

Licensing Sub-Committee Report

Item No:	
Date:	12 July 2018
Licensing Ref No:	18/04281/LIPN - New Premises Licence
Title of Report:	Ground Floor and Basement 92 York Street London W1H 1QY
Report of:	Director of Public Protection and Licensing
Wards involved:	Bryanston And Dorset Square
Policy context:	City of Westminster Statement of Licensing Policy
Financial summary:	None
Report Author:	Mrs Shannon Pring Senior Licensing Officer
Contact details	Telephone: 020 7641 3217 Email: spring3@westminster.gov.uk

End:	21:00	21:00	21:00	21:00	21:00	21:00	21:00
Seasonal variations/ Non-standard timings:	None						
Adult Entertainment:	N/A						

2. Representations

2-A Responsible Authorities	
Responsible Authority:	Environmental Health Service
Representative:	Mr Dave Nevitt
Received:	25 May 2018
<p>Following a site visit at premises Mr Nevitt proposed a series of conditions and suggested that the applicant amend their application for the hours for retail sale of alcohol on a Sunday to bring their application in line the Council's Core Hours Policy.</p> <p>The applicant has agreed to amend their application and has agreed the conditions proposed by Environmental Health and therefore Environmental Health have not made a representation to this application.</p>	

2-B Other Persons	
Representation 1	
Received:	17 June 2018
<p>My objection is in relation to licensing objective (d) The prevention of public nuisance. My grounds for this are that there are already several establishments with an alcohol license in the immediate vicinity. Some of these already cause noise and disruption down the road.</p> <p>My property looks [REDACTED] and as per the restrictions on a grade listed property, we are forbidden from installing double glazed windows. Single glazed ones are not sound proof and therefore if they wish to have seating outside or people generally stood outside this is going to be a disruptive and additional noise, which the street needs less of. We note the hours of 9am-9pm which are outside of sociable hours for what should be a residential street.</p> <p>Having discussed this with other residents, we are all in agreement that this would not be in the interest of the local neighbourhood and does not bring anything beneficial.</p> <p>We welcome the opportunity to discuss this further if required please do not hesitate to contact me and I am more then willing to discuss this further.</p>	

3. Policy & Guidance

The following policies within the City Of Westminster Statement of Licensing Policy apply:	
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> <p><u>For premises for the supply of alcohol for consumption off the premises:</u> Monday to Saturday: 08:00 to 23:00 Sundays: 10:00 to 22:30</p>
Policy OS1 applies	Applications will generally be granted and reviews determined subject to the relevant criteria in Policies CD1, PS1, PN1 CH1 and HRS1 and other policies in this Statement.

4. Equality Implications

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

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

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

5. Appendices

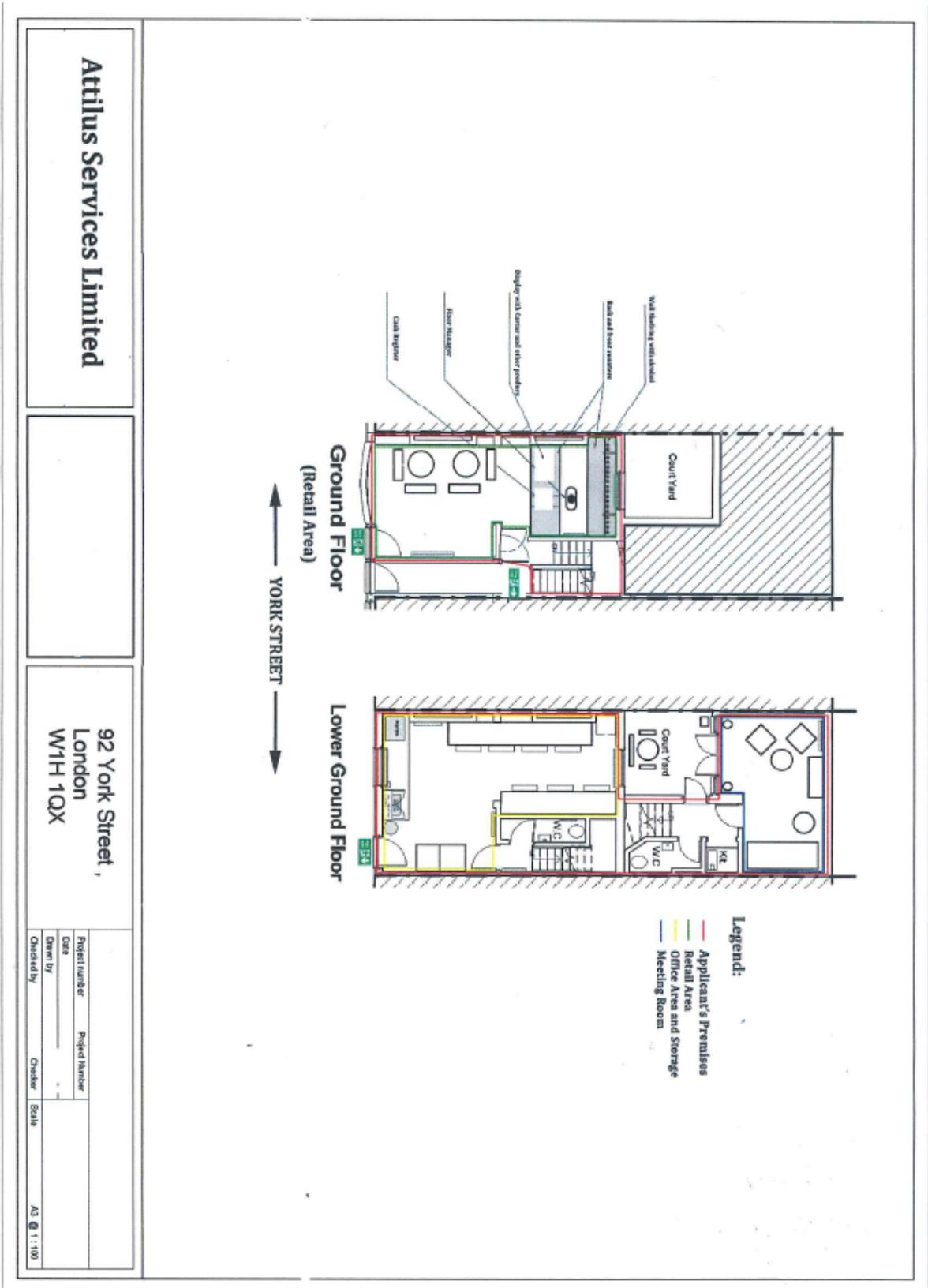
Appendix 1	Premises plans
Appendix 2	Applicant supporting documents
Appendix 3	Premises history
Appendix 4	Proposed conditions
Appendix 5	Residential map and list of premises in the vicinity

Report author:	Mrs Shannon Pring Senior Licensing Officer
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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 th January 2016
3	Amended Guidance issued under section 182 of the Licensing Act 2003	April 2018
4	Email from Environmental Health to Applicant proposing conditions and suggested amendment to application	25 May 2018
5	Email from Applicant agreeing to amend application and conditions	29 May 2018
6	Notification of no representation from Environmental Health Service	19 June 2018



There are no supporting documents from the applicant.

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

Conditions proposed by the Environmental Health and agreed by the applicant to form part of the operating schedule

6. 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.

7. 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.
8. All sales of alcohol for consumption off the premises shall be in sealed containers only, and shall not be consumed on the premises.
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. No more than 10% or 15% of the sales area shall be used at any one time for the sale, exposure for sale, or display of alcohol.
11. There shall be no self service of spirits on the premises, save for spirit mixtures less than 5.5% ABV.
12. 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.
13. 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.
14. No deliveries to the premises shall take place between (23.00) and (08.00) on the following day.

Premises within a 75 metre radius of 92 York Street, London, W1H 1QY

Licence Number	Trading Name	Address	Premises Type	Time Period
17/05394/LIPT	Royal Oak	74-76 York Street London W1H 1QN	Pub or pub restaurant with lodge	Monday to Saturday; 10:00 - 23:00 Monday to Sunday; 10:00 - 00:30 Sunday; 12:00 - 22:30
17/03151/LIPN	Not Recorded	132 Seymour Place London W1H 1NS	Restaurant	Monday to Saturday; 10:00 - 00:30 Sunday; 12:00 - 00:00
17/08449/LIPDPS	The Marylebone Kitchen	106 York Street London W1H 4QN	Not Recorded	Monday to Saturday; 07:00 - 23:00 Sunday; 10:00 - 22:00
18/02008/LIPDPS	Basilico	Basement And Ground Floor 45 Crawford Street London W1H 1JX	Restaurant	Friday to Saturday; 10:00 - 00:30 Sunday to Thursday; 10:00 - 00:00
14/06978/LIPDPS	(Restaurant)	Basement And Ground 42 Crawford Street London W1H 1JX	Restaurant	Monday to Saturday; 09:00 - 00:30 Sunday; 09:00 - 00:00