



City of Westminster

# Licensing Sub-Committee Report

Item No:

Licensing Ref No:

**21/13882/RESCIN**

Date:

**12 January 2022**

Classification:

**For General Release**

Title of Report:

**Street Trading - Isolated Pitch 934 Orchard Street**

Report of:

**Director Public Protection & Licensing**

Policy context:

**To provide a safe, well-regulated environment.**

Financial summary:

**None**

Report Author:

**Shannon Pring  
Senior Practitioner Street Trading**

Contact Details:

**Telephone: 07971 920 413  
E-mail: [spring3@westminster.gov.uk](mailto:spring3@westminster.gov.uk)**

## PROPOSAL DETAILS

<b>Proposal:</b>	The designating resolution passed by the Council on 25 July 1990 be varied to rescind the designation of street trading Pitch 934 Orchard Street
<b>Pitch Designation:</b>	Orchard St footway outside Marks and Spencer length commencing 2.13m Oxford Street side of column. (Additional length of 1.22m allowed but extra length to be a maximum height of 0.91m)  The pitch location and image of the kiosk can be found at Appendix A
<b>Ward Name:</b>	Marylebone High Street

### 1. Purpose of the report

The Licensing Sub-Committee is asked to vary the designating resolution passed by the Council on 25 July 1990 to rescind the designation of Pitch 934 Orchard 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) specify' s 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

Pitch 934 is positioned at the southern end of Orchard Street at its junction with Oxford Street. The pitch is located between two columns just north of the pedestrian crossing.

The pitch has a licence attached to it and is currently operating as a retail unit selling food and beverages.

A local stakeholder wishes to secure the de-designation of the street trading pitch at Orchard Street to carry out approved redevelopment. The stakeholder 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 after a period of 3 months.

#### **4. Consultation**

In seeking to de-designate Pitch 934 Orchard 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 20 December 2021, 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 16 December 2021, the Licensing Service received a representation supporting the council's intention to rescind the designation. The full representation can be found at Appendix E of the report.

##### **d) Highways Planning:**

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

##### **e) Metropolitan Police Service:**

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

#### **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

## **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 Secretary of State whose decision shall be final.

## **10. Recommendation**

That the designating resolution passed by the Council on 25 July 1990 be varied to rescind the designation of street trading Pitch 934 Orchard Street

## List of Appendices

<b>Appendix A</b>	Pitch location and GIS Map
<b>Appendix B</b>	Consultation letter sent to relevant parties
<b>Appendix C</b>	Consultation response from Licence Holder
<b>Appendix D</b>	Consultation response from West End Street Trading Association

If you have any questions about this report, or wish to inspect one of the background papers, please contact **Shannon Pring** at [spring3@westminster.gov.uk](mailto:spring3@westminster.gov.uk)

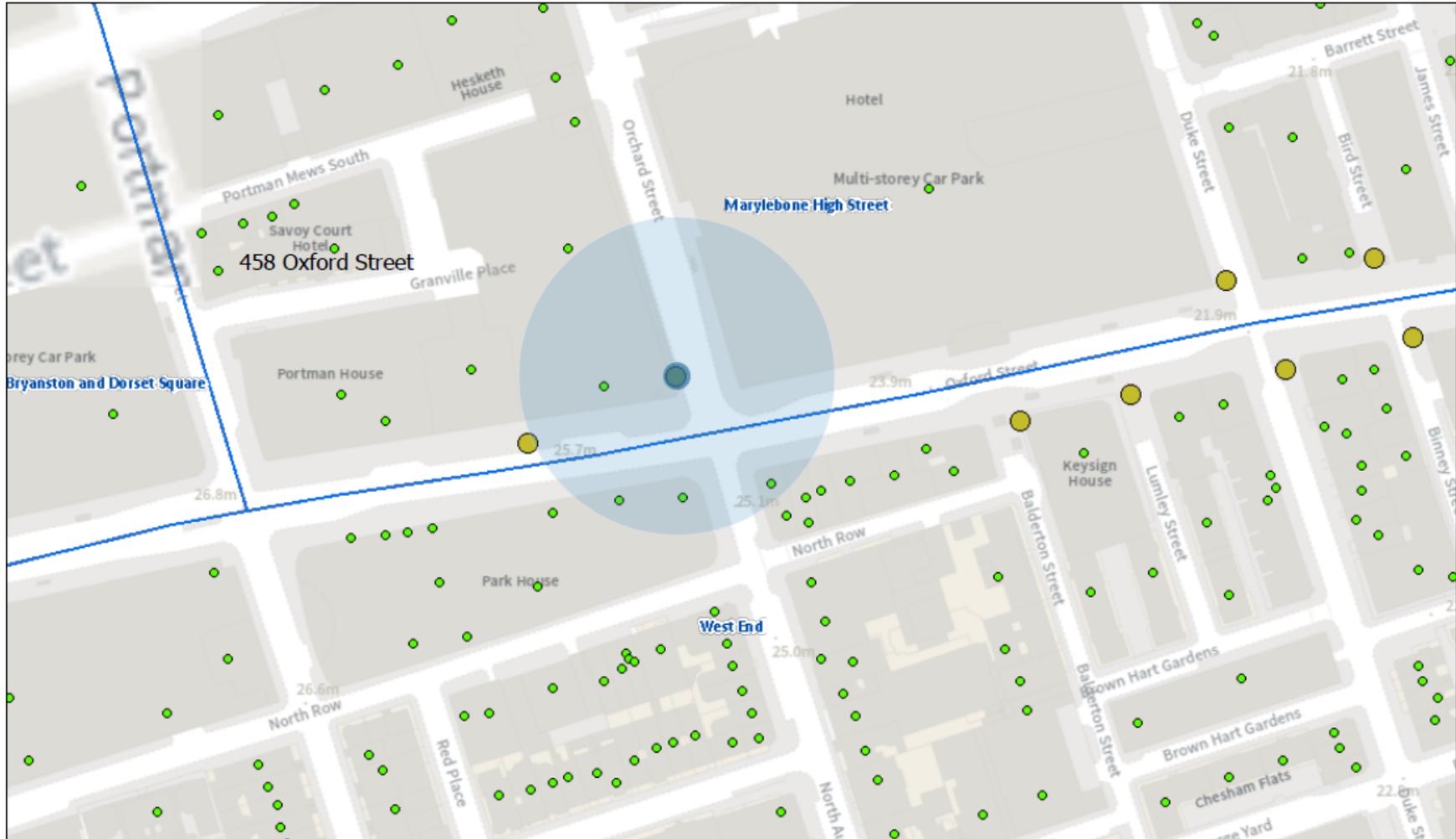
## Background Documents – Local Government (Access to Information) Act 1972

- 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

Appendix A – Pitch location and GIS Map

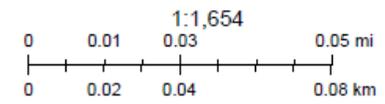


# Pitch 934 Orchard Street



17/12/2021, 12:39:08

- |   |  |  |   |
|---|--|--|---|
| <span style="color: green;">●</span> Property Mailing List  | Ward Labels  | <span style="color: orange;">●</span> Exhibition     | <span style="color: purple;">●</span> Street Trading  |
| <span style="border: 1px solid gray; display: inline-block; width: 15px; height: 10px;"></span> Borough Boundary - Mask | <span style="border-bottom: 1px solid blue; width: 20px; display: inline-block;"></span> Borough Boundary - Detailed | <span style="color: yellow;">●</span> Isolated Pitch | <span style="color: teal;">●</span> Temporary Traders |
| <span style="border: 2px solid blue; display: inline-block; width: 15px; height: 10px;"></span> Ward Boundaries         | Live Street Trading  | <span style="color: blue;">●</span> Market           | <span style="color: lightblue;">●</span> Vacant Pitch |
|   | <span style="color: green;">●</span> Casual Traders  |  |   |



**INTENTION TO RESCIND DESIGNATION: PITCH 934 ORCHARD STREET**

I write in respect of the letter sent to you on 30 November 2021 advising that the Licensing Service intends to rescind the designation for Pitch 934 on Orchard Street in accordance with Section 6 of the City of Westminster Act 1999.

The purpose of this letter is to clarify the reason that we are seeking to rescind the designating resolution for the above pitch.

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 particular case an opportunity has arisen to further this policy aim of the City Council. The Council has been notified that a local stakeholder wishes to secure the de-designation of street trading pitch 934 to enable it to carry out an approved redevelopment. They have reached a private agreement with the street trader who supports the de-designation on the terms agreed. Therefore, to achieve both the approved redevelopment objective of the stakeholder and consistently with 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 **28 December 2021**. Representations can be made in writing to [streettradinglicensing@westminster.gov.uk](mailto:streettradinglicensing@westminster.gov.uk) or alternatively to the address above.

Appendix C – Response received from Licence Holder

4b Ashbridge Street,  
London, NW8 8DQ

Shannon Pring,  
Senior Practitioner for Street Trading,  
Licensing Team,  
Public Protection and Licensing,  
Westminster City Council,  
15<sup>th</sup> Floor, City Hall,  
64 Victoria Street,  
London, SW1E 6QP

18 December 2021

Dear Ms. Pring,

**PITCH 934, ORCHARD STREET – PROPOSED DE-DESIGNATION**

Thank you for your letter of 15 December 2021 advising of the intention of the Council to rescind the designating resolution for Pitch 934.

Normally I would have opposed this in the strongest possible terms. However, as I believe you are aware, I have come to a private agreement with a local stakeholder. Accordingly, I SUPPORT the proposed de-designation of the pitch.

Yours sincerely,



Peter McKenna

Appendix D – Response from West End Street Trading Association

**WEST END STREET TRADERS BRANCH**

**N.M.T.F.**

THE OLD VICARAGE, LANGLEYBURY,  
KINGS LANGLEY, HERTS WD4 8QR

FAX NUMBER: 0208 5915427– OFFICE: 020 8591 1004

Committee Chairman: Wally Watson. Secretary: Caroline Pattenden

Committee Members: Mark Impleton, Victoria Munroe

Stephen Burney, Peter Compobassi

Treasurer: Stephen Burney

**BY EMAIL**

16 December 2021

Shannon Pring  
Public Protection & Licensing  
15<sup>th</sup> Floor, City Hall  
Victoria Street  
London SW1E 6QP

Dear Shannon

INTENTION TO RESCIND DESIGNATION: PITCH 934 ORCHARD STREET W1

Thank you for your letter of 15 December 2021 clarifying the reasons for the Council's intention to designate Pitch 934, Orchard 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 934. 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 934. Accordingly WESTA **supports** the Council's intention to de-designate Pitch 934 on the basis set out in the Council's later of 15 December 2021.

Yours sincerely



Chairman – West End Street Trading Association

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