



City of Westminster

Licensing Sub-Committee Report

Item No:	
Date:	25 May 2017
Licensing Ref No:	17/02442/LIPN- Premises Licence Variation
Title of Report:	29 Shepherd Market London W1J 7PS
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:	Miss Yolanda Wade Senior Licensing Officer
Contact details	Telephone: 020 7641 1884 Email: ywade@westminster.gov.uk

1. Application

1-A Applicant and premises			
Application Type:	New Premises Licence, Licensing Act 2003		
Application received date:	7 March 2017		
Applicant:	Kitchen Centre Ltd		
Premises:	29 Shepherd Market		
Premises address:	29 Shepherd Market London W1J 7PS	Ward:	West End
		Cumulative Impact Area:	No
Premises description:	The premises intends to operate as a restaurant on the ground floor.		
Variation description:	<p>According to the application, the applicant is seeking the hours for Licensable Activities:</p> <ul style="list-style-type: none"> Sale of Alcohol - Monday to Saturday 10:00 until 00:00 Sunday 10:00 to 22:30 Late Night Refreshment – Monday to Saturday 23:00 until 00:00 Sunday 08:00 until 22:30 <p>Opening Hours</p> <p>Monday to Saturday 07:00 until 00:00 Sunday 08:00 until 23:00</p>		
Premises licence history:	This is an application for a new premises licence and therefore no premises licence history exist		
Applicant submissions:	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	08:00
End:	00:00	00:00	00:00	00:00	00:00	00:00	22:30

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	10:00
End:	00:00	00:00	00:00	00:00	00:00	00:00	22:30

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	08:00
End:	00:00	00:00	00:00	00:00	00:00	00:00	23:00

2. Representations

2-A Responsible Authorities	
Responsible Authority:	The Metropolitan Police (withdrawn)
Representative:	Mr Adam Deweltz
Received:	9 th March 2017
<p>With reference to the above, I am writing to inform you that the Metropolitan Police, as a responsible authority, will be making a representation against this application.</p> <p>It is our belief that if granted the application would undermine the Licensing Objectives in relation to The Prevention of Crime and Disorder.</p> <p>There is insufficient detail contained within the operating schedule</p> <p>Following on from visiting the premises and agreement of proposed conditions between the applicant and the Police, the Police have withdrawn their representation.</p>	
Responsible Authority:	The Environmental Health Service
Representative:	Mr Dave Nevitt
Received:	10 th March 2017
<p>I wish to make Representations on the following grounds:</p> <p>Representation is made in relation to the application, as the proposals are likely to increase Public Nuisance and may impact upon Public Safety.</p> <p>The Environmental Health Service have proposed conditions that have not been agreed by the Applicant</p>	

2-B Other Persons	
Name:	Orbiton Estates representing residents at Carrington House
Address and/or Residents Association:	The Estate Office Carrington House 6 Hertford Street London W1J 7RE
Status:	Resident Association
In support or opposed:	Opposed

Received:

3rd April 2017

Applications for new and variation of Premises Licences

Representation against the grant of both applications.

27 and 29 Shepherd Market, W1

Ref 17/02456 and 17/02442

Orbiton Estates make a representation in connection with the above applications.

Orbiton represents the interests of the residents at Carrington House, which is located directly immediately to the east side of the applicant premises. Orbiton makes representations on the basis of crime and disorder, public nuisance and public safety policies CD1, PN1, RNT1 and HRS1.

29 Shepherd Market

Planning permission for this use was refused last year due to lack of extract and intensification of A3 uses.

This is a new premises licence until the hours of midnight, with the premises not having been previously licensed. This is of course beyond the council's core hours on Monday to Thursday.

Confusingly and perhaps invalidating the advertisement of the application, the operating schedule refers to the Council's core hours but the sale of alcohol is proposed at Midnight. Those reading the application may have therefore been led to believe the application is for Core Hours, but they are actually applying for midnight.

The conditions are proposed to be in line with conditions for 27 Shepherd Market, so it is assumed that it will be as a restaurant. In any event, we object to the use of the premises for this or any other use that may require a licence.

27 Shepherd Market

Although there are no details yet on the City Council's website, it would appear that there is an application to vary the existing licence so the sale of alcohol and late night refreshment (presumably including take-away) can take place until 3.00 am every day of the week.

The existing licence (the only copy on-line being 12/00770) allows the sale of alcohol until 11pm (10.30pm Sundays). However, the public notice seeks to extend the hours from midnight to 3am. Again, anyone reading the notice would have been mis-led in this important respect.

Any permission beyond the existing licence of 11pm will cause nuisance. Opening until 3am with these applicants and this use is beyond contemplation and reality.

Both applications

It is not clear whether there is any proposal to use or extend external seating, or have shisha-type smoking, which together with the sale of alcohol or provision of late-night refreshment will cause additional public nuisance in a residential area.

We note there are enforcement cases open for both blocking the pavement and opening beyond the current permitted hours (planning ref 25/62594).

Conclusion

There has been a woeful disregard for local residents, the City Council's statement of licensing policy and indeed the licensing objectives with no conditions which effectively promote both either the objects of the policy or those objectives.

Name:	Mr Paul Deavin		
Address and/or Residents Association	29a Shepherd Market London W1J 7PS		
Status:	Resident	In support of opposed:	Opposed
Received:	9 th April 2017		

Comment: 9:42 PM on 09 Apr 2017 The area around the public highway is already very noisy. There are already many licensed premises selling alcohol. A late selling license to midnight presents more transition of the area to late night alcohol activity.

Policy & Guidance

3.

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 RNT1 applies:	<p>policy will be considered on their merits, subject to other relevant policies.</p> <p>Applications will generally be granted and reviews determined, subject to the relevant criteria in Policies CD1, PS1, PN1 and CH1.</p>
----------------------	---

4. Appendices

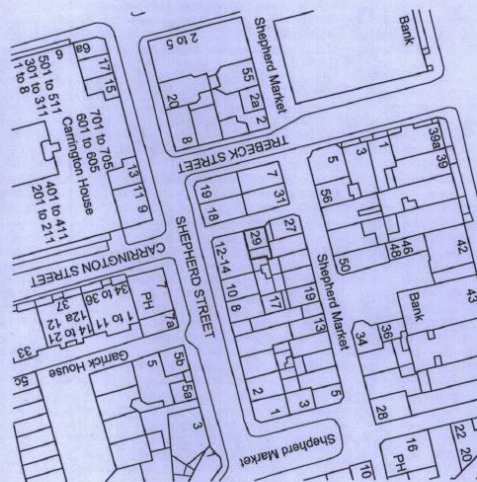
Appendix 1	Premises plans
Appendix 2	Applicant supporting documents
Appendix 3	Premises history
Appendix 4	Proposed conditions

Report author:	Miss Yolanda Wade Senior Licensing Officer
Contact:	Telephone: 020 7641 1884 Email: ywade@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	7 th January 2016
3	Amended Guidance issued under section 182 of the Licensing Act 2003	March 2015
4	Application Form	7 th March 2017
5	The Metropolitan Police Representation (withdrawn)	9 th March 2017
6	The Environmental Health Service	10 th March 2017
7	Orbiton Estates representing residents at Carrington House Representation	3 rd April 2017
9	Mr Paul Deavin Representation	9 th April 2017

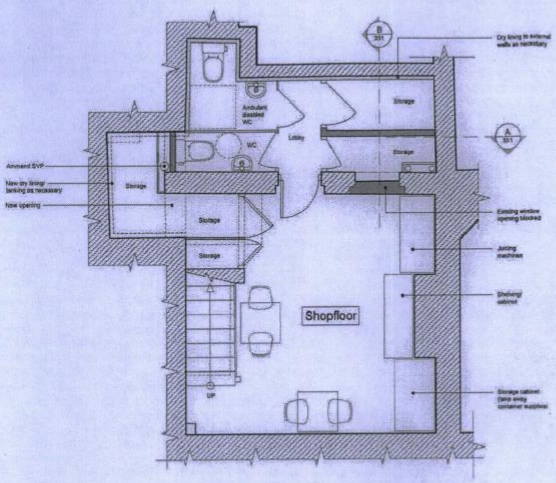


SITE LOCATION PLAN
SCALE 1:1250

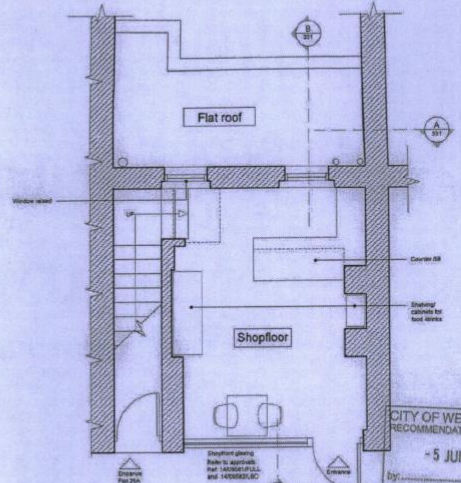
NIGEL BIRD ARCHITECTS
CHARTERED ARCHITECTS ENGINEERS AND INTERIOR DESIGNERS

6 Middleton Place Langham Street London W1W 7TE
Telephone: 020 7580 5152 E-Mail: nigel.bird@nigeldbirdarchitects.co.uk Facsimile: 020 7436 7457

Project: 29 Shepherd Market W1J 7PS Dwg Name: Site Location Plan
RIBA Stage: Date: June 2014 Scale: 1:1250 at A4 Dwg no: 718.29.300 Rev:



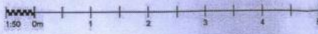
PROPOSED LOWER GROUND FLOOR PLAN
SCALE 1:50



PROPOSED GROUND FLOOR PLAN
SCALE 1:50

1. Do not scale from the drawings
2. Dimensions in metric (mm) unless otherwise stated
3. All work to be carried out in accordance with the current building regulations and British standards
4. All levels to be checked on site prior to commencement of works
5. Any work carried out that is not in accordance with the contract drawings shall be the responsibility of the persons carrying out the work
6. It should be noted that this is a planning drawing only and is therefore limited in its capacity to convey the total information, details & specifications necessary to complete the works
7. PDF format drawings should be printed off on Adobe Reader with the 'scale page' option set to 'None' to allow a 100% scale print

W	1300/13	WIP	Internal layout amended
G	1300/19	WIP	Internal layout added
F	1300/15	WIP	Tanks and drains added on roof terrace
E	1300/19	WIP	Substructure amended
D	1300/14	WIP	LGF layout, GF roof terrace with access door and primary screen added
C	1300/14	WIP	Minor amendments
B	1300/11	WIP	Minor amendments
A	1300/14	WIP	Ally width indicated
app	04/14	BY	DISCUSSION



CITY OF WESTMINSTER
RECOMMENDATION APPROVED
5 JUN 2015
By: [Signature]
[Title]

CASE COPY
TP:
RN:
ADDRESS:

NIGEL BIRD ARCHITECTS
CHARTERED ARCHITECTS ENGINEERS AND INTERIOR DESIGNERS
6 Middleton Place Langham Street London W1W 7TE
Telephone: 020 7580 5152 E-Mail: nigel.bird@nigelbirdarchitects.co.uk Facsimile: 020 7438 7487

Project: 29 Shepherd Market, W1J 7PS Dwg Name: Proposed Floor Plans
RIBA Stage: Date: May 2014 Scale: 1:50 at A3 Dwg no: 716.29.310 Rev: H

Applicant Supporting Documents

Appendix 2

None submitted

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 proposed by Applicant

9. All standard conditions will be applied to the business to mirror those conditions granted to 27 Shepherd Market

Conditions for 27 Shepherd Market that is proposed to be mirrored

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 or passport.

The maximum number of persons accommodated at the premises any one time shall not exceed (excluding staff) 30 persons.

The supply of alcohol on the premises shall only be by waiter or waitress service.

Substantial food and non-intoxicating beverages shall be available throughout the permitted hours in all parts of the premises where alcohol is sold or supplied for consumption on the premises.

No striptease, no nudity and all persons to be decently attired at all times.

No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.

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.

All waste is to be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.

No rubbish including bottles will be moved, removed or placed in outside areas between 2300 hours and 0800 hours.

No deliveries shall be made to the premises between the hours 2000 hours and 0800 hours.

The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of a Metropolitan Police Crime Prevention Officer. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Recordings shall be made available immediately upon the request of Police or authorised officer throughout the preceding 31 day period.

A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises is open to the public. This staff member must be able to show a Police or authorised council officer recent data or footage with the absolute minimum of delay when requested.

The premises shall only operate as a restaurant:

- (i) in which customers are shown to their table,
- (ii) which provide food in the form of substantial table meals that are prepared on the premises and are served and consumed at the table using non disposable crockery,
- (iii) which do not provide any take away service of food or drink for immediate consumption, and
- (iv) where intoxicating liquor shall not be sold, supplied, or consumed on the premises otherwise than to persons who are bona fide taking substantial table meals and provided always that the consumption of intoxicating liquor by such persons is ancillary to taking such meals.

There shall be no sales of alcohol for consumption off the premises, save for any area immediately outside the premises licensed by the Council for tables and chairs.

There shall be no sales of alcohol for consumption off the premises after 23:00 hours.

There shall be no sales of hot food or hot drink for consumption off the premises after 23.30 hours.

Conditions proposed by Environmental Health

10. MC19: All outside tables and chairs shall be rendered unusable by (23.00) each day.
11. MC20: All tables and chairs shall be removed from the outside area by (23.00) each day.
12. MC23: 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.
13. MC37: The number of persons permitted in the premises at any one time (including staff) shall not exceed (X) persons. (TO BE SPECIFIED ON COMPLETION OF WORKS)
14. MC70A: The sale and supply of alcohol for consumption off the premises shall be restricted to alcohol consumed by persons who are seated in an area appropriately authorised for the use of tables and chairs on the highway and bona fide taking a substantial table meal there, and where the consumption of alcohol by such persons is ancillary to taking such a meal, and where the supply of alcohol is by waiter or waitress service only.
15. MC81: 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.

Conditions proposed by the Police and agreed by Applicant so as to form part of the Operating Schedule

16. 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 entire 31 day period.
17. 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.
18. 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.
19. 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. It must be completed within 24 hours of the incident and 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
- (g) any refusal of the sale of alcohol
- (h) any visit by a relevant authority or emergency service.

20 The premises shall only operate as a restaurant

- (i) in which customers are shown to their table,
- (ii) where the supply of alcohol is by waiter or waitress service only,
- (iii) which provide food in the form of substantial table meals that are prepared on the premises and are served and consumed at the table using non disposable crockery,
- (iv) which do not provide any take away service of food or drink for immediate consumption,
- (v) which do not provide any take away service of food or drink after 23.00, and
- (vi) where alcohol shall not be sold or supplied, otherwise than for consumption by persons who are seated in the premises and bona fide taking substantial table meals there, and provided always that the consumption of alcohol by such persons is ancillary to taking such meals.

Notwithstanding this condition customers are permitted to take from the premises part consumed and resealed bottles of wine supplied ancillary to their meal.