

Licensing Sub-Committee Report

Item No:	
Date:	31 August 2017
Licensing Ref No:	17/06724/LIPN - New Premises Licence
Title of Report:	Avery House 1 - 3 Avery Row London
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:	16 June 2017		
Applicant:	Lemonthree Ltd		
Premises:			
Premises address:	Avery House 1 - 3 Avery Row London W1K 4AJ	Ward:	West End
		Cumulative Impact Area:	No
Premises description:	According to the application the premises will operate as a restaurant with ancillary bar within core hours. The proposed usage of the various floors is as follows: -Ground Floor: bar and restaurant -First Floor: restaurant -Second Floor: private dining room and lounge		
Premises licence history:	The application is for a new premises licence therefore no history exists.		
Applicant submissions:	Appendix 1 of the report		
Plans	Copies of the premises plans are available on request and for display at the hearing.		

1-B Proposed licensable activities and hours							
Playing of recorded Music:				Indoors, outdoors or both			Indoors
Day:	Mon	Tues	Wed	Thur	Fri	Sat	Sun
Start:	23:00	23:00	23:00	23:00	23:00	23:00	
End:	23:30	23:30	23:30	23:30	00:00	00:00	
Seasonal variations/ Non-standard timings:		From the end of permitted hours on New Year's Eve to start of permitted hours on New Year's Day. On Sundays prior to bank holidays/public holidays 23:00 – 00:30					

Late Night Refreshment:				Indoors, outdoors or both			Indoors
Day:	Mon	Tues	Wed	Thur	Fri	Sat	Sun
Start:	23:00	23:00	23:00	23:00	23:00	23:00	
End:	23:30	23:30	23:30	23:30	00:00	00:00	
Seasonal variations/ Non-standard timings:		From the end of permitted hours on New Year's Eve to start of permitted hours on New Year's Day. On Sundays prior to bank holidays/public holidays 23:00 – 00:00					

Sale by retail of alcohol	On or off sales or both:	Both
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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:	From the end of permitted hours on New Year's Eve to start of permitted hours on New Year's Day. On Sundays prior to bank holidays/public holidays 12:00 – 00:00						

Hours premises are open to the public							
Day:	Mon	Tues	Wed	Thur	Fri	Sat	Sun
Start:	10:00	10:00	10:00	10:00	10:00	10:00	12:00
End:	00:00	00:00	00:00	00:00	00:30	00:30	23:00
Seasonal variations/ Non-standard timings:	From the end of permitted hours on New Year's Eve to start of permitted hours on New Year's Day. On Sundays prior to bank holidays/public holidays 12:00 – 00:30						

2. Representations

2-A Responsible Authorities	
Responsible Authority:	The Metropolitan Police (withdrawn)
Representative:	PC Sandy Russell
Received:	22 nd June 2017
<p>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.</p> <p>Police propose the following additional condition:</p> <ul style="list-style-type: none"> Patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, shall not be permitted to take drinks or glass containers with them. <p>All conditions proposed by yourselves are acceptable to police.</p> <p>The Police have withdrawn their representation to the application as the applicant has agreed the proposed condition.</p>	
Responsible Authority:	The Environmental Health Service
Representative:	Dave Nevitt
Received:	14 th July 2017
<p>I wish to make Representations on the following grounds: Representation is made in relation to the application, as the proposals are likely to increase</p>	

Public
Nuisance and may impact upon Public Safety.

2-B Other Persons	
Name:	Mrs V Loesch
Address and/or Residents Association:	[REDACTED]
Received:	28 th June 2017
<p>12:12 PM on 28 Jun 2017 Please include in the conditions: No movement of any items outside the premises between 9pm and 8am. No deliveries or waste/recycling collections between 9pm and 8am except WCC early morning service.</p> <p>To protect residential amenity. Late night deliveries, waste collections, etc, cause noise nuisance throughout the local area. Otherwise no objections at all.</p>	

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 PB1 applies:	Applications will only be granted if it can be demonstrated that the proposal meets the relevant criteria in Policies CD1, PS1, PN1 and CH1.
Policy RNT1 applies:	Applications will generally be granted and reviews determined, subject to the relevant criteria in Policies CD1, PS1, PN1 and CH1.
Policy COMB1 applies:	(i) Where a premises proposes to operate as a combined use premises applications will be considered on their merits with regard to each of the relevant policies e.g. Policies CD1, PS1,

	<p>PN1 CH1 CIP1 and HRS1.</p> <p>(ii) The Licensing Authority will take into account the current and proposed use of the premises when considering what weight is to be given to the relevant uses and policies.</p> <p>It will take into account what is the primary use of the premises, if any, and which licensable activities are proposed outside the core hours (see policy HRS1).</p> <p>(iii) It will consider any premises which include any pub or bar use or provide facilities for fast food and drink or for music and dancing primarily under the policies specific to those uses e.g. PB1&PB2, FFP1 & FFP2, MD1 & MD2.</p>
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4. Appendices

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

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	The Application Form	16 th June 2017
5	The Metropolitan Police Representation	22 nd June 2017
6	The Environmental Health Service Representation	14 th July 2017
7	Mrs V Loesch Representation	28 th June 2017

Applicant Supporting Documents

Thomas & Thomas
Partners LLP

Application for Premises Licence

1-3 Avery Row, W1K 4AJ

Proposed Conditions

Ground and First Floor Only:

1. 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.

All Floors:

2. 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.
3. 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.
4. 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.
5. All sales of alcohol for consumption off the premises shall be in sealed containers only, and shall not be consumed on the premises.
6. 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.
7. 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

8. The number of persons permitted in the premises at any one time (excluding staff) shall not exceed (180) persons.
9. No deliveries to the premises shall take place between (23.00) and (07.00) on the following day.
10. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
11. 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.
12. 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.
13. 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.
14. 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.
15. 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.

Thomas & Thomas

Partners LLP

Your ref:
Our ref: AT/LEM.1.1

38a Monmouth Street
London WC2H 9EP
tel: 020 7042 0410
fax: 020 7379 6618

Mrs V Loesch
19 Balderton Flats
Brown Hart Gardens
W1K 6TD

15 August 2017

Dear Mrs Loesch

1-3 Avery Row, W1

We act for the applicant in respect of their licensing application and have been passed a copy of your representation.

We note that your only concern is servicing from the premises.

Please note that it is proposed now to restrict this between the hours of 7.00 am and 10.00 pm on Mondays to Fridays.

I hope this addresses your concerns and I would be grateful if you would clarify your position to the licensing authority, failing which there will need to be a public hearing which my client ideally would like to avoid.

Please feel free to contact me should I be able to assist or clarify any point.

With kind regards

Yours faithfully

Thomas & Thomas Partners LLP
tel: 020 7042 0412
email: athomas@tandtp.com

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. Ground and First Floor Only:

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.

10. All Floors:

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.

- 11. 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.
- 12. 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.
- 13. All sales of alcohol for consumption off the premises shall be in sealed containers only, and shall not be consumed on the premises.
- 14. 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.
- 15. 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.
- 16. The number of persons permitted in the premises at any one time (excluding staff) shall not exceed (180) persons.

17. No deliveries to the premises shall take place between (23.00) and (07.00) on the following day.
18. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
19. 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.
20. 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.
21. 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.
22. 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.
23. 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

24. Patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, shall not be permitted to take drinks or glass containers with them.

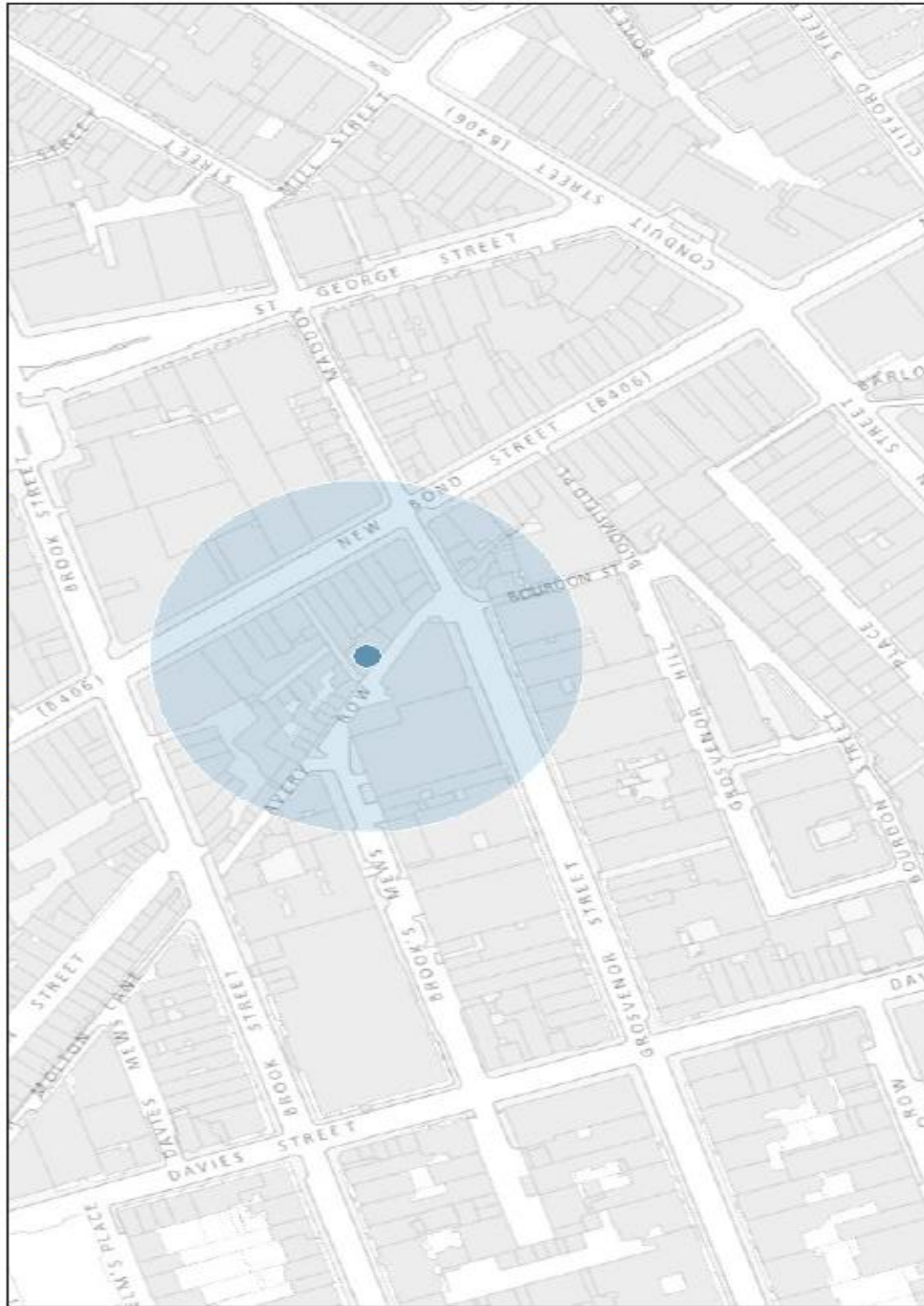
Amended to read:

Save for the external terrace(s) shown on the deposited plan, patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, shall not be permitted to take drinks or glass containers with them.

Conditions proposed by interested party

25. No movement of any items outside the premises between 9pm and 8am.
26. No deliveries or waste/recycling collections between 9pm and 8am except WCC early morning service.

Avery House 1 - 3 Avery Row



August 15, 2017

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