

Licensing Sub-Committee Report

Item No:	
Date:	18 July 2019
Licensing Ref No:	19/06122/LIPN - New Premises Licence
Title of Report:	Duck and Dry 33 North Audley Street London W1K 6ZQ
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:	Kevin Jackaman Senior Licensing Officer
Contact details	Telephone: 020 7641 8094 Email: kjackaman@westminster.gov.uk

1. Application

1-A Applicant and premises			
Application Type:	New Premises Licence, Licensing Act 2003		
Application received date:	21 May 2019		
Applicant:	Duck And Dry (London) Limited		
Premises:	Duke and Dry		
Premises address:	33 North Audley Street London W1K 6ZQ	Ward:	West End
		Cumulative Impact Area:	None
Premises description:	According to the application the premises are a beauty salon.		
Premises licence history:	This is a new premises licence and therefore no history exists		
Applicant submissions:	Please see supporting documents		

1-B Proposed licensable activities and hours							
Sale by retail of alcohol				On or off sales or both:			On
Day:	Mon	Tues	Wed	Thur	Fri	Sat	Sun
Start:	10:00	10:00	10:00	10:00	10:00	10:00	10:00
End:	22:00	22:00	22:00	22:00	22:00	22:00	22:00
Seasonal variations/ Non-standard timings:			None				

Hours premises are open to the public							
Day:	Mon	Tues	Wed	Thur	Fri	Sat	Sun
Start:	07:00	07:00	07:00	07:00	07:00	07:00	07:00
End:	22:00	22:00	22:00	22:00	22:00	22:00	22:00
Seasonal variations/ Non-standard timings:			None				

2. Representations

2-A Responsible Authorities	
Responsible Authority:	Metropolitan Police Service
Representative:	Bryan Lewis
Received:	29 May 2019
<p>Police object to this application, as it does not promote the licensing objectives, namely the prevention of crime and disorder for the following reasons:</p> <ul style="list-style-type: none">• Insufficient conditions to provide reassurance• More information required to properly assess this application <p>Following agreement of additional conditions, the Metropolitan Police Service representation was withdrawn on 17 June 2019</p>	

2-B Other Persons	
Name:	[REDACTED]
Address and/or Residents Association:	[REDACTED] [REDACTED] [REDACTED] [REDACTED]
Received:	17 June 2019
<p>The hours requested exceed the current opening hours; currently, Monday to Friday 07.30 to 19.30. To extend these hours may encourage evening events, parties and shows which would contribute to additional nuisance through noise , music and antisocial behaviour.</p> <p>The three flats above these premises are residential .</p> <p>Seating outside the premises may encourage drinking on the pavement and antisocial / drunken behaviour .</p> <p>This seating is already in place.</p>	

Name:	[REDACTED]
Address and/or Residents Association:	[REDACTED] [REDACTED] [REDACTED]
Received:	19 June 2019

We would refer to the above application and state that we object to the granting of this licence.

██████████ the shop applying for the licence, which is a hairdresser. I am writing on my behalf and that of our neighbour on the floor above, a ██████████. She has asked that I write for us both.

We would like to object on several counts.

1] We have had considerable problems with the noise level from these premises since they opened. They insisted that they needed loud and modern music, all of which contained a deep and penetrating 'Beat'. We complained on five separate occasions to our Landlord the Grosvenor Estate. Herewith one, of many, replies from our property Manager :-

I have sent an email to the Asset Manager, Management Surveyor and Property Manager to ask them to clarify with the leaseholder that soundproofing was indeed installed and that noise levels must remain within tolerable levels. I shall follow up with them in a few days to ensure some action is taken.

I would have thought 'background music' would be loud enough, and not be heard above the shop. I hope they will comply with our request.

We understand that under the terms of their lease they were required to install soundproofing of their ceiling – between us and them - but did not do so. There is only a cement floor between us.

We also went personally several times in to the shop and asked them to turn the music down as it was driving us, our neighbour above, and a lady to the side but above the premises, nearly crazy. We had a reply from the manageress as follows :-

Hi there, I am unable to control the music.

I have been told to play the music loud as it's how we operate our business

We were then forced to contact the Westminster City Council and they told us on the phone they would take action and gave us the following case number:- CAS – 51622-M8JOL1 . Please check this record if you wish.

The point we are wishing to make is that they have acted irresponsibly for a long time in relation to their close neighbours, in spite of numerous requests to act as good neighbours. They have now removed the "deep beat"

speakers which were penetrating the walls, as well as the ceiling, perhaps because if they were forced by the Landlord to install soundproofing at our requests, at the Grosvenor requests, and your City Council requests it is a cheaper option. We feel that should a licence be granted, with their patrons enjoying a glass or more of alcohol and requesting music as well, then they may be tempted to return to their original habits.

As per your guidelines they state :-

a) restrict the generation of noise within the premises

b) limit the escape of noise from the premises and

c) restrict noise emissions to below levels that could affect people in the vicinity at work and when at home and both while relaxing and while sleeping. Their proposed cut-off time of 22.00 hrs would break this guideline.

2] I have spoken to around a dozen of my friends to see if any of the hairdressers they use have a drinks licence on their premises to be able to offer them alcoholic drinks. Not one has ever been in a hairdressing salon where they have a drinks licence. It seems an inappropriate, unnecessary, and false premise to change a hairdresser to a drinks bar.

3] Should none of these points not restrict the issue of the licence then we would also object to the times they wish to operate under the licence. Although there are no visible opening times posted, the shop has been closing around 7pm to 7.30 pm. This evening for example at 6.30pm. Living above the premises we are frequently coming and going to our home, and it has rarely been open beyond these times. We cannot understand why a licence would be required for a 12-hour period of 10am to 10pm.

We trust that the above information will be sufficient for you not to grant their application for a New Premises Licence Application under the Licensing Act 2003.

Please contact us on any point which may not be clear or for further proof of the relevant correspondence on this matter.

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 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>
----------------------------	---

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

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:	Kevin Jackaman Senior Licensing Officer
Contact:	Telephone: 020 7641 1872 Email: kjackaman@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 January 2016
3	Amended Guidance issued under section 182 of the Licensing Act 2003	April 2018
4.	Metropolitasn Police Service Representation (withdrawn 17 June 2019)	29 May 2019*
4	Interested Party Representation (1)	17 June 2019
5	Interested Party Representation (2)	19 June 2019



Duck & Dry (London) Limited
33 Audley Street, London W1K 6ZQ (the "Premises")
Application for a new Premises Licence

Statement of Case

This statement is made in support of an application for a new Premises Licence with the intention of outlining the applicant's case and seeking to address the concerns of two local residents. If concerns remain, amplification of the points raised below, together with further submissions, will be made orally at the licensing sub-committee hearing.

Background

The applicant, Duck & Dry (London) Limited (the "Applicant"), operates five upmarket hairdressing salons which specialise in blow dries and updos. As part of the experience, at the other four sites, customer may purchase an alcoholic drink to consume before or during their treatment. A selection of site pictures is at **appendix 1** and a proposed drinks menu is at **appendix 2**. The Applicant would like to offer the same service at the Premises.

Location

The Premises is located in Mayfair in a commercial area just off Oxford Street. It is flanked by licensed premises and was, for many years, a restaurant of some description.

The Layout

The layout of the Premises is a simple one. On entering the Premises there is a waiting area with a high bar with four high stools along it. The intention is that patrons can have a drink sat at the bar either before or after a treatment. After the bar there is a reception with styling stations and sinks behind it. Finally, at the back of the Premises is a WC and a staff room.

The Representations

The Applicant is pleased to have received no representations from any of the statutory authorities. However, two representations have been received from local residents. The concerns they raise, together with the applicant's responses are as follows:

- The terminal hour for licensable activities.

The terminal hour applied for is 10.00 p.m. Whilst the other locations in the group close at 7.30 p.m., the reasoning for applying for later hours was to 'future proof' the premises licence if there was demand in the future to open later and to ensure that any one-off later openings are covered by the premises licence. However, to reassure the two local residents, the applicant is **prepared to reduce to terminal hour for the sale of alcohol and closing to 8.30 p.m.**

- Noise from outside seating.

Whilst there is a small bench immediately outside the Premises, this is only so patrons and members of staff can sit and get some fresh air if they so wish. No consumption of alcoholic drinks will be permitted outside and, to this effect, the applicant has agreed a condition with the Metropolitan Police, namely:

"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."

- Sounds Levels

It is correct that, following a complaint, all speakers were redirected, a subwoofer speaker was relocated, the settings of speakers reconfigured to remove any bass, separate controls installed for the front and back of the Premises to be able to minimise music in the space that is directly below the residential parts. Even the play list has been adapted so there are smoother and quieter songs. In any event, representatives of Grosvenor Estate and Westminster City Council have visited the Premises and confirmed that, in their opinion, the music is only being played at background levels.

Two of the existing sites have been open over five years with residents living above with no complaints having been received.

- Hairdressers/beauty salons having Premises Licences

Whilst the grant, or lack thereof, of premises licences to other hairdressers is not strictly relevant, the consumption of alcoholic drinks at other upmarket beauty salons is commonplace. Some have premises licence, some do not. However, arguably, any supply of alcohol at a beauty salon should require a premises licence because the cost of alcohol is being reflected in the price of the treatments. The sale and supply of alcohol at the premises (as is the case at the sister units) is only expected to be a very small percentage of turnover. It is simply designed to add to the experience, rather than being the reason to visit the Premises.

Westminster Licensing Policy

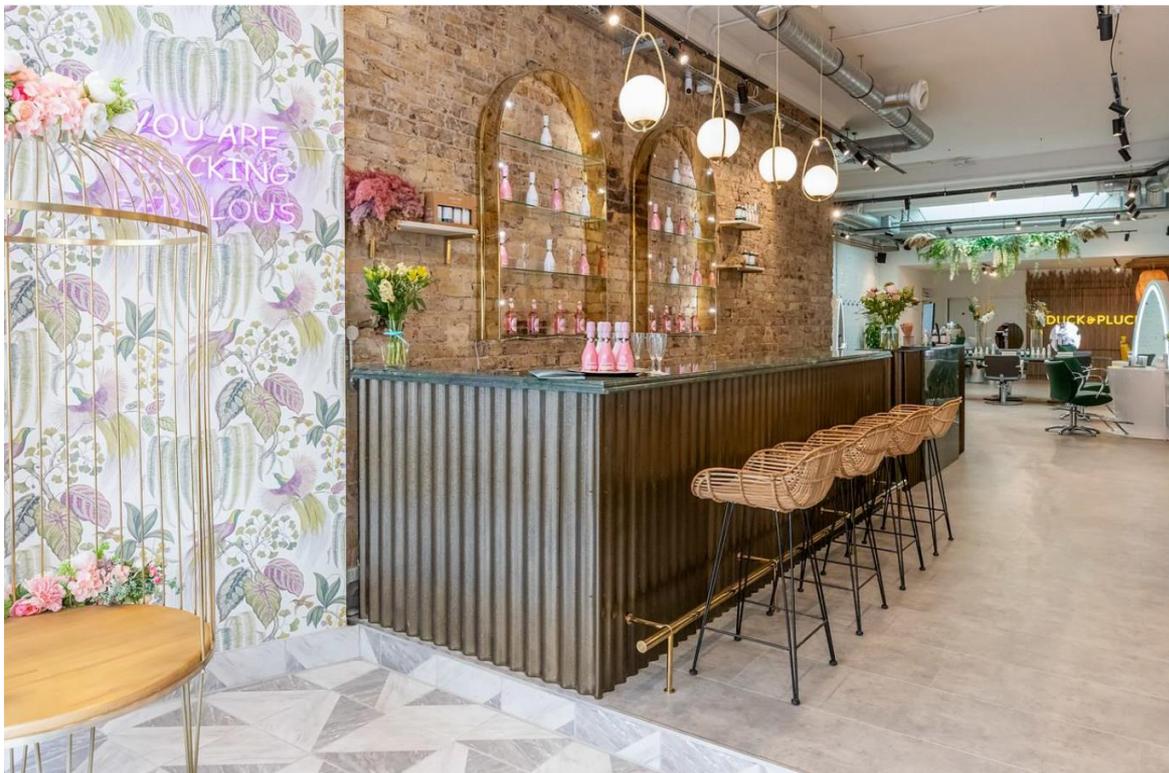
There are no particular policy concerns in respect of this application. The Premises is well outside the West End Cumulative Impact Zone and within core hours. Model conditions have been proposed and adapted by Environmental Health and the Metropolitan Police. A condition has also been proofed to ensure that licensable activities have to be ancillary to the operation of a beauty salon.

Conclusion

This has been a carefully thought out application. Conditions have been proffered to ensure that the premises cannot be transferred to a restaurant or bar operator without a full variation being required and the primary concern of the two residents (being audible music) has been addressed. Given the above, the Licensing Sub-Committee is respectfully asked to grant the application as sought.

Niall McCann
JOELSON JD LLP

ANNEX 1





ANNEX 2

**PROSECCO
BAR**
£5 / 30

**PROSECCO BY THE
GLASS**

**BOTTLE OF
PROSECCO**

**COFFEE
BAR**
COMPLIMENTARY

ESPRESSO

MILKY COFFEE

TEA

Premises History

Appendix 3

There is no licence or appeal history for the premises.

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

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

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

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

Mandatory Conditions

1. No supply of alcohol may be made at a time when there is no designated premises supervisor in respect of this licence.
2. No supply of alcohol may be made at a time when the designated premises supervisor does not hold a personal licence or the personal licence is suspended.
3. Every supply of alcohol under this licence must be made or authorised by a person who holds a personal licence.
4.
 - (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
 - (2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises—
 - (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to;
 - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
 - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
 - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or

less in a manner which carries a significant risk of undermining a licensing objective;

- (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
 - (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).
5. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
6. (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
- (2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
- (3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either—
- (a) a holographic mark, or
 - (b) an ultraviolet feature.
7. The responsible person must ensure that—
- (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—
 - (i) beer or cider: ½ pint;
 - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
 - (iii) still wine in a glass: 125 ml;
 - (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
 - (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

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

- 8(i) A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.
- 8(ii) For the purposes of the condition set out in paragraph 8(i) above -
- (a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;
- (b) "permitted price" is the price found by applying the formula -
- $$P = D + (D \times V)$$
- Where -
- (i) P is the permitted price,
- (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
- (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
- (c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence -
- (i) the holder of the premises licence,
- (ii) the designated premises supervisor (if any) in respect of such a licence, or
- (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;
- (d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
- (e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.
- 8(iii). Where the permitted price given by Paragraph 8(ii)(b) above would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.
- 8(iv). (1) Sub-paragraph 8(iv)(2) below applies where the permitted price given by Paragraph 8(ii)(b) above on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.
- (2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

Conditions consistent with the operating schedule

9. The licensing activities authorised by this licence and provided at the premises shall be ancillary to the main function of the premises as a beauty salon.

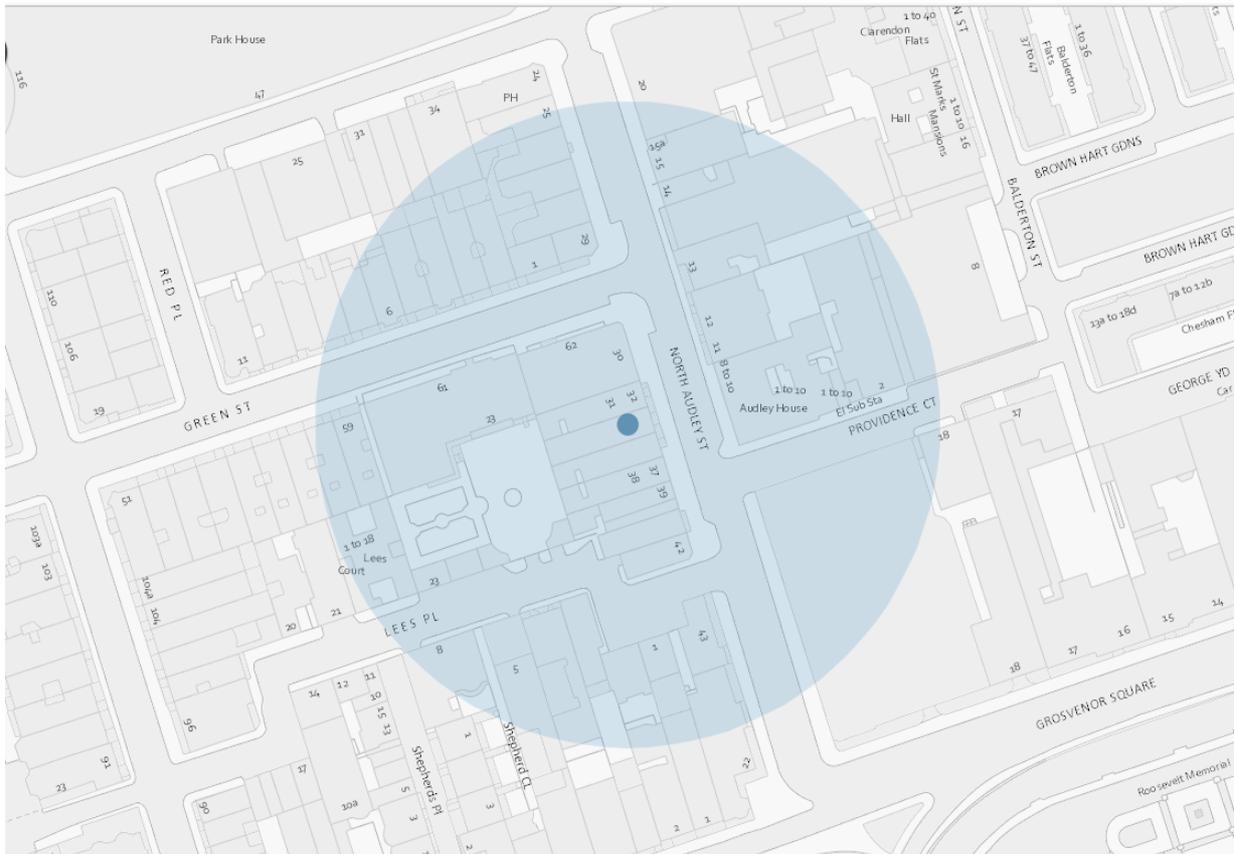
10. During the hours of operation of the premises, the licence holder shall ensure sufficient measures are in place to remove and prevent litter or waste arising or accumulating from customers in the area immediately outside the premises, and that this area shall be swept and or washed, and litter and sweepings collected and stored in accordance with the approved refuse storage arrangements by close of business.
11. No noise generated on the premises, or by its associated plant or equipment, shall emanate from the premises nor vibration be transmitted through the structure of the premises which, gives rise to a nuisance.
12. Notices shall be prominently displayed at any area used for smoking requesting patrons to respect the needs of local residents and use the area quietly.
13. All emergency exit doors shall be available at all material times without the use of a key, code, card or similar means.
14. All emergency doors shall be maintained effectively self closing and not held open other than by an approved device.
15. A direct telephone number for the manager at the premises shall be publicly available at all times the premises is open. This telephone number is to be made available to residents and businesses in the vicinity.
16. 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.
17. 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.
18. No deliveries to the premises shall take place between 23:00 and 08:00 on the following day.
19. No collections of waste or recycling materials (including bottles) from the premises shall take place between 23:00 and 08:00 on the following day.
20. 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.

21. 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.

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

22. 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 CCTV system, searching equipment or scanning equipment
 - (g) any refusal of the sale of alcohol
 - (h) any visit by a relevant authority or emergency service
23. 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.



Resident Count: 113

Licensed premises within 75 metres of 33 North Audley Street

09/00662/LIPDPS	La Genova Restaurant	32 North Audley Street London W1K 6ZG	Restaurant	Monday to Saturday; 10:00 - 00:30 Sunday; 12:00 - 00:00
18/05410/LIPDPS	Roka Mayfair	30 North Audley Street London W1K 6ZF	Restaurant	Monday to Sunday; 07:30 - 01:30
18/04306/LIPV	North Audley Canteen	41 North Audley Street London W1K 6ZP	Wine bar	Monday to Thursday; 10:00 - 00:00 Friday to Saturday; 10:00 - 00:30 Sunday; 10:00 - 23:30 Sundays before Bank Holidays; 10:00 - 00:30
17/06324/LIPDPS	Truc Vert	Ground Floor 42 North Audley Street London W1K 6ZR	Restaurant	Monday to Saturday; 10:00 - 23:30 Sunday; 12:30 - 23:00

18/12392/LIPDPS	Mayfair Garden	8-10 North Audley Street London W1K 6ZD	Restaurant	Monday to Saturday; 10:00 - 01:30 Sunday; 12:00 - 01:00
19/03992/LIPN	Not Recorded	St Mark's Church North Audley Street London W1K 6DP	Not Recorded	Monday; 08:00 - 23:00 Tuesday; 08:00 - 23:00 Wednesday; 08:00 - 23:00 Thursday; 08:00 - 23:00 Friday; 08:00 - 00:00 Saturday; 08:00 - 00:00 Sunday; 08:00 - 22:30
17/10428/LIPT	The Mayfair Chippy	Ground Floor 14 North Audley Street London W1K 6WE	Restaurant	Monday to Saturday; 10:00 - 00:30 Sunday; 12:00 - 00:00
19/06075/LIPDPS	Prezzo	15 North Audley Street London W1K 6WZ	Restaurant	Monday to Saturday; 12:00 - 00:00 Sunday; 12:00 - 23:30
06/05695/WCCMAP	Moscós Café	Ground Floor 26 North Audley Street London W1K 6WT	Shop	Monday to Saturday; 10:00 - 23:30 Sunday; 12:00 - 23:00
19/00497/LIPCH	Le Pain Quotidien	16 North Audley Street London W1K 6WL	Cafe	Monday to Saturday; 07:00 - 00:00 Sunday; 09:00 - 22:00
13/09124/LIPVM	Mayfair Food Fayre	Basement and Ground Floor 25 North Audley Street London W1K 6WS	Shop	Monday to Saturday; 08:00 - 23:00 Sunday; 10:00 - 22:30