

Licensing Sub-Committee Report

Item No:	
Date:	23 November 2017
Licensing Ref No:	17/10522/LIPN - New Premises Licence
Title of Report:	Melissa's Kitchen Ltd 27 Elizabeth Street London SW1W 9RP
Report of:	Director of Public Protection and Licensing
Wards involved:	Churchill
Policy context:	City of Westminster Statement of Licensing Policy
Financial summary:	None
Report Author:	Ms Daisy Gadd Senior Licensing Officer
Contact details	Telephone: 0207 641 2737 Email: dgadd@westminster.gov.uk

1. Application

1-A Applicant and premises			
Application Type:	New Premises Licence, Licensing Act 2003		
Application received date:	21 September 2017		
Applicant:	Melissa's Kitchen Ltd		
Premises address:	27 Elizabeth Street London SW1W 9RP	Ward:	Churchill
		Cumulative Impact Area:	None
Premises description:	The premises is intending to operate as a cafe.		
Premises licence history:	This is a new premises licence and therefore no history exists.		
Applicant submissions:	None		
Plans:	Plans are available to view upon request to the Licensing Authority and they will be made available at Licensing Committee.		

1-B Proposed licensable activities and hours							
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 the start of permitted hours on New Year's Day.				
			On Sundays immediately prior to Bank Holidays to 00:00.				

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:			From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.				
			On Sundays immediately prior to Bank Holidays to 00:00.				

Hours premises are open to the public							
Day:	Mon	Tues	Wed	Thur	Fri	Sat	Sun
Start:	07:00	07:00	07:00	07:00	07:00	07:00	07:00
End:	00:00	00:00	00:00	00:00	00:30	00:30	23:00
Seasonal variations/ Non-standard timings:			From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.				
			On Sundays immediately prior to Bank Holidays to 00:30.				
Adult Entertainment:			None				

2. Representations

2-A Responsible Authorities	
Responsible Authority:	Metropolitan Police Service (withdrawn)
Representative:	PC Toby Janes
Received:	5 October 2017
<p>I am writing to inform you that the Metropolitan Police, as a Responsible Authority, make a representation against the above 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 as there are insufficient conditions within the operating schedule.</p> <p>We have concerns that this application will cause further policing problems in an already demanding area.</p> <p>Police would like you to consider adding the following conditions to your operating schedule as we believe they will address our concerns in relation to crime and disorder.</p> <ol style="list-style-type: none"> 1. The sale of alcohol on the premises shall at all times be ancillary to the main use of the premises as a café. 2. The supply of alcohol on the premises shall be by waiter or waitress service only to persons seated at tables. 3. No draught beer shall be sold or supplied at the premises. 4. There shall be no self-service of alcohol for consumption on the premises. 5. After 2300 hours 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>The Metropolitan Police Service have withdrawn their representation following the agreement of conditions proposed by the Police with the applicant.</p>	
Responsible Authority:	Environmental Health
Representative:	Mrs Sally Fabbicatore
Received:	11 October 2017
<p>This representation is based on the Operating Schedule and the submitted plans, ground floor, titled with the address and drawing number 900 and dated September 17.</p> <p>The applicant is seeking the following on the ground floor and basement:</p> <ol style="list-style-type: none"> 1. To allow the Supply of Alcohol both 'on and off' the premises Monday to Thursday 10:00-23:30 hours, Friday and Saturday 10:00-00:00 hours and Sunday 12:00-22:30 hours. 	

2. To allow the provision of Late Night Refreshment Monday to Thursday 23:00-23:30 hours, Friday and Saturday 23:00-00:00 hours.
3. To allow the above licensable activities from the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day and allow until midnight on Sundays prior to Bank Holidays.

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

1. The provision of the Supply of Alcohol may cause an increase in Public Nuisance in the area, it may also impact on Public Safety.
2. The provision of Late Night Refreshment may cause an increase in Public Nuisance in the area.
3. The non-standard timings may cause an increase in Public Nuisance in the area.

The applicant has proposed conditions within the operating schedule which are being considered. Further conditions may be proposed by Environmental Health in order to help prevent Public Nuisance and protect Public Safety.

The granting of the new Premises Licence as presented would have the likely effect of causing an increase in Public Nuisance in the area and may impact on Public Safety.

2-B Other Persons

Received: 2 October 2017

There already are more than sufficient licensed premises on Elizabeth Street - we do not need more in what is a residential area. If the licensing authority is determined to grant a licence the closing hour must be reduced to a maximum of 11pm each day - the proposed weekend limit of 12.30, in a residential area is outrageous - the Street is noisy enough already.

Received: 3 October 2017

Ebury & Elizabeth Streets, 3 premises with licenses plus many more in Elizabeth Street, do not need more anti-social behaviour with late nights, 11:00pm maximum opening and no alcohol. Coach station already attracts anti-social behaviour with neighbourhood used as a loo and Too much noise for residents as well. This is a residential area with expensive properties. Very much against the license.

Received: 6 October 2017

We are writing to object to the above premises licence application. As close neighbours to the applicant, we believe the new licensing arrangements requested by this establishment, if granted, would contravene the licensing objective of the Prevention of Public Nuisance. Details of our objection are given below.

1. The stretch of Elizabeth Street between Eccleston Place and Ebury Street, where Melissa's Kitchen is situated, includes a significant proportion of residential accommodation. In addition to our flat block (Sydney House) which is directly opposite Melissa's Kitchen, residential accommodation includes blocks of flats at 29-31 Elizabeth

Street (immediately adjacent to the applicant), 6-20 Elizabeth Street (Mountbarrow House), and 39 Elizabeth Street.

2. During the daytime Elizabeth Street is a vibrant, buzzing street, with coach travellers, residents and others going about their business. However, as the evening draws in, the street becomes much quieter and, by 11.00pm – when the Coach Station, Travellers Tavern pub, Sainsbury's Local, and various cafes have all closed – the street falls to near silence, even on weekends. It becomes a surprising oasis of calm in the middle of a busy part of London.

To reiterate, currently no establishment on the street is open beyond 11.00pm on any day of the week. This includes the Travellers Tavern pub, despite provision in its licence to remain open later.

3. Melissa's Kitchen is designed as a daytime cafe and its soundproofing and layout are appropriate only for such use. It has a largely glazed frontage and a single front door. There is no acoustic lobby, nor any other soundproofing structures or devices typically found in other licensed premises such as pubs. Even with the door shut, noise leaks easily from the premises. When the front door is opened – to allow people to enter/leave the premises or when customers move outside to smoke – the problem becomes more significant, as there is then no barrier to stop noise flooding into the street and nearby flats.

4. The application requests a licence to open until midnight Monday to Thursday and half-past midnight on Friday and Saturday, and serve alcohol until 30 minutes earlier each day. As described above, we contend that the applicant's location in a residential accommodation area and lack of soundproofing renders it unsuitable for late night opening. Furthermore, with the Travellers Tavern shutting at 23.00 (22.30 on Sundays), the granting of a licence to Melissa's Kitchen to supply alcohol late into the evening would only serve to tempt people leaving the Travellers Tavern into the residential part of Elizabeth Street to continue drinking. On the grounds of Prevention of Public Nuisance, we ask you to limit the applicant's opening times to no later than 23.00, and prohibit the sale of alcohol after 22.30, every day.

Received:	14 October 2017
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Many thanks for the opportunity to comment on this license application for extended opening hours and sale of alcohol for Melissa's Kitchen Ltd., which I hereby wish to object to.

Extending opening hours/sale of alcohol beyond 11pm seems unnecessary and detrimental to the area, where nighttime nuisance and noise is already a problem. Even after Sainsbury's Local opened across the street, the phenomenon of late night lingering in the street and the consumption of alcohol purchased in these premises until well beyond midnight, with the associated noise and anti-social behaviour, is very disruptive to the many local residents and the area in general.

Please do not extend opening hours/alcohol license beyond 11pm, as the other premises in the street, which is already more than generous.

Although we very much welcome Melissa's Kitchen Ltd.'s decision to modernise and smarten up their premises to be more in line with the noticeable improvements in the area, I feel that extending opening hours would be against this aim and result in

considerable nuisance and degeneration of the area.

Being a major transport hub, this section of Elizabeth Street is a natural gathering point for travellers, the homeless, and others engaging in gregarious gatherings in the street late at night. If one adds to this available food and alcohol until late, it will inevitably result in noise, nuisance, and associated debris left behind, sometimes nightmarish for residents and the area in general.

Granting the license for extended opening hours beyond 11pm including sale of alcohol would certainly be negative and against the significant improvements that have been achieved to sanitise, smarten and generally improve this part of Elizabeth Street.

Thank you for taking this objection into consideration

3. Policy & Guidance

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

Policy HRS1 applies:	(i) Applications for hours within the core hours set out below in this policy will generally be granted, subject to not being contrary to other policies in the Statement of Licensing Policy. (ii) Applications for hours outside the core hours set out below in this policy will be considered on their merits, subject to other relevant policies.
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.

4. Equality Implications

The Council in its capacity as Licensing Authority has a duty to have regard to its public sector equality duty under section 149 of the Equality Act 2010. In summary section 149 provides that a Public Authority must, in the exercise of its functions, have due regard to the need to:

- a) Eliminate discrimination harassment, victimisation and any other conduct that is prohibited by or under this Act,
- b) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it, and
- c) Foster good relations between persons who share relevant protected characteristics and persons who do not share it.

Section 149 (7) of the Equality Act 2010 defines the relevant protected characteristics as age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.

5. 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:	Ms Daisy Gadd Senior Licensing Officer
Contact:	Telephone: 0207 641 2737 Email: dgadd@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	April 2017
4	Representation Metropolitan Police Service	5 October 2017
5	Representation Environmental Health Service	11 October 2017
6	Representation resident	2 October 2017
7	Representation resident	3 October 2017
8	Representation resident	6 October 2017
9	Representation resident	14 October 2017

Applicant Supporting Documents

Appendix 1

None

Premises History

Appendix 2

There is no licence or appeal history for the premises.

CONDITIONS CONSISTENT WITH THE OPERATING SCHEDULE AND CONDITIONS PROPOSED BY A PARTY TO THE HEARING

When determining an application for a new premises licence under the provisions of the Licensing Act 2003, the licensing authority must, unless it decides to reject the application, grant the licence subject to the conditions which are indicated as mandatory in this schedule.

At a hearing the licensing authority may, in addition, and having regard to any representations received, grant the licence subject to such conditions which are consistent with the operating schedule submitted by the applicant as part of their application, or alter or omit these conditions, or add any new condition to such extent as the licensing authority considers necessary for the promotion of the licensing objectives.

This schedule lists those conditions which are consistent with the operating schedule, or proposed as necessary for the promotion of the licensing objectives by a responsible authority or an interested party as indicated. These conditions have not been submitted by the licensing service but reflect the positions of the applicant, responsible authority or interested party and have not necessarily been agreed

Mandatory Conditions

1. No supply of alcohol may be made at a time when there is no designated premises supervisor in respect of this licence.
2. No supply of alcohol may be made at a time when the designated premises supervisor does not hold a personal licence or the personal licence is suspended.
3. Every supply of alcohol under this licence must be made or authorised by a person who holds a personal licence.
4.
 - (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
 - (2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises—
 - (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to;
 - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);

- (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
 - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
 - (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
 - (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).
5. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
6. (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
- (2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
- (3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either—
- (a) a holographic mark, or
 - (b) an ultraviolet feature.
7. The responsible person must ensure that—
- (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—
 - (i) beer or cider: ½ pint;
 - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
 - (iii) still wine in a glass: 125 ml;

- (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
- (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

A responsible person in relation to a licensed premises means the holder of the premise licence in respect of the premises, the designated premises supervisor (if any) or any individual aged 18 or over who is authorised by either the licence holder or designated premises supervisor. For premises with a club premises certificate, any member or officer of the club present on the premises in a capacity that which enables him to prevent the supply of alcohol.

8(i) A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

8(ii) For the purposes of the condition set out in paragraph 8(i) above -

- (a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;
- (b) "permitted price" is the price found by applying the formula -

$$P = D + (D \times V)$$

Where -

- (i) P is the permitted price,
 - (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
 - (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
- (c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence -
- (i) the holder of the premises licence,
 - (ii) the designated premises supervisor (if any) in respect of such a licence, or
 - (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;
- (d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and

- (e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.
- 8(iii). Where the permitted price given by Paragraph 8(ii)(b) above would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.
- 8(iv). (1) Sub-paragraph 8(iv)(2) below applies where the permitted price given by Paragraph 8(ii)(b) above on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.
- (2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

Conditions consistent with the operating schedule

9. 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.
10. 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.
11. 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.
12. All sales of alcohol for consumption off the premises shall be in sealed containers only, and shall not be consumed on the premises.
13. 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.
14. 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.

15. The number of persons permitted in the premises at any one time (excluding staff) shall not exceed 40 persons.

Environmental Health have proposed to amend condition 15 to the following:

The number of persons permitted in the premises at any one time (including staff) shall not exceed 40 persons.

The amendment to condition 15 has been agreed with the applicant.

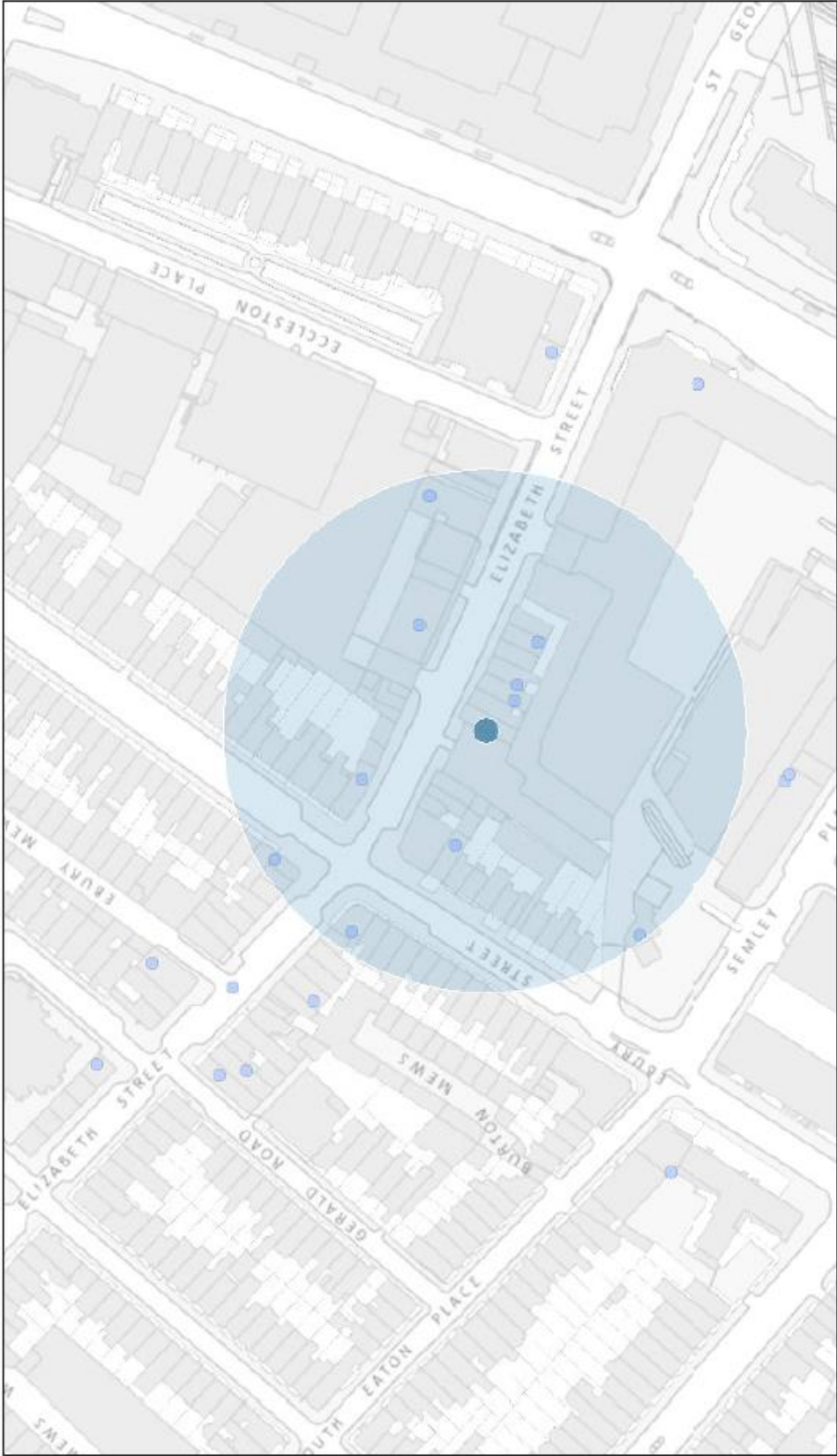
16. No deliveries to the premises shall take place between 23:00 and 08:00 on the following day.
17. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
18. No waste or recyclable materials, including bottles, shall be moved, removed from or placed in outside areas between 23:00 hours and 08:00 hours on the following day.
19. No collections of waste or recycling materials (including bottles) from the premises shall take place between 23:00 and 08:00 on the following day.
20. 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
21. A 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.

Conditions proposed by the Police and agreed with the applicant

22. The sale of alcohol on the premises shall at all times be ancillary to the main use of the premises as a café.
23. The supply of alcohol on the premises shall be by waiter or waitress service only to persons seated at tables.
24. No draught beer shall be sold or supplied at the premises.

25. There shall be no self-service of alcohol for consumption on the premises.
26. After 23:00 hours 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.

Melissa's Kitchen



October 31, 2017
● Live Licensing Act

1:1,500
0 0.0125 0.025 0.05 mi
0 0.02 0.04 0.08 km
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Resident count = 68

Trading Name	Address	Premises Type	Time Period
Mister Louagna	25 Elizabeth Street London SW1W 9RP	Cafe within another property	Monday to Saturday: 07:00 - 23:00 Sunday: 07:00 - 22:30
Frier Inn Fish Restaurant	Ground Floor 21 Elizabeth Street London SW1W 9RP	Restaurant	Monday to Saturday: 10:00 - 00:30 Sunday: 12:00 - 00:00
Dominique Ansel Bakery (17-21)	17 Elizabeth Street London SW1W 9RP	Restaurant	Monday to Saturday: 10:00 - 23:00 Sunday: 12:00 - 22:30
Victoria Grocers	17 Elizabeth Street London SW1W 9RP	Shop	Monday to Sunday: 07:00 - 23:00
Il Convivio	143 Ebury Street London SW1W 9QN	Restaurant	Monday to Thursday: 10:00 - 00:00 Friday to Saturday: 10:00 - 00:30 Sunday: 12:00 - 23:00
Sainsbury's	14 - 20 Elizabeth Street London SW1W 9RB	Food store	Monday to Sunday: 00:00 - 00:00
Ebury Wine Bar	139 Ebury Street London SW1W 9QU	Wine bar	Monday to Saturday: 10:00 - 23:30 Sunday: 12:00 - 22:30
Peggy Parschen Cakes	Basement/And Ground Floor 116 Ebury Street London SW1W 9QH	Cafe	Monday to Sunday: 08:00 - 21:00
Travellers Tavern	4 Elizabeth Street London SW1W 9RB	Public house or pub restaurant	Monday to Thursday: 07:00 - 23:30 Monday to Saturday: 07:00 - 00:30 Friday to Saturday: 07:00 - 00:00 Sunday: 07:00 - 22:50 Sunday: 07:00 - 22:50 Sundays before Bank Holidays; 07:00 - 00:00 Sundays before Bank Holidays; 07:00 - 00:00
Tom Tom Coffee House	114 Ebury Street London SW1W 9QD	Shop	Monday to Sunday: 08:00 - 21:00
Shell Victoria	Shell Service Station 163 Ebury Street London SW1W 9QN	Petrol filling station	Monday to Saturday: 07:00 - 23:00 Sunday: 08:00 - 22:00