

# Licensing Sub-Committee Report

Item No:	
Date:	1 September 2016
Licensing Ref No:	16/06942/LIPN - New Premises Licence
( B	
Title of Report:	Tombo
	28 D'Arblay Street
	London
	W1F 8EW
_	
Report of:	Director of Public Protection and Licensing
Wards involved:	West End
Policy context:	City of Westminster Statement of Licensing Policy
inancial summary:	None
Report Author:	Mr Yiannis Chrysanthou
-	Senior Licensing Officer
Contact details	Telephone: 7641 1876
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	Email: ychrysanthou@westminster.gov.uk

## 1. Application

1-A Applicant and prem	1-A Applicant and premises					
Application Type:	New Premises Licence, L	icensing Act 200	3			
Application received date:	4 July 2016					
Applicant:	Bento Chaya Limited					
Premises:	Tombo					
Premises address:	28 D'Arblay Street London	Ward:	West End			
	W1F 8EW	Cumulative Impact Area:	West End			
Premises description:	A Japanese poke and matcha cafe specialising in sushi, teas and cake for takeaway and offering a small amount of seating on the ground and basement floors. Only 'on' sales of alcohol limited opening hours have been requested.					
Premises licence history:	There is no history in regard to the Licensing Act 2003.					
Amendment to the application:	The hours originally sought were Monday to Sunday 11:30 to 21:30. Following the licensing authority representation, the applicant agreed to amend the commencement hour for the sale of alcohol to midday on Sunday in line with the core hours policy.					
Applicant submissions:	Menus and photos attach	ned in Appendix 2				

Sale by retail of alcohol			On or off sales or both:			On	
Day:	Mon	Tues	Wed	Thur	Fri	Sat	Sun
Start:	11:30	11:30	11:30	11:30	11:30	11:30	12:00
End:	21:30	21:30	21:30	21:30	21:30	21:30	21:30

Seasonal variations/ Non-	None.
standard timings:	

Hours pre	Hours premises are open to the public							
Day:	Mon	Tues		Wed	Thur	Fri	Sat	Sun
Start:	11:30	11:30	)	11:30	11:30	11:30	11:30	11:30
End:	22:00	22:00		22:00	22:00	22:00	22:00	22:00
Seasonal variations/ Non- standard timings:			No	ne.				
Adult Entertainment:		No	ne.					

#### 2. Representations

2-A Responsible Authorities				
Responsible Authority:	Metropolitan Police			
Representative:	C Toby Janes 1275CW			
Received:	7 July 2016			

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.

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.

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.

2-A Responsible Authorities				
Responsible Authority:	Environmental Health			
Representative:	Ayesha Bolton			
Received:	26 July 2016			

I wish to make the following representation.

1. The provision and hours requested for the Supply of Alcohol will have the likely effect of causing an increase in Public Nuisance within the area.

The granting of the application as presented would have the likely effect of causing an increase in Public Nuisance and impact on Public Safety within the area. The applicant has provided conditions in support of the application but these do not fully address the concerns of Environmental Health and additional conditions may be proposed.

2-A Responsible Authorities				
Responsible Authority:	Licensing Authority – Representation Withdrawn			
Representative:	Steve Rowe –Senior Licensing Officer			
Received:	1 August 2016			

The application currently contains insufficient information to enable the Licensing Authority to make a suitable assessment. However, as it stands the application does contravene Westminster's Statement of Licensing Policies CIP1, RNT2 and HRS1. The application is requesting the sale of alcohol on the premises between 11:30 to 21:30 Monday to Sunday. The premises is located inside the Cumulative Impact Area.

Policy CIP1 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. However part (ii) states: 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.

Policy HRS1 states at paragraph 2.3.2: "It is the intention to generally grant licences... where the hours when customers are permitted to be on the premises are within the

'core hours' as set out in Policy HRS1. This is not a policy to refuse applications for longer hours than the core hours and consideration will in all cases be given to the individual merits of an application. Where a proposal is made to operate outside these core hours each application will be considered on its merits against the criteria as set out in paragraph (ii) (of Policy HRS1)".

The current application proposes the commencement hour for the sale of alcohol 30 minutes beyond core hours on a Sunday.

Policy RNT2 which relates to restaurants within the CIA 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 Cumulative Impact Areas.

Please therefore accept this as a formal representation.

However should you agree to the following conditions and amend the commencement hour on Sunday to 12pm (midday) I will review my position.

#### **Conditions**

- 1) Replace the proposed condition relating to the supply of alcohol ancillary to a table meal in the operating schedule to MC38 which states 'The supply of alcohol at 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'.
- 2) Add MC39 which states 'The supply of alcohol shall be by waiter or waitress service only.

The applicant responded to this representation saying that their client would happily push back the commencement hour for the sale of alcohol on Sundays to midday and also agree model condition 38. Model condition 39 was also agreed at a later date resulting in the withdrawal of this representation.

2-B Other Pe	rsons	
Name:		Paul Gisbourne
Email address:		Gisbourne@btinternet.com
Received:	29 July 2016	

I live above the establishment applying for a licence to sell alcohol. This is a fairly narrow street which people also live on and which until a few years ago was very peaceful.

I have had regular problems with the "restaurant" opposite which seems to be more of a pub with a lot of people drinking outside. This part of the street is fairly quiet with traffic in the evening and hence a lot of people tend to drink in the street.

If the restaurant / café beneath me (which is small) begin to sell alcohol there will be large numbers of people spilling onto this narrow street and the street will simply become full of people from one side to the other. Also, the noise which is already a problem will get even worse.

Living here, which is already becoming a very unpleasant experience indeed, will become a total nightmare. I am utterly convinced of this. I absolutely beg you to please refuse this licence.

#### 3. Policy & Guidance

The following policies w apply:	ithin the City Of Westminster Statement of Licensing Policy
Policy CIP1 applies:	(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.
Policy HRS1 applies:	<ul> <li>(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.</li> <li>(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.</li> </ul>

## 4. Appendices

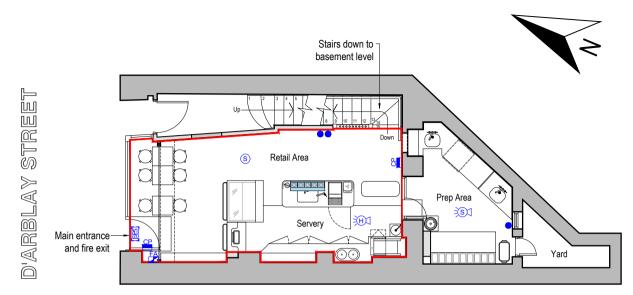
Appendix 1	Premises plans
Appendix 2	Applicant supporting documents
Appendix 3	Premises history
Appendix 4	Proposed conditions
Appendix 5	Residential map and list of premises in the vicinity

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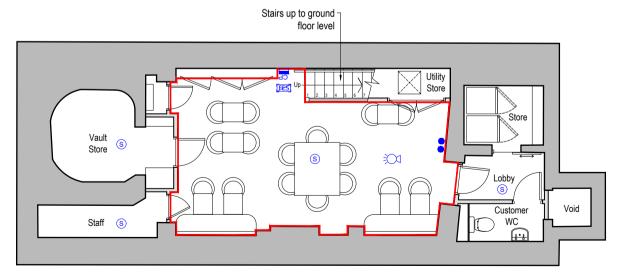
If you have any queries about this report or wish to inspect one of the background papers please contact the report author.				
Background Documents – Local Government (Access to Information) Act 1972				
1	Licensing Act 2003	N/A		
2	City of Westminster Statement of Licensing Policy	7 January 2016		
3	Amended Guidance issued under section 182 of the Licensing Act 2003	March 2015		
4	Application form	4 July 2016		
5	Police representation	7 July 2016		
6	EH representation	26 July 2016		
7	Paul Gisbourne representation	28 July 2016		
8	Licensing authority representation	1 August 2016		
9	Email from applicant amending application	2 August 2016		
10	Email from licensing authority withdrawing representation	25 August 2016		



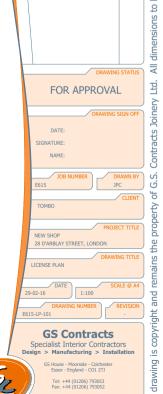
- Fire alarm control panel
- Fire alarm call point (to wall)
- Fire extinguisher
- Fire exit signage
- S Optical smoke detector
- (H) Optical heat detector
- Combined sounder beacon
- Boundary



## **Ground Floor**



**Basement** 



REVISION NOTES

prior to any works.

Γhis

# TOMBO FAVOURITES

Choose your base of sushi rice, b&w rice & courgette.

All bowls come with salad leaves.



Classic Salmon Poké
Reg £6.95 / Snack £4.95

Salmon, Classic Sauce, Edamame, Sesame, White Onion, Seeds, Nori



Reg £7.95 / Snack £5.95
Tuna, Classic Sauce, Avocado,
White Onion, Sesame Seeds, Nori





Salmon Avo Lux

Reg £7.95 / Snack £5.95 Salmon, Wasabi Soy, Avocado, Edamame, Salmon Roe



Reg £6.50 / Snack £4.50

Prawns, Sirracha Mayo, Edamame, Crispy Shallots, Shichimi Chilli





### Teriyaki Chicken Poké

Reg £6.50 / Snack £4.50

Teriyaki Chicken, Teriyaki Sauce, Spring Onion, Sesame Seeds

Veggie Poké (gf)

Reg £6.50 / Snack £4.50

Fried Tofu, Matcha Miso Sauce, Avocado, Tomatoes, Chia Seeds, Nori



## BYOB BUILD YOUR OWN BOWL

#### REG []7.95 / SNACK []5.95

All Poké come with salad leaves.

BASE

Sushi Rice

**Courgette Noodles** 

MAIN

DOUBLE UP FOR £2 EXTRA

Salmon Tu

Tuna

Chicken Teriyaki

Prawn

Tofu

SAUCE

Classic Sauce - Sesame Soy (gf available)

Wasabi Soy (spicy)

Ponzu - yuzu citrus soy Sansho Pepper Soy (spicy) Sirracha mayo (spicy)

Matcha Miso (gf)

Creamy Sesame (no mayo)

Teriyaki Sauce

MIX INS

CHOOSE 2

Edamame

Avocado

White Onion

Cucumber

TOPPINGS

CHOOSE 2

**Crispy Shallots** 

Chia Seeds

Wasabi

**Tempura Crumbs** 

**Tobiko Caviar** 

Sushi Ginger

Sesame Seeds

Spring Onion

Shichimi (Chilli powder)

PREMIUM TOPPING 80P EACH

Salmon Caviar

Hijiki (black seaweed)

Kimchee

Avocado

**Goma Wakame** 

Nori

(green seaweed)

SIDES

Hijiki Salad Couraette Wakai

Courgette Wakame Salad Japanese Pickles Sushi Ginger Miso Soup

## **MATCHA FAVOURITES**

Ceremonial Matcha Tea (hot or iced) £3.30



Matchiato £3.30 Matcha Frappé £4.50 Matcha Brownie £3.00



Matcha Latte (hot or iced) £3.40

Cinnamon Matcha Latte (hot or iced) £3.50

Vanilla Matcha Latte (hot or iced) £3.50





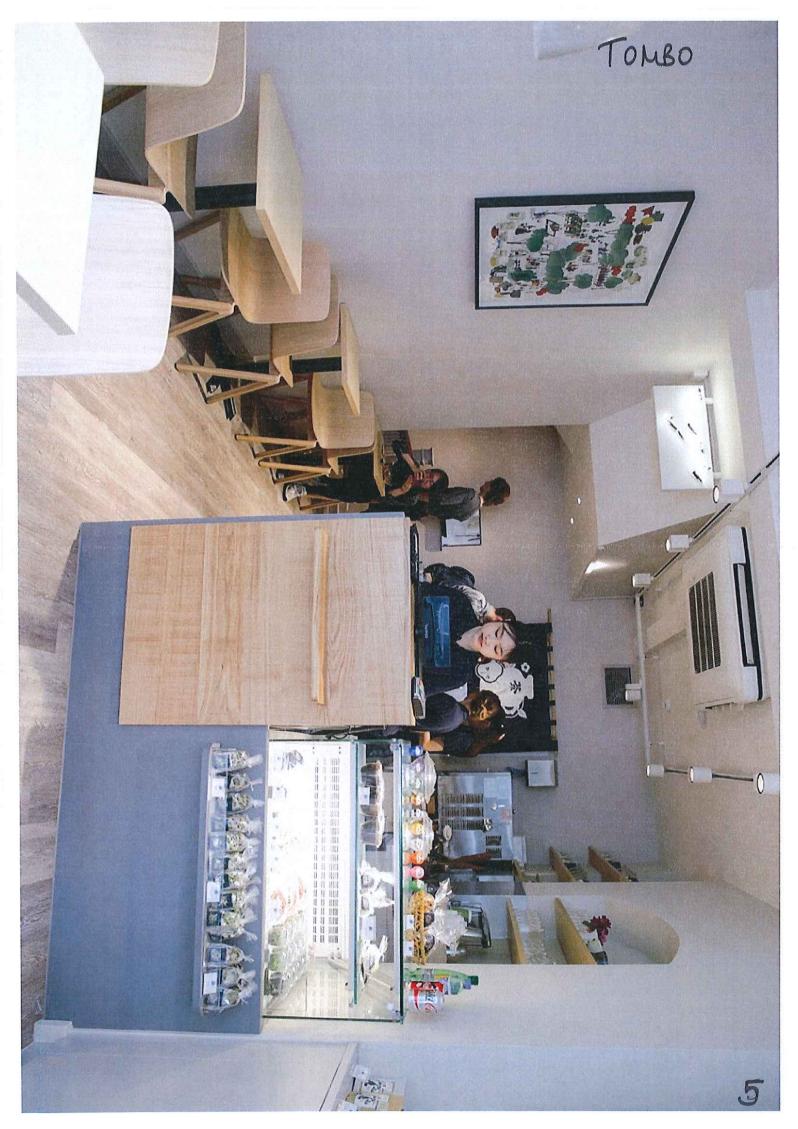
Matcha Soft Serve £3.60 Matcha Sundae £5.40 Matcha Monaka £3.90 Matcha Affogato £6.00

#### **TOMBO JAPANESE TEAS**

Zen Bonsai Sakura Haiku 3yr Bancha

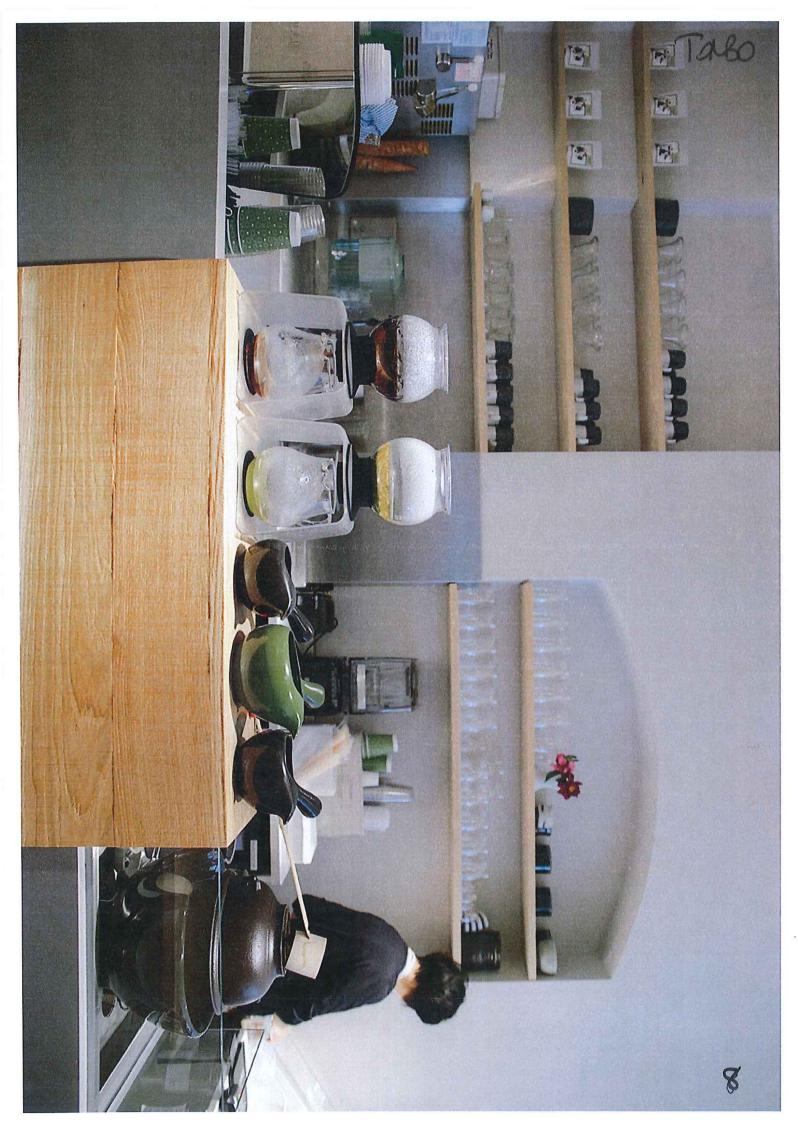


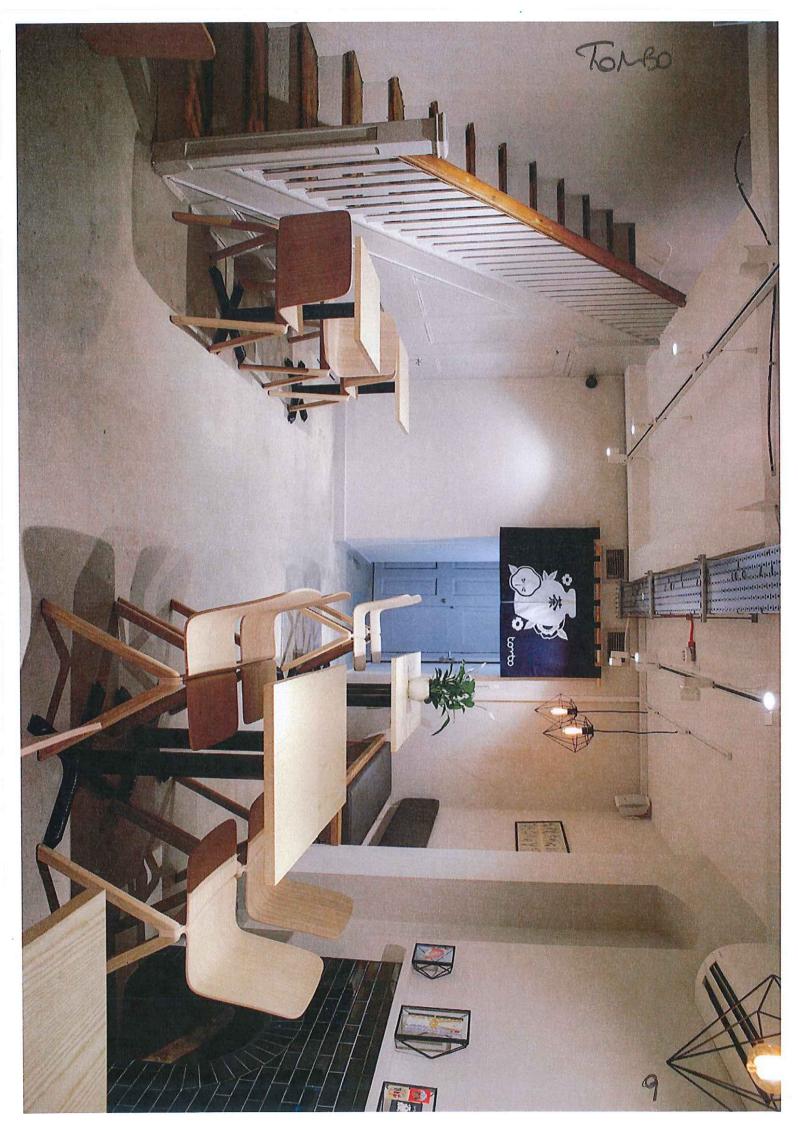












Premises History Appendix 3

There is no licence or appeal history for the premises.

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

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

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

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

#### **Mandatory Conditions**

- 1. No supply of alcohol may be made at a time when there is no designated premises supervisor in respect of this licence.
- 2. No supply of alcohol may be made at a time when the designated premises supervisor does not hold a personal licence or the personal licence is suspended.
- 3. Every supply of alcohol under this licence must be made or authorised by a person who holds a personal licence.
- 4. (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
  - (2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises—
  - (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to;
    - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or

- (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
- (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
- (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
- (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
- (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).
- 5. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
- 6. (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
  - (2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
  - (3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either—
    - (a) a holographic mark, or
    - (b) an ultraviolet feature.
- 7. The responsible person must ensure that—
  - (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—
    - (i) beer or cider: ½ pint;
    - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and

- (iii) still wine in a glass: 125 ml;
- (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
- (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

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

- 8(i) A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.
- 8(ii) For the purposes of the condition set out in paragraph 8(i) above -
  - (a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;
  - (b) "permitted price" is the price found by applying the formula -

P = D+(DxV)

Where -

- (i) P is the permitted price,
- (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
- (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 subparagraph 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. Substantial food and non-intoxicating beverages, including drinking water, shall be available in all parts of the premises where alcohol is sold or supplied for consumption on the premises.
- 10. No spirits or draught beers shall be sold at the premises.
- 11. Staff shall be fully trained in their responsibilities under the Licensing Act 2003 with particular reference to under age sales.
- 12. 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.
- 13. 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.
- 14. An incident log shall be kept at the premises, and made available on request to an authorised officer of the City Council or the Police. It must be completed within 24 hours of the incident and will record the following:
  - (a) all crimes reported to the venue
  - (b) all ejections of patrons
  - (c) any complaints received concerning crime and disorder
  - (d) any incidents of disorder

- (e) all seizures of drugs or offensive weapons
- (f) any faults in the CCTV system, searching equipment or scanning equipment
- (g) any refusal of the sale of alcohol
- (h) any visit by a relevant authority or emergency service.
- 15. 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.
- 16. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
- 17. A 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.

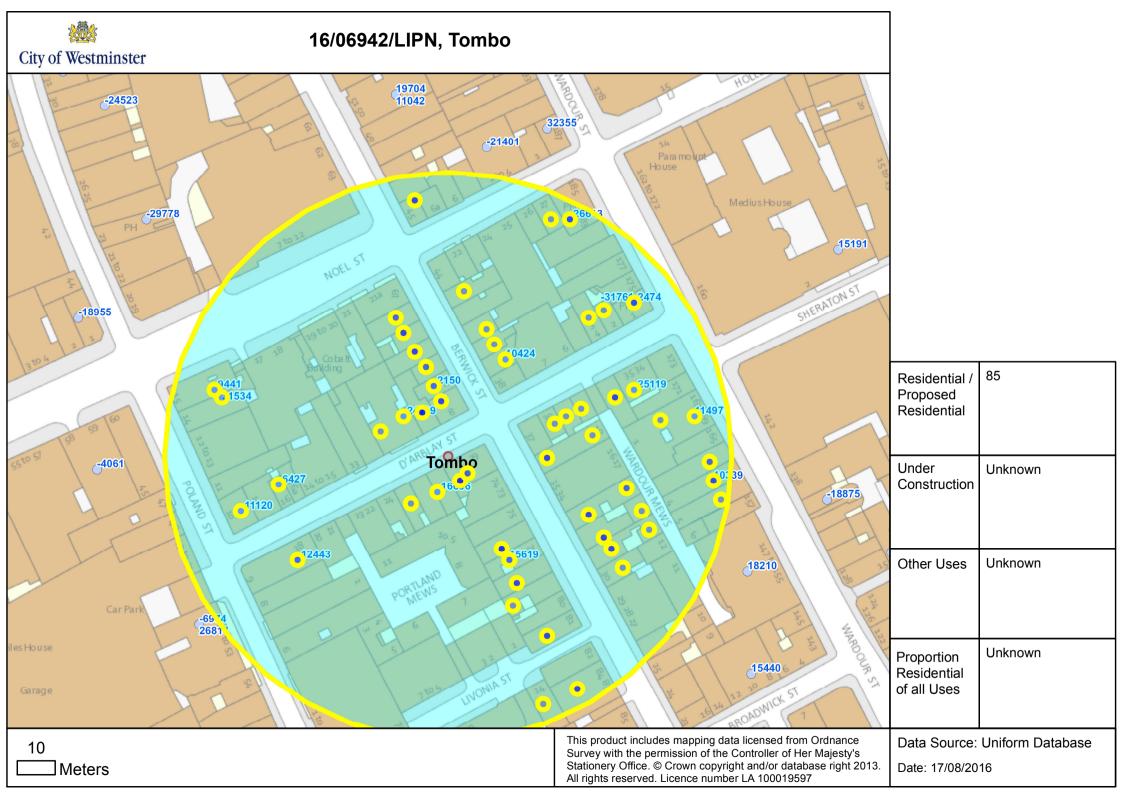
# Conditions proposed by the Licensing Authority and Environmental Health and agreed with applicant

- 18. The supply of alcohol at 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.
- 19. The supply of alcohol shall be by waiter or waitress service only.

#### Conditions proposed by Environmental Health and agreed with applicant

- 20. The number of persons permitted to seat in the premises at any one time (excluding staff) shall not exceed 14 persons.
- 21. The supply of alcohol shall be limited to wine (including Sake) and bottled beers.
- 22. Patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, shall not be permitted to take alcoholic drinks or glass containers with them.
- 23. No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
- 24. All waste to be properly presented and placed out for collection no earlier than 30 minutes before the schedule collection times.
- 25. No rubbish, including bottles, shall be moved, removed or placed in outside areas between 23:00 hours and 08:00 hours.
- 26. No deliveries shall be made to the premises between 23:00 and 08:00 hours.

27. 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.



Premises within 75 metres of Tombo, 28 D'Arblay Street, W1F 8EW:				
p/n	Name of Premises	Premises Address	Licensed Hours	
10424	Berwick News	39 Berwick Street London W1F 8RU	Monday to Saturday 08:00 - 23:00 Sunday 10:00 - 22:30	
-12443	(Delicatessen)	Basement And Ground Floor Munro House 9 Poland Street London W1F 8PY	Monday to Saturday 07:00 - 00:00 Sunday 07:00 - 23:00	
-6427	Dalla Terra Vetro	16 D'Arblay Street London W1F 8EA	Monday to Thursday 10:00 - 00:00 Friday to Saturday 10:00 - 00:30 Sundays before Bank Holidays 10:00 - 00:30 Sunday 12:00 - 23:00	
-2474	The George Public House	1 D'Arblay Street London W1F 8DG	Monday to Sunday 00:00 - 00:00	
10339	St Moritz	161 Wardour Street London W1F 8WL	Monday to Sunday 09:00 - 03:30	
11497	Imli Ltd	167-169 Wardour Street London W1F 8WL	Sunday 08:00 - 00:00 Monday to Saturday 08:00 - 01:00	
15619	Maharani Restaurant	77 Berwick Street London W1F 8TH	Monday to Saturday 10:00 - 00:30 Sunday 12:00 - 00:00	
31534	Soho Food & Wine	14 Poland Street London W1F 8QD	Monday to Sunday 00:00 - 00:00	
-31761	The George Public House	1 D'Arblay Street London W1F 8DG	Monday to Thursday 10:00 - 00:00 Friday to Saturday 10:00 - 00:30 Sunday 12:00 - 23:00	
-26613	Chipotle Mexican Grill	183-185 Wardour Street London W1F 8ZA	Monday to Saturday 10:00 - 23:30 Sunday 11:30 - 23:00	
-25119	Korkers (Basement) And Mustafa's Thai Cottage (Ground Floor)	Ground Floor 34 D'Arblay Street London W1F 8EX	Monday to Saturday 09:00 - 03:30 Monday to Saturday 10:00 - 00:30 Sunday 12:00 - 00:00 Sunday 12:00 - 00:00	
-24821	Blanchette	Basement And Ground Floor 9 D'Arblay Street London W1F 8DR	Monday to Saturday 10:00 - 00:30 Monday to Saturday 10:00 - 23:30 Sunday 12:00 - 00:00 Sunday 12:00 - 23:00	
-24119	Bukowski	Ground Floor 10-11 D'Arblay Street London W1F 8DT	Monday to Sunday 12:00 - 23:30	
-16636	Copita	27 D'Arblay Street London W1F 8EN	Monday to Saturday 10:00 - 23:30 Sunday 12:00 - 23:00	
-11120	Bodean's BBQ	10 Poland Street London W1F 8PZ	Monday to Saturday 10:00 - 00:30 Sunday 12:00 - 00:00	
-9441	Vasco & Piero's	15 Poland Street London W1F 8QE	Monday to Saturday 10:00 - 00:30 Sunday 12:00 - 23:30	
-2150	Raj Tandoori Restaurant	72 Berwick Street London W1F 8TD	Monday to Saturday 10:00 - 00:30 Sunday 12:00 - 00:00	