

Licensing Sub-Committee Report

Item No:	
Date:	6 April 2017
Licensing Ref No:	17/00623/LIPN - New Premises Licence
Title of Report:	Basement Of 3-5 Wardour Street 3-5 Wardour Street London W1D 6PB
Report of:	Director of Public Protection and Licensing
Wards involved:	St James's
Policy context:	City of Westminster Statement of Licensing Policy
Financial summary:	None
Report Author:	Miss Yolanda Wade Senior Licensing Officer
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1. Application

1-A Applicant and premises			
Application Type:	New Premises Licence, Licensing Act 2003		
Application received date:	19 January 2017		
Applicant:	Coco Chino Limited		
Premises:	Basement Of 3-5 Wardour Street		
Premises address:	3-5 Wardour Street London W1D 6PB	Ward:	St James's
		Cumulative Impact Area:	West End
Premises description:	According to the application, the premises will operate as a Chinese restaurant with sale of alcohol for on-site consumption only.		
Premises licence history:	The premises has not previously benefitted from a licence under the Licensing Act 2003.		
Applicant submissions:	None		

Sale by retail of alcohol				On or off sales or both:			On
Day:	Mon	Tues	Wed	Thur	Fri	Sat	Sun
Start:	12:00	12:00	12:00	12:00	12:00	12:00	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:	12:00	12:00	12:00	12:00	12:00	12:00	12:00
End:	23:00	23:00	23:00	23:00	23:00	23:00	22:30
Seasonal variations/ Non-standard timings:	None						
Adult Entertainment:	None						

2. Representations

2-A Responsible Authorities	
Responsible Authority:	The Licensing Authority

Representative:	Mr Steve Rowe
Received:	7 th February 2017

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.

The application seeks to permit the sale of alcohol on the premises from 12:00 to 23:00 Monday to Saturday and 22:30 Sunday. The applicants have stated that the premises operates as a Chinese restaurant.

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)".

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.

Paragraph 2.5.3 of the Council's Policy relating to restaurants states in part that '.....The Council is particularly concerned that restaurant premises in the cumulative impact areas do not, even in part, come to operate as bars and particularly not as "vertical drinking" premises where customers consume alcohol standing throughout the evening.'

Policy PB2 which relates to pubs and bars states 'It is the Licensing Authority's policy to

refuse applications in the CIA other than applications to vary the hours within the core hours under policy HRS1’.

Please therefore accept this as a formal representation, further details will be provided in due course including a discussion relating to conditions specifically relating to the sale of alcohol. It is requested that Model Condition 66 be attached to any licence that may be granted. Please could you confirm whether you agree to the condition below:

Model condition 66 states:

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.

The applicant has agreed to the proposed model condition 66 (see appendix 4) however the Licensing Authority maintains it's representation

Responsible Authority:	Environmental Health Consultation Team (withdrawn)
Representative:	Ayesha Bolton
Received:	17th February 2017

I refer to the application for a new Premises Licence for the above premises.

The applicant has submitted floor plans of the premises.

The premises are located within the West End Cumulative Impact Area as stated in the City of Westminster's Statement of Licensing Policy.

This representation is based on the plans and operating schedule submitted.

The applicant is seeking the following:

1. To permit Supply of Alcohol 'On' the premises only Monday to Saturday 12.00 to 23.00 hours and Sunday 12.00 to 22.30 hours.

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 and may impact on Public Safety within the area.

The granting of the application as presented would have the likely effect of causing an increase in Public Nuisance and may impact on Public Safety within the area.

Following the agreement of proposed conditions (see appendix 4) Environmental Health have withdrawn their representation.

Responsible Authority:	The Metropolitan Police
Representative:	PC Bryan Lewis
Received:	15th February 2017

With reference to the above application, 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 the application would undermine the Licensing Objectives.

The venue is situated in the West End 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.

3. Policy & Guidance

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

Policy CIP1 applies:	<p>(i) It is the Licensing Authoritys 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</p>
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Policy HRS1 applies:	<p>Cumulative Impact Areas.</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>
Policy RNT2 applies:	<p>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.</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

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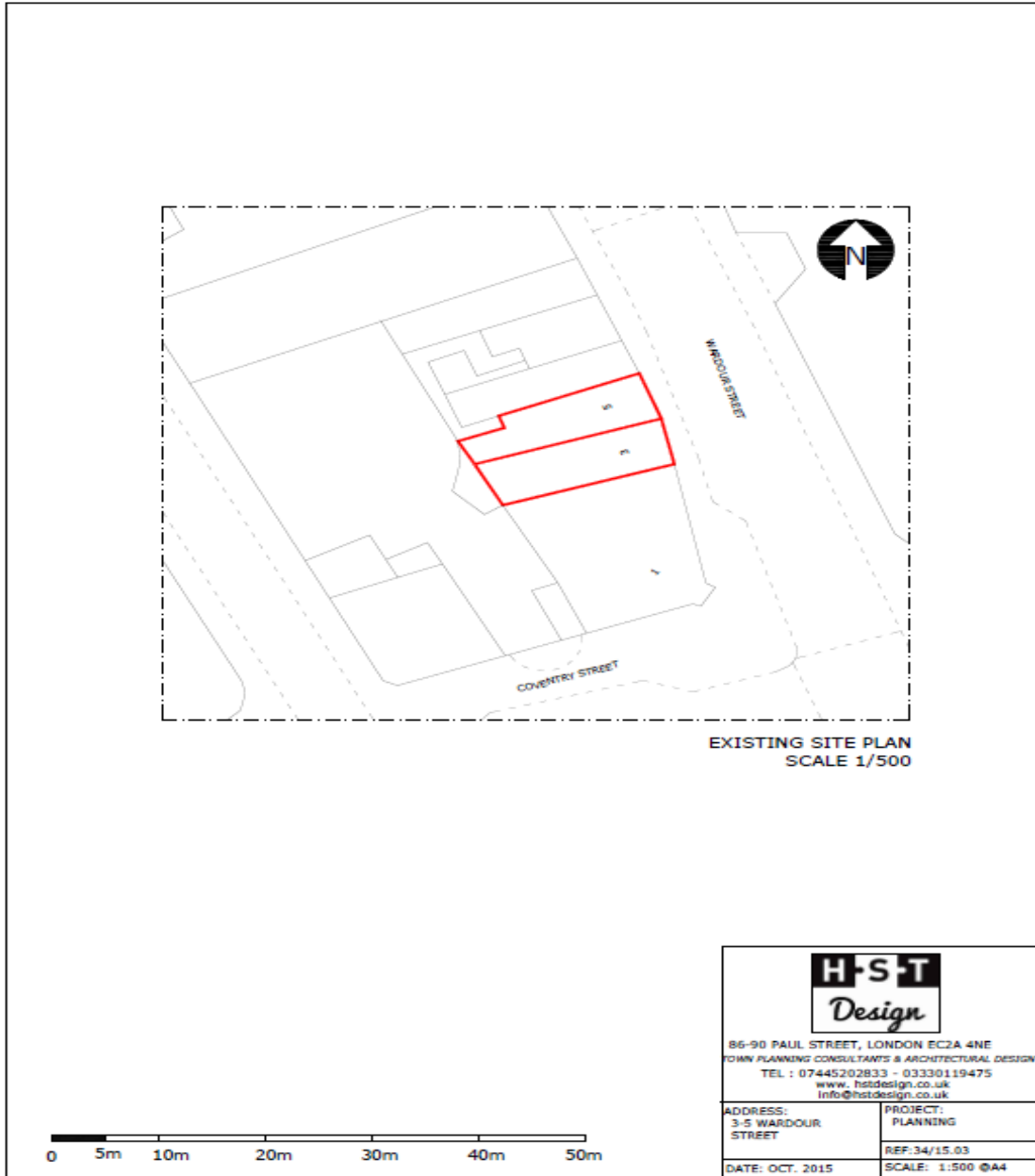
If you have any queries about this report or wish to inspect one of the background papers please contact the report author.

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

1	Licensing Act 2003	N/A
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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	19 th January 2017
5	Representation- The Licensing Authority	7 th February 2017
6	Representation – Environmental Health	17 th February 2017
7	Representation- The Metropolitan Police	15 th February 2017

Premises Plans





Appendix 2

Applicant Supporting Documents

None Submitted.

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 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 proposed by the Environmental Health and agreed with Applicant

9. The number of persons permitted in the premises at any one time (excluding staff) shall not exceed 60 persons.
10. 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.

(Also proposed condition by the Licensing Authority – App Agreed)

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. A Challenge 21 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.
14. 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.

15. 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.
16. Patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, shall not be permitted to take drinks or glass containers with them
17. Notices shall be prominently displayed at any area used for smoking requesting patrons to respect the needs of local residents and use the area quietly.
18. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
19. 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.
20. Loudspeakers shall not be located in the entrance lobby or outside the premises building.
21. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
22. No waste or recyclable materials, including bottles, shall be moved, removed from or placed in outside areas between 23.00 hours and 08.00 hours on the following day.
23. No deliveries shall be made to the premises between 23:00 and 08:00 hours.
24. No licensable activities shall take place at the premises until the premises has been assessed as satisfactory by the Environmental Health Consultation Team at which time this condition shall be removed from the Licence by the licensing authority.

Premises within 75 metres of: Basement 3-5 Wardour Street

p / n	Name of Premises	Premises Address	Licensed Hours
6499	Joy King Lau Restaurant	3 Leicester Street London WC2H 7BL	Monday to Sunday 12:00 - 00:00
22194	The Comedy Store	Ground Floor Right Haymarket House 1A Oxendon Street London SW1Y 4EE	Sunday 09:00 - 01:00 Monday to Saturday 09:00 - 05:00
24544	London Jade Garden	15 Wardour Street London W1D 6PH	Monday to Saturday 10:00 - 00:30 Sunday 12:00 - 00:00
25128	Waxy's Little Sister	20 Wardour Street London W1D 6QJ	Friday to Saturday 10:00 - 00:00 Monday to Thursday 10:00 - 23:30 Sunday 12:00 - 22:50
31242	C & R Cafe Restaurant	3-4 Rupert Court London W1D 6DY	Monday to Saturday 10:00 - 00:30 Sunday 12:00 - 00:00
-32492	Misato Restaurant	11 Wardour Street London W1D 6PG	Monday to Sunday 11:00 - 00:00
-17247	BST And PT	Ground Floor 26 Wardour Street London W1D 6QL	Monday to Saturday 12:00 - 23:00 Sunday 12:00 - 23:00
-15408	Waxy O'Connor's	Basement And Ground Floor 14 - 16 Rupert Street London W1D 6DD	Friday to Saturday 10:00 - 00:00 Monday to Saturday 10:00 - 00:30 Monday to Thursday 10:00 - 23:30 Sunday 12:00 - 00:00 Sundays before Bank Holidays 12:00 - 00:00 Sunday 12:00 - 23:00
-8419	Kentucky Fried Chicken	1 - 2 Coventry Street London W1D 6BH	Sunday 23:00 - 02:30 Monday to Saturday 23:00 - 03:00
-3971	Old Town 97	19 Wardour Street London W1D 6PL	Monday to Saturday 10:00 - 04:00 Sunday 12:00 - 04:00
496	HK Diner	22A Wardour Street London W1D 6QH	Monday to Saturday 10:00 - 04:00 Sunday 12:00 - 04:00
8127	Sunrise Cafe And News	Ground Floor 31 Wardour Street London W1D 6PT	Monday to Saturday 08:00 - 05:00 Sunday 10:00 - 05:00
10920	The Imperial	5 Leicester Street London WC2H 7BL	Friday to Saturday 07:00 - 00:00 Sundays before Bank Holidays 07:00 - 00:00 Sunday 07:00 - 22:50 Monday to Thursday 07:00 - 23:30
16243	Jinli Chinese Restaurant	Ground 4 Leicester Street London WC2H 7BL	Friday to Saturday 10:00 - 00:00 Monday to Saturday 10:00 - 00:30 Monday to Thursday 10:00 - 23:30 Sunday 12:00 - 00:00 Sunday 12:00 - 22:30

18773	Cafe T.P.T.	21 Wardour Street London W1D 6PN	Monday to Saturday 10:00 - 01:00 Sunday 12:00 - 01:00
19511	Little Korea Ltd	2 - 3 Lisle Street London WC2H 7BG	Monday to Saturday 10:00 - 00:30 Sunday 12:00 - 00:00
26189	Prince Of Wales Theatre	31 Coventry Street London W1D 6AS	Monday to Sunday 09:00 - 00:00
-29617	W Hotel	W London Leicester Square 10 Wardour Street London W1D 6QF	Monday to Sunday 00:00 - 00:00
-22995	Cafe De Paris	Basement And Lower Ground Floor 3-4 Coventry Street London W1D 6BL	Monday to Sunday 09:00 - 06:00
-15995	Every Hotel Piccadilly	39 Coventry Street London W1D 6BZ	Monday to Saturday 10:00 - 00:30 Monday to Saturday 10:00 - 23:30 Sunday 12:00 - 00:00 Sunday 12:00 - 23:00
-1305	Morden & Lea	17 Wardour Street London W1D 6PJ	Monday to Wednesday 10:00 - 00:30 Thursday to Saturday 10:00 - 01:30 Sunday 12:00 - 00:00
-950	TGI Fridays	25-29 Coventry Street London W1D 7AG	Monday to Saturday 10:00 - 01:30 Sunday 12:00 - 00:30 Sundays before Bank Holidays 12:00 - 01:00
4889	Cornishe	32 Coventry Street London W1D 6BR	Monday to Sunday 23:00 - 05:00
5823	Hung's Chinese Restaurant	Ground Floor To Second Floor 27 Wardour Street London W1D 6PR	Monday to Saturday 10:00 - 04:30 Sunday 12:00 - 04:30
7259	G. Casino Piccadilly	Upper Ground Floor To Third Floor 3-4 Coventry Street London W1D 6BL	Monday to Saturday 10:00 - 10:00 Sunday 12:00 - 12:00
7388	PizzaExpress	29 Wardour Street London W1D 6PS	Sunday 10:00 - 00:00 Monday to Saturday 10:00 - 00:30
12355	Four Seasons	23 Wardour Street London W1D 6PW	Monday to Saturday 10:00 - 05:00 Sunday 12:00 - 05:00
14616	London Jade Garden	15 Wardour Street London W1D 6PH	Friday to Saturday 10:00 - 00:00 Monday to Thursday 10:00 - 23:30 Sunday 12:00 - 22:30
23388	Sugar	First Floor And Second Floor 11 Wardour Street London W1F 0UN	Monday to Thursday 09:00 - 03:30 Friday to Saturday 09:00 - 06:00 Sunday 09:00 - 23:00
29515	Morada Brindisa	18 Rupert Street London W1D 6DE	Monday to Wednesday 10:00 - 00:30 Thursday to Saturday 10:00 - 01:30 Sunday 12:00 - 00:00