



City of Westminster

Licensing Sub-Committee Report

Item No:

Licensing Ref No:

Date:

25 January 2024

Classification:

For General Release

Title of Report:

Street Trading – Pitch 942 Old Cavendish Street

Report of:

Director Public Protection & Licensing

Policy context:

To provide a safe, well-regulated environment.

Financial summary:

None

Report Author:

**Bushara Hamida
Senior Licensing Officer Street Trading**

Contact Details:

**Telephone: 07971 920 374
E-mail: bhamida@westminster.gov.uk**

PROPOSAL DETAILS

Proposal:	To rescind the designating resolution for designated Pitch 942 Old Cavendish Street.
Pitch Designation:	The original designation for Pitch 942 is on “Old Cavendish Street centrally located on pedestrian area (clear of tactile paving), 11.27m north of the kerb edge of Oxford Street” The pitch location can be found at Appendix A
Ward Name:	West End

1. Purpose of the report

The Licensing Sub-Committee is asked to rescind the designating resolution for designated Pitch 942 at Old Cavendish Street as recommended by officers.

2. Summary

Section 4.1 of the City Council’s Mayfair Neighbourhood Plan 2018 – 2038 relating to Retail outlines policies that are aimed at ‘securing world-class retail for the long term, including the encouragement of new retail in the area, the direction of new retail opportunity locations, and the districts in Mayfair where specialist retailers deserve particular designation and support’.

MR1.6 of the Mayfair Neighbourhood Plan (MNP) specifies that “Stand alone retail “huts” such as exist in the side streets along Oxford Street are not supported and opportunities to remove or relocate them should be taken.”

The Licensing Service supports an opportunity for the City Council to further the aims as set out at page 38 of the MNP. A copy of the Plan is not included as part of the report due to the size of the document; however, a copy of the document can be found [here](#).

3. Background

The original designation for Pitch 942 is on “Old Cavendish Street centrally located on pedestrian area (clear of tactile paving), 11.27m north of the kerb edge of Oxford Street”

The pitch has a licence attached to it and is currently operating as a retail unit selling Ice cream, cold drinks, waffles, magic corn, crepes, doughnuts, pains aux chocolats, pain aux raisins, pizza, hot drinks, smoothies, milkshakes, muffins and crossaints.

A freeholder of a property wishes to secure the removal of the street trading pitch and has reached a private agreement with the street trader to support the de-designation of the pitch. If the officer’s recommendation is approved by the Licensing Sub-Committee the licence holder will surrender their street trading licence.

4. Consultation

In seeking to de-designate Pitch 942 at Old Cavendish Street the Licensing Service has undertaken the statutory consultation with the Street Trading licence holder, Highway Authority, Police, and the West End Street Traders Association.

In addition, notification of the intention to de-designate the pitch was sent to the Council's relevant Ward Members.

A copy of the notification of intent to de-designate is included as **Appendix B**.

5. Consultation Responses:

a) Licence Holder:

On 01 December 2023, the Licensing Service received a letter from the licence holder advising that he supports the Council's intention to rescind the designation. The letter can be found at **Appendix C** of the report.

b) Ward Councillors:

At the time of publishing the report the Licensing Service has not received any comments from the Ward Councillors.

c) West End Traders Association (WESTA):

On 01 December 2023, the Licensing Service received a representation supporting the Council's intention to rescind the designation. The email can be found at **Appendix D** of the report.

d) Highways Planning:

At the time of publishing the report the Licensing Service has not received any comments from the Highways Authority.

e) Metropolitan Police Service:

At the time of publishing the report the Licensing Service has not received any comments from the Police Service.

6. Equality Implications

The Council in its capacity as Licensing Authority has a duty to have regard to its public sector equality duty under section 149 of the Equality Act 2010. In summary, section 149 provides that a Public Authority must, in the exercise of its functions, have due regard to the need to:

- (a) eliminate discrimination harassment, victimisation and any other conduct that is prohibited by or under this Act;
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- (c) foster good relations between persons who share a relevant protected characteristics and persons who do not share it.

Section 149 (7) of the Equality Act 2010 defines the relevant protected characteristics as age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.

The Council has had regard to the above duty and confirms that the proposal to rescind the designation of Pitch 942 at Old Cavendish Street does not have any implications which would breach its public sector equality duty.

7. Street Trading Policy

- a) Policy ST5 within the City of Westminster Statement of Street Licensing Policy relates to the designation and de-designation of street trading pitches. However, the Licensing Service requests that the committee consider this application as an exception to this policy.

Designation and De-designation- Policy ST5

(i) The Licensing authority will designate specific resolution for licensed street trading.

(ii) The Licensing authority may de-designate pitches that are no longer suitable for licensed street trading.

(iii) The Licensing authority will not designate any new isolated street trading pitches, apart from in exceptional circumstances.

Policy ST5(2) states that the Licensing authority may, subject to the appropriate consultation and notification procedures, de-designate street trading pitches where in the opinion of the licensing authority, they are no longer suitable for street trading. The circumstances under which a location may be considered not suitable include:

- (a) It has not been used for trading for a period of greater than six months;*
- (b) There has been altered circumstances due to the increased pedestrian footfall resulting from altered highways layouts, public realms improvements or construction projects;*
- (c) Where there is new development and the siting and operation of the trading pitch would adversely affect local pedestrian flow or cause congestion, including close to the transport stops or stations.*

8. Legal Framework

Designating Resolution

- a) Section 5(1)(a) of the City of Westminster Act 1999 (the Act) provides:
The council may pass a resolution designating a street or part of a street in the city as a licence street (a designating resolution).
- b) Section 5(2) of the Act provides:
The council may from time to time rescind or vary any such resolution.
- c) Section 6(1) of the Act provides:
The council shall not pass a designating resolution or rescind or vary such a resolution unless they have first given notice in writing of their intention to do so—
- (a) to the Commissioner;

- (b) to the highway authority (except where the council is the highway authority);
- (c) to any body which appears to the council to represent the relevant street traders;
- (d) to all licence holders whom the council could reasonably expect would be affected by the proposed resolution; and
- (e) where the proposed resolution would designate private land, to the owner of that land or to the person assessed for the uniform business rate on it.

d) Section 6(5) of the Act provides:

The council shall give to any person who makes representations by the due date an opportunity to make oral representations to the council and may at their discretion give to other persons making representations a similar opportunity.

9. Appeals

a) Section 19(1) of the Act provides:

Any person aggrieved—

- (a) by a resolution varying or rescinding a designating resolution;
 - (b) by a specifying resolution or a resolution varying such a resolution;
 - (c) by a standard condition; or
 - (d) by the amount of a fee or charge under section 22 (Fees and charges) of this Act,
- may appeal to the Magistrates' Court whose decision shall be final.

10. Recommendation

To rescind the designating resolution for designated Pitch 942 at Old Cavendish Street.

List of Appendices

Appendix A	Pitch location
Appendix B	Consultation letter sent to relevant parties
Appendix C	Consultation response from Licence Holder
Appendix D	Consultation response from West End Street Trading Association (WESTA)

If you have any questions about this report, or wish to inspect one of the background papers, please contact **Bushara Hamida** at bhamida@westminster.gov.uk

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

- City of Westminster Act 1999
- City of Westminster Statement of Street Licensing Policy adopted in December 2013
- Rules of Procedure for Licensing Sub-Committee
- Designating Resolution passed by the Council on 25 July 1990



Sean Dwyer – Highways Planning
Westminster City Council
Westminster City Hall
64 Victoria Street
London SW1E 6QP

Public Protection & Licensing
15th Floor
City Hall
64 Victoria Street
London SW1E 6QP

Tel. No: **0114 551 3797**
Date: 27 November 2023

Dear Sean Dwyer,

INTENTION TO RESCIND DESIGNATION: Pitch 942, Old Cavendish Street

I write to inform you, in accordance with Section 6 of the City of Westminster Act 1999, that the City Council intends to rescind the designating resolution for designated Pitch 942 at Old Cavendish Street.

The original designation for Pitch 942 is on “Old Cavendish Street centrally located on pedestrian area (clear of tactile paving), 11.27m north of the kerb edge of Oxford Street”

The following image is a photograph of where the pitch is currently designated:



The reason for the de-designation:

The City Council's Mayfair Neighbourhood Plan 2018 – 2038 outlines policies that are aimed at:

Securing world-class retail for the long term, including the encouragement of new retail in the area, the direction of new retail opportunity locations, and the districts in Mayfair where specialist retailers deserve particular designation and support.

Under this, policy MR1 Retail Encouragement and Direction, specifically states under MR1.6 that,

“Stand alone retail “huts” such as exist in the side streets along Oxford Street are not supported and opportunities to remove or relocate them should be taken.”

In this case an opportunity has arisen to further this policy aim of the City Council. The Council has been notified that a local freeholder of a property, close to Pitch 942, Old Cavendish Street wishes to secure the de-designation of the street trading pitch. They have reached a private agreement with the street trader who supports the de-designation on the terms agreed. Therefore, to achieve both the objective of the freeholder and in furtherance of the Council's clear policy of removing such pitches when there is the opportunity (MR1.6), the pitch needs to be de-designated.

Anyone wishing to make representations about the Council's application should do so by **25 December 2023**. Representations can be made in writing to streetlicensing@westminster.gov.uk or alternatively to the address above.

Yours sincerely,

A handwritten signature in black ink that reads 'B Hamida'.

Bushara Hamida
Senior Licensing Officer
Street Trading Licensing Team

32 Vincent Gardens
London
NW2 7RP

Public Protection & Licensing
15th Floor
City Hall
64 Victoria Street
London SW1E 6QP

Tel. No: **0114 551 3797**
Date: 27 November 2023

Dear Mr Mark Impleton,

INTENTION TO RESCIND DESIGNATION: Pitch 942, Old Cavendish Street

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Street Trading Licensing Team

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Westminster City Hall
64 Victoria Street
London SW1E 6QP

Public Protection & Licensing
15th Floor
City Hall
64 Victoria Street
London SW1E 6QP

Tel. No: **0114 551 3797**
Date: 27 November 2023

Dear Police Licensing,

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Senior Licensing Officer
Street Trading Licensing Team

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Westminster City Hall
64 Victoria Street
London SW1E 6QP

Public Protection & Licensing
15th Floor
City Hall
64 Victoria Street
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Tel. No: **0114 551 3797**
Date: 27 November 2023

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Bushara Hamida
Senior Licensing Officer
Street Trading Licensing Team

Wally Watson & Nichola Kerr
West End Street Traders Branch
N.M.T.F.
The Old Butchers Shop
The Green Sarrett
Rickmansworth
WD3 6AT

Public Protection & Licensing
15th Floor
City Hall
64 Victoria Street
London SW1E 6QP

Tel. No: **0114 551 3797**
Date: 27 November 2023

Dear Wally Watson & Nichola Kerr,

INTENTION TO RESCIND DESIGNATION: Pitch 942, Old Cavendish Street

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Bushara Hamida
Senior Licensing Officer
Street Trading Licensing Team

Mark Impleton
32 Vincent Gardens
London NW2 ?RP

By email: bhamida@westminster.gov.uk

1st December 2023

Bushara Hamida
Senior Licensing Officer
Licensing Service
15th Floor, City Hall
64 Victoria Street
London SW1E 6QP

Dear Sana

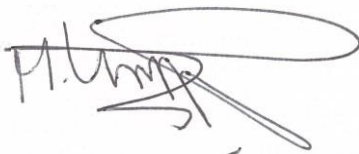
**INTENTION TO RESCIND DESIGNATION
PITCH 942 OLD CAVENDISH STREET**

Thank you for your notice of 27th November 2023 advising that the Council intends to rescind the designating resolution for street trading for Pitch 942 Old Cavendish Street.

I have reached agreement with a local stakeholder to voluntarily surrender my licence for the pitch if the Council de-designate it. Accordingly, I support the proposed de-designation.

Yours sincerely

Mr Mark Impleton

A handwritten signature in black ink, appearing to read 'M. Impleton', with a large, stylized flourish above the name.

WEST END STREET TRADERS ASSOCIATION

N.M.T.F.

THE OLD BUTCHERS SHOP
THE GREEN, SARRATT, RICKMANSWORTH HERTS WD3 6AT
MOBILE № 07973210161– E-Mail wallywatson@kws-imports.co.uk

Committee Chairman: Wally Watson. Secretary: Carly Wise

Committee Members: Mark Impelton,

Stephen Burney, Peter Compobassi

Treasurer: Steve Burney

CONSULTANT Nichola Kerr

BY EMAIL

1 December 2023

Bushara Hamida
Senior Licensing Officer
Street Trading Licensing Team
Public Protection & Licensing
15th Floor, City Hall
64 Victoria Street
London SW1E 6QP

Dear Bushara

**INTENTION TO RESCIND DESIGNATION
PITCH 942 OLD CAVENDISH STREET, W1**

Thank you for your email of 27 November 2023 informing WESTA of the Council's intention to designate Pitch 942, Old Cavendish Street.

As Council officers are aware WESTA would normally be very concerned about such a proposal because of the risk to the livelihood of the trader concerned. In this instance, however, a local stakeholder has reached a private agreement with the licence-holder of Pitch 942. Consequently, on this occasion de-designation will not only accord with a Council policy objective and benefit a local stakeholder but will be achieved without detriment to the licence-holder of Pitch 942.

Accordingly, WESTA **supports** the Council's intention to de-designate Pitch 942 on the basis set out in the Council's email of 27 November 2023

Yours sincerely



Wally Watson
Chairman – West End Street Trading Association