



City of Westminster

Licensing Sub-Committee Report

Item No:	
Date:	9 February 2023
Licensing Ref No:	22/11368/LIPN - New Premises Licence
Title of Report:	Five Guys 59-63 Queensway London W2 4QH
Report of:	Director of Public Protection and Licensing
Wards involved:	Lancaster Gate
Policy context:	City of Westminster Statement of Licensing Policy
Financial summary:	None
Report Author:	Roxsana Haq Senior Licensing Officer
Contact details	Telephone: 020 7641 6500 Email: rhaq@westminster.gov.uk

1.	Application		
1-A	Applicant and premises		
Application Type:	New Premises Licence, Licensing Act 2003		
Application received date:	22 November 2022		
Applicant:	FIVE GUYS JV LIMITED		
Premises:	Five Guys		
Premises address:	59-63 Queensway London W2 4QH	Ward:	Lancaster Gate
		Cumulative Impact Area:	None
		Special Consideration Zone:	Queensway/Bayswater Special Consideration Zone
Premises description:	According to the application form these premises intend to operate as a Five Guys burger restaurant with ancillary facilities.		
Premises licence history:	This application is for a new premises licence, and therefore no premises licence history exists.		
Applicant submissions:	There have been no submissions from the applicant		
Applicant amendments:	<p>The application has been amended so that Recorded Music is now removed from the application. There will be no deliveries after 11pm Monday to Saturday and 22:30 on Sunday. Non-standard timings for New Year's Eve have been removed</p> <p>The hours for Films (Indoors), Late Night Refreshment (Indoor and Outdoor), Supply of Alcohol (On and Off Premises) and Opening Hours have also been amended to core hours as seen below in section 1-B.</p>		

1-B	Proposed licensable activities and hours						
Late Night Refreshment:				Indoors, outdoors or both			Both
Day:	Mon	Tues	Wed	Thur	Fri	Sat	Sun
Start:	23:00	23:00	23:00	23:00	23:00	23:00	N/A
End:	23:30	23:30	23:30	23:30	00:00	00:00	N/A
Seasonal variations/ Non-standard timings:			N/A				

Sale by retail of alcohol				On or off sales or both:			Both
Day:	Mon	Tues	Wed	Thur	Fri	Sat	Sun
Start:	11:00	11:00	11:00	11:00	11:00	11:00	12:00
End:	23:30	23:30	23:30	23:30	00:00	00:00	22:30
Seasonal variations/ Non-standard timings:			N/A				

Films				Indoors, outdoors or both:			Indoors
Day:	Mon	Tues	Wed	Thur	Fri	Sat	Sun
Start:	11:00	11:00	11:00	11:00	11:00	11:00	12:00
End:	23:30	23:30	23:30	23:30	00:00	00:00	22:30
Seasonal variations/ Non-standard timings:		N/A					

Hours premises are open to the public							
Day:	Mon	Tues	Wed	Thur	Fri	Sat	Sun
Start:	11:00	11:00	11:00	11:00	11:00	11:00	12:00
End:	23:30	23:30	23:30	23:30	00:00	00:00	22:30
Seasonal variations/ Non-standard timings:		N/A					
Adult Entertainment:		None					

2.	Representations
2-A	Responsible Authorities
Responsible Authority:	Environmental Health Service
Representative:	Maxwell Koduah
Received:	5 December 2022
<p>FIVE GUYS, 59-63 Queensway, London, W2 4QH</p> <p>I refer to the application for a new Premises Licence number for the above-mentioned premises. I have considered the information that you have provided within and accompanying this application. I have also considered the application in line with the relevant policies within the Councils Statement of Licensing Policy dated October 2021.</p> <p>Applicant is seeking the following licensable activities:</p> <p>1. Exhibition of films indoors at the following times Sunday to Thursday 11:00 – 00:00 hours Friday – Saturday 11:00 – 01:00 hours New eve to New Year 11:00 – 02:00 hours</p> <p>2. Playing of recorded music indoors at the following times Sunday to Thursday 11:00 – 00:00 hours Friday – Saturday 11:00 – 01:00 hours New eve to New Year 11:00 – 02:00 hours</p> <p>3. Provision of late-night refreshment indoors & outdoor at the following times Sunday to Thursday 23:00 – 00:00 hours Friday – Saturday 23:00 – 01:00 hours New eve to New Year 23:00 – 02:00 hours</p> <p>4. Supply of alcohol for consumption on & off the premises at the following times Sunday to Thursday 11:00 – 00:00 hours</p>	

Friday – Saturday 11:00 – 01:00 hours

New eve to New Year 11:00 – 02:00 hours

Following consideration of the application 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 representations:

1. The hours applied to exhibit films may have the likely effect of causing an increase in Public Nuisance within the area
2. The hours requested to play recorded music may have the likely effect of causing an increase in Public Nuisance within the area
3. The provision of late night refreshment and the hours requested may have the likely effect of causing an increase in Public Nuisance and may affect Public Safety within the area
4. The supply of alcohol and the hours requested to supply alcohol may have the likely effect of causing an increase in Public Nuisance and may affect Public Safety within the area

As presented, the application would have the likely effect of causing an increase in Public Nuisance and may affect Public Safety within the Edgware Cumulative Impact area

Conditions, to form part of the operating schedule, have been proposed to support the licensing objectives of Prevention of Public Nuisance and Public Safety. These conditions shall be discussed during a site visit to the premises.

Proposed Environmental Health conditions to form part of the operating schedule

1. A noise limiter must be fitted to the musical amplification system and maintained in accordance with the following criteria:
 - (a) the limiter must be set at a level determined by and to the satisfaction of an authorised Environmental Health Officer, so as to ensure that no noise nuisance is caused to local residents or businesses,
 - (b) The operational panel of the noise limiter shall then be secured by key or password to the satisfaction of the authorised Environmental Health Officer and access shall only be by persons authorised by the Premises Licence holder,
 - (c) The limiter shall not be altered without prior written agreement from the Environmental Health Consultation Team,
 - (d) No alteration or modification to any existing sound system(s) should be affected without prior knowledge of the Environmental Health Consultation Team, and
 - (e) No additional sound generating equipment shall be used on the premises without being routed through the sound limiter device.
2. 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
3. All windows and external doors shall be kept closed after **21:00** hours, or at any time when regulated entertainment takes place, except for the immediate access and egress of persons
4. All sales of alcohol for consumption off the premises shall be in sealed containers only
5. Sales of alcohol for consumption off the premises shall only be supplied with, and ancillary to food that is available to take-away for immediate consumption and/or delivery

6. 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
7. A direct telephone number for the manager at the premises shall be publicly available at all times the premises is open. This telephone number and/or is to be made available to residents and businesses in the vicinity
8. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times
9. The supply of alcohol at the premises shall only be to a person seated taking a burger meal there and for consumption by such a person as ancillary to their meal
10. The supply of alcohol shall be by waiter or waitress service only
11. 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
12. 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
13. Delivery drivers/riders shall wait inside the premises between deliveries/ for deliveries
14. Delivery drivers/riders shall be given clear written instructions to use their vehicles in a responsible manner so as not to cause a nuisance to any residents or generally outside of the licenced premises
15. Patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke or make a phone call, shall not be permitted to take glass containers with them
16. No deliveries to the premises shall take place between **23.00** and **08.00** hours on the following day
17. The approved arrangements at the premises, including means of escape provisions, emergency warning equipment, the electrical installation and mechanical equipment, shall at all material times be maintained in good condition and full working order
18. 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
19. All emergency exit doors shall be available at all material times without the use of a key, code, card or similar means
20. All emergency doors shall be maintained effectively self-closing and not held open other than by an approved device
21. No licensable activities shall take place at the premises until the premises has been assessed as satisfactory by the Environmental Health Consultation Team at which time this condition shall be removed from the Licence by the licensing authority
22. 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

23. No licensable activities shall take at the premises until the capacity of the premises has been determined by the Environmental Health Consultation Team and the licensing authority has replaced this condition on the licence with a condition detailing the capacity so determined.

Please contact me if you are minded discussing any of the matters above.

Maxwell Owusu Koduah
Environmental Health Officer

2-B	Other Persons		
Name:	[REDACTED]		
Address and/or Residents Association:	[REDACTED] [REDACTED] [REDACTED] [REDACTED]		
Status:	Valid	In support or opposed:	Opposed
Received:	08 Dec 2022		

Dear Sirs,

I am writing on behalf of [REDACTED] to make a relevant representation objecting to this licence application.

Introduction

[REDACTED] was formed in 1970 and works to protect the special character of our area. A non-profit, non party-political, voluntary organisation, we represent more than 1,000 people. [REDACTED] is consulted by Westminster Council on both major developments and all Council activities which affect the daily lives of residents.

As a recognised amenity society we often engage in consultations with licence applicants both before and during the application process and note with some disappointment that we have not been contacted by the applicant in this case.

Background

The premises is located within the Queensway Special Consideration Zone (SCZ). This area is highlighted within the City Council's Statement of Licensing Policy 2021 (the Policy). The City Council created this policy 'to alert future licensing applicants to the importance of taking such significant local issues fully into account in their operating schedules, by particularising the steps that they are proposing to take to promote the licensing objectives in light of those issues in addition to all other matters'. The policy 'aims to prevent areas that have a high concentration of licensed premises and significant levels of incidents from reverting to or becoming a Cumulative Impact Zone.'

The Policy informs applicants that they 'should demonstrate that they have taken account of the issues particular to the Zone, in question as identified within the 2020 Cumulative Impact Assessment, and should set out any proposed mitigation measures in relation to those issues within their operating schedule.'

Queensway is an area which is under pressure from problems caused by a large number of licensed premises and, in particular, 'quick service restaurants' (QSRs) or fast-food eat in and takeaways. These issues increase with i) the lateness of the terminal hours; ii) amount of alcohol consumed; and iii) the proportion of takeaway/delivery of hot food. This causes issues including noise, anti-social behaviour, litter, nuisance from delivery drivers etc.

██████████ and the authorities are very alive to these issues. For instance, the KFC fast-food premises immediately opposite this premises, at No 54 Queensway, has been refused permission to extend its operations – see the attached planning appeal decision. A Premises licence application to extend the operating hours was withdrawn earlier this year.

The impact of these issues is felt so severely due to the extent of residential accommodation in the vicinity.

Above the premises is Princess Court, a large block of flats (111), and flats at Queens House (10) and Queens Court (154) either side.

The application

We are aware that the site has a previous/existing premises licence, permitting sale of alcohol and late night refreshment to 'core hours', operating as a sit-down traditional restaurant. In contrast, Five Guys is a very popular burger restaurant with low dwell time and high turnover. Therefore, quite apart from the differences between the application and the previous/existing licence, the difference in the style of operation is marked and is more likely to impact on the licensing objectives.

We are extremely surprised by the lack of information in the application, particularly for an application of this scope and to these hours, in an SCZ and beneath and adjacent to residential buildings. This does not encourage us that the applicant has done their 'due diligence' prior to submitting the application. If in the alternative they have done 'due diligence' it is highly concerning that they feel it acceptable to propose the few conditions that are included in the application, and to apply for the hours requested. This is a significant deficiency in the application and, whilst we do not contend that the application is not lawful, we do draw the Licensing Authority's attention to the expectations set out in the Policy, which have not been followed either sufficiently or at all, e.g. (our emphasis):

'Applicants should include as much detail as possible in their **operating schedule** to enable responsible authorities and other parties to understand the operation of the venue. The information provided within the operating schedule should consider the policy requirements contained within this statement. The applicant should demonstrate how the applicant and the operation of the premises will promote the licensing objectives. Residents, businesses and Responsible Authorities will have regard to the information contained within the operating schedule and therefore it is important to provide as much information upon application as possible.' (p6).

'the importance of taking such significant local issues fully into account in their operating schedules, by particularising the steps that they are proposing to take to promote the licensing objectives in light of those issues in addition to all other matters' (D37).

The application seeks:

Films, recorded music, late night refreshment indoors and outdoors, and sale of alcohol for consumption on and off the premises –from 11am to midnight Sun-Thurs, 11am to 1am Fri-Sat. The opening times would be the same. They have applied for 2am New Year's Eve.

The proposed conditions are scant - the only proposals are CCTV, training for staff, and challenge 25.

By way of comparison, the previous/existing licence was for on sales only, with an earlier terminal hour, and conditions securing no takeaway after 11pm.

██████████ position

██████████ strongly objects to the hours proposed in the application. No justification has been provided for why the Licensing Authority should grant these hours. The nature of the operation would mean that customers would be attracted to the premises from other licensed premises late at night, particularly when pubs close, and it would become a 'honeypot', increasing the risk of crime, noise, and anti-social behaviour.

Whilst we would like to see a significant reduction in hours of opening if the application was to be granted at all, we would also not want to see takeaway of hot food and drink after 11pm and

Name:		[REDACTED]	
Address and/or Residents Association:		[REDACTED] [REDACTED] [REDACTED]	
Status:	Valid	In support or opposed:	Opposed
Received:	14 Dec 2022		

I am writing on behalf of [REDACTED] to support the objection made by the [REDACTED]. The proposed hours of operation until 1am on Friday and Saturday as well as midnight on all other days are outside of the core hours specified by WCC and will undoubtedly create a nuisance for local residents. We therefore request that the council refuses this application.

Name:		[REDACTED]	
Address and/or Residents Association		[REDACTED] [REDACTED] [REDACTED] [REDACTED]	
Status:	Valid	In support of opposed:	Opposed
Received:	18 December 2022		

As the [REDACTED] and local resident, I fully support [REDACTED]'s objections.
Thanks

Name:		[REDACTED]	
Address and/or Residents Association		[REDACTED] [REDACTED] [REDACTED]	
Status:	Valid	In support or opposed:	Opposed
Received:	02 December 2022		

I am very concerned at the impact of the provision of late-night refreshments and alcohol at this site. I want object to the above application on grounds of noise, litter etc nuisance and potential crime and disorder.

The premises, which is directly beneath a large residential block, Princess Court with other large residential blocks in immediate vicinity, will operate as a 'fast food' takeaway business that also sells alcohol until 1am in the morning. The hours proposed for takeaway and alcohol sales are against policy and Queensway is situated in a special dedicated area to protect the wellbeing of residents in the area.

To grant permission for this site to serve alcohol and food until 1am will be to the direct detriment of residents in the area and will create a hotspot for crime and disorder in an area already suffering with ASB.

The hours of operation should be reduced to align with the hours of operation of other takeaway establishments on the street (i.e. 11pm latest).

Name:		[REDACTED]	
Address and/or Residents Association		[REDACTED] [REDACTED] [REDACTED]	
Status:	Valid	In support or opposed:	Opposed
Received:	10 December 2022		
<p>[REDACTED] has had the opportunity to review [REDACTED] response to this application & we concur wholeheartedly with the points raised therein. In particular we would draw the committee's attention to their note ie. residential properties above premises along with two very large blocks of flats opposite (Princess Court, Queens Court & Queens House) and the premises are in the Queensway / Bayswater WCC designated Area as identified within the 2020 Cumulative Impact Assessment, and should set out any proposed mitigation measures in relation to those issues within their operating schedule. We trust therefore that ALL will be properly considered accordingly.</p>			

3.	Policy & Guidance
The following policies within the City of Westminster Statement of Licensing Policy apply:	
Fast Food Premises Policy FFP1 applies	<p>A. Applications outside the West End Cumulative Zones will generally be granted subject to:</p> <ol style="list-style-type: none"> 1. The application meeting the requirements of policies CD1, PS1, PN1 and CH1. 2. The hours for licensable activities are within the council's Core Hours Policy HRS1. 3. The operation of any delivery services for alcohol and/or late night refreshment meeting the council's Ancillary Delivery of Alcohol and/or Late-Night Refreshment Policy DEL1. 4. The applicant has taken account of the Special Consideration Zones Policy SCZ1 if the premises are located within a designated zone. 5. The application and operation of the venue meet the definition of a fast food premises in Clause D. <p>B. It is the Licensing Authority's policy to refuse applications within the West End Cumulative Impact Zone other than:</p> <ol style="list-style-type: none"> 1. Applications to vary the existing licence hours within the council's Core Hours Policy HRS1, and/or, 2. Applications that seek to vary the existing licence so as to reduce the overall capacity of the premises. <p>C. The applications referred to in Clause B1 and B2 will generally be granted subject to:</p> <ol style="list-style-type: none"> 1. The application meeting the requirements of policies CD1, PS1, PN1 and CH1. 2. The operation of any delivery services for alcohol and/or latenight refreshment meeting the council's Ancillary Delivery of Alcohol and/or Late-Night Refreshment Policy DEL1. 3. The application and operation of the venue continuing to meet the definition of a Fast Food Premises in Clause D. <p>D. For the purposes of this policy a Fast Food Premises is defined as:</p> <ol style="list-style-type: none"> 1. A premises that provides late night refreshment, either by way of fast food over a counter, via a self-seating basis or take away for immediate consumption. 2. Food and drink are: <ol style="list-style-type: none"> a. Available on the premises for self-selection. b. Prepared on the premises. c. Cooked or produced off the premises but brought to that premises in advance of its sale to customers. 3. The food and drink are provided in pre-sealed or open disposable packaging which is intended for immediate consumption. 4. A fast-food premises can provide a delivery service as part of its operation, however that service must be ancillary to the main function of the premises as defined within sub-clauses D,1 to D,3 above.

<p>Special Consideration Zones Policy SCZ1 applies</p>	<p>A. In addition to meeting the other policies within this statement, applications within a designated Special Consideration Zone should demonstrate that they have taken account of the issues particular to the Zone, in question as identified within the 2020 Cumulative Impact Assessment, and should set out any proposed mitigation measures in relation to those issues within their operating schedule.</p> <p>B. For the purpose of Clause A, the designated Special Consideration Zones are:</p> <ul style="list-style-type: none"> • West End Buffer. • Queensway/Bayswater. • Edgware Road. • East Covent Garden. • Mayfair. • Victoria. <p>Queensway/Bayswater Special Consideration Zone</p> <p>D49. The Queensway/Bayswater area is 0.13km² in size, accounting for 0.5% of the borough's footprint. The local issues that need to be considered by applicants are:</p> <ul style="list-style-type: none"> • Elevated levels of noise nuisance at night. • Illegal waste. • Incidents relating to ambulance call outs at night to the locations of licensed premises for intoxication, injury related to intoxication and/or assault. • Serious violent crimes. • Robberies at night. <p>D50. The incidents recorded between 2017 and 2019 for this area were nearly three times the borough's average rate of incidents per square kilometre.</p>
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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, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.

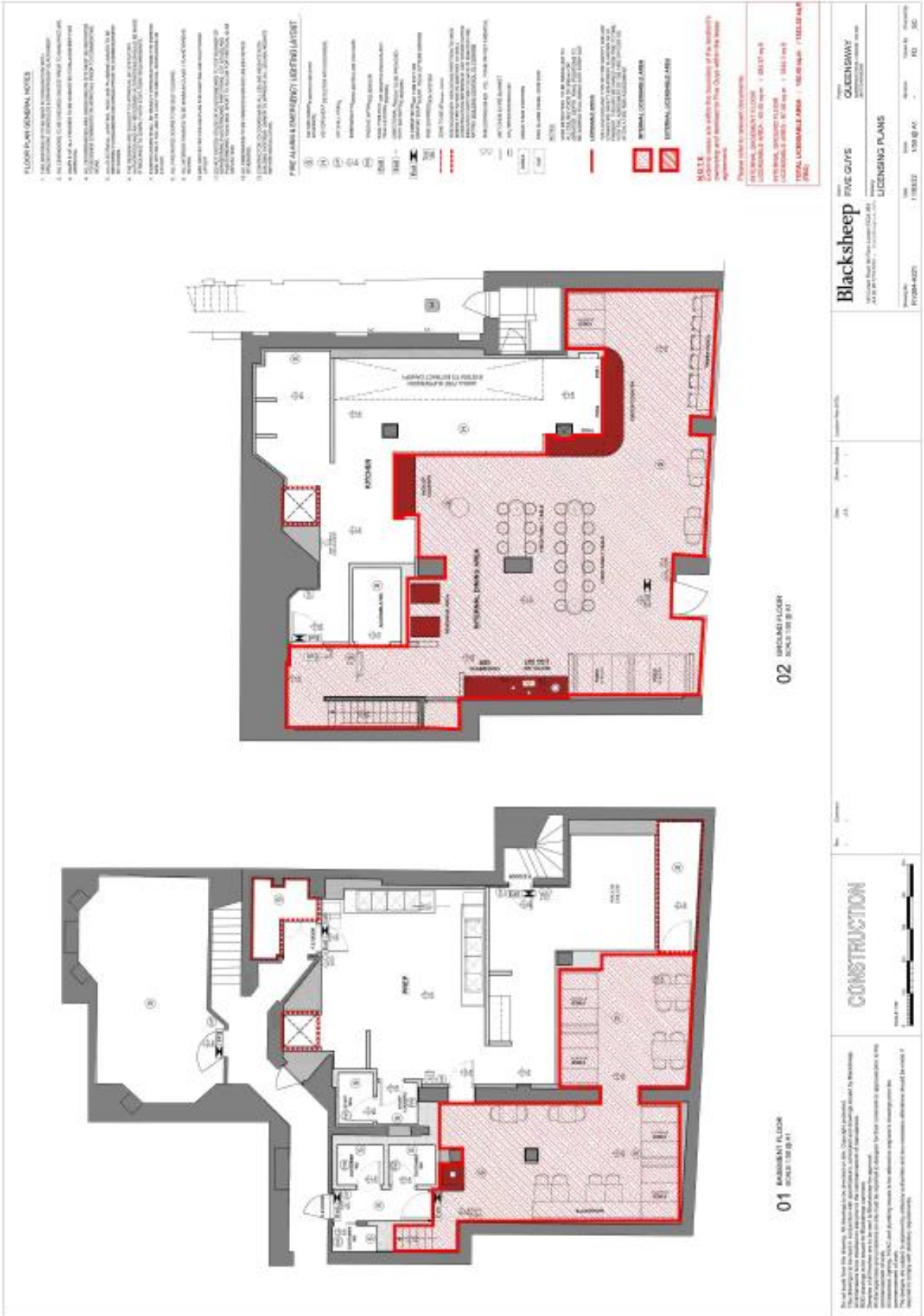
5.	Appendices
Appendix 1	Premises plans
Appendix 2	Applicant supporting documents
Appendix 3	Premises history
Appendix 4	Proposed conditions
Appendix 5	Residential map and list of premises in the vicinity

Report author:	Roxsana Haq Senior Licensing Officer
Contact:	Telephone: 020 7641 6500 Email: rhaq@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	01 October 2021
3	Amended Guidance issued under section 182 of the Licensing Act 2003	April 2018
4	Environmental Health Service	05 December 2022
5	Interested party 1	08 December 2022
6	Interested party 2	14 December 2022
7	Interested party 3	18 December 2022
8	Interested party 4	02 December 2022
9	Interested party 5	10 December 2022



Applicant Supporting Documents

Appendix 2

Mediation correspondence between applicant and interested parties:

From: [REDACTED]
Sent: 20 January 2023 09:14
To: [REDACTED] Licensing: WCC
<Licensing@westminster.gov.uk>
Cc: [REDACTED]
[REDACTED]
Subject: RE: Re: Five Guys, Queensway - New Premises Licence Application Public Representations 22/11368/LIPN PCX:000006000000082

Hi [REDACTED]

My clients have considered their position and are amending their application as below. This is within Core Hours I believe and includes all but one of the conditions agreed with EH (even when the hours applied for were longer).

I hope the below will satisfy all those who have made representations and I would be most grateful if you could forward it to them at the earliest opportunity in the hope that all parties will withdraw and we can avoid a hearing.

Many thanks

[REDACTED]

Proposed amended hours, activities and conditions

The application to be amended to Films (Indoors), Late Night Refreshment (Indoor and Outdoor), Supply of Alcohol (On and Off Premises) and Opening Hours:

Monday to Thursday: 11am to 11.30pm.

Friday and Saturday: 11am to Midnight.

Sunday: Midday to 10.30pm.

Sundays immediately prior to a bank holiday: Midday to Midnight

Recorded Music removed from the application.

No deliveries after 11pm Mon-Sat and 2230 Sunday and we would withdraw the request for NYE hours.

Conditions agreed with the EHO (I have removed the one that related to delivery drivers waiting inside after 2300 as this is no longer relevant):

1. 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
2. All sales of alcohol for consumption off the premises shall be in sealed containers only, except for in a designated outside seating area.
3. Sales of alcohol for consumption off the premises shall only be supplied with, and ancillary to food that is available to take-away for immediate consumption and/or delivery

4. A direct telephone number for the manager at the premises shall be publicly available at all times the premises is open. This telephone number and/or is to be made available to residents and businesses in the vicinity
5. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times
6. The supply of alcohol at the premises shall be for consumption by such a person as ancillary to their meal
7. 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
8. 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
9. Delivery drivers/riders shall be given clear written instructions to use their vehicles in a responsible manner so as not to cause a nuisance to any residents or generally outside of the licenced premises
10. No deliveries to the premises shall take place between 23.00 and 08.00 hours on the following day
11. The approved arrangements at the premises, including means of escape provisions, emergency warning equipment, the electrical installation and mechanical equipment, shall at all material times be maintained in good condition and full working order
12. 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
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. No licensable activities shall take place at the premises until the premises has been assessed as satisfactory by the Environmental Health Consultation Team at which time this condition shall be removed from the Licence by the licensing authority
16. 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
17. No licensable activities shall take at the premises until the capacity of the premises has been determined by the Environmental Health Consultation Team and the licensing authority has replaced this condition on the licence with a condition detailing the capacity so determined.

From: [REDACTED] <licensing@westminstercab.org.uk>

Sent: 31 January 2023 16:09

To: [REDACTED]

Cc: [REDACTED]

Subject: FW: 22/11368/LIPN - Five Guys, 59-63 Queensway

Dear [REDACTED]

I have taken instructions on the current position following my call with [REDACTED] yesterday.

I can confirm:

1. [REDACTED] will maintain their position in respect of their proposed condition '*There shall be no sales of hot food or hot drink for consumption off the premises after 23.00 hours*'

[REDACTED] believes that this condition is appropriate and proportionate given the location in a Special Consideration Zone. It is consistent with Model Condition 56. It is also consistent with what has been agreed by [REDACTED] in negotiations with premises in recent times (and indeed the existing licence for this premises), and is consistent with the relevant policy provisions in FFP1.

2. [REDACTED] is prepared to amend its suggested condition re: timings for collections of waste, and suggests a condition which instead refers to the times for WCC collections of waste as may from time to time be in force.
3. [REDACTED] hopes that the remaining conditions proposed in my email below are uncontroversial.
4. Finally, my email below flagged up that [REDACTED] may, on behalf of residents, request an earlier time for deliveries to the premises (currently with a proposed finish time 23.00) due to problems currently experienced with another local premises. Having deliberated, [REDACTED] proposes an amendment to the condition to read:

'No deliveries to the premises shall take place between 20.00 and 08.00 hours on the following day'

[REDACTED] – can you please include the mediation correspondence in the LSC Report so that the Committee is aware of the current position.

Kind regards,

[REDACTED]

Licensing Advice Project
[Citizens Advice Westminster](#)

We are registered with the Information Commissioner's Office under Z6357995 and will process your personal data in accordance with the General Data Protection Regulation and Data Protection Act 2018. Please refer to our online [Privacy Policy](#) for more information on how your personal data will be processed and stored.

 Please consider the environment before printing this email

From: [REDACTED]
Sent: 18 January 2023 15:39
To: [REDACTED]
Cc: [REDACTED]
Subject: 22/11368/LIPN - Five Guys, 59-63 Queensway

Dear [REDACTED]

Thank you for forwarding mediation correspondence from the applicant's solicitor.

[REDACTED] A has passed on the mediation correspondence to me and asked me to respond on their behalf, and I do so below. Could you possibly confirm whether EH are maintaining their representation, and also whether the police have agreed any conditions and maintaining their representation?

Firstly, may we reiterate that [REDACTED] welcomes the applicant to the area; confirms they are very happy to work in partnership; and that they are likewise happy to meet as suggested in the penultimate paragraph of [REDACTED] email.

Secondly, it is noted that the mediation is expressed to be 'without prejudice'. Presumably this does not apply to the conditions agreed with Environmental Health.

In any event, although [REDACTED] acknowledges that some progress has been made, the proposed hours for licensable activities remain too late. The premises is located in a very busy part of a Special Consideration Zone, to which no account appears to have been paid in the application as submitted, albeit there appears to be some belated recognition in the conditions now proposed. It is also located beneath a large block of flats, Princess Court.

With the conditions now proposed and a some additions (see below), [REDACTED] would accept 'core hours' for 'on' sales of alcohol and late night refreshment on the premises. This is consistent with the previous licence for the premises and in fact in some respects is more generous (e.g. the previous licence did not permit off sales at all).

The additional conditions [REDACTED] seeks are:

- *All windows and external doors shall be kept closed after 21:00 hours, or at any time when regulated entertainment takes place, except for the immediate access and egress of persons.*
- *There shall be no sales of alcohol for consumption off the premises after 23.00 hours*
- *There shall be no sales of hot food or hot drink for consumption off the premises after 23.00 hours*
- *No collections of waste or recycling materials (including bottles) from the premises shall take place between 23.00 and 08.00 hours on the following day.*
- *Patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke or make a phone call, shall not be permitted to take drinks or glass containers with them.*

- *All tables and chairs shall be removed from the outside area by 23.00 hours each day*

██████████ would also like to flag up that residents may wish for an earlier time for deliveries to the premises (currently with a proposed finish time 23.00) due to problems currently experienced with another local premises.

██████████ will therefore be maintaining their representation at this stage.

Kind regards,

██████████

████████████████████
Licensing Advice Project
[Citizens Advice Westminster](#)

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. A CCTV system with recording equipment shall be installed, operated and maintained at the premises (unforeseen faults excepted). Images will be retained for a minimum of 28 days and supplied to a police officer upon reasonable request subject to the Data Protection Act 1998.
10. Members of staff authorised to sell alcohol shall receive training on the law with regard to alcohol sales (including the prohibition of sale of alcohol to those who are under age and those who are drunk).
11. The premises will operate a "Challenge 25" proof of age scheme whereby any person attempting to buy alcohol who appears to be under 25 will be asked for photographic ID to prove their age. Acceptable identification for the purposes of age verification will include a driving licence, passport or photographic identification bearing the "PASS" logo and date of birth. If the person seeking alcohol is unable to produce acceptable means of identification, no sale or supply of alcohol will be made to that person.
12. Challenge 25 signage shall be displayed within the premises.

Conditions proposed by an Interested Party [REDACTED]

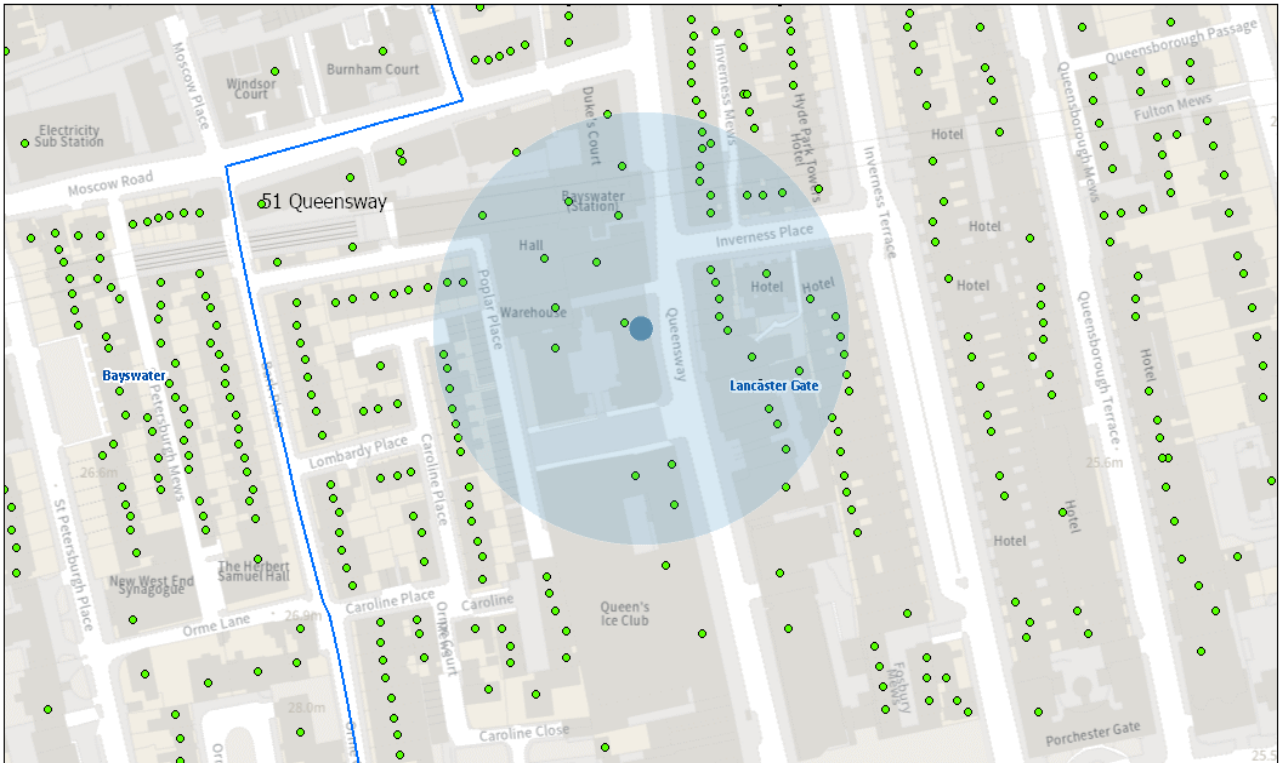
13. There shall be no sales of alcohol for consumption off the premises after 23.00 hours.
14. There shall be no sales of hot food or hot drink for consumption off the premises after 23.00 hours.
15. No collections of waste or recycling materials (including bottles) from the premises shall take place between 23.00 and 08.00 hours on the following day.
16. All tables and chairs shall be removed from the outside area by 23.00 hours each day.

Conditions proposed by the Environmental Health Service and agreed by the applicant

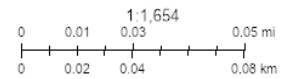
17. No noise generated on the premises, or by its associated plant or equipment, shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
18. All sales of alcohol for consumption off the premises shall be in sealed containers only, except for in a designated outside seating area.
19. Sales of alcohol for consumption off the premises shall only be supplied with, and ancillary to food that is available to take-away for immediate consumption and/or delivery.
20. A direct telephone number for the manager at the premises shall be publicly available at all times the premises is open. This telephone number and/or is to be made available to residents and businesses in the vicinity.
21. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
22. The supply of alcohol at the premises shall be for consumption by such a person as ancillary to their meal.

23. 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.
24. 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.
25. Delivery drivers/riders shall be given clear written instructions to use their vehicles in a responsible manner so as not to cause a nuisance to any residents or generally outside of the licenced premises.
26. No deliveries to the premises shall take place between 23.00 and 08.00 hours on the following day.
27. The approved arrangements at the premises, including means of escape provisions, emergency warning equipment, the electrical installation and mechanical equipment, shall at all material times be maintained in good condition and full working order.
28. 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.
29. All emergency exit doors shall be available at all material times without the use of a key, code, card or similar means.
30. All emergency doors shall be maintained effectively self-closing and not held open other than by an approved device.
31. 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.
32. No licensable activities shall take place at the premises until the premises has been assessed as satisfactory by the Environmental Health Consultation Team at which time this condition shall be removed from the Licence by the licensing authority.
33. No licensable activities shall take at the premises until the capacity of the premises has been determined by the Environmental Health Consultation Team and the licensing authority has replaced this condition on the licence with a condition detailing the capacity so determined.

59-63 Queensway London W2 4QH



26/01/2023, 14:00:49



- Property Mailing List
- Ward Labels
- Borough Boundary - Mask
- Borough Boundary - Detailed
- Ward Boundaries

Resident Count: 248

Licensed premises within 75 meters of 59-63 Queensway, London W2 4QH				
Licence Number	Trading Name	Address	Premises Type	Time Period
21/05954/LIPCH	Bella Italia	55-57 Queensway London W2 4QH	Restaurant	Sunday; 12:00 - 00:00 Monday to Saturday; 10:00 - 00:30
16/02012/LIPDPS	Taste Of India	51 Queensway London W2 4QH	Restaurant	Sunday; 12:00 - 22:30 Monday to Saturday; 12:00 - 23:30

16/05337/LIPT	Kam Tong Chinese Restaurant	59-63 Queensway London W2 4QH	Restaurant	Sunday; 12:00 - 22:30 Monday to Thursday; 10:00 - 23:30 Friday to Saturday; 10:00 - 00:00 Sundays before Bank Holidays; 12:00 - 00:00
19/05374/LIPDPS	Sainsburys	Queens House 73-77 Queensway London W2 4RA	Shop (large)	Monday to Sunday; 00:00 - 00:00
17/02109/LIPDPS	Maharaja	50 Queensway London W2 3RY	Restaurant	Monday to Sunday; 12:00 - 00:30
19/14229/LIPT	Manoush Restaurant	48 Queensway London W2 3RY	Restaurant	Sunday; 12:00 - 22:30 Monday to Thursday; 10:00 - 23:30 Friday to Saturday; 10:00 - 00:00 Sundays before Bank Holidays; 12:00 - 00:00
22/11982/LIPCHT	Grosvenor Casino Bayswater	79-81 Queensway London W2 4QH	Casino or gambling club	Monday to Sunday; 00:00 - 00:00
20/00632/LIPN	Not Recorded	40 Queensway London W2 3RS	Cafe	Monday to Sunday; 09:00 - 21:00
22/12079/LIPDPS	Tesco Express (03466)	62-64 Queensway London W2 3RL	Shop	Sunday; 10:00 - 22:30 Monday to Saturday; 08:00 - 23:00
21/13617/LIPVM	Pizza Pilgrims	38 Queensway London W2 3RS	Restaurant	Monday; 10:00 - 23:30 Tuesday; 10:00 - 23:30 Wednesday; 10:00 - 23:30 Thursday; 10:00 - 23:30 Friday; 10:00 - 00:00 Saturday; 10:00 - 00:00 Sunday; 12:00 - 22:30

22/04843/LIPDPS	Berjaya Eden Park Hotel	35-39 Inverness Terrace London W2 3JS	Hotel, 3 star or under	Sunday; 12:00 - 00:00 Monday to Saturday; 10:00 - 00:30
06/10311/WCCMAP	Taza Take Away	35A Queensway London W2 4QJ	Shop	Monday to Sunday; 10:00 - 00:00
20/04031/LIPD	Kalinka	35 Queensway London W2 4QJ	Shop	Sunday; 12:00 - 18:30 Monday to Saturday; 11:00 - 20:00
15/03800/LIPT	Queensway Food & Wine	37 Queensway London W2 4QJ	Food store	Sunday; 10:00 - 22:30 Monday to Saturday; 08:00 - 23:00
17/06728/LIPN	Queensway Food Wine	31-31A Queensway London W2 4QJ	Shop	Sunday; 08:00 - 00:00 Monday to Saturday; 07:00 - 00:00
10/04568/LIPN	Curry Place	36 Queensway London W2 3RX	Restaurant	Sunday; 12:00 - 22:30 Monday to Thursday; 11:00 - 23:30 Friday to Saturday; 11:00 - 00:00
21/07962/LIPDPS	Rosa's	36 Queensway London W2 3RX	Not Recorded	Sunday; 12:00 - 22:30 Monday to Thursday; 10:00 - 23:30 Friday to Saturday; 10:00 - 00:00
21/04609/LIPT	Chamuyo Steakhouse	66 Inverness Mews London W2 3JQ	Restaurant	Sunday; 12:00 - 00:00 Monday to Saturday; 10:00 - 00:30
22/09135/LIPT	La Brasserie	Basement And Ground Floor 68 Queensway London W2 3RL	Restaurant	Sunday; 07:00 - 23:00 Monday to Saturday; 07:00 - 23:30