



City of Westminster

Committee Agenda

Title: **Licensing Sub-Committee (3)**

Meeting Date: **Thursday 19th May, 2016**

Time: **10.00 am**

Venue: **Rooms 5, 6 & 7 - 17th Floor, Westminster City Hall, 64 Victoria Street, London, SW1E 6 QP**

Members: **Councillors:**

Melvyn Caplan (Chairman)
TBC
Rita Begum

Members of the public are welcome to attend the meeting and listen to the discussion Part 1 of the Agenda

Admission to the public gallery is by ticket, issued from the ground floor reception at City Hall from 9.00am. If you have a disability and require any special assistance please contact the Committee Officer (details listed below) in advance of the meeting.



An Induction loop operates to enhance sound for anyone wearing a hearing aid or using a transmitter. If you require any further information, please contact the Committee Officer, Jonathan Deacon.

**Email: jdeacon@westminster.gov.uk Tel: 020 7641 2783
Corporate Website: www.westminster.gov.uk**

Note for Members: Members are reminded that Officer contacts are shown at the end of each report and Members are welcome to raise questions in advance of the meeting. With regard to item 2, guidance on declarations of interests is included in the Code of Governance; if Members and Officers have any particular questions they should contact the Director of Law in advance of the meeting please.

AGENDA

PART 1 (IN PUBLIC)

1. MEMBERSHIP

To report any changes to the membership.

2. DECLARATIONS OF INTEREST

To receive declarations by Members and Officers of any personal or prejudicial interests in matters on this agenda.

Licensing Applications for Determination

1. CHUTNEY MARY, 72-73 ST JAMES'S STREET, SW1

(Pages 1 - 30)

App No	Ward/ Cumulative Impact Area	Site Name and Address	Application	Licensing Reference Number
1.	St James's Ward / not in cumulative impact area	Chutney Mary, 72- 73 St James's Street, SW1	Variation	16/01879/LIPV

2. BASEMENT AND GROUND FLOOR, 115 WESTBOURNE GROVE, W2

(Pages 31 - 50)

App No	Ward/ Cumulative Impact Area	Site Name and Address	Application	Licensing Reference Number
2.	Bayswater / Bayswater & Queenswa y Cumulative Impact Area	Basement And Ground Floor, 115 Westbourn e Grove, W2	New	16/01914/LIPN

**Charlie Parker
Chief Executive
13 May 2016**

In considering applications for premises licences under the Licensing Act 2003, the sub-committee is advised of the following:

POLICY CONSIDERATIONS

The City of Westminster statement of licensing policy applies to all applications where relevant representations have been made. The Licensing Sub-Committee is required to have regard to the City of Westminster statement of Licensing Policy and the guidance issued by the Secretary of state under Section 182 of the Licensing Act 2003.

GUIDANCE CONSIDERATIONS

The Licensing Authority is required to have regard to any guidance issued by the Secretary of State under the Licensing Act 2003.

LIVE MUSIC ACT 2012

The Live Music Act amends the Licensing Act 2003 by:

- removing the licensing requirement for amplified live music taking place between 8am and 11pm before audiences of no more than 200 persons on premises authorised by a premises licence or club premises certificate to supply alcohol for consumption on the premises (at a time when those premises are open for the purposes of being used for the supply of alcohol for consumption on the premises), subject to the right of a licensing authority to impose conditions about live music following a review of a premises licence or club premises certificate
- removing the licensing requirement for amplified live music taking place between 8am and 11pm before audiences of no more than 200 persons in workplaces not otherwise licensed under the 2003 Act (or licensed only for the provision of late night refreshment)
- removing the licensing requirement for unamplified live music taking place between 8am and 11pm in any place, subject to the right of a licensing authority to impose conditions about live music following a review of a premises licence or club premises certificate relating to premises authorised to supply alcohol for consumption on the premises
- removing the licensing requirement for the provision of entertainment facilities
- widens the licensing exemption for live music that is integral to a performance of Morris dancing or dancing of a similar type, so that the exemption applies to both live or recorded music instead of just unamplified live music in that instance.

CORE HOURS WHEN CUSTOMERS ARE PERMITTED TO BE ON THE PREMISES

(As set out in the Council's Statement of Licensing Policy 2011)

- For premises for the supply of alcohol for consumption on the premises:

Friday and Saturday: 10:00 to midnight

Sundays immediately prior to Bank Holidays: Midday to midnight

Other Sundays: Midday to 22:30

Monday to Thursday: 10:00 to 23:30.

- For premises for the supply of alcohol for consumption off the premises:

Monday to Saturday: 08:00 to 23:00

Sundays: 10:00 to 22:30.

- For premises for the provision of other licensable activities:

Friday and Saturday: 09.00 to midnight

Sundays immediately prior to Bank Holidays: 09.00 to midnight

Other Sundays: 09.00 to 22.30

Monday to Thursday: 09.00 to 23.30.

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City of Westminster

Agenda Item 1 Licensing Sub-Committee Report

Item No:	
Date:	19 th May 2016
Licensing Ref No:	16/01879/LIPV - Premises Licence Variation
Title of Report:	Chutney Mary 72-73 St James's Street London SW1A 1PH
Report of:	Director of Public Protection and Licensing
Wards involved:	St James's
Policy context:	City of Westminster Statement of Licensing Policy
Financial summary:	None
Report Author:	Miss Heidi Lawrance Senior Licensing Officer
Contact details	Telephone: 020 7641 2751 Email: hlawrance@westminster.gov.uk

1. Application

1-A Applicant and premises			
Application Type:	Variation of a Premises Licence, Licensing Act 2003		
Application received date:	16 February 2016		
Applicant:	MW Eat Limited		
Premises:	Chutney Mary		
Premises address:	72-73 St James's Street London SW1A 1PH	Ward:	St James's
		Cumulative Impact Area:	No
Premises description:	Contemporary Indian Restaurant with Bar.		
Variation description:	<p>To permit the supply of alcohol for consumption without food on the premises until 20:00 on any day by waiter/waitress service to customers seated in the hatched area, as shown on the plans submitted.</p> <p>This will be to no more than 30 persons in the designated area.</p>		
Premises licence history:	This premises has had a premises licence since December 2005.		
Applicant submissions:			

1-B Current and proposed licensable activities, areas and hours						
Regulated Entertainment						
Recorded Music						
	Current Hours		Proposed Hours		Licensable Area	
	Start:	End:	Start:	End:	Current:	Proposed:
Monday	11:00	00:00	No Change			
Tuesday	11:00	00:00				
Wednesday	11:00	00:00				
Thursday	11:00	00:00				
Friday	11:00	00:00				
Saturday	11:00	00:00				
Sunday	12:00	23:30				
Seasonal variations:	Current: None				Proposed:	
Non-standard timings:	Current: None				Proposed:	

Late night refreshment						
Indoors, outdoors or both			Current :		Proposed:	
			Indoors		Indoors	
	Current Hours		Proposed Hours		Licensable Area	
	Start:	End:	Start:	End:	Current:	Proposed:
Monday	23:00	00:30	No Change			
Tuesday	23:00	00:30				
Wednesday	23:00	00:30				
Thursday	23:00	00:30				
Friday	23:00	01:00				
Saturday	23:00	01:00				
Sunday	23:00	00:00				
Seasonal variations:		Current:			Proposed:	
		None				
Non-standard timings:		Current:			Proposed:	
		None				

Sale by Retail of Alcohol						
On or off sales			Current :		Proposed:	
			On Sales		On Sales	
	Current Hours		Proposed Hours		Licensable Area	
	Start:	End:	Start:	End:	Current:	Proposed:
Monday	11:00	00:00	No Change			
Tuesday	11:00	00:00				
Wednesday	11:00	00:00				
Thursday	11:00	00:00				
Friday	11:00	01:00				
Saturday	11:00	01:00				
Sunday	11:00	23:30				
Seasonal variations:		Current:			Proposed:	
		None				
Non-standard timings:		Current:			Proposed:	
		None				

Hours premises are open to the public						
	Current Hours		Proposed Hours		Premises Area	
	Start:	End:	Start:	End:	Current:	Proposed:
Monday	11:00	00:30	No Change			
Tuesday	11:00	00:30				
Wednesday	11:00	00:30				
Thursday	11:00	00:30				
Friday	11:00	01:30				
Saturday	11:00	01:30				

Sunday	11:00	00:30			
Seasonal variations:	Current:		Proposed:		
	None				
Non-standard timings:	Current:		Proposed:		
	None				

1-C	Layout alteration
None	

1-D		Conditions being varied, added or removed
Condition	Proposed variation	
	<p>Notwithstanding condition 19, alcohol may be supplied to customers without food provided that</p> <ul style="list-style-type: none"> a) Such supply shall on be to persons seated and served by waiter/waitress service b) Such supply shall cease at 20:00 c) Such supply shall be limited to 30 customers to be seated in the area hatched black and shown on plan number 3346/LIC2.22 <p>The availability of alcohol without food shall not be promoted or advertised otherwise than on menus and price lists within the premises.</p>	
Adult entertainment:	Current position:	Proposed position:
	None	None

2. Representations

2-A		Responsible Authorities
Responsible Authority:	Environmental Health	
Representative:	Ms Sally Thomson	
Received:	9 th March 2016	
<u>Licensing Act 2003</u>		
<u>Chutney Mary, 72-73 St James's Street, London, SW1A 1PH</u>		

I refer to the application for variation of a Premises Licence (15/02086/LIPV), issued under the Licensing Act 2003.

The applicant has submitted a ground floor plan, drawing number 3346/LIC2.22 and dated February 2015.

This representation is based on the Operating Schedule and the plan.

The applicant is seeking the following on the **ground floor**:

1. To allow alcohol to be consumed without being ancillary to food until 20.00 hours in a restricted area for up to 30 people. This will be to seated customers only and served by waiter/waitress service.

I wish to make the following representations in relation to the above application:

1. The non ancillary food nature may cause an increase in Public Nuisance in the area.

The granting of the variation Premises Licence as presented would have the likely effect of causing an increase in Public Nuisance in the area.

Should you wish to discuss the matter further please do not hesitate to contact me.

Additional information submitted by EH can be found at Appendix 6.

2-B Other Persons			
Name:		Mr Kenneth Fok	
Address and/or Residents Association:		Flat 16, 73 St James's Street, London, SW1A 1PH	
Status:	Valid	In support or opposed:	Opposed
Received:	11 th March 2016		
<p>I would like to voice my objection to the above-mentioned license variation application. If Chutney Mary were to be allowed to serve alcohol without food in the premise, i will mean attracting a bar crowd rather than dining customers. In effect, it will create a unacceptable noise levels to neighbours, especially residents upstairs throughout the day.</p> <p>May i remind the authorities that:</p> <ol style="list-style-type: none">1) there is been a complains regarding the current noise level that the business generates and allowing to serve alcohol without food will worsen this situation;2) a professional acoustic study and report has been done on behalf of the			

residents of 73 ST. James's Street and it has shown that the business has reach excessive noise levels and it is operating beyond legal limits;

3) to my best knowledge, CM are already selling alcohol in the bar area without being in compliance with the existing condition to sell alcohol without associated meals;

4) there are already complaints from residents with the waste and noise associated with emptying of drink bottles throughout the day and sometime into the night at 11:00- 1am.

I would beg that you take all factors into consideration and i thank you for your time.

Name:		Mr Alistair Bowes	
Address and/or Residents Association:		Flat 29, 73 St James's Street, London	
Status:	Valid	In support or opposed:	Opposed
Received:	11 March 2016		

The occupants of the apartment are experiencing excess noise from the extraction system. The property is regularly filled with strong cooking smells from the restaurant. House guests are consistently disturbed by the restaurant putting out its bins, especially by the empty bottle bins, late at night and then the noise from the waste collection vehicles and operatives in the early hours. We are all very concerned that noise levels from the bar will increase and persist for longer durations of time through the night if the bar only service is granted permission and restaurant is able to vary its licence.

Name:		Miss Sally Dawson	
Address and/or Residents Association:		Flat 20, St James's Street, London	
Status:	Valid	In support of opposed:	Opposed
Received:	14 th March 2016		

I am writing to you as the owner of Flat 20, 73 St James's Street, London SW1A 1PH. It has come to my notice, that Chutney Mary have made an application to Vary the Premises Licence.

I am most concerned that recently that I have experienced excessive noise to do with Chutney Mary.

- Emptying bottles into the dustbins very late at night/early hours of the morning
- Staff going to/from their quarters.

- O Fan noise is extremely loud and continual.
- O Patrons of this establishment leaving late at night with no consideration for local residents.

I believe the management have been contacted, but have chosen to ignore all requests to improve the problems.

The restaurants in the surrounding area have never been a problem, and it is only since Chutney Mary opened that these problems have arisen.

If the application is passed to allow a "bar only" service, the problems will only increase. This could also have an effect on all future applications for "bar only" services, and this will almost certainly "lower the tone" in the area around St James's not to mention disturbing the residents.

I have been advised that the owners of this establishment have broken several laws regarding noise and consequently, and would be extremely grateful if their application could be refused.

I enclose an invoice for alcoholic drinks only, where no food was requested by me or offered by the staff. This also applied to other guests who were drinking in the bar area"

Name:		R Clark	
Address and/or Residents Association		72-73 St James's Street, London, SW1A 1PH	
Status:	Valid	In support or opposed:	Opposed
Received:	11 th March 2016		

I am writing to express my concern and formal objection to the above mentioned application which seeks to vary the current premises licence at Chutney Mary.

As you know, this site is a large restaurant which occupies the entire ground floor and part of the floor immediately above – the rest of the building is a residential block of 28 flats.

I own and occupy flat 14 which is located on the second floor facing over Little St. James's Street. Immediately below my flat is the restaurant staff rooms and office and below that the restaurant itself.

It is regrettable to have to report that since the owners and operators of Chutney Mary took over the site and opened the restaurant, it has been a source of perpetual disturbance and nuisance with excessive and unnecessary levels of noise, including at highly unsociable hours. Unfortunately, and despite the fact that the residents have tried very hard to adopt a friendly and conciliatory spirit of cooperation, the owners and operators have not reciprocated and seem to have little or no regard for the reasonable expectation of the residents.

In support of my objections to the application to vary the premises licence, I would

respectfully draw your attention to the following:

4. The residents and the residents association have conclusive evidence that Chutney Mary is and has for several months been selling alcohol in the substantial bar area notwithstanding that they must be fully aware that their current licence and the conditions attached to it prevent the sale of alcohol unless associated with the sale of meals. It is hard therefore to see that this is anything other than a flagrant and deliberate breach of the licence and conditions imposed by Westminster. It seems to me that if they were now to be granted the variation they seek, this would set a dangerous precedent and merely encourage many others to flout the provisions of their existing licence in the hope that it would make it easier to obtain a variation subsequently.
4. The noise levels and associated activity at the restaurant are already causing severe and continuing problems for all of us living at 73 St. James's Street. Examples include the noisy and continuing throwing of bottles into bins late at night (often between 11.30 and 1am), the slamming of doors including the heavy metal doors at ground level in Little St. James's Street as well as in the kitchen and staff rest areas, excessive fan and air extraction noise and the loading and moving of waste bins at late and anti-social hours.
4. In addition, both staff and customers of Chutney Mary frequently stand in the street to smoke during which time they often have loud and animated mobile telephone conversations or loud conversations with each other. Little St. James's Street is very narrow and all sound is easily transmitted into the residential flats causing residents to be unable to sleep until after the restaurant has been fully closed down (often around 1am). Residents are then woken again when the staff re-enter early in the morning – around 6.30am.

In my view these conditions are already wholly unacceptable and not what one expects from a reasonable and experienced restaurant operator. There are many examples of large restaurants operating in Central London with residential blocks above them which have a good relationship with the residents and respect each others position. However, this is not the case currently despite the several attempts made by the residents to engage in a spirit of cooperation with the operators. There have been previous restaurants on this site which have not caused this level of noise and disturbance to residents.

I have no doubt that if the application is granted; all the problems and unacceptable levels of noise and disturbance will be greatly amplified. In addition, it will change the character of St. James's Street and effectively create a new large bar able to serve alcohol to a substantial number of guests without the requirement of serving food and meals. This is a very material change from the current position and would adversely impact the public and all those who enjoy St. James's and in particular the residents living immediately above the premises. I am sure Westminster had good reason to grant the licence and attach the conditions it did with the current licence and I cannot therefore see any basis for change. Indeed the behaviour and attitude of the applicant creates a much stronger case for refusing this inappropriate application.

For the reasons I have outlined, I very much hope that the Council will refuse the application.

Thank you for your kind attention in taking into account my views.

Name:	Mrs Toni Green		
Address and/or Residents Association:	Flat 26, 73 St James's Street, London		
Status:	Valid	In support or opposed:	Opposed
Received:	11 th March 2016		

I wish to object most strongly for a Drinking License to be issued to above Restaurant whose noise levels are already over 28 per cent legal limit according to Westminster Council. If granted this will be appalling for residents in the area as we already have to put up with so much from this Restaurant without EXTRA noise levels from Drinkers.

Name:	Anna Zamboni Procchio		
Address and/or Residents Association:	73 St James's Street, London, SW1A 1PH		
Status:	Valid	In support or opposed:	Opposed
Received:	12 th March 2016		

I write to you regarding the request from Chutney Mary, 73 St. James's Street SW1A 1PH, London to sell alcohol only.

I have bought a flat in 73 St. James's Street, because I have been fascinated by the beauty and the precious calm of the small street in midst of the very center of St. James's. If there had been a pub, I would never have bought a flat there.

There was instead a very elegant and discrete restaurant, Wheeler's, which within many years of activity, never caused any problems regarding noise or bad smell.

The presence of a pub in this location, would damage the whole street destroying it's peace and tranquillity. Followingly our flats would be less comfortable to live in, causing a considerable loss of value.

Because of the terrible smell, that regularly invades the inner courts adjacent to the Carlton Club and our flats, I am asking myself, if they have the necessary infrastructure to conduct a restaurant:

The noise of the aspirators is excessive and the smell stays in the court overwhelming the apartments by getting into them through the windows. My curtains and carpets are now smelling of fried.

The overall managing of the restaurant is not appropriate to such a peaceful and elegant place. If it became a pub too, it would be like adding alcohol to a fire.

For these reasons I wish Chutney Mary, NOT to become a pub, too. I would also like

that Chutney Mary reduces the voice volumes and bottle noises in midst of the nights, as well as the spread of the smell all over the communal parts and flats.

Name:	Paula Carter		
Address and/or Residents Association	Flat 4, 73 St James's Street, London		
Status:	Valid	In support of opposed:	Opposed
Received:	15 th March 2016		

I am writing to object to the application for variation of licence for the above restaurant.

As a resident of 73 St.James's Street I am aware of the many problems that have arisen since this particular restaurant has been operating, namely very strong odours inside the building as well as my flat and very noisy bottle collection late at night/early morning. Previous restaurants managed to operate without these issues.

This restaurant seems to operate without considering the fact that it is situated below a residential building.

I feel that if a licence is granted to allow the sale of alcohol without a meal it will change fundamentally the clients who come to the restaurant and could encourage unsociable behaviour and would increase waste/bottles.

It might also set a precedent and encourage all restaurants in the St. James's area to apply for this sort of licence which would not be conducive to the civilised behaviour befitting such a special area of Westminster.

I urge you strongly to reject this application.

Name:	Mr Chris Cecil-Wright		
Address and/or Residents Association	Flat 15 , 73 St James's Street , London		
Status:	Valid	In support or opposed:	Opposed
Received:	15 th March 2016		

I understand that at last we are taking action against Chutney Mary restaurant on the ground floor of our building.

I am resident on the 3rd floor in Flat 15. Both bedrooms and the bathroom face the internal well. Unfortunately due to noise and in particular smell, we are unable to open our windows.

In recent months the smell of curry has been so pungent that one can smell it not only behind closed windows but in the common parts as well.

Also, contrary to what we were told, the noise of bottle collection at ungodly hours is a terrible disturbance. It not only wakes one but does so in an alarming way.

I am sure these issues can be sorted out to the satisfaction of the residents of 73St James Street if the owners of Chutney Mary cared about their responsibility.

Name:		73 St James's Street RTM Company Limited	
Address and/or Residents Association		Kingsbury House, 15-17 King Street, London	
Status:	Valid	In support or opposed:	Opposed
Received:	15 th March 2016		

I act on behalf of 73 St James's Street RTM Company Limited and have been made aware that Chutney Mary have applied to have their Licence amended to permit the sale of alcoholic drinks in their bar area without the condition of it being a pre-dinner drink.

Firstly I would stress that they have been offering this facility to customers for several months in direct breach of their existing licence. I undertook to establish this fact on behalf of my Client and attended the restaurant just before Christmas where I was happily served a drink despite advising them that I did not wish to eat. (copy receipt attached). It seems therefore rather disingenuous of them to seek to renegotiate their licence only as they have been caught breaching their existing licence.

Mellersh & Harding have acted for the RTM for over 10 years and have seen a number of restaurants occupy this demise. None of the previous users have caused the problems we are currently experiencing with Chutney Mary.

Since they took over the lease my Clients have been subjected to increased disturbances from noisy extraction system, staff moving furniture etc. in the early hours of the morning, a significant level of external noise from both staff and dinners/drinker, bottles being loaded into bins between the hours of 11.30 pm and 1 am and a large increase in complaints of strong food smells.

We have over the time of their occupation sought to remedy many of these issues with them in a friendly neighbourly fashion. We provided them with an acoustic survey report, produced by Conabeare Acoustic Surveyor, to highlight the issues and have meet a number of times with their senior management to discuss and review the problems. Sadly after an initial positive response things failed to improve and my Clients were left with option other than issuing formal complaints to Westminster. I'm sure your colleagues will confirm receipt of several complaints from the residents in the building over the past several months.

It is our firm belief that should this variation in their licence be permitted it will exacerbate the issue we are currently experiencing with the external noise levels and urge the Authorities to resist attempts to vary the existing agreement and seek to

implement the terms of their existing licence.			
Name:		Mr Andrew Love	
Address and/or Residents Association		The Ritz Club, 150 Piccadilly, London W1J 9BS	
Status:	Valid	In support or opposed:	Opposed
Received:	15 th March 2016		

I write in connection with the above application on behalf of the St James's Conservation Trust which has raised the following concerns:

- The consistent noise levels and associated activity at the restaurant are likely to increase if Chutney Mary is allowed to provide bar-only service legally to customers for the first time. They are in fact already selling alcohol in the bar area without being in compliance with the existing condition to sell alcohol without associated meals.
- Over the past 40 years, the operation of various restaurants in these premises has not caused the type of problems experienced by residents over the past 9 months. That is to say for instance, excess noise levels from staff quarters late at night. Excessive and illegal fan noise and vibration as proven by the Conabeare Acoustics reports. Continuing emptying of bottles into bins between the hours of 1130 and even 0100. When consulted by the RTM management with requests to improve the situation on all counts there has been absolutely no improvement.
- If Chutney Mary is allowed to vary the licence to open as a bar it will open the gates to all restaurants in St James's to have walk-in bars which is not conducive to civilised behaviour to be expected of St James's or other areas of Westminster.

For the above reasons the Trust objects and urges Westminster City Council to take action to prevent damage to the area of St. James's.

Name:		Mr Nicholas Turner	
Address and/or Residents Association		73 St James's Street, London, SW1A 1PH	
Status:	Valid	In support or opposed:	Opposed
Received:	11 th March 2016		

As a resident of 73 St James's Street of 43 years standing, I would like to object to the application by MW Eat Limited to vary the license for Chutney Mary. The management

has continued to break the law since they took over the restaurant in June 2015, by selling alcoholic drinks (without food) in the designated bar area. I attach an invoice for £32.06 for drinks which I purchased without food at 4.25pm on 4th February 2016. There were other people in the bar area who were purchasing alcohol only at the time and none of us were offered food with these drinks. I might add that the other guests did not have a meal during their visit to the premises.

This action is totally in breach of their license and I have concluded that the management do not wish to stay within the law following this violation.

As has already been explained in my objection as Chairman of the RTM Company, 73 St James's Street RTM Company Limited, there have been continuing problems with the management in respect of noise levels from the fans and the foul air exhaust system. The management has been asked on several occasions by Connabeare, the well-known acoustics consultants, to provide evidence that the noise levels are within the law when Conabeare have found them to be consistently circa. 28% above the permitted Westminster legal levels.

The restaurant also creates unreasonable odours which is unacceptable and the filtration system needs to be updated. I might also add that this restaurant is one of four restaurants which have occupied these premises over the past 43 years and the residents of the building have rarely had such problems with Chutney Mary's predecessors.

Finally the noise levels at night between 1130 and 0100 hours where staff are emptying bottles into wheelie bins have been totally unacceptable and the management has constantly ignored requests from residents, including myself, to reduce these noise levels.

I have come to the conclusion that the management of Chutney Mary should not under any circumstances be allowed to vary the existing license and would ask the authorities to bear in mind what the residents of 73 St James's Street have had to endure during the last nine months of occupation. I am certain that the requested variation to the license would only serve to exacerbate what is already an unacceptable and illegal situation.

Name:		Mr Albert Mizrahi	
Address and/or Residents Association		73 St James's Street, London, SW1A 1PH	
Status:	Valid	In support or opposed:	Opposed
Received:	11 th March 2016		

Since the opening of Chutney Mary 9 months ago, we as resident of 73 St. James's Street have had to suffer of excessive noise levels from staff quarters late at night, excessive and illegal fan noise and vibrations, unbearable smells coming from the kitchen, and continuing emptying of bottles into bins as late as 1 o'clock in the morning.

I want also to draw your attention to the fact that there was a fire in their ventilation conduits, which necessitated the evacuation of the building by the fire department at around 10 o'clock at night. The operations of various restaurants in these premises over the past 40 years have never caused the type of problems that we are experiencing, since the opening of Chutney Mary.

Chutney Mary is already selling alcohol in the bar, without being in compliance with the existing conditions to serve alcohol without associated meals. Noise levels are likely to increase if Chutney Mary is allowed to provide bar-only services legally to customers. This licence will also open the flood gates to all restaurants in St. James to have walking bars, which is not conducive to proper behaviour expected of St. James's.

We, therefore, considering the serious nuisances that we have to suffer from Chutney Mary, ask you to reconsider the granting of a bar licence to this restaurant, which can only increase problems for the building and degrade this Westminster area.

We hope that our request will be taken into consideration.

3. Policy & Guidance

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

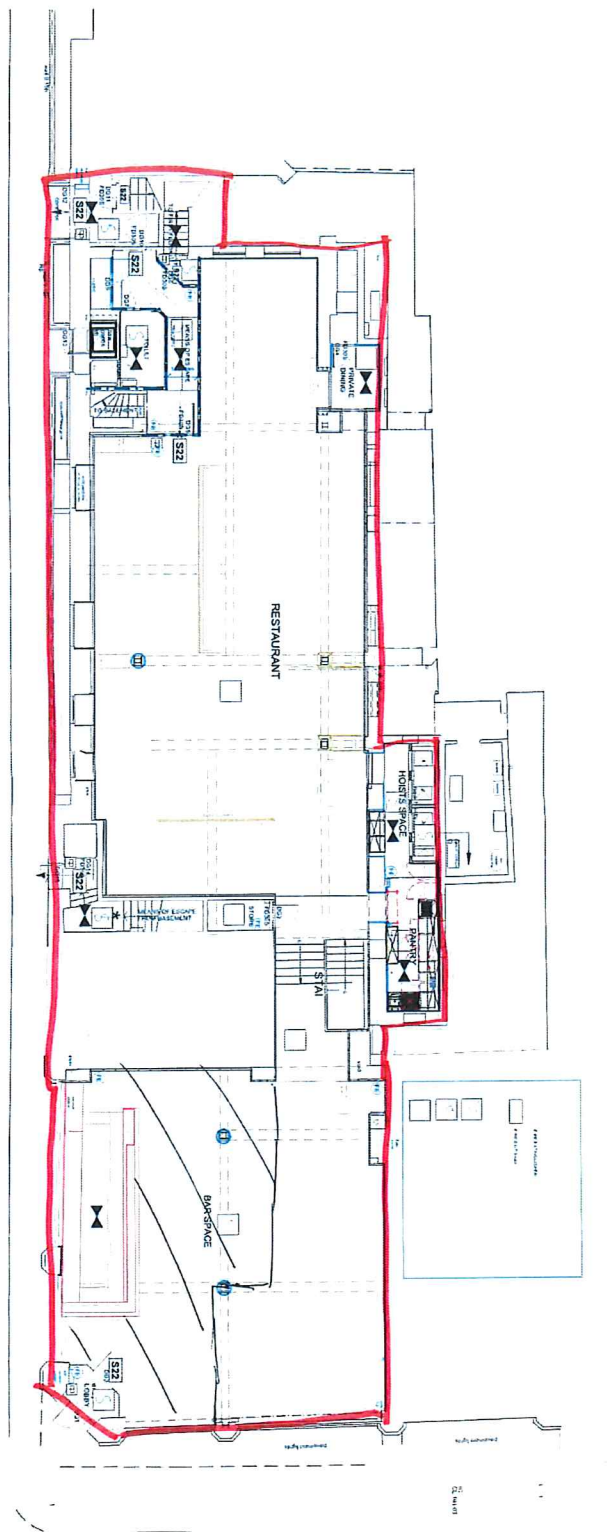
Policy RNT1 applies:	Applications will generally be granted and reviews determined, subject to the relevant criteria in Policies CD1, PS1, PN1 and CH1.
Policy PB1 applies:	Applications will only be granted if it can be demonstrated that the proposal meets the relevant criteria in Policies CD1, PS1, PN1 and CH1.

4. 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
Appendix 6	Additional Information from Environmental Health

Report author:	Miss Heidi Lawrance Senior Licensing Officer
Contact:	Telephone: 020 7641 2751 Email: hlawrance@westminster.gov.uk

of caused p



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PROJECT	
DESIGNER	
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None Supplied

Licence & Appeal History

Application	Details of Application	Date Determined	Decision
05/11360/LIPN	New Premises Licence	20/12/2005	Granted by Licensing Sub Committee
06/09149/WCCMAP	Master Licence	20/12/2006	Granted by Licensing Sub Committee
06/10224/LIPV	<p>Variation of premises Licence:</p> <p>To serve alcohol to members of the public who wish to enter the ground floor entrance bar and stand or sit at the bar and to those who wished to be seated at the tables/booths, so that alcohol may be served by retail without a meal.</p> <p>It is also intended to offer alcohol with a meal in this area and additional light food to bar customers which may not be classified as a meal.</p>	07/12/2006	Refused by Licensing sub Committee
11/10041/LIPDPS	Vary Designated Premises Supervisor	09/11/2011	Granted under Delegated Authority
14/06300/LIPT	Transfer the Premises Licence	04/09/2014	Granted under Delegated Authority
14/06587/LIPDPS	Vary the Designated Premises Supervisor	04/09/2014	Granted under Delegated Authority

15/02086/LIPV	<p>Variation of Premises Licence</p> <p>To approve new layout plans showing:</p> <ol style="list-style-type: none"> 1. Creation of 2 new private rooms in the basement 2. Rearrangement of basement toilet facilities 3. Relocation of bar counter in entrance lobby area 4. New fixed seating in main restaurant space. <p>Permit start time of 11.00 for service of alcohol on Sundays. Permit finish time of 01.00 for service of alcohol and late night refreshment on Fridays and Saturdays.</p>	29/05/2015	Granted under Delegated Authority
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There is no appeal history

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 appropriate for the promotion of the licensing objectives.

This schedule lists those conditions which are consistent with the operating schedule, or proposed as appropriate for the promotion of the licensing objectives by a responsible authority or an interested party as indicated. These conditions have not been submitted by the licensing service but reflect the positions of the applicant, responsible authority or interested party and have not necessarily been agreed

Conditions: On Current Licence -

Mandatory:

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.

Annex 2 – Conditions consistent with the operating Schedule

9. No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
10. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
11. The number of persons permitted in the premises at any one time (excluding staff) shall not exceed: Overall capacity 150 persons
- o Basement Private Room 1 (to be confirmed by Licensing District Surveyor)
 - o Basement Private room 2 (to be confirmed by Licensing District Surveyor)
12. 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.
13. No waste or recyclable materials, including bottles, shall be moved, removed or placed in outside area between 23:00 hours and 07:00 hours the following day.
14. A 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.
15. No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
16. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.

The number of persons permitted in the premises at any one time (excluding staff) shall not exceed: Overall capacity 150 persons
Basement Private Room 1 - 40
Basement Private room 2 - 20

17. 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.
18. No waste or recyclable materials, including bottles, shall be moved, removed or placed in outside area between 23:00 hours and 08:00 hours the following day.
19. 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.
 - o Notwithstanding this condition customers are permitted to take from the premises part consumed and resealed bottles of wine supplied ancillary to their meal.

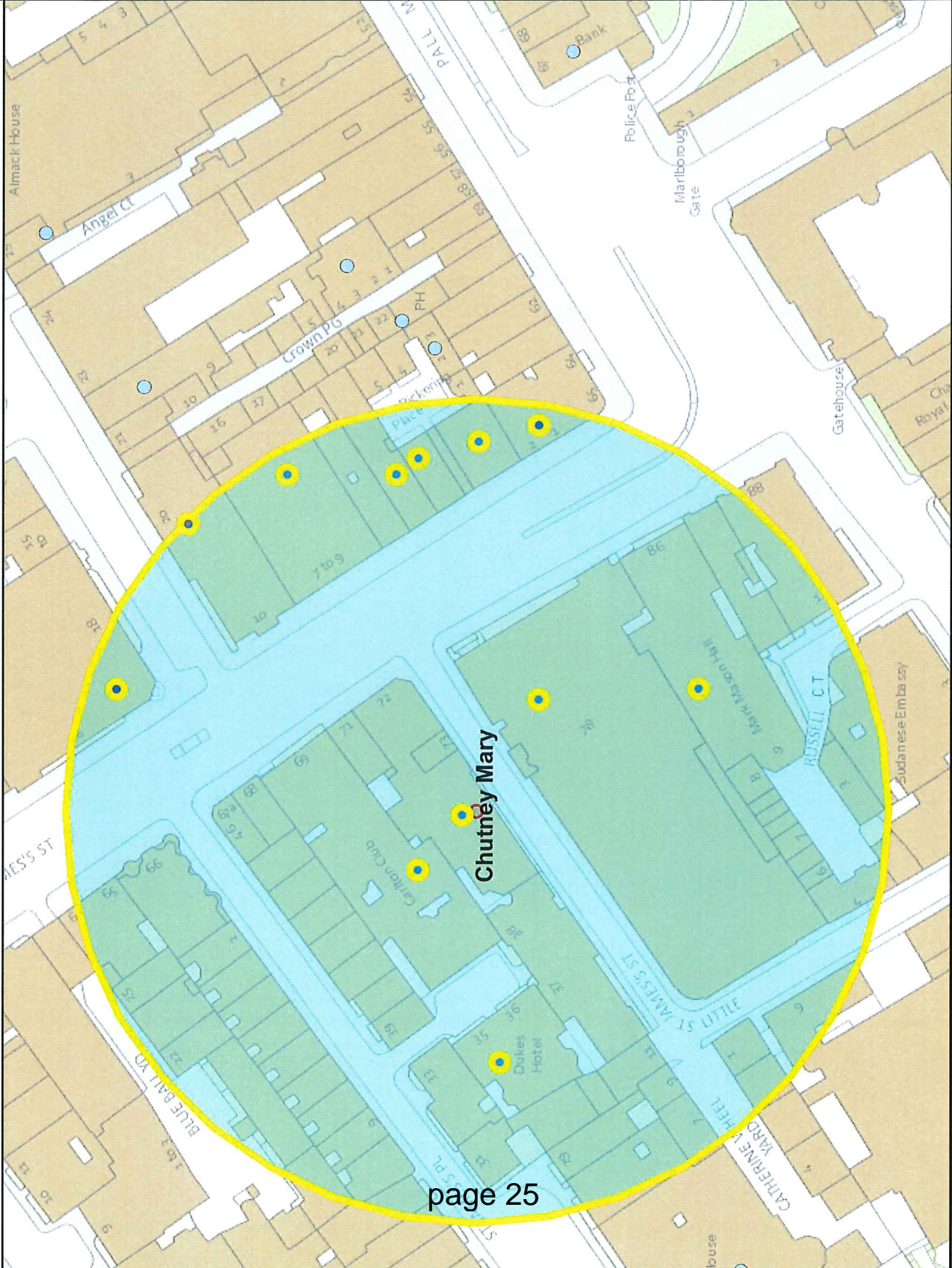
Proposed condition by applicant:

20. *Notwithstanding condition 19, alcohol may be supplied to customers without food provided that*
 - a) *Such supply shall on be to persons seated and served by waiter/waitress service*
 - b) *Such supply shall cease at 20:00*
 - c) *Such supply shall be limited to 30 customers to be seated in the area hatched black and shown on plan number 3346/LIC2.22*

The availability of alcohol without food shall not be promoted or advertised otherwise than on menus and price lists within the premises.

Annex 3 – Conditions attached after a hearing by the licensing authority

21. The premises will maintain a comprehensive CCTV system that ensures all areas of the licensed premises are monitored including all entry and exit points, and the street environment and which enable frontal identification in any light condition. All cameras shall continually record whilst the premises are open to the public and the video recordings shall be kept available for a minimum of 31 days with time and date stamping. Tape recordings shall be made available to an authorised officer or a police officer with facilities for viewing. The recordings for the preceding two days shall be made available immediately on request. Recordings outside this period shall be made available on 24 hours notice. (Subject to the Data Protection Act 1998).
22. The supply of alcohol shall be ancillary to meals.
23. Suitable beverages other than alcohol (including drinking water) shall be available during the permitted hours.
24. All external doors shall be kept closed after 21:00 except for immediate access and egress.
25. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
26. The capacity limit is set to 200 people.



Appendix 5

Residential / Proposed Residential	88
Under Construction	
Other Uses	
Proportion Residential of all Uses	

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Data Source: Uniform Database
Date: 03/05/2016

Licensing Premises within 75m radius of Chutney Mary, 72-73 St James's Street, SW1A 1PH

P/N	Name of Premises	Premises Address	Licensed Hours
10675	Mark Masons' Hall	86 St James's Street London SW1A 1PL	Monday to Saturday 10:00 - 23:30 Sunday 12:00 - 23:00
-29242	Dunhill Tobacco Of London	1A St James's Street London SW1A 1EF	Saturday 10:00 - 17:00 Monday to Wednesday 10:00 - 18:00 Friday 10:00 - 18:00 Thursday 10:00 - 21:00
-22959	Okku	12 St James's Street London SW1A 1EF	Monday to Wednesday 07:30 - 01:30 Thursday to Friday 07:30 - 02:00 Sunday 10:00 - 00:30 Saturday 10:00 - 02:00
-18463	Chutney Mary	72-73 St James's Street London SW1A 1PH	Sunday to Thursday 11:00 - 00:30 Friday to Saturday 11:00 - 01:30
-690	Just St. James	12 St James's Street London SW1A 1EF	Sunday 09:00 - 01:00 Monday to Saturday 09:00 - 01:30 Monday to Saturday 10:00 - 00:30 Sunday 12:00 - 00:00
21096	Avenue Restaurant And Bar	Basement Floor And Ground Floor Byron House 7 - 9 St James's Street London SW1A 1EE	Monday to Saturday 10:00 - 01:30 Sunday 12:00 - 00:00
-28209	BB & R Limited	4 St James's Street London SW1A 1EF	Monday to Saturday 10:00 - 23:30 Sunday 12:00 - 23:00
-11354	Sussex Cellars	2 St James's Street London SW1A 1EF	Monday to Saturday 10:00 - 23:30 Sunday 12:00 - 23:00
-8223	Berry Bros & Rudd - Wine Shop	3 St James's Street London SW1A 1EG	Monday to Saturday 10:00 - 23:30 Sunday 12:00 - 23:00
-4603	Boulestin	Basement And Ground Floor And First To Second Floor Rear 5 St James's Street London SW1A 1EF	Monday to Sunday 09:00 - 01:30

-1009	Davy's At St James's	20 King Street St James's London SW1Y 6QY	Monday to Saturday 10:00 - 23:30 Sunday 12:00 - 22:30
5106	Davy's At St James's	20 King Street St James's London SW1Y 6QY	Monday to Saturday 07:30 - 02:30 Sunday 12:00 - 23:00
11757	Carlton Club	69-70 St James's Street London SW1A 1PJ	Monday to Sunday 07:00 - 01:00
18305	Dukes Hotel	35-36 St James's Place London SW1A 1NY	Monday to Saturday 00:00 - 00:00 Monday to Saturday 10:00 - 23:30 Sunday 12:00 - 23:00
18342	HSBC	78 St James's Street London SW1A 1JB	Monday to Sunday 00:00 - 00:00

Appendix 6

History of complaints and actions

16/01879/LIPV - Chutney Mary, 72-72 St James's St

Date/time	Type of complaint	Action
02/06/14 11.43	Building noise	Discussed quiet periods with contractor.
11/11/14 12.55	Drilling noise	Customer decided to speak directly to contractor after learning of permitted times.
03/7/15 14.20	Odour	Anonymous – unable to investigate
13/10/15	Early morning bottle collections	Anonymous complaint. Noise team spoke to the manager of the premises confirmed this is picked up by WCC at 7am.
21/12/15 14.44	Resident representative called regarding plant noise	Advised will need to call when it is a problem so a visit can be made.
22/12/15	Follow up to noise complaint: Moving rubbish, staff outside talking, moving of furniture and plant noise	Licensing inspector met with manager and resident representative to discuss complaint and solutions.
13/01/16 06.00	Bottle noise	Confirmation from WCC tracking system that waste collected at 07.15.
14/01/16 23.52	Moving bottles	No call back requested – drive by at 01.10 not witnessed.
12/02/16	Complaint that premises was selling alcohol without food (breach of condition) and noise complaints.	Test purchase took place alcohol sold without food. Premises monitored.
16/02/16 15.33	Odour	Investigations ongoing. Not yet witnessed after visiting.
16/02/16 22.56	Noise about rubbish movement	No call back requested. Drive by at 00.08 – premises closed.
07/3/16	Acoustic report instigated by residents.	Reviewed by Noise Team, plant likely to cause an impact, however will need to witness when it is a problem.

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	March 2015
4	Application form	16/02/2016
5	EH Representation	09/03/2016
6	Representation – Sally Dawson	14/03/2016
7	Representation – R Clark	11/03/2016
8	Representation - Toni Green	11/03/2016
9	Representation – Anna Procchio	12/03/2016
10	Representation – Paula Carter	15/03/2016
11	Representation – Chris Cecil-Wright	15/03/2016
12	Representation – 73 St James Street RMT Company	15/03/2016
13	Representation – A Mizrahi	11/03/2016
14	Representation – Kenneth Fok	11/03/2016
15	Representation – Alistair Bowes	11/03/2016
16	Representation – St James Conservation Trust (Andrew Love)	15/03/2016
17	Representation – Nicholas Turner	11/03/2016

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Item No:	
Date:	19 May 2016
Licensing Ref No:	16/01914/LIPN - New Premises Licence
Title of Report:	Basement And Ground Floor 115 Westbourne Grove London W2 4UP
Report of:	Director of Public Protection and Licensing
Wards involved:	Bayswater
Policy context:	City of Westminster Statement of Licensing Policy
Financial summary:	None
Report Author:	Mr Ola Owojori Senior Licensing Officer
Contact details	Telephone: 020 7641 7830 Email: owojori@westminster.gov.uk

1. Application

1-A Applicant and premises			
Application Type:	New Premises Licence, Licensing Act 2003		
Application received date:	17 February 2016		
Applicant:	Cuisine Collection Limited		
Premises:	Restaurant		
Premises address:	Basement And Ground Floor 115 Westbourne Grove London W2 4UP	Ward:	Bayswater
		Cumulative Impact Area:	Bayswater / Queensway
Premises description:	The premises are described as a restaurant on the ground and basement floors.		
Premises licence history:	<p>The premises were previously licensed until 1 July 2015 when the licence holder (Pure Taste Restaurant Limited) went into liquidation and the licence lapsed.</p> <p>The following licensable activities were permitted by the lapsed licence.</p> <p>Late Night Refreshment - Monday to Sunday: 23:00 to 00:00 Sale by Retail of Alcohol - Monday to Saturday: 10:00 to 00:00, Sunday:12:00 to 23:30 Opening Hours - Monday to Sunday:10:00 to 01:00</p>		
Applicant submissions:	See Appendix 2		

1-B Proposed licensable activities and hours							
Recorded Music:				Indoors, outdoors or both			Indoors
Day:	Mon	Tues	Wed	Thur	Fri	Sat	Sun
Start:	10:00	10:00	10:00	10:00	10:00	10:00	12:00
End:	01:00	01:00	01:00	01:00	01:00	01:00	23:30
Seasonal variations:			From opening on New Year's Eve until 01:00 on 2nd January				
Non-standard timings:			Not applicable				

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:	00:00	00:00	00:00	00:00	00:00	00:00	23:30
Seasonal variations:			From opening on New Year's Eve until 23:59 on New				

	Year's Day
Non-standard timings:	Not applicable

Hours premises are open to the public							
Day:	Mon	Tues	Wed	Thur	Fri	Sat	Sun
Start:	10:00	10:00	10:00	10:00	10:00	10:00	10:00
End:	01:00	01:00	01:00	01:00	01:00	01:00	01:00
Seasonal variations:	Not applicable						
Non-standard timings:	Not applicable						
Adult Entertainment:	Not applicable						

2. Representations

2-A Responsible Authorities	
Responsible Authority:	Environmental Health Consultation Team
Representative:	Dave Nevitt
Received:	15 March 2016
<p>I refer to the above application which seeks a Premises Licence to include the following Licensable activities:</p> <p>Regulated Entertainment <i>Recorded Music</i> 1000hrs-0100hrs Monday to Saturday, and 1200hrs-2330hrs on Sunday;</p> <p>The Supply of Alcohol 'On' and 'Off' the premises 1000hrs-0000hrs Monday to Saturday, and 1200hrs-2330hrs on Sunday.</p> <p>The applicant has proposed conditions which are under consideration.</p> <p><u>The applicant also seeks Non-Standard Timings:</u></p> <p>(i) In relation to Regulated Entertainment: <i>'New Years Eve: from opening until 01:00 on 2nd January'</i>;</p> <p>(ii) In relation to the Sale/Supply of Alcohol: <i>'New Years Eve: opening until 23:59 on New Year's Day'</i>.</p> <p>I wish to make Representations on the following grounds:</p> <p>Representation is made in relation to the application, as the proposals are likely to increase Public Nuisance and may impact upon Public Safety.</p>	

The premises is located in the Queensway/Bayswater Cumulative Impact Area.

What is sought is in excess of the 'core hours' as set out in the City Council's Statement of Licensing Policy. The matter will therefore need to be adjudicated at a Hearing of the Licensing Sub Committee.

Should you wish to discuss the matter further please do not hesitate to contact me.

Responsible Authority:	Metropolitan Police
Representative:	Michael Day
Received:	16 March 2016

With reference to the above application, I am writing to inform you that the Metropolitan Police, as a responsible authority, will be making a representation. It is our belief that if granted the application would undermine the Licensing Objectives.

The venue is situated within the **Queensway Cumulative Impact Area**, a locality where this is traditionally high crime and disorder. There are concerns that this application will cause further policing problems in an already demanding area and add to the cumulative impact.

I look forward to hearing from you.

Regards,

Mike

Michael Day PC 1630 CW
Westminster Police Licensing Team

Dear Michael

Thank you for your email.

I understand the reason for your objection and in particular that the premises is in a cumulative impact area.

As you may be aware, however, the premises has had a premises licence for a number of years. The licence has simply lapsed as its previous owner, Pure Taste Limited became insolvent, and the administrator did not take the necessary steps to protect the licence.

My client is proposing to purchase the lease of the premises and continue its use as a restaurant. Accordingly the premises licence has been applied on the basis of the operating schedule and restrictions set out in the previous licence. My client is not seeking to extend the scope of the licence or the licensed hours beyond what was

permitted under the earlier licence.

Please do let me know if, having considered the above, you would be prepared to withdraw your objection. Alternatively I am happy to have a call with you to discuss any particular concerns that you may have, and how my client may be able to accommodate these.

I look forward to hearing from you.

Kind regards

Ben

Ben Harris

Good Afternoon Ben,

With reference to the above application I understand the owner/tenants need to operate as a restaurant as before so I would like to suggest the following model conditions be considered before we can look to withdraw our representation:

- MC01 - CCTV
- MC02 - CCTV
- MC47 Challenge 21/25
- MC49 INCIDENT LOG
- MC66 RESTAURANT

I look forward to your prompt response.

Regards,

Mike

2-B Other Persons			
Name:		Miss Elinor Pitt	
Address and/or Residents Association:		Flat 1, 115 Westbourne grove London W2 4UP	
Status:	Resident	In support or opposed:	Opposed
Received:	22 February 2016		
Delighted that there is a new business opening up. I live directly above the property and my only cause for concern is any music being played until 1am on a weekday. Can you confirm that this won't be heard from my flat upstairs?			
Best wishes			
Elinor Pitt			
Ps less concerned about the music levels on weekends			

Name:	Mr Gary Bitton		
Address and/or Residents Association:	115 Westbourne Grove Flat 4 London W2 4UP		
Status:		In support or opposed:	
Received:	22 February 2016		

The aeration chimney blows out bad odour through our back windows it needs to be moved and the wall it s against needs to be cleaned before it s being used again

Name:	South East Bayswater Residents' Association		
Address and/or Residents Association:	2 Claremont Court Queensway LONDON W2 5HX		
Status:	Residents' Association	In support or opposed:	Opposed
Received:	16 March 2016		

The application amounts to a significant increase in the terminal hour for the sale of alcohol, and the addition of the licensable activity of 'recorded music' passed 23.00 with no Late Night Refreshment. Although the application has a proposed condition 'The supply of alcohol shall only be to persons taking table meals there and consumption by such a person as ancillary to their meal' - I would question how the applicant can comply with this condition if there is no permission for Late Night Refreshment on the new licence.

Prevention of public nuisance

Ordinarily, we would request that the application, if granted, be limited to 'core hours', in accordance with the Council's Policy HRS1. The premises is located in a designated area of cumulative impact. A terminal hour of 1am is likely to add to public nuisance in the area due to customers leaving late at night, after the tubes have closed and after regular buses have stopped and the night bus service has begun, which is much less frequent.

However, in this case we request that the terminal hour for sale of alcohol is limited to 11pm (10.30pm Sun), because there has been no application for 'late night refreshment'. We do not see how the premises intends to comply with the condition that alcohol is ancillary to table meals after 11pm if they cannot serve hot food. We trust that the intention is not to turn the premises in to a bar.

Dispersal of customers away from the premises swiftly and quietly is key to the 'core hours' policy, and key to residents being able to sleep properly without being disturbed by customers of licensed premises late at night. A 1am terminal hour would go against both of these aims.

We would question why the applicant wishes to remain open to the public for one hour after the last sale of alcohol (one and a half hours extra on Sundays).

Should a licence be granted, we have a number of comments on the proposed conditions:

- A proposed condition states that 'Background music may be played on the premises

and shall be ancillary to supply of alcohol and provision of late night refreshment.' If the music is to be background only, we question the need for recorded music as a licensable activity, particularly as it is not on the previous licence.

The proposed condition 'No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance' should be replaced with the amended wording in the new Model Condition 12.

The proposed condition 'No rubbish including bottles, shall be moved, removed or placed in outside areas between midnight and 0800 hours' should be amended to Model Condition 35, and the timings amended to more reasonable hours, to protect nearby local residents.

The proposed condition that 'The supply of alcohol shall only be to persons taking table meals there and consumption by such a person as ancillary to their meal' should be replaced by Model Condition 66, to ensure waiter/ess service, persons seated etc.

The proposed condition 'All off sales shall be in sealed containers and ancillary to takeaway and delivery food' should be amended so there is no off sales after 11pm Mon-Sat, 10.30pm Sun (MC16).

In addition, we request that the following conditions from the Council's Model Conditions are added:

- MC 43 (collections of waste etc)
- MC 65 (deliveries)
- MC 29 (no 'super strength' alcohol)
- MC21 (notices reminding customers to leave quietly)
- MC57 (no drinking outside)

'On Sunday and Monday of the Notting Hill Carnival the manager of the premises will risk assess any concerns regarding the sale of alcohol and will act on any instructions that may be given by the metropolitan police in that regard.

I would be more than happy to discuss the application directly with the applicant prior to a hearing

Name:		Queensway Residents' Association	
Address and/or Residents Association:		142A Queensway London W2 6LS	
Status:	Residents Association	In support or opposed:	Opposed
Received:	16 March 2016		

We have had the opportunity to view the content of the applicant's proposals and to discuss same.

In order to avoid repetition we confirm that we fully concur with the comments contained within 'SEBRA's' response included and await your further advice accordingly.

3. Policy & Guidance

The following policies within the City Of Westminster Statement of Licensing Policy apply:	
Policy CIP 1 applies	(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. (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.
Policy HRS1 applies:	(i) Applications for hours within the core hours set out below in this policy will generally be granted, subject to not being contrary to other policies in the Statement of Licensing Policy. (ii) Applications for hours outside the core hours set out below in this policy will be considered on their merits, subject to other relevant policies.
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. 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

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The history of the premises when licensed until 1 July 2015

Application	Details of Application	Date Determined	Decision
New application	Application for a new premises licence	20.12.2005	Granted by Licensing Sub-Committee
Transfer	Application to transfer from Mr Waliur Rahman to Detapas Restaurants Ltd	7.4.2008	Granted under delegated authority
Variation application	Application to alter the layout of the premises and to remove condition stating that "Persons under the age of 18 shall not be allowed into the basement of the premises"	6.11.2008	Granted by Licensing Sub-Committee
Transfer	Application to transfer from Detapas Restaurants Ltd to Pure Taste Restaurant Limited	4.12.2014	Granted under delegated authority Lapsed 1 July 2015

There is no appeal history

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 supply of alcohol shall only be to persons taking table meals there and consumption by such a person as ancillary to their meal.

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.

Alternative proposed by the Police

10. Suitable beverages other than alcohol (including drinking water) shall be equally available during the permitted hours.
11. All off sales shall be in sealed containers and ancillary to takeaway and delivery food.

There shall be no sales of alcohol for consumption off the premises after (23.00).

Alternative proposed by Residents Association

12. The premises licence holder, or nominees thereof, will conduct meetings where necessary with local residents and residents association to address any concerns arising from the operation of the premises.
13. The premises will maintain a comprehensive CCTV system that ensures all areas of the licensed premises are monitored and which enables frontal identification of every person entering in any light condition. All cameras shall continually record whilst the premises are open to the public and the video recordings shall be kept available for a minimum of 31 days with time and date stamping. Tape recordings shall be made available to an authorised officer or a police officer together with facilities for viewing. The recordings for the preceding two days shall be made available immediately on request.

Recordings outside this period shall be made available on 24 hours notice. (Subject to the Data Protection Act 1998)".

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.

*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. **Alternative proposed by the Police***

14. The maximum number of persons (excluding staff) permitted in the basement is 30.
15. Background music may be played on the premises and shall be ancillary to supply of alcohol and provision of late night refreshment.
16. No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.

*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. **Alternative proposed by Residents Association***

17. All waste shall be properly presented and placed out for collection no earlier than 30 minute before the scheduled collection times.

*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. **Alternative proposed by Residents Association***

18. No rubbish including bottles, shall be moved, removed or placed in outside areas between midnight and 0800 hours.

No deliveries to the premises shall take place between (23.00) and (08.00) on the following day.

*No collections of waste or recycling materials (including bottles) from the premises shall take place between (23.00) and (08.00) on the following day. **Alternatives proposed by Residents Association***

19. Persons who appear to be under the age of 18 shall be asked to provide acceptable photographic identification.

Conditions proposed by the Police

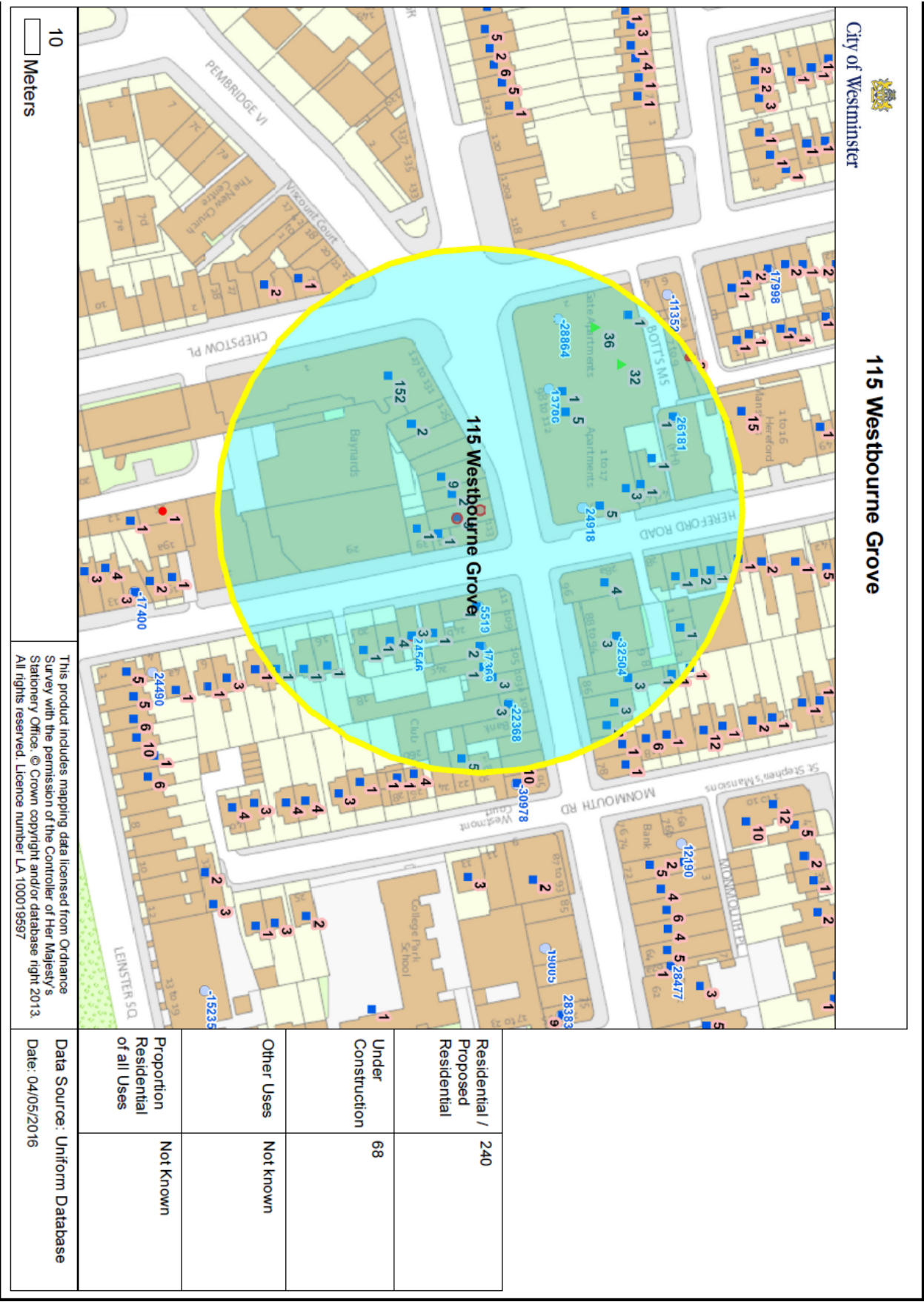
20. An incident log shall be kept at the premises, and made available on request to an authorised officer of the City Council or the Police. It must be completed within 24 hours of the incident and will record the following:
 - (a) all crimes reported to the venue
 - (b) all ejections of patrons

- (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.

21. 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.

Conditions proposed by Residents Association

22. 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.
23. No super-strength beer, lagers, ciders or spirit mixtures of 5.5% ABV (alcohol by volume) or above shall be sold at the premises, except for premium beers and ciders supplied in glass bottles.
24. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
25. On Sunday and Monday of the Notting Hill Carnival the manager of the premises will risk assess any concerns regarding the sale of alcohol and will act on any instructions that may be given by the metropolitan police in that regard.



City of Westminster

115 Westbourne Grove

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Residential / Proposed Residential	240
Under Construction	68
Other Uses	Not known
Proportion Residential of all Uses	Not Known
Data Source: Uniform Database	
Date: 04/05/2016	

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	March 2015
4	Elinor Pitt Representation	22.2.16
5	Gary Bitton Representation	22.2.16
6	Environmental Health representation	15.3.16
7	SEBRA representation	16.3.16
8	QRA representation	16.3.16
9	Police representation and conditions	23.3.16
10	Hearing Notifications	5.4.16
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