

# Licensing Sub-Committee Report

Item No:	
Date:	18 October 2018
Licensing Ref No:	18/09908/LIPN - New Premises Licence
Title of Report:	29 Berners Street London W1T 3LR
Report of:	Director of Public Protection and Licensing
Wards involved:	West End
Policy context:	City of Westminster Statement of Licensing Policy
Financial summary:	None
Report Author:	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>		23 August 2018	
<b>Applicant:</b>		Hamsard 2018 Ltd	
<b>Premises address:</b>		29 Berners Street London W1T 3LR	<b>Ward:</b> West End
			<b>Cumulative Impact Area:</b> None
<b>Premises description:</b>		The application states that the premises operate as a hairdressing salon and cafe with an outside seating area. The premises do not benefit from a private forecourt.	
<b>Premises licence history:</b>		This is an application for a new premises licence and as such there is no licensing history for the premises.	
<b>Applicant submissions:</b>		None.	

1-B Proposed licensable activities and hours							
<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>	09:00	09:00	09:00	09:00	09:00	09:00	12:00
<b>End:</b>	21:00	21:00	21:00	21:00	21:00	21:00	18:00
<b>Seasonal variations/ Non-standard timings:</b>			None.				

Hours premises are open to the public							
<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>	08:00	08:00	08:00	08:00	08:00	08:00	12:00
<b>End:</b>	21:30	21:30	21:30	21:30	21:30	21:30	18:30
<b>Seasonal variations/ Non-standard timings:</b>			None.				

## 2. Representations

2-A Responsible Authorities	
<b>Responsible Authority:</b>	Environmental Health Service
<b>Representative:</b>	Maxwell Owusu Koduah
<b>Received:</b>	7 <sup>th</sup> September 2018
<p>I refer to the application for a new Premises Licence for the above mentioned premises. I have considered the information that you have provided within and accompanying this application. I have also considered the application in line with the relevant policies within the Councils Statement of Licensing Policy dated January 2016.</p>	

**The applicant is seeking to:**

1. Supply alcohol for the consumption "On" and "Off" the premises Monday to Saturday from 09:00 to 21:00 hours and Sunday from 12:00 hours to 18:00 hours.

**Following consideration of the application and how it may affect the Licensing Objectives and meet the requirements of the Council's Statement of Licensing Policy I wish to make the following representation:**

1. The hours requested to supply alcohol may have the likely effect of increasing Public Nuisance and impact on Public Safety within the area

Applicant has proffered a condition within the operating schedule that reads:

The sale of alcohol at the premises shall be limited to customers: -

- a) Receiving beauty treatments, hair dressing appointments or therapies; or
- b) Seated within the café area

This condition is inconsistent with the supply of alcohol for consumption "off" the premises. This will be discussed further.

The applicant has provided conditions in support of the application. These are being considered but they do not fully address the concerns of Environmental Health. Additional conditions may be proposed.

The granting of this application, as presented, would have the likely effect of causing an increase in Public Nuisance and may affect Public Safety within the area

The applicant is asked to contact the undersigned to arrange a site visit to assess the premises to ensure the premises is satisfactory and following this, additional conditions may be recommended by Environmental Health to support the licensing objectives Prevention of Public Nuisance and Public Safety.

**The Environmental Health Service have proposed the following conditions:**

1. The licensable activities authorised by this licence and provided at the premises shall be ancillary to the main function of the premises as a nail and beauty salon and cafe
2. The supply of alcohol shall be by waiter or waitress service only
3. 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
4. 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
5. The sale and supply of alcohol for consumption off the premises shall be restricted to alcohol consumed by persons who are seated in an area appropriately authorised for the use of tables and chairs on the highway and shall be by waiter or waitress service

6. No deliveries to the premises shall take place between 23:00 hours and 08:00 hours on the following day.

**2-B Other Persons**

**Name:**

**Address and/or Residents Association:**

**Status:**

Outstanding

**In support or opposed:**

Opposed

**Received:**

30<sup>th</sup> August 2018

The application gives no details about what type of business is proposed to be operated. There is no application form to view. We are potentially concerned about sale of alcohol on- and off-licence from the premises. We would like to see more information so that we can assess its merits and demerits.

We would like a condition attached to the licence which states:

"The sale of alcohol is only to be ancillary to the operation of a hairdressing salon."

The reason being is to ensure that the licence cannot be transferred to another operator which may give rise to public nuisance.

We would also like to see conditions that restrict the disposal of waste and recycling, and no deliveries to the premises, after 9pm and before 8am Monday to Saturday. And no deliveries or disposals on a Sunday before 12noon.

**Name:**

**Address and/or Residents Association:**

**Status:**

Outstanding

**In support or opposed:**

Opposed

**Received:**

19<sup>th</sup> September 2018

I am the owner of a flat in Berners Mansions, I live in my flat which is my sole residence and my home. 29 Berners Street is operated as "Hershesons"

[www.hershesons.com/stores/salons/berners-street/](http://www.hershesons.com/stores/salons/berners-street/) a hair and beauty salon. My main living room/sitting room looks onto Berners Street and has a window looking towards 29 Berners Street.

What I am concerned about with this application is a loss to my residential amenity through the nuisance that will be caused by the sale of alcohol, especially if it is unrelated to being a customer at the salon. This application if granted would also add to an ever-increasing availability of alcohol near to my home as a result of recently granted licenses, plus new developments, both near completion and planned, that can be expected to also apply for alcohol licenses.

In this context I cannot help but question whether it is appropriate for a hair and beauty salon to serve alcohol? If a licence is granted then, to reduce the potential nuisance, I request that the following conditions are added:

- Alcohol only served to customers who have a beauty appointment

- Alcohol only to be served with substantial food
- Supply of alcohol by waiter/waitress service only
- No take-away/off-licence sales
- No alcohol to be served outside, for instance at the tables (also is there appropriate permission in place for these tables on the pavement anyway?)
- Hours – 9am is very early to start serving alcohol, especially if not served with substantial food; I would suggest a start time of 12, noon. Note that the salon is closed all day Sunday and closes at 8pm Monday to Friday and at 7pm Saturday, so why is the application for later hours than these?

I expect the nuisance would mainly comprise noise and anti-social behaviour from people under the influence of alcohol, especially at evenings and weekends which is when I am usually at home, and especially on warmer days and evenings when I am more likely to have my windows open, which is precisely when this sort of nuisance is more likely.

I therefore request that this application is turned down or considerably modified so as to prevent this nuisance and corresponding loss of my residential amenity.

<b>Name:</b>		[REDACTED]	
<b>Address and/or Residents Association:</b>		[REDACTED]	
<b>Status:</b>	Outstanding	<b>In support or opposed:</b>	Opposed
<b>Received:</b>	21 <sup>st</sup> September 2018		

I am the owner of flat 1 in Berners Mansions, the premises in question is part of a new building that has been constructed next door. 29 Berners Street is operated as "Hershesons" [www.hershesons.com/stores/salons/berniers-street/](http://www.hershesons.com/stores/salons/berniers-street/) -a hair and beauty salon.

What I am concerned about with this application is a loss to residential amenity through the nuisance- that will be caused by the potential sale of alcohol, especially if it is unrelated to being a customer at the salon . This application if granted would also add to an ever-increasing availability of alcohol near to my Flat as a result of recently granted licenses, plus new developments, both near completion and planned, that can be expected to also apply for alcohol licenses.

In this context I cannot help but question whether it is appropriate for a hair and beauty salon to serve alcohol? If a licence is granted then, to reduce the potential nuisance, I request that the following conditions are added

- o Alcohol only served to customers who have a beauty appointment
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- o No alcohol to be served outside, for instance at the tables (also is there appropriate permission in place for these tables on the pavement anyway?)
- o Hours - 9am is very early to start serving alcohol, especially if not served with substantial food; I would suggest a start time of 12, noon. Note that the salon is closed all day Sunday and closes at 8pm Monday to Friday and at 7pm Saturday, so why is the application for later hours than these?

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### 3. Policy & Guidance

The following policies within the City Of Westminster Statement of Licensing Policy apply:	
<b>Policy HRS1 applies</b>	<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 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>
<b>Policy PB1 applies:</b>	Applications will only be granted if it can be demonstrated that the proposal meets the relevant criteria in Policies CD1, PS1, PN1 and CH1.

### 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

<b>Report author:</b>	Miss Sam Eaton Senior Licensing Officer
<b>Contact:</b>	Telephone: 020 7641 2700 Email: <a href="mailto:seaton@westminster.gov.uk">seaton@westminster.gov.uk</a>

**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 2017
<b>4</b>	Environmental Health Representation	7 <sup>th</sup> September 2018
<b>5</b>	Representation	30 <sup>th</sup> August 2018
<b>6</b>	Representation	19 <sup>th</sup> September 2018
<b>7</b>	Representation	21 <sup>st</sup> September 2018

## Appendix 1





**Applicant Supporting Documents**

None.

**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 sale of alcohol at the premises shall be limited to customers: -

- a) receiving beauty treatments, hair dressing appointments or therapies; or
- b) seated within the café area.

10. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises. All

recordings shall be stored for a minimum period of 31 days with date and time stamping. Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the preceding 31 day period.

11. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises are open to the public. This staff member shall be able to show Police recent data or footage with the absolute minimum of delay when requested.
12. Alcohol consumed outside the premises building shall only be consumed by patrons seated at tables.
13. The supply of alcohol shall be by a member of staff over the age of 18 years only.
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. Staff training will be given to ensure that in the case of any doubt whether a purchaser is over the age of 18 to refuse the sale of alcohol unless valid ID is produced.
16. Non-intoxicating beverages, including drinking water, shall be available throughout the permitted hours in all parts of the premises where intoxicating liquor is sold and supplied for consumption on the premises.
17. There shall be no self-service of alcohol.
18. There shall be no sale or supply of draught beer.
19. 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.

#### **Conditions proposed by the Environmental Health**

20. The licensable activities authorised by this licence and provided at the premises shall be ancillary to the main function of the premises as a nail and beauty salon and cafe
21. The supply of alcohol shall be by waiter or waitress service only
22. During the hours of operation of the premises, the licence holder shall ensure sufficient measures are in place to remove and prevent litter or waste arising or accumulating from customers in the area immediately outside the premises, and that this area shall be swept and or washed, and litter and sweepings collected and stored in accordance with the approved refuse storage arrangements by close of business
23. 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
24. The sale and supply of alcohol for consumption off the premises shall be restricted to alcohol consumed by persons who are seated in an area appropriately authorised for the use of tables and chairs on the highway and shall be by waiter or waitress service

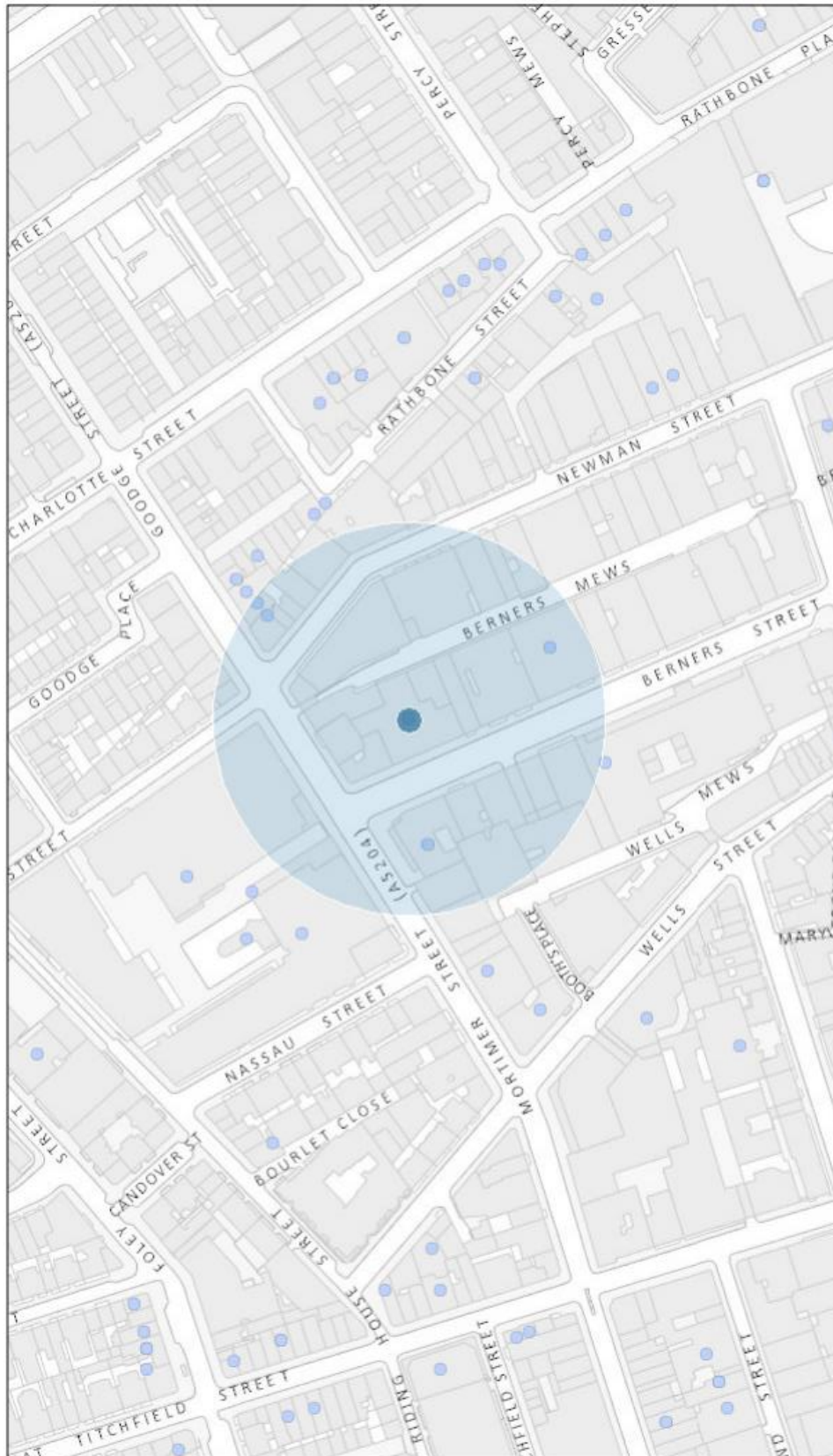
25. No deliveries to the premises shall take place between 23:00 hours and 08:00 hours on the following day.

**Condition proposed by Fitzrovia Neighbourhood Association:**

26. The sale of alcohol is only to be ancillary to the operation of a hairdressing salon.

Residential Map and List of Premises in the Vicinity

29 Berners Street



October 11, 2018

● Live Licensing Act

1:2,000  
0 0.015 0.03 0.06 mi  
0 0.0275 0.055 0.11 km  
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Resident count = 47



Premises within 50 metres of: 29 Berners Street, London			
Ref	Name of Premises	Premises Address	Licensed Hours
18/10957/LIPRW	Flesh & Buns	29-33 Berners Street London W1T 3AB	Monday to Thursday; 10:00 - 23:30 Friday to Saturday; 10:00 - 00:00 Sunday; 10:00 - 22:30
09/07501/LIPD	Copyright House	29-33 Berners Street London W1T 3AB	Monday to Saturday; 10:00 - 23:30 Sunday; 12:00 - 22:30
18/00097/LIPVM	Greyhound Cafe	Basement And Ground Floor Newlands House 37 - 40 Berners Street London W1T 3NB	Monday to Sunday; 08:00 - 23:00 Saturday; 10:00 - 22:30