

# Licensing Sub-Committee Report

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| Item No:           |   |
| Date:              | 29 <sup>th</sup> June 2017                                      |
| Licensing Ref No:  | 17/05023/LIPN - New Premises Licence                            |
| Title of Report:   | 57 Broadwick Street<br>London<br>W1F 9QS                        |
| 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 Heidi Lawrance<br>Senior Licensing Officer                 |
| Contact details    | Telephone: 020 7641 2751<br>Email: hlawrance@westminster.gov.uk |

## 1. Application

| 1-A Applicant and premises        |  |                                |          |
|-----------------------------------|--|--------------------------------|----------|
| <b>Application Type:</b>          | New Premises Licence, Licensing Act 2003   |                                |          |
| <b>Application received date:</b> | 11 May 2017  |                                |          |
| <b>Applicant:</b>                 | Shaftesbury Soho Limited   |                                |          |
| <b>Premises:</b>                  |  |                                |          |
| <b>Premises address:</b>          | 57 Broadwick Street<br>London<br>W1F 9QS   | <b>Ward:</b>                   | West End |
|                                   |  | <b>Cumulative Impact Area:</b> | West End |
| <b>Premises description:</b>      | According to the application the premises proposes to operate as a Restaurant.     |                                |          |
| <b>Premises licence history:</b>  | This is an application for a new premises licence and therefore no history exists. |                                |          |
| <b>Applicant submissions:</b>     | See Appendix 2   |                                |          |

| 1-B Proposed licensable activities and hours      |            |  |            |                                  |            |            |            |
|---|------------|--|------------|----------------------------------|------------|------------|------------|
| <b>Late Night Refreshment:</b>                    |            |  |            | <b>Indoors, outdoors or both</b> |            |            | Indoors    |
| <b>Day:</b>                                       | <b>Mon</b> | <b>Tues</b>  | <b>Wed</b> | <b>Thur</b>                      | <b>Fri</b> | <b>Sat</b> | <b>Sun</b> |
| <b>Start:</b>                                     | 23:00      | 23:00  | 23:00      | 23:00                            | 23:00      | 23:00      | 23:00      |
| <b>End:</b>                                       | 00:30      | 00:30  | 00:30      | 00:30                            | 00:30      | 00:30      | 00:00      |
| <b>Seasonal variations/ Non-standard timings:</b> |            | <p>These hours to be extended until 00:30 on Sundays preceding Bank Holiday Mondays.</p> <p>The hours to be extended from the end of permitted hours on New Year's Eve until the start of permitted hours on New Year's Day.</p> |            |                                  |            |            |            |

|   |            |  |            |                                 |            |            |            |
|---|------------|--|------------|---------------------------------|------------|------------|------------|
| <b>Sale by retail of alcohol</b>                  |            |  |            | <b>On or off sales or both:</b> |            |            | On Sales   |
| <b>Day:</b>                                       | <b>Mon</b> | <b>Tues</b>  | <b>Wed</b> | <b>Thur</b>                     | <b>Fri</b> | <b>Sat</b> | <b>Sun</b> |
| <b>Start:</b>                                     | 10:00      | 10:00  | 10:00      | 10:00                           | 10:00      | 10:00      | 12:00      |
| <b>End:</b>                                       | 00:00      | 00:00  | 00:00      | 00:00                           | 00:00      | 00:00      | 23:30      |
| <b>Seasonal variations/ Non-standard timings:</b> |            | <p>These hours to be extended until 00:00 on Sundays preceding Bank Holiday Mondays.</p> <p>The hours to be extended from the end of permitted hours on New Year's Eve until the start of permitted hours on New Year's Day.</p> |            |                                 |            |            |            |

| Hours premises are open to the public             |  |       |       |       |       |       |       |
|---|--|-------|-------|-------|-------|-------|-------|
| Day:  | Mon  | Tues  | Wed   | Thur  | Fri   | Sat   | Sun   |
| <b>Start:</b>                                     | 07:30  | 07:30 | 07:30 | 07:30 | 07:30 | 07:30 | 07:00 |
| <b>End:</b>                                       | 00:30  | 00:30 | 00:30 | 00:30 | 00:30 | 00:30 | 00:00 |
| <b>Seasonal variations/ Non-standard timings:</b> | <p>These hours to be extended until 00:30 on Sundays preceding Bank Holiday Mondays.</p> <p>The hours to be extended from the end of permitted hours on New Year's Eve until the start of permitted hours on New Year's Day.</p> |       |       |       |       |       |       |
| <b>Adult Entertainment:</b>                       | Not applicable.  |       |       |       |       |       |       |

## 2. Representations

| 2-A Responsible Authorities   |                           |
|---|---------------------------|
| <b>Responsible Authority:</b>   | Licensing Authority       |
| <b>Representative:</b>  | Mr David Sycamore         |
| <b>Received:</b>  | 8 <sup>th</sup> June 2017 |
| <p>As a responsible authority under section 13 (4) of the Licensing Act 2003 as amended under the Police and Social Responsibility Act 2011 the Licensing Authority have considered your application in full. The Licensing Authority has concerns in relation to this application and how the premises would promote the Licensing Objectives:</p> <ul style="list-style-type: none"> <li>• Public Nuisance</li> <li>• Prevention of Crime &amp; Disorder</li> <li>• Public Safety</li> </ul> <p>We make a representation as the application exceeds parts of the Westminster Statement of Licensing Policy 2016. The hours sort currently exceed those set out in our core hours (HRS1) and the premises is located in the Cumulative impact area and whilst the premises will operate like a restaurant, with a capacity of 150 people it is likely to add to cumulative impact.</p> <p>Please accept this as a formal representation. We would expect that the applicants submit further documents show why they should be permitted to have hours granted past core hours and how such a large capacity will not add to cumulative impact.</p> |                           |

|                               |  |
|-------------------------------|--|
| <b>Responsible Authority:</b> | Environmental Health Consultation Team |
| <b>Representative:</b>        | Ms Nicola Curtis                       |
| <b>Received:</b>              | 30 <sup>th</sup> May 2017              |

**The premises are located within the West End Cumulative Impact Area as defined within the City of Westminster Statement of Licensing Policy.**

The applicant has submitted the following plans for the premises:

- ◆ Proposed Restaurant Fire Strategy and Licensing Plan: drawing number A(SK) 153, Rev A, Dated Nov 16

This representation is based on the plans and Operating Schedule submitted.

The applicant is seeking the following licensable activities:

1. The Provision of Late Night Refreshment 'indoors'
  - a. Monday to Saturday 2300 to 0030 hours and Sunday 2300 to 0000 hours
  - b. Hours to be extended until 0030 on Sundays preceding Bank Holiday Mondays
  - c. Hours to be extended from the end of permitted hours on New Year's Eve until the start of permitted hours on New Year's Day
2. The Supply of Alcohol 'on' the premises
  - a. Monday to Saturday 1000 to 0000 hours and Sunday 1200 to 2330 hours
  - b. Hours to be extended until 0000 on Sundays preceding Bank Holiday Mondays
  - c. Hours to be extended from the end of permitted hours on New Year's Eve until the start of permitted hours on New Year's Day

I wish to make the following representations in relation to the above application:

1. The Provision of Late Night Refreshment 'indoors' and the hours requested for this activity will have the likely effect of causing an increase in Public Nuisance in the area.
2. The Supply of Alcohol 'on' the premises and the hours requested for this activity will have the likely effect of causing an increase in Public Nuisance in the 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.

**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.**

|  |                             |
|--|-----------------------------|
| <b>Responsible Authority:</b>  | Metropolitan Police Service |
| <b>Representative:</b>   | PC Sandy Russell            |
| <b>Received:</b>   | 18 <sup>th</sup> May 2017   |
| <p>The conditions proposed in the application are acceptable to police. However, we object to this application in support of the Westminster Council Policy document as the hours applied for are not within those defined as 'core hours'. The decision will be left for a Sub-Committee to decide.</p> |                             |

|   |   |
|---|---|
| <b>2-B Other Persons</b>  |   |
| <b>Name:</b>  | Dr Anton Gill   |
| <b>Address and/or Residents Association:</b>  | 3 Marshall Street<br>96 Stirling Court<br>London<br>W1F 9BD |
| <b>Received:</b>  | 17 <sup>th</sup> May 2017                                   |
| <p>I most strongly object to yet another hostelry being established in an area already saturated with them, and especially to a late drinking licence being awarded. We residents have already suffered enough disruption the hands of Shaftesbury and their quest for personal enrichment at the expense of local flat owners and the Council should take note of their anti-social behaviour.</p> |   |

### 3. Policy & Guidance

|  |  |
|--|--|
| The following policies within the City Of Westminster Statement of Licensing Policy apply: |  |
| <b>Policy CIA1 applies</b>   | <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> |
| <b>Policy HRS1 applies:</b>  | (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.  |
| <b>Policy RNT2 applies:</b> | 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

|                   |  |
|-------------------|--|
| <b>Appendix 1</b> | Premises plans                                       |
| <b>Appendix 2</b> | Applicant supporting documents                       |
| <b>Appendix 3</b> | Premises history                                     |
| <b>Appendix 4</b> | Proposed conditions                                  |
| <b>Appendix 5</b> | Residential map and list of premises in the vicinity |

|                       |   |
|-----------------------|---|
| <b>Report author:</b> | Miss Heidi Lawrance<br>Senior Licensing Officer                 |
| <b>Contact:</b>       | Telephone: 020 7641 2751<br>Email: hlawrance@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**

|          |   |                              |
|----------|---|------------------------------|
| <b>1</b> | Licensing Act 2003  | N/A                          |
| <b>2</b> | City of Westminster Statement of Licensing Policy                   | 7 <sup>th</sup> January 2016 |
| <b>3</b> | Amended Guidance issued under section 182 of the Licensing Act 2003 | March 2015                   |
| <b>4</b> | Application Form  | 11 <sup>th</sup> May 2017    |
| <b>5</b> | Representation – Licensing Authority                                | 8 <sup>th</sup> June 2017    |
| <b>6</b> | Representation – Environmental Health                               | 30 <sup>th</sup> May 2017    |
| <b>7</b> | Representation – Metropolitan Police Service                        | 18 <sup>th</sup> May 2017    |
| <b>8</b> | Representation – Dr Gill  | 17 <sup>th</sup> May 2017    |



## Applicant Supporting Documents

### Proposed Conditions

1. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team. All entry 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.
2. 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.
3. 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.
4. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
5. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
6. No waste or recyclable materials, including bottles, shall be moved, removed from or placed in outside areas between (23.00) hours and (07.00) hours on the following day.
7. No collections of waste or recycling materials (including bottles) from the premises shall take place between (23.00) and (07.00) on the following day.
8. There shall be no striptease or nudity, and all persons shall be decently attired at all times, except when the premises are operating under the authority of a Sexual Entertainment Venue licence.
9. 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.
10. 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, searching equipment or scanning equipment
  - g) any refusal of the sale of alcohol



- h) any visit by a relevant authority or emergency service.
11. No deliveries to the premises shall take place between (23.00) and (07.00) on the following day.
  12. 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.
  13. No licensable activities shall take place at the premises until the works have 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.
  14. The premises may remain open for the sale of alcohol and the provision of late night refreshment from the terminal hour for those activities on New Year's Eve through to the commencement time for those activities on New Year's Day.
  15. The number of persons permitted in the premises at any one time (excluding staff) shall not exceed 150 persons.

**Premises History**

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 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.
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. 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.
12. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
13. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
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15. No collections of waste or recycling materials (including bottles) from the premises shall take place between (23.00) and (07.00) on the following day.
16. There shall be no striptease or nudity, and all persons shall be decently attired at all times, except when the premises are operating under the authority of a Sexual Entertainment Venue licence.
17. 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.

18. 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, searching equipment or scanning equipment
  - g) any refusal of the sale of alcohol
  - h) any visit by a relevant authority or emergency service.
  
19. No deliveries to the premises shall take place between (23.00) and (07.00) on the following day.
  
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.
  
21. No licensable activities shall take place at the premises until the works have 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.
  
22. The premises may remain open for the sale of alcohol and the provision of late night refreshment from the terminal hour for those activities on New Year's Eve through to the commencement time for those activities on New Year's Day.

23. The number of persons permitted in the premises at any one time (excluding staff) shall not exceed 150 persons.

**Conditions proposed by Environmental Health**

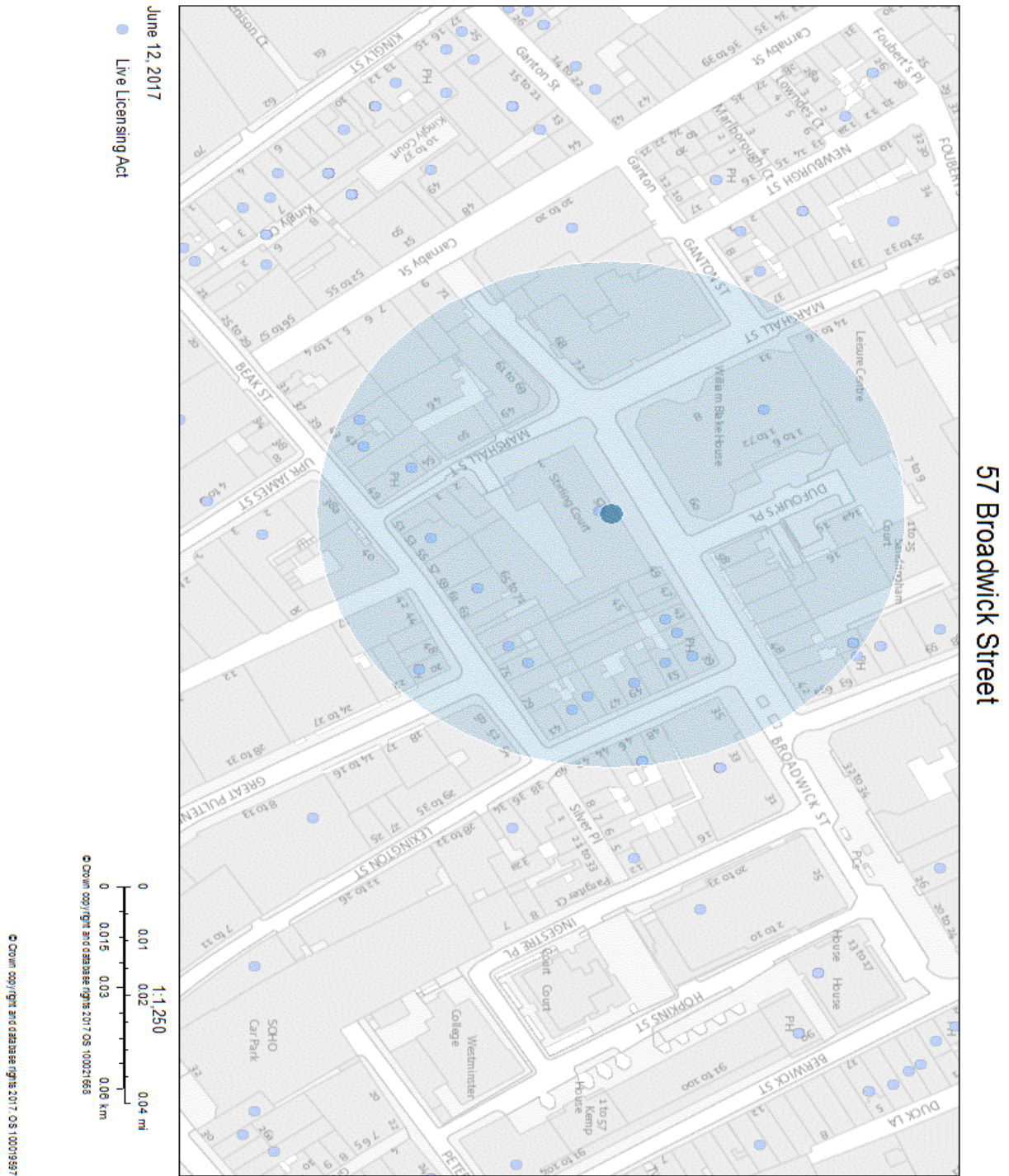
None submitted.

**Conditions proposed by the Police**

None submitted.



**Residential Map and List of Premises in the Vicinity**



Resident Count: 311