

Licensing Sub-Committee Report

Item No:	
Date:	18 October 2018
Licensing Ref No:	18/04010/LIPN - New Premises Licence
Title of Report:	1 Westbourne Grove Terrace London W2 5SD
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: seaton@westminster.gov.uk

1. Application

1-A Applicant and premises			
Application Type:	New Premises Licence, Licensing Act 2003		
Application received date:	15 April 2018		
Applicant:	Mr Ahmet Taluy		
Premises:	Not Supplied		
Premises address:	1 Westbourne Grove Terrace London W2 5SD	Ward:	Bayswater
		Cumulative Impact Area:	Bayswater
Premises description:	The applicant describes the premises as a speciality coffee shop. The applicant proposed that the licence will enable the sale of coffee with a shot of alcohol and the sale of special spirits e.g. whiskey, liquor, etc		
Premises licence history:	This is an application for a new premises licence and as such there is no licensing history for the premises.		
Applicant submissions:	None.		
Amendment to application:	The applicant has reduced the terminal hour for the sale of alcohol from 23:00 to 22:30 Monday to Sunday.		

1-B Proposed licensable activities and hours (as amended)							
Sale by retail of alcohol				On or off sales or both:			On the premises
Day:	Mon	Tues	Wed	Thur	Fri	Sat	Sun
Start:	12:00	12:00	12:00	12:00	12:00	12:00	12:00
End:	22:30	22:30	22:30	22:30	22:30	22:30	22:30
Seasonal variations/ Non-standard timings:			None.				

Hours premises are open to the public							
Day:	Mon	Tues	Wed	Thur	Fri	Sat	Sun
Start:	08:00	08:00	08:00	08:00	08:00	08:00	08:00
End:	23:00	23:00	23:00	23:00	23:00	23:00	23:00
Seasonal variations/ Non-standard timings:			None.				

2. Representations

2-A Responsible Authorities	
Responsible Authority:	Environmental Health Service
Representative:	Dave Nevitt
Received:	13 th September 2018
Representation is made in relation to the application, as the proposals are likely to increase Public Nuisance and may impact upon Public Safety.	
Responsible Authority:	Metropolitan Police Service
Representative:	PC Bryan Lewis
Received:	15 th September 2018
<p>Our objection relates to the following:</p> <ul style="list-style-type: none"> • Insufficient conditions proposed to promote the prevention of crime and disorder. <p>I will contact you to discuss this matter</p>	
Responsible Authority:	Licensing Authority
Representative:	Roxanna Haq
Received:	18 th September 2018
<p>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:</p> <ul style="list-style-type: none"> • Public Nuisance • Prevention of Crime & Disorder • Public Safety • Protection of Children from harm <p>This application seeks the following:</p> <p>The retail sale of alcohol on the premises; Monday 12:00 – 22:30 Tuesday to Sunday 12:00 – 23:00</p> <p>The premises is located within the Bayswater Cumulative Impact area and as such a number of policy points must be considered, namely PB2, HRS1 and CIP1.</p> <p>Currently the application does not restrict the operation of the premises as a restaurant therefore this application will be considered within policy PB2 and as such please be aware that it is the Licensing Authorities policy to refuse applications in the cumulative impact areas where premises are seen to being used primarily for the supply of alcohol.</p> <p>Additionally, paragraph 2.5.23 of the Councils Statement of Licensing Policy 2016 states that the “<i>grant of new licences for pubs or bars in the Cumulative Impact Area should be limited to exceptional circumstances</i>”. Therefore, it is for the applicant to demonstrate that this application</p>	

can be regarded as an exception to policy. The list of examples of what may be considered an exceptional circumstance can be found at paragraphs 2.4.2 – 2.4.13 of the Council's Statement of Licensing Policy.

We note that the application states;

"Alcohol shall not be sold, supplied, or consumed on the premises otherwise than to persons who are seated and taking substantial food from the menu and that the consumption of intoxicating liquor by such persons is ancillary to taking such meals. The supply of alcohol shall be by waiter or waitress service only".

However the application at this stage does not provide sufficient details of the nature of the provision, which would deem the alcohol ancillary to those undertakings.

The core hours policy as defined in HRS1 state the hours for the supply of alcohol on the premises and these are:

Friday and Saturday: 10:00 to midnight

Sundays immediately prior to Bank Holidays: Midday to midnight

Other Sundays: Midday to 22:30

Monday to Thursday: 10:00 to 23:30

The application as it stands falls outside of these hours as the terminal hour on Sunday is later than core hours.

In consideration to policy CIP1, paragraph 2.4.21 of the Licensing Policy states applications that;

" (i) are appropriately conditioned so that the consumption of alcohol is not, and cannot become, a significant part of the operation of the premises and is regulated to promote responsible drinking;

(ii) where the character of the premises is such that its customers are not likely to be involved in sustained or heavy drinking at later hours; and

(iii) when the sale of alcohol is not permitted beyond 20:00 hours; then permitting the sale of alcohol for consumption on the premises is unlikely to add to cumulative impact in the cumulative impact area"

Therefore, we encourage the applicant to consider reducing the terminal hours of alcohol sales as proposed to 20:00 hours.

The above, alongside with any exceptions to policy can be submitted by the applicant for consideration to demonstrate that the granting of this licence in the Bayswater Cumulative Impact Area will not add to cumulative impact.

Further discussions will be held with the applicant prior to the hearing and any further submissions will be forwarded on for Members information Please accept this as a formal representation and we look forward to receiving any further submissions.

2-B Other Persons			
Name:		[REDACTED]	
Address and/or Residents Association:		[REDACTED]	
Status:	Maintained	In support or opposed:	Opposed
Received:	17 th September 2018		
<p>SEBRA objects to this application</p> <p>Premises are very small and we need to see it demonstrated that substantial food can be supplied as alcohol is to be ancillary to food.</p> <p>We also need more explanation on wish to sell " Serving special spirits (Whisky, Liquor etc)' as per application form under Part 3 Operating Schedule</p> <p>We have concern that in the WCC Queensway / Bayswater 'Stress Area' more and more premises are applying for alcohol to be sold and we are concerned as to the 'cumulative impact' in the area.</p> <p>We note hours applied for are more than WCC 'Core Hours' on Sundays at 23.00 and hours need to be reduced to 10.30 for Sundays & Bank Holidays.</p> <p>We also need hours controlled on deliveries and refuse/ recycling collections and to be set as per WCC model conditions or less.</p>			
Name:		[REDACTED]	
Address and/or Residents Association:		[REDACTED]	
Status:	Maintained	In support or opposed:	Opposed
Received:	8 th September 2018		
<p>On behalf of Tennyson House Management Company Ltd residents, please note our objection to this licensing application, which will be intrusive to both Westbourne Lofts and Tennyson House residents. This application is an intrusion into the residential area of the street. The outlet is immediately below and next to the above residential flats. Extended opening hours until 22.30 and 23.00 hours seven days a week will result in night time disturbances regardless of the passive controls suggested in the application.</p> <p>This is already a stress area, taxi's being a major contribution to noise, illegal parking and night time disputes. Resident's do not want any more licensed outlets and the associated threat to residential peace and security.</p> <p>The Council should actively reduce the number of licensed outlets. Please reject this application.</p>			

Name:		[REDACTED]	
Address and/or Residents Association:		[REDACTED]	
Status:	Maintained	In support or opposed:	Opposed
Received:	8 th September 2018		

Westbourne Grove Terrace is a residential area, unsuitable for a licensed outlet operating until 23.00 hours most nights. The street suffers from uncontrolled parking, noise, rubbish, loitering, urination etc. generally from client's of the other licensed outlets in Westbourne Grove, whose licensee's do nothing to control.

This outlet has been converted from an office entrance lobby and was never intended to be a shop or outlet of any kind. The location, size of the unit, lack of toilets (1only) lack of disabled access, lack of parking, suggested opening hours etc. all suggest this application should be denied.

The owner has already tried extending out into the street with coffee shop tables (without licence) to which we successfully objected. The pavement is regularly blocked with signage causing difficulties to disabled and wheelchair users passing by.

The plan states that the outlet ceiling is sound proofed. I do not believe this to be true, it simply has a plasterboard ceiling recently installed by Rackham Construction Ltd.

The outlet is immediately adjacent and below residential flats. Opening hours until 22.30 and 23.00 hours seven days a week will result in additional disturbances regardless of the passive controls suggested in the application.

Taxi's serving this stress area, are a major contribution to noise, illegal parking and night time disputes. Resident's do not want any more licensed outlets, the Council's aim should be to reduce the number of licensed outlets.

Please reject this application.

Name:		[REDACTED]	
Address and/or Residents Association:		[REDACTED]	
Status:	Maintained	In support or opposed:	Opposed
Received:	17 th September 2018		

Dear Sir/Madam,

As the Director of the company owning interest in one of the flats at Tennyson House, I strongly object to this application.

I would like to point out that the serving of alcohol would be unsuitable for such a residential location and would cause nuisance to the residents of the area. Westbourne Grove Terrace is a cul-de-sac and its character will change from such an activity. As it often happens in alcohol serving venues, its customers will end up sitting on the entrance steps of the neighbouring residential buildings when the venue is busy or when they want to smoke and this will undoubtedly be an inconvenience to the residents. It should also be noted that there is an abundance of outlets in the general area, which are located on more suitable, busier streets.

Thank you and Best Regards,

Name:		[REDACTED]	
Address and/or Residents Association:		[REDACTED]	
Status:	Maintained	In support or opposed:	Opposed
Received:	8 th September 2018		
The premises is right under a residential property. Serving alcohol could cause a lot of unwanted disturbances which the experience has show in different areas has occurred frequently			

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>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 midnight Sundays immediately prior to Bank Holidays: Midday to midnight Other Sundays: Midday to 22:30</p>
Policy CIP1 applies:	<p>(i) It is the Licensing Authority's policy to refuse applications in the Cumulative Impact Areas for: pubs and bars, fast food premises, and premises offering facilities for music and dancing; other than applications to vary hours within the Core Hours under Policy HRS1.</p> <p>(ii) Applications for other licensable activities in the Cumulative Impact Areas will be subject to other policies, and must demonstrate that they will not add to cumulative impact in the Cumulative Impact Areas.</p>
Policy PB2 applies:	It is the Licensing Authority's policy to refuse applications in the Cumulative Impact Areas other than applications to vary hours within the Core Hours under Policy HRS1.

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

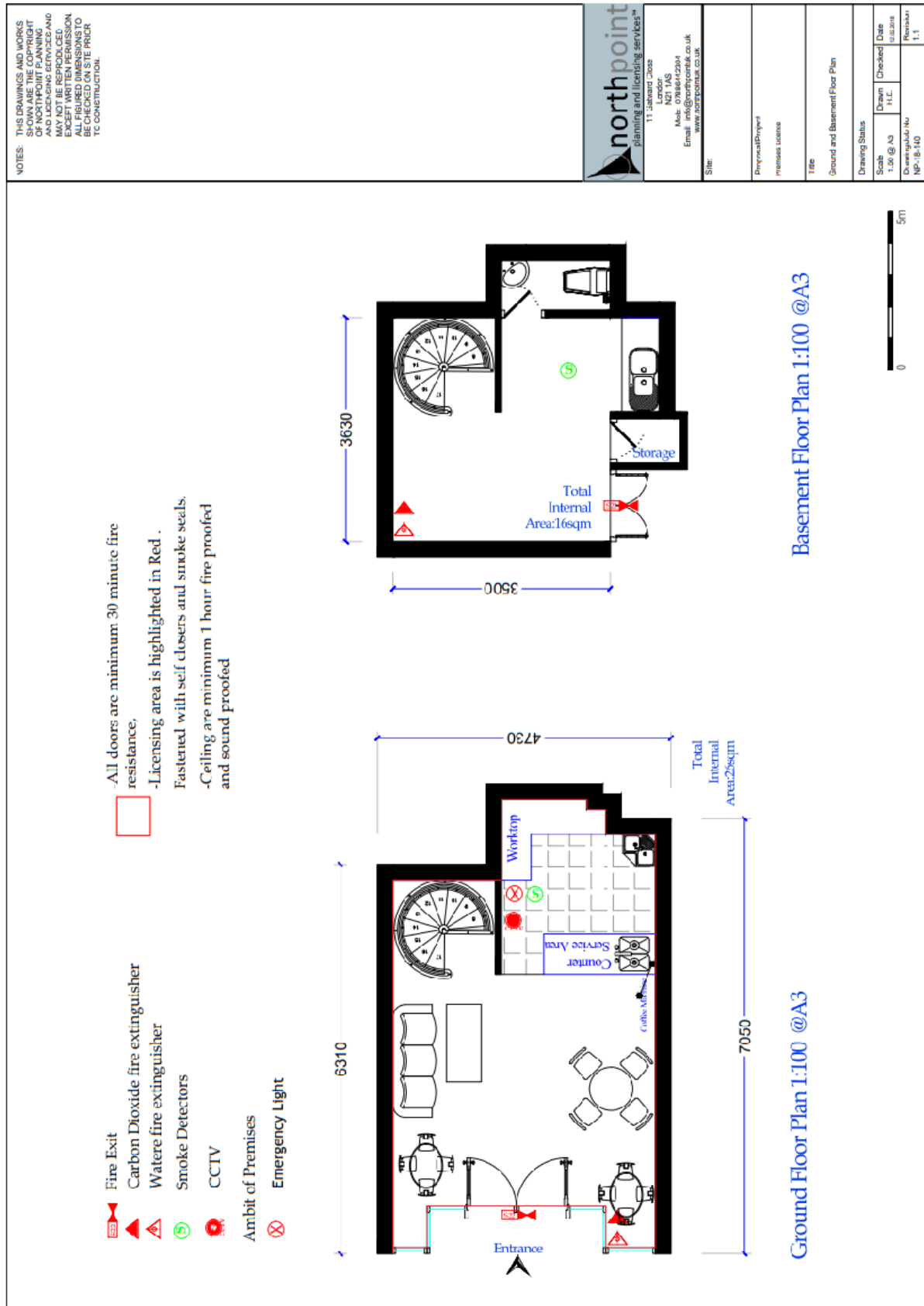
Appendix 1	Premises plans
Appendix 2	Applicant supporting documents
Appendix 3	Premises history
Appendix 4	Proposed conditions
Appendix 5	Residential map and list of premises in the vicinity

Report author:	Miss Sam Eaton Senior Licensing Officer
Contact:	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

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 2017
4	Environmental Health Representation	13 th September 2018
5	Metropolitan Police Service Representation	15 th September 2018
6	Licensing Authority Representation	18 th September 2018
7	Representation	8 th September 2018
8	Representation	8 th September 2018
9	Representation	17 th September 2018
10	Representation	8 th September 2018



Applicant Supporting Documents

Appendix 2

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.
 - a. all crimes reported to the venue
 - b. any complaints received
 - c. any incidents of disorder

- d. any faults in the CCTV system
 - e. any refusal of the sale of alcohol
 - f. any visit by a relevant authority or emergency service.
10. The premises shall maintain a comprehensive CCTV system as per the minimum requirements of a Metropolitan Police Crime Prevention Officer. All public areas, 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. Recordings shall be made available immediately upon the request of Police or authorised officer.
 11. Where the sale or supply of alcohol is taking place employees of the premises must request sight of evidence of the age of any person appearing to be under 25 years of age (Challenge 25). Such evidence may include a driving licence or passport.
 12. There shall be no glass, drinks or open containers taken outside of the premises at any time, except in the designated seating areas.
 13. There shall be prominent signage requesting customers to leave the premises quietly and respect local residents.
 14. The front of the premises shall be kept clean and swept at the close of business each day.
 15. Alcohol shall not be sold, supplied, or consumed on the premises otherwise than to persons who are seated and taking substantial food from the menu and that the consumption of intoxicating liquor by such persons is ancillary to taking such meals. The supply of alcohol shall be by waiter or waitress service only.

Conditions proposed by the Environmental Health:

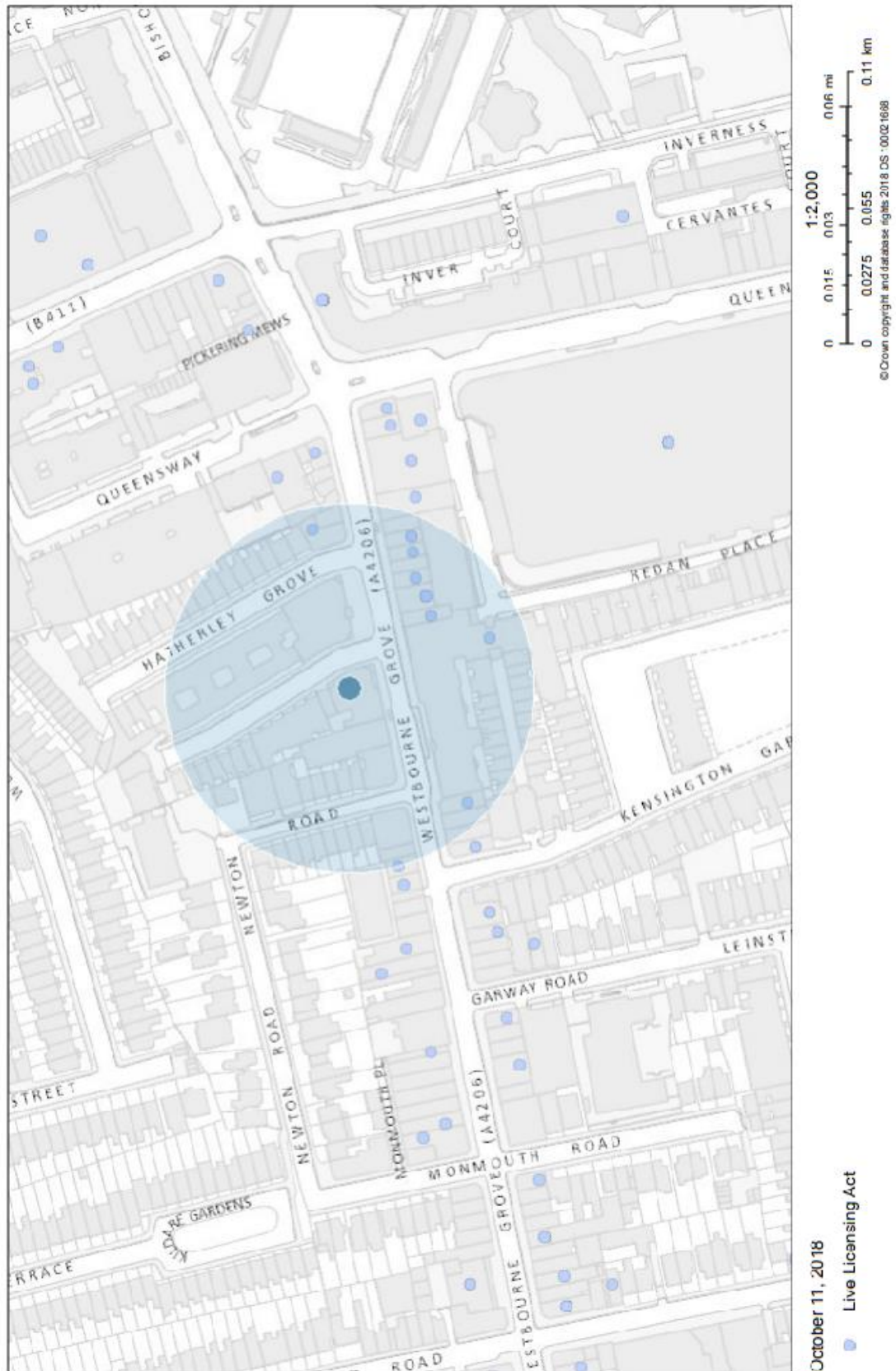
None.

Conditions proposed by the Police:

None.

Residential Map and List of Premises in the Vicinity

1 Westbourne Grove



Resident count = 493

Licence Number	Trading Name	Address	Time Period
18/09735/LIPT	Lokkanta Restaurant	31 Westbourne Grove London W2 4UA	Monday to Sunday; 11:00 - 23:00
11/08325/LIPDPS	Sadaf Restaurant	Ground Floor 27 Westbourne Grove London W2 4UA	Monday to Saturday; 10:00 - 00:30 Sunday; 12:00 - 00:00
06/12952/WCCMAP	Tiroler Hut Restaurant	27 Westbourne Grove London W2 4UA	Monday to Saturday; 10:00 - 01:30 Sunday; 11:00 - 01:00
14/11078/LIPN	Fresco	25 Westbourne Grove London W2 4UA	23:30 Friday to Saturday; 08:00 - 00:00 Sunday; 09:00 - 22:30
13/10301/LIPN	Snowflake Bayswater	43 Westbourne Grove London W2 4UA	Sunday to Thursday; 10:30 - 00:00
12/10811/LIPDPS	Banana Tree Canteen	21 - 23 Westbourne Grove London W2 4UA	Monday to Saturday; 10:00 - 23:00 Sunday; 10:00 - 22:30
17/12245/LIPDPS	Spirited Wines	Westbourne Grove London W2 5RA	Monday to Saturday; 08:00 - 23:00 Sunday; 10:00 - 22:30
16/06719/LIPV	Arancina	19 Westbourne Grove London W2 4UA	Monday to Saturday; 08:00 - 23:00 Sunday; 11:00 - 23:00
10/07844/LIPV	The American Diner	57 Westbourne Grove London W2 4UA	Monday to Saturday; 10:00 - 01:30 Sunday; 12:00 - 00:00