

# Licensing Sub-Committee Report

Item No:	
Date:	21 June 2018
Licensing Ref No:	18/03362/LIPST - Provisional Statement (LA 2003)
Title of Report:	Ground and First Floor, Unit 2 5 Marble Arch W1H
Report of:	Director of Public Protection and Licensing
Wards involved:	Bryanston And Dorset Square
Policy context:	City of Westminster Statement of Licensing Policy
Financial summary:	None
Report Author:	Mrs Shannon Pring Senior Licensing Officer
Contact details	Telephone: 020 7641 3217 Email: spring3@westminster.gov.uk

## 1. Application

1-A Applicant and premises			
<b>Application Type:</b>	Provisional Statement, Licensing Act 2003		
<b>Application received date:</b>	27 March 2018		
<b>Applicant:</b>	Almacantar (Marble Arch) Sarl		
<b>Premises:</b>			
<b>Premises address:</b>	Ground and First Floor, Unit 2 5 Marble Arch W1H	<b>Ward:</b>	Bryanston & Dorset Square
		<b>Cumulative Impact Area:</b>	Edgware Road
<b>Premises description:</b>	Following the grant of planning permission 14/11220/FULL this premises is to operate as a restaurant.		
<b>Premises licence history:</b>	This is an application for a provisional statement and therefore no licence history exists.		
<b>Applicant submissions:</b>	The Applicant's submissions can be found at Appendix 1 of the report.		
<b>Plans</b>	Plans are available to view upon request to the Licensing Authority and they will be made available at Licensing Committee.		

1-B Proposed licensable activities and hours							
<b>Regulated Entertainment: Recorded Music</b>				<b>Indoors, outdoors or both</b>			Indoors
<b>Day:</b>	<b>Mon</b>	<b>Tues</b>	<b>Wed</b>	<b>Thur</b>	<b>Fri</b>	<b>Sat</b>	<b>Sun</b>
<b>Start:</b>	23:00	23:00	23:00	23:00	23:00	23:00	N/A
<b>End:</b>	23:30	23:30	23:30	23:30	00:00	00:00	N/A
<b>Seasonal variations:</b>		From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.					
<b>Non-standard timings:</b>		On Sunday's immediately prior to public and bank holidays 23:00 - 00:00					

Late Night Refreshment:				Indoors, outdoors or both			Indoors
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:		From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.					
Non-standard timings:		On Sunday's immediately prior to public and bank holidays 23:00 - 00:00					

Sale by retail of alcohol				On or off sales or both:			Both
Day:	Mon	Tues	Wed	Thur	Fri	Sat	Sun
Start:	10:00	10:00	10:00	10:00	10:00	10:00	10:00
End:	23:00	23:00	23:00	23:00	00:00	00:00	22:30
Seasonal variations:		From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.					
Non-standard timings:		On Sunday's immediately prior to public and bank holidays 23:00 - 00:00					

Hours premises are open to the public							
Day:	Mon	Tues	Wed	Thur	Fri	Sat	Sun
Start:	08:00	08:00	08:00	08:00	08:00	08:00	08:00
End:	00:00	00:00	00:00	00:00	00:30	00:30	23:00
Seasonal variations:		From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.					
Non-standard timings:		On Sunday's immediately prior to public and bank holidays 23:00 - 03:00					

## 2. Representations

2-A Responsible Authorities	
<b>Responsible Authority:</b>	Licensing Authority
<b>Representative:</b>	Ms Daisy Gadd
<b>Received:</b>	24 April 2018

I write in relation to the provisional statement application for RU2, Marble Arch Place.

As a responsible authorities under section 14 (3) 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 Licensing Objectives:

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

This application seeks to permit the following licensable activities and operating times:

- Recorded Music: Monday to Thursday from 23:00 to 23:30 and Friday to Saturday from 23:00 to 00:00
- Late Night Refreshment: Monday to Thursday from 23:00 to 23:30 and Friday to Saturday from 23:00 to 00:00
- Supply of Alcohol: Monday to Thursday from 10:00 to 23:30, Friday to Saturday from 10:00 to 00:00 and Sunday from 10:00 to 22:30

The premises is located within a Cumulative Impact Area and as such a number of policy points must be considered, namely CIP1, HRS1 and RNT2.

The premises currently falls within policy RNT2. At present, the applicant has offered a condition whereby the supply of alcohol at the premises shall only be to a person seated taking a table meal there. The Licensing Authority would ask that the applicant considers adding the following condition to the operating schedule to support the Council's policy relating to the sale of alcohol for consumption on the premises:

- 1) The premises shall only operate as a restaurant:
  - (i) In which customers are shown to their table,
  - (ii) Where the supply of alcohol is by waiter or waitress service only,
  - (iii) Which provide food in the form of substantial table meals that are prepared on the premises and are served and consumed at the table using non disposable crockery,
  - (iv) Which do not provide any take away service of food or drink for immediate consumption,
  - (v) Which do not provide any take away service of food or drink after 23:00, and
  - (vi) Where alcohol shall not be sold or supplied, otherwise than for consumption by persons who are seated in the premises and bona fide taking substantial table meals there, and provided always that the consumption of alcohol by such persons is ancillary to taking such meals.

Notwithstanding this condition customers are permitted to take from the premises part consumed and resealed bottles of wine supplied ancillary to their meal. 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.

Furthermore, policy RNT2, as outlined in the Council's Statement of Licensing Policy 2016, states that "Applications will be granted subject to other policies... provided it can be demonstrated that they will not add to cumulative impact in the Cumulative Impact Areas". The applicant has not yet demonstrated any further information that addresses this policy concern. It would be useful for the applicant to provide further submissions as to how the premises intends to operate, and as to how the premises and its patrons will not add to cumulative impact in the Cumulative Impact Areas.

The proposed operating hours on Sunday for Supply of Alcohol currently fall outside of Westminster's Core Hours policy. The Licensing Authority encourages the applicant to consider reducing the operating hours for licensable activities in line with the Council's core hours policy.

Further discussions will be held with the applicants prior to the hearing and any further submissions will be forwarded on for Members information.

Please accept this as a formal representation.

<b>Responsible Authority:</b>	Environmental Health Service
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<b>Representative:</b>	Mr Anil Drayan
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<b>Received:</b>	24 April 2018
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I refer to the application for a new Premises Licence for the above premises which are located in the Edgware Road Cumulative Impact area.

The applicant has submitted following outline plans of the premises showing the ground floor, ref 1911-JRA-00-ZZ-DR-A-1458, dated 14/12/2017 and first floor, ref 1911-JRA-00-ZZ-DR-A-1459, dated 14/12/2017.

**The following licensable activities are being sought:**

1. To provide for the Supply of Alcohol 'On' the premises between 10:00 and 23:30 Monday to Thursday, 10:00 and 00:00 Friday and Saturday and 10:00 to 22:30 Sunday
2. Provision of Late Night Refreshment 'Indoors' 23:00 and 23:30 Monday to Thursday and 23:00 and 00:00 Friday and Saturday
3. Provision of Recorded Music 'Indoors' 23:00 and 23:30 Monday to Thursday and 23:00 and 00:00 Friday and Saturday
4. Non-standard times for all the above licensable activities on Sundays immediately prior to public and bank holiday until 00:00 and from the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.

**I wish to make the following representations based on the plans submitted and the supporting operating schedule:**

1. The hours requested for and the Supply of Alcohol may lead to an increase in Public Nuisance in the Edgware Road Cumulative Impact Area
2. The hours requested for and the Provision of Late Night Refreshment may lead to an increase in Public Nuisance in the Edgware Road Cumulative Impact Area

3. The hours requested for and the Provision of Recorded Music may lead to an increase in Public Nuisance in the Edgware Road Cumulative Impact Area
4. Non-standard times for all the above licensable activities may lead to an increase in Public Nuisance in the Edgware Road Cumulative Impact Area

Environmental Health also makes the following further comments:

- An extensive list of conditions have been offered in the operating schedule and these are being considered as to whether they are sufficient to allay Environmental Health concerns.
- The premises are located in a Cumulative Impact Area and any approval for 'On' sale of alcohol usually requires it to be covered by the 'model' restaurant condition (MC66) for it to be consistent with Westminster's Statement of Licensing Policy.

It is noted that the application is subject to surrender of premises licence 16/09835/LIPT and Environmental Health considers this will be a matter for the Licensing sub-Committee for determination as to whether this will be sufficient to bring it into line with Policy particularly as several new premises are being proposed.

- The premises will need to be assessed for Public Safety on completion. At this time a safe capacity shall be determined based on the District Surveyor's Technical Guidance on Places of Entertainment.
- The provision of sanitary accommodation for any proposed capacity must be in line with the minimum standards as provided in British Standard 6465 to help prevent an increase in Public Nuisance in the West End Cumulative Impact Area. In addition, compliance with Food Hygiene guidance will also require separate facilities for staff.

Representations are therefore made to this application on grounds of Public Nuisance, Public Safety and being against Westminster's Statement of Licensing Policy.

#### **Further correspondence from Applicant to Environmental Health**

Please find enclosed Schedules in respect of:

1. The A3 and A1 uses;
2. The A4 use.

I have added:

- a) A capacity (to be determined) condition;
- b) A restriction on off sales after 11pm.

I have removed the works condition as it's a provisional statement.

#### **Further correspondence from Environmental Health to the Applicant**

Thanks for this however I make the following comments as these premises are located in the Edgware Road Cumulative Impact Area:

1. Whilst a capacity to be determined condition is fine I strongly advise that prospective maximum capacity figures are provided for each of the units.
2. It would also be useful if you are able to provide a capacity figure for the Licence being surrendered, 16/09835/LIPT, such as might have been determined under a fire risk assessment.

3. For the hours of licensable activities proposed for the A3 and A1 units Environmental Health will be asking at LSC that these operate under MC66 so as to be policy compliant.

<b>Responsible Authority:</b>	Metropolitan Police Service
<b>Representative:</b>	PC Bryan Lewis
<b>Received:</b>	11 April 2018

Police object to the following applications:  
RU2 18/03362/LIPST

With reference to the above applications, I am writing to inform you that the Metropolitan Police, as a Responsible Authority, will be objecting to this application as it is our belief that if granted these applications would undermine the Licensing Objectives.

The venue is situated in the Edgware Road Cumulative Impact Area, a locality where there is traditionally high levels of crime and disorder. We have concerns that this application will cause further policing problems in an already demanding area.

I will contact you to discuss this objection in more detail.

### 3. Policy & Guidance

The following policies within the City Of Westminster Statement of Licensing Policy apply:	
<b>Policy HRS1 applies</b>	(i) Applications for hours within the core hours set out below in this policy will generally be granted, subject to not being contrary to other policies in the Statement of Licensing Policy.  (ii) Applications for hours outside the core hours set out below in this policy will be considered on their merits, subject to other relevant policies.
<b>Policy CIP1 applies</b>	(i) It is the Licensing Authority's policy to refuse applications in the Cumulative Impact Areas for: pubs and bars, fast food premises, and premises offering facilities for music and dancing; other than applications to vary hours within the Core Hours under Policy HRS1.  (ii) Applications for other licensable activities in the Cumulative Impact Areas will be subject to other policies, and must demonstrate that they will not add to cumulative impact in the Cumulative Impact Areas.
<b>Policy RNT2 applies</b>	Applications will be granted subject to other policies in this Statement and subject to the relevant criteria in Policies CD1, PS1, PN1 and CH1, provided it can be demonstrated that they will not add to cumulative impact in the Cumulative Impact Areas.

### 4. Equality Implications

The Council in its capacity as Licensing Authority has a duty to have regard to its public sector equality duty under section 149 of the Equality Act 2010. In summary, section 149 provides that a Public Authority must, in the exercise of its functions, have due regard to the need to:

- (a) eliminate discrimination harassment, victimisation and any other conduct that is prohibited by or under this Act;
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- (c) foster good relations between persons who share a relevant protected characteristics and persons who do not share it.

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



## 5. Appendices

<b>Appendix 1</b>	Applicant supporting documents
<b>Appendix 2</b>	Planning Decision Notice – 14/11220/FULL
<b>Appendix 3</b>	Premises history
<b>Appendix 4</b>	Proposed conditions
<b>Appendix 5</b>	Residential map and list of premises in the vicinity

<b>Report author:</b>	Mrs Shannon Pring Senior Licensing Officer
<b>Contact:</b>	Telephone: 020 7641 3217 Email: spring3@westminster.gov.uk

**If you have any queries about this report or wish to inspect one of the background papers please contact the report author.**

### **Background Documents – Local Government (Access to Information) Act 1972**

<b>1</b>	Licensing Act 2003	N/A
<b>2</b>	City of Westminster Statement of Licensing Policy	7 <sup>th</sup> January 2016
<b>3</b>	Amended Guidance issued under section 182 of the Licensing Act 2003	April 2018
<b>4</b>	Licensing Authority	24 April 2018
<b>5</b>	Metropolitan Police Service	24 April 2018
<b>6</b>	Environmental Health Service	11 April 2018

The Applicant has provided the following documents with their application. Copies of the following documents are enclosed:

- A cover letter;
- Annex document; and
- A copy of the pre-application advice 18/00782/PREAPM.



PREMISES MANAGEMENT  
LICENSING SERVICE

27 MAR 2018

CITY OF WESTMINSTER

Thomas & Thomas  
Partners LLP

your ref:  
our ref: AT/TB/ALM.1.1

38a Monmouth Street  
London WC2H 9EP  
Tel: 020 7042 0410  
Fax: 020 7379 6618

Licensing Team  
Public Protection & Licensing  
Westminster City Council  
Portland House  
22nd Floor  
Bressenden Place  
London SW1E 5RS

BY COURIER

26th March 2018

Dear Sirs

**Licensing Act 2003**  
**Marble Arch Place**  
**Development at Edgware Road**

We act for the applicant in the above matter and enclose:

1. Provisional statement applications (Units RU2, RU3, RU4, RU5, RU6), including plans;
2. Schedule of works;
3. Cheque for £1575 (£315 per application).

The applications follow pre-application advice with Mr Drayan **18/00782/PREAPM**. By way of explanation, premises licence ref 16/09835/LIPT subsists and is currently held by the applicant. Until recently, it was a Wetherspoons Public House and it is intended to redevelop the site into another vertical drinking venue, consistent with that licence and the lawful A4 planning use. However, the size of the unit will reduce.

Following the recent grant of planning permission, two further provisional statements are requested in respect of the restaurant units and two in respect of retail units. Both are subject to appropriate model conditions consistent with those uses.

The premises are (just) in the Edgware Road cumulative impact area but the application in respect of the Wetherspoons unit is subject to policy exceptions at 2.4.6 and 2.4.7 as it is being replaced by a similar but smaller use.

The restaurant and the retail applications are, subject to them being MC38, rather than MC66, subject to policy RNT2 with the difference in condition justified by the de-intensification of the A4 unit and the general improvements that the development will bring.

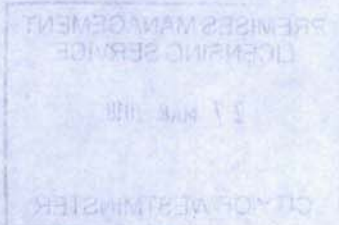
Yours faithfully

**Thomas and Thomas Partners LLP**  
**Encs**



**Annexure 10**

**The Marble Arch Retail Minimum Standard**



**Marble Arch Place**

**Marble Arch Retail**

**Minimum Standard**



## MARBLE ARCH PLACE – MARBLE ARCH RETAIL MINIMUM STANDARD



### Marble Arch Retail Minimum Standard

14<sup>th</sup> March 2016 (Version 6)

#### Introduction

The Marble Arch Retail premises are to be delivered to retail shell specification, according to the following description.

- Table 1 contains a common base specification for the A1 Unit and A3 Unit.
- Table 2 identifies further particular requirements of the A3 Unit
- Table 3 identifies further particular requirements for the A1 Unit.

The following specification should be read in conjunction with the following plans:

- RVA SK1140 (Rev 01) – Retail Unit 1&2 Incoming Services – B1 Mezz
- RVA SK1141 (Rev 01) – Retail Unit 1&2 Incoming Services – Ground Level
- RVA SK1142 (Rev 01) – Retail Unit 1&2 Incoming Services – Level 01
- RVA SK 1144 (Rev 01) – Retail Unit 1 – Plans
- RVA SK 1146 (Rev 01) - Retail Unit 2 Plans (Planning Proposal)
- RVA SK 1175 (Rev 01) – Enlarged Plans and Elevations Building 1 Oxford Street
- RVA SK 1176 (Rev 00) – Enlarged Plans and Elevations Building 1 Edgware Road

In this schedule, "Scheme Design" means the RIBA Stage E design and specification for the Works attached as Annex 8 of the Development Agreement.

**Table 1 – Common Specification**

Structural frame	<ul style="list-style-type: none"><li>• Structural frame: steel frames (columns and beams) and composite slab</li><li>• Frame Finish: "Ordinary" finish to national Structural concrete specification Fourth edition</li><li>• Provision for services distribution: holes in web of steel beams</li></ul>								
Floors	<ul style="list-style-type: none"><li>• Floor: composite metal decking and concrete slab</li><li>• Floor finish to be provided by Tenant</li><li>• Soft-spot to be provided in first floor opening between A1 and A3 Units as provided for in the Scheme Design.</li></ul>								
Structural slab loading (floor slabs)	<table><tr><td>• Imposed load</td><td>5.00kN/m<sup>2</sup></td></tr><tr><td>• Screed allowance</td><td>1.8kN/m<sup>2</sup></td></tr><tr><td>• Services &amp; Ceiling allowance (GF)</td><td>0.5kN/m<sup>2</sup></td></tr><tr><td>• Services &amp; Ceiling allowance (B1)</td><td>0.6kN/m<sup>2</sup></td></tr></table>	• Imposed load	5.00kN/m <sup>2</sup>	• Screed allowance	1.8kN/m <sup>2</sup>	• Services & Ceiling allowance (GF)	0.5kN/m <sup>2</sup>	• Services & Ceiling allowance (B1)	0.6kN/m <sup>2</sup>
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# MARBLE ARCH PLACE – MARBLE ARCH RETAIL MINIMUM STANDARD

	<ul style="list-style-type: none"><li>Services &amp; ceiling allowance (level 1) 0.5kN/m2</li><li>Maximum deflection under full design load 30mm</li></ul>																																									
Minimum internal heights	<ul style="list-style-type: none"><li>Per Scheme Design.</li></ul>																																									
Acoustic performance criteria	<p>For the purposes of this provision "Cinema Premises" has the meaning defined in the Marble Arch Retail Underlease.</p> <p>The Marble Arch Retail shall be designed so as to prevent:</p> <ul style="list-style-type: none"><li>noise exceeding NR25 Lmax in any auditorium in the Cinema Premises ("<b>Auditorium</b>"); or</li><li>any perceptible vibration in any Auditorium which materially impacts on the beneficial use and enjoyment of the Cinema Premises;</li></ul> <p>provided that the following operational noise limits are not exceeded within the Marble Arch Retail premises.</p> <table><tr><th rowspan="3"></th><th colspan="7">octave band centre frequency (Hz)</th><th rowspan="3">A</th></tr><tr><th>63</th><th>125</th><th>250</th><th>500</th><th>1k</th><th>2k</th><th>4k</th></tr><tr><th colspan="7">sound pressure level, dB re 2x10<sup>-5</sup> Pa</th></tr><tr><td><i>L<sub>eq,1min</sub></i></td><td>75</td><td>75</td><td>75</td><td>77</td><td>76</td><td>74</td><td>68</td><td>80</td></tr><tr><td><i>L<sub>max</sub></i></td><td>90</td><td>88</td><td>88</td><td>88</td><td>88</td><td>85</td><td>85</td><td>92</td></tr></table>		octave band centre frequency (Hz)							A	63	125	250	500	1k	2k	4k	sound pressure level, dB re 2x10 <sup>-5</sup> Pa							<i>L<sub>eq,1min</sub></i>	75	75	75	77	76	74	68	80	<i>L<sub>max</sub></i>	90	88	88	88	88	85	85	92
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Internal partition walls	<ul style="list-style-type: none"><li>Generally exposed fair faced concrete blockwork except for core areas, which will be exposed concrete.</li></ul>																																									
Ceilings	<ul style="list-style-type: none"><li>No ceilings: Exposed soffit of overlaying floor structure</li></ul>																																									
Ground floor shop fronts	<ul style="list-style-type: none"><li>Full height single glazed units with a powder coated aluminium frame.</li><li>Glass double-leaf doors with stainless steel top and bottom rails. Suitable doors and ironmongery and locking mechanism to be provided</li><li>Refer to General Ventilation below for description of retail louvres.</li></ul>																																									
Internal joinery	<ul style="list-style-type: none"><li>Metal doors and frames compliant with the fire strategy and current building regulations</li><li>Door thresholds to be flush with finished floor levels in to common areas. The door thresholds will be set above the concrete slab for the</li></ul>																																									



## MARBLE ARCH PLACE – MARBLE ARCH RETAIL MINIMUM STANDARD

	<p>A3 retail unit and for the A1 retail unit to achieve levelled thresholds internally and externally where required.</p> <ul style="list-style-type: none"> <li>• Polyester powder coated finish to door and frames in standard range RAL colour to be agreed via sampling.</li> </ul>																												
BREEAM	<ul style="list-style-type: none"> <li>• Retail shells will be designed and constructed to achieve BREEAM excellent rating. The tenant shall design the fit out, ensuring the following is incorporated to maintain the BREEAM rating of the building: <ul style="list-style-type: none"> <li>○ <i>The fit out design shall be designed in accordance with the following requirements:</i></li> </ul> </li> </ul> <table> <tr> <th>Assumed Fit-out</th><th>All Retail Units</th></tr> <tr> <td>Heating system type (assumed system in model)</td><td>Water source Heat Pumps + Supply and Extract</td></tr> <tr> <td>Heating Efficiency</td><td>COP 4.5</td></tr> <tr> <td>Cooling system type (assumed system in model)</td><td>Heat Pumps + Supply and Extract</td></tr> <tr> <td>Seasonal EER</td><td>SEER: 5.5</td></tr> <tr> <td>Ventilation Type</td><td>AHU Only (Local Supply &amp; Extract)</td></tr> <tr> <td>Specific Fan power of air distribution plant</td><td>2.0 (AHU)</td></tr> <tr> <td>Duct Leakage</td><td>Worse than A</td></tr> <tr> <td>AHU Leakage</td><td>Worse than L3 /Not tested</td></tr> <tr> <td>Heat recovery</td><td>By Tenant</td></tr> <tr> <td>Heat recovery</td><td>Yes – 75%</td></tr> <tr> <td>DHW system type</td><td>From central LTHW system</td></tr> <tr> <td>DHW system delivery efficiency</td><td>0.85</td></tr> <tr> <td>DHW Fuel Type</td><td>Gas</td></tr> </table>	Assumed Fit-out	All Retail Units	Heating system type (assumed system in model)	Water source Heat Pumps + Supply and Extract	Heating Efficiency	COP 4.5	Cooling system type (assumed system in model)	Heat Pumps + Supply and Extract	Seasonal EER	SEER: 5.5	Ventilation Type	AHU Only (Local Supply & Extract)	Specific Fan power of air distribution plant	2.0 (AHU)	Duct Leakage	Worse than A	AHU Leakage	Worse than L3 /Not tested	Heat recovery	By Tenant	Heat recovery	Yes – 75%	DHW system type	From central LTHW system	DHW system delivery efficiency	0.85	DHW Fuel Type	Gas
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## MARBLE ARCH PLACE – MARBLE ARCH RETAIL MINIMUM STANDARD

	<b>Averaged lighting power density across each zone type</b>	1.86 W/m <sup>2</sup> /100lux
	<b>Display Lighting</b>	80lm/W
	<b>Renewable technologies</b>	CHP
Primary Heat for HWS generation	<ul style="list-style-type: none"> <li>From landlord's centralised heating system via plate heat exchanger.</li> <li>Heat exchangers are to be supplied, installed and maintained by the Landlord, location to be in lowest retail level.</li> <li>Each retail unit will be provided with a 90kW LTHW heat exchanger for production of domestic hot water only.</li> <li>Primary flow/return design temperatures 80/ 60degrees C, secondary flow/return design temperatures 60 /10 degrees C.</li> <li>Secondary design flow rate assumed 0.43 Kg/s. Where higher HWS demand is required, the retailer will provide HWS storage within their demise to suit their requirements.</li> <li>A heat meter will be provided by the Landlord on the primary side of the heat exchangers, connected to the central EMS</li> <li>The primary heating is available 24 hrs per day 7 days per week.</li> </ul>	
Condenser water	<ul style="list-style-type: none"> <li>From landlord's centralised Condenser water system via run and standby plate heat exchangers.</li> <li>Heat exchangers are to be supplied, installed and maintained by the Landlord at the lowest retail level.</li> <li>Primary flow/return design temperatures set point 22/28degrees C with maximum 33/39degrees C.</li> <li>An energy meter will be provided by the Landlord on the primary side of the heat exchangers, connected to the central EMS</li> <li>To be used for general heating and cooling via water cooled heat pump air conditioning system to be provided as part of the Tenants fit-out.</li> <li>Condenser water is available 24 hours per day 7 days per week.</li> <li>(For loads and temperatures see specific section for each unit)</li> <li>(For heat rejection for use in refrigeration systems refer to general ventilation below)</li> </ul>	
General Ventilation	<ul style="list-style-type: none"> <li>All general ventilation plant equipment and system within the demise of each unit shall be provided by the tenant.</li> <li>To facilitate the above, a system of external louvres is provided by the landlord on the façade of the unit. These run at high-level ground and</li> </ul>	



## MARBLE ARCH PLACE – MARBLE ARCH RETAIL MINIMUM STANDARD

	<p>1<sup>st</sup> floor level on each unit and are backed with bird mesh, proprietary aluminium weather extrusions and insulated blanking plates in non-active areas. The extent of the high-level louvres is shown on the attached drawings.</p> <ul style="list-style-type: none"> <li>• The louvers shall not be used to discharge kitchen extract or similar which may cause nuisance to other parts of the building, to the surrounding buildings, or to the general area.</li> <li>• All filtration shall form part of the tenant fit out works.</li> </ul>
Kitchen Extract	<ul style="list-style-type: none"> <li>• A single A3 riser shall be provided from the A3 unit to roof level for the installation of kitchen extract ventilation systems.</li> <li>• For A3 unit only, an extract duct shall be provided by the Landlord from the unit to roof level extending to a suitable point of discharge.</li> <li>• The duct will be fire rated and will run at high level in corridors and via dedicated risers to roof level.</li> <li>• Full access for cleaning will be provided throughout the length of the duct.</li> <li>• The duct will be designed and installed to all current and Building Control standards, and in accordance with Ductwork Specification DW 172.</li> <li>• A section of duct at roof level shall be left out for the Tenant to provide and install an extract fan and attenuators suitable to meet the requirements of the kitchen extract system.</li> <li>• The Landlords duct will terminate within the Demise at high level for extension within the demise by the Tenant.</li> <li>• The A3 retailer shall be responsible for the supply, installation and commissioning of an ecology unit within the retail demise.</li> <li>• The size and design parameters of the installed duct for the A3 unit are described in specific section below.</li> </ul>
Water Supply	<ul style="list-style-type: none"> <li>• A metered Potable Water supply shall be provided by the Landlord to each unit.</li> <li>• The supply shall be terminated with an isolating valve within the unit. (See specific section for the size and location for each unit)</li> <li>• The Landlords supply incorporates water storage.</li> <li>• Each water supply shall be provided with a water meter located outside of the demise, connected to the landlords building management system.</li> </ul>
Gas Supply	<ul style="list-style-type: none"> <li>• For A3 unit only, a gas supply pipe shall be provided by the Landlord.</li> <li>• A supply pipe will be provided from the building's common gas meter room to the demise.</li> </ul>



## MARBLE ARCH PLACE – MARBLE ARCH RETAIL MINIMUM STANDARD

	<ul style="list-style-type: none"> <li>• The supply pipe will be afforded all protection with regard to gas escape and fire as required depending on the route between the gas meter room and the demise.</li> <li>• An automatic isolation valve shall be provided by the tenant within the demise to isolate the gas supply upon fire, interfaced with the fire alarm system, fire suppression system as well as manual activation. As required as part of the safety systems within the demise</li> <li>• Should automatic isolation be required at the gas meter end of the supply to meet the requirements of the safety systems within the building, this will be provided by the Landlord, connected to the Landlords fire alarm system.</li> <li>• The tenant shall make an application for the gas supply and meter via their own shipper and take all steps required to activate the supply.</li> </ul>
Electrical Supply	<ul style="list-style-type: none"> <li>• The landlord will install an electrical supply to the unit direct from the supply authorities' distribution.</li> <li>• The supply will be terminated in a service head with fuse, isolating switch and metering ICT chamber within the unit's demise. (See specific section for the size and location for each unit)</li> <li>• The landlord will provide an MPAN number to the Tenant prior to the unit's handover in good time to ensure that the supply is available at the commencement of the fitting out period.</li> <li>• The Tenant is to make a formal application for the supply and meter via their service provider.</li> </ul>
Fire Alarm and interface	<ul style="list-style-type: none"> <li>• A fire alarm interface unit is to be provided by the Landlord in the corridor immediately outside the rear door of each unit at ground floor level.</li> <li>• The tenant is to supply and install a standalone fire alarm system for the unit, which is compatible with the Landlords system and the cable connections to the Landlords interface unit.</li> <li>• The Landlord shall terminate the cable connections into the interface, via the buildings fire alarm installer and activate/ programme the main buildings system as required.</li> <li>• The Landlords system operates on a double knock arrangement (investigate at first alert and activate on second) the tenants system shall follow this 2 stage procedure.</li> <li>• The tenants system shall be capable of conveying and receiving the 2 stage signalling via the interface unit.</li> </ul>



## MARBLE ARCH PLACE – MARBLE ARCH RETAIL MINIMUM STANDARD

<p>Sprinklers, Zone Control Valves, Fire suppression &amp; Basement Smoke Ventilation</p>	<ul style="list-style-type: none"> <li>• Sprinkler system within the unit to be served by landlord's common system.</li> <li>• A sprinkler connection and zone check isolating valve is provided by the landlord for each level of the unit. Each connection is monitored by the Landlords fire alarm system.</li> <li>• The A1 Retail Unit shall be provided with a life-safety generator backed power supply terminating in an automatic transfer switch (ATS) in the A1 retail basement demise. The secondary supply of the ATS will be connected to the landlord's electrical infrastructure. The primary supply of the ATS will be connected from the tenant's incoming supply (fit out by tenant).</li> <li>• The A1 retail unit shall be provided with a smoke ventilation system that will be designed, supplied, installed and commissioned by the landlord and will be located at high level in the basement demise. The smoke ventilation ductwork will extend up through the ground floor slab, to high-level ground floor and underside of 1<sup>st</sup> floor slab before terminating onto high-level louvres in the ground floor façade</li> <li>• Each retail tenant is to design, supply and install all other fire protection systems within the units.</li> </ul>
<p>Drainage</p>	<ul style="list-style-type: none"> <li>• The Landlord shall provide 100mm diameter foul water connections (pop ups) as described in Tables 2 &amp; 3.</li> <li>• A single vent pipe shall be provided by the Landlord at high level at the highest level of the unit, which rises to roof level for venting the tenants system to atmosphere.</li> <li>• The Tenant shall provide all required grease traps, and other necessary system protection within the unit's demise, to ensure that effluent is discharged to the standards required by the Drainage Authority.</li> <li>• Except to the extent shown in the Scheme Design, no drainage pipework serving other parts of the property shall pass through the retail units.</li> </ul>
<p>Satellite services</p>	<ul style="list-style-type: none"> <li>• Provision for tenants to use landlord's common satellite installation as identified in Audio Visual Specification HPF-S-65-SP-XXX-01 document forming part of the Scheme Design.</li> <li>• The tenant shall request from the Landlord connection to the system should it be required.</li> </ul>



## MARBLE ARCH PLACE – MARBLE ARCH RETAIL MINIMUM STANDARD

	<ul style="list-style-type: none"> <li>• All costs associated with the connection will be borne by the Tenant.</li> <li>• Other than the A1 Unit, the Tenant will not be allowed to provide their own satellite dish or receiving equipment on the roof or in any location outside of the unit's demise.</li> </ul>
Telephone	<ul style="list-style-type: none"> <li>• An adequate cable containment system in the form of cable tray and conduit will be provided by the landlord from the comms intake room to the demise.</li> <li>• The Tenant shall apply for all telephone or communication services as required from their suppliers and supply and install all cabling required within the containment system provided.</li> <li>• No direct connections from the highway will be allowed.</li> </ul>
Access Control	<ul style="list-style-type: none"> <li>• All doors leading from the retail unit demise into other parts of the building (including doors for operational purposes and emergency escape doors) shall be monitored by the Landlord's security system. The monitoring shall include a door contact on each door leaf and coverage from a CCTV camera.</li> <li>• Any doors leading from the retail unit demise into other parts of the building that are used for operational purposes (i.e. to access refuse areas and storage areas) shall be provided with bi-directional access control on the Landlords Access Control System.</li> <li>• Access Controlled doors shall include green Break glass Unit overrides, leading in the direction of emergency egress, to override the locking mechanism directly in the event of an emergency or system malfunction.</li> <li>• Access Controlled doors shall include an interface with the Fire Alarm system to override the locking mechanism directly in the event of a Fire Alarm.</li> <li>• The fire alarm interface unit is to be provided by the Landlord in the corridor immediately outside the rear door of each unit at ground floor level.</li> <li>• The Tenant is to supply and install a standalone fire alarm system for the unit, which is compatible with the Landlords system and the cable connections to the Landlords interface unit.</li> <li>• The Landlord shall terminate the cable connections into the interface, via the buildings fire alarm installer and activate/ programme the main buildings system as required.</li> </ul>



## MARBLE ARCH PLACE – MARBLE ARCH RETAIL MINIMUM STANDARD

**Table 2 Additional requirements for A3 Unit**

First floor external cladding	<ul style="list-style-type: none"><li>As described in the Scheme Design.</li></ul>				
Condenser Water	<ul style="list-style-type: none"><li>Heat Extraction or Rejection Rate from/to plate heat exchanger: 250W/m2 for 70% NIA, 440W/m2 for 30%NIA. See below table for total heat rejection or extract load for retail unit.</li><li>Secondary flow/return design temperatures set point 19/14degrees C with maximum 41/36degrees C.</li></ul>				
	Building Type	Retail Unit Type	Est. Area* (m2)	Delta T (K) (Secondary Side)	Total Heat Rejection Extraction Load (kW)
	Building 1	A3	526	5	161.5
Gas	<ul style="list-style-type: none"><li>Gas pipe will be provided by the landlord as described above to each A3 unit as per the table below:-</li></ul>				
	Building Type	Retail Unit Type	Gas flow rate (kW)	Gas pipe size (mm)	Pressure at retail demise (Pa)
	Building 1	A3	200	65	2000
Electricity	<ul style="list-style-type: none"><li>3 phase and neutral 415 volt 50 hz supply</li><li>250A fuse and isolator located on wall at lowest level of each A3 retail demise.</li><li>Loads as per table below, based upon 350W/m2 for ground floor areas, and 200 W/m2 for basement/1<sup>st</sup> floor areas</li></ul>				
	Building	Retail Unit Type	Total Load (kW)		
	Building 1	A3	143		



## MARBLE ARCH PLACE – MARBLE ARCH RETAIL MINIMUM STANDARD



Kitchen Extract Duct	<ul style="list-style-type: none"> <li>Fire rated ductwork from demise to roof will be installed by landlord as described above. Free areas and flow rates will be provided as per the table below:-</li> </ul>			
	Building Type	Retail Unit Type	Kitchen Extract Duct Free Area (m2)	Max Potential Flow Rate (M3/s)
	Building 1	A3	0.5	3.75
Riser and Roof plant provision	<ul style="list-style-type: none"> <li>External plant space for kitchen extract fan/attenuators will be as described in Kitchen Extract Duct section above.</li> <li>There is a further provision of 2sqm for A3 retail tenant external plant space as defined within the Marble Arch Retail Underlease.</li> <li>The imposed load capacity of the plant areas is 7.5kN/m<sup>2</sup></li> <li>Vertical riser for tenant's exclusive use to be as shown on Marble Arch Retail Underlease plans</li> <li>Refer to Scheme Design building core drawings for size of riser and access arrangements</li> <li>Service risers will conform to the fire rating of the element through which they pass.</li> <li>Working access platforms and edge protection to be provided within risers sufficient for maintenance and cleaning to be provided at all levels</li> </ul>			
Drainage	<ul style="list-style-type: none"> <li>A3 unit ground floor 2No pop-ups</li> <li>A3 unit first floor 1No 100mm capped connection at high level.</li> <li>Vent pipe location. 1 No at high level ground floor and 1 No at high level first floor</li> <li>Final positions of drainage provisions within the unit to be agreed with tenant.</li> </ul>			
Potable water	<ul style="list-style-type: none"> <li>28mm dia. Potable water supply provided at ground level demise with capacity for occupancy density of (200 serving at 7litres per serving)</li> <li>Water supply will be terminated with a capped valved connection at high level at the lowest floor level within the retail unit.</li> <li>The water supply to the A3 retail unit will have a capacity of 1.0 l/s with a pressure of 2-3bars</li> </ul>			



## MARBLE ARCH PLACE – MARBLE ARCH RETAIL MINIMUM STANDARD



**Table 3 Additional requirements for A1 retail Unit**

Basement envelope	<ul style="list-style-type: none"><li>Basement retaining walls: 1000mm thick RC diaphragm wall</li><li>Basement retaining walls: Hydro-duct CF or similar approved. Typical detail drawing WSL-04-OSW-401.</li><li>The basement diaphragm wall in combination with the drained cavity construction provides a grade 3 basement in accordance with BS8102</li></ul>										
Condenser Water	<ul style="list-style-type: none"><li>Heat Extraction or Rejection Rate from/to plate heat exchanger: 250W/m2 for 100% NIA. See below table for total heat rejection or extract load for retail unit.</li><li>Secondary flow/return design temperatures set point 19/14 degrees C with maximum 41/36 degrees C.</li></ul> <table><tr><th>Building</th><th>Retail Unit Type</th><th>Est. Area (m2)</th><th>Delta T (K) (Secondary Side)</th><th>Total Heat Rejection or Extraction Load (kW)</th></tr><tr><td>Building 1</td><td>A1</td><td>602</td><td>5</td><td>150.5</td></tr></table>	Building	Retail Unit Type	Est. Area (m2)	Delta T (K) (Secondary Side)	Total Heat Rejection or Extraction Load (kW)	Building 1	A1	602	5	150.5
Building	Retail Unit Type	Est. Area (m2)	Delta T (K) (Secondary Side)	Total Heat Rejection or Extraction Load (kW)							
Building 1	A1	602	5	150.5							
Electrical Supply	<ul style="list-style-type: none"><li>3 phase and neutral 415 volt 50 hz supply</li><li>250A fuse and isolator located on wall at lowest level of each retail demise.</li></ul> <table><tr><th>Building</th><th>Retail Unit Type</th><th>Total Load (kW)</th></tr><tr><td>Building 1</td><td>A1</td><td>121</td></tr></table>	Building	Retail Unit Type	Total Load (kW)	Building 1	A1	121				
Building	Retail Unit Type	Total Load (kW)									
Building 1	A1	121									
Riser provision	<ul style="list-style-type: none"><li>Vertical riser for Building 1 A1 Retail tenant's exclusive use to be as shown on Marble Arch Retail Underlease plans</li><li>Refer to building core drawings for size of riser and access arrangements</li></ul>										



## MARBLE ARCH PLACE – MARBLE ARCH RETAIL MINIMUM STANDARD



Roof plant provision	<ul style="list-style-type: none"><li>• Provision for Building 1 A1 Retail tenant's future fit out external plant space at Building 1 level 08 as described within the Marble Arch Retail Underlease.</li><li>• The imposed load capacity of the plant areas is 7.5kN/m<sup>2</sup></li></ul>
Drainage	<ul style="list-style-type: none"><li>• A1 unit will be provided with 4No pop-ups at basement level according to the Requirements of the Sainsbury's Agreement for Lease</li><li>• A1 unit will be provided with 1No. vent pipe at the highest level only.</li></ul>
Potable water	<ul style="list-style-type: none"><li>• A1 unit will be provided with a 20mm TW water meter and a 25mm PE to 22mm dia. Potable water supply.</li><li>• Water supplies will be terminated with a capped valved connection at high level at the lowest floor level within the retail unit.</li><li>• The water supply to each A1 retail unit will have a capacity of 0.5 l/s with a pressure of 2-3bars</li></ul>
Internal staircase, lift shaft and pit	<ul style="list-style-type: none"><li>• To be provided according to the requirements of the Sainsbury's Agreement for Lease.</li></ul>
Tenant's Satellite Provision	<ul style="list-style-type: none"><li>• Facility for tenant to install Satellite dish according to requirements of Sainsbury's Agreement for Lease.</li></ul>

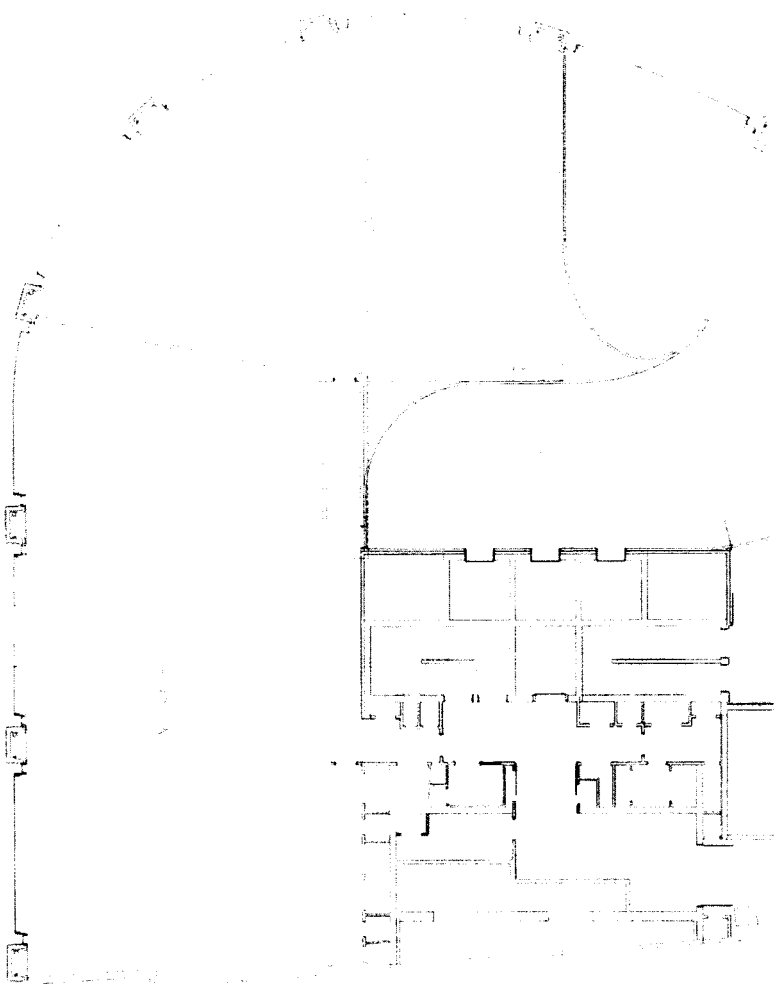
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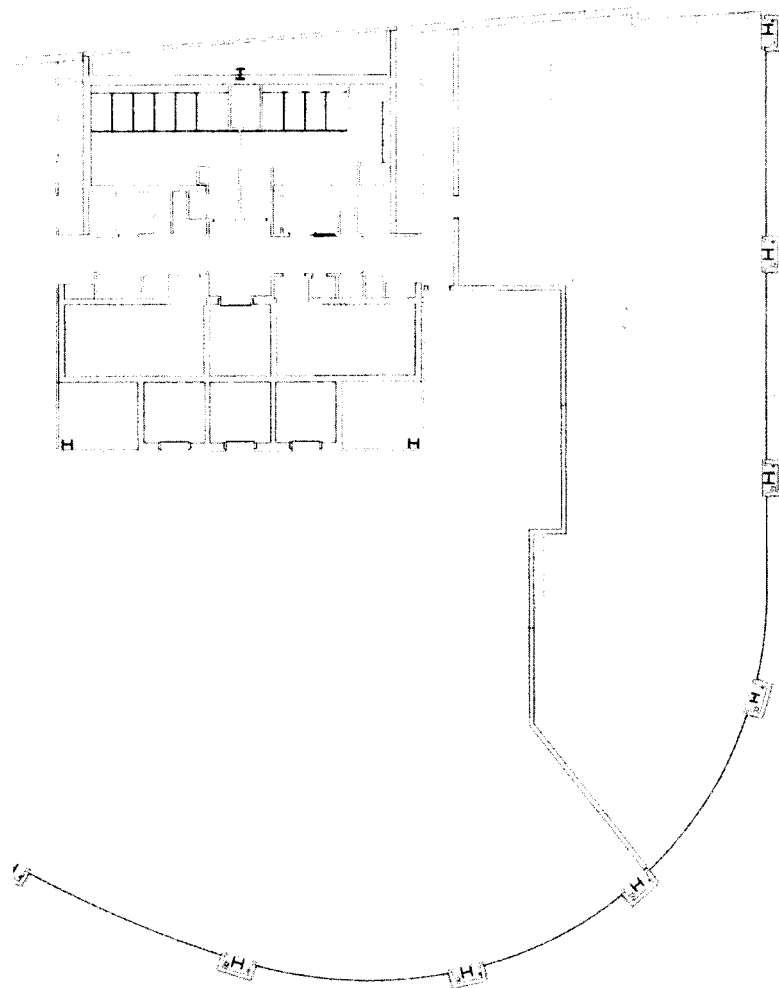
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NO. 1000-1000-1000

RVA SK 1141

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Figure 1 consists of 16 small diagrams arranged in a 4x4 grid. The diagrams are labeled with letters A through P. The first column (A-D) shows a cell in various stages of mitosis, from prophase to telophase and cytokinesis. The second column (E-H) shows a cell in various stages of cytokinesis, from the formation of a cleavage furrow to the completion of cell division. The diagrams are labeled with letters A through P.

RVA SK 1142



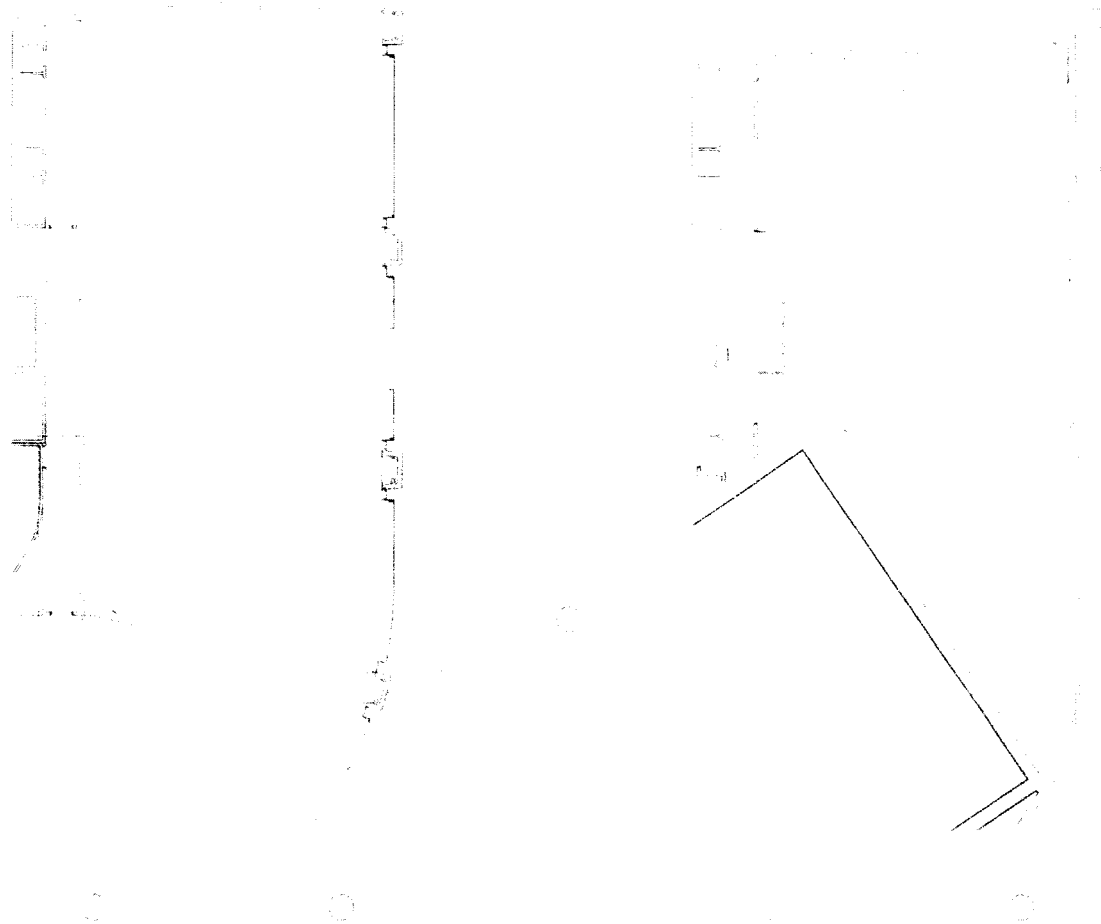
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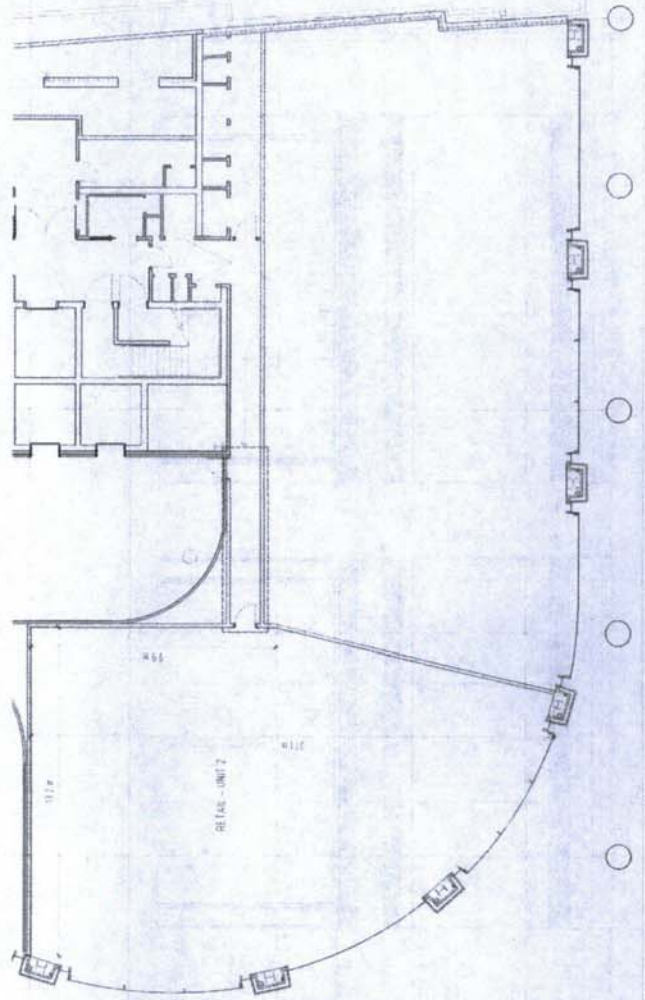
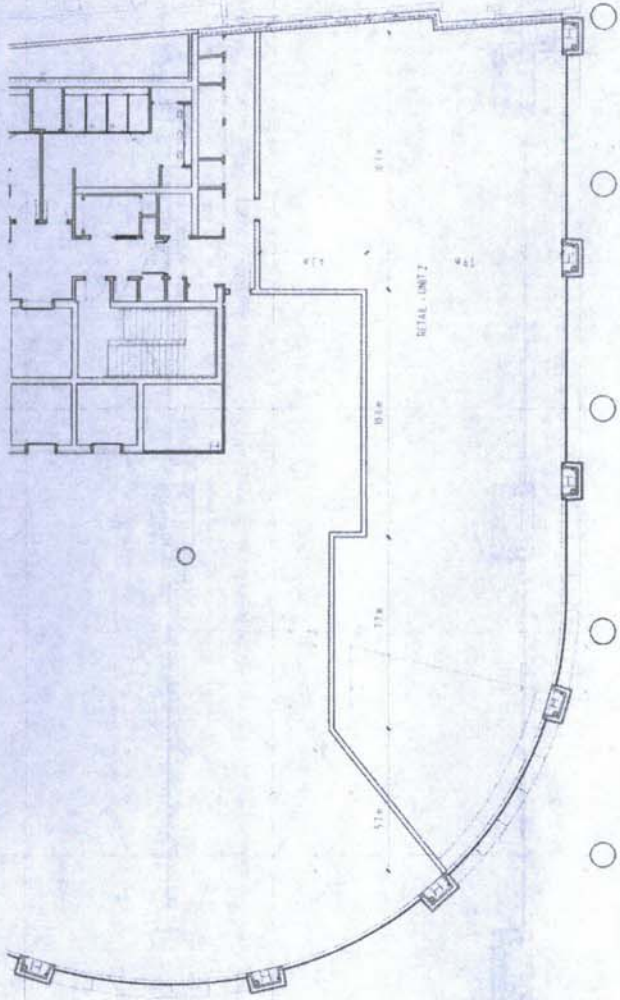
DATE: 01/11/2011  
PROJECT: MARBLE ARCH PLACE  
SHEET: 02 OF 02  
DRAWN BY: J. V. / J. V.  
CHECKED BY: J. V. / J. V.

FOR INFORMATION 02

RETAIL UNIT 2 - PLANS -  
PLANNING PROPOSAL

DATE: 01/11/2011

RVA SK 1146

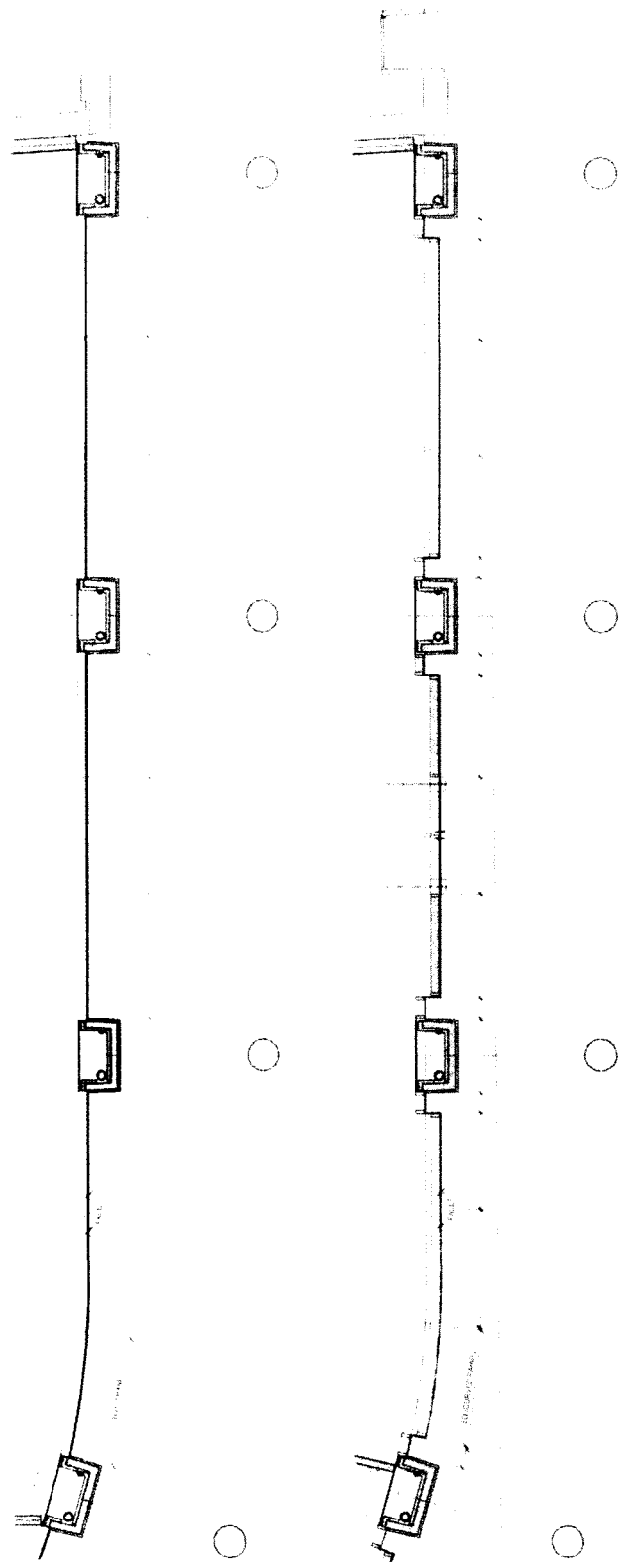
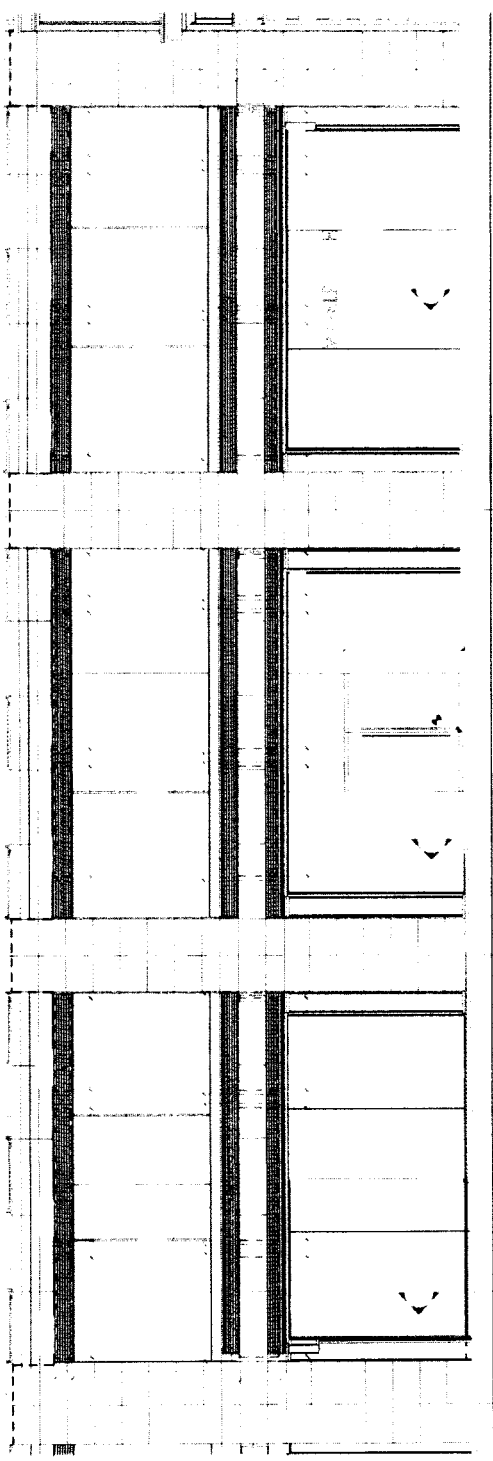


DO NOT SCALE

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MARBLE ARCH PLACE

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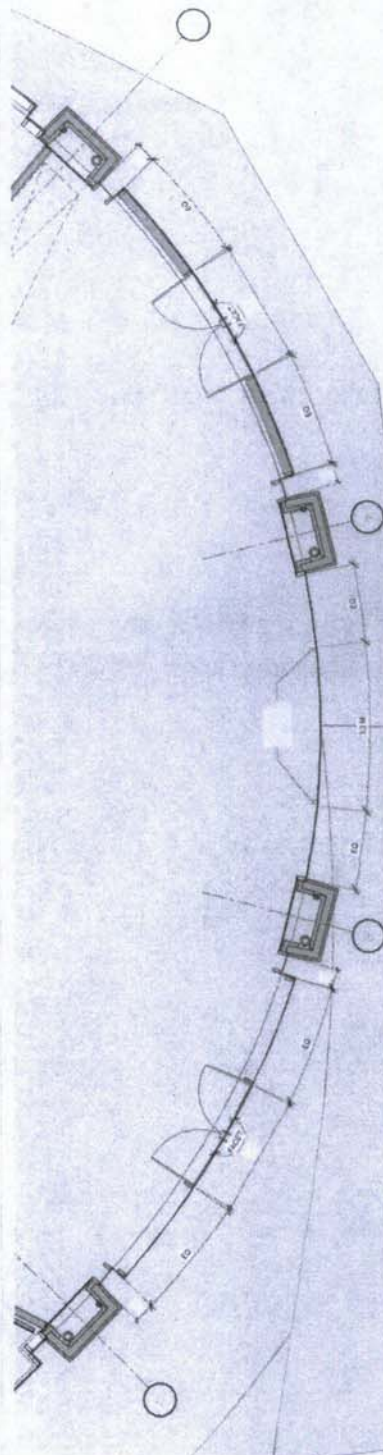
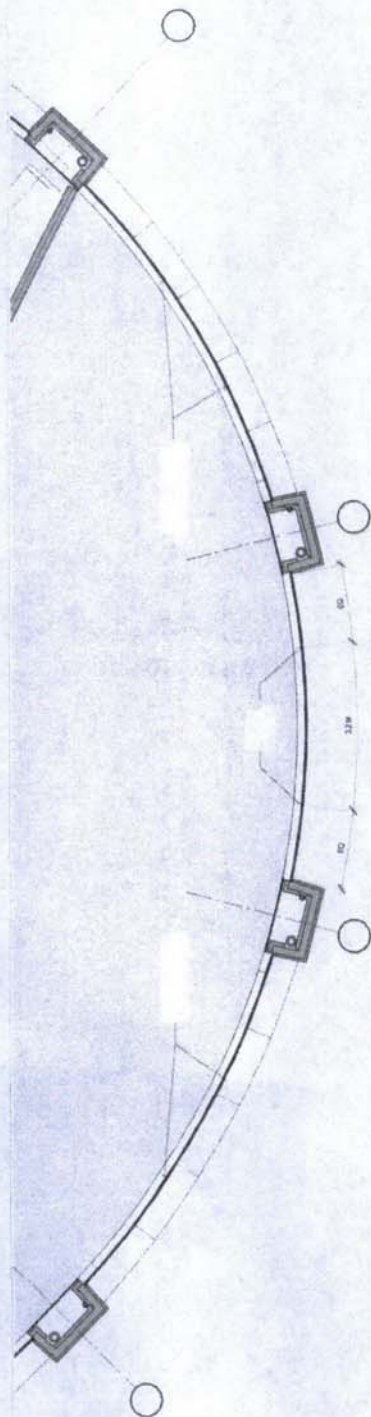
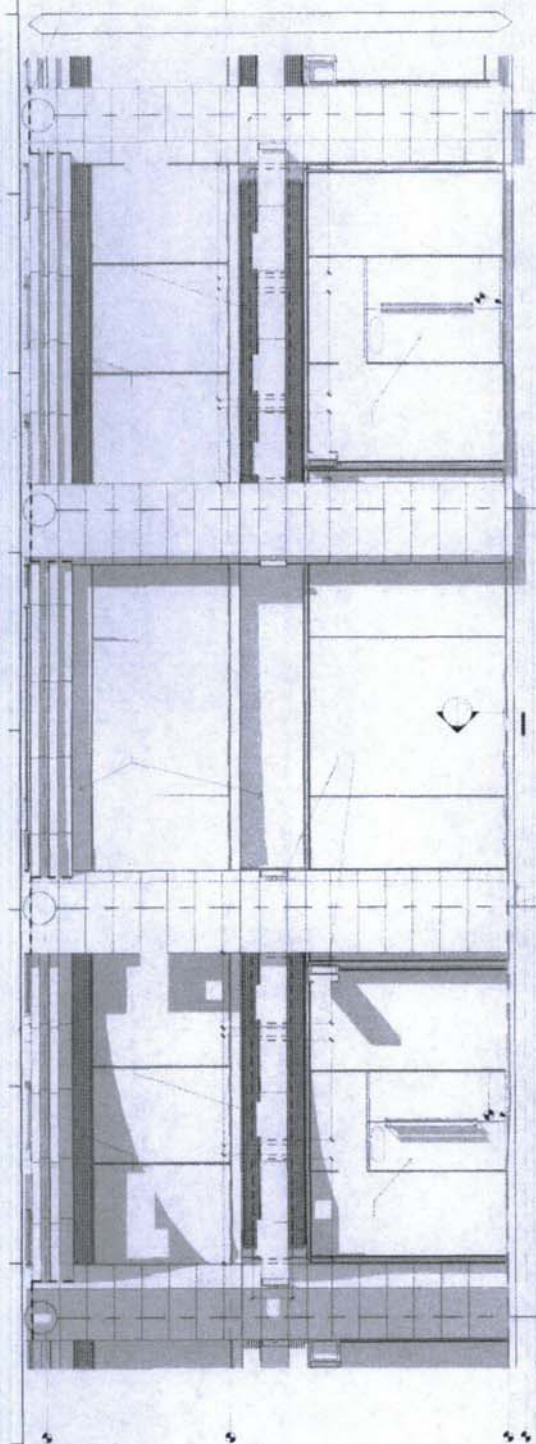
DATE: 11/11/09  
BY: R. VIÑOLY  
DESCRIPTION: MARBLE ARCH PLACE

FOR INFORMATION 00

ENLARGED PLANS & ELEVATIONS  
BUILDING 1 EDGWARE RD LVL 00-0'

DATE: 11/11/09  
BY: R. VIÑOLY  
DESCRIPTION: MARBLE ARCH PLACE

RVA SK 1176







## City of Westminster

**Office Name:** Anil Drayan  
**Designation:** EHO  
**Contact number:** 020 7641 1774  
**Email:** adrayan@westminster.gov.uk  
**Signed:** Anil Drayan

**WCC Uniform Ref Number:**  
18/00782/PREAPM

**Address:** Development Site at 5-9 Marble Arch, 2-20 (evens) Edgware Road, and 53-59 (odd) Bryanston Street

**Licenses:** 16/09835/LIPT

**Applicant:**  
Alun Thomas  
Thomas & Thomas  
Partners Llp

**Cumulative Impact Area:**  
Yes – Edgware Road

### **Type of Business currently operating at the premises:**

- Development site with Planning Permission, 14/11220/FULL, for Demolition of existing building and erection of two new buildings with two basement levels and two mezzanine levels below ground. Building 1 fronting on to Marble Arch comprises ground and seven upper floors and roof top plant; Building 2 fronting onto Edgware Road comprising ground and seven upper floors with a tower to 18th floor level and roof top plant; all for a mix of uses comprising offices (Class B1), up to 54 residential units (Class C3), retail (Class A1), restaurant (Class A3), bar (Class A4) and cinema (Class D2); provision of car parking spaces, cycle parking spaces, plant and works to public realm, including a new pedestrian route between Marble Arch and Bryanston Street.

### **BACKGROUND**

#### **Advice requested:**

*Development Site at 5-9 Marble Arch, 2-20 (evens) Edgware Road, and 53-59 (odd) Bryanston Street see attached cover letter regarding proposals for provisional statements*

*Please could a site meeting be arranged to discuss the proposals, particularly the conditions which would apply to each of the statements.the basement, presuming that there may need to be a protected means of escape from there to the street.*

*I understand from our conversation that background music is restricted by planning and the tenant will be advised accordingly should that condition need to be varied.*

*It would be helpful if you could set out the conditions which you would find acceptable in addition to the hours and technical issues pertaining to capacity and sanitary*

requirements.

*There is an existing public house at 20 Edgware Road, formally a Wetherspoons and the premises licence (16/09835/LIPT) is currently held by the applicant. Following the grant of planning permission, it is proposed to obtain one provisional statements for the restaurant (A3) use, one provisional statement for the A4 use, and two provisional statements for the retail units (A1). The hours of the application will match those of the existing premises licence and in respect of the restaurant and retail use, the council's core hours for licensable activities and 30 minutes later for opening, in line with the planning.*

**Following a site visit on 1 March 2018 further clarification provided on the advice requested in an e-mail dated 7 March 2018:**

*I confirm that my client intentions are therefore as follows:*

*The existing Wetherspoons unit is reducing in size. That reduction is from 674 to 293 sq metres.*

- 1. To submit by way of provisional statement;*
- 2. For a public house/bar use upon the same terms as the existing licence which is held by my client;*
- 3. Two restaurant uses, MC38;*
- 4. Two retail uses, subject again to the same food conditions, notwithstanding the use obviously will need to remain predominantly as retail;*
- 5. The attached model conditions;*
- 6. The supermarket and Odeon will make their own applications in due course;*
- 7. I will send you further details of the servicing arrangements so obviously we can rely upon planning in that respect; and*
- 8. Your comments in relation to extract are noted and appreciated. My client will speak further with the architect and put him in touch if need be;*

**ENVIRONMENTAL HEALTH ADVICE**

**i. Cumulative Impact Area (CIA)**

The advice is based on *Westminster's Statement of Licensing Policy* which can be found on the Council's website at the following link:

<https://www.westminster.gov.uk/licensing-policy>

This also provides a connection to the list of *Model Pool of Conditions* which should be used as the basis of any conditions proposed in an operating schedule.

Please use this link to access the policies and conditions referred to when reading the advice below.

**As the premises are located within the Edgware Road Cumulative Impact Area special policy CIP1 applies which states;**

*(i) It is the Licensing Authority's policy to refuse applications in the Cumulative Impact Areas for: pubs and bars, fast food premises, and premises offering facilities for music and dancing; other than applications to vary hours within the Core Hours under Policy HRS1.*

*(ii) Applications for other licensable activities in the Cumulative Impact Areas will be subject to other policies, and must demonstrate that they will not add to cumulative impact in the Cumulative Impact Areas.*

**ii. Public House in the Cumulative Impact Areas**

With regards to an application for Public Houses and Bars in the Cumulative Impact Areas - Policy PB2 applies which states:

*It is the Licensing Authority's policy to refuse applications in the Cumulative Impact Areas other than applications to vary hours within the Core Hours under Policy HRS1.*

However, the Licensing Authority will not apply these policies inflexibly. It will always consider the individual circumstances of each application; even where an application is made for a proposal that is apparently contrary to policy but *'will only be overridden in genuinely exceptional circumstances'*.

Whilst paragraphs 2.4.2-2.4.13 of the policy describes some of the exceptional circumstances the policy does not provide a list of examples of when an application may be treated as an exception.

Please note the Licensing Authority does not treat the following circumstances, on their own, as exceptional:

- The premises operate strictly to their conditions.
- The premises are well managed.
- The operator is of good character or reputation.
- The capacity of the premises is small.
- There are no residential properties in the vicinity.
- The premises have applied for Temporary Event Notices for longer hours without incident.
- Economic necessity
- The premises caters to a specialist group eg LGBT+ community

In this case the Premises Licence, 16/09835/LIPT, previously operating on part of the site, has been maintained and whether this provides an argument that in effect this is not a new application but could be considered effectively as a variation can only be determined by the Licensing sub- Committee.

However please note Paragraph 2.4.8 of the policy which states:

***'This will not apply to licences which have been surrendered or those which can have no practical effect because the premises to which they applied no longer exist, or will not continue to exist in their previous form, e.g. because of planned demolition or redevelopment.'***

Nevertheless the proposed reduction in the licensable area from 674 to 293 sq metres , additional conditions and the general improvement to the area resulting from the planning approval for the development as a whole,

particularly the addition of new residential spaces where there were none previously, may be used as part of an overall submission to demonstrate 'exceptional circumstances'.

Please note you are also advised that the planning status of the premises will not be a material consideration as to whether any Premises Licence will be granted. Conversely, under planning legislation, the approval of a Premises Licence does not provide automatic grounds for the planning status to also be changed.

### **iii. Restaurants in the Cumulative Impact Areas**

Policy RNT2 applies which states:

*Applications will be granted subject to other policies in this Statement and subject to the relevant criteria in Policies CD1, PS1, PN1 and CH1, provided it can be demonstrated that they will not add to Cumulative Impact in the CIA.'*

The principle condition to demonstrate compliance with policy RNT2 is if the premises operates under model condition MC66 – note only 'slight tweaks' may be permitted to this condition

As well as MC66 other considerations for demonstrating 'will not add to Cumulative Impact in the CIA' are hours of operation, capacity restrictions, proximity of public transport etc.

### **iv. Retail operations wishing 'On' sale of alcohol in the Cumulative Impact Areas**

Any application for 'On' sale of alcohol in a predominantly retail use should have regard to paragraphs 2.4.16 to 2.4.22 and in particular paragraph 2.4.21 which states:

***'The council therefore considers that where applications for licenses to sell alcohol for consumption on the premises are made and (i) are appropriately conditioned so that the consumption of alcohol is not, and cannot become, a significant part of the operation of the premises and is regulated to promote responsible drinking; (ii) where the character of the premises is such that its customers are not likely to be involved in sustained***

***or heavy drinking at later hours; and (iii) when the sale of alcohol is not permitted beyond 20.00 hours; then permitting the sale of alcohol for consumption on the premises is unlikely to add to cumulative impact in the cumulative impact area.'***

Any such application is therefore recommended to be accompanied with condition MC86 with alcohol licensing hours finishing at 20:00 hours.

**v. Capacity and works conditions**

All applications should be accompanied with an intended maximum capacity so that it provides some measure of assessment on 'cumulative impact' under condition MC90.

The plans submitted are not detailed enough for The District Surveyor to provide a precise capacity at this stage.

Any application should also submit the 'works condition' MC81 with the added phrasing:

- Before the premises open to the public, the plans as deposited will be checked by the Environmental Health Consultation Team to ensure they are an accurate reflection of the premises constructed. Where there are minor changes to the premises layout during the course of construction new plans shall be provided to the Environmental Health Consultation Team and the Licensing Authority.

**vi. Sanitary accommodation**

With regards to the provision of sanitary accommodation one of the reasons for a CIA designation, as stated in the policy (page 137), is;

*'(e) The fouling of doorways, alleyways and streets, which in addition to being antisocial, has consequences for public safety and health (Public Safety and Public Nuisance).'*

Environmental Health therefore requires that any new application for the provision of sanitary accommodations must be as advised in British Standard

6465 -1:2006 + A1:2009; Sanitary installations – Part 1: Code of practice for the design of sanitary facilities and scale of provision of sanitary and associated appliances.

In addition:

- Also note Building Control requirements for new premises or premises undergoing substantial refurbishment usually require provision of a disabled or accessible facility.
- Provision for the staff; In addition, premises that are food led should also be providing sanitary accommodations that are separate from that provided for the public so as to be in compliance with guidance to food hygiene legislation.
- Please note in premises where food and drink is provided all toilets, if possible including disabled/accessible units, should be separated by a lobby from food eating, storage and preparation areas.

#### **vii. Conditions**

In addition to the conditions advised above for each type of application all applications should be submitted with the following common conditions:

##### **MC17:**

All sales of alcohol for consumption off the premises shall be in sealed containers only and shall not be consumed on the premises.

##### **MC47:**

A Challenge 21 or Challenge 25 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognized photographic identification cards, such as a driving licence, passport or proof of

age card with the PASS Hologram.

**MC01:**

The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Viewing of recordings shall be made available immediately upon the request of Police or authorized officer throughout the entire 31-day period.

**MC02:**

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 are open. This staff member must be able to provide a Police or authorized council officer copies of recent CCTV images or data with the absolute minimum of delay when requested.

**MC12:**

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.

**MC21:**

Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.

**MC42:**

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.

**Should you wish to discuss the matter further or seek further clarification or information please do not hesitate to contact me.**

**Anil Drayan**

**Environmental Health Officer,**

**EH Consultation Team**

**Please note that any advice given will not guarantee that your application will be granted by the Licensing Service and the Environmental Health Consultation Team may still choose to make a representation to the application submitted.**

The planning decision for Development Site at 5-9 Marble Arch, 2-20 (evens) Edgware Road & 53-59 (odd), Bryanston Street, London is enclosed.



## City of Westminster

Your ref: ALMACANTAR PRIVATE TRUSTEE  
COMPA

My ref: 14/11220/FULL

Neil Lawrence  
Gerald Eve  
72 Welbeck Street  
London  
W1G 0AY

Please reply to:

Mike Walton

Tel No:

020 7641 2521

Development Planning  
Westminster City Hall  
64 Victoria Street  
London SW1E 6QP

25 June 2015

Dear Sir/Madam

TOWN AND COUNTRY PLANNING ACT 1990  
PERMISSION FOR DEVELOPMENT (CONDITIONAL)

2/6/15

The City Council has considered your application and permits the development referred to below subject to the conditions set out and in accordance with the plans submitted.

Unless any other period is stated in the Schedule below or by conditions attached; this consent, by virtue of Section 91(1) of the Town and Country Planning Act 1990 (as amended), is granted subject to the condition that the development shall be commenced within 3 years of the date of this decision.

Your attention is drawn to the enclosed Statement of Applicant's Rights and General Information.

**SCHEDULE**

Application No: 14/11220/FULL

Application Date: 30.10.2014

Date Received: 11.11.2014

Date Amended: 11.11.2014

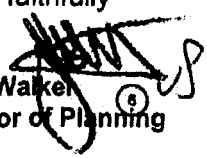
**Plan Nos:** RVA-0-10-095 rev 05, RVA-0-10-096 rev05, RVA-0-10-097 rev 05, RVA-0-10-098 rev05, RVA-0-10-100 rev05, RVA-0-10-101 rev02, RVA-0-10-102 rev02, RVA-0-10-103 rev02, RVA-0-10-104 rev02, RVA-0-10-105-rev02, RVA-0-10-106 rev05, RVA-0-10-107 rev05, RVA-0-10-108 rev02, RVA-0-10-109 rev02, RVA-0-10-110 rev05, RVA-0-10-111 rev02, RVA-0-10-112 rev02, RVA-0-10-113 rev02, RVA-0-10-114 rev02, RVA-0-10-115 rev05, RVA-0-10-116 rev05, RVA-0-10-117 rev02, RVA-0-10-118 rev02, RVA-0-10-119 rev02, RVA-0-10-120 rev02, RVA-020-001rev01, RVA-020-002rev01, RVA-020-003rev01, RVA-020-004rev02, RVA-C-20-101rev01, RVA-C-20-102rev03, RVA-R-20-201rev01, RVA-R-20-202rev01,

**Address:** Development Site At 5-9 Marble Arch, 2-20 (evens) Edgware Road & 53-59 (odd), Bryanston Street, London,

**Proposal:** Demolition of existing building and erection of two new buildings with two basement levels and two mezzanine levels below ground. Building 1 fronting on to Marble Arch comprises ground and seven upper floors and roof top plant; Building 2 fronting onto Edgware Road comprising ground and seven upper floors with a tower to 18th floor level and roof top plant; all for a mix of uses comprising offices (Class B1), up to 54 residential units (Class C3), retail (Class A1), restaurant (Class A3), bar (Class A4) and cinema (Class D2); provision of car parking spaces, cycle parking spaces, plant and works to public realm, including a new pedestrian route between Marble Arch and Bryanston Street.

See next page for conditions/reasons.

Yours faithfully

  
John Walker  
Director of Planning

**Condition(s):**

- 1 The development hereby permitted shall be carried out in accordance with the drawings and other documents listed on this decision letter, and any drawings approved subsequently by the City Council as local planning authority pursuant to any conditions on this decision letter.

**Reason:**

For the avoidance of doubt and in the interests of proper planning.

- 2 The street-facing elevations of the buildings and the entirety of the tower shall be clad in natural Portland stone; the remaining elevations of the building shall be clad in natural stone, details/samples of which shall be submitted for our written approval prior to commencement of the relevant part of the development.

**Reason:**

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Portman Estate Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan: Strategic Policies adopted November 2013 and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 3 You must apply to us for approval of samples of the facing materials you will use, including glazing, and elevations and roof plans annotated to show where the materials are to be located. You must not start any work on these parts of the development until we have approved what you have sent us. You must then carry out the work using the approved materials. (C26BC)

**Reason:**

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Portman Estate Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan: Strategic Policies adopted November 2013 and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 4 You must apply to us for approval of detailed drawings (at scales 1:20 and 1:5) of the following parts of the development:
  1. Typical details of all facades at all levels
  2. Public art (including details of illumination and a maintenance strategy)

You must not start any work on these parts of the development until we have approved what you have sent us.

You must then carry out the work according to these detailed drawings.

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Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Portman Estate Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan: Strategic Policies adopted November 2013 and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 5 You must not put any machinery or associated equipment, ducts, tanks, satellite or radio aerials on the roof, except those shown on the approved drawings. (C26PA)

Reason:

Because these would harm the appearance of the building, and would not meet S25 or S28, or both, of Westminster's City Plan: Strategic Policies adopted November 2013 and DES 1 and DES 5 of our Unitary Development Plan that we adopted in January 2007. (R26HC)

- 6 Except for basement excavation work, you must carry out any building work which can be heard at the boundary of the site only:
- between 08.00 and 18.00 Monday to Friday;
  - between 08.00 and 13.00 on Saturday; and
  - not at all on Sundays, bank holidays and public holidays.

You must carry out basement excavation work only:

- between 08.00 and 18.00 Monday to Friday; and
- not at all on Saturdays, Sundays, bank holidays and public holidays.

Noisy work must not take place outside these hours.

Reason:

To protect the environment of neighbouring residents. This is as set out in S29 and S32 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R11AC)

- 7 Customers shall not be permitted within the restaurants (Class A3) and bar (Class A4) premises outside of the following hours: 07.00 to 0000 midnight Sunday to Thursday, bank holidays and public holidays and 07.00 to 00.30 the next day on Friday and Saturdays.

Reason:

To protect the environment of people in neighbouring properties as set out in S24, S29 and S32 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 6, ENV 7 and of our Unitary Development Plan that we adopted in January 2007. (R12AC)

- 8 You must apply to us for approval of detailed drawings of the appearance and location of the ventilation system for the Class A3 use. You must not start any work on the relevant part of the development until we have approved what you have sent us. You must then carry out the work according to these details prior to the first use of the restaurant and thereafter the ventilation system shall be retained and maintained for as long as the Class A3 unit is in place.

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**Reason:**

The use of the Class A3 unit without any kitchen ventilation would cause harm to occupiers of neighbouring properties from cooking smells. This is as set out in S29 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV.5 of our Unitary Development Plan that we adopted in January 2007

- 9 You must apply to us for approval of an Operational Management Plan for the bar (Class A4) and restaurant (Class A3) uses. This shall include details of the capacity for each unit. You must not open the restaurant(s) or bar(s) to customers until we have approved what you have sent us. Thereafter you must manage the restaurant(s) and bar(s) in accordance with the approved plan.

**Reason:**

To make sure that the use will not cause nuisance for people in the area. This is as set out in S24, S29 and S32 of Westminster's City Plan: Strategic Policies adopted November 2013 and TACE 8, TACE 10 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R05GB)

- 10 (1) Where noise emitted from the proposed plant and machinery will not contain tones or will not be intermittent, the 'A' weighted sound pressure level from the plant and machinery (including non-emergency auxiliary plant and generators) hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 10 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the proposed hours of operation. The plant-specific noise level should be expressed as LAeqTm, and shall be representative of the plant operating at its maximum.

(2) Where noise emitted from the proposed plant and machinery will contain tones or will be intermittent, the 'A' weighted sound pressure level from the plant and machinery (including non-emergency auxiliary plant and generators) hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 15 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the proposed hours of operation. The plant-specific noise level should be expressed as LAeqTm, and shall be representative of the plant operating at its maximum.

(3) Following installation of the plant and equipment, you may apply in writing to the City Council for a fixed maximum noise level to be approved. This is to be done by submitting a further noise report confirming previous details and subsequent measurement data of the installed plant, including a proposed fixed noise level for approval by the City Council. Your submission of a noise report must include:

- (a) A schedule of all plant and equipment that formed part of this application;
- (b) Locations of the plant and machinery and associated: ducting; attenuation and damping equipment;
- (c) Manufacturer specifications of sound emissions in octave or third octave detail;
- (d) The location of most affected noise sensitive receptor location and the most affected window of it;

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- (e) Distances between plant & equipment and receptor location/s and any mitigating features that may attenuate the sound level received at the most affected receptor location;
- (f) Measurements of existing LA90, 15 mins levels recorded one metre outside and in front of the window referred to in (d) above (or a suitable representative position), at times when background noise is at its lowest during hours when the plant and equipment will operate. This acoustic survey to be conducted in conformity to BS 7445 in respect of measurement methodology and procedures;
- (g) The lowest existing L A90, 15 mins measurement recorded under (f) above;
- (h) Measurement evidence and any calculations demonstrating that plant and equipment complies with the planning condition;
- (i) The proposed maximum noise level to be emitted by the plant and equipment.

**Reason:**

Because existing external ambient noise levels exceed WHO Guideline Levels, and as set out in ENV 6 (1), (6) and (8) and ENV 7 (A)(1) of our Unitary Development Plan that we adopted in January 2007, so that the noise environment of people in noise sensitive properties is protected, including the intrusiveness of tonal and impulsive sounds; and as set out in S32 of Westminster's City Plan: Strategic Policies adopted November 2013, by contributing to reducing excessive ambient noise levels. Part (3) is included so that applicants may ask subsequently for a fixed maximum noise level to be approved in case ambient noise levels reduce at any time after implementation of the planning permission.

- 11 No vibration shall be transmitted to adjoining or other premises and structures through the building structure and fabric of this development as to cause a vibration dose value of greater than 0.4m/s (1.75) 16 hour day-time nor 0.26 m/s (1.75) 8 hour night-time as defined by BS 6472 (2008) in any part of a residential and other noise sensitive property.

**Reason:**

As set out in ENV6 (2) and (6) of our Unitary Development Plan that we adopted in January 2007, to ensure that the development is designed to prevent structural transmission of noise or vibration.

- 12 You must apply to us for approval of details of a supplementary acoustic report demonstrating that the plant will comply with the Council's noise criteria as set out in Condition 10 of this permission. You must not start work on this part of the development until we have approved what you have sent us.

**Reason:**

Because existing external ambient noise levels exceed WHO Guideline Levels, and as set out in ENV 6 (1), (6) and (8) and ENV 7 (A)(1) of our Unitary Development Plan that we adopted in January 2007, so that the noise environment of people in noise sensitive properties is protected, including the intrusiveness of tonal and impulsive sounds; and as set out in S32 of Westminster's City Plan: Strategic Policies adopted November 2013, by contributing to reducing excessive ambient noise levels.

- 13 You must hang all doors or gates so that they do not open over or across the road or pavement. (C24AA)

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**Reason:**

In the interests of public safety and to avoid blocking the road as set out in S41 of Westminster's City Plan: Strategic Policies adopted November 2013 and TRANS 2 and TRANS 3 of our Unitary Development Plan that we adopted in January 2007. (R24AC)

**14 Pre Commencement Condition.**

(a) You must apply to us for approval of a written scheme of investigation for a programme of archaeological work. This must include details of the suitably qualified person or organisation that will carry out the archaeological work. You must not start work until we have approved what you have sent us.

(b) You must then carry out the archaeological work and development according to this approved scheme. You must produce a written report of the investigation and findings, showing that you have carried out the archaeological work and development according to the approved scheme. You must send copies of the written report of the investigation and findings to us, to Historic England, and to the Greater London Sites and Monuments Record, 1 Waterhouse Square, 138-142 Holborn, London EC1N 2ST.

(c) You must not use any part of the new building until we have confirmed that you have carried out the archaeological fieldwork and development according to this approved scheme. (C32BC)

**Reason:**

To protect the archaeological heritage of the City of Westminster as set out in S25 of Westminster's City Plan: Strategic Policies adopted November 2013 and DES 11 of our Unitary Development Plan that we adopted in January 2007. (R32BC)

**15 No development shall take place, including any works of demolition, until a construction management plan for the proposed development has been submitted to and approved in writing by the City Council as local planning authority. The plan must include the following details (where appropriate):**

- (i) a construction programme including a 24 hour emergency contact number;
- (ii) parking of vehicles of site operatives and visitors (including measures taken to ensure satisfactory access and movement for existing occupiers of neighbouring properties during construction);
- (iii) locations for loading/unloading and storage of plant and materials used in constructing the development;
- (iv) erection and maintenance of security hoardings (including decorative displays and facilities for public viewing, where appropriate);
- (v) wheel washing facilities and measures to control the emission of dust and dirt during construction; and
- (vi) a scheme for recycling/disposing of waste resulting from demolition and construction works.

You must not start work until we have approved what you have sent us. You must then carry out the development in accordance with the approved details. (C21MB)

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**Reason:**

To protect the environment of residents and the area generally as set out in S29 of Westminster's City Plan: Strategic Policies adopted November 2013 and STRA 25, TRANS 23, ENV 5 and ENV 6 of our Unitary Development Plan that we adopted in January 2007.

- 16 The design and structure of the development shall be of such a standard that it will protect residents within the same building or in adjoining buildings from noise and vibration from the development, so that they are not exposed to noise levels indoors of more than 35 dB LAeq 16 hrs daytime and of more than 30 dB LAeq 8 hrs in bedrooms at night.

**Reason:**

As set out in ENV6 of our Unitary Development Plan that we adopted in January 2007, and the related Policy Application at section 9.76, in order to ensure that design, structure and acoustic insulation of the development will provide sufficient protection for residents of the same or adjoining buildings from noise and vibration from elsewhere in the development.

- 17 You must put a copy of this planning permission and all its conditions at street level outside the building for as long as the work continues on site.

You must highlight on the copy of the planning permission any condition that restricts the hours of building work. (C21KA)

**Reason:**

To make sure people in neighbouring properties are fully aware of the conditions and to protect their rights and safety. (R21GA)

- 18 You must apply to us for approval of a Servicing and Delivery Management Plan, which includes details of how the retail (Class A1), restaurant (Class A3), bar (Class A4), office (Class B1), cinema (Class D2) and residential (Class C3) uses will be serviced. This plan must include details of the servicing and delivery requirements for the adjacent buildings with shared access to the servicing route and any proposed valet service for residential car parking. You must not occupy the development until we have approved what you have sent us. Thereafter you must then manage the servicing and deliveries in accordance with the Servicing and Delivery Management Plan that we approve, unless we agree an alternative Servicing and Delivery Management Plan in writing.

**Reason:**

To avoid blocking the surrounding streets and to protect the environment of people in neighbouring properties as set out in S42 of Westminster's City Plan: Strategic Policies adopted November 2013 and STRA 25, TRANS 20 and TRANS 21 of our Unitary Development Plan that we adopted in January 2007. (R23AC)

- 19 You must provide the waste store shown on drawings RVA-0-10-097 rev 05, RVA-0-10-098 rev05, and RVA-0-10-100 rev 05 ,before anyone moves into the property. You must clearly mark it and make it available at all times to everyone using the properties. You must store waste inside the property and only put it outside just before it is going to be collected. You must not use the waste store for any other purpose. (C14DC)

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**Reason:**

To protect the environment and provide suitable storage for waste as set out in S44 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 12 of our Unitary Development Plan that we adopted in January 2007. (R14BD)

- 20 You must not use the roofs of building 1 at levels 2- 5 as shown on plans RVA -0-10-102 rev02, RVA -0-10-103 rev02, RVA -0-10-104 rev02, RVA -0-10-105 rev02, for sitting out or for any other purpose, unless and until appropriate measures to safeguard neighbouring residential amenity (including privacy screens and details of the proposed hours of use) have been submitted to and approved by us in writing and such measures have been installed as approved. The use of the relevant roofs as terraces must thereafter be carried out in accordance with the approved details. You can however use the roof to escape in an emergency.

**Reason:**

To protect the privacy and environment of people in neighbouring properties, as set out in S29 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 13 of our Unitary Development Plan that we adopted in January 2007. (R21AC)

- 21 You must provide all the car parking spaces shown on drawings RVA-0-10-095 rev 05 shall be retained for use by residents within the building. No more than 2 residential car parking spaces shall be allocated or used by any single residential unit. The parking spaces reserved for residents must be clearly identified.

**Reason:**

To provide parking spaces for people living in the residential part of the development as set out in TRANS 23 of our Unitary Development Plan that we adopted in January 2007. (R22BB)

- 22 At least 20% of car parking space shall have access to an electric car charging point to be provided prior to occupation.

**Reason:**

To provide parking spaces for people using the development as set out in TRANS 3 of our Unitary Development Plan that we adopted in January 2007. (R22AB)

- 23 You must provide each cycle parking space shown on the approved drawings prior to occupation. Thereafter the cycle spaces must be retained and the space used for no other purpose without the prior written consent of the local planning authority.

**Reason:**

To provide cycle parking spaces for people using the development as set out in TRANS 10 of our Unitary Development Plan that we adopted in January 2007.

- 24 You must provide the following environmental sustainability features (environmentally friendly features) before you start to use any part of the development, as set out in your application.

ground source heat pumps

You must not remove any of these features. (C44AA)

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**Reason:**

To make sure that the development provides the environmental sustainability features included in your application as set out in S28 or S40, or both, of Westminster's City Plan: Strategic Policies adopted November 2013. (R44AC)

- 25 The glass that you put in the eastern elevation of the office building ( building 1) on the 1st to 4th floors must not be clear glass, and you must fix it permanently shut. You must apply to us for approval of a sample of the glass (at least 300mm square). You must not start work on the relevant part of the development until we have approved the sample. You must then fit the type of glass we have approved and must not change it without our permission. (C21DB)

**Reason:**

To protect the privacy and environment of people in neighbouring properties. This is as set out in S29 and S32 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 6 and ENV 13 of our Unitary Development Plan that we adopted in January 2007. (R21BC)

- 26 Unless otherwise agreed in writing with the Local Planning Authority in consultation with London Underground Limited, the development hereby permitted shall not be commenced until detailed design and method statements (in consultation with London Underground Limited) for all of the foundations, basement and ground floor structures, or for any other structures below ground level, including piling (temporary and permanent), have been submitted to and approved in writing by the local planning authority which:

- provide details on all structures
- accommodate the location of the existing London Underground structures and tunnels
- accommodate ground movement arising from the construction thereof and
- mitigate the effects of noise and vibration arising from the adjoining operations within the structures and tunnels.

The development shall thereafter be carried out in all respects in accordance with the approved design and method statements, and all structures and works comprised within the development hereby permitted which are required by the approved design statements in order to procure the matters mentioned in paragraphs of this condition shall be completed, in their entirety, before any part of the building hereby permitted is occupied.

**Reason:**

To ensure that the development does not impact on existing London Underground transport infrastructure, in accordance with London Plan 2011 Table 6.1 and 'Land for Industry and Transport' Supplementary Planning Guidance 2012.

**Informative(s):**

- 1 In dealing with this application the City Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way. We have made available detailed advice in the form of our statutory policies in Westminster's City Plan: Strategic Policies adopted November 2013, Unitary Development Plan, Supplementary Planning documents, planning briefs and other informal written guidance, as

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well as offering a full pre application advice service, in order to ensure that applicant has been given every opportunity to submit an application which is likely to be considered favourably. In addition, where appropriate, further guidance was offered to the applicant at the validation stage.

- 2 Please contact our Environmental Health Service (020 7641 2000) to make sure you meet their requirements under the Control of Pollution Act 1974 and the Environmental Protection Act 1990. (I07AA)
- 3 Please contact our Cleansing section on 020 7641 7962 about your arrangements for storing and collecting waste. (I08AA)
- 4 You need to speak to our Highways section about any work which will affect public roads. This includes new pavement crossovers, removal of redundant crossovers, changes in threshold levels, changes to on-street parking arrangements, and work which will affect pavement vaults. You will have to pay all administration, design, supervision and other costs of the work. We will carry out any work which affects the highway. When considering the desired timing of highway works in relation to your own development programme please bear in mind that, under the Traffic Management Act 2004, all works on the highway require a permit, and (depending on the length of the highway works) up to three months advance notice may need to be given. For more advice, please phone 020 7641 2642. However, please note that if any part of your proposals would require the removal or relocation of an on-street parking bay, this is unlikely to be approved by the City Council (as highway authority). (I09AC)
- 5 You will have to apply separately for a licence for any structure that overhangs the road or pavement. For more advice, please phone our Highways section on 020 7641 2642. (I10AA)
- 6 Under the Highways Act 1980 you must get a licence from us before you put skips or scaffolding on the road or pavement. It is an offence to break the conditions of that licence. You may also have to send us a programme of work so that we can tell your neighbours the likely timing of building activities. For more advice, please phone our Highways Licensing Team on 020 7641 2560. (I35AA)
- 7 Under Section 25 of the Greater London Council (General Powers) Act 1973 you need planning permission to use residential premises as temporary sleeping accommodation. To make sure that the property is used for permanent residential purposes, it must not be used as sleeping accommodation by the same person for less than 90 nights in a row. This applies to both new and existing residential accommodation.  
  
Also, under Section 5 of the Greater London Council (General Powers) Act 1984 you cannot use the property for any period as a time-share (that is, where any person is given a right to occupy all or part of a flat or house for a specified week, or other period, each year). (I38AB)
- 8 Please make sure that the street number and building name (if applicable) are clearly displayed on the building. This is a condition of the London Building Acts (Amendments) Act 1939, and there are regulations that specify the exact requirements. If you would like more information, you can contact Ray Gangadeen on 020 7641 7064. (I54AA)

**Note:**

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- The terms 'you' and 'your' include anyone who owns or occupies the land or is involved with the development.
- The terms 'us' and 'we' refer to the Council as local planning authority.



- 9 You must make sure that any other activities taking place in the class A3 (restaurant or café) premises, such as small amounts of takeaway sales or small bar areas, are so minor that they do not alter the main use as a restaurant or café. If the scale of one or more of these extra activities is more substantial than this, it is likely that a material (significant) change of use (from class A3 to a mix of uses) will have taken place, which will need a new planning permission. (I61BA)
- 10 You should include features that improve biodiversity when designing the development and any open areas. For more advice, please speak to our Biodiversity Project Manager on 020 7641 1951. (I81AA)
- 11 Condition 16 requires the submission of sound insulation measures and Noise Assessment Report to predict internal noise levels with the proposed residential units. Your assessment should include a BS8223 façade calculation using the glazing and ventilation specification to demonstrate that the required internal noise levels are achievable. (I93AA)
- 12 Conditions 10 and 11 control noise from the approved machinery. It is very important that you meet the conditions and we may take legal action if you do not. You should make sure that the machinery is properly maintained and serviced regularly. (I82AA)
- 13 You are encouraged to join the nationally recognised Considerate Constructors Scheme. This commits those sites registered with the Scheme to be considerate and good neighbours, as well as clean, respectful, safe, environmentally conscious, responsible and accountable. For more information please contact the Considerate Constructors Scheme directly on 0800 783 1423, [siteenquiries@ccscheme.org.uk](mailto:siteenquiries@ccscheme.org.uk) or visit [www.ccscheme.org.uk](http://www.ccscheme.org.uk).
- 14 The construction manager should keep residents and others informed about unavoidable disturbance such as noise, dust and extended working hours, and disruption of traffic. Site neighbours should be given clear information well in advance, preferably in writing, perhaps by issuing regular bulletins about site progress.

**Note** - As the requirements of the Building Regulations may impact on the design of the proposed development, our Building Control team can offer advice and guidance at an early stage. If you would like to take advantage of this free service please contact **020 7641 7230** to arrange a preliminary discussion.

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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 provisional statement under the provisions of the Licensing Act 2003, the licensing authority must, unless it decides to reject the application, grant the licence subject to the conditions which are indicated as mandatory in this schedule.

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

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

### **Mandatory Conditions**

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

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

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

- 8(i) A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

8(ii) For the purposes of the condition set out in paragraph 8(i) above -

- (a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;
- (b) "permitted price" is the price found by applying the formula -

$$P = D + (D \times V)$$

Where -

- (i) P is the permitted price,
  - (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
  - (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
- (c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence -
- (i) the holder of the premises licence,
  - (ii) the designated premises supervisor (if any) in respect of such a licence, or
  - (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;
- (d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
- (e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.

8(iii). Where the permitted price given by Paragraph 8(ii)(b) above would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

- 8(iv).
- (1) Sub-paragraph 8(iv)(2) below applies where the permitted price given by Paragraph 8(ii)(b) above on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.
  - (2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.



## **Conditions consistent with the operating schedule**

9. The supply of alcohol on the premises shall only be to a person seated taking a table meal there and for consumption by such a person as ancillary to their meal.
10. All doors and windows to be kept closed after 23:00hours except for immediate access and egress of persons.
11. There shall be no take-away of hot food or hot drink after 23.00 hours.
12. All sales of alcohol for consumption off the premises shall be in sealed containers only.
13. No off sales after 23:00 Monday to Saturday or 22:30 Sunday.
14. No deliveries to the premises shall be made between the hours of 23:00 hours and 07:00 hours.
15. Loudspeakers shall not be located in the entrance areas or outside the premises building.
16. No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
17. Clearly legible notices shall be displayed at all exits from the premises requesting patrons to respect the needs of local residents and to leave the premises and area quietly.
18. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the entire 31 day period.
19. 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.
20. 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,
  - g. any refusal of the sale of alcohol
  - h. any visit by a relevant authority or emergency service.
21. A Challenge 21 or Challenge 25 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport or proof of age card with the PASS Hologram.

22. 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 with a condition detailing the capacity so determined.

### **Condition proposed by the Licensing Authority**

21. The premises shall only operate as a restaurant:
- (i) In which customers are shown to their table,
  - (ii) Where the supply of alcohol is by waiter or waitress service only,
  - (iii) Which provide food in the form of substantial table meals that are prepared on the premises and are served and consumed at the table using non disposable crockery,
  - (iv) Which do not provide any take away service of food or drink for immediate consumption,
  - (v) Which do not provide any take away service of food or drink after 23:00, and
  - (vi) Where alcohol shall not be sold or supplied, otherwise than for consumption by persons who are seated in the premises and bona fide taking substantial table meals there, and provided always that the consumption of alcohol by such persons is ancillary to taking such meals.

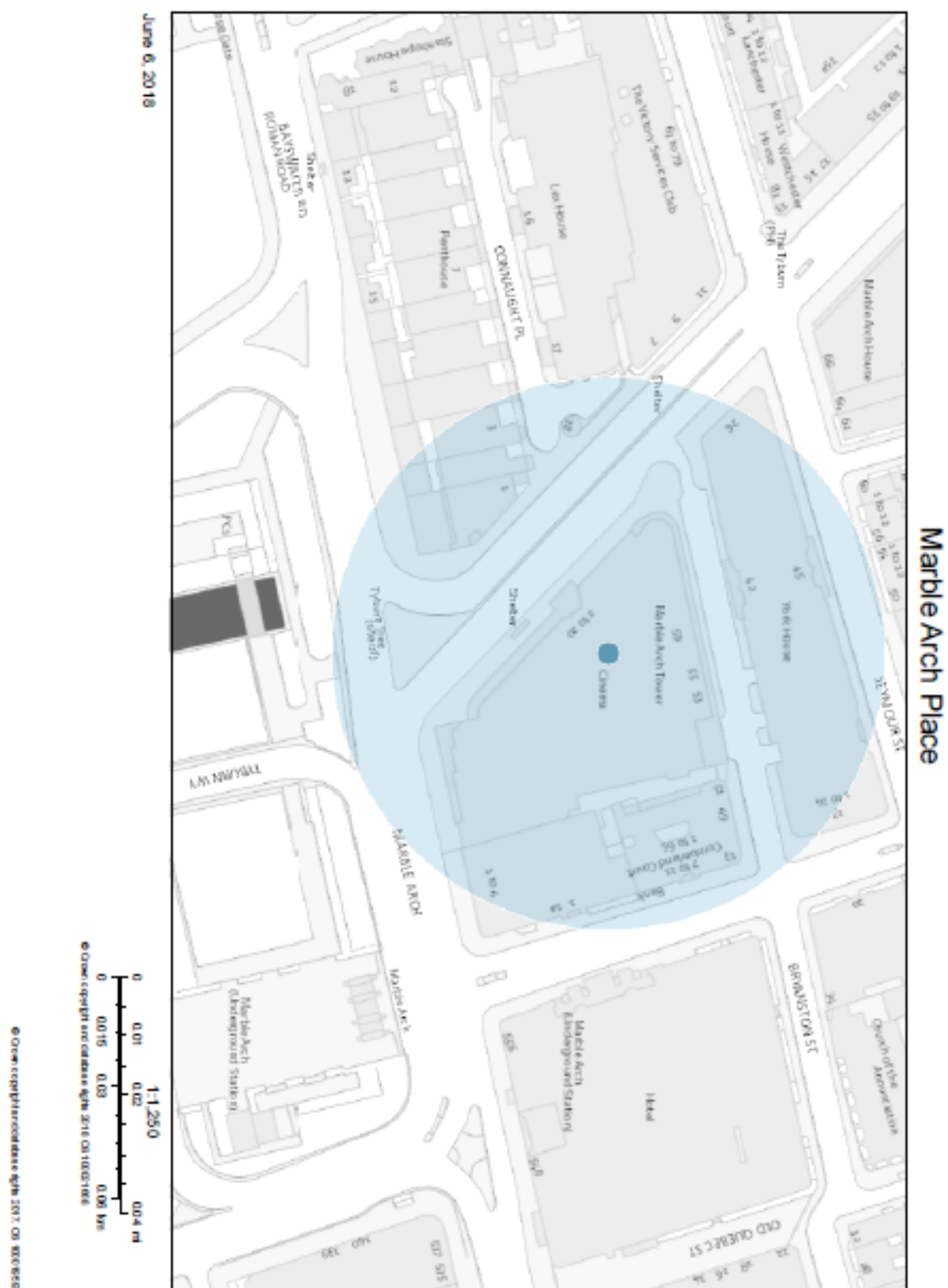
Notwithstanding this condition customers are permitted to take from the premises part consumed and resealed bottles of wine supplied ancillary to their meal.

### **Environmental Health has also requested this condition.**

22. 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.

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

23. 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.
24. Before the premises open to the public, the plans as deposited will be checked by the Environmental Health Consultation Team to ensure they are an accurate reflection of the premises constructed. Where there are minor changes to the premises layout during the course of construction new plans shall be provided to the Environmental Health Consultation Team and the Licensing Authority.
25. The number of persons permitted in the premises at any one time (excluding staff) shall not exceed (x) persons. (Final figure shall be determined on clearance of 'works' conditions and shall be based on whichever gives the lower figure from an assessment of safe capacity or provision of sanitary accommodation but it shall not be more than x).



Resident count: 93



Licence Number	Trading Name	Address	Premises Type	Time Period
16/09835/LIPT	The Tyburn	The Tyburn 20 Edgware Road London W2 2EN	Public house or pub restaurant	Monday to Thursday; 07:00 - 23:30   Friday to Saturday; 07:00 - 00:00   Sunday; 07:00 - 22:50   Sundays before Bank Holidays; 07:00 - 00:00
14/05500/LIPDPS	Sainsbury's	7 - 9 Marble Arch London W1H 7DX	Shop	Monday to Saturday; 08:00 - 23:00   Sunday; 10:00 - 22:30
18/02536/LIPDPS	Spaghetti House	47-51 Bryanston Street London W1H 7DN	Restaurant	Monday to Saturday; 10:00 - 23:30   Sunday; 12:00 - 23:00
18/03196/LIPT	Prezzo	7 - 9 Great Cumberland Place London W1H 7LU	Restaurant	Monday to Sunday; 12:00 - 00:00
15/06410/LIPDPS	Spaghetti House	47-51 Bryanston Street London W1H 7DN	Restaurant	Monday to Saturday; 10:00 - 23:30   Sunday; 12:00 - 23:00
17/05472/LIPN	Marble Arch Theatre	Western Traffic Island Marble Arch London W1H 7DX	Theatre	Monday to Saturday; 12:00 - 23:30   Sunday; 12:00 - 23:00
17/14156/LIPVM	Cumberland Food & Wine	11 Great Cumberland Place London W1H 7LU	Shop	Not Recorded; XXXX - XXXX
16/12791/LIPT	Arch Food & Wine	1A Great Cumberland Place London W1H 7AL	Shop	Monday to Sunday; 07:00 - 01:00
15/00329/LIPV	McDonald's Restaurants	2 - 4 Marble Arch London W1H 7EJ	Restaurant	Thursday to Saturday; 05:00 - 02:00   Sunday to Wednesday; 05:00 - 01:00