



City of Westminster

Licensing Sub-Committee Report

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| Item No: | |
| Date: | 6 December 2018 |
| Licensing Ref No: | 18/08281/LIPV - Premises Licence Variation |
| Title of Report: | A Food Story Ground Floor 104 Great Portland Street London W1W 6PE |
| 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: | 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: | Variation of a Premises Licence, Licensing Act 2003 | | |
| Application received date: | 16 July 2018 | | |
| Applicant: | Pantani Ltd | | |
| Premises: | Pantani A Food Story | | |
| Premises address: | Ground Floor 104 Great Portland Street London W1W 6PE | Ward: | West End |
| | | Cumulative Impact Area: | None |
| Premises description: | The premises appears to be currently operating as a bakery. | | |
| Variation description: | <p>This variation application is seeking to permit the following:</p> <ul style="list-style-type: none"> The sale by retail of alcohol for consumption 'On' the premises Monday to Saturday from 10:00 to 22:30 and Sunday from 12:00 to 22:30 | | |
| Premises licence history: | This premises has had the benefit of a premises licence since at least 2005. Full details of the premises licence history can be found at Appendix 3 of the report. | | |
| Applicant submissions: | None | | |
| Application information: | <p>Following a series of failed notice checks, the last date for representation to this application was 4 November 2018.</p> <p>On original submission of the application, the applicant applied to vary the permitted hours for Recorded Music between the hours of 08:00 to 22:30 Monday to Sunday. The applicant has since withdrawn this aspect of the application as the applicant stated they only intended for music to be played at background level. However, it must be noted that the premises licence already permits unrestricted recorded music Monday to Sunday.</p> <p>Furthermore, the application originally sought to permit the sale by retail of alcohol for consumption 'On' the premises between the hours of 08:00 to 22:30 Monday to Sunday. The applicant has since amended these hours which are reflected in the section below.</p> | | |

| 1-B Current and proposed licensable activities, areas and hours | | | | | |
|---|---------------|-------|----------------|-------|------------------------------------|
| Sale by Retail of Alcohol | | | | | |
| On or off sales | | | Current : | | Proposed: |
| | | | Off | | On |
| | Current Hours | | Proposed Hours | | Licensable Area |
| | Start: | End: | Start: | End: | |
| Monday | 08:00 | 23:00 | 10:00 | 22:30 | As per licence plans at Appendix 1 |
| Tuesday | 08:00 | 23:00 | 10:00 | 22:30 | |
| Wednesday | 08:00 | 23:00 | 10:00 | 22:30 | |
| Thursday | 08:00 | 23:00 | 10:00 | 22:30 | |
| Friday | 08:00 | 23:00 | 10:00 | 22:30 | |
| Saturday | 08:00 | 23:00 | 10:00 | 22:30 | |
| Sunday | 10:00 | 22:30 | 12:00 | 22:30 | |
| Seasonal variations/ Non-standard timings: | Current: | | | | Proposed: |
| | None | | | | No Change |

| Playing of Recorded Music | | | | | |
|---|---------------|-------|----------------|------|------------------------------------|
| | Current Hours | | Proposed Hours | | Licensable Area |
| | Start: | End: | Start: | End: | |
| Monday | 00:00 | 00:00 | No Change | | As per licence plans at Appendix 1 |
| Tuesday | 00:00 | 00:00 | | | |
| Wednesday | 00:00 | 00:00 | | | |
| Thursday | 00:00 | 00:00 | | | |
| Friday | 00:00 | 00:00 | | | |
| Saturday | 00:00 | 00:00 | | | |
| Sunday | 00:00 | 00:00 | | | |
| Seasonal variations/ Non-standard timings: | Current: | | | | Proposed: |
| | None | | | | No Change |

On submission of the application, the applicant applied to vary the hours for the playing of recorded music to 08:00 to 22:30 Monday to Sunday. This aspect of the application has subsequently been withdrawn by the applicant. However, the premises licence currently permits the playing of recorded music 00:00 to 00:00 Monday to Sunday.

Private Entertainment consisting of dancing, music or other entertainment of a like kind for consideration and with a view to profit

| | Current Hours | | Proposed Hours | | Licensable Area |
|---|-------------------------|-------|----------------|-------------------------------|------------------------------------|
| | Start: | End: | Start: | End: | |
| Monday | 00:00 | 00:00 | No Change | | As per licence plans at Appendix 1 |
| Tuesday | 00:00 | 00:00 | | | |
| Wednesday | 00:00 | 00:00 | | | |
| Thursday | 00:00 | 00:00 | | | |
| Friday | 00:00 | 00:00 | | | |
| Saturday | 00:00 | 00:00 | | | |
| Sunday | 00:00 | 00:00 | | | |
| Seasonal variations/ Non-standard timings: | Current: None | | | Proposed: No Change | |

Hours premises are open to the public

| | Current Hours | | Proposed Hours | | Premises Area |
|---|-------------------------|-------|----------------|-------------------------------|------------------------------------|
| | Start: | End: | Start: | End: | |
| Monday | 00:00 | 00:00 | No Change | | As per licence plans at Appendix 1 |
| Tuesday | 00:00 | 00:00 | | | |
| Wednesday | 00:00 | 00:00 | | | |
| Thursday | 00:00 | 00:00 | | | |
| Friday | 00:00 | 00:00 | | | |
| Saturday | 00:00 | 00:00 | | | |
| Sunday | 00:00 | 00:00 | | | |
| Seasonal variations/ Non-standard timings: | Current: None | | | Proposed: No Change | |

1-C Layout alteration

None proposed.

| 1-D Conditions proposed by the applicant to be removed from the operating schedule of the licence | | |
|---|--------------------------|---------------------------|
| Currently condition 7 on the premises licence: | | |
| Alcohol shall not be sold in an open container or be consumed in the licensed premises. | | |
| Note: This condition is to be replaced, should this application be granted, by the updated mandatory conditions added to the operating schedule of the licence for premises permitted for the sale by retail of alcohol for consumption ‘On’ the premises. These mandatory conditions are reflected at Appendix 4 of the report. | | |
| Currently condition 10 on the premises licence: | | |
| Outside of permitted hours for the sale of alcohol all alcohol within the trading area to be covered with shutters and notices be placed on the shutters making clear to customers that the alcohol section is closed. | | |
| Currently condition 16 on the premises licence: | | |
| No beer, lager and cider with an ABV over 5.5% to be sold at the venue. | | |
| Adult entertainment: | Current position: | Proposed position: |
| | None | No Change |

2. Representations

| 2-A Responsible Authorities | |
|---|----------------------|
| Responsible Authority: | Environmental Health |
| Representative: | Mr Maxwell Koduah |
| Received: | 7 August 2018 |
| <p>I have considered the information that you have provided within and accompanying this application. I have also considered the proposed variation in line with the relevant policies within the Councils Statement of Licensing Policy dated January 2016.</p> <p>The licensee is seeking to vary their licence to permit:</p> <ol style="list-style-type: none"> 1. The playing of recorded music “Indoors” Monday to Sunday from 08:00 to 22:30 hours 2. Supply of alcohol for consumption “On” the premises Monday to Sunday from 08:00 to 22:30 hours <p>During a site meeting on 1st August 2018, you agreed to amend the application to:</p> <ol style="list-style-type: none"> I. Drop recorded music as you only intend to play background music II. Reduce hours for the supply of alcohol to the following times: Monday – Saturday: 10:00 to 22:30 hours Sunday: 12:00 to 22:30 hours <p>Following consideration of the application in light of the above changes and how it may affect the Licensing Objectives and meeting the requirements of the Council’s Statement of Licensing Policy I wish to make the following</p> | |

representations:

1. The supply of alcohol and hours requested to supply alcohol may have the likely effect of increasing Public Nuisance and impact on Public Safety within the area

The applicant has provided conditions in support of the application. These are being considered but they do not fully address the concerns of Environmental Health. Additional conditions may be proposed.

It is my view that there is insufficient information to address the concerns of Environmental Health and the granting of this application, as presented, would have the likely effect of causing an increase in Public Nuisance and may affect Public Safety within the area.

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| Responsible Authority: | Metropolitan Police Service (withdrawn) |
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| Representative: | PC Bryan Lewis |
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| Received: | 16 August 2018 |
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Our objection relates to the following:

- Insufficient steps proposed to address the prevention of crime and disorder
- More information is required to properly assess the effect of this application

Following the agreement of conditions, the Metropolitan Police Service have withdrew their representation to the application on 29 August 2018.

2-B Other Persons

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| Name: | [REDACTED] |
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| Address and/or Residents Association: | [REDACTED] [REDACTED] |
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| Received: | 9 August 2018 |
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Our association has concerns about this application. We would like to see a "restaurant condition" that restricts the sale of alcohol as ancillary to a table meal where customers are seated and only served by a member of staff. We would also like to see the Sunday trading restricted to "core hours" as described in the council's licensing policy. We would like to see a condition to prevent customers taking drinks outside or seating outside the premises on or near any forecourt. And a condition to restrict number of smokers outside. We would also like to see conditions to prevent noise nuisance from deliveries and disposal of bottles and other waste. We are happy to discuss with applicant.

On 30 August 2018, this interested party provided further submissions:

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.

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| Name: | ██████████ |
| Address and/or Residents Association: | ████████████████████ |
| Received: | 19 August 2018 |

The proposed change in licence will create noise and nuisance, as it is proposed to permit alcohol to be sold on and consumed on the premises. We can say with confidence this is likely to happen because of the problems with Live Die Late and Picture Restaurant. The only measure proposed to stop inebriated drinkers is a sign saying "Please respect neighbours and leave quietly"

This section of Great Portland Street is substantially residential, with bedrooms on the street side and at the rear. There is no need for another restaurant with alcohol sold on the premises, which substantially damages the residential character of this particular section of Great Portland Street.

The previous use was a late night shop (with restricted alcohol sales after complaints by neighbours) and there was no noise or drinking on the premises.

A further regular issue is that smokers, as they are not permitted to smoke indoors, congregate in the street area outside the restaurant front. Noisy and drunken chatter directly interferes with the residents' enjoyment of their properties as there are bedrooms on the street side on the first floors and above.

Residents have also faced repeated noise issues with air conditioning condenser units operating beyond normal working hours and creating noise in excess of the Westminster Noise Policy and creating nuisance. The plans submitted with the application show a large number of condenser units. There are no disclosed measures for ensuring that the fans are restricted to operation during particular hours, and that outside ordinary working hours, the Noise Policy will be complied with. The large number of condenser units shown in the plan would need particular noise limiting external measures to ensure that they did not create nuisance for neighbours who live in the surrounding flats and have their sleep disturbed by condensers operating outside ordinary business hours. None have been disclosed and measures are needed.

On 26 September 2018, this interested party provided further submissions:

I repeat the objections to the earlier application. This application if granted will fundamentally change the character of the neighbourhood. There is no need for another establishment selling alcohol, particularly as this establishment proposes to be open late night until 10.30pm. It will create additional noise and nuisance in the area, in what is a substantially residential part of Great Portland Street.

The music in the premises will be an added disturbance and the proposed opening hours means that there will be an increase of revellers at closing time at 11pm. There will be the similar problem of smokers too. As the establishment doesn't have a smoking area, smokers congregate at the front of the premises under the bedroom windows that face Great Portland Street. They then disturb those trying to sleep or relax in their homes.

We have already had to deal with the nuisance caused by Live Die Late (which fortunately closed after repeated objection) and Picture Restaurant. Residents of this stretch of Great Portland Street, who purchased their flats when the area is and was substantially residential, ought not to have further encroachments into their enjoyment of their residential premises.

Name:

██████████

Address and/or Residents Association

████████████████████

Received:

19 August 2018

I am writing to strongly object to the application to vary a premises license by Pantani Ltd. at 104 Great Portland Street (ref. Ref 18/08281/LIPV). The application does not sufficiently consider the needs of local residents, whose quality of life would be adversely affected by the significant noise increase at anti-social hours if the license were to be granted in its current form.

I have lived with my wife at ██████████ for 4 years. Despite its central location, this area of Great Portland Street is very quiet in the mornings, evenings and on weekends. There are currently no restaurants or bars in our part of Great Portland Street, only retail shops, offices and a large and growing number of residential flats and families. I have attached some time-stamped photos of 94 Great Portland street (i.e. the area immediately surrounding our flat) that show how quiet and empty the street is in the morning, evenings and weekends (please let me know if they don't make it through and I'll send them again). I am concerned that another restaurant so close to our flat would increase noise at anti-social hours.

Briefly, I am worried about

1. Loud noise
2. Excessive opening hours and private functions / temporary events
3. Deliveries and collections
4. Public nuisance and sale of alcohol

1. Loud noise

We ask that any license granted explicitly forbid both outside seating and expansive windows that would allow the loud noise inside a restaurant to be heard outside in a residential area. We further ask for a condition stating that customers are not permitted to take drinks outside, and that the number of smokers outside at any one time be limited. If outside seating, drinking smoking, or expansive windows were permitted, this would harm our area's social cohesion and significantly increase noise in a quiet residential area.

We ask that recorded music is restricted to be inaudible outdoors, consistent with the noise conditions attached to the licenses recent licenses.

For comparison, the recent applications by Townhouse Partners Limited at 88 Great Portland Street (ref. 17/11140/LIPN) and The Whisky Exchange at 90-92 Great Portland Street (ref. 17/07371/LIPN-90-92) were not granted outside space, and contained several other protections against public nuisance and anti-social noise. Some such conditions are quoted below:

Townhouse Partners Limited 17/11140/LIPN

Relevant conditions attached to the Licence

18. No outdoor seating at the front of the property will be permitted.
15. No noise generated on the premises, or by its associate plant or equipment, shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
17. Notices shall be prominently displayed at any area designated for smoking requesting patrons to respect the needs of local residents and use the area quietly.
21. The premises licence holder shall ensure that any patrons smoking outside the premises do so in an orderly manner and are supervised by staff so as to ensure that there is no public nuisance or obstruction of the public highway.
22. Patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, shall be limited to 5 persons at any one time.
36. Patrons permitted to temporarily leave and then re-enter the premises, eg to smoke, shall not be permitted to take drinks or glass containers with them.

The Whisky Exchange

Licence 17/07371/LIPN at 90-92 Great Portland Street, W1W 7NT.

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

2. Excessive opening hours and private functions / temporary events

The proposed opening hours are too wide, and leave no days of respite for residents. In addition, the dispersal of customers late at terminal hours would create excessive noise. We would instead suggest weekday hours of 10am-10pm; Saturdays 1130am - 630pm, and closed Sundays, in keeping with majority of other restaurants on other parts of Great Portland Street.

The licensing application further contains no restrictions on private functions or temporary events. Both Townhouse and The Whisky Exchange had restrictions on the numbers of people who could attend private events without requiring a temporary event notice (TEN)

Townhouse Partners Limited 17/11140/LIPN

Sale by retail of alcohol: On and Off Sales

Monday to Sunday: 10:00 to 22:00

Relevant conditions attached to the Licence

20. There shall be no pre-arranged private events authorised under this licence lasting more than 2.5 hours or accommodating more than 25 customers at any one time.

The Whisky Exchange

Licence 17/07371/LIPN at 90-92 Great Portland Street, W1W 7NT.

“There shall be no private events for groups unless the premises is operating under the authority of a Temporary Event Notice.”

“When events are held in the basement area of the premises the maximum capacity shall not exceed 30 people, excluding staff.”

“The maximum number of persons permitted in the basement of the premises (including staff) shall not exceed 50 persons.”

3. Deliveries and collections

We are concerned about the timings and frequency of deliveries and rubbish collection,

with disposal of glass bottles a particular worry. The application does not commit to any specific schedule or time limits. We request that collection and delivery schedules have sufficiently stringent hours that allow for quiet mornings and nights, to preserve residents' quality of life in the area. Though we imagine this is a relatively common request from residents, it is no less important for it and we hope it can be given appropriate consideration. Again, I will quote the relevant sections of the conditions attached to the licenses for Townhouse and The Whisky Exchange below:

Townhouse Partners Limited 17/11140/LIPN
Relevant conditions attached to the Licence

23. No collections of waste or recycling materials (including bottles) from the premises shall take place between 20.00 and 08.30 on the following day Monday to Saturday and between 18.00 and 08.30 on the following day Sundays.

The Whisky Exchange

Licence 17/07371/LIPN at 90-92 Great Portland Street, W1W 7NT.

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

"No collections of waste or recycling materials (including bottles) from the premises shall take place between 20.00 and 09.00 on the following day Monday to Saturday and between 18.00 and 09:00 on the following day on Sundays."

"No deliveries to the premises shall take place between 20.00 and 09.00 on the following day Monday to Saturday and between 18.00 and 09:00 on the following day on Sundays."

4. Public nuisance and sale of alcohol

Richard Brown of the Citizens Advice bureau has informed me that applicants are required to show they have taken the specific surrounding area into account. Section M on page 11 merely restate the law and offer generic comments regarding the prevention of public nuisance (e.g. "Do not sale alcohol to an under age person"). These documents contain nothing specific to the surrounding locality of Great Portland street, providing scant reassurance that the area's peace will not be disturbed. Though I understand that this is the law for a restaurant in any case, I request that the license is amended to explicitly state that alcohol be ancillary to a table meal only, where customers are seated and only served by a member of staff, and further that alcohol can be served only from 12pm onwards. A loud restaurant with extensive opening hours for three meals a day would endanger residents' peace and quiet. We hope that the application can be amended accordingly.

Photos of the surrounding area of Great Portland Street

89 Great Portland Street [REDACTED]



Langham street to BBC piazza – street very quiet



78, 80, 88-94 Great Portland Street – outside rush hour – street very quiet



Photos of the surrounding area of Great Portland Street

88 – 94 Great Portland Street

Saturday 23 June in the evening (22:06)



Photos of the surrounding area of Great Portland Street

94 Great Portland street: Friday 27 June in the evening (20:04)



Friday 20 July in the morning (07:43) and late evening (21:51)



94 Great Portland Street
Sunday 22 July in the afternoon (13:24)

O2-UK 22:11 59%
< 22 July 13:24 Edit



Monday 23 July in the evening (20:40)

O2-UK 22:11 59%
< 23 July 20:38 Edit

O2-UK 22:11 59%
< 23 July 20:40 Edit



| | |
|---|------------|
| Name: | [REDACTED] |
| Address and/or Residents Association | [REDACTED] |

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| Received: | 20 August 2018 |
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I am a resident at [REDACTED] which corners onto Great Portland Street close to the proposed restaurant. My question is :- Why does Great Portland Street need another restaurant with outdoor seating when there is already ample provision in the area ? The impact of outdoor seating will be significant in an area which is very residential and quiet in the mornings, evenings and the weekends. The other premises that have outdoor seating nearby are predominantly day time cafes. The provision of outdoor on a narrow pavement will also be dangerous for pedestrians.

If a restaurant is be approved (which is not our desired option) then there should be no windows that open to the street with no noise audible including no bay windows (like Caravan up the road) and no outside tables or seating. Picture - restaurant next door has no outside seating for example. In fact, there are no outside tables close to this block (78-94 GPS) or the opposite block (79-95 GPS). There is also a precedent for no outdoor seating with the a recent application at 88 GPS which has an alcohol licence with no outdoor seating permitted ((17/11140/LIPN)). In addition, alcohol should not be served before 12pm and only to customers who have a table or a meal, and customers should be restricted for taking any drinks outside. There should be a restriction on the timing and frequency of deliveries to prevent noise nuisance from deliveries and the disposal of bottles. Finally, If any private events are permitted, that they be limited in size, frequency and timings through the use of Temporary Event Notices.

I trust you will take into account the needs of local residents and maintain the relative calm of Great Portland Street.

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|---|------------|
| Name: | [REDACTED] |
| Address and/or Residents Association | [REDACTED] |

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|------------------|----------------|
| Received: | 20 August 2018 |
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The Langham St, Gt Portland St intersection is a busy and congested site. There is a great deal of traffic generated by the BBC, especially between 9pm and midnight which already produces chaotic, unregulated congestion, with cars double and triple parked in a relatively narrow street, and considerable noise. Deliveries to and from the BBC generate noise from the early hours. A restaurant, especially one with outside tables and a live entertainment licence, will inevitably create still more disturbance for local residents from early morning (deliveries etc) until late at night, whatever measures the applicants say they will put in place. The pavement on Gt Portland St and east Langham St is narrow. Outside tables will restrict pedestrian access to single file and potentially push them into the road at a busy intersection. The area is already richly supplied with restaurants of all types, bars and pubs. From a safety and noise nuisance perspective, this application should be refused, or at the very least modified to forbid outside seating and live music both of which are unnecessary and undesirable.

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|---|------------------------------------|
| Name: | ██████████ |
| Address and/or Residents Association | ██████████ ████████████████████ |
| Received: | 22 August 2018 |

I have a flat at ██████████ and would like to express concern for the great number of restaurants that seem to be seeking permission to open in Great Portland Street. I have just heard about The Food Story at 104 Great Portland Street and there is another application for Roast, immediately under my flat, and another restaurant has recently opened across the road.

While it's great that the area is lively and busy I do think that special events which are likely to be noisy in the evening and throughout the day from early morning due to deliveries will change the atmosphere. I think it would be a very great shame if all of London became a huge restaurant theme park with no local character at all. So while I welcome nice new restaurants, I object strongly to permissions being granted for noisy events that go on into the night.

| | |
|---|------------------------------------|
| Name: | ██████████ |
| Address and/or Residents Association | ██████████ ████████████████████ |
| Received: | 20 August 2018 |

I am writing to make a relevant representation in respect of the above application on behalf of myself as a local resident and one of the leaseholders at ██████████
██████████

I object on the basis that the likely impact of the application, if granted with its current wording, will be to harm the licensing objectives of 'prevention of public nuisance'. The application is also contrary to the Westminster City Council's Statement of Licensing Policy 2016.

Background

I have lived in Fitzrovia for nearly ten years and it is a very different neighbourhood than many lively areas such as Soho in other parts of the West End.

The area surrounding the premises is very residential. Near the premises is ██████████ ██████████, a block of 18 flats with over 50 residents where most windows have single glazing. I live in this building permanently with my husband, and our neighbours range from families with small children to elderly couples who have lived here for decades. There are also many floors of residential units in all the neighbouring properties. When I made my decision to purchase the flat to settle down and start a family, we researched the surrounding commercial units to make sure that they are solely for retail units.

The premises are on a block on Great Portland Street that has many residential flats, small offices and retail units. The street is very quiet in the mornings, evenings and at weekends.

Please find attached a document with some photographs of the surrounding area of Great Portland Street at different times of day including at the weekends and in the evenings, to give Members of the Licensing Sub-Committee and the parties an idea of the context in which the proposed licensed premises would be operating (please see **attachment**: Photos of local area for Application Reference 18 08281 LIPV. pdf).

I am very worried that the licence with its current scope and wording would drastically change the current situation and local community. The proposed restaurant would continue a worrying precedent that transforms the nature of the area for local residents - from a predominantly residential area that is quiet in mornings/ evenings/ weekends to an area that is dominated by a very loud and busy restaurant/ bar causing a lot of intrusive noise, nuisance and extra congestion/pollution every day of the week from the early mornings to late at night.

The application

The application is for sale of alcohol as well as recorded music from 8.00 - 22.30 every day, with opening times stated also as Monday to Sunday 8.00am to 22.30pm. It appears that the premises will move from being a shop to a restaurant with potential bar space.

The proposed hours for licensable activities are profoundly worrying for residents and will be a 'game changer' for this vicinity. They are outside of "core hours", and they start many hours earlier and finish many hours later than retail units on Great Portland Street that have had licenses granted.

The rest of the scope of the application as presented is very vague, for example the only suggestion to prevent public nuisance and noise is "Notices will be put in place asking patrons to leave quietly and respect the neighbours". The proposed conditions do not reflect the way in which it is stated that the premises is intended to operate. Further, it is extremely concerning that does not consider or address the local area or needs of local residents at all.

I have listed further specific concerns below.

Summary of objections and conditions to address them

If the application for varying the licence is granted, I ask that the scope of the licence is limited and that robust safeguards are included on the licence to reflect the local area and limit the significant potential for nuisance and noise. In summary, these should include:

1. Alcohol is ancillary to a table meal only, where customers are seated and only served by a member of staff.
2. Restrict opening times and restrict sale of alcohol so starts at 12pm (and not from first thing in the morning at 8am)
3. Prevent seating or tables outside the premises on or near any forecourt
4. Prevent customers taking drinks outside
5. Restrict the number of smokers outside

6. Prevent noise nuisance from deliveries and disposal of bottles and other waste (restrictions on timings and frequency)
7. No noise audible outside including no bay windows that open up the restaurant to the whole street
8. If any private events are permitted, that they be limited in size, frequency and timings through the use of Temporary Event Notices

All of these conditions are already imposed on licenses granted for the premises nearby at 88 Great Portland Street and 90-92 Great Portland Street, with the exception of no live music and no cocktail bar because these were not relevant, and therefore would be a reasonable step towards maintaining the neighbourhood and social cohesion for local residents.

Details of reasons for objections

1. Sale of alcohol

I am surprised and concerned that there is no mention that alcohol should be served with food only, given the use class permits only “retail” or “restaurants”, and not a “drinking establishment”. The application form does not specify any clear and enforceable conditions. In particular, it does not specify that sale of alcohol would be ancillary to a table meal.

If the variation for the license is granted, then I would appreciate that there is a condition added along the lines of:

Sale of alcohol should be ancillary to a table meal, where customers are seated and only served by a member of staff.

No cocktail bar or bar is permitted.

2. Opening times and hours for licensable activity

If the license is granted, then it will make a very big difference to local residents if the opening and closing times are in keeping with the local area and context of a predominantly residential street. Specifically no longer than 10am-10pm; Saturdays 1130am - 630pm, and closed Sundays, in keeping with majority of other restaurants on other parts of Great Portland Street. In addition, hours for licensable activities that start at midday to reflect the nature of the local area in Fitzrovia being predominantly residential.

The proposed hours for licensable activities are profoundly worrying for residents and will be a ‘game changer’ for this vicinity. They are outside of “core hours”, and they start many hours earlier and finish many hours later than retail units on Great Portland Street that have had licenses granted.

I would ask that they are no longer than the license for nearby property at 88 Great Portland Street.

Licence 17/11140/LIPN at 88 Great Portland Street, W1W 7NS:

Monday to Sunday: 10:00 to 22:00

3. Outside tables and seating

I am extremely concerned that more premises in Fitzrovia have tablese and seating outside the restaurant. It would cause a lot of noise and public nuisance that will affect over 50 residents in our building nearby (which has only single glazing) and many dozens more residents in neighbouring buildings. This is also combined with the sale of alcohol, which is associated with even louder behaviour.

There are no properties on our block of Great Portland Street with any outside tables and seating. Further, the nearby property at 88 Great Portland Street has a condition on the license that prohibits outside seating, and if the license is granted than I would ask that this condition is also added to stop a detrimental precedent for the local area of loud restaurants and bars operating on the street immediately outside people's homes:

Licence 17/11140/LIPN at 88 Great Portland Street, W1W 7NS:

18. No outdoor seating at the front of the property will be permitted.

Crowds and congestion in front of the premises, including:

4. Outside drinking and 5. Outside smoking

I am concerned about potential public nuisance due to noise from people drinking, talking or smoking in front of the premises, vehicles collecting customers, slamming car doors and horns following congestion. The dispersal of customers will also be a major issue given there will be a huge number of diners (100+ covers) all day who are able to drink alcohol, and can congregate in groups outside the restaurant before/after their meal and to get transport home. This noise would reach many dozens of residents in the surrounding flats, which mostly have single glazed windows.

Here are the conditions agreed on the licence for the premises on the nearby property along the street to limit public nuisance from noise. Applying the same conditions would help to address these concerns.

Licence 17/11140/LIPN at 88 Great Portland Street, W1W 7NT:

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

Patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, shall be limited to 5 persons at any one time.

The premises licence holder shall ensure that any patrons smoking outside the premises do so in an orderly manner and are supervised by staff so as to ensure that there is no public nuisance or obstruction of the public highway.

In addition, there should be conditions that effectively address the dispersal of customers because there will be substantially larger groups entering and leaving the premises much more frequently than at any neighbouring retail units.

6. Deliveries and collections

It is very worrying that the applicant has made no reference to timings and frequency for glass and rubbish collection, and for deliveries.

Here are the conditions agreed on the licence for the premises nearby at 90-92 Great Portland Street to limit public nuisance due to noise and to avoid peak congestion times in an already heavily polluted area. I think these conditions are reasonable and I would appreciate it if similar conditions could also be included in the licence for 104 Great Portland Street. This is especially important because the amount and size of deliveries will be a lot more for the proposed restaurant, and creates a lot of noise especially when disposing of glass bottles.

Licence 17/07371/LIPN at 90-92 Great Portland Street, W1W 7NT:

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

No collections of waste or recycling materials (including bottles) from the premises shall take place between 20.00 and 09.00 on the following day Monday to Saturday and between 18.00 and 09:00 on the following day on Sundays.

No deliveries to the premises shall take place between 20.00 and 09.00 on the following day Monday to Saturday and between 18.00 and 09:00 on the following day on Sundays.

In addition, I would appreciate that there are no collections of food for consumption off the premises, for example by Deliveroo or similar. This would cause further noise, as well as congestion.

7. Noise audible outside the restaurant

I am concerned that there's a risk noise will be audible from the premises from lots of groups eating and drinking alcohol, potentially queuing to wait for a table, and also recorded music. Therefore I would ask that a standard condition taken from the licence nearby is added to this licence too:

Licence 17/11140/LIPN at 88 Great Portland Street, W1W 7NS:

15. No noise generated on the premises, or by its associate plant or equipment, shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.

I am also concerned that there are more and more restaurants in the West End that have bay windows that open up the restaurant to the whole street. This will generate a lot of noise and it is not appropriate to expose the whole street to all this noise with hundreds of residents living nearby in many floors of flats around the premises. If the license is granted, then I would appreciate that there is a condition added along the lines of:

No bay windows that open up the restaurant to the whole street.

All windows and external doors shall be kept closed after (19:00) hours, or at any time when regulated entertainment takes place, except for the immediate access and egress of persons

8. Events

There are very few details in the application about how the venue will operate, and we can't find a website about this restaurant chain. I would be concerned if there are any events at this venue because they involve very large groups of people arriving, leaving, and loitering outside the premises during breaks, and these groups can also be served alcohol during the event.

Therefore I would be grateful if private events can be limited in size, frequency and timings through the use of Temporary Event Notices. I would also ask that there is a maximum number of people for the event. This would be similar to the licence for the premises nearby at 90-92 Great Portland Street, which includes the following conditions that I think could work well:

Licence 17/07371/LIPN at 90-92 Great Portland Street, W1W 7NT:

There shall be no private events for groups unless the premises is operating under the authority of a Temporary Event Notice.

When events are held in the [basement area of the] premises the maximum capacity shall not exceed 30 people, excluding staff.

9. Other concerns about the application

The application does not provide clarity as to the nature of the premises. I think it is a restaurant but it is hard to be sure.

Much of the document simply repeats what is in any event required by law, and does not appear to give due consideration to the approach encouraged by the Guidance issued under s182 Licensing Act 2003, which states as follows:

'Applicants are, in particular, expected to obtain sufficient information to enable them to demonstrate, when setting out the steps they propose to take to promote the licensing objectives, that they understand:

The layout of the local area and physical environment including...proximity to residential premises...

Any risk posed to the local area by the applicants proposed licensable activities;' (para 8.39).

'Applications must not be based on providing a set of standard conditions to promote the licensing objectives and applicants are expected to make it clear why the steps they are proposing are appropriate for the premises.' (para 8.44).

Statement of Licensing Policy 2016 (“the Policy”)

The application engages a number of sections of the Policy. I would like in particular to refer to policy HRS1 and PN1.

HRS1 is the ‘core hours’ policy, which constitutes a policy that the hours for customers to be on the premises should be restricted to 10am to 11.30pm Mon-Thurs, 10am to midnight Fri-Sat and midday to 10.30pm Sun. The application has asked for a license that goes beyond these ‘core hours’.

In any event, I believe that even if the hours were amended to ‘core hours’, this would be much too late for this location. In particular, I believe that it would be contrary to policy PN1.

The criteria for policy PN1 is stated to be:

‘The potential for nuisance associated with the style, characteristics and activities of the business to be carried on at the premises and the potential steps which could be taken to reduce the risk of nuisance occurring. This will particularly apply in areas of residential accommodation and where there is residential accommodation in the proximity of the premises.’

Para 2.2.11 states that: ‘Playing of music can cause nuisance both through noise breakout transmission through the structure of the building and also by its effect on patrons, who become accustomed to high sound levels and to shouting to make themselves heard, which can lead to them being noisier when leaving premises. The later that music is played, the greater the potential for nuisance. Other major sources of noise nuisance are vehicles collecting customers; the slamming of car doors and the sounding of horns resulting from congestion and pressure for on-street parking space and the need for the servicing of premises. These noises can be particularly intrusive at night when ambient noise levels are lower.’

Para 2.2.12 states that: ‘Residents are often subjected to nuisance from the noise of people on their way to and from premises, and loitering in the streets after they have left premises. This can affect residents even at some distance from the premises themselves, especially along routes to transport facilities, and to car parks and parking areas and on routes between late night premises of various types. The nuisance from noise depends on its nature and whether it is during the day, the evening or at night. Late night noise is often unsettling; particularly shouting and screaming. Some of this is associated with aggression and assaults but most of it is “high spirits”. It is impossible to distinguish between the reasons for these noises and in any case, it is very disturbing late at night. The degree of nuisance caused by noise increases with the lateness of the hour; especially if it disturbs or prevents sleep.’

The Policy therefore recognises the potential for the sorts of issues I have raised.

I have also sought advice from the Citizen’s Advice Bureau, and they shared with us some very helpful case examples that set a reasonable precedent that when determining licence applications, the focus should be on evaluating what is ‘reasonably acceptable’ in a particular location (*R (on the application of Hope & Glory Public House Ltd) v (1) City of Westminster Magistrates’ Court & Ors [2011] EWCA Civ 31*) and the scope of the licence and conditions should be looked at in a local context (*Matthew*

Application Reference: 18/08281/LIPV

residential [REDACTED] residents
and single glazing



Area surrounding premises at 104 Great Portland Street

On the next pages are some photos of the local area on Great Portland Street



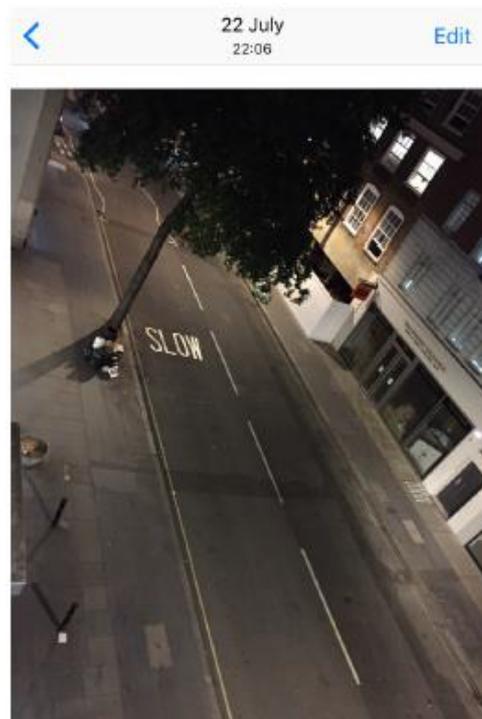
The premises are behind the tree on the other side of Great Portland Street

This area is extremely quiet on Sundays and most surrounding shops/retail are closed on Sundays. Also restaurants that are a few blocks away are also mostly closed on Sundays.

Sunday 24th June:



Sunday 22nd July:



Sunday 19th August 2018:

02-UK 14:02 Yesterday 13:40 91% Edit



02-UK 14:02 Yesterday 20:13 91% Edit

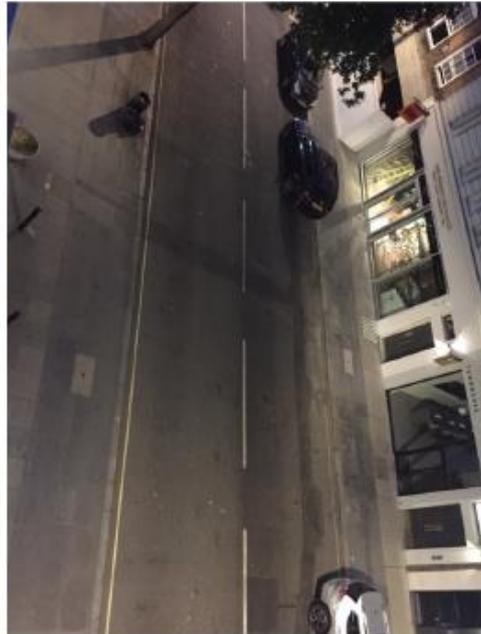


Sunday 1st July:

1 July 19:53 Edit



1 July 22:02 Edit

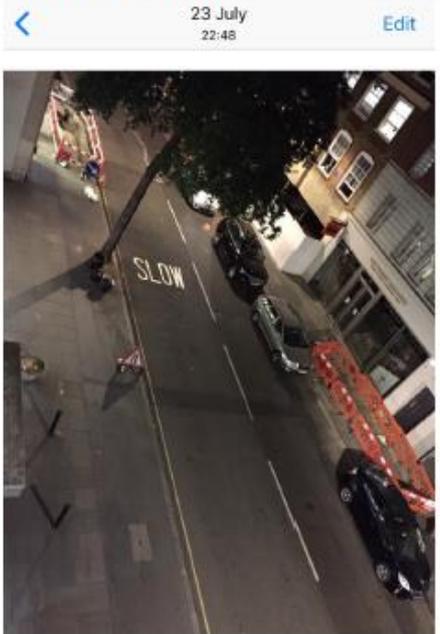


This area is also very quiet during in the mornings and evenings all week/weekends.

Tuesday 10th July:



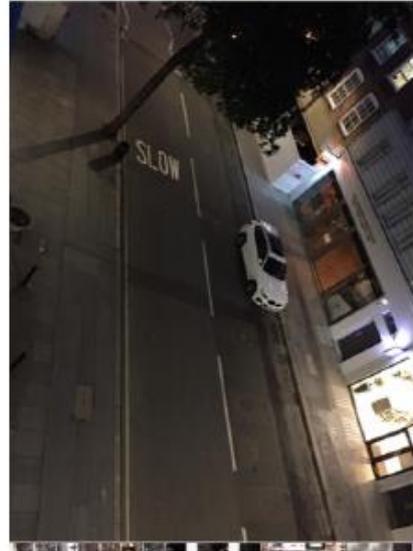
Monday 23rd July:



Thursday 19th July:



Thursday 16th August



Friday 20th July during the late evening (after 9pm) and night (after 1030pm):



Saturday 18th August 2018 (23:15pm and 23:35pm):



| | |
|---|------------------------------------|
| Name: | ██████████ |
| Address and/or Residents Association | ██████████ ████████████████████ |
| Received: | 20 August 2018 |

I have just been made aware of the above application – which directly affects me as an immediate neighbour – and was very disappointed not to have received notice about it from Westminster; I trust this is not to minimise objections from people who live locally or to gain approval by stealth.

As you can see, I live at number ██████████, a residential block of 18 apartments, and I have lived here for nearly 20 years. I wish to raise my concerns about this application, which follows others seeking to run the area into a radically different area in which to live. For ease of reference, these points are numbered

1. While Great Portland Street (“GPS”) is very near the centre of the West End, it is a largely residential district, with flats on both sides of the road which stretch into many of the adjoining roads like Langham Street. Working and living in London means you appreciate the evenings and weekends when GPS is less busy and quiet. Yes, there is noise occasionally from public demonstrations and performances in the BBC open spaces, but these are not every day, seven days a week. We do enjoy some peace and will not welcome disturbance from yet another alcohol retailer which is seeking to open for long hours seven six days a week.
2. The licencing hours proposed are outside the “core hours” in Westminster’s policy – which is already (in my view) inappropriately long for this area of residential property.
3. As far as I am aware, there is no rear access for trucks, so deliveries and rubbish collection will need to be made during the day, causing further major holdups. Unlimited will make the situation worse for all – especially if deliveries/collections are early morning or late evening to avoid the rush
4. There is already a range of restaurants locally and I question whether there is a market for yet another one. There are material costs involved in setting up and running a restaurant – and the owners will I am sure want to maximise customers – I would urge you to bear in mind also the many people who live here and want/need to sleep at night when considering what to permit and what restrictions to place on the licence. This is especially relevant in the case of the playing of recorded or live music, which must not be audible outside.
5. I understand that the applicants are seeking a licence to sell alcohol at any time the restaurant is open. Any approval must be limited to sales of alcohol only with a full meal.
6. As far as I am aware, other restaurants in the immediate area have much more reasonable hours of operation and the hours of operation in this application must be similarly restricted. None of us wish to see “planning creep” turning a quieter area of London into another Soho; this application could be a first real step in that direction

7. Some aspects of the application appear to me to be vague – any approval must be clear on the limitations to a “total free market for any and all noise and alcohol”.
8. I believe we will all suffer from the noise of patrons – after a “healthy meal” leaving late at night and saying goodbye to friends, slamming doors of cars and taxis etc. Excited restaurant guests late at night are not associated with quiet residential streets. As I have mentioned before, the area can be very quiet at night and weekends – those who live in the area do not seek to change that; this is where we live!
9. No-one, other than customers who smoke, will want to see many people congregating outside, with their drinks, ‘for a smoke’; this must be limited
10. In conclusion, I believe this application is contrary to Westminster Council’s Statement of Licensing Policy 2016, especially in terms of the proposed hours of operation.

| | |
|--|------------------|
| Name: | [REDACTED] |
| Address and/or Residents Association: | [REDACTED] |
| Received: | 5 September 2018 |

I write as an immediate neighbour and longstanding local resident from the premises at 104 Great Portland Street. I object to the terms of the requested licensing.

The neighbourhood in this stretch of Great Portland Street around Langham Street and is significantly residential, in some cases (such as mine) above retail establishments that generally close in the evenings. There are some quiet eating places serving local people but not noisy destination establishments, and most of them remain closed on Sundays, for instance Picture at 110 Great Portland Street.

The proposals for 104 Great Portland Street would present a rupture with this character, with alcohol and music proposed 7 days per week till 22:30. I am concerned about noise and considerable public nuisance.

The premises have a modest footprint and the pavement especially narrow at this point owing to the one-way system around the BBC. There will inevitably be smokers outside on the pavement and the noise - of music and diners - will not be containable. The character of the area will be disturbed. I note that there has already been considerable local agitation about proposals for a nearby establishment at 94 Great Portland Street. I would ask that you limit trading hours for serving alcohol to a narrower timeframe at both ends to 12:00 to 22:00 and completely disallow the playing of music.

In addition I would ask you impose the following restrictions:

- no seating whatsoever outside;
- no open doors or windows when there is music;
- alcohol to be served only with food.

Regarding rubbish and glass collection, the times for this should be very specific and during the working day to avoid noisy disturbance after closing time.

| | |
|--|----------------|
| Name: | [REDACTED] |
| Address and/or Residents Association: | [REDACTED] |
| Received: | 20 August 2018 |

Page 1 of 10 18/08281/LIPV 104 Great Portland Street

By email only: licence-reps@westminster.gov.uk

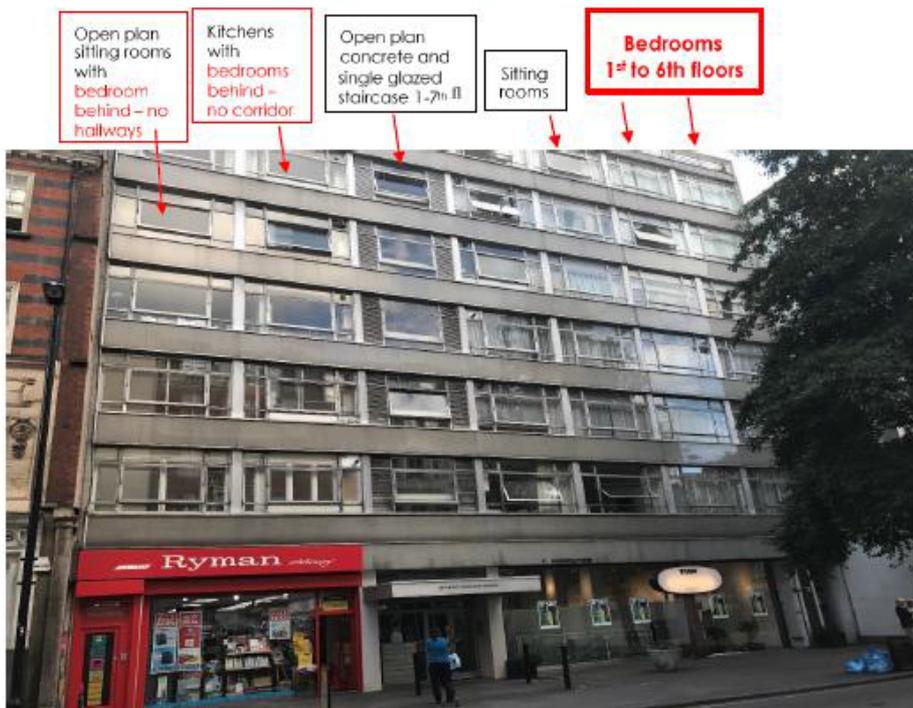
Dear Sir/Madam

**Application for variation of premises licence under s17 Licensing Act 2003, ref: 18/08281
A Food Story/LIPN**

A Food Story , 104 Great Portland Street, London W1W 6PE ('the premises')

Overview

I write to make a relevant representation concerning the above application for a new premises licence. I represent [REDACTED] which is the Management Company for 89 Great Portland Street situated almost opposite this site. I represent both the directors and leaseholders of the 18 flats above two commercial units. Here is our building: -



Front elevation 89 GPS W1W 7LX single glazed 1950's concrete construction over 7 floors showing positions of bedrooms and living spaces in flats on 1st – 6th Floors

Currently 51 people live in the building ranging from children going to school, students studying at university to a recently married couple wishing to start a family, other working professionals as well as long term retired, some unwell leaseholders.

Site of application - 104 Great Portland Street – as was

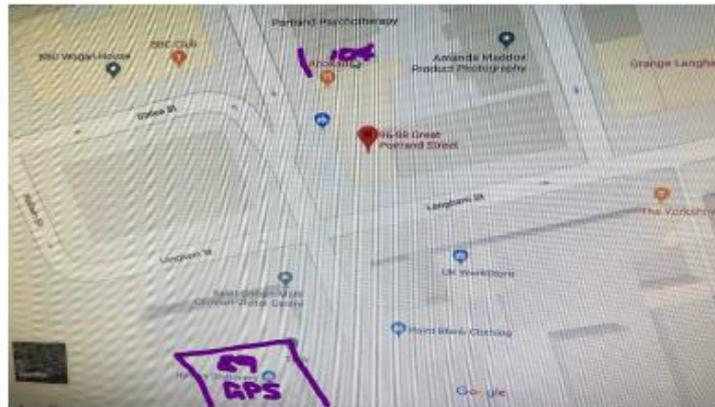


Current Site



As of Thursday 16th August with no blue notice

As you can see above the property used to be a shop. Even though it used to sell alcohol, there was no noise impact to local residents. However, a restaurant is a different proposition with customers entering and leaving, ditto staff, customers smoking on the pavement and the disturbance created by deliveries of food and drink and the putting out of rubbish and collection thereof.



As the above map is enlarged 104 GPS and 89 GPS are diagonally opposite and much closer together than indicated therefore noise and nuisance are a major concern to our residents.

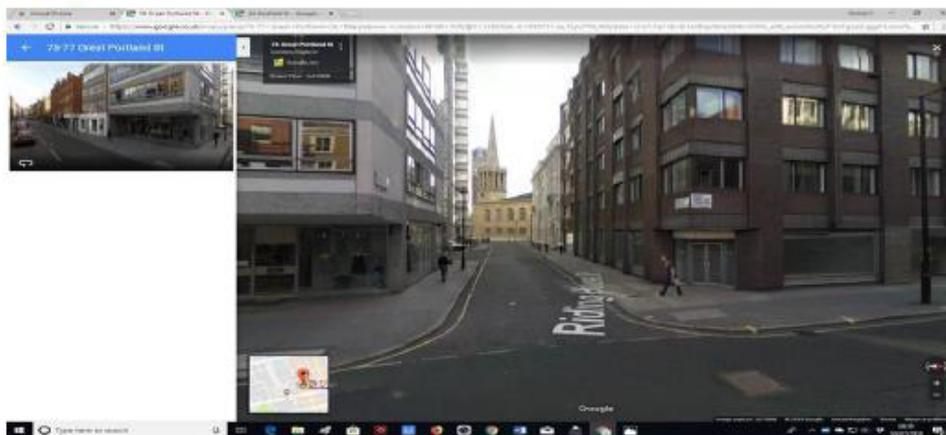
Immediate area

Let me set the scene for you.



We live in a small residential enclave surrounded by a number of institutions and businesses. We have three residential blocks of flats on our block.

We have several commercial units including St Gorbain Showroom (commercial building materials) (#95) Tank Magazine (#91-93), Ryman Stationers (#87), Urban Living Interiors (# 85) Knomo (bag/case brand) (#83), Chemist (#79).



July 2008 Historic view of Riding House Street – to south of our flats

Radio 1, 1Xtra and 6 and the BBC receiving bay sit next to the 30 Langham Street Flats to the north. There are Embassy buildings and All Souls Church on Riding House Street and private residents and All Souls buildings/residences in All Souls Place to the south. We overlook the BBC to the west. We have therefore always enjoyed quiet neighbours.



View from south end of building west



View from north end of building



View from roof looking down

All showing the quiet nature of the position of our flats to west



Showroom below 30 Langham Street flats



Langham Street to BBC Piazza Saturday July 28 18:53:53

Showing quiet nature of our block to the north

Adjoining blocks

North - Empty ex BBC offices being refurbished - entire block - GPS facia



Next block north - Wogan House - Radio 2



Adjacent to Portland Place School, offices and commercial offices and shops mainly closing early

Block to East – Opposite our flats

The new flats across the road opposite 78, 80 88-94 Great Portland Street intersperses with office space and some commercial units at ground level. Whisky Exchange is regulated by TENs.



East side of block - 17 flats are currently under construction 36-40 Langham Street (above #94 GPS) with a proposed restaurant at 94 Great Portland Street which is currently being consulted on. Social housing is above 90-92 GPS with the Whisky Exchange recently below. This premises are restricted by TENs 17/07371/LIPN

Residential housing directly parallel to 89 Great Portland Street



Middleton Place – walk through from Riding House Street to Langham Street

North East Block



Looking south down Great Portland Street from outside 104 Great Portland Street



North East Block – Rembrandt House 100 Great Portland Street (GPS) flats, Holbein

Mansions 25 Langham Street & Van Dyke Mansions 27 Langham Street – all residential

As you can see, for decades all our neighbours opposite and in the local area have been exceedingly quiet. The same goes for local businesses/operations were/are all quiet neighbours as they predominantly worked 9-5pm Monday to Friday. See table of businesses past and present below.

78-94 Great Portland Street

The block across the road for our block has been redeveloped over the last couple of years by Great Portland Estates PLC (78-92 GPS) and Central London Property Trust (94 GPS). The mix of usage has changed from offices and showrooms to residential (private and social), liquor store, nail bar, gym, clothing with café and the proposed restaurant with is completely out of character with this residential area.

| Before redevelopment | Post redevelopment |
|---|---|
| 78 ** – After Shock (clothing showroom/shop) offices upstairs | Clutch Outfitters and Café GF and flats above |
| 80** – 80a Clothing shops - Office above | Office on GF tbc and 7 flats above |
| 82** – Office Block | Now Define Gym with offices above |
| 84 – Office Block | Offices |
| 86 – Office Block | Offices |
| 88 – Creation Notre Dame Paris - showroom GF, Workrooms and offices above | Townhouse Nail Salon with social housing above |
| 90-92 Velorution (cycles showroom) offices above | Whisky Exchange (alcohol off sales- still to start trading) with social housing above |
| 94 ** Bust Stop Clothing showroom - offices above | Building works in progress. Restaurant application in progress with 17 flats above |

** Grade 11 listed

It is true the area is exceedingly busy with traffic in the morning and afternoon rush hours, particularly whilst deliveries and rubbish collections are being made which regularly clog up traffic flow. However, in the evenings everything goes quiet when the office staff and school children/students go home.

Another salient point is that our building is made of concrete and glass. Sound reverberates though our building from outside due to all the hard surfaces. How do we know? Every time there is a loud music event in the BBC Piazza sound travels round under the BBC bridge and up and down great Portland Street and as does building works on local sites opposite and adjoining our flats.

Our representation is based on: -

- A. the impact of this application being granted as currently presented on the promotion of the licensing objectives, particularly 'prevention of public nuisance'
- B. Evaluating what is 'reasonably acceptable' in a particular location
- C. This application is contrary to the Westminster City Council's Statement of Licensing Policy 2016

We therefore ask the committee to make the following conditions/restrictions: -

1. A 'restaurant only condition with the sale of alcohol as an ancillary to a table meal where customers are seated and only served by a member of staff
2. Sunday trading restricted to 'core hours' as described in the council's licencing policy.
3. No audible noise/music from outside the premises in any direction
4. No customers to take drinks outside or seating outside the premises on or near the any forecourt.
5. Numbers of smokers to be restricted avoiding nuisance and noise both on the pavement and the surrounding area
6. Provision of tidy disposal of cigarette ends to avoid littering the pavement and street
7. No rubbish to be placed outside the premises in the evening or early mornings to prevent noise and nuisance
8. Ditto no rubbish collections to be made overnight or in early mornings
9. No deliveries to be made overnight or in the early mornings Monday to Saturday
10. No deliveries to be made on Sundays

We wish to bring the following matter to the attention of the Licensing Committee

Lack of resident notification of this application

We wish to make a formal complain that we received no official notification from WCC re this application. If it had not been for Linus Rees at FNA informing us of this application, it would have slipped us by.

Also there has been no blue notice on the premises either. Having informed the licensing department on 14/8, we have still to receive a reply as of 20/8/18 at 14.06 @ 20/8/18.



As you can see the white notice on the door is hidden from view as the door to the site was propped back during works, so few people had an opportunity to see the notice. This situation was current at least till Tuesday 14th August 2018.

As the residents of 89 Great Portland Street are in such close proximity to these premises, we ask the Licensing Committee to ensure in future all local residents are informed of planning and license applications going forward. Can the existing unfit for purpose process of informing residents be reviewed and improved?

We thank you for your time in stepping into our shoes for a moment and looking at this application through our eyes.

With grateful thanks

Kind regards



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> <p><u>For premises for the supply of alcohol for consumption on the premises:</u> Monday to Thursday: 10:00 to 23:30 Friday and Saturday: 10:00 to midnight Sundays immediately prior to Bank Holidays: Midday to midnight Other Sundays: Midday to 22:30</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> <p><u>For premises for the provision of other licensable activities:</u> Monday to Thursday: 09:00 to 23.30 Friday and Saturday: 09:00 to midnight Sundays immediately prior to Bank Holidays: 09:00 to midnight Other Sundays: 09:00 to 22:30</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. |

4. Appendices

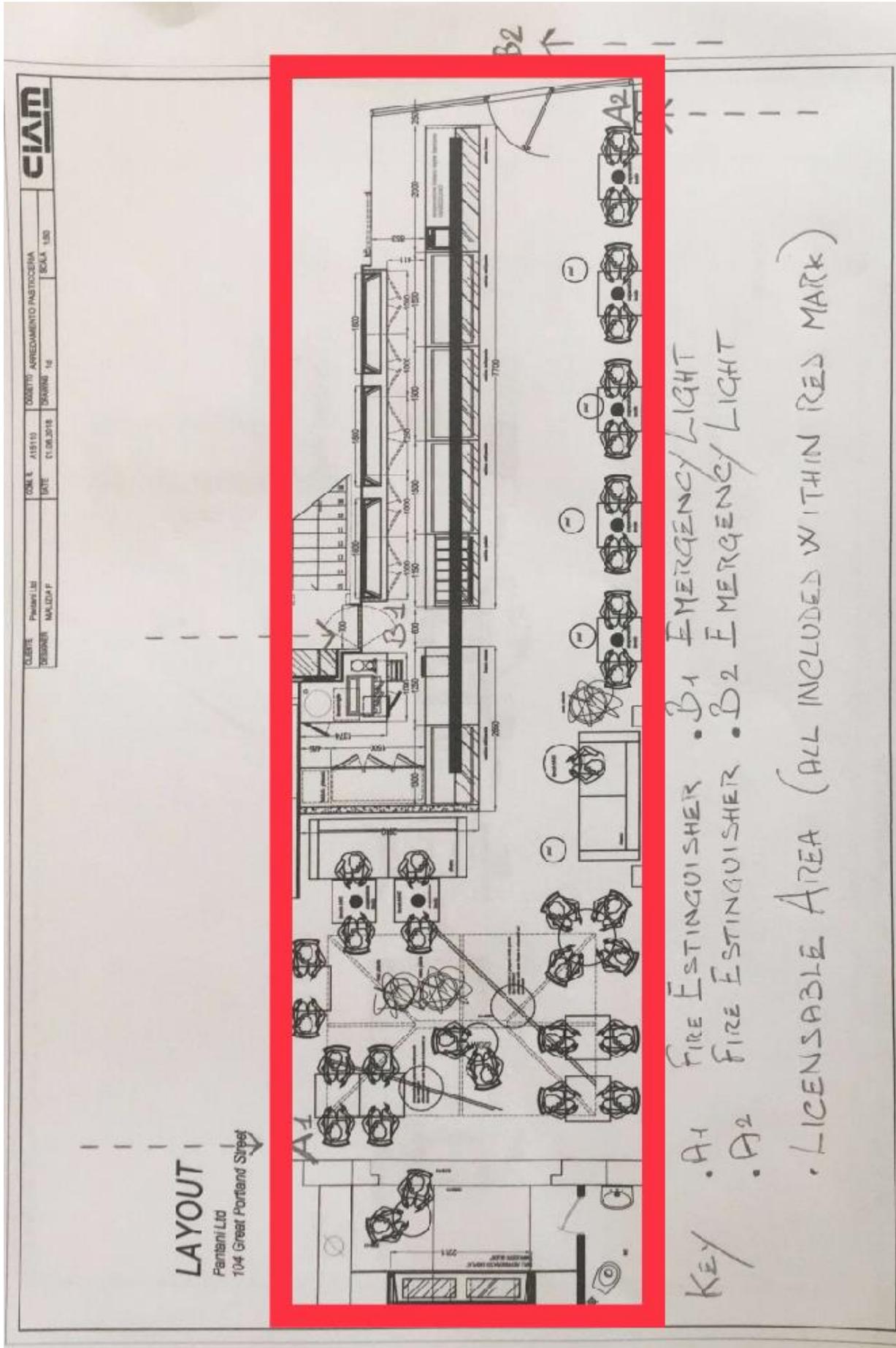
| | |
|-------------------|--|
| Appendix 1 | Premises plans |
| Appendix 2 | Applicant supporting documents |
| Appendix 3 | Premises history |
| Appendix 4 | Proposed conditions |
| Appendix 5 | Residential map and list of premises in the vicinity |

| | |
|-----------------------|---|
| Report author: | 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 2018 |
| 4 | Representation Environmental Health | 7 August 2018 |
| 5 | Representation Metropolitan Police Service | 16 August 2018 |
| 6 | Representation Interested Party | 9 August 2018 |
| 7 | Representation Interested Party | 19 August 2018 |
| 8 | Representation Interested Party | 19 August 2018 |
| 9 | Representation Interested Party | 20 August 2018 |
| 10 | Representation Interested Party | 20 August 2018 |
| 11 | Representation Interested Party | 20 August 2018 |
| 12 | Representation Interested Party | 20 August 2018 |
| 13 | Representation Interested Party | 20 August 2018 |
| 14 | Representation Interested Party | 22 August 2018 |
| 15 | Representation Interested Party | 5 September 2018 |
| 16 | Representation Interested Party | 5 September 2018 |



Applicant Supporting Documents

Appendix 2

None submitted

Licence & Appeal History

| Application | Details of Application | Date Determined | Decision |
|--------------------|--|------------------------|--|
| 05/06234/LIPCV | Converted licence | 13.09.2005 | Granted by Licensing Sub-Committee |
| 06/07767/WCCMAP | Master licence | | |
| 08/01003/LIREVP | Application to review the premises licence brought on the grounds of crime & disorder and public nuisance. It was alleged that there was exposure and sale of alcohol beyond permitted hours which resulted in a breach of licence conditions. The review application was brought by the Environmental Health Consultation Team. | 15.05.2008 | The Sub-Committee decided to suspend the Sale by Retail of Alcohol (off the premises) for a period of 2 months and upon the reinstatement of the licence, further conditions were placed on the licence. |
| 18/07411/LIPT | Application to transfer the licence from Mr Rahul Patel to Pantani Ltd. | 23.07.2018 | Granted under Delegated Authority. |

There is no appeal history

Appendix 4

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 appropriate for the promotion of the licensing objectives.

This schedule lists those conditions which are consistent with the operating schedule, or proposed as appropriate 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

Conditions: On Current Licence -

Mandatory:

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.

Other mandatory conditions currently attached to the premises licence:

- 9. Alcohol shall not be sold or supplied except during permitted hours.

In this condition, permitted hours means:

- (a) On weekdays, other than Christmas Day, 08:00 to 23:00
- (b) On Sundays, other than Christmas Day, 10:00 to 22:30
- (c) On Christmas Day, 12:00 to 15:00 and 19:00 to 22:30
- (d) On Good Friday, 08:00 to 22:30

The above restrictions do not prohibit:

- (a) during the first twenty minutes after the above hours, the taking of the alcohol from the premises unless the alcohol is supplied or taken in an open vessel;
 - (b) ordering of alcohol to be consumed off the premises, or the despatch by the vendor of the alcohol so ordered;
 - (c) sale of alcohol to a trader or club for the purposes of the trade or club;
 - (d) the sale or supply of alcohol to any canteen or mess, being a canteen in which the sale or supply of alcohol is carried out under the authority of the Secretary of State or an authorised mess of members of Her Majesty's naval, military or air forces.
- 10. Alcohol shall not be sold in an open container or be consumed in the licenced premises.

Annex 2 – Conditions consistent with the operating Schedule

None

Annex 3 – Conditions attached after a hearing by the licensing authority

- 11. A personal licence holder will be physically present on the premises at all times.

12. Persons operating the tills/points of sales are sent on courses and take and pass their BIINCPLH certificate.
13. Outside of permitted hours for the sale of alcohol all alcohol within the trading area to be covered with shutters and notices be placed on the shutters making clear to customers that the alcohol section is closed.
14. No display of any alcohol will be sited outside the shuttered area.
15. New scanners now recognise the sale of alcohol and instigate a two-tier reminder. There is also a red till prompt staff to check ID.
16. Refusal books now records when a customer has been challenged to produce ID.
17. Regular training sheet require staff to confirm their knowledge and acceptance of the rules.
18. A clear and concise policy on the responsible sale of alcohol is in force.
19. No beer, lager and cider with an ABV over 5.5% to be sold at the venue.
20. No self-service of spirits.
21. All licences are correctly displayed with full copies kept on the premises.
22. Notices are in place asking patrons to leave quietly and respect the neighbours.
23. Posters request ID for alcohol purchases.
24. The premises will install and maintain a comprehensive CCTV system that ensures all areas where alcohol is on public display and the point of sale are continually monitored. All cameras shall continually record whilst the premises are open to the public and the recordings shall be kept available for a minimum of 31 days with time and date stamping. Recordings shall be made available to an authorised officer or a police officer together with facilities for viewing. (Subject to the Data Protection Act 1998).
25. Outside of permitted hours for the sale of alcohol all alcohol within the trading area to be covered with shutters and notices be placed on the shutters making clear to customers that the alcohol section is closed.
26. No more than 15% of the sales area to be used at any one time for the sale or exposure for sale or display of alcohol.
27. Signage shall be displayed upon entering the premises, where alcohol is on public display and at the point of sale indicating the permitted hours for the sale of alcohol.

Conditions proposed by Environmental Health:

28. The supply of alcohol at the premises shall only be to a person seated taking a table meal there and for consumption by such a person as ancillary to their meal.
29. The main entrance door shall be kept closed after 21:00 hours except for the immediate access and egress of persons.
30. Clearly legible notices shall be displayed at the exit requesting patrons to respect the needs of local residents and to leave the premises and area quietly.
31. 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.
32. 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.
33. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
34. 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.
35. No collections of waste or recycling materials (including bottles) from the premises shall take place between 23.00 and 07.00 hours on the following day.
36. No deliveries to the premises shall take place between 23.00 and 08.00 hours on the following day.
37. 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.
38. During the hours of operation of the premises, the licence holder shall ensure sufficient measures are in place to remove and prevent litter or waste arising or accumulating from customers in the area immediately outside the premises, and that this area shall be swept and or washed, and litter and sweepings collected and stored in accordance with the approved refuse storage arrangements by close of business.
39. No fumes, steam or odours shall be emitted from the licensed premises so as to cause a nuisance to any persons living or carrying on business in the area where the premises are situated.
40. The number of seated persons permitted in the premises at any one time (excluding staff) shall not exceed 30 persons.
41. The means of escape provided for the premises shall be maintained unobstructed, free of trip hazards, be immediately available and clearly identified in accordance with the plans provided.

42. Before the premises open to the public, the plans as deposited will be checked by the Environmental Health Consultation Team to ensure they are an accurate reflection of the premises constructed. Where the premises layout has changed during the course of construction new plans shall be provided to the Environmental Health Consultation Team and the Licensing Authority.
43. No licensable activities shall take place at the premises until the premises 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

Conditions proposed by the Metropolitan Police Service and agreed with the applicant so as to form part of the operating schedule:

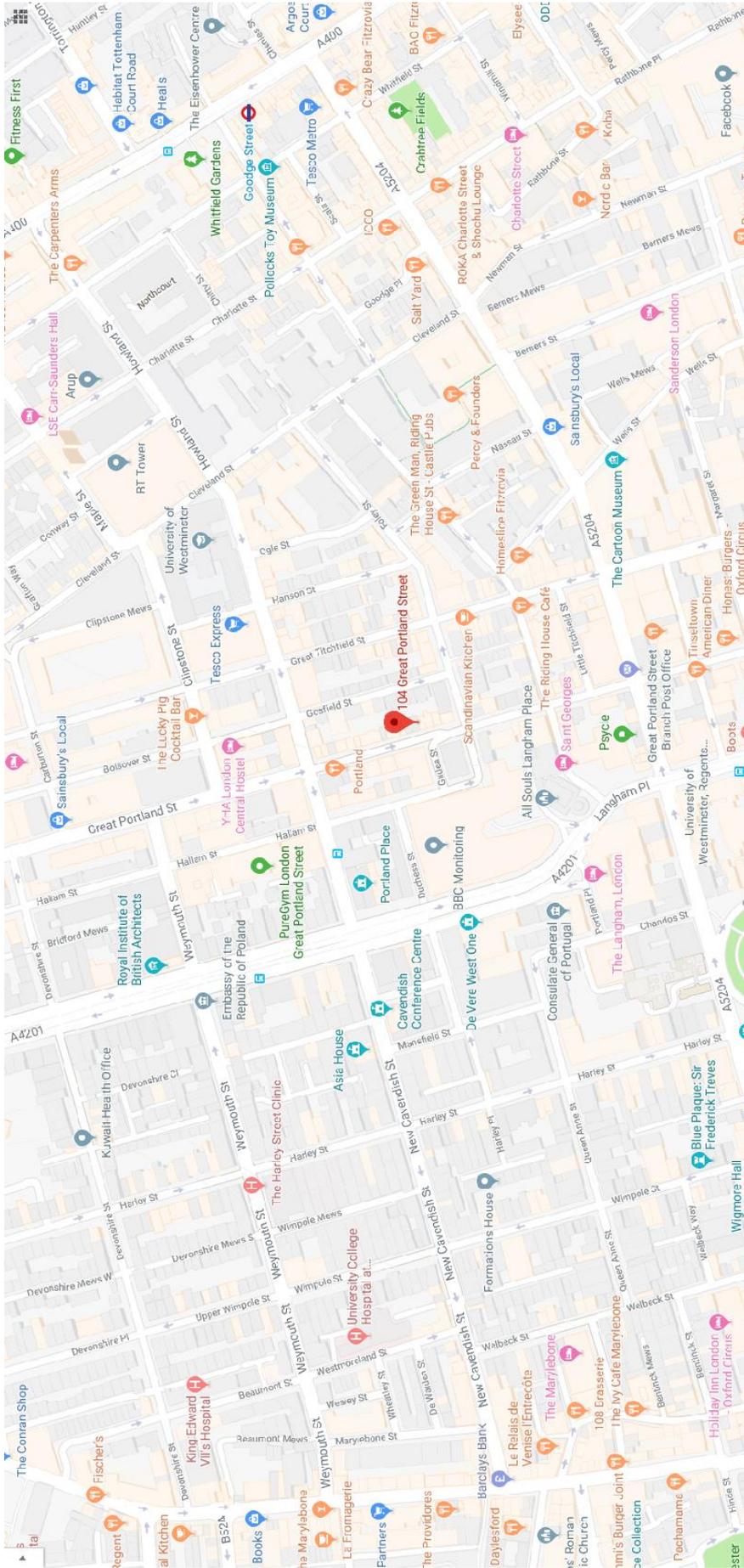
44. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually 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.
43. 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.
44. There shall be no self-service of alcohol on the premises.
45. 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) any faults in the C
 - (f) any refusal of the sale of alcohol
 - (h) any visit by a relevant authority or emergency service.
46. 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.

47. 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.

Conditions proposed by interested parties:

48. Sale of alcohol should be ancillary to a table meal, where customers are seated and only served by a member of staff.
49. No cocktail bar or bar is permitted.
50. No outdoor seating at the front of the property will be permitted.
51. Patrons permitted to temporarily leave and then re-enter the premises, eg to smoke, shall not be permitted to take drinks or glass containers with them.
52. Patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, shall be limited to 5 persons at any one time.
53. The premises licence holder shall ensure that any patrons smoking outside the premises do so in an orderly manner and are supervised by staff so as to ensure that there is no public nuisance or obstruction of the public highway.
54. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
55. No collections of waste or recycling materials (including bottles) from the premises shall take place between 20.00 and 09.00 on the following day Monday to Saturday and between 18.00 and 09:00 on the following day on Sundays.
56. No deliveries to the premises shall take place between 20.00 and 09.00 on the following day Monday to Saturday and between 18.00 and 09:00 on the following day on Sundays.
57. No noise generated on the premises, or by its associate plant or equipment, shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
58. No bay windows that open up the restaurant to the whole street.
59. All windows and external doors shall be kept closed after (19:00) hours, or at any time when regulated entertainment takes place, except for the immediate access and egress of persons
60. There shall be no private events for groups unless the premises is operating under the authority of a Temporary Event Notice.
61. When events are held in the [basement area of the] premises the maximum capacity shall not exceed 30 people, excluding staff.

Due to a technical issue with the Council’s GIS mapping system, an alternative map of the premises and locality has been provided below.



Resident count = 264 within 75m radius of premises

| <u>Licence Number</u> | <u>Trading Name</u> | <u>Address</u> | <u>Premises Type</u> | <u>Time Period</u> |
|------------------------------|----------------------------|---|-----------------------------|--|
| 18/07411/LIPT | Portland Food & Wine | Ground Floor 104 Great Portland Street London W1W 6PE | Shop | Monday to Sunday; 00:00 - 00:00 |
| 13/06222/LIPD PS | Picture Restaurant | Basement And Ground Floor 110 Great Portland Street London W1W 6PQ | Restaurant | Monday to Saturday; 10:00 - 00:30 Sunday; 12:00 - 00:00 |
| 17/14779/LIPC HT | Sushi Atelier | 114 Great Portland Street London W1W 6PH | Cafe | Monday to Thursday; 07:00 - 23:45 Friday to Saturday; 07:00 - 00:15 Sunday; 07:00 - 22:45 Sundays before Bank Holidays; 07:00 - 00:00 |
| 16/13088/LIPC H | BBC | Wogan House 99 Great Portland Street London W1W 7NY | Not Recorded | Monday to Sunday; 07:00 - 00:00 |
| 17/02261/LIPD PS | Club West One | Wogan House 99 Great Portland Street London W1W 7NY | Studio | Monday to Sunday; 00:00 - 00:00 |
| 18/03253/LIPD PS | Co-operative Food | James Boswell House 118 - 122 Great Portland Street London W1W 6PW | Food store (large) | Monday to Sunday; 06:00 - 00:00 |