



City of Westminster

# Licensing Sub-Committee Report

Item No:

Licensing Ref No:

**05/04822/LI\_STE**

Date:

**26 May 2022**

Classification:

**For General Release**

Title of Report:

**Street Trading Variation - Isolated Pitch 1726 Duke Street**

Report of:

**Executive Director Environment & City Management**

Policy context:

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

Financial summary:

**None**

Report Author:

**Shannon Pring  
Senior Practitioner Street Trading**

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## PROPOSAL DETAILS

<b>Proposal:</b>	The street trading licence (reference 05/04822/LI_STE) be varied to remove Sausages as an approved commodity to take effect from 1 <sup>st</sup> January 2023.
<b>Pitches and Locations:</b>	Pitch 1726 Duke Street is located on Duke Street (south) east footway, 0.91m from pedestrian crossing push button pole, 1.22m from kerb edge.
<b>Pitch Dimensions:</b>	The size of pitch is L: 3.04m W: 3.04m
<b>Ward Name:</b>	West End

### 1. Purpose of the report

The Licensing Sub-Committee is asked to vary the Street Trading licence (reference 05/04822/LI\_STE) to remove sausages as an approved commodity to take effect from 1 January 2023. Mr Stein's licence is included as Appendix 1 of the report.

#### Summary

The Street Trading Policy adopted in December 2013 sets out in Policy ST8(4) – Guidelines for goods on sale – The council may vary street trading licences, subject to section 16 of the City of Westminster Act 1999, in order to promote any development strategy which may be in place. This may involve adding to or amending the list of prohibited goods. This may also involve the making of specifying resolutions in respect of isolated pitches where this is considered appropriate.

There is a specifying resolution in place for street trading pitches in and around Oxford Street. The specifying resolution dated 28 June 2007 “prohibits the sale, offer or provision of hamburgers, beef burgers, hotdogs, sausages, frankfurters, hot chicken, steaks and spare-ribs...” Pitch 1726 Duke Street is one of the pitches listed in the specifying resolution. A copy of the specifying resolution is included as Appendix 2 of the report.

Due to officer administrative error a prohibited commodity was added to Mr Stein's licence and the Licensing Service now seeks to rectify that error by requesting that the commodity (sausages) is removed from the licence.

### 2. Background

On 17 August 2019 Mr Stein submitted a variation application to add hot and cold food and remove phone cards. During the application process Mr Stein provided a menu highlighting the foods that he wanted to be added to the licence, one of which was sausages. The variation application was granted as applied on 7 August 2020. The variation application is included at Appendix 3 of the report.

On 26 October 2020, Ms Pring wrote to Mr Stein advising of the error and giving him the opportunity to remove sausages from his licence, free of charge. Mr Stein responded on 27 October 2020, advising that he only wanted to sell sausages in a baguette, he had waited over a year for the variation to be completed and that other traders had been permitted to sell sausages in Oxford Street. A copy of Ms Pring's letter and Mr Stein's email in response are included as Appendix 4 and 5 of the report.

### 3. Consultation

In seeking to vary the licence for Pitch 1726 Duke Street to remove sausages, Ms Pring wrote to Mr Stein on 10 April 2020 advising him of the Licensing Service's proposed variation and the grounds for seeking the variation in accordance with Section 17 of the City of Westminster Act 1999. Ms Pring also advised Mr Stein that he would have the opportunity to appear before the Licensing Sub-Committee and gave him 21 days to provide his comments in relation to the proposed variation.

In addition, Ms Pring sent a copy of the letter to the West End Street Trading Association (WESTA) who represent Mr Stein.

A copy of the notification of intent to vary the licence is included as Appendix 6 of the report.

### 4. Consultation Response:

#### Licence Holder Response:

The licence holder wrote to Ms Pring on 11 May 2022 with the following submissions:

"Thank you for your email, which I have received today.

This notification should have been sent 4 weeks ago.

Firstly, the council issued this variation after over a year of delay.

Now after 2 years they wish to remove the sausages from my licence.

The specification order is out date, and obsolete and was designed for a different time.

The sausages I am selling are already cooked and are heated up to the required temperature, producing no smell or lingering odour.

Also, any trader outside Oxford Street is allowed to have this item on their licence.

There are already Traders in Oxford Street cooking food from raw which is breaking the specification, which the council have granted a licence.

So why am I being single out?

This is restraint of trade.

The only reason this specification order was made was to keep the smells away and the rubbish that may be caused from it, also to appease big business

.Finally, during the disaster of the pandemic, people lost their jobs, whole country is suffering of declining of economy, recently millions people cannot afford foods and bills. This is a small business for our family, we are working so hard to get limited income to support family, please could you consider all above situation to waive this specification."

Ms Pring responded to Mr Stein's concern regarding the notification being submitted late, to advise that the letter dated 8 April, advised that this matter would be considered on 26 May and therefore the email sent on 11 May was to confirm the location and time of the Sub-Committee hearing and therefore the correct timelines had been adhered to.

Mr Stein's submissions and Miss Pring's email of response are included as Appendix 7 of the report.

#### West End Street Trading Association (WESTA) response:

The West End Street Trading Association (WESTA) wrote to Ms Pring in a letter dated 14 April 2022 advising that "in principle WESTA is opposed to specifying resolutions", however, understand that the "purpose of a specifying resolution is to ensure that any prohibition applies equally to all pitches without fear or favour and regardless of individual circumstances". They advised further that they were "surprised, therefore, to learn that the Council has permitted sausages as an authorised commodity on Pitch 1726. (WESTA) understands this was a result of human error and should not have happened. WESTA supports, therefore, the recommendation of Council officers that sausages should be removed as an authorised commodity..."

The full letter from WESTA is included as Appendix 8 of the report.

## 5. Street Trading Policy

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

- 8(4) The council may vary street trading licences, subject to section 16 of the City of Westminster Act 1999, in order to promote any development strategy which may be in place. This may involve adding to or amending the list of prohibited goods. This may also involve the making of specifying resolutions in respect of isolated pitches where this is considered appropriate.

## 6. Legal Framework

### Variation of licences

- Section 16(1) of the City of Westminster Act 1999 (the Act) provides:  
In addition to changes to any of the standard conditions which the council may make under section 10 (Standard conditions) of this Act the council may vary a street trading licence on 1st January in any year during the currency of the licence.
- Section 17(1)(c) of the Act provides:  
The council shall before—  
(c) varying a street trading licence other than a variation to a standard condition as set out in section 10 (Standard conditions) of this Act;  
give to the applicant or licence holder at least 21 days notice in writing of their proposal and the grounds on which the proposed refusal, revocation or variation would be based and giving the applicant or licence holder the opportunity to appear before the committee, sub-committee, authorised officer, or panel of officers determining the matter.
- Section 17(3) of the Act provides:  
If an application is refused or a licence is revoked or varied (other than under subsection (2) of section 16 (Variation of licences) of this Act) the council shall notify the applicant or licence holder in writing of—  
(a) the decision together with the grounds and reasons for that decision; and  
(b) any rights of appeal against that decision.

### Appeals against refusal, revocation, or variation of licences

- Section 18 of the Act provides:  
(1) Any person aggrieved—  
(a) by a decision of the council to refuse an application under section 11 (Applications) of this Act other than on any of the grounds specified in section 12 (Mandatory grounds of refusal) of this Act or to revoke a street trading licence; or

(b) by a decision of the council to grant a street trading licence on terms other than those sought; or

**(c) by a decision of the council to vary a street trading licence other than by a change to the standard conditions; or**

(d) by the attachment to a street trading licence of any condition other than a condition to which the licence had hitherto been subject or a standard condition; or

(e) by a prohibition under subsection (2) of section 4 (Itinerant ice cream trading) of this Act;

may appeal to a magistrates' court acting for the area in which the street trading pitch is situated or in which is situated the street to which the prohibition relates.

(2) An appeal under subsection (1) above may be brought—

(a) in the case of an appeal under subsections (1)(a) to (d) above, at any time before the expiration of the period of 21 days beginning with the date upon which notification in writing is given of the decision.

#### List of Appendices

<b>Appendix 1</b>	Street Trading licence reference 05/04822/LI_STE dated 24/01/2022
<b>Appendix 2</b>	Specifying Resolution dated 28 June 2007
<b>Appendix 3</b>	Variation application and Menu received 17 August 2019
<b>Appendix 4</b>	Letter to Mr Stein from Ms Pring dated 26 October 2020
<b>Appendix 5</b>	Email from Mr Stein to Ms Pring dated 27 October 2020
<b>Appendix 6</b>	Notification of intent to vary licence sent 10 April 2022
<b>Appendix 7</b>	Licence holder submissions & Miss Pring's response
<b>Appendix 8</b>	Letter from WESTA supporting variation dated 14 April 2022

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

## **NOTES**

The Council may revoke this licence on certain specified grounds e.g. for misconduct, failure to pay charges or failure to personally make full use of this licence.

There are rights of appeal to a Magistrates Court against revocation or refusal to renew.

The holder of this licence may register up to three persons with the Council to ASSIST him/her in the conduct of the business without any further licence being required. The licence may not be transferred to any other person nor may it be altered or tampered with in any way. Any failure by an Assistant to comply with licence conditions will be deemed to be a failure by the licence holder.

Any breach of this licence is punishable by a penalty not exceeding Level 3.



## **CITY OF WESTMINSTER**

CITY OF WESTMINSTER ACT 1999

STREET TRADING LICENCE

**Pitch 1726**



1. THE WESTMINSTER CITY COUNCIL hereby grants to **Mr Paul Simon Stein** a licence to engage in street trading in the City of Westminster, pursuant of section 9(1) of the City of Westminster Act 1999, on Pitch 1726.
2. This licence authorises the holder to trade solely in the articles, and in the manner, and at the places and times specified in the Schedule to the licence and is granted subject to: (i) the standard conditions made under section 10(1) of the City of Westminster Act 1999; (ii) any Act amending the same and to any Orders made thereunder; (iii) any other statutory enactment which is in force for the time being; and (iv) any further conditions stated below that are specific to this licence.
3. This licence shall remain in force until it is cancelled or revoked by the Council.

Dated this: 24 January 2022

**Robert Williams**  
**Senior Licensing Officer**  
**On behalf of the Director – Public**  
**Protection and Licensing**

### **SCHEDULE**

Class of Articles	Fish & chips, Halal, Sandwiches, Sausages, Gourmet, Ice cream, Cold beverages, Patisserie including donuts						
Street	<b>Pitch 1726 - Duke Street</b>						
Position or Place at which the holder may trade	Duke Street southeast footway, 0.91m from pedestrian crossing push button pole, 1.22m from kerb edge						
Size of Pitch	L: 3.04m W: 3.04m						
Day	MON	TUE	WED	THUR	FRI	SAT	SUN
From Time	10:00	10:00	10:00	10:00	10:00	10:00	10:00
To Time	22:00	22:00	22:00	22:00	22:00	22:00	22:00

### **FURTHER CONDITIONS**

1. Must retain a fully operational Fire Blanket and suitable Fire Extinguisher for use with deep frying equipment.



City of Westminster

# Licensing Sub-Committee Report

Item No:	Agenda Item 5
Date:	28 <sup>th</sup> June 2007
Classification:	For General Release
Title of Report:	Approval of a proposed Specifying Resolution
Report of:	Director of Legal and Administrative Services
Policy context:	Promoting Order and Supporting Enterprise in Oxford Street and the Adjoining Streets (Oxford Street Pitches)
Financial summary:	There are no financial implications arising from this report
Report Author:	Chris Wroe Head of Licensing
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<b>Report No</b>		
LAS -17-07		
<b>LICENSING SUB COMMITTEE</b>	28 <sup>th</sup> June 2007	<b>FOR GENERAL RELEASE</b>
CITY OF WESTMINSTER ACT 1999: ISOLATED PITCHES IN OXFORD STREET		<b>Ward :</b> BRYANSTON AND DORSET SQUARE MARYLEBONE HIGH STREET WEST END
<b>Proposal</b>	<b>To pass a Specifying Resolution at Oxford Street pitches.</b>	
<b>Recommendations</b>	1) That the Council pass a specifying resolution under section 5(1)(b)(ii) of the City of Westminster Act 1999 to prohibit the sale, offer or provision of hamburgers, beef burgers, hotdogs, sausages, frankfurters, hot chicken, steaks and spare-ribs from the street trading pitches at the licence streets listed at Annex A.	
<b>List of Annexes</b>	ANNEX A	List of Licence Pitches and Commodities
	ANNEX B	Map of Street Trading Pitches in Oxford Street
	ANNEX C1	Consultation letter to traders
	ANNEX C2	Representation from Mr Munro, Pitch 938 – Wells Street
	ANNEX C3	Representation from West End Branch NMTF
	ANNEX C4	Representation from JR Wainwright
	ANNEX D1	Comments from the Cleansing Service
	ANNEX D2	Comments from Community Protection
	ANNEX E1	Application Guidelines for Isolated Street Trading Pitches
	ANNEX E2	Oxford Street Commodity and Application Guidelines
	ANNEX F	Email regarding wording of specifying resolution

## 1. SUMMARY

- 1.1 The Licensing Sub-Committee is asked to consider a proposal to pass a specifying resolution under section 5(1)(b)(ii) of the City of Westminster Act 1999 for street trading pitches in Oxford Street and adjoining streets (Oxford Street pitches) to prohibit the sale, offer or provision of hamburgers, beef burgers, hotdogs, sausages, frankfurters, hot chicken, steaks and spare-ribs from the street trading pitches at the licence streets listed at Annex A.

## **Licensing Sub-Committee – 8 March 2007**

- 1.2 The proposal to pass a specifying resolution was originally scheduled to be determined by the Licensing Sub-Committee on 8<sup>th</sup> March 2007. At this hearing, the Sub-Committee decided to adjourn the matter so as to allow the Licensing Service to investigate a claim made by the West End Street Traders Branch of National Market Traders Federation (WESTB of NMTF) that the Council still had outstanding variation applications for the sale, supply and provision of hot food and hot drink that were submitted before consultation had taken place on the proposed specifying resolution and had not been determined as yet. The Sub-Committee felt that these outstanding applications would need to be investigated before the proposed specifying resolution could be heard. Investigation has taken place and there is no record of any such applications.
- 1.3 The original report, scheduled for the Committee on 8<sup>th</sup> March 2007, outlined the following options for the Committee to consider in the passing of a specifying resolution:-
- prohibit the sale, offer or provision of hot food from the street trading pitches at the licence streets listed at Annex A;  
Or :-
  - prohibit the sale, offer or provision of hamburgers, beef burgers, hotdogs, sausages and frankfurters from the street trading pitches at the licence streets listed at Annex A;  
And:-
  - prohibit the sale, offer or provision of hot drinks from the street trading pitches at the licence streets listed at Annex A.
- 1.4 Subsequent to the adjournment of the hearing, WESTB of NMTF proposed amendments to the wording of the proposed specifying resolution. They considered that the original proposal to prohibit hot food and hot drink was too broad. As the object of the proposed specifying resolution was to prevent nuisance due to odour, it was considered that it would be sufficient to prohibit certain foods which may result in an odour nuisance. Accordingly, the Specifying Resolution has been amended as set out in paragraph 1.1 above and the paragraph 9 of the report. (also refer to Annex F).

## **2. BACKGROUND – REASON FOR THE PROPOSED SPECIFYING RESOLUTION**

### **Application and Commodity Guidelines**

- 2.1 Section 9(2)(b) of the City of Westminster Act 1999 (the Act) provides that a street trading licence can be granted subject to a condition that identifies the articles, things or services or the classes of articles, things or services which the licence holder may sell or expose or offer for sale or provide. The Council has developed application and commodity guidelines to help determine whether to restrict the articles, things or services that can be sold, offered or provided on a particular pitch. These are attached as Annex E1 and Annex E2.
- 2.2 The current application guidelines for isolated pitches (Annex E1) provide that the potential nuisance arising from the sale of the commodity in terms of additional litter

and cleansing requirements must be taken into account, as well as the safety of the public and any risks, when determining applications. This is a specific consideration in the filling of pitches in Oxford Street (Annex E2).

- 2.3 Section 13(1)(a) of the Act allows the Council to refuse a new application for a licence where the Council considers that there are enough traders in the goods in which the applicant wishes to trade. In determining such application the Council has regards to its commodity guidelines. However, recent legal advice received from Counsel in connection with an appeal against a decision by the Licensing Sub-Committee to refuse an application to sell hot food and hot drink in Oxford Street highlighted that there is no power in the Act to refuse an application to vary a street trading licence so as to change commodities, even where the commodities are excluded by the Council's commodity guidelines.
- 2.4 In order to ensure that nuisance is not caused and (in accordance with section 13(1)(i) of the Act) that in the vicinity of the street trading pitch concerned undue disturbance is not caused as a result of the proposed activities of the applicant, through the sale, supply and provision of hot food, Officers are recommending that the Sub-Committee pass a specifying resolution, as shown in paragraph 1.1 above and 9.1 below. Paragraph 4 of this report sets out the legal framework for passing a specifying resolution.

### **The Oxford Street Pitches**

- 2.5 There are thirty-seven 'Oxford Street' pitches, four of which are currently vacant. A list of commodities that may presently be sold on the pitches is attached as Annex A. A map identifying the location of these pitches is attached as Annex B.
- 2.6 The current commodity guidelines for Oxford Street pitches do not include hot food or hot drinks (See Annex E2). Members of the Licensing Sub-Committee have previously expressed the view that the visual aspects and the smells associated with certain types of hot food are not consistent with Oxford Street as the Capital City's premier shopping location. Neither is it consistent with the Council's policy aspiration to market the West End as a premium brand.
- 2.7 Notwithstanding the guidelines, there are currently four Oxford Street pitches already licensed to sell hot chestnuts, hot caramelised peanuts or hot drinks:-
- ❖ Pitch 937, Berners Street has been permitted since 1987 to sell hot chestnuts.
  - ❖ Pitch 944, Vere Street has been permitted since 1990 to sell hot chestnuts.
  - ❖ Pitch 1709, Princes Street has been permitted since 1984 to sell hot chestnuts and hot drinks.
  - ❖ Pitch 1710, Davies Street has been permitted since 1993 to sell hot chestnuts and caramelised peanuts.
- 2.8 On 1 March 2007, the Licensing Sub-Committee, having received Legal advice that there were no legal powers to refuse, granted a variation application made by Mr R Munro, the licensee of Pitch 938, Wells Street, to sell hot food. In the report of 1 March 2007, the Sub-Committee was advised that if a specifying resolution is passed subsequent to the grant of any variation to his licence, it would be recommended that

the specifying resolution would also apply to pitch 938. Mr Munroe was also advised of this recommendation prior to the hearing.

- 2.9 On 25<sup>th</sup> April 2006, the Licensing Sub-Committee refused a variation application made by Mrs Wainwright, the licensee of pitch 1710, Davies Street, to sell hot food. An appeal was lodged with the Magistrates Court by Mrs Wainwright to this decision and was upheld when the Council withdrew from the appeal. It is recommended that the proposed specifying resolution also apply to pitch 1710.
- 2.10 Mr Munro and Mrs Wainwright were aware at the time of the grant of hot food and hot drink that the Council had a policy aspiration to restrict the sale of hot food and hot drink and the intention to utilise legal powers in order to do so. It is therefore recommended that the proposed specifying resolution, as set out in paragraph 1.1, also apply to pitch 938 and 1710.

### **3. POLICY**

- 3.1 A Licensing Sub-Committee report dated 15 March 1999 states that for many years licensed street trading in Oxford Street, in common with the street markets, has operated within commodity guidelines. The aims of the guidelines are to:
- (i) Indicate preferred commodities and to indicate those commodities which would not be permitted;
  - (ii) Achieve a balance of commodities;
  - (iii) Protect small shops from traders selling the same commodity; and
  - (iv) Protect the trade of individual licence holders from other licence holders seeking to duplicate a successful commodity line.
- 3.2 The application guidelines for Isolated Street Trading Pitches are set out at Annex E1. The Commodity and Application Guidelines for Street Trading Pitches in Oxford Street is set out at Annex E2.
- 3.3 As part of the One City Programme to seek and enhance order, opportunity, enterprise and renewal, the City Council is reviewing the West End and the City. In parts of the City there are Action Plans (Soho and Edgware Road) and Business Improvement Districts, proposed Action Plan for Oxford Street, Regent Street and Bond Street (ORB), together with Local Area Regeneration Partnerships (LARPS).

### **4. LEGAL FRAMEWORK**

- 4.1 Under the provisions of section 5 (1)(b)(ii) of the City of Westminster Act 1999, the Council may pass a resolution specifying that in relation to a licence street or streets either the sale, offer or provision of specified articles, things or services or classes of articles, things or services are prohibited in that street.
- 4.2 Under the provisions of section 7 of the 1999 Act, the Council shall not pass a specifying resolution unless they have first given notice in writing to all licence holders who they could reasonably expect to be affected by it; and to any body, which appears to the Council to represent such licence holders. Such notice shall give details of the proposed resolution and state that representations may be made

regarding the proposed resolution by a date not less than 28 days after the notice has been given.

- 4.3 In accordance with the legislation, 28 days were allowed for the submission of representations in writing, but was extended by a further 10 days, by the Licensing Service Manager, when a request was made by WESTB of NMTF for an extension in order to discuss the proposal with branch members.
- 4.4 The Council must 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 consider/hear other representations received after that date.
- 4.5 The Council may pass the resolution with any modifications, which they consider appropriate as a result of any representations received.
- 4.6 As soon as practicable after passing a resolution, the Council must by notice in writing inform all parties given notice of the proposed resolution.
- 4.7 Any person aggrieved by a specifying resolution may appeal to the Secretary of State whose decision is final.
- 4.8 An appeal may be brought at any time before the expiration of a period of three months commencing on the date the person aggrieved was notified in writing of the passing of the resolution.
- 4.9 Under the provisions of section 15(1)(b) of the Act, the Council may at any time revoke a street trading or a temporary licence if they are satisfied that the licence holder is trading in breach of the terms of a specifying resolution.
- 4.10 The City Council has a duty under the European Convention on Human Rights to take into account the rights of a licensed street trader to operate his business without undue interference (Article 1 of the first protocol).

## **5. WARD MEMBER CONSULTATION**

- 5.1 Ward Members for Bryanston and Dorset Square, Marylebone High Street and West End have been consulted. Any comments received after the publication of the report will be reported verbally at the hearing.

## **6. CONSULTATION**

- 6.1 On 30<sup>th</sup> November 2006, the Licensing Service were authorised by the Licensing Sub-Committee to undertake statutory consultation to introduce a specifying resolution for the prohibition of the sale, offer or provision of hot food or hot drink at Oxford Street pitches.
- 6.2 Just before the above meeting Mrs JR Wainwright, the licence holder of pitch 1710, Davies Street, submitted to the Council correspondence seeking to be excluded from the proposal due to an outstanding appeal. This letter is attached as Annex C4. After authorisation was given by the Licensing Service to undertake statutory

consultation, Mrs Wainwright was consulted with regard to the specifying resolution. However, no further comments have been received.

- 6.3 On 12<sup>th</sup> December 2006 the Licensing Service wrote to all the street traders occupying the pitches along and adjoining Oxford Street and The WESTB of NMTF, informing them of the proposed specifying resolution. (Refer to Annex C1).
- 6.4 On 19<sup>th</sup> December 2006, a meeting took place between officers of the Licensing Service and representatives of the WESTB of NMTF to discuss the current commodities within Oxford Street and the specifying resolution. This fulfilled a commitment given by officers to meet with the WESTB of NMTF to discuss representations they had made to the Licensing Sub-Committee on 30<sup>th</sup> November 2006. The representations made by the WESTB of NMTF indicated that their members would be inclined to agree with prohibiting certain foods that they consider directly cause the issues outlined in paragraph 2.6 above, rather than all hot foods and hot drinks. In particular, hotdogs, beef burgers, hamburgers, sausages and frankfurters should be specifically prohibited (Refer to paragraph 7.2 below).
- 6.5 On 26<sup>th</sup> February 2007 a further meeting took place between representatives of the Licensing Service and representatives of the WESTB of NMTF, to discuss the draft report.
- 6.6 The Council's Community Protection, Cleansing Division and Planning Service have been consulted regarding the proposals. Their comments are outlined at paragraph 8 below.

## **7. REPRESENTATIONS**

- 7.1 On 3<sup>rd</sup> January 2007 representations were received from Mr R Munro, the licence holder of Pitch 938 – Wells Street, on the grounds that he had submitted an application to the Council to change the commodities for his pitch. This application was submitted on 25 July 2006 and was to change the current commodities from Souvenirs, hats and gloves, toys, festive decorations and neckwear to hot and cold food, hot and cold drinks and ice cream. (See copy letter attached as Annex C2). Mr Munro's application was granted by the Licensing Sub-Committee on 1<sup>st</sup> March 2007. (Refer to paragraph 2.9 above).
- 7.2 On 19<sup>th</sup> January 2007, representations were received from the WESTB of NMTF regarding the specifying resolution set out in the consultation. The letter is attached as Annex C3. The WESTB of NMTF asked for the specifying resolution to contain a more specific form of wording. Viz *"That pursuant to Section 5(1)(b) and Section 7 of the City of Westminster Act 1999, in relation to the following streets designated as "licence streets" (defined in Section 2 of the 1999 Act) the sale, offer or provision of hamburgers, beef burgers, hotdogs, sausages and frankfurters are prohibited."*

The grounds for representations were as follows:-

- The resolution (as originally proposed) would be an unnecessary restraint of trade and would enshrine the commercial advantage of four traders.
- The Council has produced no evidence to justify the resolution on safety grounds

- To trader's knowledge, there has been no accident involving hot food being sold from street trading stalls either in Westminster or elsewhere in the country.
- Visual and similar amenity considerations are nowhere mentioned in the City of Westminster Act 1999.
- The proposed resolution is premature. There should firstly be a full review of the Commodity Guidelines.
- The branch understands the concerns of the Council in relation to smells associated with hotdogs, hamburgers etc and in the spirit of compromise would be prepared to agree to an amended wording (see paragraph above).

7.3 Since this representation was made WESTB of NMTF has proposed an amendment to the wording of the Specifying Resolution (Refer to paragraph 1.4 above).

## **8. OFFICER COMMENTS**

8.1 The Council's Cleansing Division stated that the main concern is the litter and staining that would be caused by discarded food and drink (by customers) as a result of the sale of hot food and hot drink from isolated pitches, leading to further degradation of the street environment. The Cleansing Division have stated that whilst it is appreciated that there are a number of fast food establishments in the area that provide take away facilities, most offer customers the opportunity to eat inside the premises, which isolated pitches could not provide. (Refer to Annex D1).

8.2 The Community Protection Department has stated that the main concern with the sale, offer or provision of hot food and hot drink is that smoke, cooking fumes and especially cooking odours are likely to give rise to complaints from pedestrians and retailers, to the extent that they might become a statutory odour nuisance under the Environmental Protection Act 1990. Food stalls do not have high level extract systems that comprise of grease filters, extract trunking, high velocity fans and odour suppression systems such as carbon filters that help to ensure that cooking odours are eliminated and dispersed at high levels (as do food premises). Therefore, the cooking odours from food stalls will dilute and disperse at low level from a simple fan unit in the structure of the stall, whereupon odours would have to rely on strong winds at ground level. Furthermore, the cooking and heating of Pizzas, hotdogs and burgers can produce strong, lingering and prolonged odours that can impregnate clothes that may be of concern to clothes retailers. It is therefore considered that the siting of any food stalls, which would generate odours is important in order to ensure that the Council does not receive odour complaints.

8.3 The Community Protection Department has further stated that in addition to being mindful of where cooking odours could cause a nuisance, it would be advisable not to place food stalls where queues of customers could form to the extent that it would impede or interfere with the flow of pedestrian traffic. There is also concern that people holding hot drinks and hot food could be accidentally knocked. Therefore, as some food stalls may become popular and with large queues, partly because of the time it takes to assemble a food item and drink, consideration should be given to ensure that food stalls are not sited close to;

- ❖ steps, where pavements are narrow
- ❖ tube station entrances
- ❖ busy road crossings

(Refer to Annex D2).

## **9. RECOMMENDATIONS AND REASONS**

- 9.1 That, *pursuant to Section 5(1)(b) and Section 7 of the City of Westminster Act 1999, in relation to the following streets designated as “licence streets” (defined in Section 2 of the 1999 Act)* the sale, offer or provision of hamburgers, beef burgers, hotdogs, sausages, frankfurters, hot chicken, steaks and spare-ribs at the licence streets listed at Annex A, shall be prohibited.
- 9.1.1 The Licensing Sub-Committee has previously, in refusing applications for hot food sales on Oxford Street, expressed the view that the smells associated with hot food are not appropriate in Oxford Street. It is considered that they are not consistent with Oxford Street’s role as the Capital City’s “Premier shopping location” nor with the aspiration to market the West End as a “premium brand.”
- 9.1.2 This is supported by the Council’s Community Protection Team who has stated that smoke, cooking fumes and cooking odours are likely to give rise to complaints from pedestrians and retailers, to the extent that they might become a statutory odour nuisance under the Environmental Protection Act 1990.
- 9.1.3 Some of the current pitches are located near tube stations and near shops where wind could blow the smoke from the cooking of hot food and cause a nuisance to shops and passers by.
- 9.1.4 There is also a concern that permitting the sale of hot food would lead to an increase in litter on the streets. The majority of current street trading stalls are licensed for commodities that are more likely to be placed in a bag and taken away from the pitch, whereas hot food and drink is likely to be eaten in the vicinity of the area. Such food litter may also lead to the staining of the street caused by discarded food and drink and lead to further degradation of the street environment. However, concerns can be mitigated by the use of appropriate trading stalls and by applying suitable conditions to a licence.
- 9.1.5 Recent legal advice has stated that the Council has no powers to refuse an application to vary a street trading licence, so as to change commodities (refer to paragraph 2.3 above). Therefore, if a variation application were granted for the sale of hot food and hot drink and the above problems outlined in paragraphs 9.1.2 to 9.1.4 above were to occur, the Licensing Authority would not be permitted to refuse a variation application.
- 9.1.6 It is considered that it would be sufficient to prohibit certain types of food that may result in odour nuisance, rather than the original proposal of all hot food and hot drinks.



9.1.7 It is also recommended that in order to prevent odour nuisance from all licence stalls, the prohibition of commodities listed at paragraph 9.1 above shall also apply to pitches 1710 and 938.

IF YOU HAVE ANY QUESTIONS ABOUT THIS REPORT, PLEASE CONTACT AYESHA FLEMMING ON 020-7641 2542 OR AT [aflemming@westminster.gov.uk](mailto:aflemming@westminster.gov.uk)

## **BACKGROUND PAPERS**

- ❖ City Of Westminster Act 1999
- ❖ Licensing Sub-Committee Report 15 March 1999
- ❖ Licensing Sub-Committee Report 30 November 2006
- ❖ Licensing Sub-Committee Report 1<sup>st</sup> March 2007
- ❖ Licensing Sub-Committee Report 8<sup>th</sup> March 2007

**PROPOSED LIST OF PITCHES TO BE COVERED BY SPECIFYING  
RESOLUTION PROHIBITING THE SALE, OFFER OR PROVISION OF  
HAMBURGERS, BEEF BURGERS, HOTDOGS, SAUSAGES,  
FRANKFURTERS, HOT CHICKEN, STEAKS AND SPARE-RIBS**

Key:  Pitches currently selling either hot chestnuts, hot caramelised peanuts or hot drinks

	<b>PITCH NUMBER</b>	<b>STREET</b>	<b>COMMODITIES PERMITTED TO SELL</b>
1	912	Stratford Place	Souvenirs, festive decorations, toys
2	916	Tottenham Court Road	Leather goods, watches, neckwear, clocks, jewellery, cold drink and festive decorations
3	918	Marylebone Lane	Souvenirs, toys, festive decorations, telephone cards, audio goods, video tapes, hats, gloves
4	919	John Princes Street	Souvenirs, toys, festive decorations, bus tour tickets, telephone cards
5	927	Old Quebec Street	<b>VACANT</b>
6	928	Bird Street	Leather goods, neckwear, toys, watches, clocks, telephone cards, jewellery
7	929	James Street	Souvenirs, toys, festive decorations, bus tour tickets, purses
8	930	Duke Street	Leather goods, neckwear, telephone cards, diaries, filofaxes
9	931	Marylebone Lane	Leather goods, cold drink, neckwear, watches, clocks, jewellery, machined ice cream, telephone cards
10	932	Great Castle Street	Newspapers, cold drinks, cigarettes, telephone cards, periodicals, post cards, bus tour tickets, confectionery
11	933	Great Titchfield Street	Souvenirs, toys, hats, gloves, watches, clocks, jewellery, telephone cards
12	934	Orchard Street	Fruit, neckwear, leather goods, cold drink, festive decorations, telephone cards, flowers  (Leather goods are not to be displayed for sale when fruit and vegetables are displayed for sale)
13	937	Berners Street	Watches, jewellery, clocks, cold drinks, cards, toys, festive decorations.
14	938	Wells Street	Souvenirs, toys, hats, gloves, bus tour tickets, telephone cards, hot and cold food, hot and cold drinks, ice cream.

		drinks, ice cream.
15	942	Old Cavendish Street Shirts, neckwear, telephone cards, leather goods, machined ice cream
16	944	Vere Street Fruit, soft ice cream, cold drink, pop corn, , telephone cards
17	945	John Princes Street Watches, hats and gloves, clocks, festive decorations, toys, jewellery, cold drink
18	1662	Woodstock Street Fruit, vegetables, toys, festive decorations, pictures, cold drink
19	1663	Little Argyll Street Souvenirs, hats, neckwear, gloves, telephone cards, leather goods, bus tour tickets
20	1677	Hill's Place Diaries, costume jewellery, watches, leather goods, clocks, filofaxes, neckwear, telephone cards
21	1697	Argyll Street Flowers
22	1698	Oxford Street <b>VACANT</b>
23	1709	Princes Street Fruit, leather purses, wallets, belts, vegetables, flowers, plants, dried artificial flowers and plants, and cold drinks, toys, ice-cream, neckwear,
24	1710	Davies Street Cold drink, neckwear, ice cream, confectionery, leather goods, fruit, flowers, plants, forest sundries, bags, belts, purses, wallets, key holders, passport covers, wrapped confectionery including , items of a similar but unspecified nature to bags, belts, purses and wallets,  (Leather goods shall not be displayed for sale at the same time that flowers are sold/displayed for sale).
25	1711	Dering Street Souvenirs, cold drink, neckwear, toys, bus tour tickets, telephone cards
26	1713	Binney Street Souvenirs, neckwear, hats, gloves, cold drinks, confectionery
27	1717	New Bond Street <b>VACANT</b>
28	1718	Park Lane Souvenirs, telephone cards, bus tour tickets
29	1719	Lumley Street Leather goods, hats, toys, gloves, telephone cards, neckwear
30	1720	Gilbert Street <b>VACANT</b>
31	1721	Argyll Street Fruit, vegetables, cold drink, machined ice cream, festive decorations, toys, confectionery
32	1722	Park Lane Bus tour tickets, cold drink, ice cream, telephone cards, flowers, fruit

33	1724	North Audley Street	Souvenirs, neckwear, cold drink, festive decorations, diaries
34	1726	Duke Street	Ice cream, cold drink, fruit, hot chestnuts, telephone cards
35	1731	Balderton Street	Souvenirs, diaries, leather goods, neckwear, telephone cards
36	1792	Charing Cross Road	Souvenirs, nightwear, hats, gloves, bus tour tickets, telephone cards
37	3005	Portman Street	Ice cream and frozen confectionery

# STREET TRADING PITCHES IN OXFORD STREET



ANNEX B



○ Street trading pitch

Source:  
Licensing



# City of Westminster

## LICENSING

12/12/06

«Full\_Name»  
«Home\_Address»

Ref: «Pitch\_Number»

Dear Sir/Madam

**CITY OF WESTMINSTER ACT 1999:  
OXFORD STREET PITCHES – PROPOSED SPECIFYING RESOLUTION PROHIBITING HOT  
FOOD OR DRINK**

I am writing to give you notice, in accordance with Section 7 of the City of Westminster Act 1999, that the City Council will be recommended, at a future meeting of its Licensing Sub-Committee, to pass the following specifying resolution:

- (i) That, pursuant to Section 5(1)(b) and Section 7 of the City of Westminster Act 1999, in relation to the following streets designated as 'licence streets' (defined in Section 2 of the 1999 Act), and save as provided in (iii) below, the sale, offer or provision of hot food or hot drink are prohibited.
- (ii) That this specifying resolution shall apply to the following 'licence streets':

Street	Pitch	Street	Pitch
1) Argyll Street	1697	19) Little Argyll Street	1663
2) Argyll Street	1721	20) Lumley Street	1719
3) Balderton Street	1731	21) Marylebone Lane	918
4) Berners Street	937	22) Marylebone Lane	931
5) Binney Street	1713	23) North Audley Street	1724
6) Bird Street	928	24) New Bond Street	1717
7) Charing Cross Road	1792	25) Old Cavendish Street	942
8) Davies Street	1710	26) Old Quebec Street	927
9) Dering Street	1711	27) Orchard Street	934
10) Duke Street	930	28) Oxford Street	1698
11) Duke Street	1726	29) Park Lane	1718
12) Great Castle Street	932	30) Park Lane	1722
13) Great Titchfield Street	933	31) Portman Street	3005
14) Gilbert Street	1720	32) Princes Street	1709
15) Hill's Place	1677	33) Stratford Place	912
16) James Street	929	34) Tottenham Court Road	916
17) John Prince's Street	919	35) Vere Street	944
18) John Princes Street	945	36) Wells Street	938
		37) Woodstock Street	1662

- (iii) That this specifying resolution shall not apply to prohibit the sale, offer or provision of hot drinks, hot chestnuts and hot caramelised peanuts at any of the pitches referred to in (ii)

above that are licensed for such sale offer or provision at the date of the passing of this resolution..

The effect of the specifying resolution if it is passed will be that the Council will be entitled at any time to revoke a street trading licence or a temporary licence if it is satisfied that the licence holder is trading in breach of the terms of the resolution. In addition, the Council will be required to refuse to grant any application for the grant or variation of a street trading licence where the grant of the application would be contrary to the terms of the resolution.

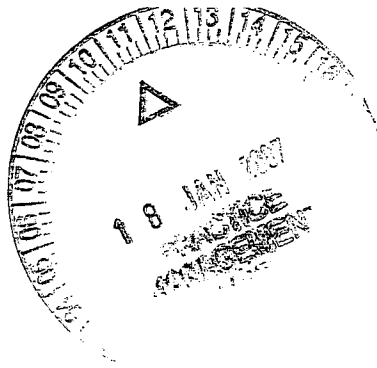
Representations may be made regarding the proposed resolution to the undersigned by no later than [at least 28 days after date of letter]. Any person who makes representations by that date will be given an opportunity to make oral representations, if they wish, to the Licensing Sub-Committee before any decision is taken. If any resolution is passed, the Council will inform you in writing as soon as possible thereafter.

Yours sincerely

For Director

24, Richmond House,  
Park Village East,  
London NW1 3EE

3<sup>rd</sup> January 2007



Miss. A F Lemming,  
Senior Licensing Officer,  
Westminster City Hall,  
64, Victoria Street,  
London, SW1E 6QP

Dear Madame,

**Robert Munro**  
**PITCH 938 - WELLS STREET**

I am writing in reply to your letter of the 12<sup>th</sup> of December 2006 regarding the proposed specifying resolution prohibiting hot food or drink in the Oxford Street area.

As you may be aware I have on file an application to change my commodities to food and therefore I strongly object to any specifying order being passed.

I understand that Council Officers are not happy with the Heritage Type Kiosk which I and others' trade from, but if my application for food is successful I would have to change my kiosk to accommodate food, and would be happy to negotiate with the Council which type of receptacle they would prefer.

Yours sincerely,

Robert Munro.



# WEST END STREET TRADERS BRANCH N.M.T.F.

2 Wisteria Close, Flower Lane, Mill Hill, London, NW7 2HZ

TELEPHONE: 020 8959 1330 – OFFICE: 020 8591 1004

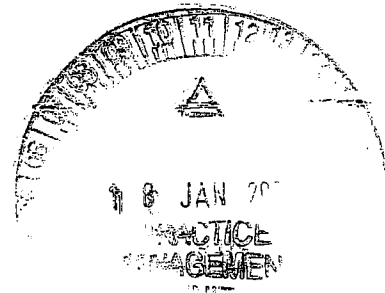
Committee Chairman: Wally Watson. Secretary: Caroline Patterden

Vice Chairman: Charlie Baldwin

Committee Members: Mark Impleton, Stephen Burney, Peter Compobassi

Treasurer: Stephen Burney

Philip Doyle,  
Deputy Head of Licensing,  
Westminster City Council,  
Westminster City Hall,  
64 Victoria Street,  
London, SW1E 6QP



16 January 2007

Dear Mr. Doyle,

## PROPOSED SPECIFYING RESOLUTION

Firstly may I thank you for the helpful discussion representatives of the West End Branch had with you and your colleagues before Christmas. Thank you also for extending the deadline for representations so that the issue could be considered by a General meeting of the West End Branch of the NMTF.

The Branch met last night and members remain opposed in principle to the proposed specifying resolution. They believe the resolution would be an unnecessary restraint of trade and would enshrine the commercial advantage of four traders.

Furthermore the members point out that the Council has produced no evidence to justify the resolution on safety grounds. To their knowledge there has been no accident involving hot food being sold from street trading stalls either in Westminster or elsewhere in the country. The law permits hot food or drink to be sold from stalls subject to compliance with the relevant regulations. Visual and similar amenity considerations are nowhere mentioned in the City of Westminster Act 1999.

Furthermore as has been previously indicated the Branch considers the proposed resolution is premature. It believes there should first be a full review of the Commodity Guidelines.

However, as we discussed at the meeting and confirmed in the e-mail of 20 December 2006 from David Chambers the Branch understands the concern of the Council in relation to smells associated with hot dogs, hamburgers etc. The Branch officers indicated that in a spirit of compromise they would be prepared to recommend to the Branch members an amended resolution that would prohibit such commodities. Proposed wording was included in that e-mail for consideration by your legal officers. To date no response has been received from the legal officers regarding the proposed wording.

Despite this the Branch officers put to the meeting a proposal recommending a compromise resolution. This was agreed by the meeting.

The Branch, therefore, urges the Council to exercise its powers to amend the proposed specifying resolution in the light of the representations received. The Branch asks that the resolution be in the following terms:

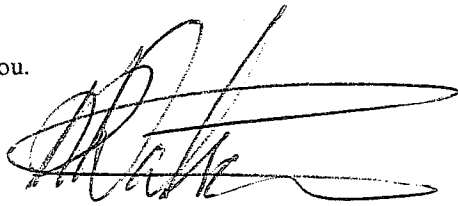
“that, pursuant to Section 5(1)(b) and Section 7 of the City of Westminster Act 1999, in relation to the following streets designated as “licence streets” (defined in Section 2 of the 1999 Act) the sale, offer or provision of hamburgers, beef burgers, hot dogs, sausages and frankfurters are prohibited.”

The Branch believes that this resolution should deal with the items that have historically caused Councillofs concern whilst allowing the Council to consider applications to sell things like soups, teas, coffees, hot potatoes etc on their individual merits.

The resolution is slightly different to what we discussed at the meeting because on reflection it was felt that the words “of a similar nature” could be subject to varying interpretation and that it is important for the resolution to be crystal clear.

I look forward to hearing from you.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Wally Watson', written over a horizontal line.

WALLY WATSON (CHAIRMAN) WEST BRANCH N.M.T.F.

J R WAINWRIGHT

30<sup>th</sup> November 2006

Councillors Tombolis, Mitchell, Vearncombe and any other members of tonight's committee.

Committee Services  
C/o Ellie Clay

By fax to 020 7641 ~~2042~~ *adv works 2025*

And to

C T Wilson  
Director  
Legal and Administrative Services  
Westminster City Council

by fax to 0207-641-3325

c.c. to Mr Doyle by fax to 020 7641 7815.

## MOST URGENT - PLEASE ACTION THIS DAY

Tonight's Licensing Sub-Committee 30/11/06 - 6.0 p.m.

### Consultation on a Proposed Specifying Resolution

Dear Councillors Tombolis, Mitchell, and Vearncombe, and Mr Wilson,

I have only today seen the report before tonight's committee, my comments are not therefore exhaustive.

I thank Ms Clay for agreeing to watch out for this fax and to forward it to members before tonight's meeting.

I am the licensee of pitch 1710. In respect of my pitch the commodities listed to be sold are quoted inaccurately in the report. I refer the committee to the decision of the same committee dated 25/4/06. In particular hot food is a licensed item.

That decision is subject to an appeal before Marylebone Magistrates Court where the council have been summonsed to attend, and as such is subjudice. I believe it is inappropriate for the council to consider a specifying resolution until that appeal is determined, especially where the evidence Mr Doyle has given to that court is or appears to be in conflict with the advice he has given to this committee.

I ask Mr Wilson to consider withdrawing his report on this matter, or of excluding my pitch from it.

Otherwise I ask members to consider the representations below to the extent, if they

consider it prudent, of sending the report back to officers for full and proper consideration and consultation, or to take advice regarding the specifics of my subjudice appeal including the evidence Mr Doyle has given to the Court with a view to instructing that my pitch be excluded from the current proposals.

**Mr Doyle has not given a thorough briefing.**

The council do indeed seem to have quite improperly slipped into the process of controlling street trading by guidelines and not by the provisions of the City of Westminster Act.

When adopted the guidelines were intended simply as the method whereby officers could decide applications under delegated authority. If within guidelines officers would approve, if not it would be referred to the committee for decision in accordance with the provisions of the law. Latterly officers have not understood this.

The Act generates quite sufficient powers (without the need for a specifying order) under sections 12 and 13 to control what may be sold, the council have chosen not to apply those provisions but rely on guidelines.

There are also very strong powers under section 15 which at any time allow the council to revoke a licence or vary its conditions if *inter alia* and for example *in the vicinity of the street trading pitch concerned undue disturbance has been caused by the activities of the licence holder.*

There are rights of appeal against a specifying order under section 19 of the Act which are bound to be invoked at considerable cost to the council and licencees, especially if the council go off half cocked.

It is at least controversial if not unlawful or an abuse of process to propose any such resolution is acted upon before the appeal process is exhausted.

There are clearly matters arising under The Human Rights Act 1998 in respect of the rights of individuals.

As ever in street trading matters the report makes no mention of human rights issues, Westminster appear not to believe the Human Rights Act applies.

Section 6 of the Human Rights Act makes it unlawful for a public authority to act in a way incompatible with a Convention right including a failure to act.

I suggest before proceeding further with any consultation that detailed consideration should be given to, *inter alia*, Schedule 1 Article 14, and the First Protocol Article 1.

I would remind you that the Department for Constitutional affairs has updated its handbook for public authorities on implementing the Human Rights Act 1998. A new edition entitled Human Rights Human Lives has been published in October 2006 and is available on their website.

If you do nothing else I suggest you question Mr Doyle as to whether Human Rights Issues have been fully taken into account and if he is fully familiar with that legislation and the advice of the Department for Constitutional Affairs.

In particular that advice which says that possessions and property include licences which allow people to exercise a trade or profession, that the right to peaceful enjoyment of that property includes the right to develop it, and that before a public authority can interfere there must be both a law that allows them to so and there is an overriding need to do so in the public interest.

Mr Doyle has demonstrated no such overriding need.

And that public authorities must not take a sledgehammer to crack a nut. A perfectly adequate nutcracker exists in the form of the City of Westminster Act sections 12, 13, and 15.

In terms of schedule 1 article 14 none of Mr Doyle's arguments apply to Oxford Street alone. Hot food etc is widely licensed and sold throughout the City without any of the problems he predicts in equally busy areas such as markets, Piccadilly Circus, Westminster Abbey, Westminster Bridge and Madame Tussauds.

Section 2.3 of the report describes a policy that is clearly unlawful under the First Protocol Article 1 and section 13 (1) (a) of the City of Westminster Act. Which section applies only in respect of a grant rather than a variation of a licence and thereby recognises that with an existing licence property exists and it would be improper under the Human Rights Act to impede its development by restricting what may be sold in relation to other premises.

Street trading committee resolutions and minutes never seem to contain consideration of Human Rights legislation. I believe there is a statutory requirement and duty upon you to take Human Rights issues into account and you must mention these issues specifically in your decision. It would be a serious matter indeed if you fail to take Human rights into account at this early stage and after much expenditure these proposals eventually fall due amongst other reasons for Human Rights issues.

Mr Doyle is wrong to rely on both the application guidelines for isolated pitches and for Oxford Street. Section 2 of the isolated guidelines is clearly in conflict with section 9 of the Oxford Street Guidelines that states it only applies to vacant pitches, otherwise the council act in breach of section 13(1) (a) of the City of Westminster Act.

In that respect the provisions of section 2.2 of the report before the committee is clearly unlawful.

The report before the licensing sub committee of 15/3/99 at section 3.15 makes it clear that a single separate set of guidelines will apply to Oxford Street, the isolated guidelines are of no relevance. Again officers have not understood this.

There is clearly a contradiction between the proposals of this report to restrict development of businesses and the criteria proposed on this same agenda regarding relief from fees that requires traders to demonstrate they have taken or are taking steps to improve their business.

Yours Sincerely,

*J R Wainwright (Mrs)*

J R Wainwright (Mrs)

Cleansing Comments

-----Original Message-----

**From:** Sharland, Vernon  
**Sent:** 26 January 2007 11:12  
**To:** Flemming, Ayesha  
**Subject:** RE: Consultation Memo

Hi Ayesha

The main concerns, as far as the Cleansing service is concerned, is the litter, spillage and staining that will be caused from discarded food and drink by customers as a result of the sale of hot food and drink by isolated pitches, which will lead to further degradation of the street environment. Whilst we appreciate that there are a number of fast food establishments in the area that provide take away facilities, most however offer customers the opportunity to eat in, which the isolated pitches don't provide.

Regards

Vernon.

-----Original Message-----

**From:** Flemming, Ayesha  
**Sent:** 23 January 2007 14:00  
**To:** Sharland, Vernon  
**Subject:** Consultation Memo

Hi Vernon

How are you. It's been a long time since, I've had to email you,,but once again I need your help. Please see attached memo.

<< File: Specification Order - Consultation memo to Cleansing.doc >>

Ayesha Flemming  
Senior Licensing Officer

Licensing Service  
Westminster City Council  
14th Floor  
64 Victoria Street  
London, SW1E 6QP

Tel: 020 7641 2542  
Fax: 020 7641 7815  
Email: [aflemming@westminster.gov.uk](mailto:aflemming@westminster.gov.uk)  
Web: [www.westminster.gov.uk](http://www.westminster.gov.uk)

## Community Protection Comments

### Environmental Health Concerns in Serving Hot Food along Oxford Street from Licensed Stalls

#### **Cooking Odours**

Smoke, cooking fumes and especially cooking odours are likely to give rise to complaints from pedestrians and retailers, to the extent that they might become a statutory odour nuisance under the Environmental Protection Act 1990.

Food premises typically have high-level kitchen extract systems that comprises of grease filters, extract trunking, high velocity fans and odour suppression systems such as carbon filters that helps to ensure that cooking odours are eliminated, diluted and dispersed at high levels.

Food stalls do not have that luxury and therefore cooking odours will dilute and disperse at low level from a simple fan unit in the structure of the stall, whereupon odours would have to rely on strong winds at ground level. Furthermore, the cooking and heating of pizzas, hot dogs and burgers can produce strong, lingering and prolonged odours that can impregnate clothes that may be of concern to clothes retailers.

Therefore, the careful siting of any food stalls is critical in order to ensure that the Council does not receive odour complaints.

#### **Siting of Food Stalls**

In addition to being mindful of where cooking odours could cause a nuisance, it would be advisable not to place food stalls where queues of customers could form to the extent that it would impede or interfere with the flow of pedestrian traffic. There is also the worry that people holding hot drinks and food could be accidentally knocked.

Therefore, as some food stalls may become popular and with large queues, partly because of the time it takes to assemble a food item and drink. Consideration should be given to ensure that food stalls are not sited close to; steps, where pavements are narrow, tube station entrances and busy road crossings.

**APPLICATION GUIDELINES**  
**FOR ISOLATED STREET TRADING PITCHES**

1. Fruit, vegetables, flowers, pot plants and newspapers are to be preferred before any other commodities.
2. In determining applications, the Council will take into account:-
  - (a) The appropriateness of the commodity in relation to the potential adverse visual impact that it would have upon the character and appearance of conservation areas and on adjacent listed buildings.
  - (b) The willingness of the applicant to comply with the design brief.
  - (c) The extent to which the sale of the commodity will provide a useful service to the local community not otherwise provide in the area.
  - (d) The potential nuisance arising from the sale of the commodity in terms of additional litter and cleansing requirements.
  - (e) The safety of the public and any risks.
3. Applications will not normally be granted:
  - (a) where enforcement action is pending against the licence holder: or
  - (b) where the licence holder is subject to a complaint; or
  - (c) where the licence holder is currently in arrears of charges.
4. Where applications are made by licensees to add a commodity to their licence, the Council will consult shops (excluding major department stores, multiple stores and souvenir shops) and neighbouring street trading licence holders whose business include the same or similar commodities within a distance of 100 yards in either direction on the same side of the street, and within 50 yards of each side of a point directly opposite the pitch, shops and other licence holders on the opposite side of the street.
5. If, in any individual case and for whatever reason, the Council decides to grant an application which is in breach of these guidelines, such a decision should not be taken to create any kind of precedent in respect of future applications.



**COMMODITY AND APPLICATION GUIDELINES FOR STREET TRADING PITCHES IN OXFORD STREET**  
**(To be used when considering applications for new street trading licences or for variation of such licences)**

Effective from 15 March 1999

1. Only commodities listed below may be sold.
2. Any application by a licence holder to change commodities will be subject to consultation with the West End Street Traders' Association and is unlikely to be approved unless the stall complies with the Council's design brief.
3. Normally a maximum of 3 commodities from the approved list will be permitted on any one licence.
4. In considering applications for changes of commodities, regard will be had to maintaining an appropriate balance of commodities traded in Oxford Street as a whole. To assist in achieving this balance special consideration would need to be given to requests to relinquish fruit and flowers or to requests to change the authorised commodities to souvenirs or leather goods.

NB: In this connection regard will be had to views of the West End Street Traders Association and whether the application has the support of the Association.

5. In considering applications for more than one commodity from a given stall, regard will be given to the appropriateness of the proposed combination, including the effect on the appearance of the stall.

NB: It is considered inappropriate for leather goods to be sold with fruit or flowers. Licence holders wishing to have such commodities on their licence will be asked to accept a condition providing that only one of these commodities will be displayed for sale at any one time.

In addition it is considered that the current restriction of ice cream to licence holders selling fruit, vegetables and flowers should be continued.

6. Applications will not normally be granted:
  - (a) where enforcement action is pending against the licence holder; or
  - (b) where the licence holder is subject to a complaint; or
  - (c) where the licence holder is currently in arrears of charges.
7. Where applications are made by licensees to add a commodity to their licence, the Council will consult shops (excluding major department stores, multiple stores and souvenir shops) within a distance of 100 yards in either direction on the same side of the street and, within 50 yards of each side of a point directly opposite the pitch, shops on the opposite side of the street.
8. If, in any individual case and for whatever reason, the Council decides to grant an application which is in breach of these guidelines, such a decision should not be taken to create any kind of precedent in respect of future applications.

9. When determining applications to fill vacant pitches the Council will take into account:

- (a) The appropriateness of the commodity in relation to the potential adverse visual impact that it would have upon the character and appearance of conservation areas and on adjacent listed buildings.
- (b) The willingness of the applicant to comply with the design brief.
- (c) The extent to which the sale of the commodity will provide a useful service to the local community not otherwise provided in the area.
- (d) The potential nuisance arising from the sale of the commodity in terms of additional litter and cleansing requirements.
- (e) The safety of the public and any risks.

**NOTE A:** These guidelines supplement the general guidelines for filling of vacant pitches.

**NOTE B:** In respect of pitches subject to the block application by WESTA agreed by Licensing (Major Issues) Sub-Committee on 15 March 1999 not more than 5 commodities may be licensed on any of these pitches.

## COMMODITIES

1. Leather goods to include PVC or vinyl purses, wallets, bags and belts (not large hold-alls, weekend bags, or any type of clothing).
2. Watches and small clocks, costume jewellery.
3. Miniature paintings, prints and frames (up to size 12" x12").
4. Fruit and vegetables
5. Flowers, plants and dried flowers
6. Ice Cream (in conjunction with fruit, vegetables and flowers only). (except for Pitch no. 3005, Portman Street which is the subject of a specification order which only permits it to be licensed for ice-cream, frozen confectionery and other similar commodities).
7. Greetings cards, wrapping paper, festive decorations, tags and cello tape, postage stamps.
8. Souvenirs (including badges, caps, souvenir type hats and helmets, souvenir T shirts/sweatshirts, balloons, calendars, novelties, umbrellas, pop and sport memorabilia, 35mm films and batteries, sunglasses; postage stamps, phonecards.)
9. Toys
10. Neckwear to include shawls, ponchos, ties and scarves.
11. Hot chestnuts (special): only those already licensed.
12. Bus sight seeing tickets
13. Wrapped confectionery
14. Cold Drinks
15. Diaries, filofax
16. Compact discs, tapes, videos and computer games
17. Hats and gloves
18. Candles
19. Pot pourri and small containers, aromatherapy oils and burners.
20. Newspapers, Periodicals, Maps, Postcards, Stamps and Phonecards

The Council will consider applications to sell exclusively single ranges of branded goods which would be appropriate to Oxford Street, e.g. Disney or Warner Bros. Merchandise.

## ANNEX F

-----Original Message-----

From: David [mailto:David.A.Chambers@lineone.net]  
Sent: 08 June 2007 20:41  
To: Flemming, Ayesha  
Cc: Wally Watson  
Subject: RE: Meeting on 26 February 2007 with Licensing Service re:  
Specifying Resolution

Hi Ayesha,

I hope you had a good weekend. Wally and I are agreed that this draft removes the uncertainty that the last draft contained. Whilst it goes further than what was proposed by the West End Branch of the NMTF I am authorised to say that the Branch will not oppose it.

Best wishes,

David

-----Original Message-----

From: Flemming, Ayesha [mailto:AFlemming@westminster.gov.uk]  
Sent: 08 June 2007 10:57  
To: David; WALLY  
Cc: Wroe, Chris; Large, Peter; Hemple, Pamela  
Subject: RE: Meeting on 26 February 2007 with Licensing Service re:  
Specifying Resolution

Hi David and Wally

Following on from your meeting with Peter Large and Chris Wroe, the proposed specifying resolution has been amended to the following:-

"that pursuant to Section 5(1)(b) and Section 7 of the City of Westminster Act 1999, in relation to the following streets designated as "licence streets" (defined in Section 2 of the 1999 Act) the sale, offer or provision of hamburgers, beefburgers, hotdogs, sausages, frankfurters, hot chicken, steaks and spareribs shall be prohibited."

The Licensing Sub-Committee date has now been set for 28th June 2007 (I'll be formally confirming this in letter format). The Licensing Sub-Committee report therefore needs to be drafted by Wednesday 12th June. Can you please therefore inform me by Wednesday morning as to whether there is agreement to the above wording.

Regards

Ayesha Flemming  
Senior Licensing Officer

Licensing Service  
Westminster City Council  
14th Floor  
64 Victoria Street  
London, SW1E 6QP

Tel: 020 7641 2542



# Minutes

Meeting:

**Licensing Sub-Committee No.1**

Date of meeting:

**Thursday 28<sup>th</sup> June at 6.00pm**

Attendees:

**Councillors:**

**Audrey Lewis (Chairman)**

**Nicholas Evans**

**Mushtaq Qureshi**

**Officers:**

**Gitanjali Gopeesingh (Legal Advisor)**

**Pam Hemple (Policy Advisor)**

**Ellie Clay (Committee Officer)**

Apologies:

**None**

Contact:

**Ellie Clay**

**Committee and Scrutiny Officer**

Details:

**Tel: 020 7641 7056**

**Fax: 020 7641 2042**

**Email: [eclay@westminster.gov.uk](mailto:eclay@westminster.gov.uk)**

## **1. MEMBERSHIP OF THE COMMITTEE**

- 1.1 There were no changes to the membership of the Sub-Committee.

## **2. DECLARATIONS OF INTEREST**

- 2.1 Councillor Lewis declared an interest in scheduled item 6.5 (K2, 4a Upper St Martins Lane, WC2) as she had had discussions with objectors about the application. She agreed to withdraw for the consideration of this application.
- 2.2 Councillor Mitchell commented that he was only present for item relating to pitch 1643 Bridge Street not for any of the applications in his ward.

## **3. MINUTES**

- 3.1 **RESOLVED:** That minutes of the Licensing Sub-Committees held on 17 May 2007 and 31 May 2007 be approved by the Chairman as a correct record of proceedings.

## **4. REGULATION OF STREET TRADING: PITCH 1643 BRIDGE STREET - WAIVER OF STANDARD CONDITIONS**

### **In attendance:**

Applicant: Councillor Tim Mitchell (Ward Councillor), Mrs Hurrell (Licence holder)

Objector: Sergeant Eric Stuart (Metropolitan Police)

Council Officers: Mr Mike Gray (Planning Development Services), Mr Peter Reeves (Planning Contingency Team)

Ms Nichola Stratford, Licensing Manager, briefly introduced the report, noting that at 6.4 of the report it would be the highway authority who would apply for to the Court for a removal and disposal order and not the Police. Additional letters of support from Mr Joe Benton MP and Lord Laird of Artigarvan had been submitted by the applicant and distributed to all parties prior to the hearing.

### **Applicant**

Councillor Tim Mitchell, on behalf of Mrs Hurrell, highlighted that Mrs Hurrell was in effect the news agent for the Houses of Parliament which was a long standing, family business. Councillor Mitchell explained that all negotiations which had taken place during the planning process had been about a permanent structure and that public safety had been taken into consideration during the designing of the stall.

Councillor Mitchell explained that on 20<sup>th</sup> December 2006 Mrs Hurrell received a request from the Council to remove her stall for the New Year's Eve celebrations. This had not happened in previous years. Mr Hurrell co-

operated and arranged for the stall to be removed but the stall was damaged in the process as it was build as a permanent structure. On 24<sup>th</sup> January 2007 Mrs Hurrell received a penalty points notice for not removing her stall overnight. Mrs Hurrell had never removed her stall overnight as planning permission had been given for a permanent structure. Councillor Mitchell commented that clarification was required on the effect of planning permission on Mrs Hurrell's licence and that he supported her application in its entirety.

### **Objectors**

Sergeant Stuart, Metropolitan Police, highlighted that their objection related to public safety, specifically crowd control during major events. Sergeant Stuart explained that during the 2005 New Year's Eve celebrations areas around Bridge Street and Embankment became overcrowded which resulted in 120 casualties. Radical action was required in the area to ensure against future incidents and plans had been developed with a crowd dynamics expert. However, all work would be null and void if there was a narrowing in the area, which would be caused by Mrs Hurrell's stall. Sergeant Stuart highlighted that Mrs Hurrell would only be asked to remove her stall when it was absolutely necessary. For example it was not felt necessary for the London Marathon.

Mr Reeves, Planning Contingency Team, confirmed that Mrs Hurrell would only be asked to remove her stall on a reasonable basis.

Councillor Mitchell asked whether it would be possible to place barriers either side of Mrs Hurrell's stall. Sergeant Stuart explained that it would still causing a narrowing and the only solution would be to narrow the whole area.

**RESOLVED:** That (a) the application made be Mrs Hurrell for waiver of standard conditions 26 and 27 applicable to her street trading licence be **refused** for the reasons given in paragraph 6.3 of the report: and

(b) the application made by Mrs Hurrell for waiver of standard condition 28 be **granted** for the reasons given in paragraphs 6.5 and 6.6 for a period of five years.

## **5. LICENSING APPLICATIONS**

The Director of Legal and Administrative Services submitted reports in relation to the following applications for determination by the Sub-Committee, copies of which are included in the register in the custody of the Head of Cabinet, Committee and Scrutiny Secretariat.

It was noted that scheduled application 6.6 (Pizza Express, 450 Strand, WC2) had been granted under delegated authority and therefore did not need to be considered.

*Councillor Lewis withdrew from the Chamber. Councillor Evans took the Chair for the following item.*

## **5.1 K2, 4a Upper St Martins Lane, WC2** Application to vary a Premises Licence

### **In attendance:**

Applicants: Mr Alun Thomas (Representative)

Responsible Authorities: Ms Miriam Flynn (Environmental Health)

Interested Parties: Ms Amanda Rigby (local resident) and witnesses Ms Jo Weir (Covent Garden Community Association) and Ms Helen Dawson (local resident).

Mr Steve Rowe, Senior Licensing Officer, briefly introduced the report. It was noted that additional conditions submitted by the Environmental Health Service which had been seen by all parties prior to the meeting. Mr Rowe also submitted that the under part 2 of the application on page 3 of the report, the applicant had also applied to remove condition 8 on their current licence.

### **Applicant**

Mr Alun Thomas, representing the applicant, explained that the premises had been closed for 9 months and had previously known as 'Denim' which operated as a bar, breaching licence conditions and causing noise nuisance. Mr Thomas explained that he had discussed the application with the local residents and he understood that their main concern was noise. The Sub-Committee received photos of the proposed interior of premises and noted that it would not be a nightclub. There would be a restaurant in the basement and customers would be expected to pay in the region of £12.50 for a gin and tonic.

With regard to conditions, Mr Thomas submitted a set of conditions proposed by the applicant which incorporated those requested by the Environmental Health Service. Mr Thomas informed the Sub-Committee that the conditions which were not agreed related to the installation of an acoustic lobby and the waste conditions. The applicant also did not agree to a condition regarding the supply of alcohol being ancillary to table meal in the basement, mezzanine and rear ground floor area but had offered a condition that substantial food would be available throughout the premises during the whole of permitted hours and that in the basement the supply of alcohol will be to persons taking a table meal only. Mr Thomas also submitted that the applicant had agreed to limit the facilities for dancing to 9 pre-booked functions per year. A capacity figure of 250 persons for the whole premises had been agreed.

Mr Thomas highlighted that the applicant was offering a number of additional conditions and that a noise survey had been carried out, the results of which had also been made available to the Sub-Committee.

### **Interested Parties**

Ms Rigby, local resident, sought reassurance from the applicant that they would not be disturbed by noise from the premises. She explained that when the premises was operating as 'Denim' a sound limiter was installed but residents were told by the premises that the sound limiter was not used as the music was not loud enough. Mrs Rigby highlighted that residents would be



strongly in favour of an acoustic lobby being installed and would also like the premises to be run primarily as a restaurant.

In response, Mr Thomas explained that the new operators would adhere to a condition regarding a sound limiter and would not abuse their licence. He commented that the applicants could not agree to an acoustic lobby at this time but the Sub-Committee could impose a condition. Mr Thomas also highlighted the recommended works resulting from the noise survey which would be carried out by the applicant and that the premises would have a substantial food element.

### **Responsible Authorities**

Ms Miriam Flynn, Environmental Health Officer, maintained their representation as the premises was in the Stress Area. If the Sub-Committee were minded to grant the application, a condition regarding the supply of alcohol being ancillary to persons taking table meals in all parts of the premises would help to promote the licensing objectives. Ms Flynn also commented that an acoustic lobby would help the premises to not cause a noise nuisance and requested that the wording of proposed condition 23 'Save for areas hatched black' be replaced with 'Save for the ground floor bar and mezzanine bar areas'. This was agreed by Mr Thomas.

**RESOLVED:** That the application for a variation to the Premises Licence be determined as follows:

1. Regulated Entertainment  
To permit Live Music (two performers), Exhibition of Films and Facilities for Dancing Monday to Wednesday 10:00 to 00:30, Thursday to Saturday 10:00 to 01:00 and Sunday 12:00 to 23:30 – **granted to core hours.**
2. Conditions  
To remove existing condition 6 (which related to ancillary nature of alcohol and private functions), condition 15 (which details the permitted hours for the Sale of Alcohol and any restrictions thereto) and condition 8 and replace with new conditions – **granted** subject to conditions listed below.
3. To carry out alterations to the premises to alter the bar at ground floor and mezzanine level and to re-arrange the dumb waiters and the dining areas within the basement and create two VIP dining rooms – **granted subject to conditions listed below.**

That the following conditions be attached to the Premises Licence:

### **Conditions relating to Public Safety**

#### **Escape Routes**

1. The approved arrangements at the premises, including means of escape provisions, fire warning and fire fighting equipment, the electrical installation and mechanical equipment, shall at all material times be maintained in good condition and full working order.
2. The means of escape provided for the premises shall be maintained unobstructed, free of trip hazards, be immediately available and clearly identified in accordance with the plans provided.
3. All exit doors shall be available at all material times without the use of a key, code, card or similar means.
4. All emergency doors will be maintained effectively self-closing, and not held open other than by an approved device.
5. The edges of the treads of steps and stairways shall be maintained so as to be conspicuous.
6. Curtains and hangings shall be arranged so as not to obstruct emergency signs.

#### Certificates

7. The certificates listed below shall be submitted to the Council annually.
  - a) Any emergency lighting battery or system
  - b) Any electrical installation
  - c) Any fire alarm system

#### CCTV (to replace present Condition 11)

8. The premises will maintain a comprehensive CCTV system that ensures all areas of the licensed premises are monitored including all entry and exit points, and the street environment and which enable frontal identification of every person entering in any light condition. All cameras shall continually record whilst the premises are open to the public and the video recordings shall be kept available for a minimum of 31 days with time and date stamping. (ii) Tape recordings shall be made available to an authorised officer or a police officer together with facilities for viewing. (iii) The recordings for the preceding two days shall be made available immediately on request. Recordings outside this period shall be made available on 24 hours notice. (Subject to the Data Protection Act 1998).

#### Capacity limits

9. The premises shall not be used for the purposes of regulated entertainment until the building has been assessed under the "Technical Standards for Places of Public Entertainment" issued by the District Surveyors Association and appropriate accommodation

numbers established. The maximum persons to be accommodated at any one time (including staff) shall not exceed 250

10. Arrangements will be made to ensure that any capacity limit set for the premises can be properly monitored. Information regarding the capacity should be given to an authorised officer on request.

#### Children

11. All persons under 18 in the public areas of the premises after 21:00 to be accompanied by an adult.

#### Special Risks

12. Any special effects or mechanical installations shall be arranged and stored so as to minimise any risk to the safety of those using the premises. The following special effects will only be used on 7 days prior notice being given to the Council where consent has not previously been given.

- a) dry ice and cryogenic fog
- b) smoke machines and fog generators
- c) pyrotechnics including fire works
- d) firearms
- e) lasers
- f) explosives and highly flammable substances.
- g) real flame.
- h) Strobe lighting.

13. No person shall give at the *premises* any exhibition, demonstration or performance of hypnotism, mesmerism or any similar act or process which produces or is intended to produce in any other person any form of induced sleep or trance in which susceptibility of the mind of that person to suggestion or direction is increased or intended to be increased.

NOTE: (1) This rule does not apply to exhibitions given under the provisions of Section 2(1A) and 5 of the Hypnotism Act 1952.

14. No striptease, no nudity, and all persons on the premises to be decently attired at all times.

#### **Conditions relating to Prevention of Public Nuisance**

##### Noise and Vibration

15. A ground floor acoustic entrance lobby shall be installed and the premises shall not be used for dancing, live music or exhibition of films

until the lobby is completed to the satisfaction of officers of Environmental Health Consultation Team.

16. There shall be no speakers, amplification or live entertainment to take place within the front entrance lobby of the premises.
17. The external door to be kept closed after 23:00 except for the immediate access and egress of persons.
18. A sound limiting device shall be located in a separate and remote lockable cabinet from the volume control must be fitted to the musical amplification system set at a level determined by and to the satisfaction of an authorised officer of the Environmental Health Service's Community Protection Department so as to ensure that no noise nuisance is caused to local residents. The operational panel of the noise limiter shall then be secured to the satisfaction of officers from the Environmental Health Service. The keys securing the noise limiter cabinet shall be held by the applicant only, and shall not be accessed by any other person. The limiter shall not be altered without prior agreement with the Environmental Health Service.
19. No alteration or modification to any existing sound system(s) should be effected without prior knowledge of an authorised Officer of the Environmental Health Services.
20. Any additional sound generating equipment shall not be used on the premises without being routed through the sound limiter device.
21. Notices will be prominently displayed at exits requesting the public to respect the needs of local residents and to leave the premises and the area quietly.
22. No rubbish including bottles will be moved, removed or placed on the street between 00:00 hours and 08:00 hours.

#### Waste

23. All waste is to be properly presented and placed out on the street for collection no earlier than 30 minutes before the scheduled collection times.

#### Food

22. Substantial food and substantial beverages other than intoxicating liquor (including drinking water) shall be available during the whole of the permitted hours in all parts of the premises where intoxicating liquor is sold or supplied.

23. Save for in the ground floor and mezzanine bar areas, the service of alcohol for consumption on the premises shall be by way of waiter/waitress service.
24. No alcohol to be consumed by persons standing outside the premises.
25. The Basement:  
  
Alcohol shall not be sold or supplied on the premises otherwise than to persons taking substantial refreshment.
26. The Ground Floor and Mezzanine:  
  
After 11pm, alcohol shall not be sold or supplied otherwise than to persons frequenting the premises for the purpose of musical entertainment and substantial refreshment to which the consumption of alcohol is ancillary. The alcohol must be sold or supplied at a time before the provision of substantial refreshment has ended.

#### General

27. A regulated taxi, limousine or company car service will be contracted for the use of patrons
28. At least one SIA registered door supervisor shall be employed at the entrance to the Premises after 9pm whenever the Premises are in use under this Licence.
29. The contact number of the Designated Premises Supervisor will be displayed at a prominent position in the premises and circulated amongst local residents associations as appropriate.
30. The Licence will have no effect until the alterations to the premises have been assessed as satisfactory by the Environmental Health Consultation Team and this condition has been removed from the Licence.
31. The facilities for dancing will be restricted to 9 pre-booked days per annum.

*Councillor Lewis returned to the Chamber and resumed that Chair*

#### **5.2 Coach & Horses, 26 Greek Street, W1** Application for a Temporary Event Notice

##### **In attendance:**

Applicants: None

Responsible Authorities: Mr Barry Vinton (Police)

Mr Steve Rowe, Senior Licensing Officer, briefly introduced the report. It was noted that the applicant was not present.

#### **Responsible Authorities**

Mr Barry Vinton, on behalf of the Police, explained that they had tried to speak to the applicant. Their objections were as outlined in the report.

**RESOLVED:** That a counter notice be issued for the reasons as outlined in the Police objection contained within the report.

### **5.3 Kingly News, 61 Kingly Street, W1**

Application for a New Premises Licence

#### **In attendance:**

Applicants: None

Responsible Authorities: Mr Barry Vinton (Police)

Mr Steve Rowe, Senior Licensing Officer, briefly introduced the report informing the Sub-Committee that the applicant was not present and had requested an adjournment. Mr Barry Vinton, on behalf of the Police agreed to the adjournment.

**RESOLVED:** That the application be **adjourned** to the Licensing Sub-Committee taking place on 26<sup>th</sup> July 2007.

### **5.4 Soho Area**

Application for a new Premises Licence

#### **In attendance:**

Applicant: Mr Tim Owen (Assistant Director, Events, Filming & Contingency Planning)

Responsible Authorities: Ms Miriam Flynn (Environmental Health)

Mr Steve Rowe, Senior Licensing Officer, briefly introduced the report.

The Sub-Committee agreed that the application should be granted as an exception to the Council's Policy.

**RESOLVED:** That the application for new Premises Licence be **granted** so as to allow:

1. Regulated Entertainment  
This will be part of an agreed Event Plan through the Licensing, Operational and Safety Planning Group (LOPSG) as part of a publicly advertised programme and includes events held indoors as they may be managed within covered areas with temporary walls (large marquees or covered stages)

**Performance of Plays:** (Public performance times will be between 12:00 and 20:00) Monday to Sunday: 10:00 to 21:00

**Exhibition of Films:** (Short introductory film and longer feature presentation) Monday to Sunday: 18:00 to 23:00 (19.00 - 22.00 in the Winter, 21.00 -23.00 in the Summer) 5 occasions per calendar year

**Indoor Sporting Events:** (Performance times will be between 12:00 and 20:00) Monday to Sunday: 10:00 to 21:00

**Performance of Live Music:** (Performance times will be between 12:00 and 20:00) Monday to Sunday: 10:00 to 21:00

**Recorded Music:** (Performance times will be between 12:00 and 20:00) Monday to Sunday: 10:00 to 21:00

**Performance of Dance:** (Performance times will be between 12:00 and 20:00) Monday to Sunday: 10:00 to 21:00

**Anything of a similar description to Live Music, Recorded Music or Performance of Dance:** (Performance times will be between 12:00 and 20:00) Monday to Sunday: 10:00 to 21:00

**Provision of Facilities for Making Music:** (Performance times will be between 12:00 and 20:00) Monday to Sunday: 10:00 to 21:00

**Provision of Facilities for Dancing:** (Performance times will be between 12:00 and 20:00) Monday to Sunday: 10:00 to 21:00

**Provision of facilities for entertainment of a similar description to Making Music or Dancing:** (Performance times will be between 12:00 and 20:00) Monday to Sunday: 10:00 to 21:00

2. Sale by Retail of Alcohol: On and Off  
This will be part of an agreed Event Plan through LOPSG as part of a publicly advertised programme and includes events held indoors as they may be managed within covered areas with temporary walls (large marquees or covered stages)

Monday to Sunday: 12:00 to 20:30

3. Seasonal Variations and/or Non Standard Timings:  
This will be part of an agreed Event Plan through LOPSG as part of a publicly advertised programme and includes events held indoors as they may be managed within covered areas with temporary walls (large marquees or covered stages)

**Recorded Music**

New Years Eve: finish time to be 00.30 hrs to provide for dispersal of the public in connection with an agreed event plan.

That the conditions at appendix D to the report be attached to the premises licence.

#### **5.5 Jaeger, 200-206 Regent Street, W1**

Application to a new Premises Licence

##### **In attendance:**

Applicants: Ms Patricia Negus-Fancey (Representative)

Responsible Authorities: Ms Miriam Flynn (Environmental Health)

Mr Steve Rowe, Senior Licensing Officer, briefly introduced the report.

##### **Applicant**

Ms Patricia Negus-Fancey, representing the applicant, explained that the application was for a small café area within the store which was for customers only. Alcohol would be served to seated customers only by waiter/waitress service. There were only 28 seats and there would be no external advertising.

##### **Responsible Authorities**

Ms Miriam Flynn, Environmental Health Service, submitted that conditions had been agreed with the applicant but the as the premises were in the West End Stress Area their representation was maintained.

**RESOLVED:** That the application for a new premises licence be **granted** so as to allow:

1. Sale by Retail of Alcohol  
Monday to Wednesday 10:00 to 18:30, Thursday 10:00 to 20:00,  
Friday 10:00 19:00, Saturday 10:00 to 19:00 and Sunday 12:00 to 18:00.

That the conditions at appendix D to the report be attached to the premises licence.

#### **5.6 Canela Café, 1 Newburgh Street, W1**

Application to vary a Premises Licence

##### **In attendance:**

Applicants: Mr Alun Thomas (Representative)

Responsible Authorities: Ms Miriam Flynn (Environmental Health)

Mr Steve Rowe, Senior Licensing Officer, briefly introduced the report

##### **Applicant**

Mr Thomas, representing the applicant, explained that the café had been trading for a year and that the application had been made to remove



conditions so as to allow off-sales of wines in sealed containers and customers to have alcohol with small 'tapas' style dishes. There was no change to the hours. Mr Thomas highlighted that a similar licence had been granted for the premises 'C'est Ici' in Kingly Court.

### **Responsible Authorities**

Ms Miriam Flynn, Environmental Health Service, maintained their representation as the premises were in the West End Stress Area.

**RESOLVED:** That the application to vary a premises licence be determined as follows:

1. Variations to conditions:
  - (i) To remove condition 13 & 14 from the current premises licence to allow off sales be **granted**.
  - (ii) To remove condition 10 (condition 8 on the current premises licence) which reads 'The sale of alcohol on the premises shall only be to persons taking a table meal there and consumption by such person as ancillary to their meal' be **refused** in accordance with the recommendation and for the reasons as set out in the report.
  - (iii) To remove condition 18 (condition 15 on the current premises licence) which reads 'throughout the Bar Area, beverages (whether alcohol or otherwise) shall be supplied only to persons ancillary to their meal' be **granted**.
  - (iv) To add condition which reads 'Alcohol will only be supplied by waiter/waitress service to persons seated' – **no need to consider** as already on licence.
  - (v) To add condition which reads 'any sale of alcohol for consumption off the premises (save to persons seated at tables and chairs outside the premises) will be supplied in sealed containers be **granted**.'
  - (vi) To remove conditions relating to inspection of works be the Responsible Authorities – **no need to consider** as removed under delegated authority following confirmation of satisfactory completion of works.

## **6. APPROVAL OF A PROPOSED SPECIFYING RESOLUTION**

### **In attendance:**

Licensing Service: Miss Ayesha Flemming (Senior Licensing Officer)  
Representations: Ms Geraldine Dolan (representing Mr Robert Munro), Mr Robert Munro (Pitch 938)

Miss Ayesha Flemming, Senior Licensing Officer, briefly introduced the report informing the Sub-Committee that consultation on the proposed specifying resolution had been carried out. Representations had been received from the West End Street Traders branch of National Market Traders Federation, Mrs Wainwright from pitch 1710 Davies Street and Mr Munro from pitch 938 Wells Street. Ms Flemming informed the Sub-Committee that Mr Wally Watson from the Federation had confirmed that they were content with the wording of the proposed specifying resolution, they therefore would not be present at the meeting.

### **Representations**

Ms Dolan, on behalf of Mr Munro, explained that he had been a trader for 30 years and had not received any penalty points. Application made on 26<sup>th</sup> June 2006 to vary his licence to include the sale of hot food and drink, cold food and drink and ice creams. This application was granted on 1<sup>st</sup> March 2007. Ms Dolan submitted that at this hearing the Chairman had advised that an advisory note would be written to the Sub-Committee considering the specifying resolution informing it that Mr Munro would be exempt from a resolution.

Ms Gopeesingh, legal advisor, confirmed that she was the legal advisor at the 1<sup>st</sup> March 2007 hearing and that the Chairman had actually stated that the specifying resolution may or may not affect Mr Munro, as was stated in the minutes of hearing, not that Mr Munro would be exempt from any specifying resolution. Furthermore, Mr Munro was given a maximum period of nine months from the 1<sup>st</sup> March 2007 to continue to sell his current licensed commodities so as to allow him to sell his current stock before changing to his new licensed commodities of hot food and drink. Ms Flemming confirmed that she had listened to the tape and also understood that the Chairman stated that specifying resolution may or may not apply to Mr Munro.

Ms Dolan submitted that Mr Munro had not yet started to trade his hot food and that it was not right for him to have this right taken away from him. Ms Dolan also commented that Mr Munro should have had 28 days to prepare for the hearing but that he had only had been told that the revised specifying resolution was being considered on 11<sup>th</sup> June.

Ms Flemming explained that the matter had been adjourned from a Sub-Committee meeting in March 2007 and therefore Mr Munro had been given 28 days notice to make a representation. All traders had been consulted in December 2006 about the specifying resolution and were given until January 2007 to make written submissions. Ms Flemming explained that although the resolution had been amended since it was originally listed for Sub-Committee in March, the list was now more specific in prohibiting specific items.

The Sub-Committee noted that Mr Munro was currently selling souvenirs and had not yet started selling food and drinks, furthermore, the proposed specifying resolution was very specific about the items of food that were to be prohibited from being sold, offered or provided.

**RESOLVED:** That (a) pursuant to Section 5(1)(b) and Section 7 of the City of Westminster Act 1009, in relation to the following designated as ‘licence streets’ (defined in Section 2 of the 1999 Act) the sale, offer or provision on hamburgers, beef burgers, hotdogs, sausages, frankfurters, hot chicken, steaks and spare ribs at the licence streets listed at Annex A to the report shall be prohibited; and

(b) in order to prevent odour nuisance from all licence stalls, the prohibition of commodities listed above shall also apply to pitches 1710 and 938.

## **7. APPEALS – EXCLUSION OF PRESS AND PUBLIC**

**RESOLVED:** That in respect of the following items the Sub-Committee consider the items in private in accordance with regulation 14(2) of the Licensing Act 2003 Hearing Regulations 2005, in that the report contains legal advice to the Authority which outweighs the public interest in the hearing taking place in public.

### **7.1 Society of Motor Manufacturers & Traders Ltd, Forbes House, 7 Halkin Street, SW1**

To consider the settlement of an appeal.

**RESOLVED:** That, having regard to the officer’s report, authority be given to settle the appeal on the basis set out in the report.

### **7.2 Automat, 33 Dover Street, W1**

To consider the settlement of an appeal.

**RESOLVED:** That, having regard to the officer’s report, authority be given to settle the appeal on the basis set out in the report.

### **7.3 224-244 Regent Street, W1**

To consider the settlement of an appeal.

**RESOLVED:** That, having regard to the officer’s report, authority not be given to settle the appeal on the basis set out in the report as the Sub-Committee did not feel that the proposed conditions would not satisfy the Council’s Licensing Policy or the licensing objectives. The Sub-Committee were concerned that the proposed conditions did not go far enough to ensure the premises use as primarily a restaurant with an ancillary bar area.

## **5. TERMINATION OF MEETING**

### **5.1 The meeting closed at 8.47pm.**

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CHAIRMAN

---

DATE



City of Westminster

Licensing Team, Public Protection & Licensing, 4th Floor, City Hall, 64 Victoria Street, London SW1E 6QP  
[streettradinglicensing@westminster.gov.uk](mailto:streettradinglicensing@westminster.gov.uk)

APPLICATION TO VARY A STREET TRADING LICENCE

This form should be completed and forwarded to the Licensing Team at the above address or email address.

Fee Payable: £55.11

We will contact you to take payment of the application fee by debit/credit card once the application has been received.

1. Applicant Details

Surname STEIN

Date of Birth 18/04/61

Forenames PAUL [REDACTED]

Title (Mr/Mrs etc.) MR

[REDACTED]

Will you be using a vehicle at the market?  
Yes/No (Please circle)

Make & Model:

[REDACTED]

Postcode: [REDACTED]

Registration No:

[REDACTED]

2. Pitch Number:

1726

3. Market, Street or Exhibition:

DUKE STREET (SOUTH)

4. Please give details of variation requested

(Any commodities that you wish to add or remove from the scope of your licence should be set out in part 6 below)

HOT & COLD  
FOOD  
REMOVE PHONE CARD

5. Please give brief reason for request.

NEW VENTURE

## 6. Commodities

a) Please select up to eight descriptors that best describe the new things you wish to sell or services you wish to provide:

### Food Commodities

#### Cuisine: Description

Afghani	<input type="checkbox"/>	Ethiopian	<input type="checkbox"/>	Korean	<input type="checkbox"/>	Singaporean	<input type="checkbox"/>
Argentinean	<input type="checkbox"/>	Finnish	<input type="checkbox"/>	Lebanese	<input type="checkbox"/>	Slovakian	<input type="checkbox"/>
Austrian	<input type="checkbox"/>	French	<input type="checkbox"/>	Maltese	<input type="checkbox"/>	Slovenian	<input type="checkbox"/>
Bangladeshi	<input type="checkbox"/>	German	<input type="checkbox"/>	Mexican	<input type="checkbox"/>	Spanish	<input type="checkbox"/>
Barbadian	<input type="checkbox"/>	Ghanaian	<input type="checkbox"/>	Moroccan	<input type="checkbox"/>	Swedish	<input type="checkbox"/>
Belgium	<input type="checkbox"/>	Greek	<input type="checkbox"/>	New Zealand	<input type="checkbox"/>	Swiss	<input type="checkbox"/>
Brazilian	<input type="checkbox"/>	Haitian	<input type="checkbox"/>	Nigerian	<input type="checkbox"/>	Syrian	<input type="checkbox"/>
Bulgarian	<input type="checkbox"/>	Hungarian	<input type="checkbox"/>	Palestinian	<input type="checkbox"/>	Taiwanese	<input type="checkbox"/>
Canadian	<input type="checkbox"/>	Indian	<input type="checkbox"/>	Peruvian	<input type="checkbox"/>	Thai	<input type="checkbox"/>
Chilean	<input type="checkbox"/>	Indonesian	<input type="checkbox"/>	Philippines	<input type="checkbox"/>	Trinidad & Tobago	<input type="checkbox"/>
Chinese	<input type="checkbox"/>	Iranian	<input type="checkbox"/>	Polish	<input type="checkbox"/>	Tunisian	<input type="checkbox"/>
Columbian	<input type="checkbox"/>	Iraqi	<input type="checkbox"/>	Portuguese	<input type="checkbox"/>	Turkish	<input type="checkbox"/>
Cypriot	<input type="checkbox"/>	Irish	<input type="checkbox"/>	Puerto Rican	<input type="checkbox"/>	United States	<input type="checkbox"/>
Czech	<input type="checkbox"/>	Israeli	<input type="checkbox"/>	Romanian	<input type="checkbox"/>	Venezuelan	<input type="checkbox"/>
Dominican Republic	<input type="checkbox"/>	Italian	<input type="checkbox"/>	Russian	<input type="checkbox"/>	Vietnamese	<input type="checkbox"/>
Egyptian	<input type="checkbox"/>	Jamaican	<input type="checkbox"/>	Scottish	<input type="checkbox"/>	Welsh	<input type="checkbox"/>
English	<input checked="" type="checkbox"/>	Japanese	<input type="checkbox"/>	Senegalese	<input type="checkbox"/>		

OR

#### Cuisine: Region

African (Central)	<input type="checkbox"/>	American (South)	<input type="checkbox"/>	Asian (South East)	<input type="checkbox"/>	European (East)	<input type="checkbox"/>
African (East)	<input type="checkbox"/>	Asian (Central)	<input type="checkbox"/>	Asian (South West)	<input type="checkbox"/>	European (North)	<input checked="" type="checkbox"/>
African (North)	<input type="checkbox"/>	Asian (East)	<input type="checkbox"/>	Asian (West)	<input type="checkbox"/>	European (South)	<input type="checkbox"/>
African (South)	<input type="checkbox"/>	Asian (North)	<input type="checkbox"/>	Australian	<input type="checkbox"/>	European (West)	<input type="checkbox"/>
African (West)	<input type="checkbox"/>	Asian (North East)	<input type="checkbox"/>	Balkan	<input type="checkbox"/>	Mediterranean	<input type="checkbox"/>
American (Central)	<input type="checkbox"/>	Asian (North West)	<input type="checkbox"/>	Caribbean	<input type="checkbox"/>	Scandinavian	<input type="checkbox"/>
American (North)	<input type="checkbox"/>	Asian (South)	<input type="checkbox"/>	European (Central)	<input type="checkbox"/>	Middle Eastern	<input type="checkbox"/>

AND

#### Cooking Method/Detail

Barbecue	<input type="checkbox"/>	Grill	<input checked="" type="checkbox"/>	Organic	<input type="checkbox"/>	Smoothies	<input type="checkbox"/>
Burgers	<input type="checkbox"/>	Halal	<input checked="" type="checkbox"/>	Pasta based	<input type="checkbox"/>	Soups	<input type="checkbox"/>
Cold beverages	<input type="checkbox"/>	Hot dogs	<input type="checkbox"/>	dishes	<input type="checkbox"/>	Stews	<input type="checkbox"/>
Curries	<input type="checkbox"/>	Hot beverages	<input type="checkbox"/>	Pizzeria	<input type="checkbox"/>	Street food	<input type="checkbox"/>
Fish & chips	<input checked="" type="checkbox"/>	Kebab	<input type="checkbox"/>	Rice based dishes	<input type="checkbox"/>	Sushi	<input type="checkbox"/>
Fish & seafood	<input type="checkbox"/>	Kim chi	<input type="checkbox"/>	Rotisserie meat	<input type="checkbox"/>	Tapas	<input type="checkbox"/>
Fusion	<input type="checkbox"/>	Kosher	<input type="checkbox"/>	Salads	<input type="checkbox"/>	Vegan	<input type="checkbox"/>
Gluten free	<input type="checkbox"/>	Locally sourced	<input type="checkbox"/>	Sandwiches	<input checked="" type="checkbox"/>	Vegetarian	<input type="checkbox"/>
Gourmet	<input checked="" type="checkbox"/>	Meze	<input type="checkbox"/>	Sausages	<input checked="" type="checkbox"/>	Wraps	<input type="checkbox"/>

#### Fresh Produce & Grocery

Artisan	<input type="checkbox"/>	Cheese	<input type="checkbox"/>	Farm foods	<input type="checkbox"/>	Olives	<input type="checkbox"/>
Baked goods	<input type="checkbox"/>	Confectionery	<input type="checkbox"/>	Fish monger	<input type="checkbox"/>	Oils	<input type="checkbox"/>
Butcher	<input type="checkbox"/>	Dairy	<input type="checkbox"/>	Frozen yoghurt	<input type="checkbox"/>	Patisserie	<input type="checkbox"/>
Canned foods	<input type="checkbox"/>	Dried fruit & nuts	<input type="checkbox"/>	Fruit & vegetables	<input type="checkbox"/>	Pre-packed foods	<input type="checkbox"/>
Charcuterie/deli meats	<input type="checkbox"/>	Dried goods	<input type="checkbox"/>	Ice cream	<input type="checkbox"/>		

### Non-food Commodities

#### General

Bespoke	<input type="checkbox"/>	Restored	<input type="checkbox"/>	Second hand	<input type="checkbox"/>	Vintage	<input type="checkbox"/>
Fair trade	<input type="checkbox"/>	Retro	<input type="checkbox"/>	Up-cycled	<input type="checkbox"/>	Variety store	<input type="checkbox"/>
Organic	<input type="checkbox"/>						

#### Clothing & Accessories

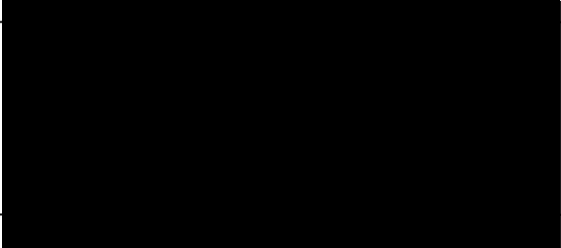
Baby's clothing	<input type="checkbox"/>	Hats & headpieces	<input type="checkbox"/>	Sportswear	<input type="checkbox"/>	Women's clothing	<input type="checkbox"/>
Children's clothing	<input type="checkbox"/>	Hosiery	<input type="checkbox"/>	Sunglasses	<input type="checkbox"/>	Women's Footwear	<input type="checkbox"/>
Children's footwear	<input type="checkbox"/>	Jewellery	<input type="checkbox"/>	Trainers/sports shoes	<input type="checkbox"/>		
Clothing accessories	<input type="checkbox"/>	Men's clothing	<input type="checkbox"/>	Underwear /	<input type="checkbox"/>		
Hair accessories	<input type="checkbox"/>	Men's footwear	<input type="checkbox"/>	nightwear	<input type="checkbox"/>		
Handbags, purses & wallets	<input type="checkbox"/>	Shoe repairs & accessories	<input type="checkbox"/>	Watches, watch accessories & repairs	<input type="checkbox"/>		

<b>Home</b>			
Bake ware <input type="checkbox"/>	Curtains & blinds <input type="checkbox"/>	Home décor <input type="checkbox"/>	Large electrical goods <input type="checkbox"/>
Bathroom accessories <input type="checkbox"/>	Fabric & textiles <input type="checkbox"/>	Household linen & towels <input type="checkbox"/>	Small electrical appliances/accessories <input type="checkbox"/>
Cleaning & laundry equipment/products <input type="checkbox"/>	Glassware & china <input type="checkbox"/>	Kitchenware <input type="checkbox"/>	Tableware <input type="checkbox"/>
Carpets & rugs <input type="checkbox"/>	Haberdashery <input type="checkbox"/>		
<b>Beauty &amp; Grooming</b>			
Artisan beauty products <input type="checkbox"/>	Cosmetics <input type="checkbox"/>	Health & wellbeing <input type="checkbox"/>	Toiletries <input type="checkbox"/>
	Fragrances <input type="checkbox"/>		
<b>Entertainment</b>			
Audio/visual equipment <input type="checkbox"/>	Books & periodicals <input type="checkbox"/>	DVDs <input type="checkbox"/>	Mobile phones & accessories <input type="checkbox"/>
Board games & puzzles <input type="checkbox"/>	Children's toys <input type="checkbox"/>	Fancy dress <input type="checkbox"/>	
	CDs/vinyl <input type="checkbox"/>	Games consoles & accessories <input type="checkbox"/>	
<b>Gifts, Stationery, Arts &amp; Crafts</b>			
Artists' materials <input type="checkbox"/>	Musical instruments & accessories <input type="checkbox"/>	Photographic equipment & accessories <input type="checkbox"/>	Souvenirs <input type="checkbox"/>
Crafts <input type="checkbox"/>	Party accessories <input type="checkbox"/>		Stationery <input type="checkbox"/>
Festive decorations <input type="checkbox"/>			
Greeting cards & gift wrapping <input type="checkbox"/>			
<b>Hobbies, Sports &amp; Leisure</b>			
Camping equipment <input type="checkbox"/>	DIY tools & materials <input type="checkbox"/>	Memorabilia & collectibles <input type="checkbox"/>	Pet store <input type="checkbox"/>
Car care & car accessories <input type="checkbox"/>	Luggage, travel bags & accessories <input type="checkbox"/>		
<b>Horticulture</b>			
Artificial flowers <input type="checkbox"/>	Christmas trees <input type="checkbox"/>	Florist (including plants) <input type="checkbox"/>	Garden centre <input type="checkbox"/>
<b>Providing Service</b>			
Cobblers <input type="checkbox"/>	Key cutting <input type="checkbox"/>	Promotional stall <input type="checkbox"/>	Tailoring/alterations <input type="checkbox"/>

b) If you wish to remove any of the commodities that you are currently permitted to sell or services that you are permitted to offer from your licence, please list them below:

PHONE CARD

c) Please give the full address(es) at which things to be sold will be stored before they are to be offered for sale



**7. Changes to Receptacle**

- a) If you wish to change your receptacle, the equipment used or layout of the stall as a result of this variation, please describe the changes that you wish to make below:-  
**Please provide photos of the new receptacle/equipment**

HAVE A REFORBISHMENT  
DRAWING ENCLOSED

- b) Is the new/modified receptacle, easily and readily removable?

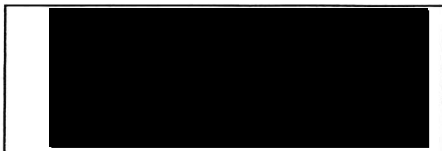
NO

- c) Please give the full address at which the receptacle will be stored outside trading hours

DUKE STREET W1

I wish to apply to vary my street trading licence as set out above and confirm that the information given by me on this form is correct. I realise that giving false information could lead to prosecution.

**SIGNED:**



**DATE:**

7/8/19

**Documents to be submitted with this application (please tick as applicable)**

Photograph/Illustration of trading receptacle

Manufactures specification of trading receptacle

Safety certificates for material covering the receptacle: Fire Retardant BS: 7837

**Data Protection Act 1998: This information will only be used for the purposes stated above. Please address any data protection enquiries to the Data Protection Officer, Information Services, 5 Strand, London WC2N 5HR**





## **PAUL STEIN CATERING MENU**

### **Hot Baguettes**

#### THE ENGLISH

-English Pork, Sage & Onion Stuffing with apple sauce

#### STEAK CHEESE MELT

-Philly Steak filled with melted cheese and peppers

#### TRADITIONAL FISH AND CHIPS

-Fresh fried fish with a side of chunky chips and tartar sauce

#### GOURMET SAUSAGES

-Toasted baguette filled with either, English, German or Polish gourmet sausage

#### SALTED BEEF

-Warm baguette with salted beef, gherkins and pickles

### **Cold Baguette**

#### THE BLT

-Classic bacon lettuce and tomato with option of mayonnaise

#### THE ITALIAN JOB

-Italian ham, pepperoni and salami

#### THE TUNA MIX

-Tuna with sweetcorn and mayonnaise

### Side Orders

CHUNKY CHIPS

### COLD DRINKS

-Mineral Water

-Coke

-Diet Coke

-Fanta

-7up

### HOT BEVERGES

-Latte

-Cappuccino

-Espresso

-Americano

-Speciality Teas

-Hot Chocolate



## City of Westminster

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

Tel. No: 020 7641 6500

Date: 26/10/2020

BY EMAIL ONLY: [REDACTED]

**RE: Variation of commodities for Pitch 1726, Duke Street**

Dear Mr Stein,

I write in respect of your application to vary the commodities on your licence for the above pitch, to now include Fish & chips, Halal, Sandwiches, Sausages, Gourmet, Ice Cream, Cold Beverages, Fruit and Hot Chestnuts.

Since the grant of this licence on 07 August 2020, it has been brought to our attention by the West End Street Trading Association that there is a specifying resolution in place dated 28<sup>th</sup> June 2007, that prohibits the sale, offer or provision of hamburgers, beef burgers, hotdogs, sausages, frankfurters, hot chicken, steak and spare ribs from the street trading pitches in Oxford Street. I attach a copy of the specifying resolution for your records.

Unfortunately, your pitch is one of the pitches affected by the specifying resolution as you have applied to sell sausages as part of your most recent variation. Please accept my sincere apologies that this was not picked up earlier in the variation process.

Under the Section 11 of the City of Westminster Act 1999 (the Act), your variation application should have been refused for being contrary to the terms of the specifying resolution.

Section 11(1) of the Act states:

- (1) *The council shall refuse to grant an application made under section 11 (Applications) of this Act—*

*...where the street to which the application relates is a street in respect of which a specifying resolution is in force and the grant of the licence would be contrary to any of the terms of that resolution...*



However, due to the administrative error of this licence being granted and issued to you incorrectly, we would like to offer you the opportunity to submit a further variation application to remove sausages from your licence but keep the remainder of the varied commodities. As a further sign of goodwill, we will of course waive the fee of the variation application.

If you are not minded to accept our offer to vary your licence I must inform you that we will have to commence our own application to vary your licence in accordance with Section 16 of the Act which states:

*"...the council may vary a street trading licence on 1st January in any year during the currency of the licence".*

In light of the above, I would be grateful if you would respond to this letter by no later than 9<sup>th</sup> November 2020 with a decision on whether you will be submitting a variation application.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'S. Pring', written on a light blue background.

Shannon Pring  
Senior Practitioner Street Trading

Cc: Wally Watson, West End Street Trading Association

**From:** [paul.stein](#)  
**To:** [Pring, Shannon: WCC](#); [Wally Watson](#)  
**Subject:** Re: 05/04822/LI\_STE - Pitch 1726, Duke Street  
**Date:** 27 October 2020 11:17:11  
**Attachments:** [image003.png](#)

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Hi Shannon,

Thank you for your email.

I have waited over one year for this variation to be completed, my application was submitted on the 7th July 2019,

I only want to put gourmet sausages in a baguette.

You have allowed other traders in Oxford Street to do this, why am I the exception?

Also approximately 3 years ago, near Christmas on a Sunday closing Oxford Street the council allowed

Gourmet Sausages in a baguette to be sold in the middle of Oxford Street.

Does the council like to move the goalposts for its own convenience.

I will be taking legal advice over this matter, also I am sure the media would be interested in this.

Also because of your slow process, I have had to invest in a new kiosk.

Regards

Paul Stein

On Mon, Oct 26, 2020 at 11:29 AM Pring, Shannon: WCC  
<[spring3@westminster.gov.uk](mailto:spring3@westminster.gov.uk)> wrote:

Der Mr Stein,

Please see attached a letter relating to your recent variation application for the above pitch.

Attached is the specifying resolution as referred to in my letter and the corresponding minutes of the hearing on the 26/06/2007 in which section 6 is applicable.

Kind regards,

Shannon

**Shannon Pring**

Senior Practitioner for Street Trading

**Licensing Team**

Public Protection & Licensing

Westminster City Council

15<sup>th</sup> Floor

64 Victoria Street

London

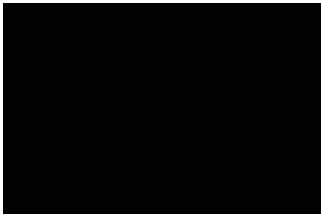
SW1E 6QP

Telephone: 020 7641 6500 (Contact Centre)

Direct dial: 07971 920 413

E-mail: [spring3@westminster.gov.uk](mailto:spring3@westminster.gov.uk)

Web: [www.westminster.gov.uk/licensing](http://www.westminster.gov.uk/licensing)



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

Tel. No: 020 7641 6500

BY EMAIL ONLY: 

Date: 08/04/2022

**RE: Proposed variation of commodities for Pitch 1726, Duke Street**

Dear Mr Stein,

I write in respect of the letter sent to you on 1 April 2022, please note that this letter is withdrawn. This letter is intended to be a replacement of that notice.

I wrote to you previously on 26 October 2020 regarding your variation application to add food commodities including sausages; that was granted in error in August 2020.

As advised in that letter, the part of your application relating to sausages should have been refused in accordance with Section 12(1)(e) of the City of Westminster Act 1999 (the Act) as it is subject to the specifying resolution, dated 28 June 2007, that is in effect for pitches on and around Oxford Street.

Proposed variation

I note that you have not accepted our offer to submit your own variation application to remove sausages from your licence and as such notice is given in accordance with Section 16 of the Act "...the council may vary a street trading licence on 1st January in any year during the currency of the licence". Therefore, it is proposed to vary your licence with effect from 1 January 2023 so as to remove sausages as an approved commodity.

Grounds for variation

Your variation application (reference 19/10380/LI\_STP) was received on 07 August 2019 to add hot and cold food and remove phone cards. During the application process you provided a menu highlighting the foods that you wanted to be added to your licence, one of which was sausages.

The ground for this proposed variation is that the listing of sausages as an approved commodity is contrary to the specifying resolution passed on 28 June 2007 which applies to your pitch which prohibits the sale, offer or provision of hamburgers, beef burgers, hotdogs, sausages, frankfurters, hot chicken, steaks and spare-ribs.



The Council's Licensing Sub-Committee will consider the proposed variation on 26 May 2022 and full details of that meeting will be sent to you shortly. Under Section 17 of the Act, you have the right to appear before that Sub-Committee and I shall be grateful if you will let me know whether you wish to avail yourself of that opportunity.

If you wish to make any written representations regarding the proposed variation, please send these to me at [spring3@westminster.gov.uk](mailto:spring3@westminster.gov.uk) by 02 May 2022.

Yours sincerely,

A handwritten signature in blue ink, appearing to be 'SP'.

Shannon Pring  
Senior Practitioner Street Trading

Cc: Wally Watson, West End Street Trading Association

**From:** [Paul Stein](#)  
**To:** [Pring, Shannon: WCC](#)  
**Subject:** Re: Confirmation of Licensing Sub-Committee - VARIATION OF COMMODITIES FOR PITCH 1726, DUKE STREET  
**Date:** 13 May 2022 17:57:37  
**Attachments:** [image001.jpg](#)  
[image002.jpg](#)  
[image001.jpg](#)  
[image002.jpg](#)

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Thank you  
I will be attending  
Regards  
Paul Stein

Sent from my iPhone

On 13 May 2022, at 14:37, Pring, Shannon: WCC  
<[spring3@westminster.gov.uk](mailto:spring3@westminster.gov.uk)> wrote:

Dear Mr Stein,

Thank you for your email, you were notified in the letter of 8 April that the Licensing Sub-Committee would consider this variation on 26<sup>th</sup> May, and that letter gave you the time to provide your submissions.

The letter that I sent to you on Wednesday was to advise you of the time and location of the committee and to advise that we had not received any submissions from you, should you wish to have them included in the report.

Can you please advise whether you will be attending the committee hearing and if so will you be bringing anyone with you as we will need to ensure that they are permitted to attend.

I will send you the final version of the report to be considered on Wednesday next week.

Kind regards,

Shannon

**Shannon Pring**  
Senior Practitioner Street Trading  
Licensing Service  
Public Protection and Licensing

Westminster City Council  
15th Floor  
Westminster City Hall  
64 Victoria Street  
London SW1E 6QP

**Tel: 07971 920 413**



0207 641 6500 (Contact Centre)  
[spring3@westminster.gov.uk](mailto:spring3@westminster.gov.uk)  
Westminster.gov.uk

[www.westminster.gov.uk/markets-available-guide](http://www.westminster.gov.uk/markets-available-guide)

image001.jpg



image002.jpg



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**From:** paul stein [REDACTED]  
**Sent:** 11 May 2022 22:00  
**To:** Pring, Shannon: WCC <[spring3@westminster.gov.uk](mailto:spring3@westminster.gov.uk)>  
**Subject:** Re: Confirmation of Licensing Sub-Committee - VARIATION OF  
COMMODITIES FOR PITCH 1726, DUKE STREET

Dear Shannon Pring,

Thank you for your email, which I have received today.  
This notification should have been sent 4 weeks ago.  
Firstly the council issued this variation after over a year of delay.  
Now after 2 years they wish to removed the sausages from my licence.  
The specification order is out date, and obsolete and was designed for a different time.  
The sausages I am selling are already cooked and are heated up to the required temperature, producing no smell or lingering odour.  
Also any trader outside Oxford Street is allowed to have this item on their licence.  
There are already Traders in Oxford Street cooking food from raw which is breaking the specification, which the council have granted a licence.  
So why am I being single out?  
This is restraint of trade.  
The only reason this specification order was made was to keep the smells away and the rubbish that may be caused from it, also to appease big business  
.Finally, during the disaster of the pandemic, people lost their jobs, whole country is suffering of declining of economy, recently millions people cannot afford foods and bills. This is a small business for our family, we are working so hard to get limited income to support family, please could you consider the all above situation to waive this specification.

Yours Sincerely  
Paul Stein

On Wed, May 11, 2022 at 4:10 PM Pring, Shannon: WCC  
<[spring3@westminster.gov.uk](mailto:spring3@westminster.gov.uk)> wrote:

Dear Mr Stein,

Please see attached the confirmation of the time and date of the Licensing Sub-Committee to determine the variation of commodities for your street trading licence. I also attach the rules of procedure for licensing sub-committee for your reference.

We have not yet received any submissions from you, please can you send these to me as soon as possible?

Kind regards,

Shannon

**Shannon Pring**  
Senior Practitioner Street Trading  
Licensing Service  
Public Protection and Licensing

Westminster City Council  
15th Floor  
Westminster City Hall  
64 Victoria Street  
London SW1E 6QP

**Tel: 07971 920 413**

**0207 641 6500** (Contact Centre)  
[spring3@westminster.gov.uk](mailto:spring3@westminster.gov.uk)  
[Westminster.gov.uk](http://Westminster.gov.uk)

[www.westminster.gov.uk/markets-available-guide](http://www.westminster.gov.uk/markets-available-guide)

image001.jpg



image002.jpg



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## **COVID-19 VACCINATIONS AND TESTING**

Testing is the most effective way to control the spread of coronavirus. For information on how to get tested, testing sites, and more visit: [www.westminster.gov.uk/covid-19-testing](http://www.westminster.gov.uk/covid-19-testing)

The COVID-19 vaccine has been proven to be safe and effective at protecting people against serious illness from coronavirus. For

## **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**

14 April 2022

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

Dear Shannon

Pitch 1726 – Duke Street – Proposed Variation of Commodities

Thank you for supplying WESTA with a copy of your letter of 8 April 2022 to Paul Stein. WESTA wishes to make the following representations to the Licensing Sub-Committee considering the proposed variation.

In principle WESTA is opposed to specifying resolutions as an unnecessary restraint of trade except where needed for public safety reasons such as the prohibition on second hand electrical goods. WESTA opposed the original proposed specifying resolution for the Oxford Street pitches. However, in the course of constructive discussions with Council officers the current wording of the specifying resolution was agreed by both the Council and WESTA.

One of the purposes of a specifying resolution is to ensure that any prohibition applies equally to all pitches without fear or favour and regardless of individual circumstances. WESTA was surprised, therefore, to learn that the Council had permitted sausages to be an authorised commodity on Pitch 1726. It understands this was a result of human error and should not have happened. WESTA supports, therefore, the recommendation of Council officers that sausages should be removed as an authorised commodity from the street trading licence of Pitch 1726, Duke Street.

Yours sincerely



Wally Watson  
Chairman – West End Street Trading Association

[wallywatson@kws-imports.co.uk](mailto:wallywatson@kws-imports.co.uk)

Office 0208-591 1004

Mobile 07973210161