



AN AUDIT OF ALFRESCO ISSUES IN ST. JAMES'S

St. James's Conservation Trust | August 2021

Preface

This report, “An Audit of Alfresco Issues in St. James’s” has been produced by Peter Heath Architect and Town Planner, Design Director Atkins Ltd Member of SNC-Lavalin Group, advisor to the St. James’s Conservation Trust, and commissioned by Chairman Andrew Love, email confirmation dated 31 May 2021.



Notice

This document and its contents have been prepared and are intended solely for the St James’s Conservation Trust’s information and use in relation to the assessment of alfresco dining in the St James’s Conservation Trust’s area of interest.

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Left : The Caviar House on the Piccadilly frontage, a main road for pedestrians and vehicles.

Top : Al Duca, quiet Duke of York St. with private forecourt.

Above : Il Vicolo in pedestrian Crown Passage.

Right : 45 Jermyn St. frontage with wide footway.

Front cover from left : Havana Cigar House; Pizza Hut; Stafford Hotel.

Back cover : Café Murano.

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1.0 Introduction of pre-Covid-19 interim and long-term policies on alfresco dining

- 1.1 The St. James's Conservation Trust is responsible for applying specific charitable objects, for the historic area of St. James's. As with many countries' historic urban areas, the Covid-19 pandemic crisis has impacted important aspects of their protection and enhancement and has also impacted on this unique London district. Before the pandemic, the trend for alfresco dining had already gathered pace in St. James's, as part of the increasing introduction of restaurants, bars and cafés since the 1990s. Commercial development opportunities and also changes in planning policies at National, Strategic and Local Authority levels have often become more flexible for uses that help animate perceived economic growth and regeneration. This report sets out the scale of new concerns.
- 1.2 The Trust has sought to maintain the unique character of the historic area, which has a dignity that sets it apart from the crowded entertainment districts adjoining and beyond its road and footway boundaries : Piccadilly, Green Park, The Mall and Haymarket. Parts of Covent Garden, Soho and Leicester Square have been classified by the City Council as Cumulative Impact Areas, where saturation levels of such uses, have been recognised as risking loss of amenity and historic character. By contrast the Trust set out the case for the established St. James's Conservation Area to be upgraded to a higher status, as the "St. James's Special Policy Area". This was achieved and is now widened to include Mayfair. The Trust has also produced 3 review Reports of Licensed Premises to assist the City Council, landowners and developers, in acknowledging risks of net increases in certain potentially negative use classes. These included where new restaurants and bars were proposed across St. James's historic core area. Principal landowners have to date, taken note of the Trust's concerns in maintaining the limited number of existing high-quality bar, café and restaurant uses. The aim has sought to remove



poor quality examples, to be replaced, but with better quality offers and located in new developments, to sustain this agreed local strategy of 'no net increases'. This is also now an ambition of the draft St. James's Neighbourhood Plan for the area.

Cafe Murano has a narrow existing entrance frontage. It has been permitted under the Covid-19 relaxed procedures to place on the footway kerbside, an extended tables and chairs area, across a neighbour frontage (northwards on St. James's Street). The health, safety and management issues are a concern, unlike those of Franco's frontage layout on a widened section of footway on Jermyn Street, in the background. Franco's also benefits from its integrated frontage awnings, rather than solely relying on freestanding umbrellas.

1.0 Introduction of pre-Covid-19 interim and long-term policies on alfresco dining

The four outline descriptions of the **Charitable Purposes of the Trust** (most effected by alfresco changes are highlighted in **bold text below and throughout this report**) to :

- Promote high standards of planning and architecture in, or **affecting the area.**
- Secure the preservation, **protection**, development and **improvement of features of historic** or public interest in the area.
- **Maintain the character and atmosphere of the area, with its social fabric**, collection of ancient shops and private members clubs.
- **Educate the public in the** geography, **history**, natural history and architecture **of the area.**

1.3 The St. James's Conservation Trust has since 1999 and on a case by case assessment, sought compromises in discussions with businesses. However, the Trust has made objections to alfresco areas with tables and chairs where they are considered to be a negative impact on the character and amenity of the Conservation Area. The consultations have been successful in limiting the size of areas (number of tables and chairs to fit) on the footways and private forecourts at a number of key existing sites, including examples at : Franco's, the Blue Posts Pub and Chutney Mary.

1.4 The City Council's normal guidance (pre-Covid-19) on standards, layouts, barriers, heaters, umbrellas or awnings and planters etc. product types and signage, together with appropriate materials, are all in addition, required to comply with the planning application and public highway requirements, context and public health and safety. The City Council's normal licensing application and conditions (pre-Covid-19) are also requirements for operators and landowners to gain approval.



1.5 The City Council's Post-Covid-19 planning, public highways and licensing applications and approvals flexibility has been introduced. This is for new and generally larger alfresco dining areas for restaurants, bars and cafes, where practical but for a temporary period (originally proposed as ending September 2021) in the interests of economic recovery.

Franco's frontage has expanded its tables and chairs numbers significantly beyond the pre-Covid-19 layout, negotiated with the Trust. Before the Jermyn Street footway widening the tables were kept across the front of the two bays, but in deep recesses created by the architecture of the columns. The high quality materials of the improved footway width has made attractive, safe and practical additional tables' space, much under the cover of integrated awnings and canterlevered umbrellas. Since the time of photographing, temporary paving weights have been replaced with widened umbrella bases, although still a concern as a potential trip hazard.

2.0 Executive summary

2.1 Across London during the Covid-19 pandemic, food and beverage businesses suffered commercial losses, along with many retail, hospitality and cultural uses during the lockdown periods. Alfresco dining has become a widely acknowledged perceived aid, to part of the financial recovery, across London by representatives of the national, strategic and local authorities. This view is also generally supported by the public and private sector Town Planning professionals involved, and external commentators and expert advisors, as well as the media. Residential and business communities have seen benefits, however, many lessons still need to be learnt to avoid negative impacts on historic areas and their amenity. Demand for more permanent and expanded alfresco dining is likely to continue in the post pandemic years for a variety of businesses and the negative impacts on any area, especially St. James's need very careful consideration based on stakeholder consultation, monitoring, data and observance and reappraisal of best practice design principles.

2.2 The aim of this report has been to collate information of the external tables and chairs areas in the St. James's Conservation Trust's historic core area of its Charitable Objectives, within the St. James's Conservation and Special Policy Areas (excluding Mayfair element of the SPA). The growth of alfresco dining before, but more significantly during and potentially following, the Covid-19 pandemic has increased local concerns about the negative impacts, although acknowledging the temporary needs of economic recovery.

2.3 Recent announcements by the Government and Westminster City Council suggests that the temporary role of alfresco dining and expanded areas, in the economic recovery of some businesses and streets, may be maintained for another year from 1 October 2021-2022 and subject to local monitoring some initiatives may be made permanent :

“...We want to capture the positives of what have been successful al fresco schemes and will consult on options for permanent schemes area by area. Each scheme will be subject to resident and business consultation and only proceed if there is resident support. The timing of consultations and potential introduction of these schemes will depend upon the area and the scale of what is being proposed...Other areas : We will also work with the local residents and businesses during summer and autumn to explore the feasibility of potential permanent schemes...” – City of Westminster, August 2021.

2.4 These other areas listed, do not as yet include St. James's. Unlike Soho and other areas where temporary road closures and relaxations in some normal licence application procedures and constraints, historic St. James's has had only a moderate, but significant increase in tables and chairs across established and new locations for food and beverage offers from businesses. This Trust Audit data sets out the scale of alfresco dining, locations and issues, summarised as :

- An estimated total of 50 premises. This includes six private land premises of clubs with member access and traditional, high quality of alfresco management.
- The audit is not comprehensive for Private Members Clubs, although some examples are identified for comparison purposes.
- The range of premises include ground level accessible locations, including street frontage, public highway and private land.
- There is a wide variety of forms and quality variations, of external tables and chairs areas, generally compliant with conditions.
- The design and layouts of furnishings, tables and chair types also varies in quality.



Grade I Listed Royal Opera Arcade has had a number of expanded tables and chairs within and outside. Barrier advert is unfortunate.

- The management of the majority of the tables and chairs areas by operators appears good, with some exceptions and public safety issues.
- The audit has counted approximately 677 chairs/covers and approximately 299 tables of various sizes, on public highways and private land.
- Approximately 22 of the premises have expanded their alfresco dining areas and the new or increased existing numbers of customers that can be seated.
- The expanded alfresco areas have generally met most conditions of the various approved temporary applications under the licencing, planning and highways procedures.
- A significant 50% growth of alfresco dining is represented from the 22 commercial, publicly accessible premises with expanded alfresco dining areas, of the estimated total of 50 premises.
- The approximate 677 number of public commercial covers is also a significantly higher number than before the Covid-19 pandemic.
- Variations in recovery of lost income during the Covid-19 restrictions is hard to assess in terms of volumes related to occupancy of alfresco dining. However, a recent report by PWC suggests that each cover averaged an income of approximately £6,800 per year.
- 677 chairs (covers) therefore at optimum capacity could represent an annual revenue of £4.6m across the public realm locations.

2.0 Executive summary

2.5 The City of Westminster's recent (July 2021) announcement is likely to encourage operators to continue and improve their existing and also new or expanded alfresco dining areas. The City of Westminster's 13 August 2021 Business News Updates included Alfresco dining Pavement Licence reminders [abridged examples] as :

"Requirements

Pavement licence applications must:

- specify the premises and where on the highway you intend to place the tables and chairs and other furniture
- specify the days of the week and the hours of each day that you intend to use the highway (pavement licences will only be granted for use between 11am and 11pm) - days and times applied for must coincide with the times of the highway closure
- describe the type and amount of all furniture that you intend to use
- include a certificate of public liability insurance for no less than £2,000,000 that covers the area that you intend to use
- include a risk assessment for the use of space heaters (if applicable)
- include photographic evidence to show you have displayed public notice of the application
- include a clear and legible highway plan, ensuring that the smoking and non-smoking sections are clearly labelled

Please note that umbrellas, gazebos, space heaters or similar furniture may not be permitted in the area designated for the pavement licence depending on the space available and whether it is safe to place such furniture on the street.

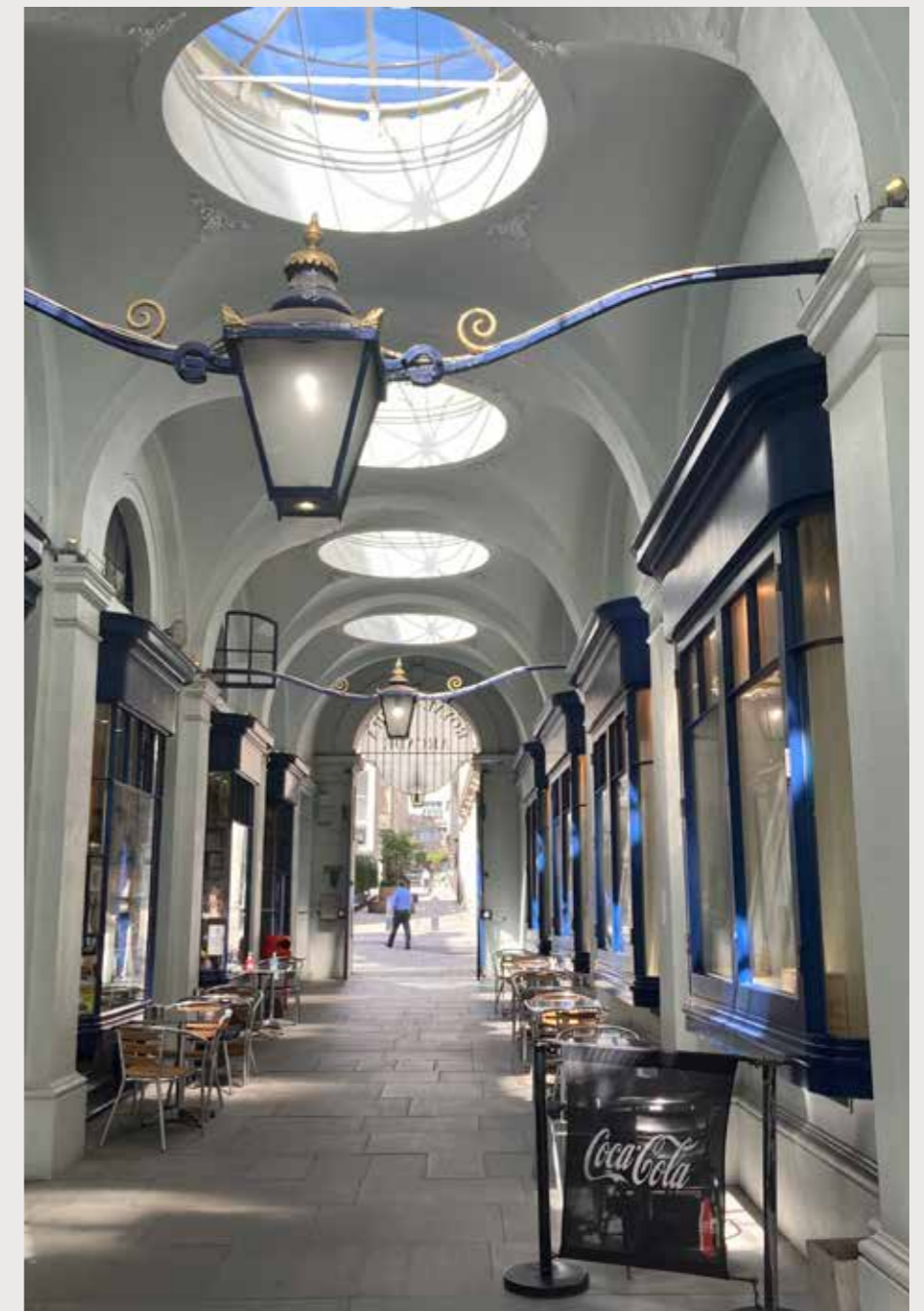
Highway Plan

Please make sure your plan meets these requirements:

- all applicants must ensure that there is a minimum of 2 metres pedestrian clearway along the length of the proposed site
- if the proposed location is set at a kerb edge, then a minimum 0.45m set back is required
- footway depth must be a minimum of 2.8m, which leaves a minimum 2m pedestrian clearway and 0.8m for table and chairs and other furniture
- if table service is required to the tables and chairs then extra space is required, this must be factored into the capacity requested – a space of 0.9m is necessary if an access clearway is required for service staff and diners
- smoking and non-smoking areas must be clearly defined
- no tables or barrels that encourage eating or drinking while standing
- all immediate items of existing street furniture must be shown on the plan
- drawing must be scaled
- a location map must be included"

2.6 The Trust has supported business recovery initiatives across St. James's throughout the pandemic restrictions and relaxations, but has also made comments on some alfresco dining applications which were overambitious in locations with limited safe distancing space and public highways constraints.

2.7 This audit concludes that some sites where expansion or new occupation by tables and chairs could be of future benefit, with conditions, notably for business and residential amenity protection. These sites should still be subject to stakeholder consultation and may include a limited number of pedestrian only, or low speed and use as vehicle access spaces, which include :



Internally the Royal Opera Arcade, which has small premises and a relatively narrow pedestrian route has incorporated two new lines of tables and chairs for the Café Opera Sandwich Centre .

- The Smithson (formerly The Economist) Plaza : Locketts and other/s (tbc.) – pedestrian area.
- Pickering Place : St. Jacques/Berry Bros & Rudd (tbc.) – pedestrian area.
- St. James's Market streets (as existing) – pedestrian/low vehicle access.
- Blue Ball Yard : Stafford Hotel use – pedestrian/low vehicle access.
- Masons Yard : Cavendish Hotel/The Chequers use – pedestrian/low vehicle access.

2.0 Executive summary

2.8 Below is an extract from the PWC report on alfresco dining success in Westminster:

"Al Fresco – Study Reveals Major Success in Westminster and How to Apply for Post-October Licences: Al fresco dining during lockdown proved to be a huge success, with recent analysis from PwC showing local councils across the country approving requests for more than 2,000 pavement licences for pubs, bars, cafes and other hospitality venues. More than a third of these requests were processed by Westminster City Council, which hosts more than 3,700 hospitality venues. "...Of the 3,366 applications tracked to June 2021, 2,061 were approved, with 350 rejected, 490 pending and 11 withdrawn. Hotspots include Westminster – which hosts more than 3,700 bars, restaurants and pubs – processing more than a third of total applications (1,310), Kensington & Chelsea (442), Hackney (95), Islington (74) in London...This has resulted in more than 16,000 additional covers across the borough, many in the Soho area, and has encouraged residents and visitors to come back to the West End. Data from PwC's Consumer Markets Hospitality team shows that one cover at a casual dining operator can generate around £6,800 a year...The absolute number of extra seats is likely to be markedly higher given the 490 pending applications and chairs data only being available for a third of applications. Also, some councils only record live applications or have reduced access to licensing registers due to council offices being closed or operating with less staff during the pandemic. The applications were made by a vast array of businesses, including coffee shops, hairdressers, hotels, pubs, bars and cafes, luxury retailers, co-working spaces, Michelin-starred restaurants and fast-food operators. Some businesses even took the opportunity to expand into space left unused by neighbours including theatre companies in temporary closure..."

2.9 The Trust's audit conclusion is that a new strategy for the area of historic St. James's should be prepared, in partnership with the City Council, Planning, Licensing and Highways Authorities with thorough consultation, which :

- **sets a target net limit on the numbers of covers in the area, as studies now confirm that there is clear temptation of operators for over-expansion.**
- **considers new sites which have not been used in St. James's such as Waterloo Place islands, as part of related strategies for new public realm improvements.**
- **identifies sites which are too sensitive to neighbour premises, public highways or have other design or safety issues which need to be addressed.**



Waterloo Place (south) could be considered for future alfresco dining as part of a overall plan of public realm improvements.



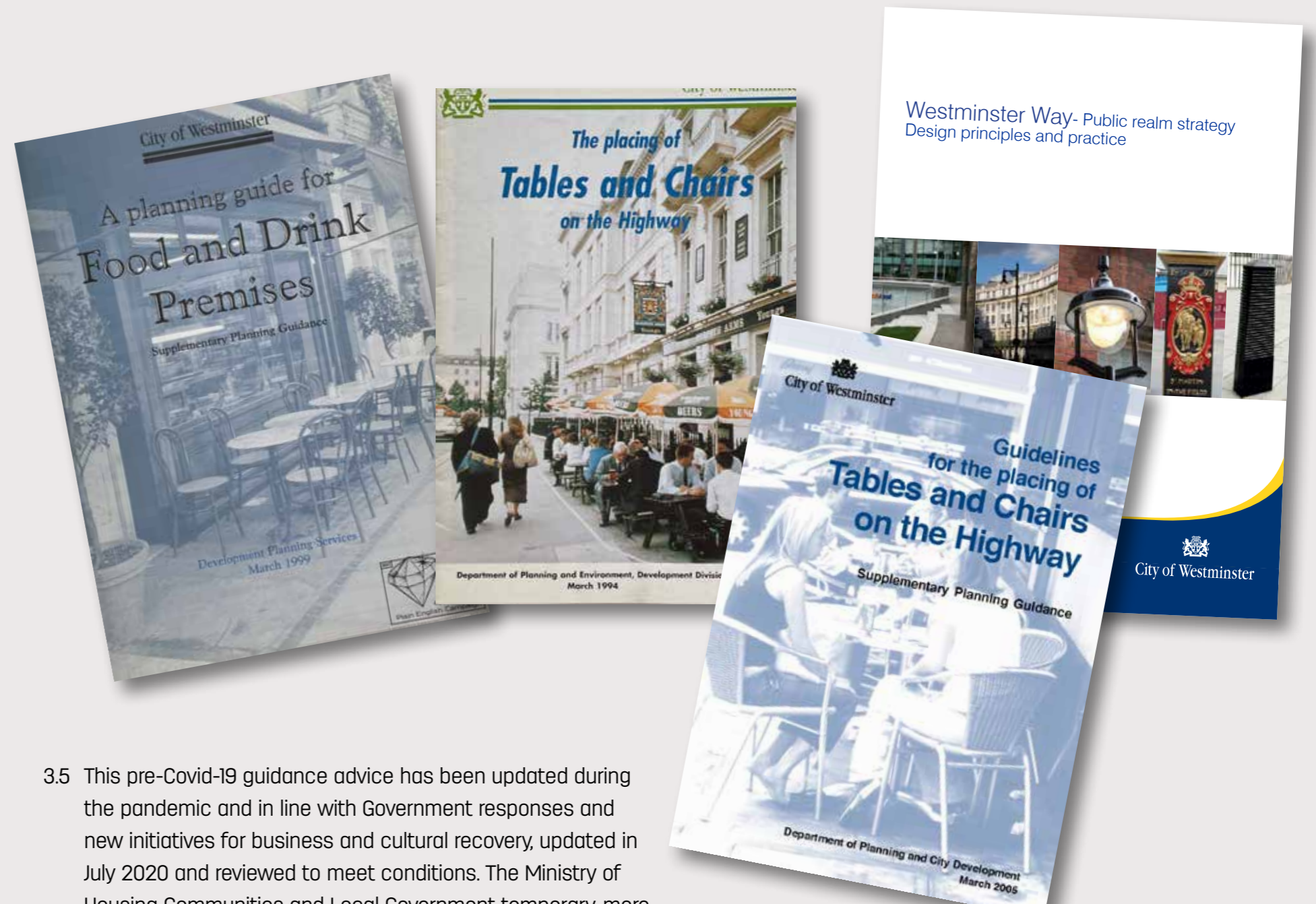
Waterloo Place (north) could be considered for future alfresco dining.



Restaurants below residential uses remains a sensitive issue.

3.0 : Past and recent City of Westminster and St. James's Conservation Trust policy issues

- 3.1 Westminster City Council past policies are likely to be reinstated in full or modified, as the pandemic ends or alters.
- 3.2 The City Council has had detailed guidance, regularly updated on issues of the streets and public places since the 1990s and continuing in the Covid-19 pandemic with updates for hospitality businesses. "The Westminster Way" documentation of street design principles and specifications has also been regularly updated and is currently under review to cater for lessons learnt and innovations in projects.
- 3.3 The most relevant past City Council guidance for normal times, is in line with National and Strategic level Planning, Licensing and Environmental guidance. This information has been the subject of Supplementary Planning Guidance (SPG) and documents (SPD), available as hard copy leaflets and online downloadable materials, including the 2005 : "The Placing of tables and Chairs on the Highway" and in the past the 1999 : "A Planning Guide for Food and Drink Premises". Similar Licensing text-only guidance on the scope of applications for the consent of Licensing parts of the public highways' footways for tables and chairs areas is very detailed.
- 3.4 The City Council's West End has developed a very dense number of alfresco dining areas in historic areas. Those adjacent the Special Policy Area of Mayfair and St. James's are on both public footways adjacent roads but also with notable areas of existing traffic managed streets and fully pedestrianised public and private spaces, such as around the Covent Garden Piazza. By comparison historic St. James's has had far smaller areas of alfresco dining pre-pandemic, mainly on public footways adjacent busy vehicle carriageways, and some public alleyways, such as Crown Passage and Angel Court, courtyards and part public, part private spaces, such as Blue Ball Yard and Mason's Yard.



- 3.5 This pre-Covid-19 guidance advice has been updated during the pandemic and in line with Government responses and new initiatives for business and cultural recovery, updated in July 2020 and reviewed to meet conditions. The Ministry of Housing Communities and Local Government temporary, more rapid procedures include the new measures, set out in text formats and emphasises the tables and chairs on the highways framework. It also acknowledges examples of some of the local issues, for determination via local consultation and the flexibility and enforcement controls, to be supplemented by the City Council's, own local authority situations, approach and responsibilities.

Examples of the City of Westminster's detailed Supplementary Planning Guidance (SPG) documents relating to past and present alfresco dining issues. These have remained the basis of applications under planning, highways and licensing from 2005 to 2020 pandemic responses. Many temporary measures still need to be reviewed based on Covid-19 experience and include better weather protection, furniture designs, management and enforcement of old and current conditions.

3.0 : Past and recent City of Westminster and St. James's Conservation Trust policy issues

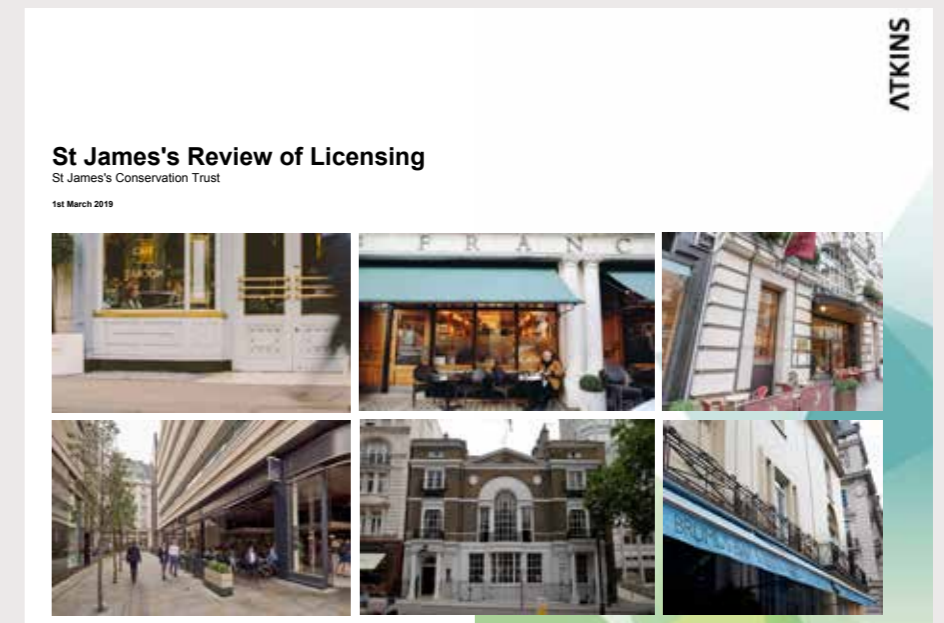
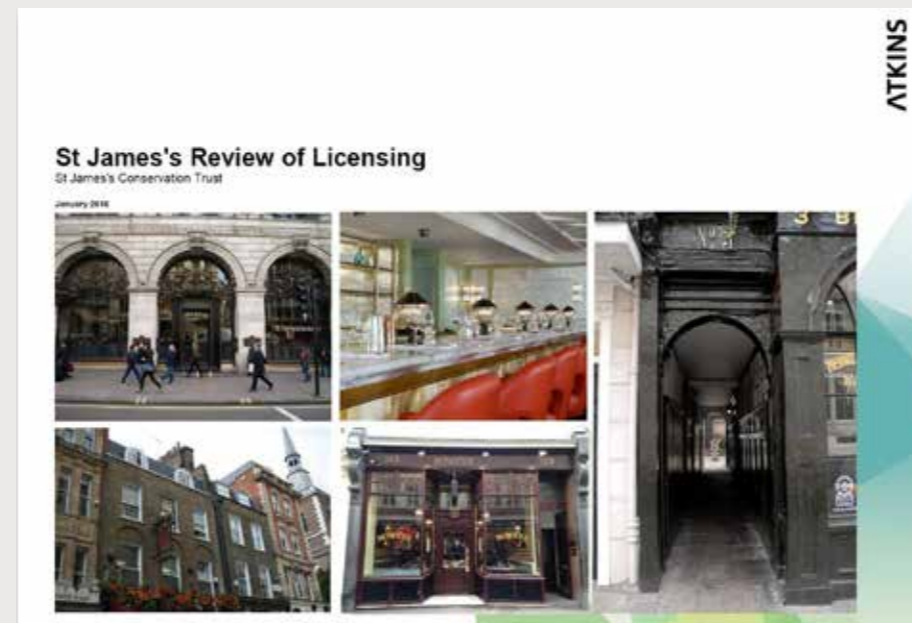
3.6 The City Council has produced guidance "Supporting Westminster's hospitality sector : Advice for the hospitality sector on outdoor dining UPDATED 8 April 2021" for restaurants, pubs and cafes with existing or recent tables and chairs areas on the public highway or wishing to implement extended or new alfresco dining and refreshment areas, to take advantage of existing wide or temporary extended footway areas and changes in traffic managed carriageways. As yet no streets have been closed in the St. James's area for alfresco dining, as have been in some limited areas of nearby districts.

3.7 Below is an extract of the City Council's advice on hospitality support by means of alfresco dining areas on the public highway (**Bold text** is highlighted as key Trust issues of concern below) :

"...The council has been active in supporting the hospitality sector to reopen after periods when they have been forced to close due to the implementation of restrictions to reduce the spread of COVID-19. The council has implemented measures to assist the sector to operate with social distancing measures in place. These measures have included **temporarily widening of pavements**, closing roads, introducing **a fast-track tables and chairs process**, and providing businesses owners with information and support on additional licensing applications.

The Government has set out a roadmap over the coming five months [April – September 2021] that will gradually lift the restrictions on the hospitality sector.

The steps in the lifting of restrictions are defined within the Government's COVID-19 Response – Spring 2021...Businesses should have reviewed and implemented the Government's guidance on minimising the risks and operating safely...



Previous studies commissioned by the St James's Conservation Trust in 2015, updated January 2016 (above left), and in 2019 (above right).

Summary of key actions for businesses [Covid-19 restrictions]

- An up to date COVID-19 secure risk assessment has been carried out and appropriate mitigation measures identified to enable the safe operation of the business.
- All staff are provided with a copy of the COVID-19 secure risk assessment and understand the mitigation measures that the business has put in place.
- Review your licences and assess if there are any restrictions or conditions on how you are required to operate.
- Ensure you are aware of the current Government guidance and restrictions that are applicable to your business, further information can be obtained via gov.uk
- If you need additional permissions to remove some restrictions, or need to apply for permissions to use, for example, additional outside space, you should make an application to the council.
- Protect staff wellbeing by ensuring safety and hygiene measures are in place as well as ensuring workers are

complying with health advice and are not unwell.

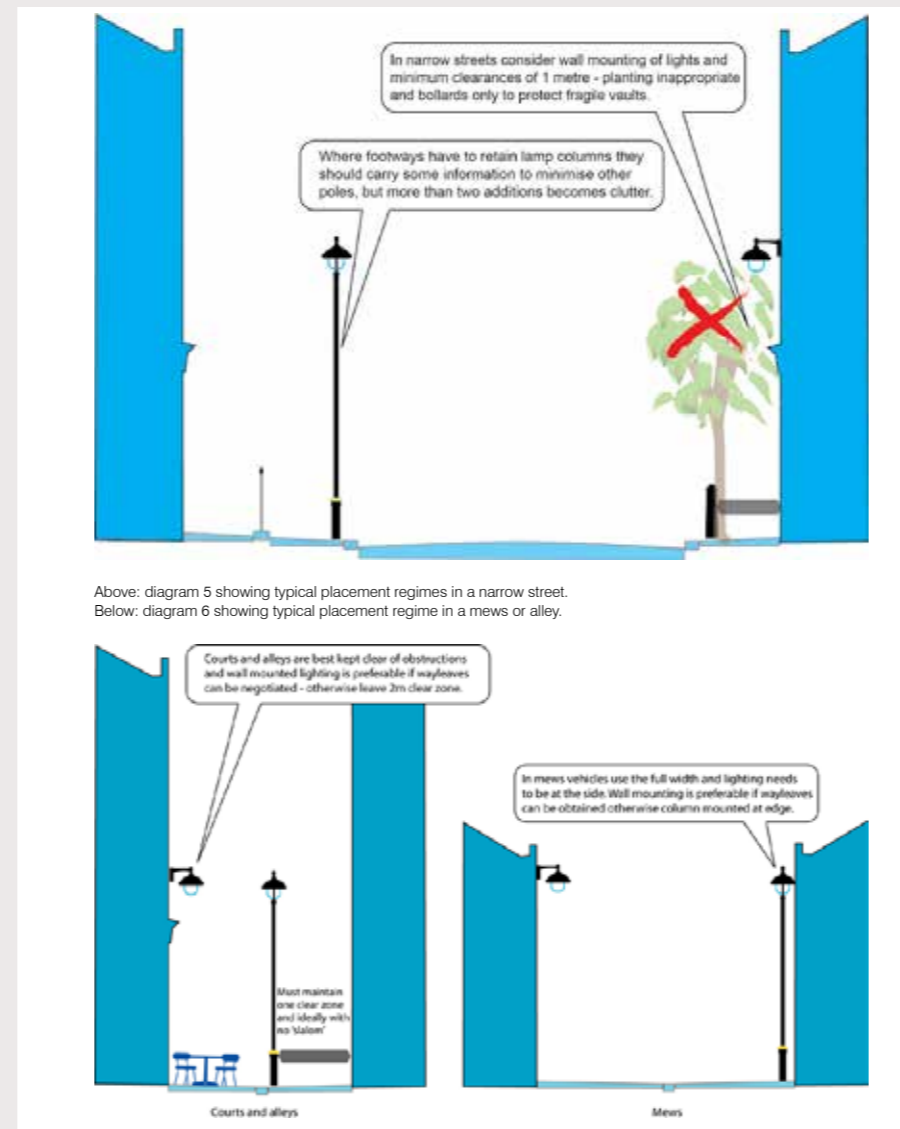
- Have provisions in place, via the official QR code and app, to record visitor and patrons' contact details on booking or entry (either inside or outside the premises, with an exception only made for takeaway customers), with a name and contact number (the details of every visitor are not required, but at least one person from each party's contact information must be recorded).
- Undertake a regular deep clean of the premises and implement additional hygiene and cleaning measures and practices. City Inspectors will be working with our communities and businesses to ensure our visitors and residents remain safe.
- Ensure each venue continues to adhere to any newly assessed capacity limits and that physical distancing of individuals and groups is possible. The minimum safe social distancing for the venue must be 2 metres unless this is not possible. In that case 1 metre with appropriate mitigation is acceptable.

3.0 : Past and recent City of Westminster and St. James's Conservation Trust policy issues

- Ensure patron awareness of, and compliance with, requirements (including collection of contact information).
- Be ready to work with the council's Public Health department and the NHS in the event of a case of coronavirus (COVID-19) in a staff member or patron, or an outbreak affecting your business.
- Complete and consider displaying the 'Staying COVID-19 Secure in 2020' notice provided in the Government's guidance: Keeping workers and customers safe during COVID-19 in restaurants pubs, bars and takeaway services.
- Provide signage to customers at your venue relating to social distancing, payment, queuing, hand cleansing, toilets, capacity and that customers should not enter if they have any coronavirus (COVID-19) symptoms.
- **If you are operating al fresco dining in a residential area, please put up signage urging customers to be considerate of residents..."**

Capacities and groups

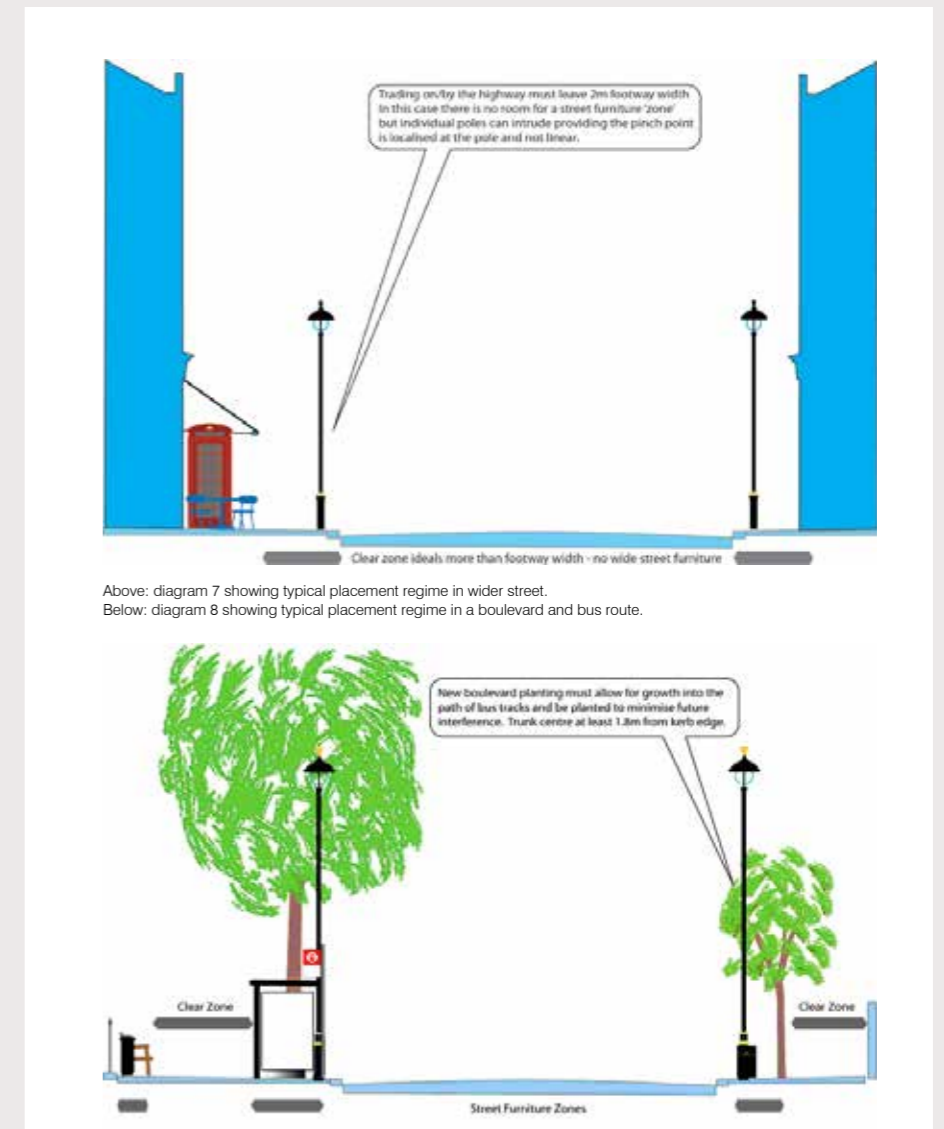
There is no specific maximum capacity you are allowed. Instead your capacity should be based on the number of people you can host whilst maintaining the measures set out in the guidance. This will vary based on the profiles of each group in your premises. **If you have a Pavement Licence, a capacity for the outdoor dining space is listed on that licence. If you exceed that capacity, you risk having your Pavement Licence revoked.** It is important to protect your staff from coronavirus. The best protection for your staff is regular handwashing and to maintain a 2m distance from other staff and customers where possible, and 1m with mitigation where it isn't. Staff should travel separately to work and not car share, should follow all safety measures on public transport and have a change of clothes for the workplace. It is recommended that regular shifts are organised, so people are working with the smallest number of different people as



possible. Make sure your staff are aware of the measures you've set out in your risk assessment, including the wearing of PPE. Have a staff debrief at the end of the night – what went well, what went wrong, how do you need to change it? You are required by law to report if a member of staff tests positive for coronavirus...

Queues

It is your responsibility to manage the queues that form outside your premises and to ensure that customers are



These example pages are taken from the City Council's Public Realm Design Guidance in "The Westminster Way" documents. They are indicative of key principles of space allocation of various types of street and places which may or may not be suitable for tables and chairs.

maintaining social distancing. This is 2m, or 1m with mitigation where 2m is not viable. You are required to manage your own queues and ensure compliance with the social distancing rules. The council has produced guidance for Queue Management with Social Distancing.

3.0 : Past and recent City of Westminster and St. James's Conservation Trust policy issues

Businesses should review this guidance document when undertaking their assessments and planning the operation of their establishments.

Key considerations include:

- The premises will be responsible for enforcing social distancing amongst patrons.
- Physical queuing is to be avoided where possible. Bookings and reservations via online platforms or by telephone should be encouraged to prevent prolonged dwelling.
- Where queuing and waiting is unavoidable the premises will be responsible for the safety and management of the queuing/ waiting area and the queue size should be limited to the number of people that can safely stand within the premises' frontage while abiding by social distancing regulations.
- Markings should be put in place to provide direction to patrons – see Signage toolkit on page 6.
- **Queuing must only occur within the boundary set by the premises' frontage. Queues should not impact upon neighbouring premises. You should take this into account when determining how much outdoor space you wish to allocate to tables and chairs.**
- **Ensuring that you consider inclusive mobility by factoring in how disabled people will be able to safely navigate around whatever measures you wish to put in place.**

Door staff

You should risk assess how many door staff you think you will need for inside your premises, to manage outdoor areas and any queues that may form, and to prevent entry to people who have not booked or when the premises have reached full capacity. It may be the number you assess to be sufficient is less than your licence condition due to your capacity being greatly reduced. The council's guidance on Queue



Milos Restaurant frontage on Regent Street, St. James's, pre- and post-pandemic has well managed and designed frontage tables and chairs areas with door and waiter management staff.

Management with Social Distancing sets out further advice on security arrangements for businesses including the management of queues.

Service and storage

Tables, chairs, umbrellas and space heaters that are used by businesses must be taken within the premises. **If tables, chairs, umbrellas and/or space heaters are unable to be taken within the premises, they must be safely stored and locked within the street.** Table service must be provided to all patrons to ensure social distancing is complied with. Premises will be responsible for street maintenance and cleanliness of the street trading area unless the responsibility is accepted by a BID or landowner. Premises must ensure that they are appropriately covered with insurance.

Off-sales

The Licensing Act 2003 (2003 Act) was amended by the Business and Planning Act 2020 to include a new section (section 172F) that automatically grants premises with a licence for on-sales only permission to provide off-sales for customers to take away, without the need to apply or notify the council. There are some exemptions to this extension, for example premises that have previously had an application for off-sales refused, or where permission for this revoked. Businesses with club premises certificates are also excluded from this.

Businesses should ensure that customers remain seated in all fresco dining areas and that off-sales do not encourage vertical or street drinking. Pavement Licences may be revoked if outdoor diners do not remain seated at all times..."

Use of outside space (Pavement Licences)

The Business and Planning Act 2020 also introduced a temporary licensing regime for Pavement Licences, which enables food and drink businesses to put removable furniture on the pavement adjacent to their premises in order to sell or serve food and drink, or for people to sit at to consume food and drink. This licensing regime runs parallel with the tables and chairs licensing regime under the Westminster Act 1999. If you have a licence that is expiring under either regime, please consider applying in advance for a new licence to ensure there is no gap between the old licence expiring and a new licence being issued... if a business has a Pavement Licence that is due to expire and wishes to continue to use the outside space they must make a new application. **There is a 14-day determination period for Pavement Licence applications... Those not adhering to Pavement Licence conditions, in particular capacity, ensuring seated service and preventing nuisance will be issued with remediation notices and may have their licences revoked.**

3.0 : Past and recent City of Westminster and St. James's Conservation Trust policy issues

The Government has produced guidance to accompany the legislation on the Pavement Licensing regime. If you have any questions relating to pavement or tables and chairs licences, please contact the Licensing Service on 020 7641 4141 or email licensing@westminster.gov.uk

Alcohol in open containers

If you are providing alcohol in open containers, you may want to consider the use of non-glass containers. **Westminster has a city-wide Controlled Drinking Zone under a Public Spaces Protection Order.** This Order makes it an offence for anyone who, without reasonable excuse, fails to surrender any alcohol in their possession when asked to do so by a police officer, police community support officer, or authorised person from the council. If you intend to provide alcohol for consumption off the premises in unsealed containers, you may need to apply for a Pavement Licence or tables and chairs licence to allow people to drink outside your premises.

Alcohol in open containers must only be consumed while seated in line with the licensing conditions.

Furniture

As all furniture and equipment must be removed and stored at night, use tables and chairs which are easily folded or stacked. Choose furniture which is strong, stable and durable enough for heavy use and is easily wiped down and dried after rain or cleaning.

Umbrellas & Gazebos

We realise that as throughout the year there is the risk of adverse weather, heaters and umbrellas may help businesses to successfully use the extra space available for tables and chairs. We have therefore **adopted a presumption in favour of requests to use safe, low-carbon electric heaters and appropriate umbrellas for outdoor tables and chairs, while**



The Avenue restaurant has umbrellas and tables and chairs defined by planters and their private forecourt basement lights.

always respecting the needs of local residents. Where we find that things aren't working in specific locations, we'll quickly change our approach. **Umbrellas & gazebos are permitted but they should not interfere with vehicle sight lines and traffic signs. Umbrellas & gazebos should be free of advertising, be in a plain canvas material, be capable of being folded down and removed when weather permits, and be stable enough to withstand strong winds.** Umbrellas & gazebos must be removed from the street and stored inside the premises when the premises closes..."

"Licensing standard condition on structures :

Details of all marquees, tented structures and temporary structures should be provided including emergency exits and signage, fire warning and firefighting equipment.

Full structural design details and calculations of all and any structures to be erected within the licensed area must be submitted to the Westminster City Council Building Control. A certificate from a competent person or engineer that a

completed structure has been erected in accordance with the structural drawings and design specification must be available for inspection prior to a relevant structure being used during the licensed event.

All fabric, including curtains and drapes used on stage for tents and marquees, or plastic and weather sheeting, shall be inherently or durably flame retardant to the relevant British Standards. Certificates of compliance must be available upon request by an authorised officer of Westminster City Council and the London Fire Brigade..."

Space heaters

Space heaters will generally be permitted on the street.

Businesses should consider the following:

- The type of space heater that is the most appropriate for the location and the local environment.
- Completing a risk assessment for their use and implement appropriate controls for their use.
- The heater will be located in an area that does not pose a safety concern to people passing or an obstruction of the highway.
- Limiting the number and location of the heaters to reduce overcrowding around them, and enable social distancing measures at all times.
- The type of space heater that is the most appropriate for the location and the local environment, but the council is strongly recommending the use of electric heaters.
- **To safely remove the heaters from the street and store them securely when the business closes.**

The council is committed to improving air quality and supporting businesses to reduce their overall environmental impact. The council recommends that the use of heaters be avoided as much as possible, however where absolutely necessary, the council insists that businesses use electric

3.0 : Past and recent City of Westminster and St. James's Conservation Trust policy issues

heaters as these are more efficient and produce 85% less CO2 than LPG heaters. These heaters can also include a passive infrared or time lag switch to operate the heaters when they are needed rather than have them on all the time. LPG heaters produce significant amounts of nitrogen dioxide (NO2) and particulate matters (PM10) which are particularly harmful to air quality.

The council may impose conditions on tables and chairs or Pavement Licences to ensure the safe use of space heaters within the outside licensed areas.

Crime prevention

If you provide outside tables and chairs, then crime prevention measures need to be considered and implemented. **Every table should be fitted with Chelsea Hooks to reduce the potential for bag snatches and dippers. Signage must be present at all establishments warning patrons of the risk of bag thefts and dipping. These should be displayed where they are clearly visible to all members of the public.** Staff must be trained and directed to actively warn customers of the risks of crime and advise customers to move any bags hanging on the backs of chairs or on the floor to use the Chelsea Hooks. **The council has a limited amount of hooks available to your business by contacting your local City Inspector.**

Toilets

Under the business's COVID-19 secure risk assessment (specific to each business), use and access (including queuing) of the WCs should also be reviewed. WCs should be made accessible to customers in line with the risk assessment. Please see the Government's website for further advice. It is important that during the outdoor dining period (12 April-16 May) that access to indoor toilets is maintained for outdoor diners.



Shoryu Ramen on Regent Street, St. James's have a range of furnishings including umbrellas, space heaters and planters.

Waste

You should have arrangements in place to remove waste and litter and make sure it won't accumulate from customers outside the premises. **Any area used by customers outside should be swept and washed. You will need to make sure you are following the refuse storage arrangements for your business.**

Noise

It is anticipated that there is likely to be additional noise generated across the city from businesses operating outside spaces and with queuing. **Businesses should ensure that noise levels are kept to a minimum. Businesses will be required to take proactive steps to minimise the noise disruption from their operation. You should make sure that no noise coming from the premises could cause a nuisance.** As well as entertainment causing an issue, customer noise can also cause a disturbance – **especially later into the evening. Please ensure that any customers drinking and/or smoking outside the premises do so in an orderly manner and are supervised by staff to ensure that there is no public nuisance. Please also ensure your customers leave in an**

orderly manner. Businesses may also wish to consider making their manager's telephone number easily available if neighbours have reason to complain to encourage a good line of communication. We recommend that signage is put up around premises reminding patrons to be considerate to the local resident population... Council officers will be monitoring complaints and where these complaints are linked with businesses, the council will actively engage with them to advise on the need to reduce the noise nuisance. If businesses continue to generate a public nuisance then the council may take more formal enforcement action depending on the severity of that nuisance. **If neighbours do suffer with problems, they can report noise and anti-social behaviour via our Report It webpage. Reports can be made 24/7 and will enable our officers to attend and witness the noise levels.**

Lighting

Where localised lighting is required for businesses for either practical reasons or safety considerations, the following should be considered:

- **Avoid any cables on the footpath/street. Cable covers will be required in all locations.**
- Overhead cables should be avoided. In instances where they are needed, the height of these will need to ensure it does not impinge on emergency vehicle access and be high enough from pedestrians' reach.
- The direction and height of the lighting will need to be considered so that it does not cause any light pollution into residential premises.
- **If required, free-standing lighting should be suitable secured.**
- If electrically powered, these will need to be suitable for outdoor use.
- Ideally, plastic covered lights are to be used to prevent breakages as these will encounter a lot of wear and tear.

4.0 : Current Covid-19 policies and new issues

- 4.1 Extract of the Government 2020 - 2021 guidance on Pavement Licenses for Tables and Chairs on the Highways is outlined below with key points of relevance to the historic St. James's area (in blue – with numbering as per original document).

How long will the new process be in place?

This is a temporary measure to support businesses while social distancing measures may still be in place. As it is uncertain how long some form of social distancing measures will be in place for, the new process will remain in place until the end of September 2021 – giving certainty to businesses for the foreseeable future, supporting them to operate safely while social distancing measures are in place. It will also allow them enough time to apply for new licences under Part 7A of the Highways Act 1980 or **equivalent provisions in any Local Act, if they want to extend their use of pavement furniture beyond the end of September 2021.**

This process is expected to be extended to the 1 October 2022. In addition, Reuters reported on 10 July 2021 that the



Pickering Place can accommodate well-managed and weather protected alfresco dining for St. Jacques and Berry Bros & Rudd in a sensitively expanded temporary and possibly permanent manner.



Rowley's on Jermyn Street has no widened footway scope at present and a traditional awning would be desirable for any improved longer term alfresco dining.

British Prime Minister Boris Johnson : “will set out next week plans to regenerate Britain’s high streets by expanding outdoor dining ... as part of his promise to “level up” the country’s economy. In a speech in the coming week, he will explain how **a new High Streets strategy will help local communities thrive, by allowing more outside dining on pavements, helping restaurants and cafes serve more customers.** Temporary permissions given to pubs during the pandemic allowing them to serve “takeaway pints” will also be extended for another 12 months, said a statement published by his office on Saturday.”

3. Applications

3.1 What information does an applicant need to provide?

An application to the local authority must:

1. specify the premises and, the part of the relevant highway to which the application relates;
2. specify the purpose (or purposes) for which the furniture will be used which must be to sell or serve

food or drink, and/or for use by other people for the consumption of food or drink. In both cases the food or drink must be supplied from, or in connection with relevant use of the premises;

3. specify the days of the week on which and the hours between which it is proposed to have furniture on the highway;
4. describe the type of furniture to which the application relates, for example: tables, chairs, and/or stalls;
5. specify the date on which the application is made;
6. contain or be accompanied by such evidence of public liability insurance in respect of anything to be done pursuant to the licence as the authority may require;
7. **contain or be accompanied by such other information or material as the local authority may require, for example how national and local conditions have been satisfied.**

Local authorities may require applications to be made on a standard application form.

SHOP

STAY

local

cycle

safe

walk

Supporting Westminster's hospitality sector

Advice for the hospitality sector on outdoor dining

UPDATED 8 April 2021

City of Westminster

4.0 : Current Covid-19 policies and new issues



The Smithsonian Plaza has demonstrated two sites (Sake no Hana and Locket's) capable of well-managed, high-quality, weather-protected and sensitive alfresco dining free of vehicles.



Murano's alfresco dining on a narrowed footway (unless a permanent widening or buildout could be introduced) and close to the kerbside on the outer temporary expanded area is not meeting standards of safety and visual quality.



3.2 What other information may the local authority require?

Local authorities may require the applicant to provide other information or material to help them make a swift determination. This could be included in their standard application form. Any requirements imposed should be reasonable and should be kept as minimal as possible. Examples of the information a local authority might require might include:

1. a plan showing the location of the premises shown by a red line, so the application site can be clearly identified (some authorities may require this on an OS Base Map);
2. a plan clearly showing the proposed area covered by the licence in relation to the highway, if not to scale, with measurements clearly shown;
3. the proposed duration of the licence (for e.g. 3 months, 6 months, or a year);
4. evidence of the right to occupy the premises e.g. the lease;

5. contact details of the applicant;

6. **photos or brochures showing the proposed type of furniture and information on potential siting of it within the area applied;**

7. evidence that the applicant has met the requirement to give notice of the application (for example photograph);

8. (if applicable) reference of existing pavement licence currently under consideration by the local authority; and

9. any other evidence needed to demonstrate how any local and national conditions will be satisfied.

3.3 What happens if an applicant has already made an application under the current regime?

If an applicant has already applied for permission to place furniture on the highway under the existing regime and their application has not been determined, they may proceed with that application.

4.0 : Current Covid-19 policies and new issues

4. National Conditions

The 2020 Act sets out two conditions which apply to pavement licences which are granted or deemed to be granted these are: a no-obstruction condition and a smoke-free seating condition. These apply only to licences granted under the Business and Planning Act 2020, not existing licences permitted under Part 7A of the Highways Act 1980, or other relevant legislation.

4.1 How can the local authority and applicant consider the needs of disabled people when considering whether the requirements of the no-obstruction condition are met?

The no-obstruction condition is a condition that the licence must not have the effects set out in section 3(6) of the 2020 Act. When determining whether furniture constitutes an unacceptable obstruction in light of the no-obstruction condition, the provisions require that local authorities consider the needs of disabled people. In order to do this, authorities should consider the following matters when setting conditions, determining applications (in the absence of local conditions), and when considering whether enforcement action is required:

1. **Section 3.1 of Inclusive Mobility sets out a range of recommended widths which would be required, depending on the needs of particular pavement users, but is clear that in most circumstances 1500mm clear space should be regarded as the minimum acceptable distance between the obstacle and the edge of the footway,**
2. **any need for a barrier to separate furniture from the rest of the footway so that the visually impaired can navigate around the furniture, such as colour contrast and a tap rail for long cane users.** In some cases, it may be appropriate to use one or more rigid, removable

objects to demarcate the area to which the licence applies, for example wooden tubs of flowers. **However, this will need to be balanced to ensure any barriers do not inhibit other street users, such as the mobility impaired, as such barriers may create a further obstacle in the highway;**

3. any conflict of street furniture with the principal lines of pedestrian movement particularly for disabled people, older people and those with mobility needs. **The positioning of furniture should not discourage pedestrians from using the footway. The available route must be entirely clear and not pass through an area with tables and chairs;**
4. so that where possible furniture is non-reflective and of reasonable substance such that it cannot easily be pushed or blown over by the wind, and thereby cause obstruction – for example, the local authority could refuse the use of plastic patio furniture, unless measures have been taken to ensure it is kept in place.

Section 149 of the Equality Act 2010 places duties on local authorities, to have due regard to: the need to eliminate unlawful discrimination, advance equality of opportunity between people who share a protected characteristic and those who don't, and foster or encourage good relations between people who share a protected characteristic and those who don't.

4.2 What is reasonable provision for seating where smoking is not permitted?

The national smoke-free seating condition seeks to ensure customers have greater choice, so that both smokers and non-smokers are able to sit outside, in order to protect public health by reducing risks of COVID transmission.



St. James Caffé has expanded its tables and chairs to include the kerb edge which is unsafe, adjacent a bus stop and busy traffic.

It is important that businesses can cater to their customers' preferences. The Business and Planning Act 2020 imposes a smoke-free seating condition in relation to licences where seating used for the purpose of consuming food or drink has been, (or is to be) placed on the relevant highway. **The condition requires a licence-holder to make reasonable provision for seating where smoking is not permitted.** This means that where businesses provide for smokers, customers will also have the option of sitting in a non-smoking area. Ways of meeting this condition could include:

1. **Clear 'smoking' and 'non-smoking' areas, with 'no smoking' signage displayed in designated 'smoke-free' zones in accordance with Smoke-free (signs) regulations 2012.**
2. No ash trays or similar receptacles to be provided or permitted to be left on furniture where smoke-free seating is identified.
3. Licence holders should provide a minimum 2M distance between non-smoking and smoking areas, wherever possible.

Further, business must continue to have regard to smoke-free legislation under The Health Act 2006, and the subsequent Smoke-free (Premises and Enforcement) Regulations 2006.

Public Health England has published guidance for smokers and vapers during the COVID pandemic.

4.0 : Current Covid-19 policies and new issues

4.3 Where an authority has set a local condition covering the same matter as a national condition, which take precedence?

Where a local authority sets a local condition that covers the same matter as set out in national conditions, then the locally set condition would take precedence over the national condition where there is reasonable justification to do so.

5. Determining the application

5.1 What happens once the information is submitted to the local authority?

Once the information is submitted to the local authority the authority has 10 working days from the day after the application is made (excluding public holidays) to consult on, and determine the application. This consists of 5 working days for public consultation, and then 5 working days to consider and determine the application after the consultation.

If the local authority does not determine the application within the 10 working day period, the application will be deemed to have been granted.

5.2 What will a local authority consider when deciding whether to grant a pavement licence?

The local authority will need to consider a number of factors, when determining whether to approve the application. These include whether local conditions might be needed to make it possible to approve an application which would otherwise be unacceptable.

The Secretary of State may specify conditions for pavement licences, in Regulations. This is in addition to the statutory 'no obstruction' condition referred to in sections 5(4) and 3(6) of the Business and Planning Act 2020 Act and 'smoke-free' seating condition.

Authorities are encouraged to publish local conditions subject to which they propose to grant pavement licences so that applicants and those making representations are aware of them. When considering their powers in relation to local conditions they should bear in mind the requirements of and seek to impose conditions which have the same effect as the no-obstruction condition and the smoke-free seating condition. They should also take into account any national conditions which may be specified in the future in Regulations.

When setting local conditions and determining applications, issues authorities will also want to consider:

1. public health and safety including security – for example, ensuring that uses conform with latest guidance on social distancing and any reasonable crowd management measures needed as a result of a licence being granted and businesses reopening;
2. public amenity – will the proposed use create nuisance to neighbouring occupiers by generating anti-social behaviour and litter; and
3. accessibility – taking a proportionate approach to considering the nature of the site in relation to which the application for a licence is made, its surroundings and its users, taking account of:
 1. considerations under the no-obstruction condition, in particular considering the needs of disabled people;
 2. any other temporary measures in place that may be relevant to the proposal, for example, the reallocation of road space. This could include pedestrianised streets and any subsequent reallocation of this space to vehicles;
 3. any other social distancing measures in place, for example any queuing systems that limit the space available on the pavement;

4. **whether there are other permanent street furniture or fixed structures in place on the footway that already reduce access;** and

5. other users of the space, for example if there are high levels of pedestrian or cycle movements.

5.3 How can local authorities consider Security?

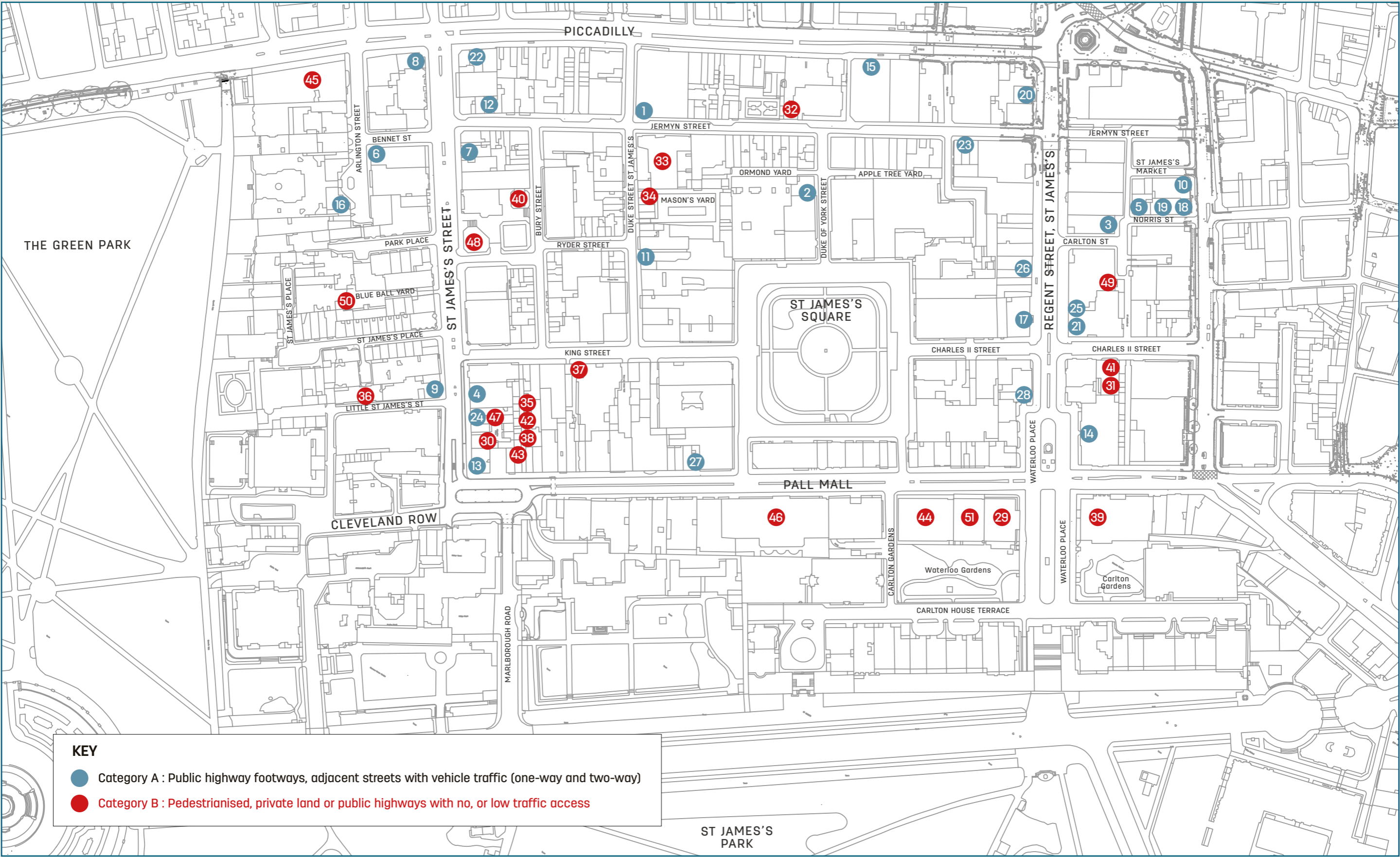
When considering public health and safety, local authorities should seek to **ensure a balanced consideration for security implications, particularly the risk to groups of people from interaction with hostile vehicles, and the creation of large crowds in new public spaces.** Local authorities should consider consulting with Police Licensing Teams, Designing Out Crime Officers and Counter Terrorism Security Advisors for relevant advice.

See the guidance for managing the most common security implications.

5.4 Can local authorities impose conditions which are not published?

Yes. When they grant a licence, local authorities may impose reasonable conditions whether or not they are published upfront. There is an expectation these will be supported by a clear justification for the need of a condition, such as evidence raised during the consultation, which is in addition to any published local conditions. **Conditions might, for example, limit the maximum number of chairs and tables, or type of furniture, time and days of operation with justification for this..."**

5.0 : Plan of establishments with alfresco dining



6.0 : Audit of sites

All public and some private sites have been visited, however, table and chair numbers vary depending on time of day and are therefore approximations. Variations in alfresco sites and types of furniture are also therefore approximations
* Reported permanently closed at time of writing

Establishments in the St James’s Conservation area of interest with alfresco dining						
Category A : On public highway footways adjacent vehicle carriageways						
Site No.	Name	Location	No. of tables & chairs during COVID-19	Expanded during COVID-19	Examples of additional street furnishings	Recommendations on some key sites
1	45 Jermyn St.	45 Jermyn Street, St. James’s, corner of Duke Street St James’s, London SW1Y 6DN	15 tables 30 chairs	✓	Attached heaters to frontages on Jermyn St under awnings	Duke St, St. James’s frontage seating next to busy section of narrow footway is not as good as Jermyn St
2	Al Duca	4-5 Duke of York Street, St. James’s, London SW1Y 6LA	6 tables 12 chairs		No change	Provate forecourt well managed as pre-Covid with planters defining this space
3	Aquavit	1 St James’s Market, Carlton Street, St. James’s, London SW1Y 4QQ	20 tables 40 chairs	✓	Multiple planters and seating are well managed on two frontages	Design of heaters are stylish options which seam to take up less space than pyramidal types
4	Avenue	7-9 St James’s Street, St. James’s, London SW1A 1EE	3 tables 6 chairs	✓	Elegant umbrellas, tables and chairs. Planters defining the space	This frontage and footway are constrained and footway widening of St. James’s St may make more practical
5	The Beau Brummell Pub	3 Norris Street, St. James’s, London SW1Y 4RJ	7 tables 25 chairs	✓	Multiple planters and seating are well managed	The informal layout could be more stylishly arranged to compliment the curved architecture
6	Blue Posts Pub	6 Bennet Street, cnr Arlington Street, St. James’s, London SW1A 1RP	6 tables 12 chairs		No change	This site has been a concern in the past due to outside crowding of standing drinkers and smokers spilling over the footway and carriageways
7	Café Murano	33 St James’s Street, St. James’s, London SW1A 1HD	17 tables 34 chairs	✓	Six umbrellas, four heaters and planters are all along kerbside	Concern continues as the expanded area and proximity to the kerb edge raises safety issues
8	Caviar House	161 Piccadilly, St. James’s, London W1J 9EA	2 tables 4 chairs		No change	This site is by the very busy footway and carriageway of Piccadilly and should be reconsidered
9	Chutney Mary	73 St James’s Street, St. James’s, London SW1A 1PH	5 tables 10 chairs	✓	Negotiated tables with two chairs is only just practical on the narrow footway	Residents above the restaurant need to be consulted further on the noise and smells that arise
10	Duck & Waffle Local	52 Haymarket and St James’s Market, St. James’s, London SW1Y 4RP	16 tables 32 chairs		No change	Well laid out and managed frontages with wide footways
11	Duke’s Café	7 Duke Street, St. James’s, London SW1Y 6BN	1 tables 4 chairs		No change	High barstool chairs on narrow frontage and private forecourt
12	Franco’s	61 Jermyn Street, St. James’s, London SW1Y 6LX	8 tables 20 chairs	✓	New canterlevered umbrellas and bases, heaters and servery	Well-managed layout but the awning and umbrellas are an awkward look with umbrella bases a trip hazzard
13	Havana Cigar Exchange	1A St James’s Street, St. James’s, London SW1A 1EF	3 tables 6 chairs	✓	Chairs and tables of suitable style. Also plants in pots	This small-scale, well-managed but domestic arrangement of potplants could be improved
14	Hotel Sofitel London St James’s	6 Waterloo Place, St. James’s, London SW1Y 4AN	10 tables 30 chairs	✓	Extra tables, planter, umbrellas and heaters on sloping footways	Well-managed site with scope with more integrated design
15	Kahve Dünyasi	Unit 3, 200 Piccadilly, St. James’s, London W1J 9HU	3 tables 4 chairs		No change	This site is by the very busy footway and carriageway of Piccadilly and should be reconsidered
16	Le Caprice	20 Arlington Street, St. James’s, London SW1A 1RJ	0 tables 0 chairs		No change	Arlington St is in need of a reorganisation of the public realm quality and Le Caprice may wish to improve its frontages for the future of new alfresco uses
17	Milos	1 Regent Street St James’s, St. James’s, London SW1Y 4NR	18 tables 36 chairs		No change	Milos was well designed for quality alfresco dining using traditional existing awnings and well-defined use of existing recessed frontages
18	Ole & Steen	2 Haymarket, St James’s Market, London SW1Y 4RP	12 tables 30 chairs		No change	Well designed and managed
19	’O Ver St. James	Unit 2, 1 Norris Street, St. James’s, London SW1Y 4RJ	11 tables 14 chairs		No change	Well designed and managed
20	Pizza Hut	29-31 Piccadilly Circus, Regent Street, St. James’s, London SW1Y 4NQ	2 tables 4 chairs		No change	An unattractive site and furnishings with barriers of low quality by comparison with the street’s other sites

6.0 : Audit of sites

* Reported permanently closed at time of writing

Category A : On public highway footways adjacent vehicle carriageways						
Site No.	Name	Location	No. of tables & chairs during COVID-19	Expanded during COVID-19	Examples of additional street furnishings	Recommendations on some key sites
21	Pret a Manger	Unit 2, Retail, 2 Regent Street St, James’s, London SW1Y 4PE	4 tables 8 chairs		No change	Well managed and designed planted edges as inegrated with neighbour premises, San Carlos
22	Pret a Manger	163 Piccadilly, St. James’s, London W1J 9ED	5 tables 10 chairs		No change	As with other Piccadilly sites adjacent busy road and pedestrian traffic this site is unattractive, and constrained, without footway widening and public realm improvements
23	Rowley’s Restaurant	113 Jermyn Street, St. James’s, London SW1Y 6HJ	4 tables 8 chairs	✓	Umbrellas and seating new	Jermyn St has a narrow footway at this location but could be improved by widening if removal of the adjacent car parking/loading bay could form part of the public realm improvement
24	Saint Jacques (also see Category B no. 47 below)	5 St James’s Street, St. James’s, London SW1A 1EF	2 tables 4 chairs		No change	Frontage tables and chairs are minimal and as negotiated with the Trust. Any further St. James’s Street public realm improvements with footway widening, would improve the space available
25	San Carlos	2 Regent Street, St James’s, St. James’s, London SW1Y 4LR	9 tables 16 chairs		No change	As with Pret a Manger neighbour premises, good quality design and layout has been coordinated and integrated with excellent planting defining the seating areas
26	Shoryu Ramen	9 Regent Street, St. James’s, London SW1Y 4LR	4 tables 6 chairs	✓	New layout and furnishings of low quality	As with Pizza Hut on this street section the quality is not to the standards of design set by Milos and others with relatively poor-quality planters and tables and chairs
27	St. James Caffé	41 Pall Mall, St. James’s, London SW1Y 5JG	5 tables 10 chairs	✓	Awning, two planters and an A-board with Coca-Cola advertising	Table and chairs on frontage of low quality and two of the tables and chairs are on the kerb edge close to the busy Pall Mall traffic and are a safety risk
28	Villandry*	12 Waterloo Place, St. James’s, London SW1Y 4AU	7 tables 14 chairs		No change	Not trading on this site, but when re-let to new operators, the past design quality and bespoke furnishings, including barriers and umbrellas should be reinstated
Category B : On private land or public footways off carriageways with one or two way regular vehicle traffic						
Site No.	Name	Location	No. of tables and chairs during COVID	Expanded during COVID-19	Examples of additional street furnishings	Recommendations on some key sites
29	Athenaeum Club	107 Pall Mall, St. James’s, London SW1Y 5ER, alfresco dining in private Waterloo Gardens	12 tables 48 chairs		No change	The private club terrace and garden is well suited to alfresco dining with tables and chairs and umbrellas of good quality and layouts. Weather protection using clear plastic sheets at the Waterloo Place, publicly visible end attached to the umbrellas, is not a good solution as a backdrop to the Keith Park statue
30	Berry Bros & Rudd	63 Pall Mall, St. James’s, London SW1Y 5HZ, alfresco dining in Pickering Place, off St. James’s Street	7 tables 14 chairs	✓	New umbrellas, tables and chairs at rear of Berry Bros & Rudd	Design quality and use, day and night with lighting (sensitive to neighbour properties) appears attractive, although does compromise some of the heritage buildings and character of Pickering Place
31	Café Opera Sandwich Centre	15 & 16 Royal Opera Arcade, St. James’s, London SW1Y 4UY	5 tables 15 chairs	✓	Constrained Grade I arcade with narrow route between tables and chairs	The Grade I Royal Opera Arcade is narrow and this is another constrained site for tables and chairs if all users are planning to expand their areas
32	Caffè Nero	35 Jermyn Street, St. James’s, London SW1 6DT, alfresco dining in St. James’s Church yard	10 tables 20 chairs		No change	This site could be much better designed and furnished, in the future proposed Church and churchyard redevelopment and integrated landscape
33	Cavendish Hotel	81 Jermyn Street, St. James’s, London SW1Y 6JF, alfresco dining in Mason’s Yard	4 tables 17 chairs	✓	Wooden tables and chairs rather scattered	Higher quality management, public realm integrated design, layout and furnishings of this area shared with the Chequers Tavern, has the potential for possible longer-term use, subject to residential neighbouring premises sensitivity and space needs
34	Chequers Tavern	16 Duke Street, St. James’s, London SW1Y 6DB, alfresco dining in Mason’s Yard	1 tables 9 chairs	✓	Wooden tables and chairs rather scattered	Hours of use of the improved external area as above, would need to have hours restricted and good quality management externally, to minimise noise and antisocial behaviour

6.0 : Audit of sites

* Reported permanently closed at time of writing

Category B : On private land or public footways off carriageways with one or two way regular vehicle traffic						Some private spaces, such as The Ritz Hotel and other private member club examples, have been included below but are not comprehensive in numbers of tables and chairs
Site No.	Name	Location	No. of tables and chairs during COVID	Expanded during COVID-19	Examples of additional street furnishings	Recommendations on some key sites
35	Coco de Mama (tbc)	4 Crown Passage, St. James’s, London SW1Y 6PP (formerly at 2 Crown Passage)	0 tables 0 chairs		No change	Not yet trading at former Fuzzy’s Sandwiches location, which had only modest bench external area for food and drink, akin to the Red Lion Pub, which minimises restricted space in the narrow alley
36	Dukes London	35 St James’s Place, St. James’s, London SW1A 1NY	4 tables 9 chairs	✓	Frontage use at the end of cul-de-sac	Quality of furnishings and management are appropriate (subject to neighbour premises) but could be better integrated in a new public realm improvement to the whole cul-de-sac access carriageway and narrow footways
37	Golden Lion Pub	25 King Street and Angel Court, St. James’s, London SW1Y 6QY	5 tables 6 chairs	✓	Small extra frontage tables and chairs on forecourt	Well managed and appropriate pub style and use frontage and side use of Angel Court recess area
38	Il Vicolo	3-4 Crown Passage, St. James’s, London SW1Y 6PP	7 tables 14 chairs	✓	Extra tables and chairs	The extra tables and chairs and umbrellas have good management, but the constrained alley is narrowed and makes the space feel too crowded
39	Institute of Directors	116 Pall Mall, St. James’s, London SW1Y 5ED, alfresco dining in private Carlton Gardens	N/A		No change	As with the other Clubs along Pall mall, the private terrace and garden area is ideal for attractive alfresco dining, with good management and sensitivity to neighbours
40	Locket’s	25 St James’s Street, St. James’s, London SW1A 1HJ, alfresco dining in Smithson Plaza (Economist Plaza)	6 tables 18 chairs		Umbrellas, heaters and planters at rear of Boodles Club	Well-managed and good design, layout and furnishings adjacent sensitive Boodles Club rear area
41	London Beer House*	17 Royal Opera Arcade, St. James’s, London SW1Y 4UY	3 tables 5 chairs		Frontage private forecourt adjacent to Charles II Street	Well-managed but could be improved by relocating bus standing and delivery vehicle loading bays adjacent. Currently displaying an advertisement for Café Opera Sandwich Centre on barrier defining private forecourt
42	Pikolino Cafe	7 Crown Passage, St. James’s, London SW1Y 6PP	1 tables 3 chairs		No change	As with Il Vicolo above, Crown Passage is narrow and this is another constrained site for tables and chairs if all users are planning to expand their areas
43	The Red Lion	23 Crown Passage, St. James’s, London SW1Y 6PP	0 tables 0 chairs		No change	Only has a shelf for drinkers and smokers to lean upon externally
44	Reform Club	104 Pall Mall, St. James’s, London SW1Y 5EW, alfresco dining in private Waterloo Gardens	9 tables 36 chairs		No change	As with the other Clubs along Pall Mall, the private terrace and garden area is ideal for attractive alfresco dining, with good management and sensitivity to neighbours
45	The Ritz	150 Piccadilly, St. James’s, London W1J 9BR, alfresco dining in private garden	N/A		No change	As with the other Member Clubs the private courtyard terrace and garden areas are ideal for attractive alfresco dining, with good management and sensitivity to neighbours
46	Royal Automobile Club	89 Pall Mall, St. James’s, London SW1Y 5HS, alfresco dining in private garden	N/A		No change	As with the other Member Clubs the private courtyard terrace area is ideal for attractive alfresco dining, with good management and sensitivity to neighbours
47	Saint Jacques (also see Category A no. 24 above)	5 St James’s Street, St. James’s, London SW1A 1EF, alfresco dining in Pickering Place, off St. James’s Street	10 tables 20 chairs	✓	Additional quality tables and cahirs with umbrellas	Pickering Place has capacity for these uses on the north side, more appropriately than the south where Georgian quality of scale architecture is important
48	Sake no Hana	23 St James’s Street, St. James’s, London SW1A 1HA, alfresco dining in Smithson Plaza (Economist Plaza)	9 tables 36 chairs	✓	Nine large umbrella stands and furniture	At the time of visits, alfresco dining was not in use, although laying out of umbrellas was noted. The plaza is large enough, and as with Locket’s adjacent, appropriate for the capacity, subject to management quality and sensitivity to neighbour premises
49	Scully St. James’s	4 St James’s Market, St. James’s, London SW1Y 4AH	4 tables 8 chairs	✓	St. James’s Market cul-de-sac footway	Furnishings and layout on very narrow footway adjacent service vehicle carriageway needs improved design, layout and quality integration with the public realm.
50	Stafford Hotel	16-18 St James’s Place, St. James’s, London SW1A 1NJ, alfresco dining in Blue Ball Yard	18 tables 54 chairs		Private yard and public highway with planters, umbrellas and furnishings	Well-managed and high-quality furnishing appropriate to the historic townscape setting on private and public highway sections
51	Travellers’ Club	106 Pall Mall, St. James’s, London SW1Y 5EP, alfresco dining in private Waterloo Gardens	0 tables 0 chairs		No change	At the time of recording no garden alfresco dining tables and chairs form the club in use

7.0 : Management and enforcement of requirements

- 7.1 Below is an extract of the City Council's advice on hospitality issues for alfresco dining areas on the public highway based on existing legislation and licencing enforcement and management requirements :

Health Act 2006

Any business operating will need to comply with the Health Act 2006 and ensure any outdoor smoking area is not considered substantially enclosed. Further advice can be found in the guide from Smoke Free England. **Businesses should also be mindful of where customers are allowed to smoke as, if permitted directly under a residential window, this may cause an annoyance or nuisance to the occupier.** If your business will utilise a Pavement Licence, then you will also need to comply with the national smoke-free condition or any locally set condition imposed on that licence. The national condition is: "Where the furniture on the relevant highways consists of seating for use by persons, for the purpose of consuming food or drink, the licence holder must make reasonable provision for seating where smoking is not permitted." Operating your business responsibly It is important that you continue to operate responsibly. Licensed premises must ensure that they promote the Licensing Objectives and that any changes to the operation of their business does not adversely impact them in any ways. The licensing objectives are:

- Prevention of crime and disorder
- Public safety
- Prevention of public nuisance
- Protection of children from harm.

We want businesses to operate safely but also to be mindful of the impact of reopening on residents and other businesses in the area. You should take steps to make sure that any customers drinking and/or smoking outside the premises are behaving in an orderly way and are supervised by staff and/or

security. This will help prevent any public nuisance or obstruction of the public highway.

Enforcement

Our key focus is to ensure the hospitality sector operates safely, that businesses are supported, and that the needs of our residents are at the heart of our plans. Key principles of our enforcement plan will include:

- Ensuring premises comply with the conditions and times of their various authorisations.
- Reviewing social distancing measures implemented by premises, including customer management.
- Enforcing on waste collections and litter to keep streets clean.
- Managing Noise and Public Nuisance, both from the premises using tables and chairs and those providing off-sales which leads to people drinking on the street.
- Addressing congestion caused by road closures or unlicensed street trading (tables and chairs).

Our enforcement approach will be in line with our corporate enforcement policy, and we aim to support businesses getting back on their feet. We will use an escalating enforcement model, where we are accurately capturing the details of the premises causing complaints and the actions taken. Businesses will initially be given advice and guidance on how they should operate to comply, and they will be given the opportunity to implement the advice or make necessary changes. **If premises persistently fail to comply or are generating large numbers of complaints or concerns, we will look at enforcement action.** The lead enforcement officers will be the city Inspectors. Shifts will be altered to better allocate resources at busy times and Inspectors will be proactively monitoring locations that are expected to be busy or receiving complaints. **Complaints can be made via the council's online reporting system.**



Above: The Havana Cigar House is regularly managed in its tables and chairs and planter arrangements. Below: Franco's have monitored and improved their umbrella bases for stability and staff attend their servery and layout.



7.0 : Management and enforcement of requirements

7.2 The extract below refers to particular features of alfresco dining areas requiring careful management and approvals processes :

Planting

Any additional planter boxes and planting introduced by businesses must be agreed with WCC Highways to determine required specification and must also be maintained in good condition.

Advertising and signage

Any new advertising and signage applied to barriers which enclose tables and chairs, or any other area on the highway, will require express advertisement consent from Westminster City Council. **The display of unauthorised adverts is a criminal offence and any breaches will be investigated by the Planning Enforcement Team.** Westminster City Council will not be providing any advertising guidance as part of the Hospitality Scheme. Should businesses wish to apply for advertisement consent they can do so here.



As a rule, advertising must not be illuminated in any way and will be subject to the standard conditions in Schedule 2 of the Government's guidance on outdoor adverts Regulations.

These are:

- No advertisement is to be displayed without the permission of the owner of the site on which they are displayed (this includes the highway authority, if the sign is to be placed on highway land).
- No advertisement is to be displayed which would obscure, or hinder the interpretation of official road or rail signs, or otherwise make hazardous the use of these types of transport.
- Any advertisement must be maintained in a condition that does not impair the visual amenity of the site.
- Any advertisement hoarding or structure is to be kept in a condition which does not endanger the public.
- If an advertisement is required to be removed, the site must be left in a condition that does not endanger the public or impair visual amenity.



Above : Milos with a recess in the frontage has been able to provide a high quality planting edge and also a traditional awning for weather protection. From left : San Carlo has a substantial planted seating area also with awning which coordinated with the Pret A Manger quality of its layout, planting and awning.

8.0 : Future plans for alfresco dining in St. James's

8.1 Strategic issues of possible further expansion of tables and chairs post Covid-19 recovery

Some sites that have been permitted expansion, currently to the end of September 2021 may seek new applications to maintain these enlarged areas for annual renewal on a short term or long-term basis. Short term justification to the formal applications and to the local community to re-establish viability from losses since the commencement of the pandemic may be understandable and may be acceptable, subject to evidence of existing management standards of compliance.

Long term permanent use of some pandemic temporary expanded or new sites may not be possible. Those that have relied in part or entirely on temporary footway widenings in place during the pandemic, that may have to be removed for vehicle and pedestrian safety and congestion issues are unlikely to be acceptable.

The key question is whether the level of alfresco dining has reached the optimum capacity for the maintenance of the character and amenity of the historic St. James's district.

Has the temporary expansion of more tables and chairs resulted in negative impacts? If so, and applications to make these permanent, are the impacts due to excessive levels of disturbance by an increase in activity on streets and spaces, previously dignified by the townscape and mix of low intensity uses?

It is clear that some expanded and new sites have been successful in townscape locations on streets with wide footways and in spaces that are relatively vehicle free areas already well managed.

These successful expanded or new alfresco, tables and chairs locations include :

45 Jermyn Street at Fortnum & Mason frontages
Franco's, Jermyn Street,
Waterloo Place, at Sofitel Hotel frontage



Each of these street locations where there has been past footway widening as part of public realm improvements have been able to operate alfresco dining expansion within the safe and attractive criteria of the Trust's objectives. Clockwise from top left : Aquavit, St. James's Market; 45 Jermyn St, Jermyn Street; Sofitel Hotel, Waterloo Place and Franco's, Jermyn Street.

8.0 : Future plans for alfresco dining in St. James's



Examples of outdoor spaces with no or low vehicle access :
Many of the members' Clubs have alfresco dining in the adjacent gardens and architectural terraces, such as The Reform Club (above) and The Athenaeum Club (top).

By contrast, accessible public highway areas may be suitable in St. James's such as the courtyard of Berry Bros. & Rudd and St. Jacques in Pickering Place which has two areas pedestrianised (right top).

Two other examples are the Stafford Hotel, Blue Ball Yard cul-de-sac (right middle) and The Chequers Public House, Cavendish Hotel's use of Mason's Yard (bottom right).

8.2 Issues of possible removal and reduction or relocation of alfresco dining

Reducing the tables and chairs areas to pre-pandemic levels will no doubt have an economic impact on business expectations for future increases in profitability of most sites. This will be a complex matter for the National, Strategic and local Planning and Licensing Authorities. Also, for residential and business communities and representatives, generally in favour of the agreed gradual levels of a growth economy for St. James's and the Central Area Zone of Westminster. Landowners and developers will also need to consider their capital value and revenue challenges in this aspect – although The Crown Estate, as majority landowner has in the past seen the benefits of the delicate balance between Stewardship and Commercialism.

8.3 The Trust recognises the above issues of concern and is therefore making recommendations for a new strategy, in partnership with the City of Westminster's Planning, Highways and Licensing authorities, The Crown Estate, other land interests and the Heart of London Business Alliance. The aim would be to return to the level of intensity of the pre-pandemic capacity of sites for alfresco dining (target to be : "no significant net gain in covers and overall space capacity" required) :

- Identify and agree the existing permanent and temporary alfresco dining areas and their characteristics and compliance with conditions, which were successful.
- Agree sites with concerns, which without new improved public realm space should be removed, relocated or reduced in numbers of covers and accessories.
- Identify and agree in principle, possible new, replacement sites for alfresco dining, which have adequate space and opportunities, if well managed and viable.

9.0 : Summary data and recommended actions

9.1 The Key data

The total number of establishments offering commercial, publicly-accessible alfresco dining and refreshments on public (and some areas of private) highways using tables and chairs is 50, as identified in this document's estimated site audit (further background details, are available from Westminster's Licensing Register). This breaks down to approximately :

Premises = 50

Tables = 299

Chairs = 677

This represents a significant increase from the pre-pandemic numbers.

9.2 The Trust and The Crown Estate have had informal agreement that food and beverage provision in St. James's, pre-pandemic, should not support a net increase of the number of such establishments (formerly Use Class A3). This is due to shared concerns over increased negative impacts on the dignified character and townscape of historic St. James's. The policy has allowed the planned closure of some poor-quality establishments and sites, and higher quality offers outside the historic core, at St. James's Market district.

9.3 This report advises that the Trust start discussions with the City of Westminster and stakeholders based on the information and views of concern about growth of numbers set out in this report in St. James's.

9.4 A review of the issues of concern is needed to ensure an agreed new local strategy. This should be undertaken before the end of September 2021, the date set for possible conclusion of the current temporary licensing arrangements, or renewals.



Caffè Nero in St. James's Churchyard alfresco arrangements could be subject to the proposed improvement of this private space, as part of the restoration of the church accommodation.

9.5 The Trust has already in the past considered spaces for possible forms of alfresco refreshment places, which could again be evaluated, if suitably managed, viable and practical. These include :

- Adjacent 67 Pall Mall/Marlborough House entrance.
- Waterloo Place (north island) adjacent Sofitel Hotel and the former Villandry site.
- Waterloo Place (south island) adjacent the Institute of Directs and Athenaeum Clubs.

9.6 Other new locations where future public realm improvements which have in the past been considered, but not implemented, could be part of a long-term strategy under the same terms of quality management, viability and practicality, such as :



Le Caprice in Arlington Street has at present limited private forecourt space for alfresco use but could be improved as part of a future public realm project.

- St. James's Church and Churchyard as part of planned improvements and developments.
- Arlington Street transformation with increased footway widenings adjacent The Caprice and Blue Posts.
- St. James's Street east and west sides, local footway widening adjacent Chutney Mary (west side), Café Murano, The Avenue, St. Jacques etc. (east side).

9.7 The existing Mason's Yard site has also demonstrated significant capacity for temporary, extended tables and chairs areas, adjacent the rear of The Chequers Public House and rear of Cavendish Hotel (with past proposals for more comprehensive improvements on this frontage). This could be retained and improved subject to commercial and residential, neighbour interests in access and sustained amenity.

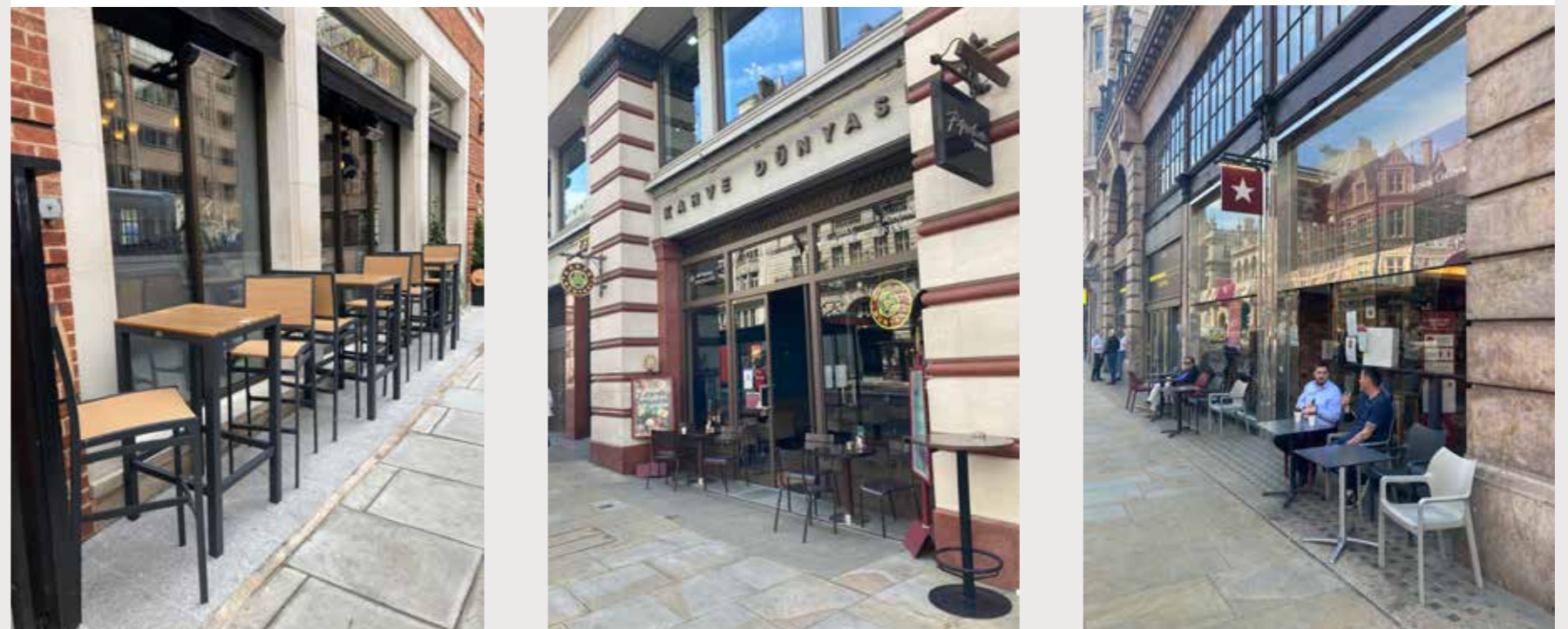
9.0 : Summary data and recommended actions

9.7 The Trust's Summary Recommended Actions

- The Trust and City Council should aim to restore the net, pre-pandemic maximum number of alfresco dining tables and chairs, their square metres in area, and locations, where on streets to reduce the increase in intensity and negative impacts on the character of the Special Policy Area.
- Limit the numbers of alfresco dining areas where tables and chairs areas in low or no vehicle accessible spaces have been increased significantly, even if without negative impacts during relaxations during the pandemic.
- Seek a change for more consultation time than has been possible during the pandemic between temporary applications and approvals for communities to respond to issues.
- Improve and emphasise the requirements of applications for the accuracy and communication of all aspects of the alfresco dining drawings and dimensions.
- Applications must in future show more clearly, the layout and dimensions of residual footway unobstructed space, to include, all street furniture restrictions, as well as from kerb lines to obstructions/frontages, including any low-level trip hazards such as temporary structures for demarcation of enclosures or umbrellas.
- In St. James's the highest quality standards of alfresco dining furnishings and layouts are required to be demonstrated in applications.
- Consider where narrow frontage premises seek in future to extend their tables and chairs areas, that local footway widening either temporary or ideally as permanent public realm improvements – should be directly related to the extent of the accessible frontage for ease of management, safety, service and unobstructed footway space must be maintained.



Clockwise from top left: 45 Jermyn St., Duke Street Steet. James's frontage; St Jacques, St. James's Street; Pret a Manger on Piccadilly; Kahve Dünyası, Piccadilly and Blue Posts Pub, Arlington Street/Bennet Street - all are examples of limited frontage arrangements





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