



City of Westminster

# Licensing Sub-Committee Report

Item No:	
Date:	19 <sup>th</sup> 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			
<b>Application Type:</b>	Variation of a Premises Licence, Licensing Act 2003		
<b>Application received date:</b>	16 February 2016		
<b>Applicant:</b>	MW Eat Limited		
<b>Premises:</b>	Chutney Mary		
<b>Premises address:</b>	72-73 St James's Street London SW1A 1PH	<b>Ward:</b>	St James's
		<b>Cumulative Impact Area:</b>	No
<b>Premises description:</b>	Contemporary Indian Restaurant with Bar.		
<b>Variation description:</b>	<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>		
<b>Premises licence history:</b>	This premises has had a premises licence since December 2005.		
<b>Applicant submissions:</b>			

1-B Current and proposed licensable activities, areas and hours						
<b>Regulated Entertainment</b>						
<b>Recorded Music</b>						
	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				
<b>Seasonal variations:</b>	<b>Current:</b> None				<b>Proposed:</b>	
<b>Non-standard timings:</b>	<b>Current:</b> None				<b>Proposed:</b>	



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: None				Proposed:	
Non-standard timings:	Current: None				Proposed:	

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: None				Proposed:	
Non-standard timings:	Current: None				Proposed:	

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				

<b>Sunday</b>	11:00	00:30			
<b>Seasonal variations:</b>	<b>Current:</b>		<b>Proposed:</b>		
	None				
<b>Non-standard timings:</b>	<b>Current:</b>		<b>Proposed:</b>		
	None				

<b>1-C</b>	<b>Layout alteration</b>
None	

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

## 2. Representations

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



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			
<b>Name:</b>		Mr Kenneth Fok	
<b>Address and/or Residents Association:</b>		Flat 16, 73 St James's Street, London, SW1A 1PH	
<b>Status:</b>	Valid	<b>In support or opposed:</b>	Opposed
<b>Received:</b>	11 <sup>th</sup> 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"><li>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;</li><li>2) a professional acoustic study and report has been done on behalf of the</li></ol>			

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.

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

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

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

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

<b>Name:</b>	Anna Zamboni Procchio		
<b>Address and/or Residents Association:</b>	73 St James's Street, London, SW1A 1PH		
<b>Status:</b>	Valid	<b>In support or opposed:</b>	Opposed
<b>Received:</b>	12 <sup>th</sup> 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 its 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.

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

<b>Name:</b>	Mr Chris Cecil-Wright		
<b>Address and/or Residents Association</b>	Flat 15 , 73 St James's Street , London		
<b>Status:</b>	Valid	<b>In support or opposed:</b>	Opposed
<b>Received:</b>	15 <sup>th</sup> 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 3<sup>rd</sup> 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.

<b>Name:</b>	73 St James's Street RTM Company Limited		
<b>Address and/or Residents Association</b>	Kingsbury House, 15-17 King Street, London		
<b>Status:</b>	Valid	<b>In support or opposed:</b>	Opposed
<b>Received:</b>	15 <sup>th</sup> 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.			
<b>Name:</b>		<b>Mr Andrew Love</b>	
<b>Address and/or Residents Association</b>		<b>The Ritz Club, 150 Piccadilly, London W1J 9BS</b>	
<b>Status:</b>	Valid	<b>In support or opposed:</b>	Opposed
<b>Received:</b>	15 <sup>th</sup> 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.

<b>Name:</b>		<b>Mr Nicholas Turner</b>	
<b>Address and/or Residents Association</b>		<b>73 St James's Street, London, SW1A 1PH</b>	
<b>Status:</b>	Valid	<b>In support or opposed:</b>	Opposed
<b>Received:</b>	11 <sup>th</sup> 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 4<sup>th</sup> 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.

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

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

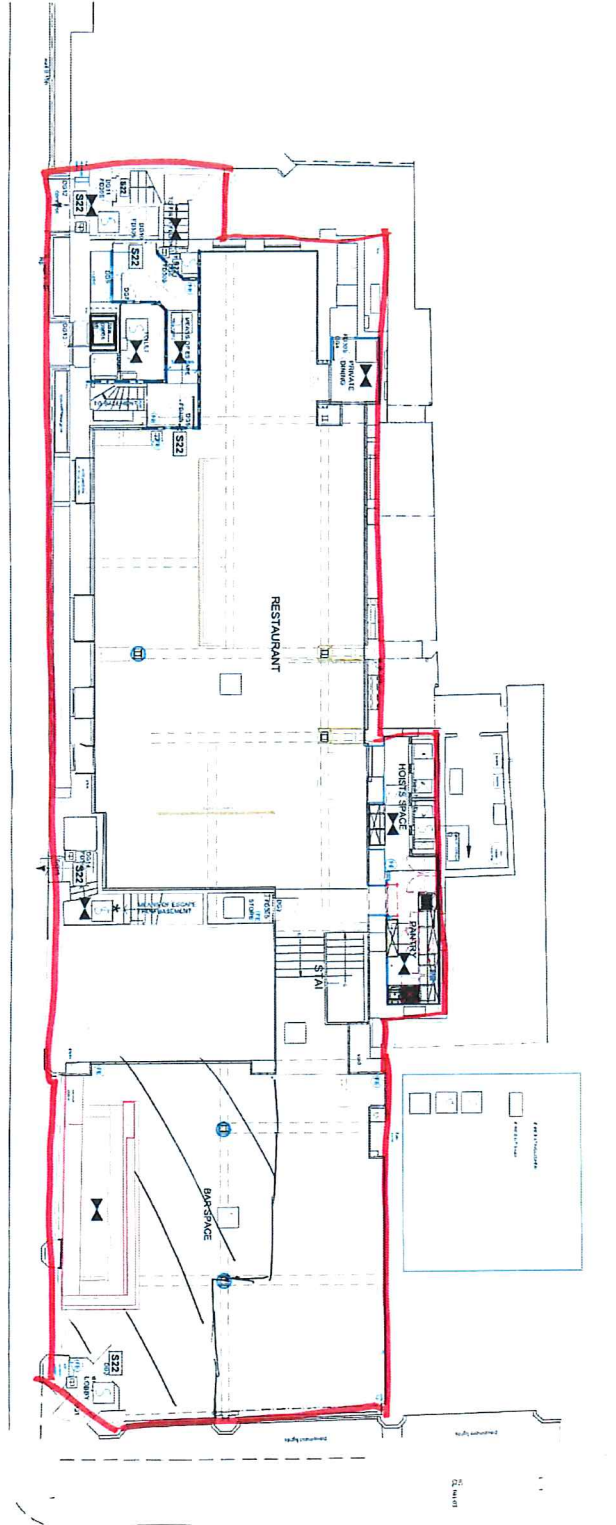
### 4. Appendices

<b>Appendix 1</b>	Premises plans
<b>Appendix 2</b>	Applicant supporting documents
<b>Appendix 3</b>	Premises history
<b>Appendix 4</b>	Proposed conditions
<b>Appendix 5</b>	Residential map and list of premises in the vicinity
<b>Appendix 6</b>	Additional Information from Environmental Health

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



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None Supplied



Appendix 3

**Licence & Appeal History**

<b>Application</b>	<b>Details of Application</b>	<b>Date Determined</b>	<b>Decision</b>
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"> <li>1. Creation of 2 new private rooms in the basement</li> <li>2. Rearrangement of basement toilet facilities</li> <li>3. Relocation of bar counter in entrance lobby area</li> <li>4. New fixed seating in main restaurant space.</li> </ol> <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:**

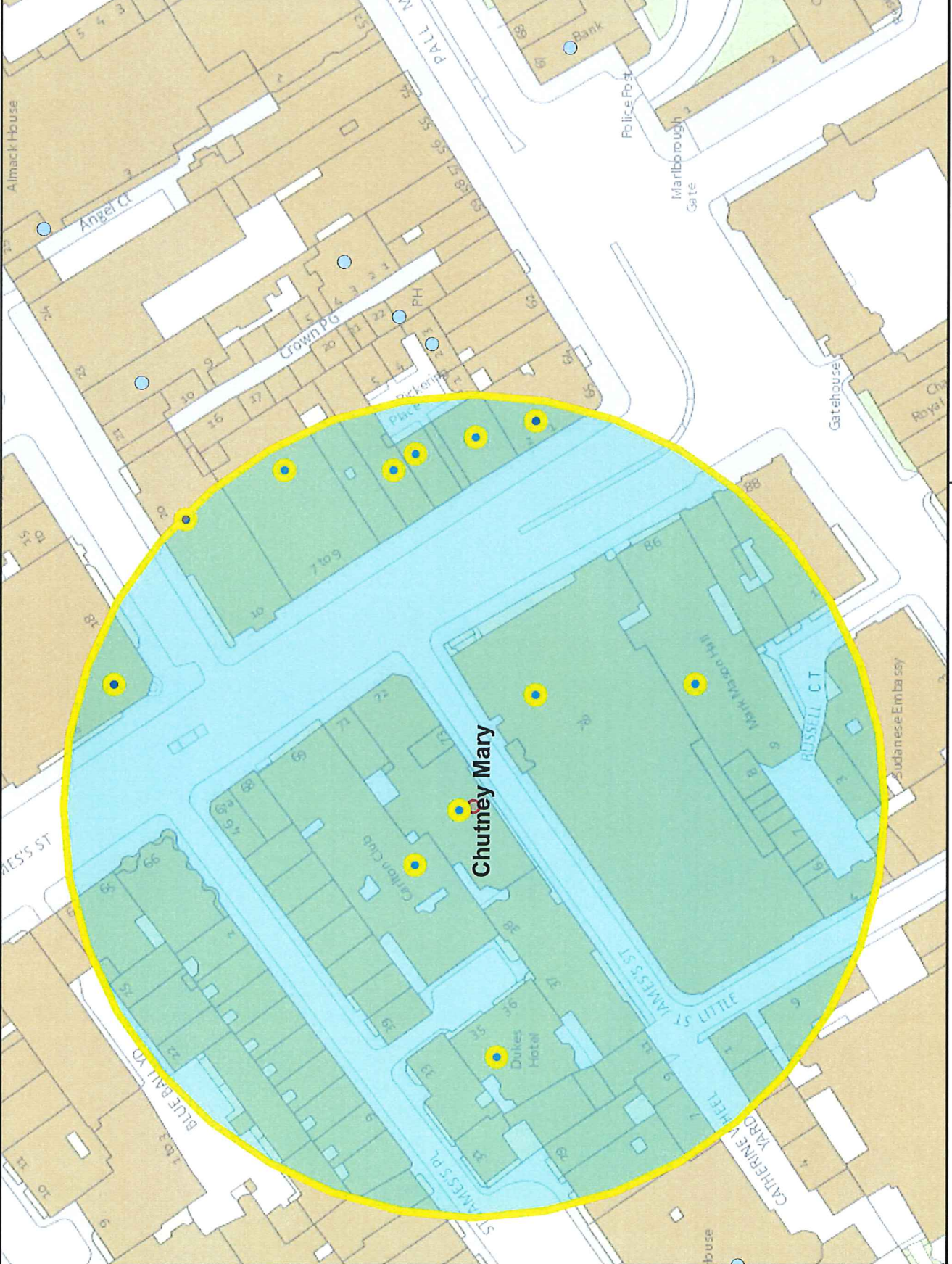
20. *Notwithstanding condition 19, alcohol may be supplied to customers without food provided that*
  - a) *Such supply shall on be to persons seated and served by waiter/waitress service*
  - b) *Such supply shall cease at 20:00*
  - c) *Such supply shall be limited to 30 customers to be seated in the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



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

<b>P/N</b>	<b>Name of Premises</b>	<b>Premises Address</b>	<b>Licensed Hours</b>
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**

<b>1</b>	Licensing Act 2003	N/A
<b>2</b>	City of Westminster Statement of Licensing Policy	7 <sup>th</sup> January 2016
<b>3</b>	Amended Guidance issued under section 182 of the Licensing Act 2003	March 2015
<b>4</b>	Application form	16/02/2016
<b>5</b>	EH Representation	09/03/2016
<b>6</b>	Representation – Sally Dawson	14/03/2016
<b>7</b>	Representation – R Clark	11/03/2016
<b>8</b>	Representation - Toni Green	11/03/2016
<b>9</b>	Representation – Anna Procchio	12/03/2016
<b>10</b>	Representation – Paula Carter	15/03/2016
<b>11</b>	Representation – Chris Cecil-Wright	15/03/2016
<b>12</b>	Representation – 73 St James Street RMT Company	15/03/2016
<b>13</b>	Representation – A Mizrahi	11/03/2016
<b>14</b>	Representation – Kenneth Fok	11/03/2016
<b>15</b>	Representation – Alistair Bowes	11/03/2016
<b>16</b>	Representation – St James Conservation Trust (Andrew Love)	15/03/2016
<b>17</b>	Representation – Nicholas Turner	11/03/2016