

Licensing Sub-Committee Report

Item No:	
Date:	16 th March 2017
Licensing Ref No:	16/13587/LIPN - New Premises Licence
Title of Report:	15 Maddox Street London W1S 2QQ
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:	Mrs Sumeet K Anand-Patel Senior Licensing Officer
Contact details	Telephone: 020 7641 2737 Email: sanandpatel@westminster.gov.uk

1. Application

1-A Applicant and premises			
Application Type:	New Premises Licence, Licensing Act 2003		
Application received date:	8 December 2016 (validated on 27 th January 2017)		
Applicant:	Ergon Foods Limited		
Premises:	<i>No name given yet</i>		
Premises address:	15 Maddox Street	Ward:	West End
	London W1S 2QQ	Cumulative Impact Area:	West End
Premises description:	<p>The applicant has described this premises as a modern rustic grocery store selling premium Greek products, cold cuts, cheese, sandwiches, salads and pastries. There is also a restaurant on the ground floor and the applicant is seeking permission to sell alcohol for consumption on and off the premises.</p> <p>Note: the applicant applied for recorded music but has confirmed to the Licensing Service that it is background music only. Therefore, this will not be considered as part of this application as it is not licensable under the Licensing Act.</p>		
Premises licence history:	This premises has not previously benefitted from a licence under the Licensing Act 2003.		
Applicant submissions:	<p>No further submissions have been received from the applicant but please note that the applicant has amended their application for the sale of alcohol hours following a discussion with the Police. The commencement hour has been amended from 07:30 to 10:00 Monday to Friday, 0900 to 10:00 on Saturday and 09:00 to 12:00 on Sundays; and the terminal hour on Sunday has been amended from 23:00 to 22:30. The hours below reflect the current hours being applied for.</p> <p>Further, the applicant has agreed to limit the 'off sales' element as per condition 13 which states 'sales of alcohol for consumption off the premises shall only be supplied with, and ancillary to a take-away meal.'</p>		

1-B Proposed licensable activities and hours

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	12:00
End:	23:00	23:00	23:00	23:00	23:00	23:00	22:30
Seasonal variations/ Non-standard timings:	None						

Hours premises are open to the public							
Day:	Mon	Tues	Wed	Thur	Fri	Sat	Sun
Start:	07:30	07:30	07:30	07:30	07:30	09:00	09:00
End:	23:00	23:00	23:00	23:00	23:00	23:00	23:00
Seasonal variations/ Non-standard timings:		None					
Adult Entertainment:		None					

2. Representations

2-A Responsible Authorities	
Responsible Authority:	Environmental Health Service
Representative:	Sally Thomas
Received:	1 st February 2017
<p>I refer to the application for a new Premises Licence for the above premises.</p> <p>The premises are situated in the West End Cumulative Impact Area as stated in City of Westminster's Statement of Licensing Policy.</p> <p>This representation is based on the Operating Schedule and the submitted plans, ground floor, titled with the address and dated 13.01.17 and the basement floor titled with the address and dated 23.01.17.</p> <p>The applicant is seeking the following on the ground floor:</p> <ol style="list-style-type: none"> 1. To allow the provision of Recorded Music 'indoors' Monday to Friday 08:00-23:00 hours, Saturday and Sunday 09:00-23:00 hours. 2. To allow the Supply of Alcohol both 'on and off' the premises Monday to Friday 08:00-23:00 hours, Saturday and Sunday 09:00-23:00 hours. <p>I wish to make the following representation in relation to the above application:</p> <ol style="list-style-type: none"> 1. The provision of Recorded Music may cause an increase in Public Nuisance in the cumulative impact area, it may also impact on Public Safety. 2. The provision of the Supply of Alcohol may cause an increase in Public Nuisance in the cumulative impact area, it may also impact on Public Safety. <p>The applicant has proposed conditions within the operating schedule which are being considered. Further conditions may be proposed by Environmental Health in order to help prevent Public Nuisance and protect Public Safety.</p> <p>The granting of the new Premises Licence as presented would have the likely effect of causing an increase in Public Nuisance in the cumulative impact area and may impact on Public Safety.</p> <p>Should you wish to discuss the matter further please do not hesitate to contact me.</p> <p>Note: EH have proposed conditions which are attached at Appendix 4.</p>	

Responsible Authority:	Metropolitan Police Service
Representative:	PC Brian Hunter
Received:	1 st February 2017
Status:	Withdrawn

With reference to the above, I am writing to inform you that the Metropolitan Police, as a Responsible Authority, will be making a representation against this application.

The venue is situated within the Cumulative Impact Area. It is our belief that if granted the application would undermine the Licensing Objectives in relation to The Prevention of Crime and Disorder.

Please feel free to contact me or provide some dates, so i can come and see you to discuss Westminster's Model Conditions, and perhaps offer some solutions to assist you with your application.

Note: further to a discussion with the applicant and a number of conditions having been agreed (attached at Appendix 4), the Metropolitan Police have withdrawn their representation.

Responsible Authority:	Licensing Service
Representative:	Steve Rowe
Received:	24 th February 2017

I write in relation to the application submitted for a new Premises Licence for the above premises.

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

- Public Nuisance
- Prevention of Crime & Disorder
- Public Safety
- Protection of Children from Harm

As it stands the application does contravene Westminster's Statement of Licensing Policies CIP1, HRS1, RNT2 and PB2.

I note from your correspondence with the Metropolitan Police Service that you intend to operate the premises purely as a restaurant and have agreed numerous conditions including model condition 66 and that there will be no off sales of alcohol. I also note that since making your application you have reduced your trading hours for licensable activities to the Council's core hours as defined in the Policy document.

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. Further, 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.

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.

I have not seen anywhere in your application or further submissions anything that demonstrates that the premises will not add to cumulative impact in the Cumulative Impact Area if the application were to be granted.

Please therefore accept this as a formal representation.

I look forward to receiving your submissions.

3. Policy & Guidance

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

Policy CIA1 applies:	<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>
Policy HRS1 applies:	<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>
Policy RNT2 applies:	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. Appendices

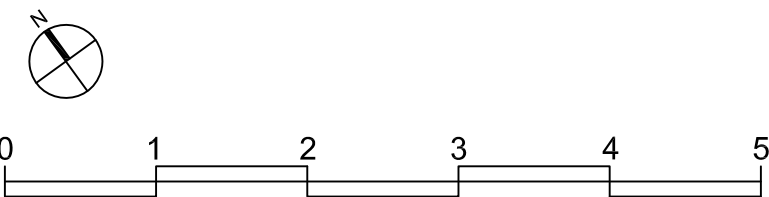
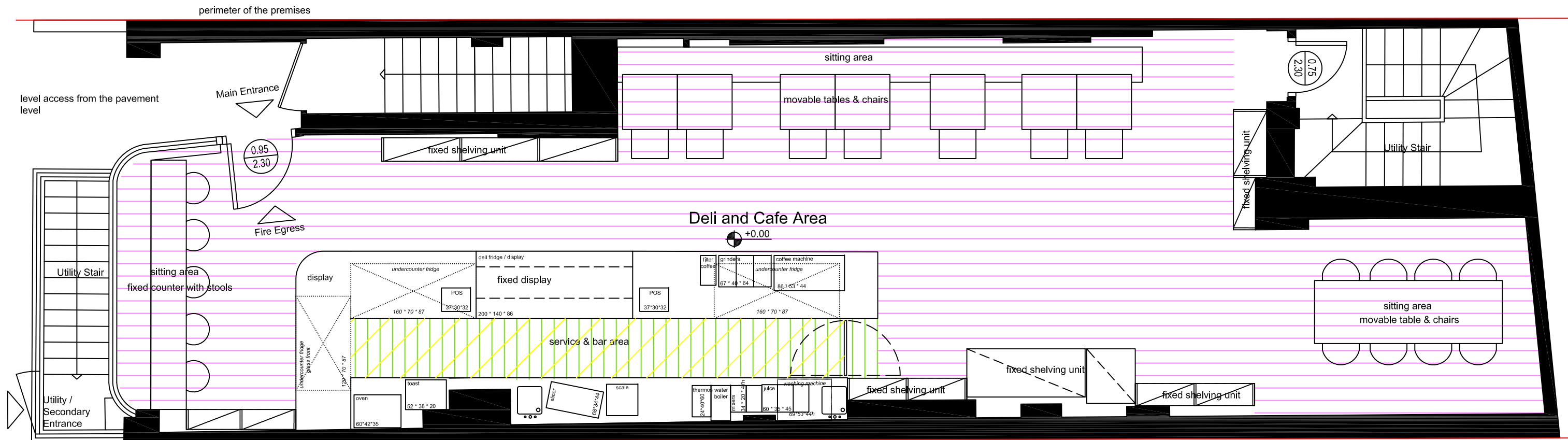
Appendix 1	Premises plans
Appendix 2	Applicant supporting documents – none
Appendix 3	Premises history
Appendix 4	Proposed conditions
Appendix 5	Residential map and list of premises in the vicinity

Report author:	Mrs Sumeet K Anand-Patel Senior Licensing Officer
Contact:	Telephone: 020 7641 2737 Email: sanandpatel@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	27 th January 2017
5	Proposed Plans	27 th January 2017
6	EH Representation	1 st February 2017
7	Police Representation	1 st February 2017
8	Licensing Representation	24 th February 2017



<p>Urban Soul Project Henry Wood House 2 Riding House Street, W1W 7FA www.urbansoulproject.co.uk</p>	<p>NOTES</p> <ul style="list-style-type: none"> areas for the consumption of alcohol area for the storage of alcohol and bar services kitchen and staff only areas toilet accommodation 	<p>PROJECT Ergon Deli and Cafe</p>	<p>DRAWING Ground Floor Plan_Uses</p>	
	<p>CLIENT NAME ERGON</p>	<p>DRAWING SCALE 1 : 50 @A3</p>	<p style="font-size: 2em; font-weight: bold;">05</p>	
	<p>LOCATION 15 Maddox Street, London</p>	<p>DATE 13.01.2017</p>		



<p>Urban Soul Project Henry Wood House 2 Riding House Street, W1W 7FA www.urbansoulproject.co.uk</p>	<p>NOTES</p> <ul style="list-style-type: none"> areas for the consumption of alcohol area for the storage of alcohol and bar services kitchen and staff only areas toilet accommodation 	<p>PROJECT Ergon Deli and Cafe</p>	<p>DRAWING Basement Floor Plan_Uses</p>	
		<p>CLIENT NAME ERGON</p>	<p>DRAWING SCALE 1 : 50 @A3</p>	<p>06</p>
		<p>LOCATION 15 Maddox Street, London</p>	<p>DATE 23.01.2017</p>	

Applicant Supporting Documents

Appendix 2

There are no further documents from the applicant.

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 premises 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 proposed by the Police and consistent with the operating schedule

9. 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 after 23.00, and
 - (v) 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.

10. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the entire 31 day period.
11. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises are open. This staff member must be able to provide a Police or authorised council officer copies of recent CCTV images or data with the absolute minimum of delay when requested.
12. A Challenge 25 policy 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.
13. Sales of alcohol for consumption off the premises shall only be supplied with, and ancillary to a take-away meal.
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) any refusal of the sale of alcohol
- f) any visit by a relevant authority or emergency service.

Conditions consistent with the operating schedule

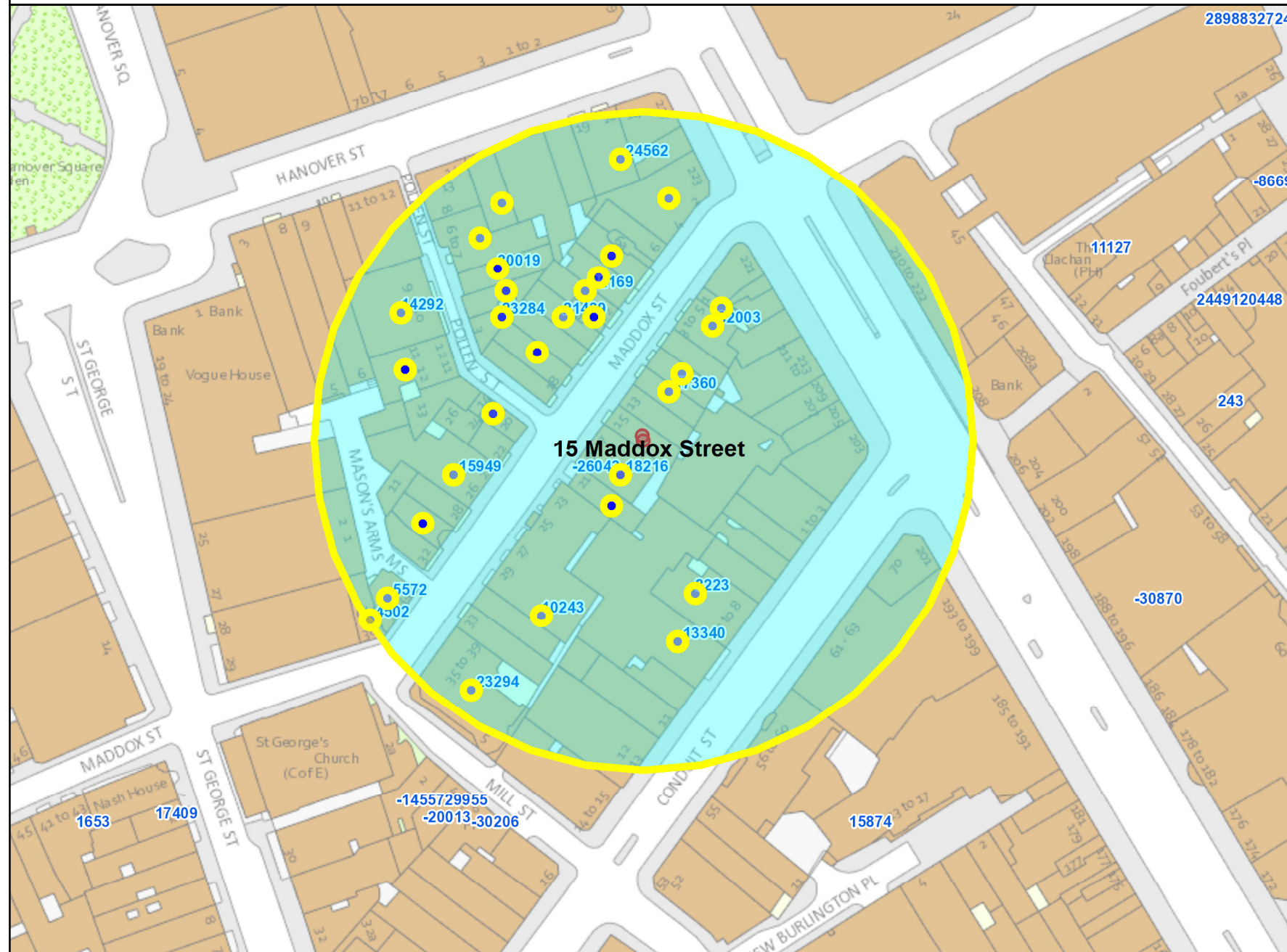
- 15. A zero tolerance drug policy shall be in place at the premises.
- 16. Deliveries of goods necessary for the operation of the business shall be carried out at such a time or in such a manner as to prevent nuisance and disturbance to nearby residents.
- 17. Depositing of waste will be at times that minimize any nuisance.

Conditions proposed by EH

- 18. No deliveries to the premises shall take place between 23.00 and 07.00 on the following day.
- 19. No waste or recyclable materials, including bottles, shall be moved, removed from or placed in outside areas between 23.00 hours and 07.00 hours on the following day.
- 20. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
- 21. 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.
- 22. 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.
- 23. The number of persons seated in the premises at any one time (excluding staff) shall not exceed 20 persons. If an additional WC is added (bringing the total to 2 WCs) this capacity can be increased to 35 seated persons.



15 Maddox Street



Residential / Proposed Residential	69
Under Construction	None
Other Uses	None
Proportion Residential of all Uses	None

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 Meters

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Data Source: Uniform Database
 Date: 23/02/2017

Premises within 75 metres of: 15 Maddox Street, London W1S 2QQ

p / n	Name of Premises	Premises Address	Licensed Hours
-26043	28/50	17-19 Maddox Street London W1S 2QH	Monday to Thursday 08:00 - 00:00 Friday to Saturday 08:00 - 00:30 Sunday 08:00 - 23:00
-24562	Slug & Lettuce	Slug And Lettuce 19 - 20 Hanover Street London W1S 1YR	Friday to Saturday 07:00 - 00:00 Sundays before Bank Holidays 07:00 - 00:00 Sunday 07:00 - 23:00 Monday to Thursday 07:00 - 23:30
-23294	Maddox	3-5 Mill Street London W1S 2AU	Monday to Sunday 00:00 - 00:00
-18216	28/50	17-19 Maddox Street London W1S 2QH	Monday to Thursday 08:00 - 00:00 Friday to Saturday 08:00 - 00:30 Sunday 08:00 - 23:00
-13340	Sketch	9 Conduit Street London W1S 2XG	Monday to Sunday 00:00 - 00:00
-4502	Masons Arms Public House	Whole Building 38 Maddox Street London W1S 1PY	Monday to Saturday 10:00 - 00:30 Friday to Saturday 10:00 - 00:30 Monday to Thursday 10:00 - 23:30 Sunday 12:00 - 00:00 Sundays before Bank Holidays 12:00 - 00:30 Sunday 12:00 - 23:00
8223	The East India Company	7 - 8 Conduit Street London W1S 2XF	Monday to Saturday 08:00 - 23:00 Sunday 10:00 - 22:30
14292	Pollen Street Social Jason Atherton	Ground Floor 10 Pollen Street London W1S 1NH	Monday to Thursday 10:00 - 00:30 Friday to Saturday 10:00 - 01:00 Sunday 12:00 - 00:30 Sundays before Bank Holidays 12:00 - 00:30
23284	Sunflower Cafe Restaurant	3 Pollen Street London	Monday to Saturday 10:00 - 00:30 Sunday 12:00 - 00:00
-32169	Karaoke Box	12 - 14 Maddox Street London W1S 1PH	Monday to Sunday 10:00 - 02:00

-32003	Patara Fine Thai Cuisine	3 Maddox Street London W1S 2QB	Monday to Saturday 10:00 - 00:30 Sunday 12:00 - 00:00
-17360	Sakana-tei Japanese Restaurant	Basement And Ground Floor 11 Maddox Street London W1S 2QF	Monday to Saturday 10:00 - 00:30 Sunday 12:00 - 00:00
-15949	Goodman	26 Maddox Street London W1S 1QH	Monday to Thursday 10:00 - 00:00 Friday to Saturday 10:00 - 00:30 Sunday 12:00 - 23:00
-5572	Sidney Rose Mini Market	Ground Floor 34-36 Maddox Street London W1S 1PD	Monday to Saturday 08:00 - 23:00 Sunday 10:00 - 22:30
10243	Hibiscus	Ground Floor 29 Maddox Street London W1S 2PA	Monday to Saturday 10:00 - 00:00 Sunday 12:00 - 23:00
21439	Aline's Sandwich Table	14 Maddox Street London W1S 1PQ	Friday to Saturday 10:00 - 00:00 Monday to Thursday 10:00 - 23:30 Sundays before Bank Holidays 11:30 - 00:00 Sunday 11:30 - 22:30
30019	Little Social	Ground Floor 5 Pollen Street London W1S 1NE	Friday 07:00 - 00:00 Monday to Thursday 07:00 - 23:30 Saturday 10:00 - 00:00 Sunday 11:00 - 22:50