

Licensing Sub-Committee Report

Item No:	
Date:	7 th July 2016
Licensing Ref No:	16/03523/LIPN - New Premises Licence
Title of Report:	Smack Soho Kemble House 58 Dean Street London W1S 1RJ
Report of:	Director of Public Protection and Licensing
Wards involved:	West End
Policy context:	City of Westminster Statement of Licensing Policy
Financial summary:	None
Report Author:	Miss Heidi Lawrance Senior Licensing Officer
Contact details	Telephone: 020 7641 2751 Email: hlawrance@westminster.gov.uk

1. Application

1-A Applicant and premises			
Application Type:	New Premises Licence, Licensing Act 2003		
Application received date:	7 April 2016		
Applicant:	Burger & Lobster Restaurant Group Ltd		
Premises:	Smack Soho		
Premises address:	Kemble House 58 Dean Street London W1D 6AL	Ward:	West End
		Cumulative Impact Area:	West End
Premises description:	The premises operate as a cafe/delicatessen. A Licence is sought for off sales as part of a takeaway meal.		
Premises licence history:	This is a new premises licence application and therefore no premises licence history exists.		
Applicant submissions:	None		

Sale by retail of alcohol				On or off sales or both:			Off Sales
Day:	Mon	Tues	Wed	Thur	Fri	Sat	Sun
Start:	12:00	12:00	12:00	12:00	12:00	12:00	
End:	22:00	22:00	22:00	22:00	22:00	22:00	
Seasonal variations/ Non-standard timings:	None applied for.						

Hours premises are open to the public							
Day:	Mon	Tues	Wed	Thur	Fri	Sat	Sun
Start:	12:00	12:00	12:00	12:00	12:00	12:00	
End:	22:00	22:00	22:00	22:00	22:00	22:00	
Seasonal variations/ Non-standard timings:	None applied for.						
Adult Entertainment:	Not applicable						

2. Representations

2-A Responsible Authorities	
Responsible Authority:	Metropolitan Police Service
Representative:	Mr Chris Marriott
Received:	27 th April 2016
<p>With reference to the above application, I am writing to inform you that the Metropolitan Police, as a Responsible Authority, make a representation against the above application.</p> <p>It is our belief that if granted the application would undermine the Licensing objectives in relation to the prevention of crime and disorder as there are insufficient conditions within the operating schedule.</p> <p>The venue is situated in the West End cumulative impact area, a locality where there is traditionally high crime and disorder. We have concerns that this application will cause further policing problems in an already demanding area.</p> <p>The following conditions listed below are those that police would like you to attach to your operating schedule as I believe they will address police concerns in relation to crime and disorder.</p> <ol style="list-style-type: none"> 1. 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. 2. There shall be no self-service of alcohol. <p><i>Following the applicant agreeing to the above conditions the Metropolitan Police withdrew their representation on 28th April 2016.</i></p>	

2-B Other Persons			
Name:	The Soho Society – Mr Steve Chambers		
Address and/or Residents Association:	St Anne's Tower 55 Dean Street London W1D 6AF		
Status:	Valid	In support or opposed:	Opposed
Received:	5 th May 2016		

I write to make a relevant representation to the above application on behalf of The Soho Society.

The Soho Society objects to this application as it is currently presented, on the grounds of prevention of public nuisance, prevention of crime and disorder and cumulative impact in the West End Stress Area.

About The Soho Society

The Soho Society is a charitable company limited by guarantee established in 1972. The society is a recognised amenity group and was formed to make Soho a better place to live, work or visit by preserving and enhancing the area's existing diversity of character and uses, and by improving its facilities, amenities and environment. In particular, the society supports the Westminster City Council's policies, including the cumulative impact policy, as set out in the Statement of Licensing Policy.

Application summary

Sale by Retail of Alcohol Off the Premises: Monday to Saturday 12:00 until 10:00

New licensed premises in the West End Cumulative Impact Area

The proposal is for a new licensed premises in the West End Cumulative Impact Area. The new Sale by Retail of Alcohol Off Premises licensable activity is of particular concern, with reference to Westminster City Council stress area and cumulative impact policy. Such new licenses should be prohibited. These venues destroy residential amenity over a wide area through noise nuisance as patrons disperse. It is concerning that such a license could be given to an A1 takeaway establishment and this is in accordance with the licensing objectives.

Hours of operation

The proposal includes licensable activities, including sale of alcohol, outside of Westminster core hours. The premises are in the West End Cumulative Impact Area. There are private homes in nearby buildings, and residents in the immediate area are subject to noise and general nuisance every night of the week. We therefore feel it is necessary to keep the operating hours within defined core hours, namely Monday to Thursday 10am – 11.30pm, Friday and Saturday 10 am – 12 midnight and Sunday 12 noon – 10.30 pm.

Licensing policy

This area has been identified by the Westminster City Council (2.4.1 of the Statement of Licensing Policy, as amended) as under stress because the cumulative effect of the concentration of late night and drink led premises and night cafes has led to serious problems of disorder and/or public nuisance affecting residents, visitors and other businesses.

The policies in relation to the stress areas are directed at the global and cumulative effects of licences on the area as a whole (2.4.5 of the policy). The policies are intended to be strict and will only be overridden in genuinely exceptional circumstances (2.4.2 of the policy). The growth in the entertainment industry in Soho has led to a marked

deterioration in the quality of life and well-being of local residents and it has jeopardised the sustainability of the community. Soho has a substantial residential community and many of these residents suffer from problems such as, but not limited to, high levels of noise nuisance, problems with waste, urinating and defecating in the streets, threats to public safety, anti-social behaviour, crime and disorder and the change in character of historic areas. For the reasons I have set out, we believe that the application, if granted in its present form, would fail to promote the licensing objectives of prevention of public nuisance and prevention of crime and disorder. I respectfully urge the Licensing Sub-Committee to reject this application.

Please let me know if any proposals are made to amend the application; particularly in respect of the hours sought or any further conditions proposed.

3. Policy & Guidance

The following policies within the City Of Westminster Statement of Licensing Policy apply:

<p>Policy CIP1 applies</p>	<p>(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.</p> <p>(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.</p>
<p>Policy OS2 applies:</p>	<p>Applications will be granted subject to the relevant criteria in Policies CD1, PS1, PN1 CH1 and HRS1 and other policies in this Statement, provided it is demonstrated that they will not add to cumulative impact in the Cumulative Impact Areas.</p>
<p>Policy HRS1 applies:</p>	<p>(i) Applications for hours within the core hours set out below in this policy will generally be granted, subject to not being contrary to other policies in the Statement of Licensing Policy.</p> <p>(ii) Applications for hours outside the core hours set out below in this policy will be considered on their merits, subject to other relevant policies.</p>

4. Appendices

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

Report author:	Miss Heidi Lawrance Senior Licensing Officer
Contact:	Telephone: 020 7641 2751 Email: hlawrance@westminster.gov.uk

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

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

1	Licensing Act 2003	N/A
2	City of Westminster Statement of Licensing Policy	7 th January 2016
3	Amended Guidance issued under section 182 of the Licensing Act 2003	March 2015
4	Application Form	8 th April 2016
5	Representation – Metropolitan Police WITHDRAWN	27 th April 2016
6	Representation – The Soho Society	5 th May 2016

Applicant supporting documents

None supplied

Premises history

There is no licence or appeal history for the premises

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

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

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

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

Mandatory Conditions

1. No supply of alcohol may be made at a time when there is no designated premises supervisor in respect of this licence.
2. No supply of alcohol may be made at a time when the designated premises supervisor does not hold a personal licence or the personal licence is suspended.
3. Every supply of alcohol under this licence must be made or authorised by a person who holds a personal licence.
4.
 - (1) The 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.

5(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.

5(ii) For the purposes of the condition set out in paragraph 5(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.

5(iii). Where the permitted price given by Paragraph 5(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.

5(iv). (1) Sub-paragraph 5(iv)(2) below applies where the permitted price given by Paragraph 5(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.

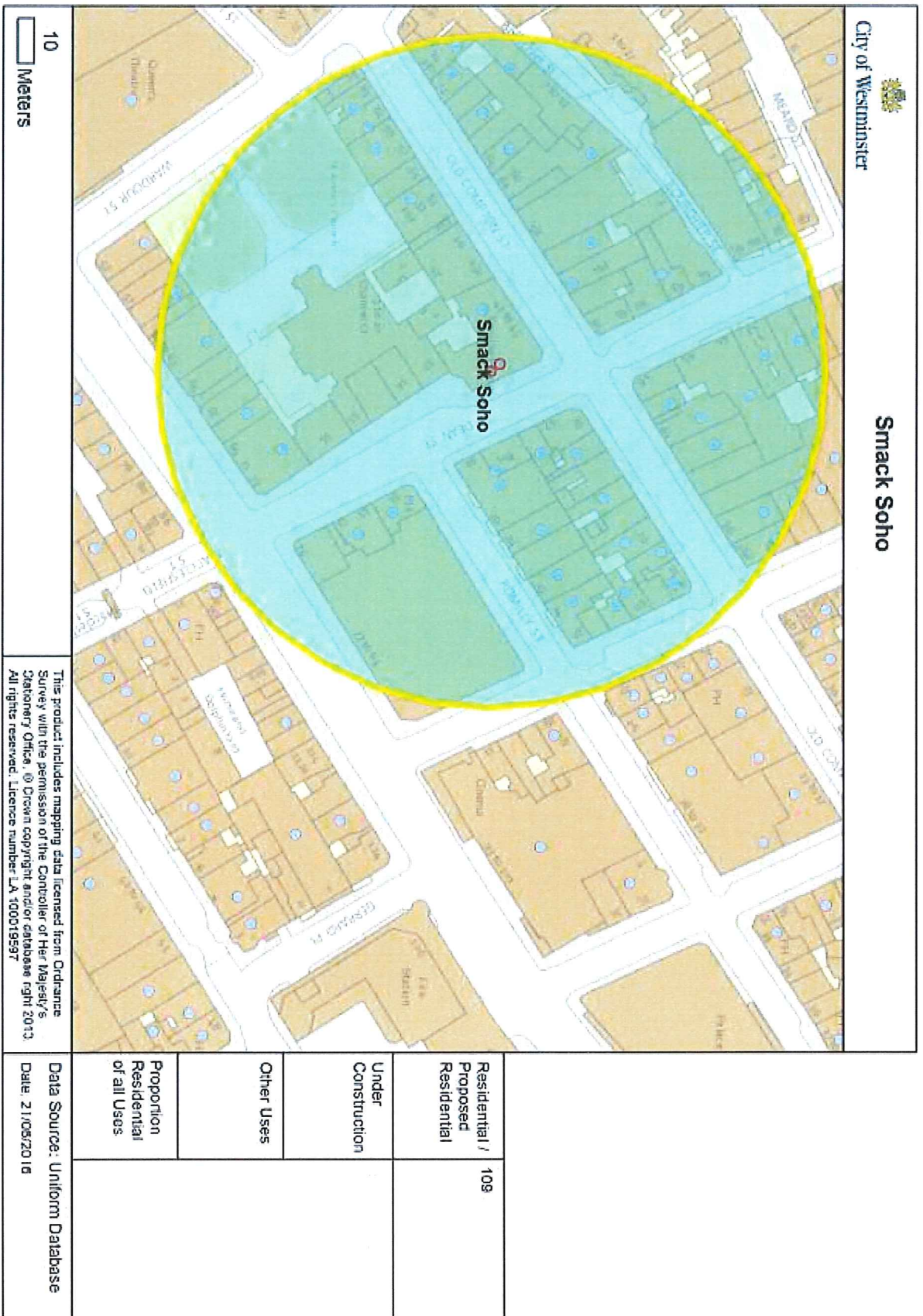
Conditions consistent with the operating schedule

6. All sales of alcohol for consumption off the premises shall be in sealed containers only, and shall not be consumed on the premises.
7. Sales of alcohol for consumption off the premises shall only be supplied with, and ancillary to a take-away meal.
8. No more than (15)% of the sales area shall be used at any one time for the sale, exposure for sale, or display of alcohol.
9. No super-strength beer, lagers, ciders or spirit mixtures of 5.5% ABV (alcohol by volume) or above shall be sold at the premises, except for premium beers and ciders supplied in glass bottles.
10. A record shall be kept detailing all refused sales of alcohol. The record should include the date and time of the refused sale and the name of the member of staff who refused the sale. The record shall be available for inspection at the premises by the police or an authorised officer of the City Council at all times whilst the premises is open
11. 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.
12. 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.
13. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
14. No waste or recyclable materials, including bottles, shall be moved, removed from or placed in outside areas between (23.00) hours and (08.00) hours on the following day.

Conditions proposed by the Police and agreed.

15. 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.
16. There shall be no self-service of alcohol

Residential map and list of premises in the vicinity



Licensed Premises within 75m of Smack Soho, 58 Dean Street.

p/n	Premises Name	Premises Address	Opening Hours
556	Hotel Chocolat	25 Old Compton Street London W1D 5JN	Friday to Saturday 10:00 - 00:00 Sunday 10:00 - 22:30 Monday to Thursday 10:00 - 23:00
1195	Pulcinella Restaurant	Basement To First Floor 37 Old Compton Street London W1D 5JY	Monday to Saturday 10:00 - 00:30 Sunday 12:00 - 00:00
7290	Gerry's Wine & Spirits	74-76 Old Compton Street London W1D 4UW	Monday to Saturday 08:00 - 23:00 Sunday 10:00 - 22:30
7819	Rosa's	Ground Floor And Basement 48 Dean Street London W1D 5BF	Monday to Saturday 10:00 - 23:30 Sunday 12:00 - 23:00
12249	&Pasta	60 Dean Street London W1D 6AW	Monday to Thursday 07:00 - 00:00 Friday to Saturday 07:00 - 00:30 Sunday 07:00 - 23:00
12813	40 Dean Street	40 Dean Street London W1D 4PX	Monday to Saturday 10:00 - 00:30 Sunday 12:00 - 00:00
13610	Dozo	Basement And Ground Floor 40 Frith Street London W1D 5LN	Monday to Saturday 10:00 - 00:30 Sunday 12:00 - 00:00
15813	Preto	71-73 Shaftesbury Avenue London W1D 6LN	Monday to Saturday 10:00 - 00:30 Sunday 12:00 - 00:00
17007	The Delhi Brasserie	44 Frith Street London W1D 4SB	Monday to Saturday 10:00 - 00:30 Sunday 12:00 - 00:00
20743	Gerry's Club	Basement 52-53 Dean Street London W1D 5BJ	Monday to Saturday 10:00 - 03:30 Sunday 12:00 - 23:00

Licensed Premises within 75m of Smack Soho, 58 Dean Street.

22317	French House Public House	49 Dean Street London W1D 5BG	Monday to Saturday 10:00 - 00:30 Sunday 12:00 - 00:00
22569	Le Relais De Venise L'Entrecote	50 Dean Street London W1D 5BQ	Monday to Saturday 09:00 - 03:30 Sunday 12:00 - 00:00
27849	Assa	23 Romilly Street London W1D 5AQ	Monday to Saturday 10:00 - 00:30 Monday to Saturday 10:00 - 23:30 Sunday 12:00 - 00:00 Sunday 12:00 - 23:00
28078	Opuz Kitchen	Basement And Ground Floor 27 Old Compton Street London W1D 5JP	Monday to Wednesday 08:00 - 00:30 Thursday to Saturday 08:00 - 01:00 Sunday 10:00 - 00:00
30259	Jackson + Rye	56 Wardour Street London W1D 4JG	Monday to Saturday 10:00 - 00:30 Sunday 12:00 - 00:00
-31200	Maoz Falafel	43 Old Compton Street London W1D 6HG	Sunday 11:00 - 00:00 Monday to Thursday 11:00 - 01:00 Friday to Saturday 11:00 - 02:00
-28924	The Groucho Club	44-45 Dean Street London W1D 4QB	Monday to Saturday 09:00 - 02:30 Sunday 12:00 - 00:00
-25284	Herman Ze German	Basement And Ground Floor 33 Old Compton Street London W1D 5JU	Friday to Saturday 11:00 - 00:00 Sunday 11:00 - 22:30 Monday to Thursday 11:00 - 23:30
-23003	Balans Restaurant	Ground Floor 60 - 62 Old Compton Street London W1D 4UG	Monday 09:00 - 03:30 Tuesday to Sunday 09:00 - 05:00

Licensed Premises within 75m of Smack Soho, 58 Dean Street.

-18458	Belgo	29-31 Old Compton Street London W1D 5JR	Monday to Saturday 10:00 - 00:30 Sunday 12:00 - 00:00
-13043	Duck Soup	Basement And Ground Floor 41 Dean Street London W1D 4PY	Monday to Saturday 10:00 - 00:30 Sunday 12:00 - 00:00
-11123	Black's	Basement To First Floor 67 Dean Street London W1D 4QH	Monday to Saturday 10:00 - 01:30 Sunday 12:00 - 01:00
-6402	Soho Whisky Club	First Floor 42 Old Compton Street London W1D 4TX	Friday to Saturday 10:00 - 00:00 Sunday 10:00 - 22:00 Monday to Thursday 10:00 - 23:00
-2737	Pepe Italian Street Food	Basement And Ground Floor 27 Old Compton Street London W1D 5JP	Monday to Wednesday 08:00 - 00:30 Thursday to Saturday 08:00 - 01:00 Sunday 10:00 - 00:00
2053	Yoshino	59 Shaftesbury Avenue London W1D 6LF	Monday to Sunday 11:00 - 00:00
3359	Cay Tre (Soho)	42-43 Dean Street London W1D 4QA	Monday to Sunday 09:30 - 01:30
11736	Buen Gusto Café	39 Frith Street London W1D 5LL	Monday to Sunday 06:00 - 03:00
13167	Muriel's Kitchen	36 Old Compton Street London W1D 4TT	Monday to Sunday 07:00 - 01:30
15561	Tonkotsu	Basement To First Floor 63 Dean Street London W1D 4QG	Monday to Saturday 10:00 - 00:30 Sunday 12:00 - 00:00
17949	Gauthier At Lindsay House	21 Romilly Street London W1D 5AF	Friday to Saturday 10:00 - 00:00 Sunday 10:00 - 22:30 Monday to Thursday 10:00 - 23:30

Licensed Premises within 75m of Smack Soho, 58 Dean Street.

23198	BA Shan Restaurant	24 Romilly Street London W1D 5AH	Monday to Saturday 12:00 - 00:00 Sunday 12:00 - 23:30
23636	La Polenteria	64 Old Compton Street London W1D 4TL	Friday 07:30 - 00:00 Monday to Thursday 07:30 - 23:30 Saturday 08:00 - 00:00 Sunday 08:00 - 23:00
29860	Golden Lion Public House	51 Dean Street London W1D 5BH	Friday to Saturday 07:00 - 00:00 Sunday 07:00 - 00:00 Monday to Saturday 07:00 - 00:30 Sunday 07:00 - 23:00 Monday to Thursday 07:00 - 23:30
-27778	Patisserie Valerie	44 Old Compton Street London W1D 4TY	Monday to Saturday 10:00 - 00:30 Sunday 12:00 - 00:00
-23235	Selva Food & Wine	68 Old Compton Street London W1D 4UJ	Monday to Sunday 00:00 - 00:00
-18572	Tuk Tuk	Basement And Ground Floor 56 Old Compton Street London W1D 4UN	Monday to Saturday 10:00 - 00:30 Sunday 12:00 - 00:00
-17911	Cafe Espana	Basement To First Floor 63 Old Compton Street London W1D 6HT	Monday to Saturday 10:00 - 00:30 Sunday 12:00 - 00:00
-14344	Amorino	41 Old Compton Street London W1D 6HF	Monday to Saturday 12:00 - 01:00 Sunday 12:00 - 23:00
-12394	The Vintage House	Basement And Ground Floor 42 Old Compton Street London W1D 4TX	Monday to Saturday 08:00 - 23:00 Sunday 10:00 - 22:30
-11217	Century Club	61-63 Shaftesbury Avenue London W1D 6LQ	Monday to Saturday 10:00 - 01:30 Sunday 12:00 - 01:00

Licensed Premises within 75m of Smack Soho, 58 Dean Street.

-10727	Comptons Of Soho Public House	51 - 53 Old Compton Street London W1D 6HN	Monday to Thursday 10:00 - 00:00 Friday to Saturday 10:00 - 00:30 Sundays before Bank Holidays 12:00 - 00:30 Sunday 12:00 - 23:00
-4610	Tuscan Delicatessen	Basement And Ground Floor 72 Old Compton Street London W1D 4UN	Monday to Sunday 10:00 - 00:30
-4222	Compton News	48 Old Compton Street London W1D 4UA	Monday to Saturday 07:00 - 01:00 Sunday 08:00 - 22:00
-3276	La Polenteria	64 Old Compton Street London W1D 4TL	Friday 07:30 - 00:00 Monday to Thursday 07:30 - 23:30 Saturday 08:00 - 00:00 Sunday 08:00 - 23:00
-1845	Bella Italia	63 Shaftesbury Avenue London W1D 6LQ	Monday to Saturday 10:00 - 00:30 Sunday 12:00 - 00:00
2343	I Camisa & Son	Basement And Ground Floor 61 Old Compton Street London W1D 6HS	Monday to Saturday 08:00 - 23:00 Sunday 10:00 - 22:30
12506	The Piccadilly London Soho	69 Shaftesbury Avenue London W1D 6EX	Monday to Sunday 00:00 - 00:00
12878	Admiral Duncan Public House	54 Old Compton Street London W1D 4UD	Friday to Saturday 10:00 - 00:00 Monday to Thursday 10:00 - 23:30 Sunday 12:00 - 22:30
25469	The House Of Ho Ltd	55-59 Old Compton Street London W1D 6HP	Sunday 09:00 - 01:00 Monday to Saturday 09:00 - 01:30
28639	Caffe Nero	Ground Floor 43 Frith Street London W1D 4SA	Sunday to Wednesday 23:00 - 02:00 Thursday to Saturday 23:00 - 04:00