

Licensing Sub-Committee Report

Item No:	
Date:	29 August 2019
Licensing Ref No:	19/07407/LIPN - New Premises Licence
Title of Report:	1 Keyham House Westbourne Park Road London W2 5UH
Report of:	Director of Public Protection and Licensing
Wards involved:	Westbourne
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:	17 June 2019		
Applicant:	Nilkanth Express Superstore Ltd		
Premises address:	1 Keyham House Westbourne Park Road London W2 5UH	Ward:	Westbourne
		Cumulative Impact Area:	None
Premises description:	According to the application form the premises are a local supermarket and convenience store selling household goods, grocery and frozen and fresh produce.		
Premises licence history:	The premises have previously held a premises licence (Licence number 10/01797/LIPDP) however the licence was surrendered in July 2018. The application is for a new premises licence		
Applicant submissions:	Following consultation, the applicant has reduced the hours for the sale of alcohol to 08:00 to 23:00		

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:			Off
Day:	Mon	Tues	Wed	Thur	Fri	Sat	Sun
Start:	08:00	08:00	08:00	08:00	08:00	08:00	10:00
End:	23:00	23:00	23:00	23:00	23:00	23:00	22:30
Seasonal variations/ Non-standard timings:			None				

Hours premises are open to the public							
Day:	Mon	Tues	Wed	Thur	Fri	Sat	Sun
Start:	07:00	07:00	07:00	07:00	07:00	07:00	08:00
End:	00:00	00:00	00:00	00:00	00:00	00:00	23:00
Seasonal variations/ Non-standard timings:			None				

2. Representations

2-A Responsible Authorities	
Responsible Authority:	Metropolitan Police \service
Representative:	Reaz Guerra
Received:	11 July 2019 (withdrawn 31 July 2019)
<p>With reference to the above application I am writing to inform you that the Police, as a Responsible Authority, object to your application for a New Premises Licence as it is our belief that if granted the application would undermine the Crime Prevention Objective.</p> <p>There is insufficient detail in the operating schedule to address the Crime Prevention Objective The hours sought for Alcohol and Late Night Refreshment exceed westminsters core hours policy.</p> <p>The premises is located within the Notting Hill carnival Footprint, a locality where there is traditionally high crime and disorder. We have concerns that this application could cause further policing problems.</p> <p>It is for this reason that we are objecting to the application</p> <p>Conditions were agreed between the Applicant and the Police and the Metropolitan Police Service withdrew their representation on 31 July 2019</p>	
Responsible Authority:	Environmental Health Service
Representative:	Sally Fabbriatore
Received:	28 June 2019
<p>I refer to the application for a new Premises Licence for the above premises. This representation is based on the Operating Schedule and the ground floor plan of the premises, which is titled with the address and drawing number 2009/07-01.</p> <p>The applicant is seeking the following on the ground floor:</p> <ol style="list-style-type: none"> 1. To allow the Supply of Alcohol 'off' the premises Monday to Saturday 07:00-00:00 hours and Sunday 08:00-23:00 hours. 2. The provision of Late Night Refreshment Monday to Saturday 23:00-00:00 hours. To also allow this on Notting Hill Carnival weekend <p>I wish to make the following representation in relation to the above application:</p> <ol style="list-style-type: none"> 1. The provision of the Supply of Alcohol may cause an increase in Public Nuisance in the area. 2. The provision of Late Night Refreshment may cause an increase in Public Nuisance in the area. <p>The applicant has proposed conditions within the operating schedule which are being considered. Further conditions may be proposed by Environmental Health in order to help prevent Public Nuisance.</p> <p>The granting of the new Premises Licence as presented would have the likely effect of causing an increase in Public Nuisance in the area.</p>	

2-B Other Persons	
Name:	[REDACTED]
Address and/or Residents Association:	[REDACTED] [REDACTED] [REDACTED]
Received:	10 July 2019
<p>As the Secretary of the Safer Neighbourhood Panel and on behalf of the Chair of the same, I hereby wish:</p> <ul style="list-style-type: none"> - to support the above referenced application as to its hot food part; - to express strong reservations as to its alcohol part. <p>Extending the licence to sell alcohol beyond 11 pm is likely to increase the risk of anti-social behaviour in and around the Brunel Estate, with a significant number of young people and vulnerable adults in the immediate vicinity.</p>	
Name:	[REDACTED]
Address and/or Residents Association:	[REDACTED] [REDACTED] [REDACTED]
Received:	2 July 2019
<p>[REDACTED]</p> <p>I strongly object the extension of license, on the basis of potential late night anti social behaviour which may occur. The supermarket is surrounded by the Brunel estate, which is home to many upstanding citizens, but also home for many people with drink, drug and mental problems. I feel a supermarket that is providing alcohol until 12am to pose a serious risk to the safety of local residents, passers-by and themselves. It will place increased burden on already pressured police and health services.</p> <p>I have no problem with the sale of Grocery past their usual close time (which I believe to be 11pm at the moment) but the sale of alcohol should not be allowed. This condition should be on the basis that no rubbish depositing outside the premises will be conducted after 11pm - and general respect for neighbours is exercised by being aware about noise.</p> <p>In summary, I object profusely to this application.</p>	
Name:	[REDACTED]
Address and/or Residents Association:	[REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]
Received:	20 July 2019
<p>The [REDACTED] wishes to lodge objection to this application.</p> <p>We have no objection to an 'off sales' licence on these premises provided following conditions are on licence:</p>	

Hours within WCC 'Core Hours' for 'Off Sales' or less if requested by police as application is for much longer hours on all days
 No beer / cider over 5.5% APV.
 No miniatures of spirits (whisky / vodka etc) to be sold
 All off sales in sealed containers
 No 'self service ' of alcohol.
 All alcohol stored behind counter.
 If wine & beer to be displayed in store we would wish them to be displayed in lockable cabinets that are locked outside hours permitted for sale of alcohol as premises open more than WCC 'Core Hours'
 Challenge 25 to be in operation at all times.
 Delivery times & refuse & recycling collections to premises not to be between (2000 & 0800 with Sundays & Bank Holidays 1800 & 0100).

We are concerned as to 'off sales' during the Notting Hill Carnival over the August Bank Holiday. We will be guided by police on this matter but we would want no 'off sales' over the Carnival and also security guards at entrance to premises may be required

More details on type of 'off sales' and assume no delivery from phone order as concerned as to minors ordering alcohol.

As always [REDACTED] always happy to meet or discuss application with applicant and content for this email to be forwarded onto them

3. Policy & Guidance

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

<p>Policy HRS1 applies</p>	<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 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>
<p>Policy FFP1 applies</p>	<p>Applications will only be granted if it can be demonstrated that the proposal meets relevant criteria in Policies CD1, PS1, PN1 and CH1.</p>
<p>Policy OS1 applies</p>	<p>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</p>

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.

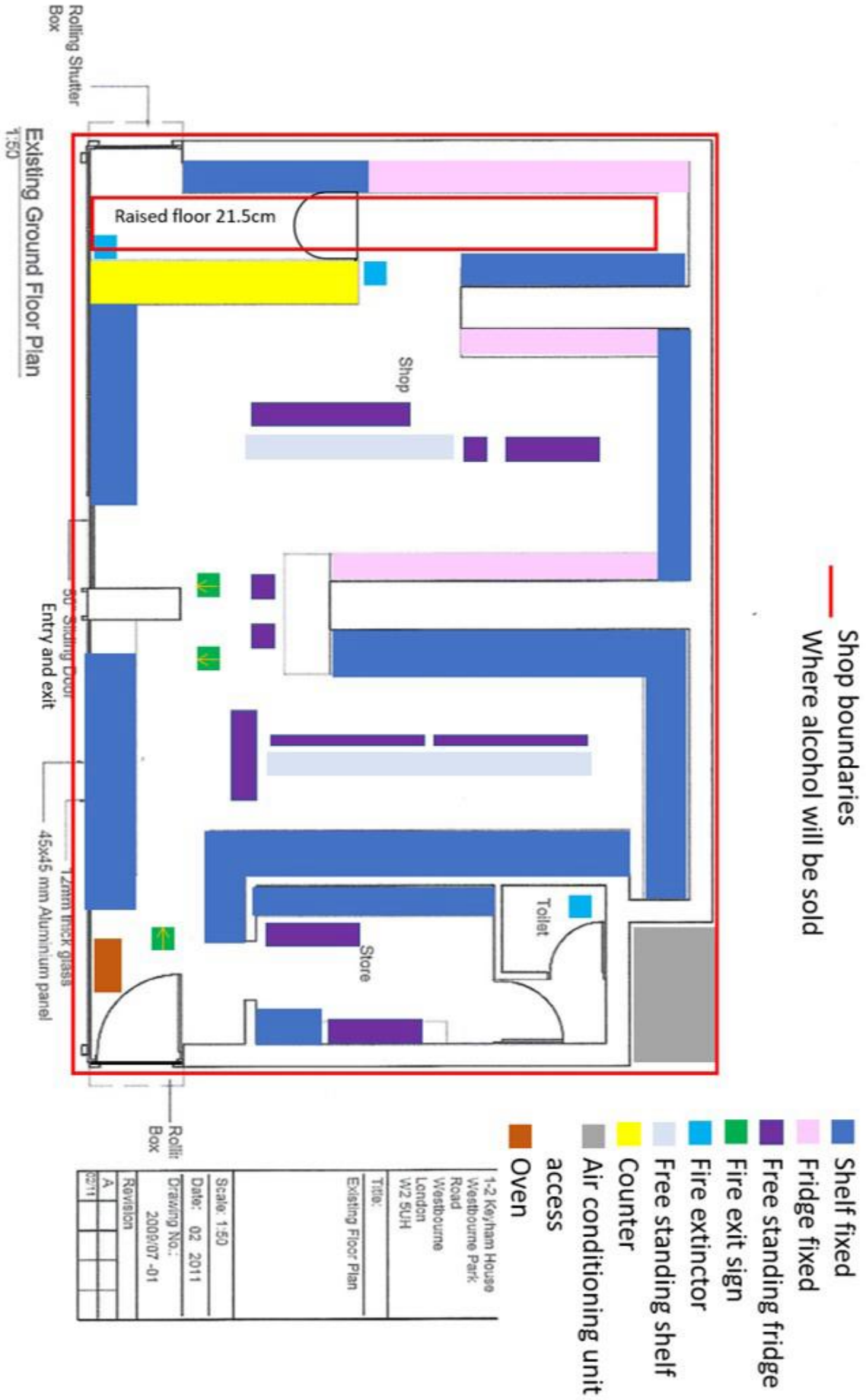
5. Appendices

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:	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	11 July 2019 (withdrawn 31 July 2019)
5	Environmental Health Service Representation	28 June 2019
6	Interested Party Representation 1	10 July 2019
7	Interested Party Representation 2	2 July 2019
8	Interested Party Representation 3	20 July 2019



Applicant Supporting Documents

Appendix 2

None submitted

Premises History

Appendix 3

The premises have previously held a premises licence (Licence number 10/01797/LIPDP) however the licence was surrendered in July 2018

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

- 6. On the Sunday and Monday of the Notting Hill Carnival:
 - a) There will be no sale of alcohol in glass vessels from the premises; and
 - b) There will be no external advertisement of alcohol promotions at the premises.
 - c) There shall be no sale of alcohol from the premises after 20:00 hours.

Conditions proposed by the Environmental Health and agreed by the applicant so as to form part of the operating schedule

7. The licensable activities authorised by this licence and provided at the premises shall be ancillary to the main function of the *premises* as newsagents/convenience store.
8. There shall be a personal licence holder on duty on the premises at all times when the premises are authorised to sell alcohol.
9. There shall be no consumption of hot food or hot drink on the premises between the hours of 23:00-05:00 hours.
10. All sales of alcohol for consumption off the premises shall be in sealed containers only, and shall not be consumed on the premises.
11. No more than 15 % of the sales area to be used at any one time for the sale, exposure for sale, or display of alcohol.
12. No super-strength beer, lagers or ciders of 5.5% ABV (alcohol by volume) or above shall be sold at the premises except for premium beers, lagers or ciders, sold in glass bottles.
13. There shall be no self service of spirits on the premises except for spirit mixtures below 5.5% Alcohol by Volume.
14. 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.
15. Outside of the hours authorised for the sale of alcohol and whilst the premises are open to the public, the licence holder shall ensure that all alcohol within the premises (including alcohol behind the counter) is secured in a locked store room or behind locked grilles, locked screens or locked cabinet doors so as to prevent access to the alcohol by both customers and staff.
16. 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, passport or proof of age card with the PASS Hologram.
17. All tills shall automatically prompt staff to ask for age verification identification when presented with an alcohol sale.
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. 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.
20. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
21. No waste or recyclable materials, including bottles, shall be moved, removed or placed in outside areas between 23.00 hours and 07.00 hours.

22. Deliveries to the premises shall only take place between 0700 and 2300 hours.
23. 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.
24. The Licence will have no effect until the premises have been assessed as satisfactory by the Environmental Health Consultation Team and this condition has been removed from the Licence.

Conditions proposed by interested party

25. No beer / cider over 5.5% APV
26. No miniatures of spirits (whisky / vodka etc) to be sold
27. All off sales in sealed containers
28. No 'self service ' of alcohol.
29. All alcohol stored behind counter.
30. If wine & beer to be displayed in store we would wish them to be displayed in lockable cabinets that are locked outside hours permitted for sale of alcohol as premises open beyond WCC 'Core Hours'
31. Challenge 25 to be in operation at all times.
32. Delivery times & refuse & recycling collections to premises not to be between (2000 & 0800 with Sundays & Bank Holidays 1800 & 0100).



Resident Count: 280

Licensed premises within 75 metres of 1 Keyham House, Westbourne Park Road, W2

10/01797/LIPDPS	Nisa Local	1 Keyham House Westbourne Park Road London W2 5UH	Shop	Monday to Saturday; 08:00 - 23:00 Sunday; 10:00 - 22:30
09/04365/LIPRW	Londis	133 Westbourne Park Road London W2 5QL	Shop	Monday to Sunday; 06:00 - 22:00
09/04514/LIPN	The Oak	137 Westbourne Park Road London W2 5QL	Public house or pub restaurant	Monday to Saturday; 10:00 - 00:30 Sunday; 12:00 - 00:00

09/10275/LIPD	Lucky 7	Basement And Ground Floor 127 Westbourne Park Road London W2 5QL	Restaurant	Monday to Saturday; 10:00 - 00:30 Monday to Saturday; 10:00 - 23:30 Sunday; 12:00 - 00:00 Sunday; 12:00 - 23:00
17/12417/LIPN	Not Recorded	Basement And Ground Floor 127 Westbourne Park Road London W2 5QL	Restaurant	Monday to Saturday; 10:00 - 00:30 Monday to Saturday; 10:00 - 23:30 Sunday; 12:00 - 00:00 Sunday; 12:00 - 23:00