

Licensing Sub-Committee Report

Item No:	
Date:	28 March 2019
Licensing Ref No:	18/15982/LIPN - New Premises Licence
Title of Report:	Basement And Ground Floor 47 Margaret Street London W1W 8SB
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:	Kevin Jackaman Senior Licensing Officer
Contact details	Telephone: 0207 641 8094 Email: kjackaman@westminster.gov.uk

1. Application

1-A Applicant and premises			
Application Type:	New Premises Licence, Licensing Act 2003		
Application received date:	15 December 2018		
Applicant:	Mr Byungsung Kim		
Premises address:	Basement And Ground Floor 47 Margaret Street London W1W 8SB	Ward:	West End
		Cumulative Impact Area:	None
Premises description:	According to the application form the premises intend to trade as a basement and ground floor restaurant with ancillary bar. The applicant is seeking to provide late night refreshment and the supply of alcohol at the premises.		
Premises licence history:	This is a new premises licence and therefore no history exists.		
Applicant submissions:	The premises will consist of 8 tables on the ground floor and 7 tables in the basement		
Additional information	The consultation period for the application was extended from 18 February 2019 to 3 March 2019 due to the applicant failing to advertise the application in a local newspaper within the required 10 working days from submission		

1-B Proposed licensable activities and hours							
Late Night Refreshment:				Indoors, outdoors or both			Indoors
Day:	Mon	Tues	Wed	Thur	Fri	Sat	Sun
Start:	23:00	23:00	23:00	23:00	23:00	23:00	
End:	00:00	00:00	00:00	00:00	00:00	00:00	
Seasonal variations/ Non-standard timings:		None					

Sale by retail of alcohol				On or off sales or both:			On the premises
Day:	Mon	Tues	Wed	Thur	Fri	Sat	Sun
Start:	11:00	11:00	11:00	11:00	11:00	11:00	
End:	23:30	23:30	23:30	23:30	00:00	00:00	
Seasonal variations/ Non-standard timings:		None					

Hours premises are open to the public							
Day:	Mon	Tues	Wed	Thur	Fri	Sat	Sun
Start:	11:00	11:00	11:00	11:00	11:00	11:00	
End:	00:00	00:00	00:00	00:00	00:00	00:00	
Seasonal variations/ Non-standard timings:		None					

2. Representations

2-A Responsible Authorities	
Responsible Authority:	Metropolitan Police Service
Representative:	Adam Deweltz
Received:	14 February
<p>47 Margaret Street, W1 - 18/15982/LIPN</p> <p>With reference to the above, I am writing to inform you that the Metropolitan Police, as a Responsible Authority, will be making a representation against this application.</p> <p>It is our belief that if granted the application would undermine the Licensing Objectives in relation to The Prevention of Crime and Disorder.</p> <p>There are no conditions contained within the operating schedule and the hours sought for the supply of alcohol go beyond those of Westminster Core.</p> <p>Following agreement of additional conditions and a reduction in hours Monday to Thursday, the Metropolitan Police representation was withdrawn on 25 February 2019</p>	
Responsible Authority:	Environmental Health Service
Representative:	Anil Drayan
Received:	22 February 2019
<p>I refer to the application for a new premises licence for the above premises</p> <p>The following plans have been submitted in support of the application:</p> <ul style="list-style-type: none"> • Basement plans, Drg. Ref 2/2, dated 12.01.19 • Ground floor plans, Drg. Ref 1/2, dated 12.01.19 <p>The applicant is seeking the following licensable activities:</p> <ol style="list-style-type: none"> 1. Supply of alcohol 'on' the premises from 11:00 to 00:00 hours Monday to Saturday 2. Late Night Refreshment from 23:00 to 00:00 hours Monday to Saturday. <p>I wish to make the following representations based on the plans and operating schedule submitted:</p> <ol style="list-style-type: none"> 1. The supply of alcohol and for the hours requested may have the effect of increasing public nuisance in the area. 2. The provision of late night refreshment may have the effect of increasing public nuisance in the area. <p>Environmental health also makes the following further comments:</p> <ul style="list-style-type: none"> • The applicant has provided some undertakings in the operating schedule but these will need to be converted into enforceable conditions. • It is unclear if the premises have undergone refurbishment for the proposed use. Environmental Health will need to inspect it prior to use for licensing activities under the Public Safety objective. 	

- In addition the kitchen plant and equipment will need to be assessed for odour and noise for the potential for causing Public Nuisance
- The applicant is also advised that for any proposed capacity at the premises Environmental Health recommends that the provision of sanitary accommodation is in line with guidance under British Standard 6465 as amended.

The applicant is therefore requested to contact the undersigned to discuss all of the above issues and arrange a site visit. Environmental Health may then propose additional conditions to allay its concerns including setting an appropriate capacity at the premises.

Following a site visit on 15th March 2019, the Environmental Health Service made the following further comments:-

I refer to the application for a new premises licence for the above premises. Further to my memo dated 22 February 2019.

Site Visit:

Following a site visit to the premises on 15 March 2019 Environmental Health advised the applicant the following works need to be carried out:

- make the second W.C available for the public to use.
- storage under stairwell must be removed to prevent it being a fire hazard.
- emergency escape route signage to stair must be made less confusing
- provide mechanical ventilation to kitchen rather than relying on an open window (this will prevent pest ingress)
- must register as a new food business (forms available on the Council's website)

Although not necessarily a licensing issue the applicant was also advised to check with the Planning Department that the use is consistent with planning legislation (*premises currently designated as an A1 Use but operation under the Licence appears to make this an A3 Use premises. Applicant additionally advised that if a planning change of use is required then a 'full height' or a 'recirculation' kitchen extract ventilation system will be needed.*)

Conditions:

Environmental Health advise the following conditions – these include undertakings made by the applicant in the operating schedule which have been converted into enforceable conditions (please note these are in addition to those agreed by the applicant with the Police.)

Please note proposed condition 1 above offered by the applicant in the operating schedule is considered to be unnecessary by Environmental Health for the type of operations at this premises. (I have discussed this with the Police and they also agree that it is not a condition they would require for these premises at this location.)

Please also note even if the applicant agrees to all of the above and if the application proceeds for determination to Licensing Sub-Committee Environmental Health is likely to wait to withdraw its representations at the Committee hearing as it would first wish to be party to any discussions held at Committee.

2-B Other Persons	
Name:	[REDACTED]
Address and/or Residents Association:	[REDACTED] [REDACTED] [REDACTED]
Received:	30 January 2019
We are based on 1st floor of the premises and want to ensure that this application will not include loud music as we run a wellness charity that has a peaceful and relaxed environment on 1st floor. We are open daytime and evenings	
Name:	[REDACTED]
Address and/or Residents Association:	Fitzrovia Neighbourhood Association [REDACTED] [REDACTED] [REDACTED]
Received:	27 February 2019
We would like to see the licensed activities restricted to core hours and that MC 66 is attached to any licence granted to ensure that it is run as a restaurant and not a bar. For the late night refreshment we would like to have a condition that forbids the use of any delivery service that involves the use of motor scooters or motor bikes by the applicant or any third party delivery service, for example, Uber or Deliveroo. We would also like to see the applicant offer to commit to not using these types of delivery vehicles at any time ie. before the late night refreshment hours. We would also like to see conditions restricting inward deliveries and rubbish removal to between the hours of 8am to 9pm.	

3. Policy & Guidance

The following policies within the City Of Westminster Statement of Licensing Policy apply:	
Policy HRS1 applies	<p>(i) Applications for hours within the core hours set out below in this policy will generally be granted, subject to not being contrary to other policies in the Statement of Licensing Policy.</p> <p>(ii) Applications for hours outside the core hours set out below in this policy will be considered on their merits, subject to other relevant policies</p> <p><u>For premises for the supply of alcohol for consumption on the premises:</u> 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> Monday to Saturday: 08:00 to 23:00 Sundays: 10:00 to 22:30</p>
Policy PB1 applies	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.

4. Appendices

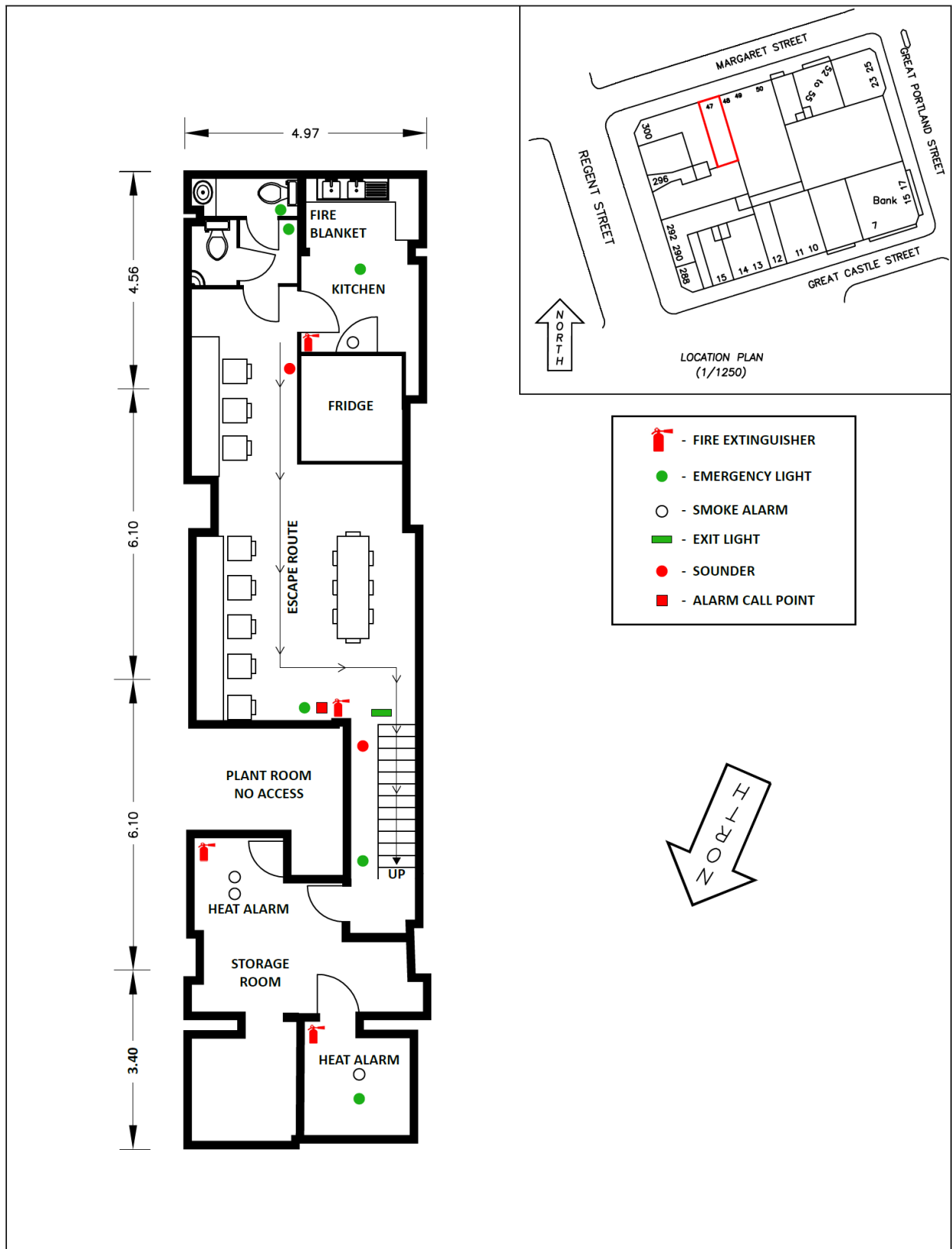
Appendix 1	Premises plans
Appendix 2	Applicant supporting documents
Appendix 3	Premises history
Appendix 4	Proposed conditions
Appendix 5	Residential map and list of premises in the vicinity

Report author:	Kevin Jackaman Senior Licensing Officer
Contact:	Telephone: 0207 641 8094 Email: kjackaman@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 January 2016
3	Amended Guidance issued under section 182 of the Licensing Act 2003	April 2019
4	Metropolitan Police Service Representation	14 February 2019 (withdrawn 25 February 2019)
5	Environmental Health Service Representation	22 February 2019
6	Interested Party Representation (1)	30 January 2019
7	Interested Party Representation (2)	27 February 2019

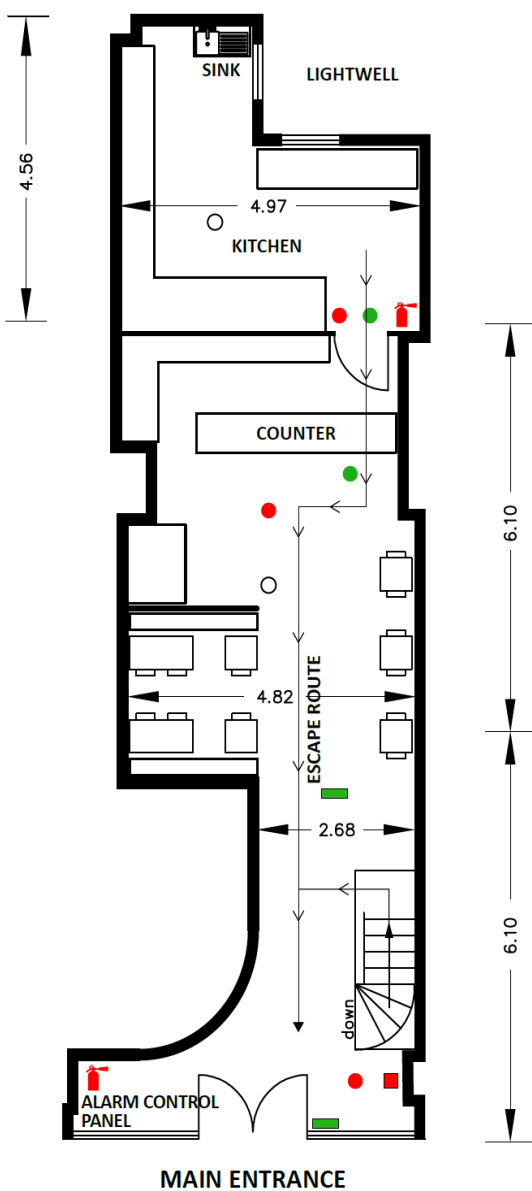
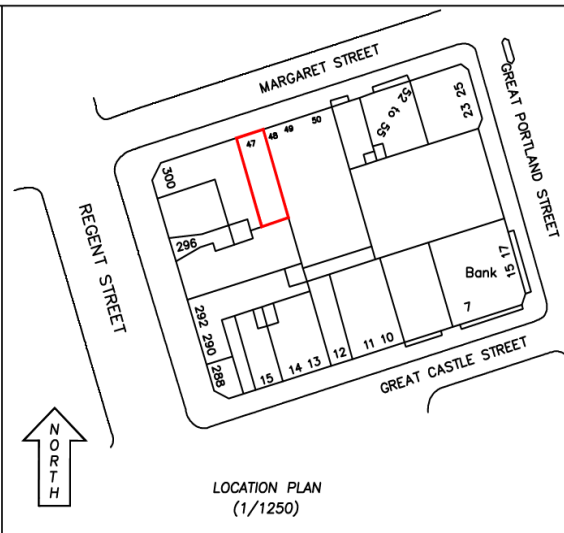


GRYPHON SURVEYS
 Hanover House
 78-82 High Street
 Brentwood, Essex CM14 4AP
 Telephone: 01277-212794
 Fax: 01277-214928
 e-mail: admin@gryphonsurveys.co.uk
 www.gryphonsurveys.co.uk

Title:
 47 MARGARET STREET
 LONDON W1
 BASEMENT EXISTING

drawn	LR
date	12.01.19
scale	1:100@A4
checked	

Drg. Ref.
2/2



- FIRE EXTINGUISHER
- EMERGENCY LIGHT
- SMOKE ALARM
- EXIT LIGHT
- SOUNDER
- ALARM CALL POINT



GRYPHON SURVEYS
 Hanover House
 78-82 High Street
 Brentwood, Essex CM14 4AP
 Telephone: 01277-212794
 Fax: 01277-214928
 e-mail: admin@gryphonsurveys.co.uk
www.gryphonsurveys.co.uk

Title:
47 MARGARET STREET
LONDON W1
GROUND FLOOR EXISTING

drawn	LR
date	12.01.19
scale	1:100@A4
checked	

Drg. Ref.
1/2

Applicant Supporting Documents

Appendix 2

None submitted

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. We will be hiring Bouncers and security for the premise.
10. Alcohol will not be sold to those who are already intoxicated.

11. Alcohol will not be allowed to be taken out of premises.
12. Alcohol will be served in the basement floor, the doors will closed during main serving hours.

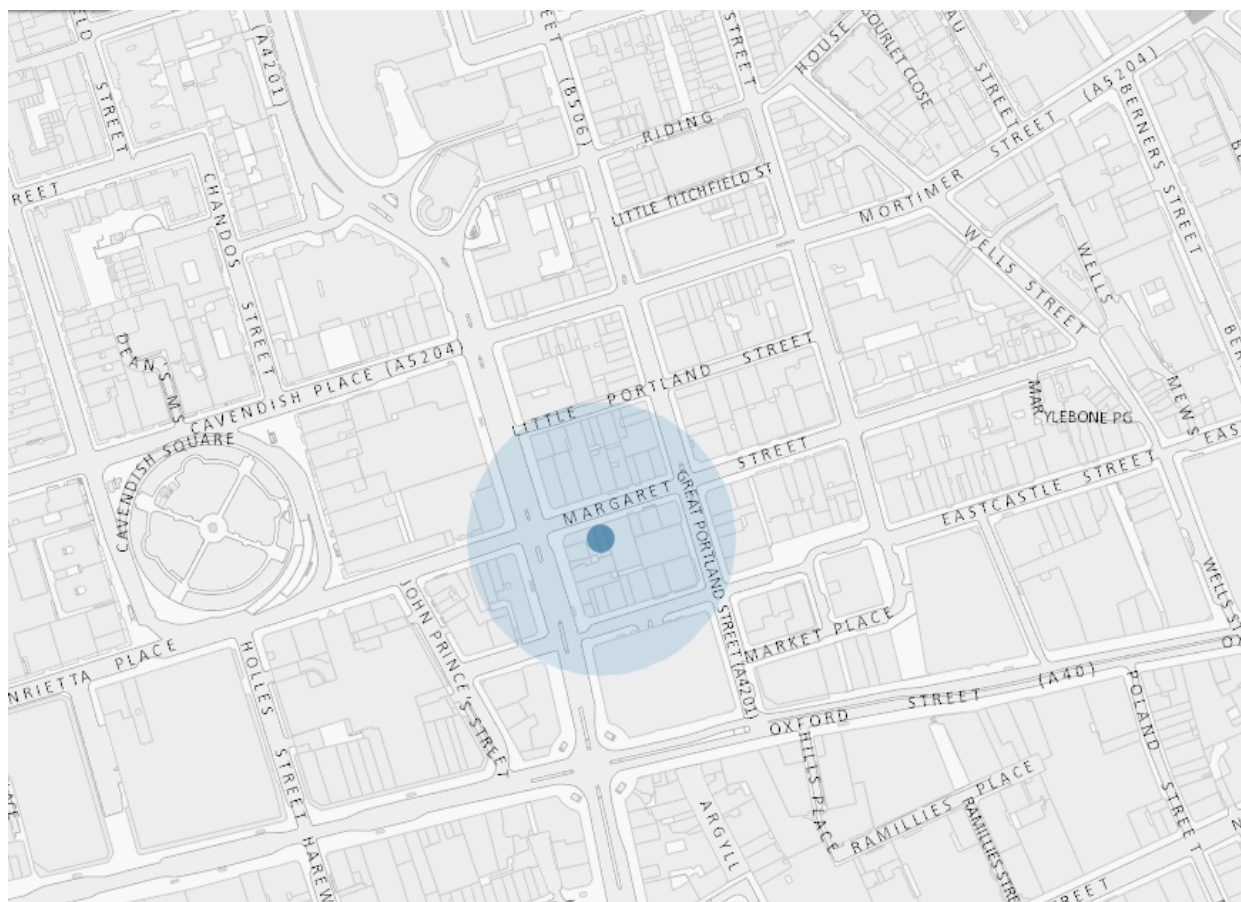
Conditions proposed by the Police and agreed with the applicant so as to form part of the operating schedule

13. The supply of alcohol at the premises shall only be to a person seated taking a table meal there and for consumption by such a person as ancillary to their meal.
14. The supply of alcohol shall be by waiter or waitress service only.
15. 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.
16. 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.
17. Challenge 21 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.
18. 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 refusal of the sale of alcohol
 - (h) any visit by a relevant authority or emergency service.

Conditions proposed by the Environmental Health Service

19. A minimum of one SIA licensed door supervisors shall be on duty at the premises at all times whilst alcohol is on sale at the premises.
20. The consumption of alcohol at the premises shall be limited to the basement only and the capacity in the basement shall not exceed 30 patrons at any one time.
21. 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.

22. 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.
23. All windows and external doors shall be kept closed after 19:00 hours except for the immediate access and egress of persons.
24. 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.
25. 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.
26. 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.
27. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
28. No deliveries to the premises shall take place between 23.00 and 08.00 on the following day.
29. No collections of waste or recycling materials (including bottles) from the premises shall take place between 23:00 hours and 08:00 hours on the following day or alternatively can be as specified on the Council's website for Commercial Waste collection times for the street.
30. 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.



Resident count: 5

Licensed premises within 75 metres of 47 Margaret Street, London, W1W 8SB

Licence Number	Trading Name	Address	Premises Type	Time Period
17/14674/LIPDPS	Beat	Basement 48 Margaret Street London W1W 8SD	Night clubs and discos	Monday to Tuesday; 09:00 - 03:30 Wednesday; 09:00 - 00:30 Thursday to Saturday; 09:00 - 06:30 Sunday; 09:00 - 03:00

12/05097/LIPT	Cameo / Bootleggers Club	48 - 50 Margaret Street London W1W 8SD	Night clubs and discos	Monday to Tuesday; 09:00 - 03:30 Wednesday; 09:00 - 06:30 Thursday; 09:00 - 03:30 Friday to Saturday; 09:00 - 06:30 Sunday; 09:00 - 03:00
18/09248/LIPDPS	Hotel Chocolat	294 Regent Street London W1B 3AP	Shop	Monday to Sunday; 08:00 - 23:00
18/08453/LIPCH	Benitos Hat	Ground Floor And Basement 12 Great Castle Street London W1W 8LR	Restaurant	Monday to Saturday; 10:00 - 00:30 Sunday; 12:00 - 00:00
18/00650/LIPDPS	Vapiano	19 - 21 Great Portland Street London W1W 8QB	Restaurant	Monday to Saturday; 09:00 - 03:30 Sunday; 11:00 - 01:00
19/00863/LIPDPS	Cock Tavern Public House	27 Great Portland Street London W1W 8QE	Public house or pub restaurant	Monday to Saturday; 10:00 - 23:30 Sunday; 12:00 - 23:00
14/03122/LIPN	Cookery School	15B Little Portland Street London W1W 8BW	Educational	Monday to Thursday; 08:00 - 23:30 Friday to Saturday; 08:00 - 00:00 Sunday; 08:00 - 22:30
16/06144/LIPT	McDonald's	310 - 312 Regent Street London W1B 3AU	Restaurant	Tuesday to Saturday; 05:00 - 01:00 Sunday to Monday; 05:00 - 00:00
17/06674/LIPDPS	Leon	275 Regent Street London W1B 2HB	Restaurant	Monday to Sunday; 10:00 - 22:30
17/14893/LIPVM	All Bar One	Marcol House 289-293 Regent Street London W1B 2HJ	Restaurant	Not Recorded; XXXX - XXXX
15/06753/LIPCH	Pink Lady	17 Little Portland Street London W1W 8BP	Club or institution	Monday to Saturday; 09:00 - 05:30 Sunday; 12:00 - 23:00

18/12281/LIPCH	The American Diner	35 Great Portland Street London W1W 8QQ	Restaurant	Monday to Saturday; 10:00 - 01:30 Sunday; 12:00 - 00:30
17/08198/LIPDPS	Kintan	21-22 Great Castle Street London W1G 0HY	Not Recorded	Monday to Saturday; 08:00 - 00:00 Sunday; 08:00 - 23:00
16/09296/LIPT	Match Bar	First Floor 37 - 38 Margaret Street London W1G 0JF	Wine bar	Monday to Saturday; 10:00 - 00:30 Sunday; 12:00 - 00:00
19/01318/LIPT	Jazz Suite	Ground Floor 37-38 Margaret Street London W1G 0JF	Night clubs and discos	Monday to Sunday; 10:00 - 03:00