

# Licensing Sub-Committee Report

Item No:	
Date:	23 August 2018
Licensing Ref No:	18/07535/LIPN - New Premises Licence
Title of Report:	Black Stone, Red Fire Basement And Ground Floor 84 Westbourne Grove London
Report of:	Director of Public Protection and Licensing
Wards involved:	Bayswater
Policy context:	City of Westminster Statement of Licensing Policy
Financial summary:	None
Report Author:	Miss Sam Eaton Senior Licensing Officer
Contact details	Telephone: 020 7641 2700 Email: <a href="mailto:seaton@westminster.gov.uk">seaton@westminster.gov.uk</a>

## 1. Application

1-A Applicant and premises			
<b>Application Type:</b>	New Premises Licence, Licensing Act 2003		
<b>Application received date:</b>	25 June 2018		
<b>Applicant:</b>	Giovanni Interdonato		
<b>Premises:</b>	Black Stone, Red Fire		
<b>Premises address:</b>	Basement And Ground Floor 84 Westbourne Grove London W2 5RT	<b>Ward:</b>	Bayswater
		<b>Cumulative Impact Area:</b>	Bayswater
<b>Premises description:</b>	The application form describes the premises as a pizzeria selling Sicilian style fish and meat dishes operating over the basement and ground floor.		
<b>Premises licence history:</b>	The application is for a New Premises licence and as such the premises has not previously held a licence.		
<b>Applicant submissions:</b>	None.		
<b>NOTE:</b>	The applicant has applied for late night refreshment indoors only and therefore the applicant would only be able to operate the proposed delivery service until 23:00 Monday to Sunday.		

1-B Proposed licensable activities and hours							
<b>Playing of Recorded Music:</b>				<b>Indoors, outdoors or both</b>			Indoors
<b>Day:</b>	<b>Mon</b>	<b>Tues</b>	<b>Wed</b>	<b>Thur</b>	<b>Fri</b>	<b>Sat</b>	<b>Sun</b>
<b>Start:</b>	10:00	10:00	10:00	10:00	10:00	10:00	10:00
<b>End:</b>	00:00	00:00	00:00	00:00	00:00	00:00	23:30
<b>Seasonal variations/ Non-standard timings:</b>			None.				

<b>Late Night Refreshment:</b>				<b>Indoors, outdoors or both</b>			Indoors
<b>Day:</b>	<b>Mon</b>	<b>Tues</b>	<b>Wed</b>	<b>Thur</b>	<b>Fri</b>	<b>Sat</b>	<b>Sun</b>
<b>Start:</b>	23:00	23:00	23:00	23:00	23:00	23:00	23:00
<b>End:</b>	00:00	00:00	00:00	00:00	00:00	00:00	00:00
<b>Seasonal variations/ Non-standard timings:</b>			None.				

<b>Sale by retail of alcohol</b>				<b>On or off sales or both:</b>			Both
<b>Day:</b>	<b>Mon</b>	<b>Tues</b>	<b>Wed</b>	<b>Thur</b>	<b>Fri</b>	<b>Sat</b>	<b>Sun</b>
<b>Start:</b>	10:00	10:00	10:00	10:00	10:00	10:00	10:00
<b>End:</b>	23:30	23:30	23:30	23:30	23:30	23:30	23:30
<b>Seasonal variations/ Non-standard timings:</b>			None.				

Hours premises are open to the public							
Day:	Mon	Tues	Wed	Thur	Fri	Sat	Sun
<b>Start:</b>	10:00	10:00	10:00	10:00	10:00	10:00	10:00
<b>End:</b>	00:00	00:00	00:00	00:00	00:00	00:00	00:00
<b>Seasonal variations/ Non-standard timings:</b>		None.					

## 2. Representations

2-A Responsible Authorities	
<b>Responsible Authority:</b>	Environmental Health Service
<b>Representative:</b>	Sally Fabbricatore
<b>Received:</b>	19 <sup>th</sup> July 2018
<p>I refer to the application for a new Premises Licence for the above premises.</p> <p><b>The premises are situated in the Queensway/Bayswater Cumulative Impact Area as stated in City of Westminster's Statement of Licensing Policy.</b></p> <p>This representation is based on the Operating Schedule and the submitted plans for the basement and ground floor, this has been dated June 2018.</p> <p>The applicant is seeking the following on the <b>basement and ground floor</b>:</p> <ol style="list-style-type: none"> <li>1. To allow the Supply of Alcohol both 'on' and 'off' the premises Monday to Sunday 10:00-23:30 hours.</li> <li>2. To allow the provision of Recorded Music 'indoors' Monday to Saturday 10:00-00:00 hours and Sunday 10:00-23:30 hours. (This has been described as background music).</li> <li>3. To allow the provision of Late Night Refreshment 'indoors' Monday to Sunday 23:00-00:00 hours.</li> </ol> <p>I wish to make the following representation in relation to the above application:</p> <ol style="list-style-type: none"> <li>1. 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.</li> <li>2. The provision of Recorded Music may cause an increase in Public Nuisance in the cumulative impact area.</li> <li>3. The provision of Late Night Refreshment may cause an increase in Public Nuisance in the cumulative impact area.</li> </ol> <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>Four customer WCs are noted on the proposed plan, this would allow for a total capacity of 60 customers. Reference should be made to the Table 10 of the British Standard 6465-1:2009 Sanitary Installations if customers are going to dine in the premises. One further WC should be provided to allow for a capacity of 95 customers. If wash hand basins are provided within the</p>	

cubicle this will reduce the capacity by a further 25%. A staff WC will also need to be provided with a lobby to ensure good separation from dining areas and kitchen and food preparation areas.

**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.**

Should you wish to discuss the matter further please do not hesitate to contact me.

**On 8<sup>th</sup> August 2018 the Environmental Health Service proposed the following conditions:**

1. Sales of alcohol for consumption off the premises shall only be supplied with, and ancillary to a take-away meal.
2. The number of seated persons inside the premises (excluding staff) shall not exceed in the basement: TBC persons and ground floor: TBC persons.
3. No deliveries to the premises shall take place between 23.00 and 08.00 on the following day.
4. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
5. 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.
6. 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.
7. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
8. 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.
9. 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.

<b>Responsible Authority:</b>	Metropolitan Police Service ( <i>Withdrawn</i> )
<b>Representative:</b>	PC Caroline Cockshall
<b>Received:</b>	18 <sup>th</sup> July 2018

**On the 18<sup>th</sup> July the following email was sent to the applicant:**

It was good to meet with you yesterday. As promised please find below the list of conditions we would want to see on your licence:

1. 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

2. 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.
3. 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.
4. 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 faults in the CCTV system
  - (f) any refusal of the sale of alcohol
  - (g) any visit by a relevant authority or emergency service.
5. 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.
6. 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.

If you have any queries relating to this, please do not hesitate to contact me.

***On 1<sup>st</sup> August 2018 the applicant agreed to add these conditions to their operating schedule and the Metropolitan Police Service withdrew their representation.***

<b>Responsible Authority:</b>	Licensing Authority
<b>Representative:</b>	Daisy Gadd
<b>Received:</b>	20 <sup>th</sup> July 2018

I write in relation to the application submitted for a New Premises Licence for 84 Westbourne Grove.

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

The application seeks to permit the following licensable activities:

- Recorded music:  
Monday to Saturday: 10:00 to 00:00  
Sunday: 10:00 to 23:30
- Late Night Refreshment:  
Monday to Sunday: 23:00 to 00:00
- Sale by Retail of Alcohol (both):  
Monday to Sunday: 10:00 to 23:30.

The premises is located within the Bayswater Cumulative Impact Area and as such a number of policy points must be considered, namely CIP1, PB2, RNT2, PN1 and HRS1.

Firstly, as part of the application, the applicant has stated that the consumption of alcohol will be ancillary to a table meal, although no formal condition has been proposed that cements this. The Licensing Authority would like to propose the Council's model condition 66 to be added to the operating schedule of the premises licence, should this application be granted. This condition reads as the following:

- 1) 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.

With the applicant's agreement to model condition 66 above, the operation of the premises will then be brought in line with policy RNT2, as defined in the Council's Statement of Licensing Policy 2016, which states that "Applications will be granted subject to other policies... provided it can be demonstrated that they will not add to cumulative impact in the Cumulative Impact Areas."

The Licensing Authority encourages the applicant to address this policy concern of cumulative impact and to provide further submissions as to how the premises will not add to cumulative impact.

Secondly, the applicant had also highlighted within their application form that wish to provide a delivery service via the likes of Deliveroo and Uber EATS. The Licensing Authority requires the following information to fully consider the likely impact on the Licensing Objectives, with specifically regard to public nuisance:

- 1) What controls will the licensee have in place to ensure that public nuisance isn't created via the hours of operation and the delivery service? The licensee should consider the potential public nuisance caused by the gathering of delivery drivers outside the premises, littering and vehicle noise.
- 2) What measures will the licensee provide to mitigate any risk of increased public nuisance to residents in the area?
- 3) How will the licensee control delivery drivers employed by a third part under the delivery contract if they are found to be causing public nuisance?

The Licensing Authority do have concerns that the delivery element of this application is likely to cause public nuisance in the local area and will subsequently add to cumulative impact in the Bayswater Cumulative Impact Area.

Thirdly, the concerns of the Licensing Authority are furthered given the proposed hours applied for licensable activities in this application. Westminster's core hours are outlined below:

For premises for the supply of alcohol for consumption on the premises:

Monday to Thursday:	10:00 to 23:30
Friday and Saturday:	10:00 to 00:00
Sundays immediately prior to Bank Holidays:	12:00 to 00:00
Other Sundays:	12:00 to 22:30

For premises for the provision of other licensable activities:

Monday to Thursday:	09:00 to 23:30
Friday and Saturday:	09:00 to 00:00
Sundays immediately prior to Bank Holidays:	09:00 to 00:00
Other Sundays:	09:00 to 22:30

The Licensing Authority would encourage the applicant to consider reducing the hours applied for licensable activities to be in line with those outlined above, and described in Westminster's Hours policy.

Further discussions will be held with the applicant and any further submissions will be forwarded on for Members consideration.

Please accept this as a formal representation.

***On 23<sup>rd</sup> July 2018 the applicant accepted model condition 66 as detailed above. The Licensing Authority has not received any further correspondence from the applicant in relation to the points raised within their representation.***

<b>2-B Other Persons</b>	
<b>Representation 1:</b> Councillor Emily Payne	
<b>Address and/or Residents Association:</b>	Westminster City Council 5 The Strand London
<b>Received:</b>	23 <sup>rd</sup> July 2018
<p>A number of residents and Residents Associations have raised significant concerns about licensing for 84 Westbourne Grove, from whom you will have received letters.</p> <p>I support the views of these residents that the restaurant should be restricted to normal core hours and that deliveries should be restricted from 8.00 and 20.00 on weekdays and 10.00 to 16.00 on bank holidays. Residents also seek to restrict refuse and recycling collections from between 8.00 and 23.00 hrs. I would be curious to know what recycling and green covenants we add to the licenses? Similarly residents are concerned about the impact of Deliveroo from the restaurant and wish to ensure that that appropriate restrictions are in place, I'd appreciate further information on how we are licensing this.</p> <p>Residents are keen to ensure that alcohol is ancillary to eating and that there are no alcohol deliveries (particularly as it is difficult to monitor the age of the recipient).</p>	
<b>Representation 2:</b> Cllr Maggie Carman	
<b>Address and/or Residents Association:</b>	Westminster City Council 5 The Strand London
<b>Received:</b>	18 <sup>th</sup> July 2018
<p>As Bayswater ward councillor I support BRA's and SEBRA's opposition to this application in its present form. I am particularly opposed to a takeaway service involving companies such as Deliveroo as there have been many complaints about the nuisance caused by these drivers in the locality</p>	
<b>Representation 3:</b> Hereford Mansions Residents Association	
<b>Received:</b>	23 <sup>rd</sup> July 2018
<p>As an association of 17 members of Hereford Mansions, located near Westbourne Grove and the address of the applicant, we are members of SEBRA and Bayswater Residents' Association, as well as Hereford Road Association, and we add our objection to this application as presented.</p> <p>We live in a Stress Area with many bars and restaurants and, while we have no in principle objection to granting of a new license to these premises, as it was earlier a local restaurant, it was conditional on alcohol sold ancillary to taking a full table meal, seated with waited service, and critically, within WCC 'Core Hours' with customers off the premises at end of 'Core Hours' (and could be less as maybe control of hours on plant servicing premises by planning conditions)</p> <p>We add our endorsement to the other objections and requests laid out below by SEBRA and BRA, including that we are against 'off sales' being allowed, particularly by 'take away' delivery services (such as Deliveroo) as these are very noisy etc for local residents especially when scooters/ motorcycles arrive, wait and leave premises.</p>	



**Representation 4:**

Bayswater Residents Association &amp; South East Bayswater Resident Association

**Received:**15<sup>th</sup> July 2018

The Bayswater Residents Association (BRA) and the South East Bayswater Residents' Association (SEBRA) OBJECT to this application in its present form.

The premises are in the Queensway / Bayswater WCC 'Stress Area' where there are an abundance of licences for pubs, bars, restaurants, food shops etc and in this instance there are residential properties above and opposite these premises.

As there was a restaurant on this site several years ago we have no objection to granting of new licence subject to being a 'restaurant' licence where alcohol is ancillary to taking a full table meal to be persons seated and with waiter/waitress service etc.

We would also only agree to maximum of WCC 'Core Hours' with customers off the premises at end of 'Core Hours' (and could be less as maybe control of hours on plant servicing premises by planning conditions).

Assume premises application is only for inside as pavement outside is public highway.

We have some concern as to smokers or persons using mobile phones etc outside on public pavement so require a condition no drinks to be taken outside premises.

We would want normal WCC model restaurant conditions, to include (but not exhaustive) CCTV, notices asking customers to leave premises quietly, windows and doors shut (except for entry & exit) after 21.00. deliveries only between 08.00 and 20.00 (Sundays and Bank Holidays 10.00 to 16.00), refuse & recycling collections between 0800 and 23.00, no noise to emanate from premises as residential units above and opposite etc.

We are against 'off sales' being allowed, particularly by 'take away' delivery services (such as Deliveroo) as these are very noisy etc for local residents especially when scooters/ motorcycles arrive, wait and leave premises.

We also believe alcohol being delivered is impossible to monitor not being accepted at other end by 'minors'

As always we are more than happy to meet up with applicant and /or their advisors to discuss matter.

**Representation 5****Received:**16<sup>th</sup> July 2018

I am concerned that the sale of alcohol in an off-licence capacity will be detrimental to the neighbourhood. I'm also concerned about even more delivery scooters on Monmouth Road - an area where they are already very prevalent and making the area unpleasant for residents.

**Representation 6****Received:**20<sup>th</sup> July 2018**1. Introduction**

1. We are residents of [REDACTED]. This representation is submitted by [REDACTED]. We write to make a representation objecting to the grant of the application for a licence for 84 Westbourne Grove as

applied for.

2. Our representation is based on the likely impact of the grant of the application as currently presented on the promotion of the licensing objectives, particularly prevention of public nuisance'. The application is also contrary to the Westminster City Council's Statement of Licensing Policy 2016.

3. The number of late night or drink-led premises in the area has given rise to a cumulative impact which is having such a disproportionate effect on residents. We are very keen that the licensing authority ensures that this application does not add to these issues, should the licence be granted.

4. [REDACTED] is a gated and quiet cobble stone mews. It is a mix of 5 houses and 3 flats in a 4 storey building and one flat in a 1 storey building. The mews land is privately owned extending to the pavement edge through a narrow entrance.

5. The [REDACTED] are accessed through the mews and its rear elevation consisting of bedrooms faces Westbourne Grove, the ground floor is occupied by the Lord's store and its address is 86 Westbourne Grove and shares a party wall with applicant's building 84 Westbourne Grove.

6. [REDACTED].

7. [REDACTED]

8. See attached plan and photos

## 2. The application

2.1. The premises being vacant since 2013. There was previously a restaurant on the site. We do not object to a licence been granted, but we do object to the terms of the application as presented.

2.2. The applicant has applied for sale of alcohol for consumption on and off the premises from 10am to 11.30pm Mon-Sun. Late night refreshment has been applied for until – midnight Mon-Sun. Recorded music would be until – midnight Mon-Sat, 11.30pm Sun. The opening times of the premises would be– 10am to midnight Mon-Sun. We have some concern about the lateness of the proposed hours, and about selling alcohol for consumption off the premises.

2.3. According to the application, the ground floor will be an open dining area for approx. 55 people with a wood fired pizza oven, the basement will be a more private area with a small bar for approx 40 people. We have some concerns about a bar area if alcohol can be consumed without a table meal.

2.4. We also note that the applicant wants to provide a delivery service to the local area using online applications such as Ubereats and Deliveroo. Residents in this area have suffered from many problems with delivery services.

2.5. We further note that the application states that 'There is already systems in place for a/c and ventilation to the cooking area, these have all been enclosed using acoustic treated noise enclosures. Any new plant or machinery installed will also be enclosed and treated to reduce noise and possible vibrations.' Noise from plant from this premises has been a problem in the past, and we would like reassurance that the necessary works have been done to resolve this.

### 3. Reasons for objection: the Licensing Objectives

#### **3.1. Proposed terminal hour**

3.1.1. The proposed hours are too late, in a location where residents are in close proximity. We would suggest an earlier terminal hour for licensable activities and for customers to be on the premises.

3.1.2. The concerns of the resident of 7 & 8 Hereford Mews is the noise nuisance for the proposed late hours where customers gathering outside the premises talking loudly, shouting while waiting for a taxi. Given the proximity of our bedroom windows to the applicants premises, this would disturb residents peace and enjoyment of our homes. We would like no noise from the premises after 10.30pm and support SEBRA and HRA's proposed core hours.

#### **3.2. Sale of alcohol is sought for consumption on the premises**

3.2.1. We do not object to this, but we note that although the premises is said to be a restaurant, there is no condition proposed that alcohol shall only be ancillary to a substantial table meal. We would suggest that the Council's model restaurant condition (no.66) is added to the licence to secure this means of operation.

3.2.2. If the premises, or part of it, operates as a bar this will lead to more people on the streets worse the wear for drink at a late hour, which is likely to harm the licensing objective.

3.2.3. It would also be contrary to the 'cumulative impact area' policy set out in the Council's Statement of Licensing Policy 2016.

3.2.4. We are concerned about smokers or persons using mobile phones etc outside on public pavement so require a condition no drinks to be taken outside premises especially after 10pm.

#### **3.3. Sale of alcohol is sought for consumption off the premises**

3.3.1. The plan of the premises does not show any outside area or tables and chairs outside, and so we presume that there is no intention to sell alcohol for consumption off the premises to persons sat outside. This would have the potential to cause a nuisance.

3.3.2. We are very concerned at the proposal for off sales to facilitate a delivery service.

3.3.3. We are against any delivery service – whether food, alcohol or both - operating from the premises.

#### **3.4. Recorded music**

3.4.1. We feel that recorded music should be restricted to background music only, which we understand does not require a licence. If recorded music is permitted, it should cease at 2300 at the latest, due to the potential for nuisance.

3.4.2. This causal link is recognised by para 2.2.11 of the Policy, which states that 'Playing of music can cause nuisance both through noise breakout transmission through the structure of the building and also by its effect on patrons, who become accustomed to high sound levels and to shouting to make themselves heard, which can lead to them being noisier when leaving premises. The later that music is played, the greater the potential for nuisance. Other major sources of noise nuisance are vehicles collecting customers; the slamming of car doors and the sounding of horns resulting from congestion and pressure for on-street parking space and the need for the servicing of premises. These noises can be particularly intrusive at night when ambient noise levels are lower.'

**3.4.3.** Windows and doors should be kept closed after 9pm, except for access/egress.

### **3.5. Deliveries of stock and collections of waste**

3.5.1. Sainsbury's is on the other side of our building (88 Westbourne Grove) we continue to experience noise from their delivery vans at odd hours of the night and it is disturbing especially when the engine is running for an hour or longer. We have a similar situation with the other A3 premises on the street.

3.5.2. We would like to see delivery times limited to the hours as proposed by John Zamit of SEBRA and Hereford Road Association and strict adherence by the applicant.

3.5.3. For a similar reason, I would like to see refuse and recycling times restricted.

## **4. Statement of Licensing Policy 2016 ("the Policy")**

4.1. The application engages a number of sections of the Policy.

4.2. In particular, the CIP1 policy requires that the applicant demonstrates that the application, if granted, will not add to cumulative impact. If there is an element of bar use of sale of alcohol without food, then the applicant would be required to provide genuinely exceptional circumstances.

4.3. I would like in particular to refer to policy PN1, regarding public nuisance. The criteria for policy PN1 is stated to be: 'The potential for nuisance associated with the style, characteristics and activities of the business to be carried on at the premises and the potential steps which could be taken to reduce the risk of nuisance occurring. This will particularly apply in areas of residential accommodation and where there is residential accommodation in the proximity of the premises.'

4.4. Para 2.2.12 of the Policy states that: 'Residents are often subjected to nuisance from the noise of people on their way to and from premises, and loitering in the streets after they have left premises. This can affect residents even at some distance from the premises themselves, especially along routes to transport facilities, and to car parks and parking areas and on routes between late night premises of various types. The nuisance from noise depends on its nature and whether it is during the day, the evening or at night. Late night noise is often unsettling; particularly shouting and screaming. Some of this is associated with aggression and assaults but most of it is "high spirits". It is impossible to distinguish between the reasons for these noises and in any case, it is very disturbing late at night. The degree of nuisance caused by noise increases with the lateness of the hour; especially if it disturbs or prevents sleep.'

## **5. Conclusion**

5.1. When determining licence applications, the focus should be on evaluating what is 'reasonably acceptable' in a particular location (*R (on the application of Hope & Glory Public House Ltd) v (1) City of Westminster Magistrates' Court & Ors* [2011] EWCA Civ 31). The scope of the licence and conditions should be looked at in a local context (*Matthew Taylor v (1) Manchester City Council (2) TCG Bars Ltd* [2012] EWHC 3467 (Admin)).

5.2. We have noted certain areas where we believe that the application should be amended to make it more acceptable to local residents. We look forward to hearing from you if any such amendments are in fact made.

5.3. Thank you for taking the time to consider the content of this representation.

Yours sincerely,

Location plan for [REDACTED]



Airconditioning & condenser plant installed in 1st floor rear patio of 84 Westbourne Grove:



Two Extraction ducts at the rear of 84 Westbourne Grove:



**Representation 7:**

The Hereford Road Association

**Received:**

20<sup>th</sup> July 2018

We are writing on behalf of the Hereford Road Association to endorse the objections raised by SEBRA and BRA in their email of July 15, 2018.

The Hereford Road Association,, which covers the Northern stretch of Hereford Road from Westbourne Grove to Talbot Road, including Hereford Mews, is a lively , non -official group which has been going strong for over 20 years. It has over 100 members, including :long term residents of the street; Genesis tenants, some of them quite vulnerable and elderly; retired people; and many very busy professionals, many of them with young families. The demographics have been gradually changing, and the appearance of the street has been enhanced over the years; we are in a conservation area. But at the same time noise and traffic have been steadily increasing, along with dust from building sites and petrol fumes from cars, motorbikes and delivery vans, particularly at the Westbourne Grove end of the street. This is also a stress area.

HRA members appreciate the lively, busy atmosphere of Westbourne Grove, with its range of shops and cuisines, and we have always encouraged small businesses including restaurants : we invite them to give prizes for our raffle at our AGM, and in return give them full credit in the HRA newsletter. But we keep a wary eye on local licensing applications, which could set precedents for other establishments in relation to late hours. Residents need their sleep at night! We also have concerns about delivery hours, with vans causing noise and nuisance, including blocking access to houses or taking up parking spaces designed for residents or visitors. The corner on Westbourne Grove is a particularly disagreeable congestion point, and may become worse if, as is rumoured, a delicatessen takes over the old Starbucks site.

We agree with all the conditions stipulated in the SEBRA and BRA email, and would emphasise that there are residential properties in the Mews above the premises at no 84. The fact that Sainsbury vans are still allowed to deliver outside core hours has caused, and still causes, a major nuisance to residents of the Mews. Last night when Sally Sampson passed Sainsburys at around 22.30, the Sainsbury van was parked alongside, blocking the refuse van behind it, whose engine was still running! (Pollution in the area is becoming a major problem which needs tackling, urgently.) We fully support SEBRA's request for deliveries to no. 84 to take place only between 08.00 and 20.00, with Sundays and Bank Holidays 10.00 to 16.00.

The HRA shares SEBRA and BRA's concerns about Deliveroo cycles and the noise and aggravation that they cause in the neighbourhood. Hereford Road is used as a conduit for motor bikes, and indeed vans, travelling out of the Grove, often over the speed limit.

We trust that the applicant will not oppose the conditions we, SEBRA and BRA are asking for.

Meanwhile, we were glad to read that the leader of WCC promises that the council will listen more attentively to the concerns of local residents than perhaps it has in the past.

### 3. Policy & Guidance

The following policies within the City Of Westminster Statement of Licensing Policy apply:	
<b>Policy HRS1 applies</b>	<p>Policy HRS1 applies:</p> <ul style="list-style-type: none"> <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> <p><u>For premises for the supply of alcohol for consumption on the premises:</u></p> <p>Monday to Thursday: 10:00 to 23:30            Friday and Saturday: 10:00 to midnight            Sundays immediately prior to Bank Holidays: Midday to midnight            Other Sundays: Midday to 22:30</p> <p><u>For premises for the supply of alcohol for consumption off the premises:</u></p> <p>Monday to Saturday: 08:00 to 23:00            Sundays: 10:00 to 22:30</p> <p><u>For premises for the provision of other licensable activities:</u></p> <p>Monday to Thursday: 09:00 to 23.30            Friday and Saturday: 09:00 to midnight            Sundays immediately prior to Bank Holidays: 09:00 to midnight            Other Sundays: 09:00 to 22:30</p>
<b>Policy CIP1 applies:</b>	<ul style="list-style-type: none"> <li>(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.</li> <li>(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.</li> </ul>
<b>Policy RNT2 applies:</b>	<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. 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

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

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<b>Contact:</b>	Telephone: 020 7641 2700 Email: seaton@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**

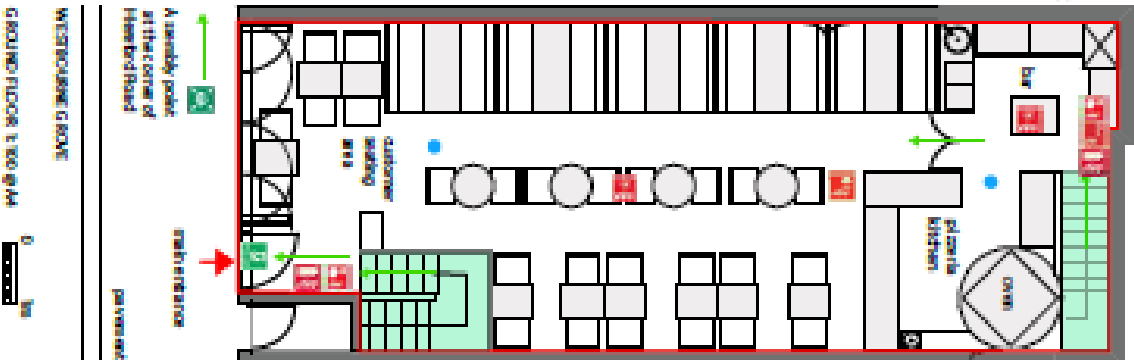
<b>1</b>	Licensing Act 2003	N/A
<b>2</b>	City of Westminster Statement of Licensing Policy	7 <sup>th</sup> January 2016
<b>3</b>	Amended Guidance issued under section 182 of the Licensing Act 2003	April 2018
<b>4</b>	Environmental Health Service Representation	19 <sup>th</sup> July 2018
<b>5</b>	Metropolitan Police Service Representation	18 <sup>th</sup> July 2018
<b>6</b>	Licensing Authority Representation	20 <sup>th</sup> July 2018
<b>7</b>	Representation 1 – Councillor Payne	23 <sup>rd</sup> July 2018
<b>8</b>	Representation 2 – Councillor Carman	18 <sup>th</sup> July 2018
<b>9</b>	Representation 3	23 <sup>rd</sup> July 2018
<b>10</b>	Representation 4 – BRA & SEBRA	15 <sup>th</sup> July 2018
<b>11</b>	Representation 5 – Resident	16 <sup>th</sup> July 2018
<b>12</b>	Representation 6 – Resident	20 <sup>th</sup> July 2018
<b>13</b>	Representation 7 – Hereford Road Association	20 <sup>th</sup> July 2018

Premises Plans

84 WESTBORNE ROAD  
 W2 SRT  
 Pizzeria and Italian Restaurant  
 t/a Black Stone, Red Fire  
 Premises License plan  
 June 2024

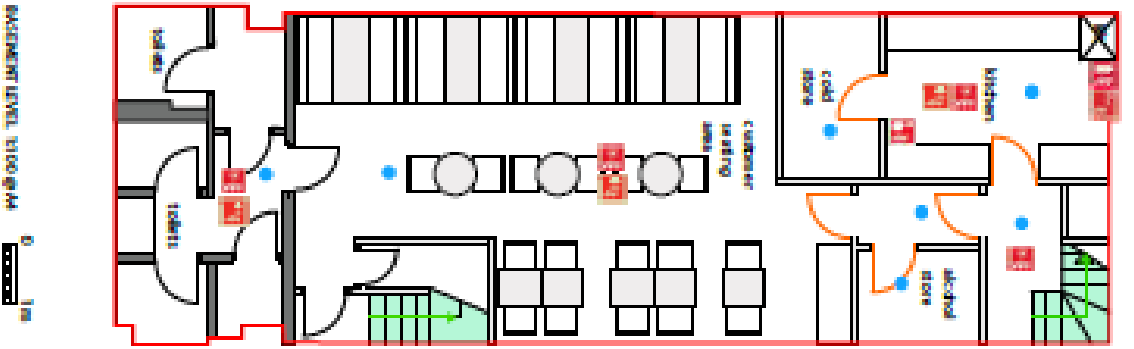
- Fire alarm call point
- Fire alarm sounder
- Fire extinguisher
- Smoke and heat detector
- Fire Exit
- Fire egress self-rollback
- Return of escape fire barrier
- Provision fire warden to check assembly point
- Assembly point

Paul Allison Studio  
 info@paulallisonstudio.com



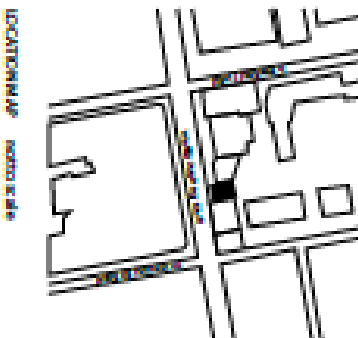
Escape route to show appropriate signage and emergency lighting

Escape route to show appropriate signage and emergency lighting



Escape route to show appropriate signage and emergency lighting

Escape route to show appropriate signage and emergency lighting



**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 consistent with the operating schedule**

9. The premises will not permit drinking games or other activities which encourage individuals to consume alcohol within a time limit, or as much alcohol as possible. There

will be no provision of unlimited or unspecified amounts of alcohol for free or for a fixed discounted fee.

10. There will be no selling or distributing of promotional materials in the premises considered to condone or glamorise anti-social behaviour or drunkenness. Free Tap water will be available on request.
11. The premises will ensure that customers are made aware of the availability of smaller measures of alcohol and measures will not be limited to larger measures.
12. CCTV will be installed in the premises. Cameras will observe the entrances both inside and out giving full frame shots ensuring easily identification. CCTV will provide a linked record of the date and time of the images, will be in colour and will be stored/saved for 31 days. Staff will have access to a monitor showing the CCTV images and staff will be trained in its operation.

***Alternative conditions proposed by the Police and agreed by the applicant to form part of the operating schedule:***

*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*

*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. An 'incident book' will be kept on the premises to record any crimes reported to the premises; any ejection of patrons; any complaints; incidents of disorder; seizures of drugs or offensive weapons; faults in the cctv; refusal of the sale of alcohol; visit by relevant authority or emergency service.

***Alternative condition proposed by the Police and agreed by the applicant to form part of the operating schedule:***

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 faults in the CCTV system
- (f) any refusal of the sale of alcohol
- (g) any visit by a relevant authority or emergency service.



14. Door supervisors will be used on busy nights or planned event nights.
15. Door supervisor to encourage customers not to hang around on the street and disperse in an orderly fashion.
16. The premises will join Pubwatch membership if it exists in the area.
17. Signage asking customers to respect the neighbours and leave quietly.

***Alternative condition proposed by the Environmental Health Service:***

*Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.*

18. Entrance doors to be supervised to make sure no excessive noise breakout.
19. Speakers will be mounted on anti vibration mountings and any amplification of music to be kept at a minimum so as to not disturb the neighbours, sound limits to be controlled by the duty manager.
20. Deliveries will be arranged outside of 'anti-social hours' so as not to disturb the neighbours.

***Alternative condition proposed by the Environmental Health Service:***

*No deliveries to the premises shall take place between 23.00 and 08.00 on the following day.*

21. A complaints book to be held on the premises to record and respond to any complaints by neighbours.
22. Appropriate measures will be in-place to assure no littering by patrons.

***Alternative condition proposed by the Environmental Health Service:***

*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. All ventilation and extraction systems will be appropriately maintained and serviced to ensure no disturbance to neighbours arising from odour or noise.

***Alternative condition proposed by the Environmental Health Service:***

*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.*

24. Any illuminated signage will be switch off when closed to ensure no disturbance to the neighbours.
25. The premises will ensure staff are trained on the licensing objectives.
26. The premises will adopt a Challenge 21 scheme asking and checking for ID including for the delivery of alcohol off the premises.

**Alternative condition proposed by the Police and agreed by the applicant to form part of the operating schedule:**

*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.*

27. Children under 18 are only allowed inside the restaurant if accompanied by an adult or known to the staff.

**Additional conditions proposed by the Environmental Health Service:**

28. Sales of alcohol for consumption off the premises shall only be supplied with, and ancillary to a take-away meal.
29. The number of seated persons inside the premises (excluding staff) shall not exceed in the basement: TBC persons and ground floor: TBC persons.
30. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
31. 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.
32. 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.

**Additional conditions proposed by the Police and agreed with the applicant to form part of the operating schedule:**

33. 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.

**Condition proposed by the Police and Licensing Authority to apply to the entire premises and agreed with the applicant:**

34. 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.

Residential Map and List of Premises in the Vicinity

Black Stone, Red Fire, 84 Westbourne Grove, London



Resident count: 125

<b>Premises within 50 metres of: Black Stone, Red Fire, 94 Westbourne Grove</b>			
<b>Ref</b>	<b>Name of Premises</b>	<b>Premises Address</b>	<b>Licensed Hours</b>
16/10441/LIPDPS	Sainsburys Supermarkets Limited	Grove House 88 - 94 Westbourne Grove London W2 5RT	Monday to Sunday; 07:00 - 23:00
15/00554/LIPDPS	Sainsbury's	Grove House 88 - 94 Westbourne Grove London W2 5RT	Monday to Sunday; 07:00 - 23:00
18/03122/LIPDPS	Byron	103 Westbourne Grove London W2 4UW	Monday to Saturday; 10:00 - 23:30 Sunday; 12:00 - 23:00
17/10806/LIPDPS	Cocotte	95 Westbourne Grove London W2 4UW	Monday to Thursday; 11:00 - 23:30 Friday to Saturday; 11:00 - 00:00 Sunday; 11:00 - 22:30 Sundays before Bank Holidays; 12:00 - 00:00
18/03434/LIPVM	Shack 107	107 Westbourne Grove London W2 4UW	Monday; 12:00 - 00:00 Tuesday; 12:00 - 00:00 Wednesday; 12:00 - 00:00 Thursday; 12:00 - 00:00 Friday; 12:00 - 00:00 Sunday; 12:00 - 23:00
17/12221/LIPDPS	Farmacy	74-76 Westbourne Grove London W2 5SH	Monday to Saturday; 10:00 - 00:30 Sunday; 12:00 - 00:00
17/01077/LIPN	Sushi Shop	72 Westbourne Grove London W2 5SH	Monday to Sunday; 11:00 - 22:30
16/09990/LIPDPS	Franco Manca	111 Westbourne Grove London W2 4UW	Monday to Saturday; 10:00 - 00:30 Sunday; 12:00 - 00:00
06/11786/WCCMAP	Rodizio Rico	111 Westbourne Grove London W2 4UW	Monday to Saturday; 10:00 - 00:30 Sunday; 12:00 - 00:00