complies with any mandatory condition that may apply to this licence.
16. A record shall be kept detailing all refused sales of alcohol. The record should include the date and time of the refused sale and the name of the member of staff who refused the sale. The record shall be available for inspection at the premises by the police or an authorised officer of the City Council at all times when the premises are open.

Conditions proposed by the Police and agreed

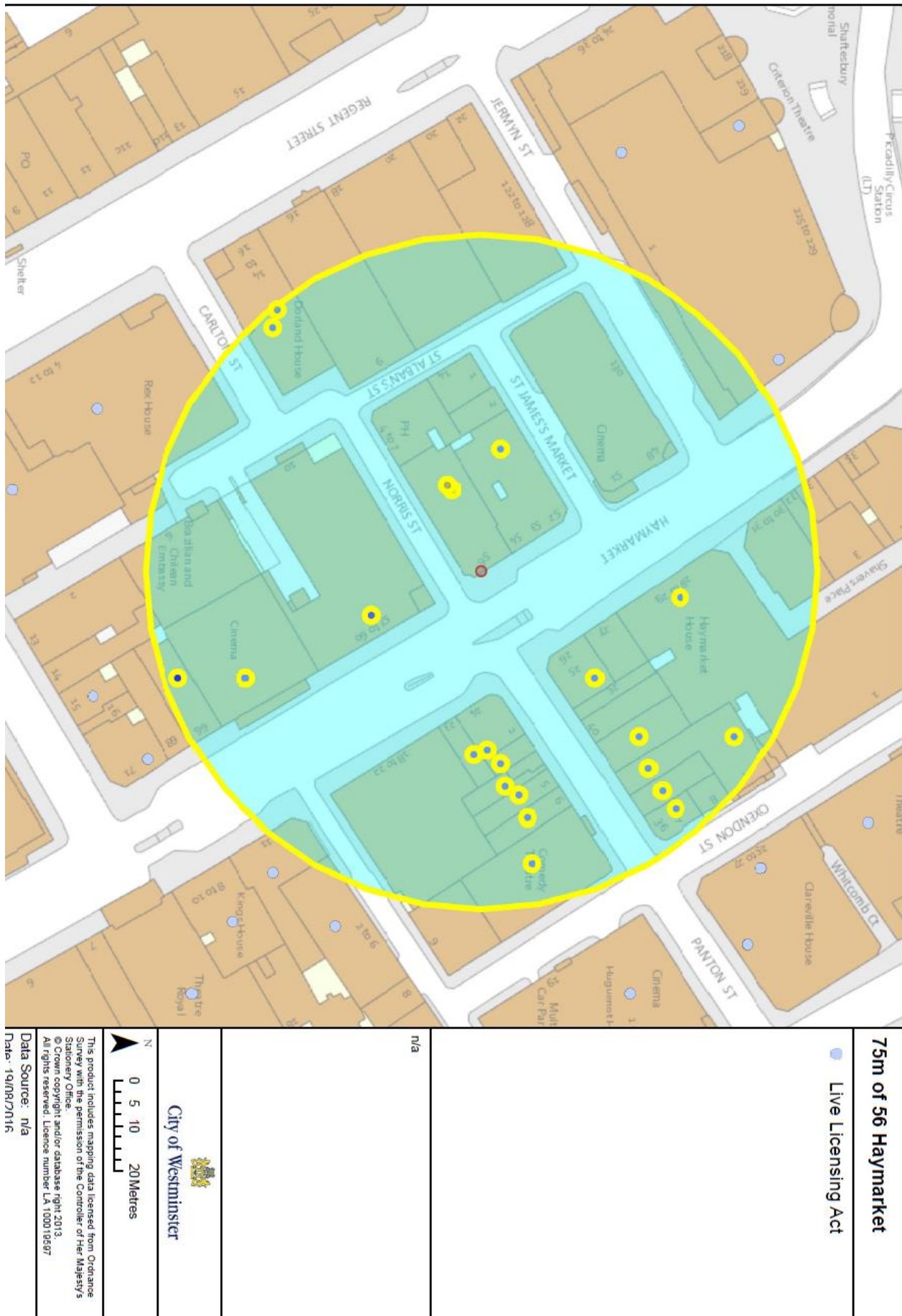
17. All outside tables and chairs shall be rendered unusable by 23.00hrs each day.
18. There shall be no sales of hot food or hot drink for consumption off the premises after 23.00

19. Patrons permitted to temporarily leave and then re-enter the premises, eg to smoke, shall not be permitted to take drinks or glass containers with them.
20. There shall be no self service of alcohol.

Proposed by Environmental Health – duplicates removed.

21. 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.
22. There shall be no sales of alcohol for consumption off the premises after 22:00 hours except to persons seated taking a table meal within any outside seating area.
23. There shall be no sales of hot food or hot drink for consumption off the premises after 23.00.
24. All sales of alcohol for consumption off the premises shall be in sealed containers only, and shall not be consumed on the premises, except to persons seated taking a table meal within any outside seating area.
25. Sales of alcohol for consumption off the premises shall only be supplied with, and ancillary to a take-away meal.
26. The number of persons permitted in the premises at any one time (excluding staff) shall not exceed 120 persons.
27. The supply of alcohol at the premises shall only be to a person seated taking a table meal there for consumption by such a person as ancillary to their meal, and shall be by way of waiter/waitress or bar counter staff service.
28. 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.
29. Alcohol consumed outside the premises building shall only be consumed by patrons seated at tables.
30. The external concertina doors shall be kept closed after 23:00 hours except for the immediate access and egress of persons.
31. All outside tables and chairs shall be rendered unusable by 23.00 each day
32. During the hours of operation of the premises, the licence holder shall ensure sufficient measures are in place to remove and prevent litter or waste arising or accumulating from customers in the area immediately outside the premises, and that this area shall be swept and or washed, and litter and sweepings collected and stored in accordance with the approved refuse storage arrangements by close of business.

33. A Challenge 21 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.
34. 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.
35. No licensable activities shall take place at the premises until the premises has been assessed as satisfactory by the Environmental Health Consultation Team at which time this condition shall be removed from the Licence by the licensing authority.
36. Before the premises open to the public, the plans as deposited will be checked by the Environmental Health Consultation Team to ensure they are an accurate reflection of the premises constructed. Where the premises layout has changed during the course of construction a variation application may be required



75m of 56 Haymarket

● Live Licensing Act

n/a



0 5 10 20 Metres

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 Date: 19/08/2016

Premises within 75 metres of: 56 Haymarket			
p / n	Name of Premises	Premises Address	Licensed Hours
27954	Tiger Tiger	Haymarket House 28-29 Haymarket London SW1Y 4SP	Sunday 09:00 - 00:30 Monday to Saturday 09:00 - 03:30
11727	Aquavit	1 Carlton Street London SW1Y 4QQ	Monday to Saturday 07:30 - 01:00 Sunday 07:30 - 22:30
-13806	Spaghetti House	Basement South And Ground Floor South Greener House 66-68 Haymarket London SW1Y 4RF	Monday to Saturday 10:00 - 23:30 Sunday 12:00 - 23:00
-12420	Nonna's Kitchen	Ground Floor 38 Panton Street London SW1Y 4EA	Monday to Thursday 09:00 - 00:00 Friday to Saturday 09:00 - 00:30 Sunday 09:00 - 23:00
-7214	Jindalle Restaurant	Basement And Ground Floor 6 Panton Street London SW1Y 4DL	Monday to Saturday 10:00 - 00:30 Sunday 12:00 - 00:00
25464	Comedy	The Comedy 7 Oxendon Street London SW1Y 4EE	Friday to Saturday 08:00 - 00:00 Sundays before Bank Holidays 08:00 - 00:00 Sunday 08:00 - 00:30 Monday to Saturday 08:00 - 02:30 Sunday 08:00 - 22:30 Monday to Thursday 08:00 - 23:30
28010	Wagamama	8 Norris Street London SW1Y 4RJ	Monday to Saturday 10:00 - 00:30 Sunday 12:00 - 00:00
-9036	VietCafe	Ground Floor And Basement 23 Haymarket London SW1Y 4DG	Monday to Saturday 10:00 - 00:30 Sunday 12:00 - 00:00
-29896	Anzu	1 - 3 Norris Street London SW1Y 4RJ	Monday to Thursday 11:00 - 00:00 Friday to Saturday 11:00 - 00:30 Sunday 11:00 - 23:00
1585	The Harold Pinter Theatre	Harold Pinter Theatre Panton Street London SW1Y 4DN	Monday to Saturday 09:00 - 00:00 Sunday 12:00 - 00:00
-25012	Woodlands Restaurant	Basement And Ground Floor 37 Panton Street London SW1Y 4EA	Monday to Saturday 10:00 - 00:30 Sunday 12:00 - 00:00
13774	Japan Centre	Basement To Ground Floor Dorland House 14 - 16 Regent Street London SW1Y 4PH	Friday to Saturday 10:00 - 00:00 Monday to Thursday 10:00 - 23:30 Sunday 12:00 - 22:30
31259	Strada	39 Panton Street London SW1Y 4EA	Monday to Saturday 10:00 - 00:30 Sunday 12:00 - 00:00
18519	Salt Yard	1 - 3 Norris Street London SW1Y 4RJ	Sundays before Bank Holidays 07:00 - 00:00 Monday to Saturday 07:00 - 01:00 Sunday 07:00 - 23:30
18712	Cineworld Cinemas	62 - 65 Haymarket London SW1Y 4QX	Monday to Sunday 09:00 - 03:00
-22778	Chop Shop	Basement Nth And Ground Floor North Greener House 66-68 Haymarket London SW1Y 4RF	Monday to Saturday 10:00 - 00:00 Sunday 12:00 - 23:30
9871	Miso Noodle Bar	Ground Floor East Greener House 66-68 Haymarket London SW1Y 4RF	Monday to Saturday 10:00 - 00:00 Sunday 12:00 - 23:30

32444	Yo! Sushi	Ground Floor Left St Albans House 57 - 60 Haymarket London SW1Y 4QX	Sunday 12:00 - 23:00 Monday to Saturday 12:00 - 23:30
-16900	Pizza Express	Ground Floor Panton House 25 Haymarket London SW1Y 4EN	Monday to Saturday 10:00 - 00:30 Sunday 12:00 - 00:00
13806	Angus Steak House	Basement To First Floor 24 Haymarket London SW1Y 4DG	Sunday 10:00 - 00:00 Monday to Saturday 10:00 - 01:00 Sundays before Bank Holidays 10:00 - 01:00
15130	Planet Hollywood (UK) Ltd	Ground Floor Right St Albans House 57-60 Haymarket London SW1Y 4QX	Sunday 09:00 - 00:30 Monday to Saturday 09:00 - 01:30
-2266	Andalucia Tapas Restaurant	Basement And Ground Floor Front 4 Panton Street London SW1Y 4DL	Monday to Sunday 11:00 - 00:00
4352	Bloom	5 Panton Street London SW1Y 4DL	Monday to Saturday 10:00 - 00:30 Sunday 12:00 - 00:00
15089	Unit 2 St Jame's Market	52 Haymarket London SW1Y 4RP	Monday to Saturday 07:00 - 01:00 Sunday 07:00 - 23:30
11194	Kanada-Ya	3 Panton Street London SW1Y 4DL	Monday to Saturday 10:00 - 23:30 Sunday 12:00 - 23:00
11676	Tom Cribb Public House	36 Panton Street London SW1Y 4EA	Monday to Thursday 10:00 - 00:00 Friday to Saturday 10:00 - 00:30 Sunday 12:00 - 23:00
21087	Spaghetti House	Basement South And Ground Floor South Greener House 66-68 Haymarket London SW1Y 4RF	Monday to Saturday 10:00 - 23:30 Sunday 12:00 - 23:00