

Item No:

Date:

Licensing Ref No:

Title of Report:

Report of:

Wards involved:

Policy context:

Financial summary:

Report Author:

Contact details

Licensing Sub-Committee Report

13 July 2023

23/01516/LIPN - New Premises Licence

Wok And Fire 33 Haymarket London

Director of Public Protection and Licensing

St James's

City of Westminster Statement of Licensing Policy

None

Roxsana Haq Senior Licensing Officer

Telephone: 020 7641 6500 Email: rhaq@westminster.gov.uk

1.	Application	Application			
1-A	Applicant and premis	es			
Application Type:		New Premises Licence, Lice	nsing Act 2003		
Applic	ation received date:	13 March 2023			
Applic	ant:	WF Piccadilly Ltd			
Premis	ses:	Wok And Fire			
Premis	ses address:	33 Haymarket London	Ward:	St James's	
			Cumulative Impact Area:	West End	
			Special Consideration Zone:	None	
Premis	ses description:	The premises operates as a noodle restaurant and takeaway.			
Premises licence history:		This is a new premises application and therefore no Premises Licence history exists. However, the premises has had the benefit of some Temporary Event Notices, a history of which can be found at Appendix 3 .		has had the	
Applicant submissions:		According to the application refreshment on the premises premises after 23:00. Theref be for takeaway customer or Saturdays from 9pm there w on duty. The applicant has provided a Independent Licensing Cons Appendix 2.	and no delivery o ore, the late-night nly. Furthermore, c ill be one licensed a report by	f food from the refreshment will n Fridays and door supervisor	
Applicant amendments:		None.			

1-B	Proposed licensable activities and hours.						
Late Nig	ght Refreshme	nt:		Indoors, o	utdoors or	both	Indoors
Day:	Mon	Tues	Wed	Thur	Fri	Sat	Sun
-							
Start:	23:00	23:00	23:00	23:00	23:00	23:00	23:00
End:	01:00	01:00	01:00	01:00	01:00	01:00	01:00
	al variations/ N d timings:	Non-	None.				

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:	01:30	01:30	01:30	01:30	01:30	01:30	01:30
Seasonal variations/ Non- standard timings:			None.				
Adult Entertainment:			None.				

2.	Representations			
2-A	Responsible Authorities			
Responsib	le Authority:	Licensing Authority		
Representative:		Karyn Abbott		
Received:		5 April 2023		
Dear Sirs				

I write in relation to the application submitted for a new premises licence for 33 Haymarket, London.

As a responsible authority under section 13 (4) of the Licensing Act 2003 as amended under the Police and Social Responsibility Act 2011, the Licensing Authority have considered your application in full. The Licensing Authority has concerns in relation to this application and how the premises would promote the four Licensing Objectives:

- Public Nuisance
- Prevention of Crime & Disorder
- Public Safety
- Protection of children from harm

The application seeks the following:

Late Night Refreshment

Monday to Sunday 23:00 to 01:00

Opening Hours to Public

Monday to Sunday 11:00 to 01:30

The premises is located within the West End Cumulative Impact Area and as such various policy points must be considered, namely CIP1, HSR1 and FFP1.

At present, the operating hours applied for Late Night refreshment currently fall outside of Westminster's core hours under Policy HRS1. The Licensing Authority encourage that the applicant reduces the hours to be within Westminster's Core hours.

6. Pubs and bars, Fast Food and Music and Dance venues

Monday to Thursday: 10am to 11.30pm. Friday and Saturday: 10am to Midnight. Sunday: Midday to 10.30pm. Sundays immediately prior to a bank holiday: Midday to Midnight.

The Licensing Authority note that the applicant has proposed that the operation of the premises is a noodle restaurant and takeaway where the late night refreshment is on a takeaway basis only. Due to the nature of the premises this application falls within Westminster's FFP1 (b, c, d) Policy that states.

B. It is the Licensing Authority's policy to refuse applications within the West End Cumulative Impact Zone other than:

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.

C. The applications referred to in Clause B1 and B2 will generally be granted subject to:
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

3. The application and operation of the venue continuing to meet the definition of a Fast Food Premises in Clause D.

D. For the purposes of this policy a Fast Food Premises is defined as:

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:
 - 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.

The Licensing Authority has concerns regarding this premises and encourages the applicant to provide further submissions on how this will be operated and controlled to have no adverse impact on the cumulative impact area.

Paragraph F56 states; Fast food premises which are open after 11pm can attract large groups of customers, many of whom have been consuming alcohol in pubs, bars, or night clubs sometimes some distance away. The

congregation of people around these premises leads to additional noise and disturbance and further congestion in the area. Although premises which serve cold food and drink are not subject to licensing and may stay open all night, they are not so attractive to people who have been drinking as those providing hot food and drink. The council considers that the addition of hot fast food and hot drink adds to the attractiveness of premises to people who have been drinking and who are more likely to be involved in anti-social behaviour.

Paragraph F59 goes on to say. Applications within the West End Cumulative Impact Zone, where there is a presumption to refuse under this policy will be expected to demonstrate why their application should be permitted as an exception to this policy.

The Licensing Authority may call on the council's city inspectors as a witness as the premises has been found on two occasions to be trading without a licence. An email to the licence holder from Ms Stefania Rumble, City Inspector has been attached as appendix A. She has highlighted that on two occasions the premises was open beyond 23:00 and was selling late night refreshment.

The Licensing Authority encourages the applicant to provide further submissions as to how the premises will not add to cumulative impact in the West End cumulative impact area, in accordance with policy CIP1.

Therefore, it is a decision for the Licensing Sub-Committee to determine whether the applicant has demonstrated any exceptional circumstances that would allow to depart from policy.

Please accept this as a formal representation.

Responsible Authority:	Environmental Health Service
Representative:	Sally Fabbricatore
Received:	14 April 2023

Wok and Fire, 33 Haymarket, London, SW1Y

I refer to the application for a new Premises Licence for the above premises. The premises is situated in the West End Cumulative Impact Zone.

This representation is based on the Operating Schedule and the submitted plans, for the ground floor (drawing number 003) and the basement (004) both dated March 2022.

The applicant is seeking the following on the **ground floor**, to allow Late Night Refreshment both 'indoors' Monday to Sunday 23:00-01:00 hours.

I wish to make the following representation in relation to the above application, the provision of and proposed hours for Late Night Refreshment may cause an increase in Public Nuisance in the cumulative impact zone and may impact on Public Safety.

Further information has been provided, which is being considered, but further conditions may be proposed by Environmental Health in order to protect the Licensing Objectives.

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

Should you wish to discuss the matter further please do not hesitate to contact me.

Responsible Authority:	Metropolitan Police Service
Representative:	PC Tom Stewart
Received:	11 April 2023

23/01516/LIPN – Wok and Fire, 33 Haymarket, London

Dear Westminster Licensing Service,

I am writing on behalf of the Chief Officer of Police for the Metropolitan Police Service ("The Police") to make representations opposing the grant of a new premises licence application for Wok and Fire, 33 Haymarket, London.

The Application

 The application seeks the following licensable activities and opening hours: Late Night Refreshment Monday to Sunday 23:00 to 01:00 Opening Hours to Public Monday to Sunday 11:00 to 01:30

The Police representation

2. The Police believe that if this application where to be granted, it would likely undermine the Licensing Objective "The prevention of crime and disorder" and lead to an increase in cumulative impact within the West End Cumulative Impact Zone ("CIZ").

Statement of Licensing Policy

3. This premises falls within the Fast Food Premises Policy "(FFP1"). The premises is located within the West End CIZ and the proposed licensable hours exceed those of the Core Hours Policy for Pubs and bars, Fast Food and Music and Dance venues which are as follows:

Monday to Thursday: 10am to 11.30pm. Friday and Saturday: 10am to Midnight. Sunday: Midday to 10.30pm. Sundays immediately prior to a bank holiday: Midday to Midnight.

4. As such it is Licensing Authority's policy to refuse this application. This policy is intended to be strict and will only be overridden in genuinely exceptional circumstances.

5. Paragraph F56 of Westminster's Statement of Licensing Policy ("SLP") states: "Fast food premises which are open after 11pm can attract large groups of customers, many of whom have been consuming alcohol in pubs, bars, or night clubs sometimes some distance away. The congregation of people around these premises leads to additional noise and disturbance and further congestion in the area... The council considers that the addition of hot fast food and hot drink adds to the attractiveness of premises to people who have been drinking and who are more likely to be involved in anti-social behaviour".

6. Fast food premises can lead to the retention of people, and in particular, intoxicated people within the West End area. These people are more likely to be involved in crime, either as a suspect or victim. The SLP at paragraph F58 states "These issues are of particular concern within the West End Cumulative Impact Zone where there are high concentrations of fast food premises in addition to other licensed premises. On this basis and because the attraction and retention of people by the premises mitigates against their rapid dispersal from the cumulative impact areas, the Licensing Authority considers that the grant of variations or new licences for fast food premises in the Cumulative Impact Areas should be limited to exceptional circumstances".

7. Paragraph F59 states "Applications within the West End Cumulative Impact Zone, where there is a presumption to refuse under this policy will be expected to demonstrate why their application should be permitted as an exception to this policy". The Police note that the applicant has offered a condition to ensure that a SIA registered security/door supervisor shall be on duty at the premises form 9pm. Whilst this may help to address any issues related directly with the premises, it is unlikely to mitigate the effect that the premises will have on cumulative impact within the West End CIZ. The Police submit that the applicant has not demonstrated why their application should be considered an exception to policy.

8. Paragraph D16 of the SLP states "The Licensing Authority's policy, in relation to the West End Cumulative Impact Zone, is directed at the global and cumulative effects of licences on the area as a whole (emphasis added). Therefore, a case is most unlikely to be considered exceptional unless it is directed at the underlying reason for having the policy. Exceptions to the West End Cumulative Impact Zone policy to refuse certain types of applications must be for genuinely exceptional reasons (emphasis added)".

9. It is the police's submission that the underlying reasons for the having the Cumulative Impact Policy ("CIP1") is due to the significant levels of crime, disorder and anti-social behaviour within the West End. Current levels of alcohol related assaults, sexual assaults and robberies are higher now than they were when the Cumulative Impact Assessment was undertaken in 2020. The peak times of these crimes are between 00:00 to 5am Friday to Saturday (trading days). If the application were to be granted, the effect would be to retain and slow the dispersal of potentially intoxicated people out of the West End at a time when crime levels are at a peak. Please see appendix 1 for recent crime statistics for the West End (compared with the borough as a whole) and appendix 2 for a breakdown on what day and time the crimes are committed.

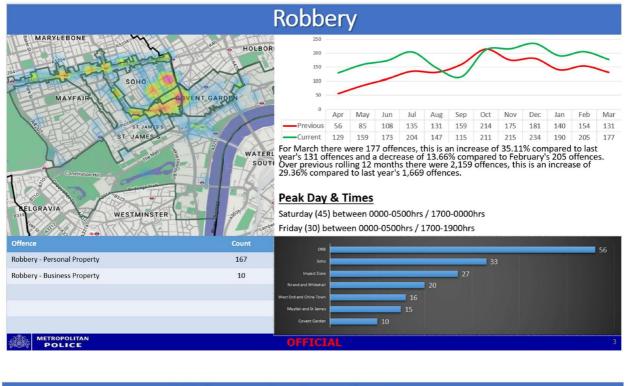
10. Further to the above, it has come to the Police's attention that Westminster City Inspectors have witnessed on 2 separate occasions, the premises selling hot food after 23:00 without

authorisation. This calls into question the applicant's ability to operate lawfully and promote the licensing objectives should this premises licence be granted.

Pc Tom Stewart Westminster Police Licensing Team

Appendix 1 – Crime statistics – March 2023

West End - Robbery, Violence against the person and ASB



Violence Against the Person



200 100 0 Feb Apr May Jun Jul Aug Sep Oct Nov Dec Jan Mar 343 388 535 453 Previous 230 276 528 446 444 402 436 433 Current 407 432 438 530 461 378 473 471 522 427 375 376

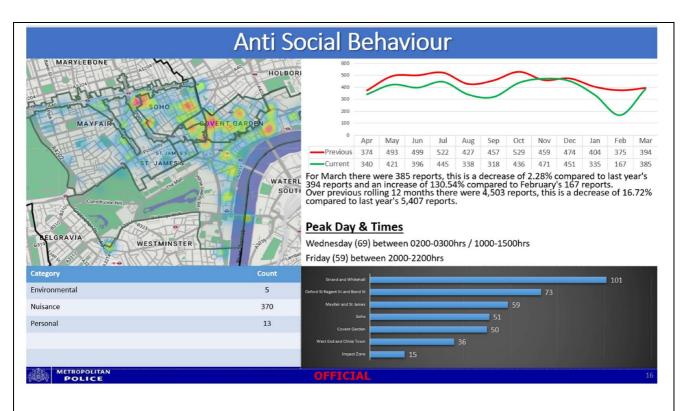
For March there were 376 offences, this is a decrease of 13.16% compared to last year's 433 offences and an increase of 0.27% compared to February's 375 offences Over previous rolling 12 months there were 5,290 offences, this is an increase of 7.65% compared to last year's 4,914 offences.

Peak Day & Times

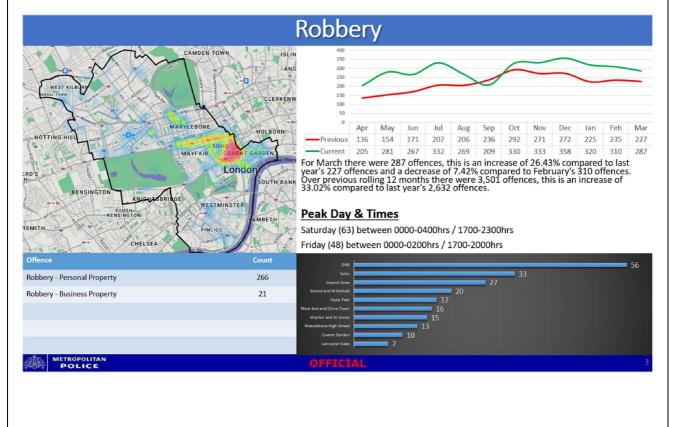
Friday (81) between 0000-0200hrs / 2100-0000hrs

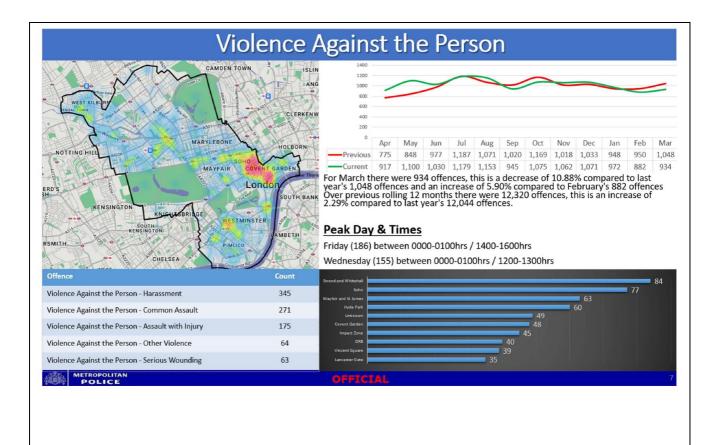
Saturday (61) between 0000-0300hrs / 1500-1900hrs / 2000-0000hrs





Whole of Westminster - Robbery and Violence against the person





3. Policy & Gu	Guidance		
The following policies v	within the City of Westminster Statement of Licensing Policy apply:		
Cumulative Impact Policy CIP1 applies.	 It is the Licensing Authority's policy to refuse applications within the West End Cumulative Impact Zone for: pubs and bars, fast food premises, and music and dancing and similar entertainment, other than applications to: 1. Vary the hours within Core Hours under Policy HRS1, and/or 2. Vary the licence to reduce the overall capacity of the premises. C. Applications for other premises types within the West End Cumulative Impact Zones will be subject to other policies within this statement and must demonstrate that they will not add to cumulative impact. D. For the purposes of this policy the premises types referred to in Clause A are defined within the premises types referred to in 		
	Clause A are defined within the relevant premises use policies within this statement		
Hours Policy HRS1 applies	A. Applications within the core hours set out below in this policy will generally be granted for the relevant premises uses, subject to not being contrary to other policies in the Statement of Licensing Policy.		
	B. Applications for hours outside the core hours set out in Clause C will be considered on their merits, subject to other relevant policies, and with particular regard to the following:		
	1. The demonstration of compliance in the requirements of policies CD1, PS1, PN1 and CH1 associated with the likelihood of the effect of the grant of a licence for later or earlier hours on crime and disorder, public safety, public nuisance and the protection of children from harm.		
	 If the application is located within a Special Consideration Zone they have demonstrated that they have taken account of the issues identified in that area and provided adequate mitigation. Whether there is residential accommodation in the proximity of the premises that would likely be adversely affected by premises being open or carrying out operations at the hours proposed. The proposed hours of the licensable activities and when customers will be permitted to remain on the premises. 		
	 5. The proposed hours when any music, including incidental music, will be played. 6. The hours when customers will be allowed to take food or drink outside the premises or be within open areas which form part of the premises. 		
	 7. The existing hours of licensable activities and the past operation of the premises (if any) and hours of licensable premises in the vicinity. 8. Whether customers and staff have adequate access to public transport when arriving at and leaving the premises, especially at night. 		
	 9. The capacity of the premises. 10. The type of use, recognising that some venues are more likely to impact the licensing objectives than others; for example, pubs and bars are higher risk than theatres, cinemas and other cultural and sporting venues due to the nature of the operation. 		

	 The Licensing Authority will take into account the active measures proposed for a 'winding down' period including arrangements for people to be collected from the premises to travel home safely. Conditions on hours may be attached that require that the supply of alcohol for consumption on the premises ceases a suitable period of time before customers are required to leave the premises. The council, acting as the Licensing Authority, may reduce hours if, after review, it is necessary to impose conditions specifying shorter hours in order to promote the licensing objectives. Specific days for non-standard hours should be identified and justified as part of the application to allow responsible authorities and interested parties to evaluate the impact that these licensable activities may have, and to plan accordingly. The consideration of applications for later hours are generally granted for preceding Sundays and that the next day is a working day. Non-specific days are expected to be covered by Temporary Event Notices or variation applications.
	C . For the purpose of Clauses A and B above, the Core Hours for applications for each premises use type as defined within this policy are:
	 6. Pubs and bars, Fast Food and Music and Dance venues Monday to Thursday: 10am to 11.30pm. Friday and Saturday: 10am to Midnight. Sunday: Midday to 10.30pm. Sundays immediately prior to a bank holiday: Midday to Midnight.
	D. Core hours are when customers are permitted to be on the premises and therefore the maximum opening hours permitted will be to the same start and terminal hours for each of the days where licensable activity is permitted.
	E. For the purposes of this policy, 'premises uses' are defined within the relevant premises use policies within this statement.
	Note: The core hours are for all licensable activities but if an application includes late night refreshment, then the starting time for that licensable activity will be 11pm.
Fast Food Policy FFP1 Applies	 A. Applications outside the West End Cumulative Zones will generally be granted subject to: The application meeting the requirements of policies CD1, PS1, PN1 and CH1. The hours for licensable activities are within the council's Core Hours Policy HRS1. 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.

 B. It is the Licensing Authority's policy to refuse applications within the West End Cumulative Impact Zone other than: 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.
 C. The applications referred to in Clause B1 and B2 will generally be granted subject to: The application meeting the requirements of policies CD1, PS1, PN1 and CH1. 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. The application and operation of the venue continuing to meet the definition of a Fast Food Premises in Clause D.
 D. For the purposes of this policy a Fast Food Premises is defined as: 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. Food and drink are: Available on the premises for self-selection. Prepared on the premises. Cooked or produced off the premises but brought to that premises in advance of its sale to customers. The food and drink are provided in pre-sealed or open disposable packaging which is intended for immediate consumption. 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.

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.

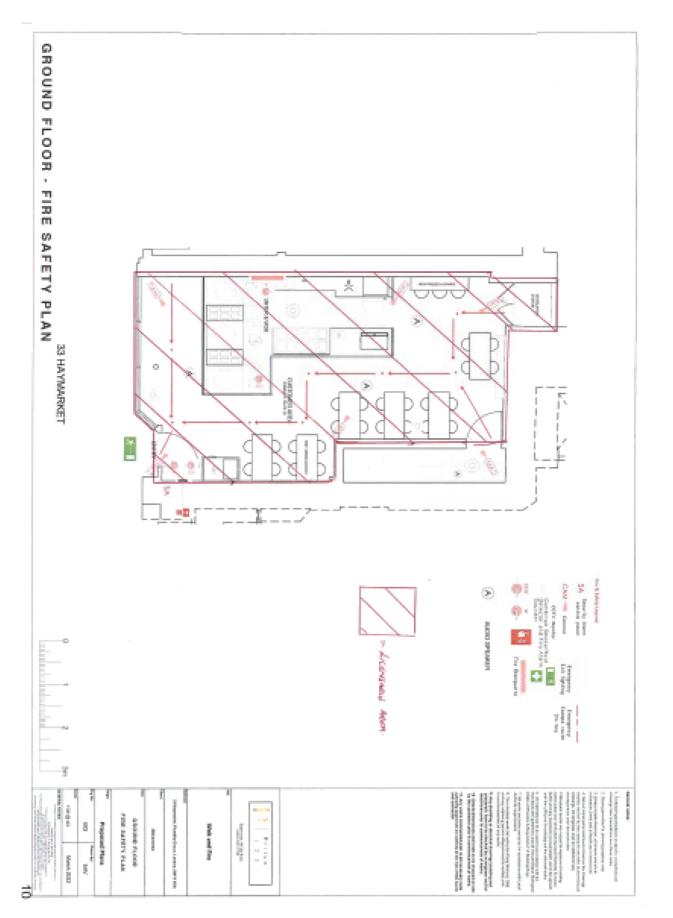
Section 149 (7) of the Equality Act 2010 defines the relevant protected characteristics as age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.

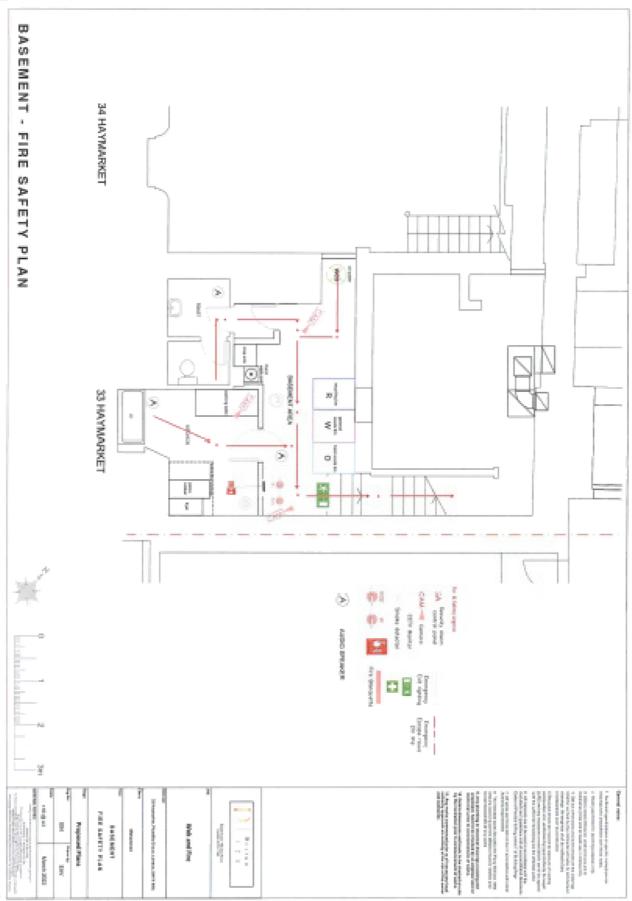
5.	Appendi	ces
Appendi	ix 1	Premises plans
Appendi	ix 2	Applicant supporting documents
Appendi	x 3	Premises history
Appendi	ix 4	Licensing Authority – further submissions
Appendi	ix 5	Proposed conditions
Appendi	x 6	Residential map and list of premises in the vicinity

Report author:	Roxsana Haq Senior Licensing Officer
Contact:	Telephone: 020 7641 6500 Email: rhaq@westminster.gov.uk

papers pl	If you have any queries about this report or wish to inspect one of the background papers please contact the report author.			
Dackyrol	und Documents – Local Government (Access to Info	fination) Act 1972		
1	Licensing Act 2003	N/A		
2	City of Westminster Statement of Licensing Policy	October 2021		
3	Amended Guidance issued under section 182 of the Licensing Act 2003	December 2022		
4	Licensing Authority representation	5 April 2023		
5	Environmental Health representation	14 April 2023		
6	Metropolitan Police representation	11 April 2023		

Premises Plans





Ξ

Report of Observations

at

Wok and Fire, 33 Haymarket

Ву

, Independent Licensing Consultant.

Introduction.

 David Dadds of Dadds LLP has instructed me to conduct observations at the above premises and in the Haymarket/Piccadilly Circus area in order to consider the potential impact of the application to extend the hours permitted to provide hot food at Wok and Fire, 33 Haymarket, from 23.00 hours to 01.00 hours. The premises currently remains open until 01.00 hours but food at ambient temperature only is available from 23.00 hours.

Summary of Expertise –

2. I retired from the police service on 2nd November 2012 having completed 31 years exemplary service with the Metropolitan Police in London. Between January 2012 and my retirement, I was employed as the Chief Inspector in charge of licensing for the London Olympic Games 2012. In this role I headed up a team of officers with responsibility for supervision of licensing compliance at all the Olympic venues, including the Olympic Park. In addition, I was responsible for ensuring that any associated events were properly licensed, sufficiently staffed and operated in accordance with the licensing legislation and best practice to ensure the safe and effective delivery of the Olympic Games. In addition to leading my team I visited and worked with both the Olympic Park management and many other venues, reviewing

their policies and procedures and ensuring that the Games were delivered safely and securely. The success of this operation not only protected the reputation of the MPS but provided positive benefits for the profile of the MPS and the United Kingdom. I have been awarded an Assistant Commissioners Commendation for this work.

- 3. Prior to this role, between Jan 2002 and January 2012, I was employed first as an Inspector and then as a Chief Inspector on the MPS Clubs and Vice Unit (Now SCD9 Serious and Organised crime command). My responsibilities over this period focussed on licensing and included day to day supervision of the licensing team that had a London wide remit to support the Boroughs with licensing activity. Providing both Overt and Covert support for policing problem licensed premises across London. My team worked with premises when licensing issues were identified to address these problems through the use of action plans in order to raise their standards. Where this failed, I would support the Boroughs with evidence for use at review hearings if required.
- 4. I devised and implemented the MPS strategy 'Safe and Sound' which sought to improve the safety of customers at licensed premises by reducing violent and other crime, in particular gun crime and the most serious violence. I also developed the Promoters Forum and risk assessment process, together these initiatives contributed to an overall reduction in violence in London of 5% and of the most serious violence and gun crime at licensed premises by 20% whilst I was there.
- 5. From 2004 until 2008 my role included representing the MPS and ACPO licensing lead both in London and nationally. In this role I developed key partnerships with industry, NGOs and Government departments in order to improve the standards at licensed premises. I sat on the British Institute of Innkeeping working party and helped develop the national training for Door Supervisors. I worked with the national regulator the Security Industry Authority to successfully introduce the new regime under the Private Security Industry Act 2001 within London. I sat on Government working parties and worked closely with the alcohol harm reduction team on identifying best practice and ensuring this was used both within London and nationally by police and local

authorities. I worked with Government on the drafting of SEV legislation and gave evidence to the House of Commons Select Committee in 2009 on the impact of premises providing sexual entertainment.

- 6. I was involved with Best Bar None, a national voluntary scheme of accreditation for safe licensed premises, for a number of years and successfully helped a number of boroughs implement the initiative. I was a trained Best Bar none assessor and until my retirement sat on the Board for Best Bar None in the Royal Borough of Kensington and Chelsea. I was also a trained assessor for Purple Flag, the national voluntary awards scheme for safe, diverse and accessible town centres. For the five years prior to my retirement, I was responsible for licensing of the Notting Hill Carnival, the largest street carnival in Europe. During this time, I contributed to a reduction in violence overall at the Carnival and delivered increased seizures of illegal alcohol, reduction of unlicensed alcohol sales and a reduction in alcohol related violence. In addition to the above I attended internal MPS training and qualification courses, I am trained in conducting health and safety risk assessments and hold the National Certificate for Licensing Practitioners, issued by the British Institute of Inn keeping.
- 7. Following my retirement, I established 'Clubsafe Services Ltd' to provide independent compliance support and advice for premises and events requiring a local authority licence. Since then, I have provided evidence gathering services, advice and support to a broad range of licensed premises on a variety of issues, including crime and disorder, street drinking, rough sleepers and age-related product issues. I have also provided support to bars and shops at events such as Nottinghill Carnival and provided support and advice for high profile clubs such as Fabric in London. This work has involved premises that benefit from a variety of local authority licences including alcohol on and off licences, betting premises licences and late-night refreshment. I regularly provide expert independent witness evidence at both local authority and appeal court hearings.

Observations.

- 8. I conducted observations at the premises and in the vicinity on Friday 21st April 2023 from 22.00 hours until about 01.30 hours. The premises is a small noodle restaurant and takeaway located at 33 Haymarket which is towards the north end of Haymarket within the West End CIZ. The pavement area in front of the premises is wide and at this time of the evening, despite it being very busy in Piccadilly with the Eid celebrations, the footfall was light in the vicinity of the premises.
- 9. There are no similar premises in the vicinity, there is an Angus steakhouse restaurant on the corner of Haymarket with Piccadilly with the Hard Rock café opposite this, both operate as fairly expensive restaurants and close at 00.00 hours. A short way south of Wok and Fire is Tiger Tiger nightclub. On my arrival Tiger Tiger was quiet with just a few customers arriving. They had barriers set up outside the entrance on the pavement in which they searched and ID checked customers and a short way further south Tiger Tiger had set up a smoking area, again with barriers set out halfway across the pavement. Although substantial areas the pavement here is wide enough that they did not impact on pedestrians using the pavement.
- 10. I conducted observations on Wok and Fire and in the Piccadilly and Haymarket area during the evening. The premises had a slow and steady customer flow both using the restaurant facilities and take-away. The food offering is healthy and quick serve noodles or rice with a choice of meat or vegetables and sauce. It is modestly priced and appeals to the budget and health conscious. At no time did I see more than about 8 to 10 people at the premises, either eating in or collecting take-away. There was no queuing outside the premises and customers arriving and leaving did so quickly and quietly.
- 11. The premises is currently licensed for hot food until 23.00 hours. At 23.40 I went into the premises posing as a customer. There was one other customer present at this time. I asked for a noodle dish from the menu. The male behind the counter told me

that he was not able to sell hot food but that he had cold food in the form of salads and sushi style dishes available that I declined.

- 12. From about 00.00 hours Tiger Tiger started getting busier with customers queuing behind the barriers and also using the smoking area. This had no impact on Wok and Fire which was open and had a small number of customers arriving and leaving but had no impact on the area.
- 13. The nearest access point for the night tube is about 100 metres away, across Haymarket in Piccadilly, by the Shaftesbury Memorial Fountain. Wok and Fire has no impact on the station and will not do so if this application is permitted. There is no parking outside the premises, and I did not see any customers access the premises from vehicles. All arrived and left on foot.
- 14. By 00.00 most of the local bars and public houses had finished alcohol sales and customers start to leave and access public transport away from the area. Haymarket remained fairly quiet for pedestrians with Piccadilly busier as customers accessed the station via the 24-hour access at the Shaftsbury Memorial Fountain and also accessed late bus services. Wok and Fire remained fairly quiet and had no impact. Tiger Tiger became busier but again Wok and Fire had no impact on this.
- 15. In my experience people leaving alcohol led bars and pubs are tempted by fast food such as Pizza, burgers and kebabs and are not interested in noodle, rice and vegetable dishes. This is supported by my observations where I saw no difference in the number of type of customers going to Wok and Fire before or after 00.00 hours. I understand that the premises has operated selling hot food to 01.00 hours on previous occasions by virtue of a TEN and on these occasions has caused no issues.
- 16. Wok and Fire remained open until about 01.00 hours. By this time Tiger Tiger was in full swing but despite the barriers across half of the pavement it had no impact on the pedestrian traffic which was light. Tiger Tiger remains open until 03.00 hours, two hours after the time applied for in this application and leaving customers from Tiger Tiger will not be able to access food from Wok and Fire. The number of people

accessing the transport infrastructure declined after most of the nearby alcohol and food premises had closed and I left the area soon after by about 01.30 hours.

Conclusion.

- 17. Wok and Fire is located away from the main Piccadilly Circus in Haymarket and the pavement is wide and evening/night-time footfall lower. As demonstrated by Tiger Tiger the pavement here is wide enough to be restricted by 50% and still have no impact on pedestrians. Even in the unlikely event that customers have to wait outside Wok and Fire briefly there would be no impact on pedestrians or traffic in the vicinity.
- 18. The main 24-hour tube access is about 100 yards away in Piccadilly, convenient for customers but unaffected by the operation of the premises. The style of operation and the food supplied is not that which appeals to those customers leaving alcohol led premises, such as bars and clubs, who are attracted to food such as Pizza, burgers and kebabs.
- 19. The premises currently operates without causing any additional crime and disorder or nuisance until 01.00 (providing cold food after 23.00) and has operated in the same manner selling hot noodles until 01.00 by virtue of Temporary Event Notices. I am confident that is this application is permitted the premises can sell hot food until 01.00 hours without adding to the Cumulative Impact in the area. If considered necessary an SIA door supervisor could be employed after 21.00 hours to manage access to the premises.

Independent Licensing Consultant, 25/04/2023.

Premises History

Temporary Event Notice History

Application	Details of Application	Date of event	Decision
22/11929/LITENN	Temporary Event Notice Late night refreshment	06.01.2023 to 11.01.2023	Event allowed to proceed
22/11906/LITENN	Temporary Event Notice Late night refreshment	31.12.2022 to 04.01.2023	Event allowed to proceed
22/11813/LITENN	Temporary Event Notice Late night refreshment	24.12.2022 to 28.12.2022	Event allowed to proceed

Licensing Authority further submissions

Appendix 4.

From: To: Cc: Subject: Date: Atlachments:	Alt 23/01516/LIPN 02 April 2023 20:25:41 Image001.png
Dear Mr I	

Following our telephone conversation early this morning at approximately 00:40 hours on Sunday 2nd of April 2023, can I please remind you no sale of hot food or hot drinks are allowed to be sold after the hours of 23:00 without a Late Night Refreshment Licence.

I have now witnessed the sale of hot food after the hours of 23:00 on two separate occasions on two different days this week.

Your current application for a Late Night Refreshment Licence 23/01516/LIPN is still in the process and has not yet been granted.

Can you relay this information to all staff until the licence has been obtained.

Regrads

City Inspector Central Team (2) Public Protection and Licensing

City of Westminster 15th Floor Westminster City Hall 64 Victoria Street London SW1E 6QP

Email:





 Statement of:

 Age of witness:

 (if over 18 enter "over 18")

 "Over 18 years"

 Occupation of Witness:

 Address:

 Westminster City Hall

 64 Victoria Street

 London

 S1WE 6QP

This statement, consisting of 2page(s) each signed by me, is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false, or do not believe to be true.

Signed

Dated: 16th June 2023

I am a City Inspector employed by Westminster City Council in the Public Protection and Licensing Department, 15th Floor, City Hall, 64 Victoria Street, SW1E 6QP. I am authorised to enter and inspect premises, make enquires, and to exercise the functions and powers as contained under the provisions of the Licensing Act 2003.

Wok and Fire 33 Haymarket, London SW1Y 4HA, did not obtain a current late night refreshment licence at the time observations were carried out on the premises. I was aware the premises did not have a licence as I carried out the inspection of their Notice Check as part of their application for a late night refreshment licence under the Licensing Act 2003. The requirements for the Notice Check were not met and therefore the notice failed inspection. Licensing department was informed in order for the business to be made aware of and changes to be made in order to comply with the requirements of the inspection. The inspection for their application was carried out on 31st December 2022. I decided to carry out observations on the premises as other licensing inspections for the premises had recently failed.

On Sunday 2nd April 2023 at approximately 00:22 hours myself and my colleague approached Wok and Fire, 33 Haymarket. At the entrance I observed a number of people inside the premises waiting to be served by the till. Staff members were preparing food orders. A cash sale was witnessed for hot food. The customer was male, unknown ethnicity approximately 5ft 9in, in dark clothes and a blue hoodie of slim build. The food was prepared at the front of the premises in front of me by the front window of the business. The food was cooked in a wok on a gas stove, steam and flames from the cooking was witnessed whilst the member of staff was preparing the order. The food was then placed in a takeaway noodle box and handed to the customer. The customer was seen adding sauce to the order and blowing the food cool before consuming it. I approached a male member of staff roughly 5ft 7in, of slim build, dark hair, unknown ethnicity to whom I introduced myself too. I showed my council identification badge and asked to speak to the person in change. I was then put on a phone call with a male by the name of of the premises. who claimed to be the manager

I asked 1 "what were their opening times of the business?" to which replied 11:00 till 23:00 hours.

I then asked the "why the sale of hot food was being made available at 00:21?" to which the prevention of the prevention of the sell of the sell hot food or drinks past 23:00 hours as an application for a late night refreshment licence had been summitted. Staff should only be selling cold food after 23:00"

I advised the could sell hot food and drinks without a licence until 23:00 hours. I asked to refrain from selling hot food and drinks past 23:00 hours, until a late night refreshment licence has been obtained and granted.

's contact details were taken, an email was sent to him including the licensing department following my visit with detail of what was witnessed, discussed and advised on.

Statement of:	
Age of witness:	
(if over 18 enter "over 18")	"Over 18 years"
Occupation of Witness:	City Inspector
Address:	Westminster City Hall
	64 Victoria Street
	London
	S1WE 6QP

This statement, consisting of 1page(s) each signed by me, is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false, or do not believe to be true.

Signed.,

Dated: 23rd June 2023

I am a City Inspector employed by Westminster City Council in the Public Protection and Licensing Department, 15th Floor, City Hall, 64 Victoria Street, SW1E 6QP. I am authorised to enter and inspect premises, make enquires, and to exercise the functions and powers as contained under the provisions of the Licensing Act 2003.

On Friday 23rd June 2023 at 23:27 hours myself and my colleague approached Wok and Fire, 33 Haymarket. At the entrance of the premises, I witnessed two members of staff cooking hot food in two separate woks. The woks were steaming hot, flames were visible from the stove as the food was being prepared. I approached both male staff members to whom I introduced myself too. I spoke who I've spoken to before. I showed my council identification badge to and asked if I could speak to the person in change. I was eventually put on a phone call with the manager of the premises.

I asked "why the sale of hot food was being made available at 23:28?" to which "replied "The two orders being prepared at the time of the breach were pre orders which were taken over the phone, hence why there was no till or online receipts to show what time the orders were placed."

I reiterated to hours without a licence. I asked that the sale of hot food and drinks can be made up until 23:00 hours without a licence. I asked to comply with the legislation until a decision has been finalised regarding their application.

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+(DxV)

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
- 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. Notices shall be prominently displayed at each exit from the premises asking patrons to be considerate to neighbours when leaving.
- 10. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises and will include the external area immediately outside the premises entrance. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the entire 31-day period.
- 11. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises is open. This staff member must be able to provide a Police or authorised council officer copies of recent CCTV images or data with the absolute minimum of delay when requested.
- 12. At least one member of staff on duty whilst the licence is being used shall be trained in the requirements of the Licensing Act in terms of the licensing objectives, offences committed under the Act and conditions of the Premises Licence.
- 13. Policies and procedures shall be put in place for the collection of street litter generated by the premises and such policies shall be implemented by staff whenever the premises are being used under the terms of this licence.
- 14. An incident log shall be kept at the premises, and made available on request to an authorised officer of the City Council or the Police. It must be completed within 24 hours of the incident and will record the following:
 - (a) all crimes reported to the venue
 - (b) all ejections of patrons
 - (c) any complaints received concerning crime and disorder
 - (d) any incidents of disorder
 - (e) all seizures of drugs or offensive weapons
 - (f) any faults in the CCTV system, searching equipment or scanning equipment
 - (g) any visit by a relevant authority or emergency service.
- 15. From 9pm whenever the venue is operational on Fridays and Saturdays there will be 1 licensed door supervisor on duty on the premises. They will correctly display their SIA licence which will be visible whilst on duty.
- 16. There shall be no consumption of late-night refreshment on the premises.
- 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. 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.

- 19. No deliveries to the premises shall take place between (23.00) and (08.00) hours on the following day.
- 20. No deliveries from the premises, either by the licensee or a third party shall take place between (23:00) and (08:00) hours on the following day.
- 21. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
- 22. No waste or recyclable materials, including bottles, shall be moved, removed from or placed in outside areas between (23.00) hours and (08.00) hours on the following day.
- 23. 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.
- 24. Delivery drivers 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 the license premises; not to leave engines running when the vehicles are parked; and not to obstruct the highway.

Residential Map and List of Premises in the Vicinity

Appendix 6



33 Haymarket London

Resident Count: 31

Г

Licensed premises within 75 metres of 33 Haymarket, London.					
Licence Number	Trading Name	Address	Premises Type	Time Period	
20/07366/LIPCH	Aberdeen Steak House	21-22 Coventry Street London W1D 7AE	Restaurant	Sunday; 10:00 - 00:00 Monday to Saturday; 10:00 - 01:00 Sundays before Bank Holidays; 10:00 - 01:00	
22/04106/LIPDPS	Tiger Tiger	Haymarket House 28-29 Haymarket London SW1Y 4SP	Night clubs and discos	Sunday; 09:00 - 00:30 Monday to Saturday; 09:00 - 03:30	

17/02769/LIPDPS	The Comedy Store	Ground Floor Right Haymarket House 1A Oxendon Street London SW1Y 4EE	Theatre	Sunday; 09:00 - 01:00 Monday to Saturday; 09:00 - 05:00
20/02193/LIPRW	Happy Bar & Grill	25-29 Coventry Street London W1D 7AG	Restaurant	Sunday; 12:00 - 00:30 Monday to Saturday; 10:00 - 01:30 Sundays before Bank Holidays; 12:00 - 01:00
15/04802/LIPDPS	Caffe Concerto	45 Haymarket London SW1Y 4SE	Cafe	Monday to Sunday; 08:00 - 23:30
21/04813/LIPDPS	Comedy	Basement To Second Floor 7 Oxendon Street London SW1Y 4EE	Night clubs and discos	Sunday; 07:00 - 00:30 Sunday; 07:00 - 22:30 Monday to Thursday; 07:00 - 23:30 Monday to Saturday; 07:00 - 02:30 Friday to Saturday; 07:00 - 00:00 Sundays before Bank Holidays; 07:00 - 00:00
23/00049/LIPVM	Hard Rock Cafe	Criterion Building 225-229 Piccadilly London W1J 9HR	Not Recorded	Friday to Saturday; 07:00 - 02:30 Sunday to Thursday; 07:00 - 01:30
23/01249/LIPDPS	Тора	St James's Market London	Restaurant	Sunday; 12:00 - 23:00 Monday to Thursday; 10:00 - 00:00 Friday to Saturday; 10:00 - 00:30
17/13227/LIPDPS	1	St James's Market London	Office	Saturday to Sunday; 00:00 - 00:00

21/10397/LIPDPS	Pizza Express	26 Haymarket London SW1Y 4SP	Restaurant	Sunday; 12:00 - 00:00 Monday to Saturday; 10:00 - 00:30
20/07347/LIPCHT	Jumak39	39 Panton Street London SW1Y 4EA	Restaurant	Sunday; 12:00 - 00:00 Monday to Saturday; 10:00 - 00:30
21/05711/LIPN	Layalina	32 Coventry Street London W1D 6BR	Restaurant	Monday to Sunda 00:00 - 00:00
18/00656/LIPN	Trocadero Hotel/Sky Bar & Restaurant	Trocadero 13 Coventry Street London W1D 7DH	Hotel, 3 star or under	Monday to Sunda 00:00 - 00:00
23/00684/LIPN	Not Recorded	Trocadero 13 Coventry Street London W1D 7DH	Not Recorded	Sunday; 09:00 - 23:00 Monday to Thursday; 09:00 - 00:00 Friday to Saturday; 09:00 - 00:30
22/00403/LIPDPS	Picturehouse Central	Trocadero 13 Coventry Street London W1D 7DH	Cinema	Monday to Sunda 00:00 - 23:59
20/07563/LIPDPS	Five Guys	Trocadero 13 Coventry Street London W1D 7DH	Restaurant	Sunday; 10:00 - 22:30 Monday to Thursday; 10:00 - 23:30 Friday to Saturday; 10:00 - 00:00
21/06624/LIPN	Sky Bar Lounge	Trocadero 13 Coventry Street London W1D 7DH	Restaurant	Monday to Sunda 00:00 - 00:00
17/08106/LIPN	Unit 4 - Happy Bar And Grill	Trocadero 13 Coventry Street London W1D 7DH	Restaurant	Sunday; 08:00 - 22:30 Monday to Thursday; 08:00 23:30 Friday to Saturday; 08:00 - 00:00

22/02946/LIPDPS	Tasting Italy	Ground Floor to Second Floor 38 Panton Street London SW1Y 4EA	Restaurant	Monday to Sunday; 12:00 - 00:00
22/11749/LIPDPS	Prince Of Wales Theatre	31 Coventry Street London W1D 6AS	Theatre	Monday to Sunday; 09:00 - 00:00
21/09831/LIPVM	Not Recorded	52 Haymarket London SW1Y 4RP	Restaurant	Monday; 07:00 - 01:00 Tuesday; 07:00 - 01:00 Wednesday; 07:00 - 01:00 Thursday; 07:00 - 01:00 Friday; 07:00 - 01:00 Sunday; 07:00 - 23:30
21/00632/LIPN	(Shadow Licence)	52 Haymarket London SW1Y 4RP	Premises Licence - Shadow Licence	Sunday; 07:00 - 23:30 Monday to Saturday; 07:00 - 01:00
10/07825/LIPD	Woodlands Restaurant	Basement And Ground Floor 37 Panton Street London SW1Y 4EA	Restaurant	Sunday; 12:00 - 00:00 Monday to Saturday; 10:00 - 00:30