

# Licensing Sub-Committee Report

Item No:	
Date:	11 October 2018
Licensing Ref No:	18/09777/LIPN - New Premises Licence
Title of Report:	Pure Wines Lower Ground Floor 21 Berners Street London W1T 3LP
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:	Shannon Pring Senior Practitioner for Street Trading and Enforcement
Contact details	Telephone: 020 7641 3217 Email: spring3@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>	21 August 2018		
<b>Applicant:</b>	Pure Wines Ltd		
<b>Premises:</b>	Pure Wines		
<b>Premises address:</b>	Lower Ground Floor 21 Berners Street London W1T 3LP	<b>Ward:</b>	West End
		<b>Cumulative Impact Area:</b>	None
<b>Premises description:</b>	The applicant proposes to operate the premises as an 'online' off-licence in which customers can order alcohol online and have it delivered directly to them. The applicant has advised that customers may also attend the premises to collect orders and attend tasting events, during which they will be able to purchase products at the store.		
<b>Premises licence history:</b>	This is a new premises licence application and therefore no licence history exists.		
<b>Applicant submissions:</b>	There are no submissions from the applicant.		

1-B Proposed licensable activities and hours							
<b>Sale by retail of alcohol</b>				<b>On or off sales or both:</b>			Off 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>	00:00	00:00	00:00	00:00	00:00	00:00	00:00
<b>End:</b>	24:00	24:00	24:00	24:00	24:00	24:00	24:00
<b>Seasonal variations/ Non-standard timings:</b>		For the avoidance of doubt, the applicant has specified that online off sales will operating 24 hours a day. However, the premises will only be open from 07:00 to 20:00 each day.					

Hours premises are open to the public							
<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>	00:00	00:00	00:00	00:00	00:00	00:00	00:00
<b>End:</b>	24:00	24:00	24:00	24:00	24:00	24:00	24:00
<b>Seasonal variations/ Non-standard timings:</b>		For the avoidance of doubt, the applicant has specified that online off sales will operating 24 hours a day. However, the premises will only be open from 07:00 to 20:00 each day.					
<b>Adult Entertainment:</b>		None					

## 2. Representations

2-A Responsible Authorities	
<b>Responsible Authority:</b>	Environmental Health Service
<b>Representative:</b>	Sally Fabbricatore
<b>Received:</b>	28 August 2018
<p>I refer to the application for a new Premises Licence for the above premises.</p> <p>This representation is based on the Operating Schedule and the ground floor plan of the premises, which is titled with the address.</p> <p>The applicant is seeking the following on the <b>ground floor</b>:</p> <ol style="list-style-type: none"><li>1. To allow the Supply of Alcohol 'off' the premises Monday to Sunday 00:00-23:59 hours, this is to allow online sales, however the premises will only be open 07:00-20:00 hours.</li></ol> <p>I wish to make the following representation in relation to the above application:</p> <ol style="list-style-type: none"><li>1. The provision of the Supply of Alcohol may cause an increase in Public Nuisance in the area.</li></ol> <p>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.</p> <p><b>The granting of the new Premises Licence as presented would have the likely effect of causing an increase in Public Nuisance in the area.</b></p> <p>Should you wish to discuss the matter further please do not hesitate to contact me.</p>	
<b>Responsible Authority:</b>	Metropolitan Police Service (withdrawn)
<b>Representative:</b>	PC Caroline Cockshull
<b>Received:</b>	31 August 2018
<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 also require further information on the general operation of the Company.</p> <p>I believe Sally Fabbricatore of Westminster City Council Environmental Health has been in contact regarding a site visit. Please can I ask that you include me in your reply regarding dates as I would like to come along at the same time if possible.</p> <p><b>Following the agreement of conditions, the Metropolitan Police Service have withdrawn their representation.</b></p>	

2-B Other Persons	
<b>Name:</b>	Mr Linus Rees
<b>Address and/or Residents Association:</b>	Fitzrovia Neighbourhood Association 39 Tottenham Street London W1T 4RX
<b>Received:</b>	30 August 2018
<p>We have concerns about the start hours operation of the business and also the nature of the proposed events. We would like to see the premises open for business in the morning to coincide with the council's stated "core hours", conditions on the operation of "tasting events", and restrictions on hours of deliveries and disposal of waste. Our association would also like to see conditions restricting the use of motor vehicles either by the applicant or a third party such as Uber or Deliveroo, for example, delivering food or drink to customers. We are happy to meet the applicant to agree conditions on the application.</p>	

### 3. Policy & Guidance

The following policies within the City Of Westminster Statement of Licensing Policy apply:	
<b>Policy HRS1 applies</b>	<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> <p><u>For premises for the supply of alcohol for consumption off the premises:</u> Monday to Saturday: 08:00 to 23:00 Sundays: 10:00 to 22:30</p>
<b>Policy OS1 applies</b>	Applications will generally be granted and reviews determined subject to the relevant criteria in Policies CD1, PS1, PN1 CH1 and HRS1 and other policies in this Statement.

#### 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 a 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

<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>	Shannon Pring Senior Practitioner for Street Trading and Enforcement
<b>Contact:</b>	Telephone: 020 7641 3217 Email: spring3@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	April 2018
<b>4</b>	Environmental Health Service	30 August 2018
<b>5</b>	Metropolitan Police Service (withdrawn)	31 August 2018
<b>6</b>	Fitzrovia Neighbourhood Association	30 August 2018

PREMISES: PURE WINES, LOWER GROUND FLOOR, 21 BERNERS STREET LONDON W1T 3LP



LICENSABLE AREA

WHOLE OF LICENSABLE AREA TO BE LICENSED FOR ALCOHOL DISPLAY

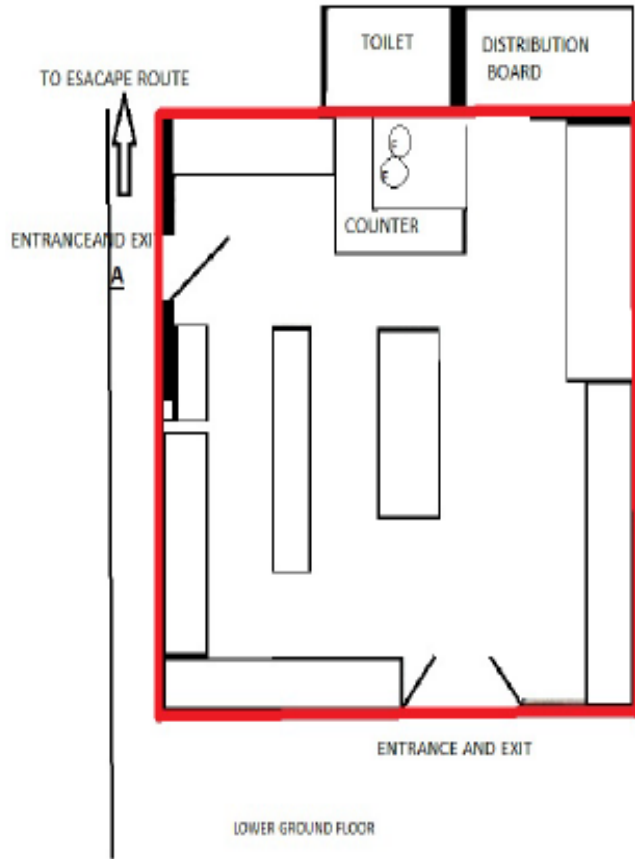
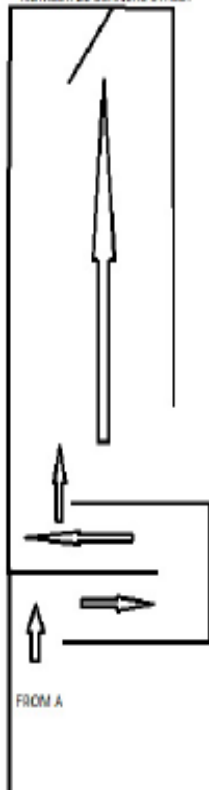
ANY OTHER SHELVING WILL NOT HINDER ESCAPE ROUTES SO DOES NOT NEED TO BE SHOWN



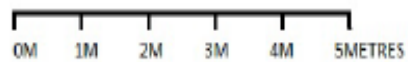
FIRE EXTINGUISHERS

1 X 6LTR FOAM AND 1 2KG CO2 OR EQUIVALENT

GROUND FLOOR ENTRANCE TO NUMBER 21 BERNERS STREET



SCALE BAR 1:100 AT A4



**Applicant Supporting Documents**

**Appendix 2**

There are no submissions from the applicant.

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 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.
- 5(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.
- 5(ii) For the purposes of the condition set out in paragraph 5(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.
- 5(iii). Where the permitted price given by Paragraph 5(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.
- 5(iv). (1) Sub-paragraph 5(iv)(2) below applies where the permitted price given by Paragraph 5(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**

- 6. All persons purchasing alcohol at the premises will have pre ordered and pre-paid for the alcohol and will be admitted to the premises upon presentation of their order number.
- 7. Signage shall be prominently displayed warning customers of the legal penalties for purchasing alcohol for any person under the age of 18 years
- 8. Staff training shall be recorded and updated every 6 months. Training shall cover the requirements for ID as part of age verification.
- 9. The premises licence holder shall ensure that a 'challenge 25' policy is adopted on the premises at all times. Signage of the 'challenge 25' policy shall be prominently displayed on the premises.

### **Conditions proposed by the Police and agreed with the applicant**

10. All online orders shall be subject to age verification via a third party online database
11. Only wine and fortified wine shall be supplied from the premises
12. Collection of orders shall only be made at the following times: Mon – Sat 0800hrs – 2000hrs Sun 1000hrs – 2000hrs
13. Delivery of orders shall only be made at the following times: Mon – Sat 0800hrs – 2300hrs Sun 1000hrs – 2230hrs
14. A condition of contract shall be in place between the premises licence holder and any third party delivery company that age verification shall be required when orders are delivered. A Challenge 25 proof of age scheme shall be operated 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. A Challenge 25 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognized photographic identification cards such as a driving licence, passport or proof of age card with the PASS Hologram.
16. There shall be no advertising of the 'Off' sales of alcohol immediately outside the premises
17. Collection of alcohol from the premises shall only be by persons who have pre-ordered and pre-paid and upon presentation of their order number
18. All tasting sessions shall be by invitation only and the number of persons attending at any one time shall not exceed 8.
19. 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. Viewings of recordings shall be made available immediately upon the request of Police or authorised officer throughout the entire 31 day period.
20. 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.
21. A record shall be kept detailing all refused sales of alcohol. The record should include the date and time of the refused sale and the name of the member of staff who refused the sale. The record shall be available for inspection at the premises by the police or an authorised officer of the City Council at all times whilst the premises is open.

### **Conditions proposed by the Environmental Health**

22. All sales of alcohol for consumption off the premises shall be in sealed containers only, and shall not be consumed on the premises.
23. 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.
24. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
25. No waste or recyclable materials, including bottles, shall be moved, removed or placed in outside areas between 20:00 hours and 08:00 hours.
26. No deliveries to the premises shall take place between 23:00 and 08:00 on the following day.
27. Access for public shall only take place through the entrance located on Berners Street and public shall be accompanied by a member of staff at all times.

Pure Wines, Lower Ground Floor, 21 Berners Street



Resident count: 34

**Licensed Premises within 75 metres of Pure Wines, Lower Ground Floor,  
21 Berners Street**

<b>Licence Number</b>	<b>Trading Name</b>	<b>Address</b>	<b>Premises Type</b>	<b>Time Period</b>
18/04970/LIPT	Latium Restaurant	Ground Floor 21 Berners Street London W1T 3LP	Restaurant	Monday to Saturday; 10:00 - 00:00   Sunday; 12:00 - 22:30
17/07480/LIPCH	Sanderson Hotel	Sanderson House 50 Berners Street London W1T 3NF	Hotel, 4+ star or major chain	Monday to Sunday; 00:00 - 00:00