

# Licensing Sub-Committee Report

Item No:	
Date:	24 January 2019
Licensing Ref No:	18/13847/LIPN - New Premises Licence
Title of Report:	Boulevard Ground Floor 12-14 Lodge Road London NW8 7JA
Report of:	Director of Public Protection and Licensing
Wards involved:	Regent's Park
Policy context:	City of Westminster Statement of Licensing Policy
Financial summary:	None
Report Author:	Ms Michelle Steward Senior Licensing Officer
Contact details	Telephone: 0207 641 1872 Email: msteward1@westminster.gov.uk

## 1. Application

1-A Applicant and premises			
<b>Application Type:</b>	New Premises Licence, Licensing Act 2003		
<b>Application received date:</b>	9 November 2018		
<b>Applicant:</b>	Eden Cafe London Ltd		
<b>Premises:</b>	Boulevard		
<b>Premises address:</b>	Ground Floor 12-14 Lodge Road London NW8 7JA	<b>Ward:</b>	Regents Park
		<b>Cumulative Impact Area:</b>	None
<b>Premises description:</b>	According to the application form, Boulevard is a cafe/restaurant occupying the ground floor and front outside space of 12-14 Lodge Road and this application is for a new premises licence to allow the provision of late refreshment only.		
<b>Premises licence history:</b>	This is a new premises licence application and as such no premises licence history exists.		
<b>Applicant submissions:</b>	There are no submissions from the applicant.		

1-B Proposed licensable activities and hours							
<b>Late Night Refreshment:</b>				<b>Indoors, outdoors 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>	23:00	23:00	23:00	23:00	23:00	23:00	23:00
<b>End:</b>	01:00	01:00	01:00	01:00	01:00	01:00	01:00
<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	08:00
<b>End:</b>	01:00	01:00	01:00	01:00	01:00	01:00	01:00
<b>Seasonal variations/ Non-standard timings:</b>			None				

## 2. Representations

2-A Responsible Authorities	
<b>Responsible Authority:</b>	Environmental Health
<b>Representative:</b>	Maxwell Owusu Koduah
<b>Received:</b>	26 November 2018
<p>I refer to the application for a New Premises Licence number for the above premises. I have considered the information that you have provided within and accompanying this application including plan of ground floor by BISHELL the Design &amp; Build Company dated 11/10/2018 ref. FP-07-09-18-RV1. I have also considered the application in line with the relevant policies within the Councils Statement of Licensing Policy dated January 2016.</p> <p>The applicant is seeking the following licensable activities:</p> <ol style="list-style-type: none"> <li>1. Provision of late night refreshment both “Indoors” and “outdoors” Monday to Sunday from 23:00 – 01:00 hours.</li> </ol> <p>Following consideration of the application and how it may affect the Licensing Objectives and meeting the requirements of the Council’s Statement of Licensing Policy I wish to make the following representations:</p> <ol style="list-style-type: none"> <li>1. The hours requested to provide late night refreshment may have the likely effect of increasing Public Nuisance and impact on Public Safety within the area</li> </ol> <p>The plan submitted in support of the application shows a forecourt area and additional information is required to demonstrate the level on inclusion of the forecourt in this application.</p> <p>The applicant has provided some conditions in support of the application which are being considered but given the presence of residence the immediate vicinity, these conditions do not fully address the concerns of Environmental Health. Additional conditions may be brought forward for your consideration.</p> <p>From 23:00 to 01:00 hours, the premises is likely to attract large groups of customers many of whom may have been consuming alcohol in pubs, bars or night clubs sometimes some distance away. This will increase the risk of public nuisance arising from noise and littering. As presented, the application will therefore increase the risk of Public Nuisance and impact on Public Safety within the area</p> <p>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.</p>	
<b>Responsible Authority:</b>	Metropolitan Police ( <i>Withdrawn</i> )
<b>Representative:</b>	PC Bryan Lewis
<b>Received:</b>	5 December 2018
<p>My objection relates to the following:</p> <ul style="list-style-type: none"> <li>• The effect of this variation may lead to an increase in crime and disorder.</li> <li>• Insufficient steps offered to promote the prevention of crime and disorder.</li> </ul>	

**Mediation was sought by the Metropolitan Police and conditions agreed with the applicant. The Metropolitan Police withdrew their representation on the 4 January 2019.**

<b>2-B Other Persons</b>	
<b>Resident</b>	<b>Representation 1</b>
<b>Name:</b>	[REDACTED]
<b>Address and/or Residents Association:</b>	[REDACTED] [REDACTED] [REDACTED]
<b>Received:</b>	30 November 2018
<p>I wish to object to this application on a number of grounds:</p> <ol style="list-style-type: none"><li>Hours of opening &amp; licensable activities</li></ol> <p>The overall hours of opening 0800 - 0100 daily is too late for a predominantly residential area. I would like to see a restriction on the hours of operation in order to protect the residents who live both above and opposite.</p> <ol style="list-style-type: none"><li>Seating outside 12-14 Lodge Road</li></ol> <p>The operation of the outside area should be restricted to 9pm to avoid disturbance to neighbours, and the area should be non-smoking to ensure a child friendly environment (as per application) and limit disturbance by noise and smoke pollution to neighbours.</p>	
<b>Resident</b>	<b>Representation 2</b>
<b>Name:</b>	[REDACTED]
<b>Address and/or Residents Association:</b>	[REDACTED] [REDACTED] [REDACTED]
<b>Received:</b>	22 November 2018
<p>I am writing to object to this licensing application as presented which provides very little detail on what the actual intended use is to be. I would request the committee establishes if the intention is for Shisha smoking as the primary use and if so tailor the licence accordingly.</p> <p>There are however two key areas of concern one relates to the hours of opening and licensable activities proposed and the second is the use of the front outside space at 12-14 Lodge Road. Both have an impact on the amenity of residents living above and opposite to this café.</p> <ol style="list-style-type: none"><li>Hours of opening &amp; licensable activities</li></ol> <p>The overall hours of opening 0800 - 0100 daily is excessive. Also the proposal to increase the hours of licensable activities until 0100 hrs daily is far too late given its location in a predominately residential area. I would like to see a restriction on the hours of operation in order to protect the residents who live both above and opposite at Beverly House mansion block.</p> <ol style="list-style-type: none"><li>Front area outside 12-14 Lodge Road</li></ol> <p>A limitation should also be set on the number of chairs and tables in this area and a clear demarcation on the area should be introduced and then adhered to ensuring there is no obstruction or use of the pavement; proper planning permission should be obtained to allow</p>	

tables and chairs outside.

Any planned enclosure of this area to accommodate smoking should comply with The Health Act 2006 and not be permanent. If this café is to offer Shisha smoking then I would add that it is harmful from a health perspective, is a public nuisance and will compromise on the amenity of my residents.

### Resident Representation 3

**Name:**

[REDACTED]

**Address and/or Residents Association:**

[REDACTED]  
[REDACTED]  
[REDACTED]

**Received:**

20 November 2018

We request that the licensing committee establishes whether the applicant's intent is for Shisha smoking to be the primary business conducted on the premises. We strongly oppose the request for licensing hours to extend to 1.00 am in a residential area of St John's Wood as this will cause a loss of amenity to residents and set an unacceptable precedent for the area. Furthermore, Shisha smoking is harmful to both patrons and the environment and the use of an outside seating space for this purpose until late at night results in a significant loss of amenity to neighbouring residents due to noise disturbance and a pungent smell.

### Resident Representation 4

**Name:**

[REDACTED]

**Address and/or Residents Association:**

[REDACTED]  
[REDACTED]  
[REDACTED]

**Received:**

7 December 2018

We live in [REDACTED]  
[REDACTED]

This is a residential area and the [REDACTED] this cafe. In the past there was a cafe running at normal hours 8am-5pm and it was fine and acceptable and actually a good service to the area. Then a Shisha cafe took over the evening hours which they claim was from 5pm till 11pm. This has later been extended to 1am.

We wrote to the Council a number of times in this connection to no avail. These are the problems we faced.

As a Shisha Cafe:

1) The Shisha owners in summer, never struck to the 1am time but stayed on beyond 2am sometimes!

This especially happened in the month of Ramadan.

2) There was noise from people cheering to a TV program and cars driving in and out to try to find a parking space late into the early hours of the morning.

3) The smoke from the Shisha (Hubble Bubble) especially when it was windy blew straight into our flats, we could not open our windows and even without opening them we can smell the smoke all night.

We have lived [REDACTED] over 28 years and it has been a nice quiet residential area until the Shisha cafe took over in the past years. We were relieved when it was closed!

Both my husband and I are asthmatic and sensitive to smoke, yet we had to put up with this as

the Council would not supervise the activities of the past cafe or do anything about it.

Now as, new owners are requesting to take this place, again into the early hours of the morning, we do hope it is not going to be another Shisha cafe!!!

If they stick to normal hours or even until 11pm, we can be tolerable to help businesses. At least we can open the windows [REDACTED]

### 3. Policy & Guidance

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

<b>Policy HRS1 applies:</b>	(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.  (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.  <u>For premises for the provision of other licensable activities:</u> 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
<b>Policy RNT1 applies:</b>	Applications will generally be granted and reviews determined, subject to 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>	Ms Michelle Steward Senior Licensing Officer
<b>Contact:</b>	Telephone: 0207 641 1872 Email: msteward1@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	26 November 2018
<b>5</b>	Metropolitan Police (Withdrawn)	5 December 2018
<b>6</b>	Resident Representation 1	30 November 2018
<b>7</b>	Resident Representation 2	22 November 2018
<b>8</b>	Resident Representation 3	20 November 2018
<b>9</b>	Resident Representation 4	7 December 2018



**Applicant Supporting Documents**

**Appendix 2**

None

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

### **Conditions consistent with the operating schedule**

1. A direct telephone number for the manager at the premises shall be publicly available at all times the premises is open. This telephone number is to be made available to residents and businesses in the vicinity.
2. An incident log shall be kept at the premises, and made available on request to an authorised officer of the City Council or the Police. It must be completed within 24 hours of the incident and will record the following:
  - (a) all crimes reported to the venue
  - (b) all ejections of patrons
  - (c) any complaints received concerning crime and disorder
  - (d) any incidents of disorder
  - (e) all seizures of drugs or offensive weapons
  - (f) any faults in the CCTV system
  - (g) any visit by a relevant authority or emergency service.
3. 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 21 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 21 day period.
4. 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. 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.

5. The approved arrangements at the premises, including means of escape provisions, emergency warning equipment, the electrical installation and mechanical equipment, shall at all material times be maintained in good condition and full working order.
6. The means of escape provided for the premises shall be maintained unobstructed, free of trip hazards, be immediately available and clearly identified in accordance with the plans provided.
7. 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.
8. Loudspeakers shall not be located outside the premises building.
9. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
10. Notices shall be prominently displayed at any area used for smoking requesting patrons to respect the needs of local residents and use the area quietly.
11. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
12. 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.
13. 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.
14. No collections of waste or recycling materials (including bottles) from the premises shall take place between 23.00 and 08.00 on the following day.
15. No deliveries to the premises shall take place between 23.00 and 08.00 on the following day.
16. The premises licence holder shall ensure that any patrons drinking, eating and/or smoking outside the premises do so in an orderly manner and are supervised by staff so as to ensure that there is no public nuisance or obstruction of the public highway.
17. Flashing or particularly bright lights on or outside the premises shall not cause a nuisance to nearby properties, save insofar as they are necessary for the prevention of crime.
18. The premises will be promoted as family friendly and suitable for all ages.
19. There will be no inappropriate entertainment, promotions, activities or behaviour tolerated at the premises that might put children at risk.

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

20. 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.

21. The external door shall be kept closed after 23:00 hours except for the immediate access and egress of persons
22. All outside tables and chairs shall be rendered unusable be removed by 23:00 hours each day
23. Notices shall be prominently displayed at the exit requesting patrons to respect the needs of local residents and businesses and leave the area quietly
24. Notices shall be prominently displayed at any area used for smoking requesting patrons to respect the needs of local residents and use the area quietly.
25. After 23:00 hours, the number of seated persons permitted in the premises at any one time (excluding staff) shall not exceed 30 persons
26. No fumes, steam or odours shall be emitted from the licensed premises so as to cause a nuisance to any persons living or carrying on business in the area where the premises are situated.
27. After 23:00 hours, patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke including SHISHA, shall be limited to 5 persons at any one time.
28. Patrons permitted to temporarily leave and then re-enter the premises to smoke, including SHASHA, shall be restricted to a designated smoking area.
29. After 23:00 hours, patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke including SHISHA, shall not be permitted to take drinks or glass containers with them
30. A direct telephone number for the manager at the premises shall be publicly available at all time the premises is open. This telephone number is to be made available to residents and businesses in the vicinity
31. No licensable activities shall take place at the premises until the premises have 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

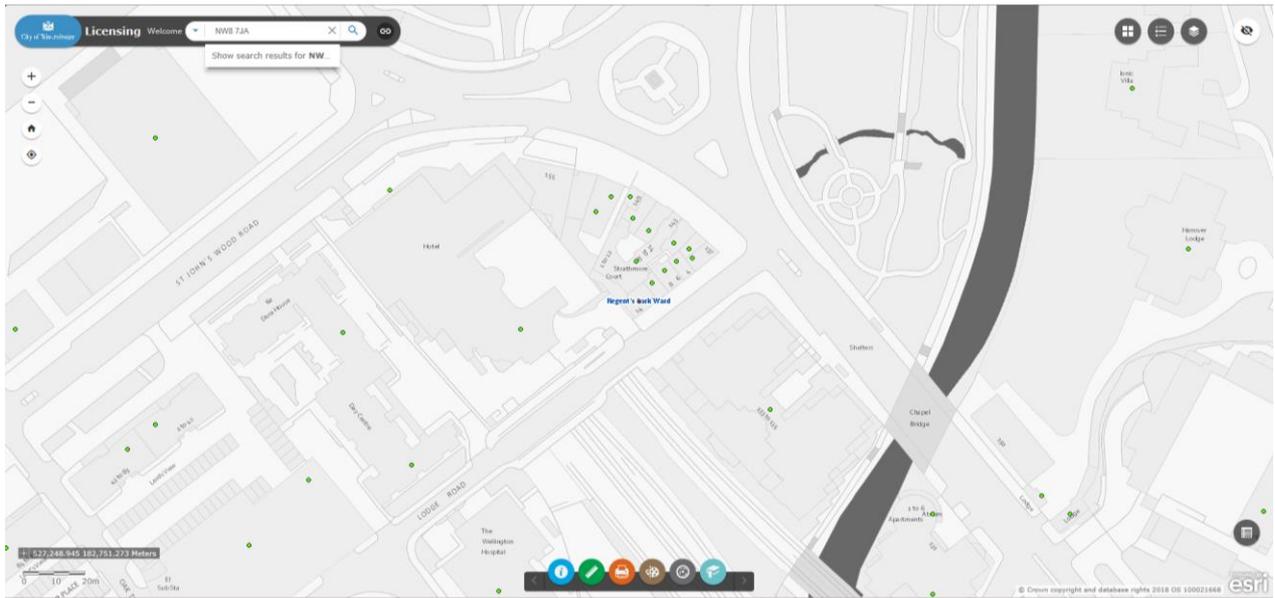
**Condition proposed by the Police and agreed by the applicant to form part of the operating schedule**

***Condition 32 also requested by the Police - condition 3 under the Operating Schedule.***

***Condition 34 also requested by the Police - condition 4 under the Operating Schedule.***

35. There shall never be less than two staff on duty, on the premises after 23:00 hours
36. Nothing in glass shall be sold for consumption off the premises after 23:00 hours.
37. All customers and staff shall be off the premises by 01:30 hours
38. 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, searching equipment or scanning equipment
- (f) any refusal of the sale of alcohol
- (g) any visit by a relevant authority or emergency service.



Resident Count: 102

Photos of the Premises



Premises within 75 metres of Ground Floor 114 Lodge Road, London, NW8 7JA				
Licence Number	Trading Name	Address	Premises Type	Time Period
12/07167/LIPDPS	Danubius Hotel	Danubius Hotel 18 Lodge Road London NW8 7JT	Hotel, 3 star or under	Monday to Saturday; 09:00 - 02:30   Sunday; 09:00 - 00:00