

# Licensing Sub-Committee Report

Item No:	
Date:	1 August 2019
Licensing Ref No:	19/04732/LIPN - New Premises Licence
Title of Report:	Eureka Basement to Ground Floor 46 Warwick Way London
Report of:	Director of Public Protection and Licensing
Wards involved:	Warwick
Policy context:	City of Westminster Statement of Licensing Policy
Financial summary:	None
Report Author:	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>	23 April 2019		
<b>Applicant:</b>	Dhaval Kumar Trivedi		
<b>Premises:</b>	Eureka		
<b>Premises address:</b>	Basement to Ground Floor 46 Warwick Way London SW1V 1RY	<b>Ward:</b>	Warwick
		<b>Cumulative Impact Area:</b>	None
<b>Premises description:</b>	According to the application form, this is a new premises licence application for an off licence and convenience store.		
<b>Premises licence history:</b>	This is a new premises licence application and therefore no history exists.		
<b>Applicant submissions:</b>	There are no submissions from the applicant.		

1-B Proposed licensable activities and hours							
<b>Sale by retail of alcohol</b>				<b>On or off sales or both:</b>			Off Sales Only
<b>Day:</b>	<b>Mon</b>	<b>Tues</b>	<b>Wed</b>	<b>Thur</b>	<b>Fri</b>	<b>Sat</b>	<b>Sun</b>
<b>Start:</b>	10:00	10:00	10:00	10:00	10:00	10:00	10:00
<b>End:</b>	22:00	22:00	22:00	22:00	22:00	22:00	22:00
<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>	10:00	10:00	10:00	10:00	10:00	10:00	10:00
<b>End:</b>	22:00	22:00	22:00	22:00	22:00	22:00	22:00
<b>Seasonal variations/ Non-standard timings:</b>			None				

## 2. Representations

2-A Responsible Authorities	
<b>Responsible Authority:</b>	Metropolitan Police Service ( <i>Withdrawn</i> )
<b>Representative:</b>	Adam Deweltz
<b>Received:</b>	12 June 2019
<p>I acknowledge receipt of your application. Many thanks for the very comprehensive operating schedule. I agree to all the conditions contained.</p> <p>If you could agree to the following condition, Police would not object to the application:</p> <p><i>No miniature bottles of spirits of 20 cl or below shall be sold from the premises.</i></p> <p>I look forward to hearing from you.</p> <p><b>Applicant accepted the condition on the 12 June and subsequently the Police withdrew their representation.</b></p>	
<b>Responsible Authority:</b>	Environmental Health Service
<b>Representative:</b>	Anil Drayan
<b>Received:</b>	28 June 2019
<p>I refer to the application for a new Premises Licence for the above premises.</p> <p>The applicant has submitted a plan (no reference) of the premises showing the areas to be licensed.</p> <p>The following licensable activities are being sought:</p> <ol style="list-style-type: none"> <li>1. Supply of Alcohol 'Off' the premises from 10:00 to 22:00 hours Monday to Sunday</li> </ol> <p>I wish to make the following representation based on the plans submitted and the supporting operating schedule:</p> <ol style="list-style-type: none"> <li>2. The hours requested for and the Supply of Alcohol may lead to an increase in Public Nuisance in the area and impact on Public Safety.</li> </ol> <p>Clarification is needed on the opening hours of the premises for the public as there appears to be a contradiction in different parts of the application.</p> <p>The applicant has offered some conditions in the operating schedule and these are under consideration as to whether they are sufficient to allay Environmental Health concerns.</p> <p>The applicant is requested to contact the undersigned to discuss the above after which Environmental Health may propose additional conditions.</p>	

2-B Other Persons	
<b>Name:</b>	[REDACTED]
<b>Address and/or Residents Association:</b>	[REDACTED] [REDACTED] [REDACTED] [REDACTED]
<b>Received:</b>	5 June 2019
<p>I wish to object to this application under the Licensing Act 2003 as I believe if it were to be granted that the licensee would not be able to meet the Licensing Objectives to prevent public nuisance; the prevention of crime and disorder; nor the protection of children from harm. The premises is based in the middle of the commercial area of my ward but is surrounded by residential homes. We sadly have an issue with street drinking and begging in the street and I fully believe that granting this license will lead to further related issues. Pimlico is home to a number of hostels for those trying to deal with their entrenched drink and drug issues. The local authority's main assessment centre for those coming off the streets and trying to turn their lives around is a couple of hundred yards away from this premises. We have worked hard in the ward alongside the police and residents to persuade licensed premises to act responsibly and not sell high strength alcohol. Most comply. However, I am concerned that if this application was granted it would only add to the cumulative effect in the area. We already have a dozen or so premises selling alcohol in the area. If the Licensing Authority is minded to grant I would request that the time requested is restricted to midday until 8pm and that only wine and regular strength beers and cider are permitted for sale.</p>	
<b>Name:</b>	[REDACTED]
<b>Address and/or Residents Association:</b>	[REDACTED] [REDACTED] [REDACTED] [REDACTED]
<b>Received:</b>	7 June 2019
<p>Eureka has been operating for many years as a newsagents and stationer's. It looks from the plan that this will continue to be the main focus of the business but with the sale of alcohol included between 10.am and 22.00am 7 days a week.</p> <p>I firmly object to this application.</p> <p>Within Pimlico and particularly around Warwick Way, we have considerable problems with begging and street drinking. Apart from 3 pubs along this street, there are 2 supermarkets (Tesco and Waitrose), the large Sainsbury in Wilton Road and a mini market a couple of doors down from Eureka where alcohol can be bought. I am very concerned about a business selling alcohol which is unrelated to the purchase of food.</p> <p>From my knowledge of the area both as a local resident and councillor, I am very concerned about the cumulative impact of an additional place to buy alcohol. This may well exacerbate the current problems as well as provide a draw and focal point to this part of Warwick Way, which is already popular with the street population who congregate at the nearby bookmaker's.</p>	

### 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>  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> <p><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</p>
<b>Policy OS1 applies</b>	Applications will generally be granted and reviews determined subject to the relevant criteria in Policies CD1, PS1, PN1, CH1 and HRS1 and other policies in this Statement.

### 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

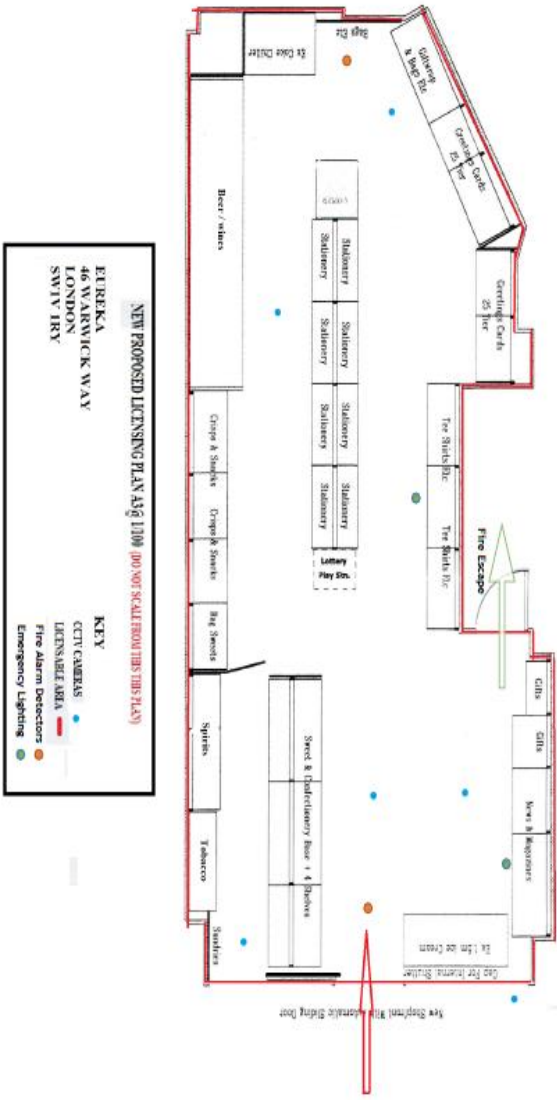
<b>Appendix 1</b>	Premises plans
<b>Appendix 2</b>	Applicant supporting documents
<b>Appendix 3</b>	Premises history
<b>Appendix 4</b>	Proposed conditions
<b>Appendix 5</b>	Residential map and list of premises in the vicinity

<b>Report author:</b>	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>	Metropolitan Police ( <i>Withdrawn</i> )	12 June 2019
<b>5</b>	Environmental Health Service	28 June 2019
<b>6</b>	Public Representation 1	5 June 2019
<b>7</b>	Public Representation 2	7 June 2019



**Applicant Supporting Documents**

**Appendix 2**

None



## **Premises History**

## **Appendix 3**

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 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.
- 5(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.
- 5(ii) For the purposes of the condition set out in paragraph 5(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.

5(iii). Where the permitted price given by Paragraph 5(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.

- 5(iv). (1) Sub-paragraph 5(iv)(2) below applies where the permitted price given by Paragraph 5(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 proposed by the applicant so as to form part of the operating schedule:**

- 6. 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.

7. A staff member who is conversant with the operation of the CCTV system shall be available when the premise is open to the public. This staff member must be able to show a Police or authorised council officer recent data or footage with the absolute minimum of delay when requested.
8. All sales of alcohol for consumption off the premises shall be in sealed containers only, and shall not be consumed on the premises.
9. All tills shall automatically prompt staff to ask for age verification identification when presented with an alcohol sale.
10. A direct telephone number for the manager at the premises shall be made available at all times the premises is open. This telephone number is to be made available to residents and businesses in the vicinity.
11. No more than 15% of the sales area shall be used at any one time for the sale, exposure for sale, or display of alcohol.
12. There shall be no self service of spirits on the premises, save for spirit mixtures less than 5.5% ABV.
13. No super-strength beer, lagers, ciders or spirit mixtures of 5.5% ABV (alcohol by volume) or above shall be sold at the premises.
14. The licence holder shall ensure that outside of the hours authorised for the sale of alcohol and whilst the premises are open to the public, all alcohol within the trading area is to be secured behind locked grilles, locked screens or locked cabinet doors so as to prevent access to the alcohol by both customers and staff.
15. There shall be a personal licence holder on duty on the premises at all times when the premises are authorised to sell alcohol.
16. All cashiers will receive refresher training on relevant alcohol laws and the licence holder's policy on challenging for ID. Such training to take place at least twice a year. Records will be maintained at the premises containing information about the training of any person who may make a sale of alcohol including the date of their training and the nature of the training undertaken. The relevant documentation shall be produced on request to a police officer or a relevant officer of a responsible authority.
17. The licence holder shall ensure that all cashiers are trained to ask any customer attempting to purchase alcohol, who appears to be under the age of 25 years (or older if the licence holder so elects) for evidence of age. This evidence shall be photographic, such as passport or photographic driving licence until other effective identification technology (for example, thumb print or pupil recognition) is introduced. All cashiers will be instructed, through training, that a sale shall not be made unless this evidence is produced.
18. A log shall be kept detailing all refused sales of alcohol. The log should include the date and time of the refused sale and the name of the member of staff who refused the sale. The log 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.
19. A Challenge 25 proof of age scheme, shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence or passport.

20. Prominent signage indicating the permitted hours for the sale of alcohol shall be displayed so as to be visible before entering the premises, where alcohol is on public display, and at the point of sale.
21. The DPS and the Premises Licence holder are responsible for ensuring that the premises do not cause any nuisance to the local residents, other business operators or the general public.
22. The DPS will monitor the external areas of the premises in relation to public nuisance or antisocial behaviour.
23. Deliveries and rubbish collections will only take place during normal business hours and are at the rear or the premises.
24. Any antisocial behaviour CCTV recordings will be made available to the police and environmental health officers.
25. Notices will be prominently displayed at the exit requesting that residents respect the nature of the residential area and leave quietly.
26. Customers shall be discouraged from congregating outside the premises.
27. Signage will be prominently displayed advising customers that they are being recorded on CCTV. Additional signage which can read as follows:
  - a) NO ALCOHOL WILL BE SERVED TO KNOWN STREET DRINKERS
  - b) PLEASE NOTE THAT THIS STORE DOES NOT STOCK OR SELL ANY STRONG BEERS OR CIDERS WITH AN ABV OF MORE THAN 5.5%.

**Conditions proposed by the Environmental Health**

None

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

28. No miniature bottles of spirits of 20 cl or below shall be sold from the premises.

**Residential Map and List of Premises in the Vicinity**

**Appendix 5**



Resident Count: 203

<b>Licensed Premises within 75 metres of Basement to Ground Floor 46 Warwick Way London SW1V 1RY</b>				
<b>Licence Number</b>	<b>Trading Name</b>	<b>Address</b>	<b>Premises Type</b>	<b>Time Period</b>
18/06331/LIPDPS	Marquis Of Westminster	50 Warwick Way London SW1V 1RY	Public house or pub restaurant	Monday to Thursday; 10:00 - 23:30   Friday to Saturday; 10:00 - 00:00   Sunday; 12:00 - 22:30
06/05763/WCCMAP	Marquis Of Westminster Public House	50 Warwick Way London SW1V 1RY	Pub or pub restaurant with lodge	Monday to Thursday; 10:00 - 00:00   Friday to Saturday; 10:00 - 00:30   Sunday; 12:00 - 23:00
10/02355/LIPDPS	Night Spot	38 Warwick Way London SW1V 1RY	Shop	Monday to Saturday; 08:00 - 23:00   Sunday; 10:00 - 22:30
12/01782/LIPV	Cyprus Mangal	45 Warwick Way London SW1V 1QS	Restaurant	Friday to Saturday; 12:00 - 01:00   Sunday to Thursday; 12:00 - 00:00

18/11982/LIPN	Cyprus Mangal	45 Warwick Way London SW1V 1QS	Not Recorded	Friday to Saturday; 12:00 - 01:00   Sunday to Thursday; 12:00 - 00:00
14/01940/LIPV	Delicias De Portugal	43 Warwick Way London SW1V 1QS	Cafe	Monday to Sunday; 08:00 - 23:00
07/00638/WCCMAP	Paradise Indian Restaurant	5 Denbigh Street London SW1V 2HF	Restaurant	Monday to Saturday; 10:00 - 00:30   Sunday; 12:00 - 00:00
10/03478/LIPDPS	Uno Restaurant	Basement And Ground Floor 1 Denbigh Street London SW1V 2HF	Restaurant	Monday to Saturday; 10:00 - 23:30   Sunday; 12:00 - 23:00
07/01079/WCCMAP	Victoria Stanley House Hotel	19-21 Belgrave Road London SW1V 1RB	Hotel, 3 star or under	Monday to Saturday; 10:00 - 00:30   Sunday; 12:00 - 00:00