

Licensing Sub-Committee Report

Item No:	
Date:	8 October 2020
Licensing Ref No:	20/07106/LIPN - New Premises Licence
Title of Report:	Catsteps Cafe 33 D'Arblay Street London W1F 8EU
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:	Jessica Donovan Senior Licensing Officer
Contact details	Telephone: 020 7641 6500 Email: Jdonovan@westminster.gov.uk

1. Application

1-A Applicant and premises			
Application Type:	New Premises Licence, Licensing Act 2003		
Application received date:	17 August 2020		
Applicant:	Catsteps Cafes Limited		
Premises:	Catsteps Cafe		
Premises address:	33 D'Arblay Street London W1F 8EU	Ward:	West End
		Cumulative Impact Area:	West End
Premises description:	According to the application form, this premises intends to operate as a family run café/bar. This premises intends to operate to external tables and chairs and has the benefit of a tables and chairs licence.		
Premises licence history:	This is a new premises licence application and therefore no premises licence history exists. However, the premises has previously applied for temporary event notices of which the full history can be found at Appendix 3.		
Applicant information:	<p>On original submission of the application, recorded music was applied for on Monday to Sunday from 09:00 to 23:00. This has been withdrawn from the application.</p> <p>Furthermore, the applicant had originally applied for the sale by retail of alcohol on Sunday from 10:00 to 23:00. The applicant has reduced these hours and this is reflected in section 1-B below.</p>		

1-B Proposed licensable activities and hours							
Sale by retail of alcohol				On or off sales or both:			Both
Day:	Mon	Tues	Wed	Thur	Fri	Sat	Sun
Start:	10:00	10:00	10:00	10:00	10:00	10:00	12:00
End:	23:00	23:00	23:00	23:00	23:00	23:00	22:30
Seasonal variations/ Non-standard timings:		From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.					

Hours premises are open to the public							
Day:	Mon	Tues	Wed	Thur	Fri	Sat	Sun
Start:	09:00	09:00	09:00	09:00	09:00	09:00	09:00
End:	23:00	23:00	23:00	23:00	23:00	23:00	23:00
Seasonal variations/ Non-standard timings:		From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.					

2. Representations

2-A Responsible Authorities	
Responsible Authority:	Environmental Health
Representative:	Ayesha Bolton
Received:	14 September 2020
<p>I refer to the application for a new Premises Licence for the above premises.</p> <p>The applicant has submitted floor plans of the Ground floor of the premises.</p> <p>This representation is based on the plans and operating schedule submitted.</p> <p>The applicant is seeking the following:</p> <ol style="list-style-type: none">1. To permit Regulated Entertainment of Recorded Music Indoors only Monday to Sunday 09.00 to 23.00 hours and from the end of permitted hours on New Years' Eve to start of permitted hours on New Year's Day.2. To permit Supply of Alcohol both 'On' and 'Off' the premises Monday to Sunday 10.00 to 23.00 hours and from the end of permitted hours on New Years' Eve to start of permitted hours on New Year's Day. <p>I wish to make the following representation.</p> <ol style="list-style-type: none">1. The provision and hours requested for Regulated Entertainment of Recorded Music will have the likely effect of causing an increase in Public Nuisance and impact on Public Safety within the area.2. The provision and hours requested for the Supply of Alcohol will have the likely effect of causing an increase in Public Nuisance within the area and impact on Public Safety within the area. <p>The granting of the application as presented would have the likely effect of causing an increase in Public Nuisance and impact on Public Safety within the area.</p> <p>The applicant has provided conditions in support of the application but these do not fully address the concerns of Environmental Health and additional conditions may be proposed.</p>	
Responsible Authority:	Licensing Authority
Representative:	Angela Seaward
Received:	14 September 2020
<p>Dear Sirs</p> <p>I write in relation to the application submitted for a new premises licence for 33 D'Arblay Street, London, W1F 8EU</p> <p>As a responsible authority under section 13 (4) of the Licensing Act 2003 as amended under the Police and Social Responsibility Act 2011, the Licensing Authority have considered your application in full. The Licensing Authority has concerns in relation to this application and how the premises would promote the four Licensing Objectives:</p> <ul style="list-style-type: none">• Public Nuisance• Prevention of Crime & Disorder• Public Safety• Protection of children from harm	

The application seeks the following:

- **Recorded Music**
Monday to Sunday 09:00 to 23:00
- **Supply of Alcohol On Premises**
Monday to Sunday 10:00 to 23:00
- **Opening Hours to Public**
Monday to Sunday 09:00 to 23:00

The premises is located within the West End Cumulative Impact Area and as such various policy points must be considered, namely CIP1, HRS1, RNT2 and PB2

At present, the operating hours applied for licensable activities currently fall outside of Westminster's core hours. Paragraph 2.3.2 states that Policy HRS1 is not a policy to refuse applications for hours longer than the core hours and consideration will in all cases be given to the individual merits of an application. Where a proposal is made to operate outside these core hours each application will be considered on its merits against the criteria as set out in paragraph (ii) that applications for hours outside the core hours set out below in this policy will be considered on their merits, subject to other policies stated within the Westminster licensing policy.

Supply of Alcohol On the Premises

Monday to Thursday 10:00 to 23:30
Friday to Saturday 10:00 to 00:00
Sunday 12:00 to 22:30

Other Licensable activities

Monday to Thursday 09:00 to 23:30
Friday to Saturday 09:00 to 00:00
Sunday: 09:00 to 22:30

It is the intention to generally grant licences or variations to licences where the hours when customers are permitted to be on the premises are within the 'core hours' as set out in Policy HRS1, therefore the licensing authority would encourage the applicant too consider reducing the licensable activities to be within these hours on Sundays.

The plan currently indicates a red line around the outside area for licensable activities, however the premises currently benefits from a Pavement Licence which indicates this area to be a public highway. Under policy RNT2 paragraph 2.5.6 advises that whilst the premises licence may authorise the provision of licensable activities it cannot authorise the use of an area of highway for that activity. Permission for the use of the highway is considered separately, and in this example, a tables and chairs licence must also be obtained before the restaurant can operate any activity on the pavement. The tables and chairs licence will define the extent of the area, and the numbers of tables and chairs which may be used on the pavement. Therefore the licensing authority encourages the applicant to re-submit a plan removing the red line from the outside area and consider the following conditions;

- The sale and supply of alcohol for consumption off the premises shall be restricted to alcohol consumed by persons who are seated in an area appropriately authorised for the use of tables and chairs on the highway and bona fide taking a substantial table meal there, and where the consumption of alcohol by such persons is ancillary to taking such a meal, and where the supply of alcohol is by waiter or waitress service only.

- All tables and chairs shall be removed from the outside area by (23.00) each day.

The licensing authority also notes that the applicant intends to operate a restaurant with conditions from 20:00 each day. Although the policy does consider under paragraph 2.4.21 that where applications for licenses to sell alcohol for consumption on the premises are made and (i) are appropriately conditioned so that the consumption of alcohol is not, and cannot become, a significant part of the operation of the premises and is regulated to promote responsible drinking; (ii) where the character of the premises is such that its customers are not likely to be involved in sustained or heavy drinking at later hours; and (iii) when the sale of alcohol is not permitted beyond 20.00 hours; then permitting the sale of alcohol for consumption on the premises is unlikely to add to cumulative impact in the cumulative impact area.

However as this application is for on and off sales and that there is no condition before 20:00, potentially allowing alcohol to be a significant part of the operation, the licensing authority encourages the applicant to submit further submissions on how the premises will not add to the cumulative impact area and for the applicant to demonstrate how they will make a restaurant condition compliant with customers from 20:00.

Restaurants are defined within the policy where dining is the main evening activity for its customers. Paragraph 2.5.3 advises that for the purposes of this policy a restaurant is therefore defined as premises (i) in which customers are shown to their table, (ii) which provide food in the form of substantial table meals that are prepared on the premises and are served and consumed at the table using non disposable crockery, (iii) which do not provide any take away service of food or drink for immediate consumption, and (iv) where intoxicating liquor shall not be sold, supplied, or consumed on the premises otherwise than to persons who are bona fide taking substantial table meals and provided always that the consumption of intoxicating liquor by such persons is ancillary to taking such meals. The sale and consumption of alcohol prior to such meals may be in a bar area but must also be ancillary to the taking of such meal.

Where an application is to be considered under the policies which apply to restaurants, conditions restricting the premises in accordance with this definition may be attached. The licensing authority therefore encourages the applicant to consider model condition 66 which states;

The premises shall only operate as a restaurant

- (i) in which customers are shown to their table,
- (ii) where the supply of alcohol is by waiter or waitress service only,
- (i) which provide food in the form of substantial table meals that are prepared on the premises and are served and consumed at the table using non disposable crockery,
- (iv) which do not provide any take away service of food or drink for immediate consumption,
- (v) which do not provide any take away service of food or drink after 23.00, and
- (vi) where alcohol shall not be sold or supplied, otherwise than for consumption by persons who are seated in the premises and bona fide taking substantial table meals there, and provided always that the consumption of alcohol by such persons is ancillary to taking such meals.

Notwithstanding this condition customers are permitted to take from the premises part consumed and resealed bottles of wine supplied ancillary to their meal.

Application considered under RNT2 will be granted subject to other policies in this Statement and subject to the relevant criteria in Policies CD1, PS1, PN1 and CH1, provided it can be demonstrated that they will not add to cumulative impact in the Cumulative Impact Areas.

The council is particularly concerned that restaurant premises in the cumulative impact areas do not, even in part, come to operate as bars. With no ancillary nature to the sale of alcohol before 20:00 the application will be considered in Part under PB2, where it is the Licensing Authority's policy to refuse applications in the Cumulative Impact Areas and should be limited to exceptional circumstances.

Furthermore the licensing authority notes that recorded music has been applied for between the hours of 09:00 to 23:00. However under the deregulation of regulated entertainment the Licensing Act 2003 advises that, any playing of recorded music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500 does not require to be licensed. Therefore the licensing authority encourages the applicant to advise if they still wish to apply for this provision as part of the new premises licence application.

I look forward to hearing from you in due course.

Please accept this email as a formal representation.

2-B Other Persons			
Name:		[REDACTED]	
Address and/or Residents Association:		[REDACTED] [REDACTED] [REDACTED]	
Status:	Valid	In support or opposed:	Opposed
Received:	6 September 2020		
<p>I am mainly concerned about the application to play amplified recorded music 9.00-23.00 pm 7 days a week. The cafe is not designed for this, because in practice the door is either open all day or opened with great frequency, due to the Breakfast Club's choice not to take reservations but to have a long queue of people waiting outside, and because there are several tables outside the frontage on the pavement. The music would therefore bleed out into the street and cause a noise nuisance, as has been the case when they have occasionally played music inside in the past. There is no lobby and no means of keeping the music from being heard outside the premises, and the door is half glazed. Secondly, the application for another alcohol licence in what is already an area of saturation seems to go against planning policy and what the residents feel is manageable to live with. Noise nuisance from outdoor diners during the temporary street closure period has been unliveable with, and I would strongly oppose its continuation, which unfortunately this application would contribute to.</p>			
Name:		[REDACTED]	
Address and/or Residents Association:		[REDACTED] [REDACTED] [REDACTED]	
Status:	Valid	In support or opposed:	Opposed
Received:	10 September 2020		
<p>Dear Sir, we would like to strenuously object to the above premises licence application. We understand that this premises has never been granted a premises licence before because of the lack of toilet facilities. There are approximately 30 covers inside of this premises which has outside seating with 20 outside seats on Saturday and Sunday, add to this around a staff of 7</p>			

persons. Around 57 patrons and staff and only 1 toilet. (The toilet last year on many occasions was out of order) with these patrons requesting neighbouring premises if they could use their toilets.
This application should fail as it does not meet guidelines for staff and customer toilet facilities.

Name:	[REDACTED]		
Address and/or Residents Association	[REDACTED] [REDACTED] [REDACTED] [REDACTED]		
Status:	Valid	In support of opposed:	Opposed
Received:	10 September 2020		

Representation received through email dated 10 September 2020:

I am writing to you [REDACTED] and I wish to object to application number 20/07106/LIPN

The Breakfast Club, 33 D'Arblay Street, London, W1F 8EU
Catsteps Cafés Limited –
Application Form: Part 3 – Operating Schedule

A family run café/bar within Soho area including tables and chairs on the pavement. This client also current trades from another premises "The Breakfast Club, 11 Berwick Street, London, W1F 0PL

Catsteps Cafés Limited is according to records held with Companies House –
The principle activity of the Company....to operate cafes and bars under 'The Breakfast Club' brand.

With turnover in 2019 exceeding £15 million trading from 11 restaurants, 9 in London, 1 in Oxford and 1 in Brighton.

During 2019 – 6 directors and over 350 staff

The first question is why Catsteps Cafés Limited are pretending to be a small family business with two sites when applying for an alcohol licence in Soho.

The Breakfast Club traded as an A3 restaurant from 33 D'Arblay Street even though permission to trade as A3 was refused by Westminster Council (the premises was A1). Permission was eventually given because the restaurant had traded for some considerable time ignoring the rules of A1.

The company operates 'secret bars' in their other venues and there is a very real worry that this is what they plan to do in D'Arblay Street. Why else would they pretend to run two cafes in Soho? Looking into their other venues it is obvious they are very much alcohol led.

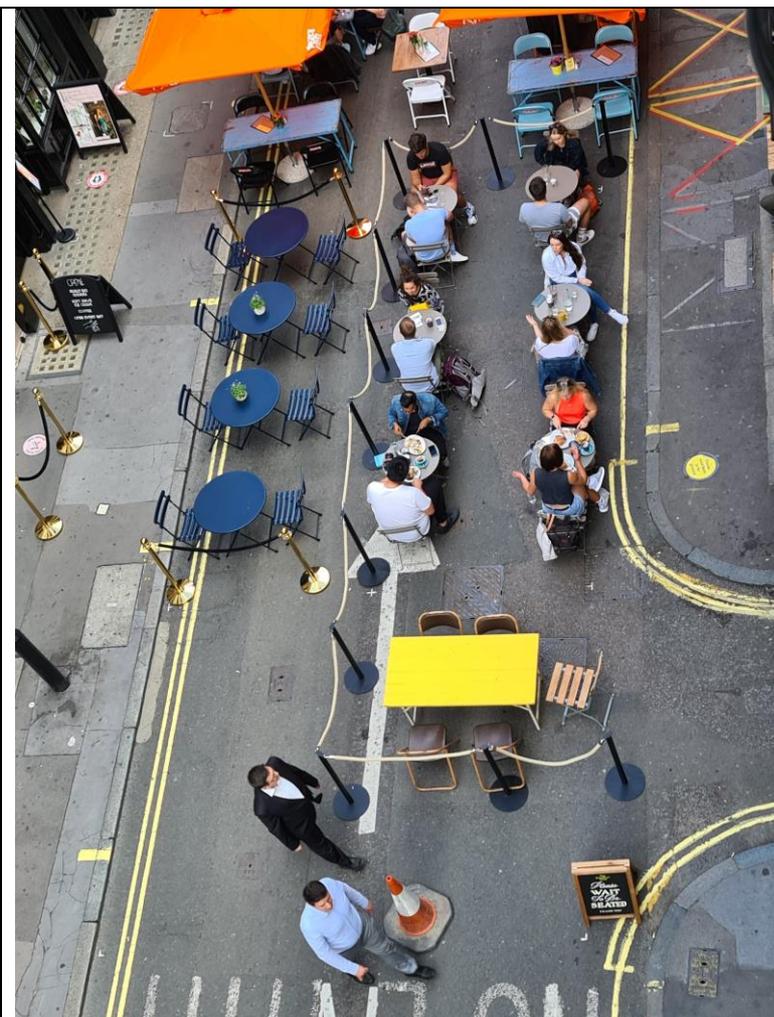
There are other major problems with 33 D'Arblay Street.

1. For some reason (possibly because the premises were granted A3 simply because they had traded as A3) there is not adequate duct work to the premises. The duct work from the basement kitchen blows out at street level, which causes a nuisance to [REDACTED] in the street. Westminster's planning policy is for duct work to be taken to roof level, this is not the case with 33 D'Arblay Street and the smells and grease which coat [REDACTED] are unacceptable. Please would Environmental Health investigate this.

2. Refuse is stored in [REDACTED] often spilling over and making a mess, attracting vermin. The Breakfast Club has previously been shut down and substantially fined by Westminster Council for poor hygiene standards.
3. There is a lack of toilet provision in the restaurant – only one toilet to be used by staff and customers. This results in customers urinating in [REDACTED] either when the toilet is busy or out of order as has often been the case. Clearly one toilet to service the entire premises is inadequate.
4. The application made is for a capacity of 30 excluding staff. The attached photos showing outside seating for more than 20 customers, in contrast to the 10 seats shown on the application plan. This gives little confidence that The Breakfast Club will stick to the steps they have stated they will take to promote the four licensing objectives.

I strongly object to a premises licence being granted.





Representation received through Public Access dated 10 September 2020:

There are other major problems with 33 D'Arblay Street.

1. For some reason (possibly because the premises were granted A3 simply because they had traded as A3) there is not adequate duct work to the premises. The duct work from the basement kitchen blows out at street level, which causes a nuisance to [REDACTED] in the street. Westminster's planning policy is for duct work to be taken to roof level, this is not the case with 33 D'Arblay Street and the smells and grease which coat [REDACTED] are unacceptable. Please would Environmental Health investigate this.
2. Refuse is stored in [REDACTED] often spilling over and making a mess, attracting vermin. The Breakfast Club has previously been shut down and substantially fined by Westminster Council for poor hygiene standards.
3. There is a lack of toilet provision in the restaurant - only one toilet to be used by staff and customers. This results in customers urinating in [REDACTED] either when the toilet is busy or out of order as has often been the case. Clearly one toilet to service the entire premises is inadequate.
4. The application made is for a capacity of 30 excluding staff. The attached photos showing outside seating for more than 20 customers, in contrast to the 10 seats shown on the application plan. This gives little confidence that The Breakfast Club will stick to the steps they have stated they will take to promote the four licensing objectives.
I strongly object to a premises licence being granted.

3. Policy & Guidance

The following policies within the City Of Westminster Statement of Licensing Policy apply:	
Policy CIP1 applies	<p>(i) It is the Licensing Authority's policy to refuse applications in the Cumulative Impact Areas for: pubs and bars, fast food premises, and premises offering facilities for music and dancing; other than applications to vary hours within the Core Hours under Policy HRS1.</p> <p>(ii) Applications for other licensable activities in the Cumulative Impact Areas will be subject to other policies, and must demonstrate that they will not add to cumulative impact in the Cumulative Impact Areas.</p>
Policy 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. For premises for the supply of alcohol for consumption on the premises: Monday to Thursday: 10:00 to 23:30 Friday and Saturday: 10:00 to midnight Sundays immediately prior to Bank Holidays: Midday to midnight Other Sundays: Midday to 22:30 For premises for the provision of other licensable activities: 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>
Policy RNT2 applies:	Applications will be granted subject to other policies in this Statement and subject to the relevant criteria in Policies CD1, PS1, PN1 and CH1, provided it can be demonstrated that they will not add to cumulative impact in the Cumulative Impact Areas.

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, marriage and civil partnership, 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:	Jessica Donovan Senior Licensing Officer
Contact:	Telephone: 0207 641 6500 Email: Jdonovan@westminster.gov.uk

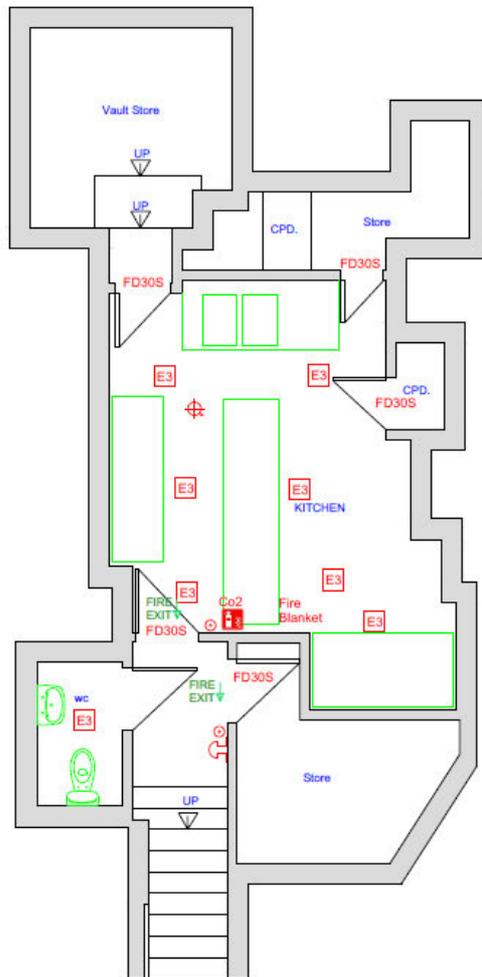
If you have any queries about this report or wish to inspect one of the background papers please contact the report author.

Background Documents – Local Government (Access to Information) Act 1972

1	Licensing Act 2003	N/A
2	City of Westminster Statement of Licensing Policy	7 th January 2016
3	Amended Guidance issued under section 182 of the Licensing Act 2003	April 2018
4	Environmental Health representation	14 September 2020
5	Licensing Authority representation	14 September 2020
6	Objection comment 1	06 September 2020
7	Objection comment 2	10 September 2020
8	Objection comment 3	10 September 2020

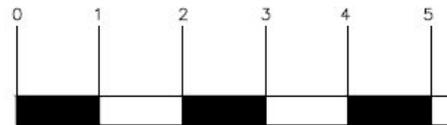
Basement Plan

Notes:
Do not scale this drawing except for Planning purposes.



KEY - FIRE SAFETY

- Fire Extinguisher
Co2/Foam
- Fire Alarm Manual Call Point
- Fire Alarm sounder
- Smoke Detector
- E3 Emergency Luminaire



Scale 1: 25
Metres

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CLIENT
BREAKFAST CLUB
33 DANBLAY STREET
LONDON

PROJECT
LICENCE APPLICATION

TITLE
BASEMENT PLAN

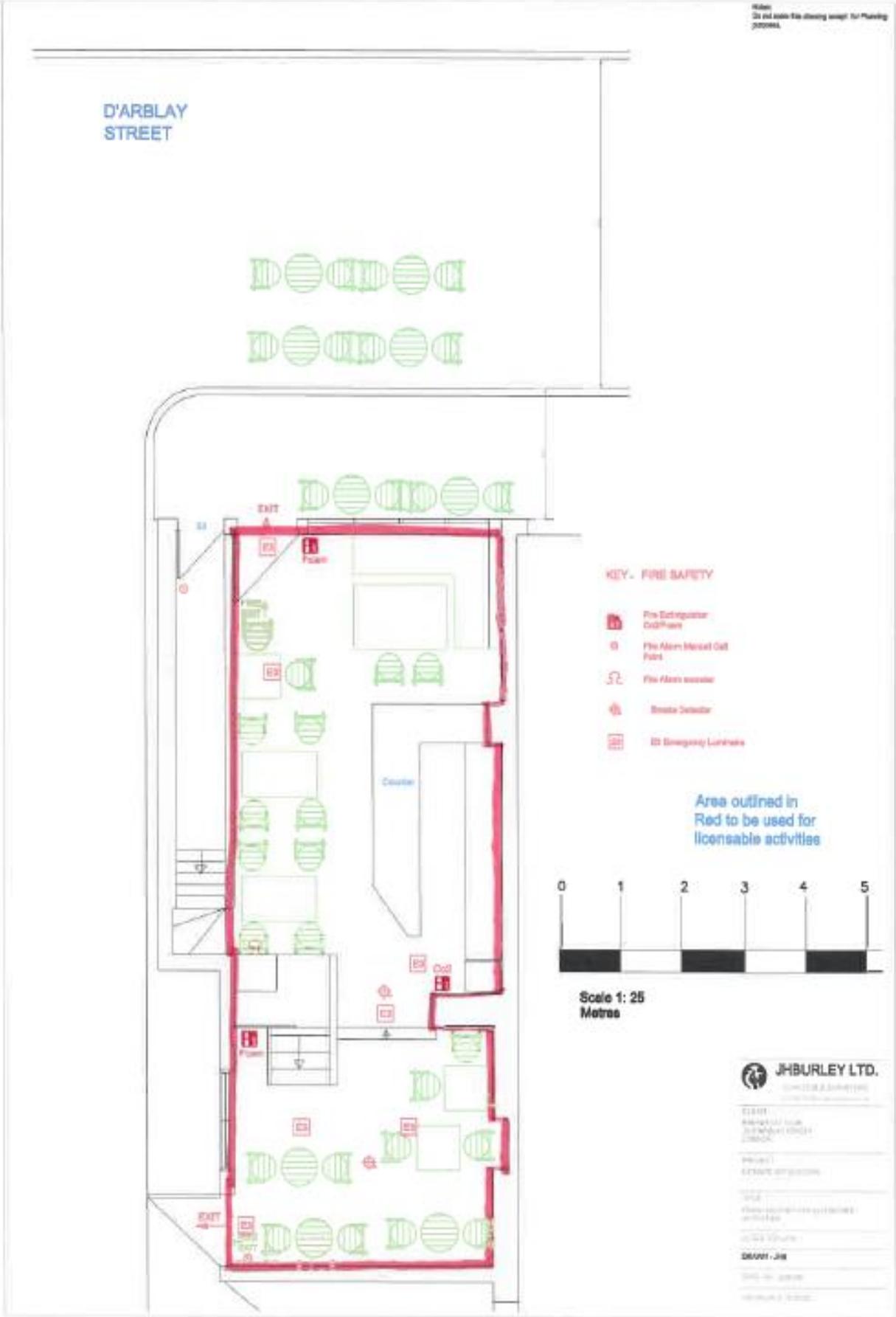
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DRAWN - JHB

DWS. NO. JHB/586A

REVISION © 05.08.2020

Ground Floor Plan



Applicant Supporting Documents

Appendix 2

None provided

Temporary Event Notices

Application	Details of Application	Date Determined	Decision
20/06034/LITENN	Temporary Event Notice	22 nd July 2020	Notice Granted
20/06290/LITENN	Temporary Event Notice	31 st July 2020	Notice Granted
20/06518/LITENN	Temporary Event Notice	31 st July 2020	Notice Granted
20/06721/LITENN	Temporary Event Notice	6 th August 2020	Notice Refused due to exceeding number of days permitted to use
20/06722/LITENN	Temporary Event Notice	6 th August 2020	Notice Refused due to exceeding number of days permitted to use

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. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of a Metropolitan Police Crime Prevention Officer. 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. Recordings shall be made available immediately upon the request of Police or authorised officer throughout the preceding 31 day period.

10. 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 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.
11. From 20:00 the premises shall only operate as a restaurant:
 - i) in which customers are shown to their table,
 - ii) which provide food in the form of substantial table meals that are prepared on the premises and are served and consumed at the table using non disposable crockery,
 - iii) which do not provide any take away service of food or drink for immediate consumption, and
 - iv) where intoxicating liquor shall not be sold, supplied, or consumed on the premises otherwise than to persons who are bona fide taking substantial table meals and provided always that the consumption of intoxicating liquor by such persons is ancillary to taking such meals.
12. The supply of alcohol shall be by waiter or waitress service only.
13. Substantial food and suitable beverages other than intoxicating liquor shall be available during the whole of the permitted hours in all parts of the premises where intoxicating liquor is sold or supplied.
14. All sales of alcohol for consumption off the premises shall be in sealed containers only, and shall not be consumed on the premises except that alcohol can be sold in open containers and consumed in any designated area for the use of table and chairs shown on the plan attached to the premises licence or where tables and chairs are permitted to be placed under the Highways Act 1980 or the Business and Planning Act 2020
15. The capacity at the premises, at any one time, shall be 30 inside (excluding staff).
16. After 21:00 hours all external doors and windows to be kept closed except for immediate access and egress of persons.
17. No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
18. Clearly legible notices shall be displayed at all exits from the premises requesting patrons to respect the needs of local residents and to leave the premises and area quietly.
19. Notices shall be prominently displayed at any area used for smoking requesting patrons to respect the needs of local residents and to leave the premises and area quietly.
20. No rubbish, including bottles, shall be moved, removed or placed in outside areas between 2300 hours and 0800 hours.
21. The area immediately outside the premises, shall be swept and/or washed, and litter and sweepings collected and stored in accordance with the approved refuse storage arrangements.

22. All waste is to be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
23. A Challenge 21 or 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.
24. 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, searching equipment or scanning equipment
 - (g) any refusal of the sale of alcohol
 - (h) any visit by a relevant authority or emergency service.
25. Alcohol will only be sold prior to 20:00 to customers who are shown to their table, and it will only be sold by waiter / waitress service.
26. The sale of alcohol prior to 20:00 will be an ancillary part of the business to the provision of substantial table meals.

Conditions proposed by the Licensing Authority

27. All tables and chairs shall be removed from the outside area by 23.00 each day.
Condition 27 has been agreed with the applicant.
28. The sale and supply of alcohol for consumption off the premises shall be restricted to alcohol consumed by persons who are seated in an area appropriately authorised for the use of tables and chairs on the highway and bona fide taking a substantial table meal there, and where the consumption of alcohol by such persons is ancillary to taking such a meal, and where the supply of alcohol is by waiter or waitress service only.
The applicant has proposed alternative wording to condition 28 as below
The sale and supply of alcohol for consumption off the premises shall be restricted to sales in sealed containers, and to alcohol consumed by persons who are seated in an area appropriately authorised for the use of tables and chairs on the highway, and after 20:00 where persons are bona fide taking a substantial table meal there, where the consumption of alcohol by such persons is ancillary to a table meal, and where the supply of alcohol is by way of waiter / waitress service only
29. The premises shall only operate as a restaurant:
 - (i) in which customers are shown to their table,
 - (ii) where the supply of alcohol is by waiter or waitress service only,
 - (iii) which provide food in the form of substantial table meals that are prepared on the premises and are served and consumed at the table using non disposable crockery,
 - (iv) which do not provide any take away service of food or drink for immediate consumption
 - (v) which do not provide any take away service of food or drink after 23.00, and

- (vi) where alcohol shall not be sold or supplied, otherwise than for consumption by persons who are seated in the premises and bona fide taking substantial table meals there, and provided always that the consumption of alcohol by such persons is ancillary to taking such meals.

Notwithstanding this condition customers are permitted to take from the premises part consumed and resealed bottles of wine supplied ancillary to their meal.

The applicant has not agreed to condition 29 but has proposed 2 conditions in its place which are conditions 25 and 26 above.

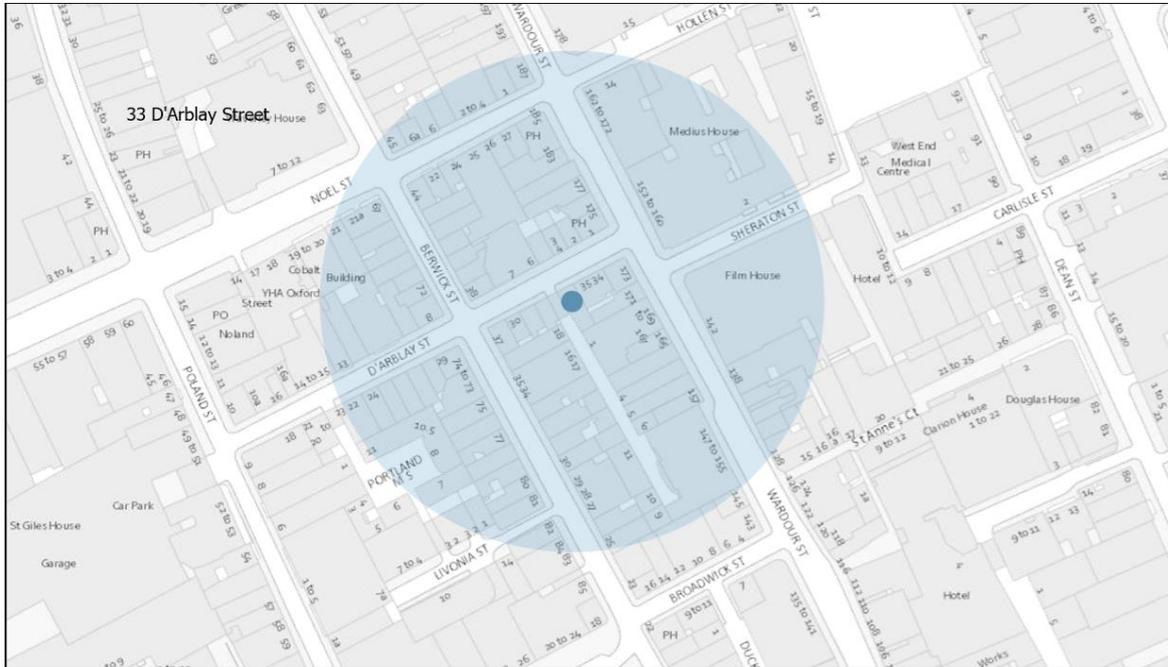
Conditions proposed by the Environmental Health

None

Residential Map and List of Premises in the Vicinity

Appendix 5

33 D'Arblay Street



21/09/2020 14:49:34



Resident Count = 63

Licensed premises within 75 metres of 33 D'Arblay Street

Licence Number	Trading Name	Address	Premises Type	Time Period
18/01923/LIPVM	Korkers (Basement) And Mustafas Thai Cottage (Ground Floor)	34 D'Arblay Street London W1F 8EX	Not Recorded	Not Recorded; Monday to Saturday: 10:00 to 00:00 (Ground Floor) Monday to Saturday: 10:00 to 03:00 (Basement) Sunday: 12:00 to 23:30 (Basement) Sunday: 12:00 to 23:30 (Ground Floor)

19/11988/LIPCH	Tommi's Burger Joint	37 Berwick Street London W1F 8RS	Not Recorded	Monday to Thursday; 10:00 - 00:00 Friday to Saturday; 10:00 - 00:30 Sunday; 10:00 - 23:00
19/13733/LIPDPS	Imli Ltd	167 - 169 Wardour Street London W1F 8WR	Restaurant	Monday to Saturday; 08:00 - 01:00 Sunday; 08:00 - 00:00
18/11501/LIPN	Not Recorded	36 Berwick Street London W1F 8RR	Not Recorded	Monday to Saturday; 07:30 - 22:30 Sunday; 07:30 - 22:30
18/03839/LIPDPS	The George Public House	1 D'Arblay Street London W1F 8DG	Public house or pub restaurant	Monday to Thursday; 10:00 - 00:00 Friday to Saturday; 10:00 - 00:30 Sunday; 12:00 - 23:00
13/09249/LIPDPS	The George Public House	1 D'Arblay Street London W1F 8DG	Public house or pub restaurant	Monday to Sunday; 00:00 - 00:00
20/01379/LIPDPS	Pho	163 - 165 Wardour Street London W1F 8WN	Restaurant	Monday to Saturday; 10:00 - 00:30 Sunday; 12:00 - 00:00
10/01916/LIPT	St Moritz	161 Wardour Street London W1F 8WJ	Restaurant	Monday to Sunday; 09:00 - 03:30
20/04508/LIPN	Not Recorded	28 D'Arblay Street London W1F 8EW	Not Recorded	Monday to Saturday; 08:00 - 23:00 Sunday; 10:00 - 23:30
18/06968/LIPT	Conko	72 Berwick Street London W1F 8TD	Restaurant	Monday to Saturday; 10:00 - 00:30 Sunday; 12:00 - 00:00
19/02746/LIPDPS	Chipotle Mexican Grill	183 - 185 Wardour Street London W1F 8ZA	Restaurant	Monday to Saturday; 10:00 - 23:30 Sunday; 11:30 - 23:00
20/00364/LIPDPS	Chipotle Mexican Grill	183 - 185 Wardour Street London W1F 8ZA	Restaurant	Monday to Saturday; 10:00 - 23:30 Sunday; 11:30 - 23:00

16/02387/LIPDPS	The Melt Room	26 Noel Street London W1F 8GY	Restaurant	Monday to Friday; 08:30 - 21:00 Saturday; 11:00 - 21:00 Sunday; 11:00 - 21:00
19/10000/LIPN	Not Recorded	Basement And Ground Floor 27 Noel Street London W1F 8GZ	Cafe	Monday to Thursday; 11:00 - 20:30 Friday; 11:00 - 21:00 Saturday to Sunday; 11:00 - 20:30
14/00062/LIPVM	Blanchette	Basement And Ground Floor 9 D'Arblay Street London W1F 8DR	Cafe	Monday to Saturday; 10:00 - 00:30 Monday to Saturday; 10:00 - 23:30 Sunday; 12:00 - 23:00 Sunday; 12:00 - 00:00
19/04604/LIPN	Not Recorded	77 Berwick Street London W1F 8TH	Restaurant	Monday to Saturday; 10:00 - 00:30 Sunday; 12:00 - 00:00
19/01200/LIPDPS	Maharani Restaurant	77 Berwick Street London W1F 8TH	Restaurant	Monday to Saturday; 10:00 - 00:30 Sunday; 12:00 - 00:00
11/09937/LIPVM	Copita	27 D'Arblay Street London W1F 8EN	Restaurant	Monday to Saturday; 10:00 - 23:30 Sunday; 12:00 - 23:00
18/04208/LIPDPS	Ceru	Ground Floor 10-11 D'Arblay Street London W1F 8DT	Restaurant	Monday to Sunday; 12:00 - 23:30
19/07324/LIPT	Not Recorded	147 - 149 Wardour Street London W1F 8WD	Not Recorded	Monday to Saturday; 07:00 - 00:00 Sunday; 07:30 - 23:00
16/07661/LIPT	Caffe L'Eto	155 Wardour Street London W1F 8WG	Restaurant	Monday to Saturday; 08:00 - 23:00 Sunday; 10:00 - 22:30

08/03322/LIPV	Inamo	136 Wardour Street London W1F 8ZS	Restaurant	Monday to Thursday; 10:00 - 23:30 Friday to Saturday; 10:00 - 00:00 Sunday; 12:00 - 22:30 Sundays before Bank Holidays; 12:00 - 00:00
14/06333/LIPN	Enrique Tomas	132 Wardour Street London W1F 8ZW	Restaurant	Monday to Saturday; 10:00 - 22:30 Sunday; 12:00 - 22:30
20/03659/LIPDPS	WeWork Soho	Medius House 2 Sheraton Street London W1F 8BH	Office	Monday to Sunday; 14:00 - 23:00
19/03056/LIPVM	BRGR	Ground Floor 187 Wardour Street London W1F 8ZB	Restaurant	Monday; 10:00 - 01:30 Tuesday; 10:00 - 01:30 Wednesday; 10:00 - 01:30 Thursday; 10:00 - 01:30 Friday; 10:00 - 01:30 Sunday; 12:00 - 00:00
16/10721/LIPDPS	DUM Biryani House	Basement 187 Wardour Street London W1F 8ZB	Restaurant	Monday to Thursday; 11:00 - 00:00 Friday to Saturday; 11:00 - 00:30 Sunday; 12:00 - 23:00
18/02508/LIPV	Daisy Green	Ground Floor 2 - 4 Noel Street London W1F 8GB	Cafe	Monday to Thursday; 08:00 - 00:00 Friday to Saturday; 08:00 - 00:30 Sunday; 08:00 - 23:00 Sundays before Bank Holidays; 08:00 - 00:30