



City of Westminster

## Licensing Sub-Committee Report

Item No:

22 September 2022

Licensing Ref No:

22/06977/LIPN - New Premises Licence

Title of Report:

Visconti Of Westminster  
1 Marsham Court  
Marsham Street  
London  
SW1P 4JY

Report of:

Director of Public Protection and Licensing

Wards involved:

Vincent Square

Policy context:

City of Westminster Statement of Licensing Policy

Financial summary:

None

Report Author:

Kevin Jackaman  
Senior Licensing Officer

<b>1.</b>	<b>Application</b>			
<b>1-A</b>	<b>Applicant and premises</b>			
<b>Application Type:</b>		New Premises Licence, Licensing Act 2003		
<b>Application received date:</b>		19 July 2022		
<b>Applicant:</b>		Visconti Of Westminster Restaurant Ltd		
<b>Premises:</b>		Visconti Of Westminster		
<b>Premises address:</b>		1 Marsham Court Marsham Street London SW1P 4JY	<b>Ward:</b>	Vincent Square
			<b>Cumulative Impact Area:</b>	None
			<b>Special Consideration Zone:</b>	None
<b>Premises description:</b>		According to the application form, the premises intend to trade as an Italian restaurant and bar formally trading as Shepherds of Westminster restaurant		
<b>Premises licence history:</b>		The premises held a premises licence from October 2005 until the licence lapsed in March 2021 when the licence lapsed due to the insolvency of the premises licence holder		
<b>Applicant submissions:</b>		None		
<b>Applicant amendments:</b>		<p>During consultation the applicant has reduced the hours applied for from:            Late night refreshment: 23:00 to 00:30 Monday to Saturday and 23:00 to 00:00 Sunday            Sale by retail of alcohol: 10:00 to 00:00 Monday to Thursday.            To Westminster's core hours as set out at section 1-B below</p> <p>The applicant has also agreed conditions with The Metropolitan Police as set out in appendix 4</p>		

<b>1-B</b>	<b>Proposed licensable activities and hours</b>							
<b>Late Night Refreshment:</b>				<b>Indoors, outdoors or both</b>			<b>Indoors</b>	
<b>Day:</b>	<b>Mon</b>	<b>Tues</b>	<b>Wed</b>	<b>Thur</b>	<b>Fri</b>	<b>Sat</b>	<b>Sun</b>	
<b>Start:</b>	10:00	10:00	10:00	10:00	10:00	10:00	12:00	
<b>End:</b>	23:30	23:30	23:30	23:30	00:00	00:00	22:30	
<b>Seasonal variations/ Non-standard timings:</b>		None						

<b>Sale by retail of alcohol</b>				<b>On or off sales or both:</b>			<b>Both</b>
<b>Day:</b>	<b>Mon</b>	<b>Tues</b>	<b>Wed</b>	<b>Thur</b>	<b>Fri</b>	<b>Sat</b>	<b>Sun</b>
<b>Start:</b>	10:00	10:00	10:00	10:00	10:00	10:00	12:00
<b>End:</b>	23:30	23:30	23:30	23:30	00:00	00:00	22:30
<b>Seasonal variations/ Non-standard timings:</b>		New Year's Eve until 02:00					

<b>Hours premises are open to the public</b>							
<b>Day:</b>	<b>Mon</b>	<b>Tues</b>	<b>Wed</b>	<b>Thur</b>	<b>Fri</b>	<b>Sat</b>	<b>Sun</b>
<b>Start:</b>	10:00	10:00	10:00	10:00	10:00	10:00	12:00
<b>End:</b>	00:30	00:30	00:30	00:30	00:30	00:30	00:00
<b>Seasonal variations/ Non-standard timings:</b>	New Year's Eve until 02:00						
<b>Adult Entertainment:</b>	None						

<b>2.</b>	<b>Representations</b>
<b>2-A</b>	<b>Responsible Authorities</b>
<b>Responsible Authority:</b>	Metropolitan Police Service
<b>Representative:</b>	Dave Morgan
<b>Received:</b>	09 August 2022
<p>With reference to the above, I am writing to inform you that the Metropolitan Police, as a Responsible Authority, are <b>objecting</b> to this application as it is our belief that if granted, the application would undermine the Licensing Objectives, namely the Prevention of Crime and Disorder and the Protection of Children from Harm.</p> <p>The hours that you have applied for are beyond Westminster's Core Hours Policy and I feel that there is insufficient information contained within the application form to promote the Licensing Objectives.</p> <p>The hours sought are:</p> <p><b>Late Night Refreshment (LNR)</b>  Monday to Saturday: 2300 – 0030  Sunday: 2300 – 0000</p> <p><b>Sale of Alcohol (on &amp; off)</b>  Monday to Saturday: 1000 – 0000  Sunday: 1200 - 2230</p> <p>These hours, are beyond those of Westminster's Core Hours Policy, which for Restaurants are:  Monday to Thursday: 0900 – 1130  Friday to Saturday: 0900 – 0000  Sunday: 0900 – 2230</p> <p>I would therefore encourage that the applicant reduces the hours applied for on Monday to Thursdays and Sundays back to core hours, or to provide me with further details outlining what measures will be in place to show how the venue will not add to any cumulative impact in the area.</p> <p>Also, to move forward, I have attached to this email, a list of conditions that the Police would like to see added to the licence should it be granted. These will be in addition to any other conditions that may be sent by the other Responsible Authorities such as the Environmental Health.</p> <p>Please have a read through and let me know if you are happy to agree to the conditions or feel free to contact me should you wish to discuss them further.</p>	

<b>Responsible Authority:</b>	Environmental Health
<b>Representative:</b>	Dave Nevitt
<b>Received:</b>	16 August 2022
<p>I wish to make Representations on the following grounds:            Representation is made in relation to the application, as the proposals are likely to increase the risk of Public Nuisance and may impact upon Public Safety</p>	

<b>2-B Other Persons</b>	
<b>Name:</b>	[REDACTED]
<b>Address and/or Residents Association:</b>	[REDACTED] [REDACTED] [REDACTED]
<b>Received:</b>	05 August 2022

Further to reading the notification of a new premises licence application under the Licensing Act 2003 by Visconti of Westminster Restaurant Ltd I should like to make the following representations.

My [REDACTED] such that I am likely to be able to hear late night activity in my residential accommodation should the licenses be extended in respect of late-night refreshment or alcohol. I am bound by the terms of my residential lease which state that I must make no noise between the hours of 11pm and 8am. The restaurant is surrounded by residential flats which function on the same basis.

If the restaurant are able to serve customers until 00.30 or 00.00 on Sunday it would mean the staff would still be on the premises for some time afterwards clearing up and potentially making noise. The same applies to the hours proposed in respect of alcohol headed Seasonal Details: Christmas and New Year's Eve Mon to Sat and these seem unnecessarily long. I doubt there will be much demand to consume alcohol as early as 10am -12 noon. These hours are contrary to the terms of the Counterpart Lease between Marsham Court Management Company Limited relating to the part ground floor, Marsham Court, Marsham Street, London SW1P 4LA dated 11 January 2019 which stipulate that the restaurant may occupy the premises from Monday to Saturday between 7.00 am and midnight and 8.00 am to midnight on Sundays and no later.

A comment was made in passing by someone who had been on the Management Company of Marsham Court in about 2018 to the effect that he thought the noise insulating layer had been stripped out of the ceiling in the rear of house (namely the kitchen) but not reinstated when the restaurant underwent refurbishment at the end of 2014 after the lease changed hands.

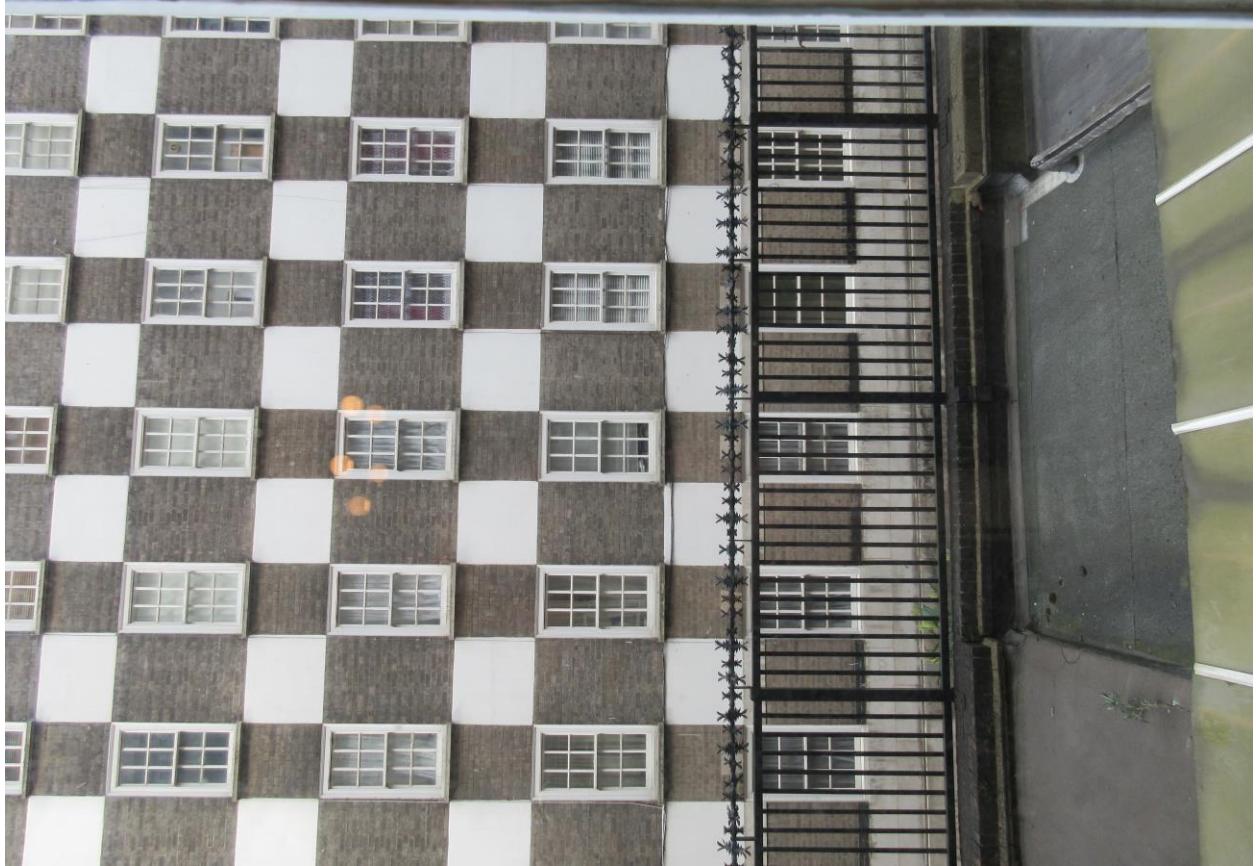
I don't know whether the relevant licences have been applied for in the past but in practice since 2015 I noticed the restaurant premises suddenly started to generate a lot of noise and at anti-social times which were contrary to the terms of the residential leases. There was a noisy fan which used to be on until at least 00.30 at night. When I went out at about 8.30 pm yesterday evening I heard a similar loud fan noise coming from the vent just below the flat of my next door neighbour and the outbuilding which has a grill on it which does not close properly and needs to be held in place by a couple of bins propped up against it.

Generally the boundaries have been pushed and the noise has been happening for longer and longer regardless of the terms of leases. I can cite further examples and dates if required.

An example of a recent breach of term 19.1 of the Counterpart Lease to keep the Property including the canopies in good and substantial repair and condition occurred on Friday 18 February 2022 there were gales and I was told to work from home. When I was having lunch I saw the wind lift one of the corrugated plastic panels from the canopy "fixed" to the rear of the building just below my flat, propel it through the air and hit one of the windows of the block opposite before disappearing out of sight into the thoroughfare of the gated area of that block. There is still a gap where it was. The canopy which is left is caked in a brownish film with cigarette butts littering it in places.

One weekend when the present restauranteur was doing some building work on the premises (from memory Saturday 28 May 2022) which was causing quite a lot of noise with no advance warning in breach of term 23.1(c) of the Counterpart Lease, I happened to go outside and noticed a couple of men standing beside a van in the main road outside my side of the block who looked as though they may have been loading and unloading items from the van into the restaurant premises. If they had they would also have been in breach of term 23.2 of the Counterpart Lease which says deliveries have to be made to the rear accessway. As I understand it as of 20 June 2014 no weekend building work can be carried out in the building.





3.	<b>Policy &amp; Guidance</b> <p>The following policies within the City of Westminster Statement of Licensing Policy apply:</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 10%; vertical-align: top; padding: 5px;"><b>Policy HRS1 applies</b></td><td style="width: 90%; vertical-align: top; padding: 5px;">           A. Applications within the core hours set out below in this policy will generally be granted for the relevant premises uses, subject to not being contrary to other policies in the Statement of Licensing Policy.            B. Applications for hours outside the core hours set out in Clause C will be considered on their merits, subject to other relevant policies, and with particular regard to the following:            1. The demonstration of compliance in the requirements of policies CD1, PS1, PN1 and CH1 associated with the likelihood of the effect of the grant of a licence for later or earlier hours on crime and disorder, public safety, public nuisance and the protection of children from harm.            2. If the application is located within a Special Consideration Zone they have demonstrated that they have taken account of the issues identified in that area and provided adequate mitigation.            3. Whether there is residential accommodation in the proximity of the premises that would likely be adversely affected by premises being open or carrying out operations at the hours proposed.            4. The proposed hours of the licensable activities and when customers will be permitted to remain on the premises.            5. The proposed hours when any music, including incidental music, will be played.            6. The hours when customers will be allowed to take food or drink outside the premises or be within open areas which form part of the premises.            7. The existing hours of licensable activities and the past operation of the premises (if any) and hours of licensable premises in the vicinity.            8. Whether customers and staff have adequate access to public transport when arriving at and leaving the premises, especially at night.            9. The capacity of the premises.            10. The type of use, recognising that some venues are more likely to impact the licensing objectives than others; for example, pubs and bars are higher risk than theatres, cinemas and other cultural and sporting venues due to the nature of the operation.            11. The Licensing Authority will take into account the active measures proposed for a 'winding down' period including arrangements for people to be collected from the premises to travel home safely.            12. Conditions on hours may be attached that require that the supply of alcohol for consumption on the premises ceases a suitable period of time before customers are required to leave the premises.            13. The council, acting as the Licensing Authority, may reduce hours if, after review, it is necessary to impose conditions specifying shorter hours in order to promote the licensing objectives.            14. Specific days for non-standard hours should be identified and justified as part of the application to allow responsible authorities and interested parties to evaluate the impact that these licensable activities may have, and to plan accordingly. The consideration of applications for later hours for Bank Holiday Mondays will take into account that later hours are generally granted for preceding Sundays and that the next day is a working day. Non-specific days are         </td></tr> </table>	<b>Policy HRS1 applies</b>	A. 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	expected to be covered by Temporary Event Notices or variation applications.
<b>Policy RNT1(A) applies</b>	<p>A. Applications outside the West End Cumulative Impact Zone will generally be granted subject to:</p> <ol style="list-style-type: none"> <li>1. The application meeting the requirements of policies CD1, PS1, PN1 and CH1.</li> <li>2. The hours for licensable activities being within the council's Core Hours Policy HRS1.</li> <li>3. The operation of any delivery services for alcohol and/or late-night refreshment meeting the council's Ancillary Delivery of Alcohol and/or Late-Night Refreshment Policy DEL1.</li> <li>4. The applicant has taken account of the Special Consideration Zones Policy SCZ1 if the premises are located within a designated zone.</li> <li>5. The application and operation of the venue meeting the definition of a restaurant as per Clause C.</li> </ol> <p>C. For the purposes of this policy a restaurant is defined as:</p> <ol style="list-style-type: none"> <li>1. A premises in which customers are shown to their table or the customer will select a table themselves to which food is either served to them or they have collected themselves.</li> <li>2. Which provide food in the form of substantial table meals that are prepared on the premises and are served and consumed at a table.</li> <li>3. Which do not provide any takeaway service of food and/or drink for immediate consumption, except if provided via an ancillary delivery service to customers at their residential or workplace address.</li> <li>4. Where alcohol shall not be sold, supplied, or consumed on the premises otherwise than to persons who are bona fide taking substantial table meals and provided always that the consumption of alcohol by such persons is ancillary to taking such meals.</li> <li>5. The sale and consumption of alcohol prior to such meals may be in a bar area but must also be ancillary to the taking of such meal.</li> </ol>

#### **4. Equality Implications**

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

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

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

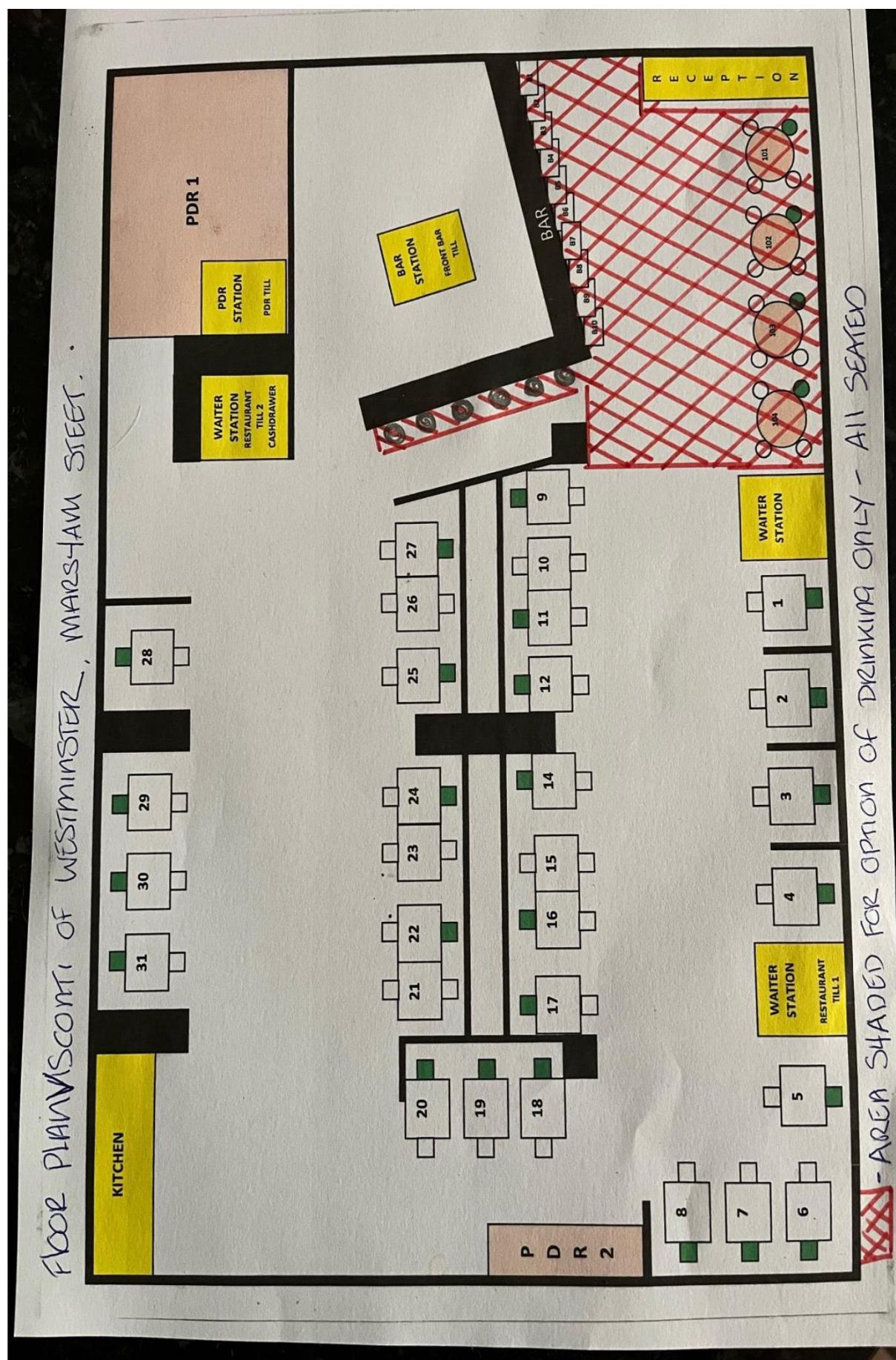
<b>5.</b>	<b>Appendices</b>
<b>Appendix 1</b>	Premises plans
<b>Appendix 2</b>	Applicant supporting documents
<b>Appendix 3</b>	Interested Party supporting documents
<b>Appendix 4</b>	Premises history
<b>Appendix 5</b>	Proposed conditions
<b>Appendix 6</b>	Residential map and list of premises in the vicinity

<b>Report author:</b>	Kevin Jackaman Senior Licensing Officer
<b>Contact:</b>	Telephone: 0207 641 6500 Email: <a href="mailto:kjackaman@westminster.gov.uk">kjackaman@westminster.gov.uk</a>

**If you have any queries about this report or wish to inspect one of the background papers please contact the report author.**

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

<b>1</b>	Licensing Act 2003	N/A
<b>2</b>	City of Westminster Statement of Licensing Policy	01 October 2021
<b>3</b>	Amended Guidance issued under section 182 of the Licensing Act 2003	April 2018
<b>4</b>	Metropolitan Police Service	09 August 2022
<b>5</b>	Environmental Health	16 August 2022
<b>6</b>	Interested party representation	05 August 2022



## Applicant Supporting Documents

## Appendix 2

### **Mediation letter**

Visconti Restaurant  
Marsham Court  
Marsham Street  
Westminster  
London  
SW1P 4LA  
21<sup>st</sup> Aug 2022

Dear [REDACTED]

Licence application ref 22/06977/LIPN for restaurant premises Marsham Court, Marsham Street, SW1P 4LA

Thankyou for your comments regarding our premises licence application for the restaurant below your flat at Marsham court. I would like to assure you that we would like to work with you as our neighbour with any concerns you have with the opening of the restaurant.

I will go through the points you raised and answer the best I can.

We are new to the area and unsure of the usual flow of business to the restaurant will look like, so took the decision to mirror the previous licence of the former Shepherd's restaurant that previously occupied the building. After initial correspondence with the police this will more than likely be cut to standard hours in keeping with the local area. We were not really looking to open late as such but just have some leeway if there was a particular event on or special occasion.

When we first made enquiries about the property, we were told it had sound insulation installed. As the refurbishment was before our time, in fact several years ago I can only go on what information was received at the time from the estate agent.

I believe the fan has been fitted with a silence system which should reduce noise levels and as the kitchen wouldn't be cooking that late, the fan will more than likely be switched off earlier than before. As you only heard the fan when you went outside this is good but will get someone to look at the grill you mentioned.

The canopy that went missing in the gale in February we can get replaced, as I am sure you can appreciate, we had no knowledge of it, as it occurred several months before we took over and unaware part of it had flew off. We will get this replaced in the near future.

The only building work we needed to do was to sand the floor which has now been done so you should not be troubled by this kind of disturbance in future and apologies for any inconvenience you felt at the time.

All people who deliver to us have now been informed that they should only do this by the rear door of the premises.

If you have any further questions, please do not hesitate to contact me at any time

Yours sincerely

Vittorio Di Gregorio

## Interested Party Supporting Documents

## Appendix 3

Documents on which I rely in respect of Licensing Sub-Committee Hearing 22/06977/LIPN on 22 Sept 2022

From: [REDACTED]. A resident (owner/leaseholder of flat [REDACTED] [REDACTED]).

1. My representations in relation to Visconti of Westminster Restaurant Ltd's application for New Premises Licence 22/06977/LIPN including 2 photos. Representations included examples of breaches of the terms of the Counterpart Lease between Marsham Court Management Company Ltd and Shepherd's Restaurants Limited I had disclosed to me dated 11.1.19.
2. Chains of email correspondence arising as a result of the representations between me and Mary Pring Licensing Officer and Kevin Jackaman Licensing Officer. These include photos supplied by the restauranteur of the repaired perspex canopy and air vent, both outside my flat together with his written response to my representations and his proposed solutions including Police Conditions.
3. Emails from [REDACTED] (a leaseholder in the block) concerning the suspended ceiling installed in the restaurant premises when renovated in late 2014 which was conducting noise into his flat and had to be adapted. I have been told by the restauranteur there is currently a suspended ceiling in the restaurant kitchen beneath my flat. There has been a dramatic increase in noise levels in my flat since the renovations in 2014.
4. The Law: City of Westminster Statement of Licensing Policy, Licensing Act 2003, Oct 2021 Prevention of Public Nuisance Policy PN1, pp 32-35, the Core Hours policy, pp 62-63, HRS51, pp 64-68, Ancillary Policies DEL1, pp 114-118, Licence Conditions and Enforcement, p 122 and Appendix 11: Guidance on Noise, pp 151-156.

The latest Licensing Handbook 2003-Councillor's handbook (England and Wales) particularly the Environmental Health and the Representations and Licence Conditions sections near the end (link: <https://www.local.gov.uk/publications/licensing-act-2003-councillors-handbook-england-and-wales-0>).

## Email 22 August 2022

Dear [REDACTED],

On 5 August 2022 you submitted an objection to the above mentioned application for a new premises licence. The consultation period ended on 16 August 2022 and the licensing authority now has a duty to mediate between applicants and objectors to hopefully come to an agreement so the matter does not have to proceed to a Licensing Sub-Committee hearing for determination.

A redacted copy of your objection (removing your home and email address) was forwarded to the applicant and they have requested that we attach their response to you, laying out actions already taken, to allay your concerns. You may wish to contact the applicant directly and are at liberty to do so. Please can you respond to me as to whether or not you will be upholding or withdrawing your objection to the application.

Kind regards,  
Mary

**Mary Pring**  
Senior Licensing Officer

## Email 24 August 2022

Dear Ms Pring

22/06977/LIPN

This is to acknowledge receipt of your email dated 22 August and for kindly mediating between the applicant namely Visconti of Westminster and myself, for which I am grateful. Whilst I appreciate Visconti say they wish to work with me as a neighbour with my concerns, the points of contention remain that (i) my recollection is that the extended opening times applied for are not referred to in the previous licence document I read a couple of weeks ago; (ii) the restaurant are non-committal as to whether they would stick to the opening times in the lease; (iii) their assertion that the restaurant premises has sound insulation is non-specific and does not address whether it is installed in the area of the premises beneath my flat namely the kitchen and they base their understanding on what they were told initially by the estate agent not what may have come to light subsequently. If it is the estate agent who was marketing the premises at the end of 2019 I had never heard of them before so they may not have had an intimate knowledge of the premises and the renovations which were undertaken in 2014.

In light of the above, therefore, I do not wish to withdraw my objection but uphold it. I need to make further enquiries about the insulation position and when I receive them I will contact you and the restaurant again. With regard to the loose panel on the canopy and the ill-fitting cover on the outhouse which accommodates the noisy air intake or outtake apparatus I consider an appropriate approach would be to set a deadline of the end of September 2022 by which time I would expect the former to have been secured and cleaned up and the latter to acquire a secure cover which fits, doesn't rattle and contains the noise of the fan inside it as well as steps taken to tone down the noise the fan itself makes so that it cannot be heard from inside Marsham Court.

Yours sincerely

[REDACTED]

**Email 25 August 2022**

Dear [REDACTED],

Thank you for your prompt reply. I have forwarded the content to the applicant to give him the opportunity to repair the canopy, fan and cover and get back to me in regards to the insulation. I will keep you informed of any responses from him.

Kind regards,  
Mary

**Mary Pring**  
Senior Licensing Officer

**Email 25 August 2022**

Dear Ms Pring

Thank-you. I have put the former owner of the restaurant known as Shepherd's ([REDACTED]) which occupied the premises to proof about the ceiling insulation and am about to contact the then Chairman of the Management Company and the former Management Company member who told me nine months before the restaurant went out of business that the noise insulation had been taken out of the rear of restaurant at the time of the refurbishments in December 2014 without being reinstated. Were the necessary permissions sought/obtained for the work? From memory, I believe the Project Manager was called [REDACTED]. May I copy you into the communications or refer the persons to you?

Yours sincerely

[REDACTED]

**Email 25 August 2022**

[REDACTED],

Thank you for your email. The licensing service does not have access to planning history or any correspondence in regards to planning matters. The applicant is keen to discuss your issues with you and you may find speaking to them more helpful. The applicant is: Vittorio Di Gregorio [vittoriodigregorio@hotmail.com](mailto:vittoriodigregorio@hotmail.com) and you may wish to contact him directly.

Regards,

**Mary Pring**  
Senior Licensing Officer

**Email 30 August 2022**

Dear [REDACTED]

As part of the mediation process I forwarded your email, expressing your new concerns regarding the above matter to the applicant. The applicant has responded and it appears that every effort is, or is, being made to allay your concerns. In view of this please can you now advise if you wish to have further communication with the applicant, preferably face-to-face or by other verbal means, or if you wish to maintain your objection to the application. Your urgent response will be appreciated because a hearing date should be scheduled as soon as possible if you are not withdrawing your objection.

Kind regards,  
Mary

**Mary Pring**  
Senior Licensing Officer

**From:** Vittorio Di Gregorio <[vittoriodigregorio@hotmail.com](mailto:vittoriodigregorio@hotmail.com)>  
**Sent:** 29 August 2022 13:12  
**To:** Pring, Mary: WCC <[mpring@westminster.gov.uk](mailto:mpring@westminster.gov.uk)>  
**Subject:** Re: 22/06977/LIPN - Visconti Of Westminster, 1 Marsham Court, SW1

Dear Mary

Thank you for the letter forwarded from [REDACTED] in reply to our correspondence.

I am not sure what happens now, do we reply back to her or does this automatically go for a hearing/mediation ? This is obviously time sensitive as we need to open the restaurant as soon as possible. So, if this can be arranged at your earliest convenience that would be much appreciated.

We have now spoken with PC Dave Morgan and agreed on shorter hours in line with the local guidelines and are perfectly happy with this. [REDACTED] seems to be pre judging us with the tenants conduct from many years ago. I am not sure why she automatically assumes we won't work within the terms of the licence after agreeing it with the police.

I have attached the licence which I got the information from and other than new year's eve I believe it is similar to the one I originally submitted.

In regards to the estate agent and the sound proofing, they would surely have got their information from the landlord and not automatically misled us to get a sale as [REDACTED] implied.

I have looked at the kitchen which seems to have fitted a secondary ceiling which would give some degree of sound proofing. Within the cavity above this houses numerous electrical wires and pipework. Anything put inside there would hinder any necessary maintenance or repair work needed and possibly a fire hazard.

[REDACTED] flat is [REDACTED] but the soundproofing issues may be more to do with the fact that she doesn't have double glazing which would certainly cut down on noise.

The extraction fan is fitted with a silencer and we have tested for noise throughout Marsham court with the help of the head porter. We can confidently use the extractor on levels 1-3 without any noise problems.

We received a complaint from [REDACTED] several weeks ago stating that every time she switched the bedroom light on, she heard a washing machine come on. She believed this was coming from the restaurant. As we are not yet open no glass or pot washers are being used and we currently don't have a washing machine. We concluded it was the lift to Marsham Court.

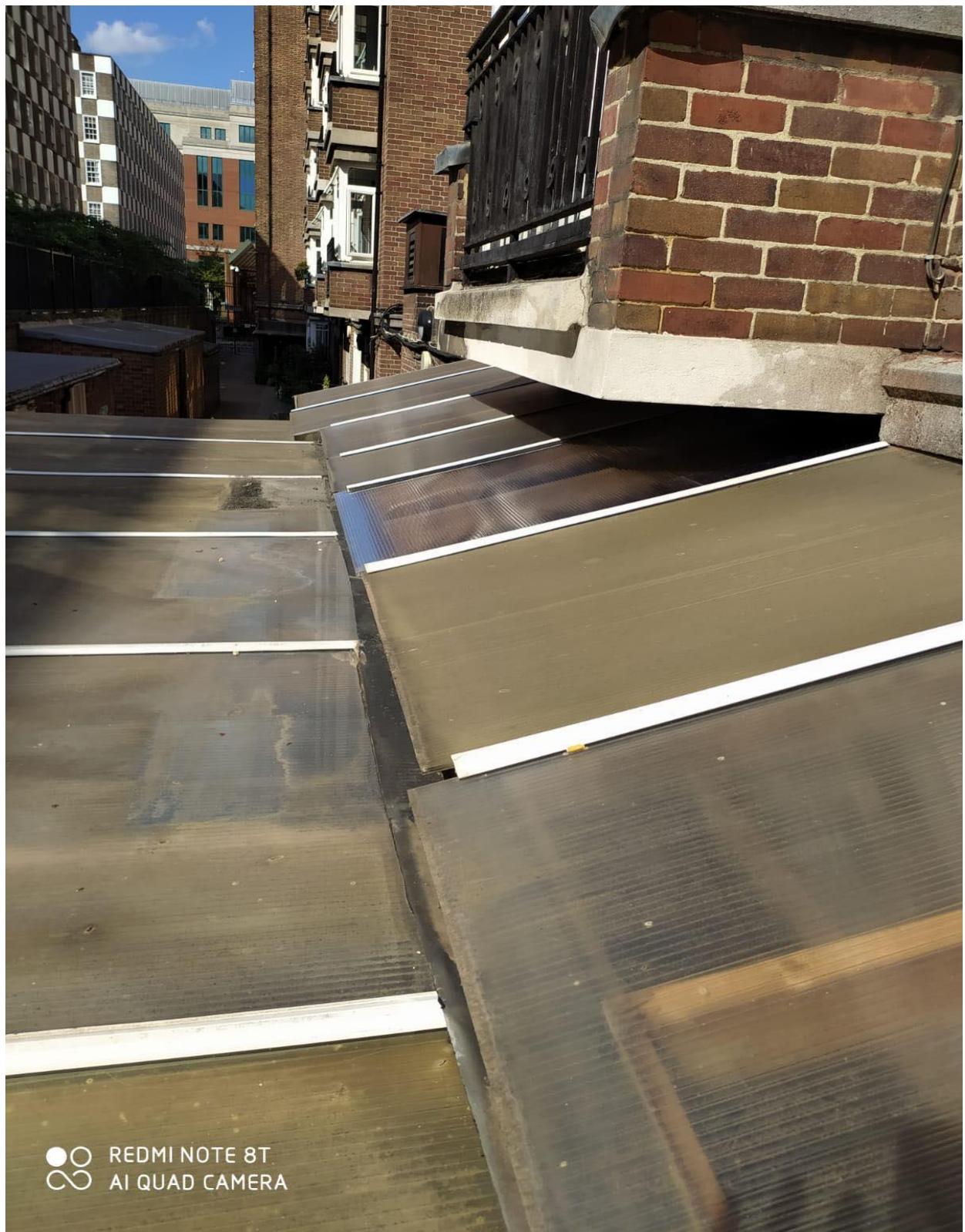
I understand that [REDACTED] has enjoyed 3 and a half years without the restaurant below being open with Covid etc. But to buy a flat in a busy city like London above a restaurant and live in complete silence is not really realistic. She is certainly disappointed that we have moved in.

The work to the air vent has now been completed as is the canopy which was missing a panel. Please see attached photographs showing this.

If you could please advise on the next step and what we need to do to move this forward as quickly as possible. In the meantime, we will try to speak to [REDACTED] and see if she will engage in conversation . Many thanks for your help in this matter.

Yours Sincerely

Vittorio



● ● REDMI NOTE 8T  
∞ AI QUAD CAMERA



● ● REDMI NOTE 8T  
● ● AI QUAD CAMERA

**The opening hours of the premises:**

Monday to Saturday:	10:00 to 00:30
Sunday:	12:00 to 00:00

**Where the licence authorises supplies of alcohol, whether these are on and/or off supplies:**

Alcohol is supplied for consumption both on and off the Premises.

**Name and (registered) address of holder of premises licence:**

Shepherds Restaurants Limited  
Administration Department Langan's Brasserie  
Stratton Street  
Piccadilly  
London  
W1J 8LB

**Registered number of holder, for example company number, charity number (where applicable)**

02806539

**Name of designated premises supervisor where the premises licence authorises for the supply of alcohol:**

**Name:** Mr Brian Clivaz

**State whether access to the premises by children is restricted or prohibited:**

Restricted

**Date:** 18<sup>th</sup> March 2013

**Signed:** pp

**Operational Director - Premises Management**



Schedule 12  
Part B

WARD: Vincent Square  
UPRN: 100023340094

**City of Westminster**  
64 Victoria Street, London, SW1E 6QP

Premises licence  
summary

Regulation 33, 34

Premises licence number:

13/01030/LIPDPS

**Part 1 – Premises details**

**Postal address of premises:**

Shepherd's Restaurant  
Marsham Street  
London  
SW1P 4LA

**Telephone Number:** 020 7468 2600

**Where the licence is time limited, the dates:**

Not applicable

**Licensable activities authorised by the licence:**

Playing of Recorded Music  
Late Night Refreshment  
Private Entertainment consisting of dancing, music or other entertainment of a like kind for consideration and with a view to profit  
Sale by Retail of Alcohol

**The times the licence authorises the carrying out of licensable activities:**

**Playing of Recorded Music** Unrestricted

**Late Night Refreshment**  
Monday to Saturday: 23:00 to 00:30  
Sunday: 23:00 to 00:00

**Private Entertainment consisting of dancing, music or other entertainment of a like kind for consideration and with a view to profit** Unrestricted

**Sale by Retail of Alcohol**  
Monday to Saturday: 10:00 to 00:00  
Sunday: 12:00 to 23:30

*For times authorised for Christmas, New Year and Good Friday see conditions at Annex 1*

Pring, Mary: WCC <[mpring@westminster.gov.uk](mailto:mpring@westminster.gov.uk)>  
**Sent:** 25 August 2022 08:47  
**To:** [vittoriodigregorio@hotmail.com](mailto:vittoriodigregorio@hotmail.com) <[vittoriodigregorio@hotmail.com](mailto:vittoriodigregorio@hotmail.com)>  
**Subject:** 22/06977/LIPN - Visconti Of Westminster, 1 Marsham Court, SW1

Dear Mr Di Gregorio,

I have received a response from the resident objector, [REDACTED], see below:

Dear Ms Pring

22/06977/LIPN

This is to acknowledge receipt of your email dated 22 August and for kindly mediating between the applicant namely Visconti of Westminster and myself, for which I am grateful. Whilst I appreciate Visconti say they wish to work with me as a neighbour with my concerns, the points of contention remain that (i) my recollection is that the extended opening times applied for are not referred to in the previous licence document I read a couple of weeks ago; (ii) the restaurant are non-committal as to whether they would stick to the opening times in the lease; (iii) their assertion that the restaurant premises has sound insulation is non-specific and does not address whether it is installed in the area of the premises beneath my flat namely the kitchen and they base their understanding on what they were told initially by the estate agent not what may have come to light subsequently. If it is the estate agent who was marketing the premises at the end of 2019 I had never heard of them before so they may not have had an intimate knowledge of the premises and the renovations which were undertaken in 2014.

In light of the above, therefore, I do not wish to withdraw my objection but uphold it. I need to make further enquiries about the insulation position and when I receive them I will contact you and the restaurant again. With regard to the loose panel on the canopy and the ill-fitting cover on the outhouse which accommodates the noisy air intake or outtake apparatus I consider an appropriate approach would be to set a deadline of the end of September 2022 by which time I would expect the former to have been secured and cleaned up and the latter to acquire a secure cover which fits, doesn't rattle and contains the noise of the fan inside it as well as steps taken to tone down the noise the fan itself makes so that it cannot be heard from inside Marsham Court.

Yours sincerely

[REDACTED]  
**Email 30 August 2022**

Dear Ms Pring

Thanks for forwarding the latest correspondence. The matters I need to put Mr Di Gregorio to proof on are (i) evidence of the agreement with police to shorter opening hours in line with local guidelines; (ii) which is the extraction fan and was it fitted with a silencer on 4 Aug 2022? (iii) which is "the work on the air vent" which has "now been completed" and when was it completed? (iv) Please can he disclose the terms of Annex 1? The other observations I would make at this stage are that the licence dated 18 March 2013 does not appear to have been signed and I was not alleging bad faith on the part of the estate agent they took on the lease through but rather stating it was possible it may have been an agent who was new to the building and knew less about its history than some. I have attempted to contact the person who informed me about the insulation in the rear of house but have as yet heard no more from him.

Yours sincerely

[REDACTED]

**Email 31 August 2022**

Dear Ms Pring

Please can you clarify whether the terms not discussed from the copy of the previous licence emailed to me via you from Vittorio Di Gregorio are to be replicated in the New Premises Licence he has applied for? I had not realised the terms were so far-reaching with regard to the licensable activities the licence appears to authorise such as the extent of the private entertainment and the playing of recorded music? I will be in a position to arrange to attend the premises on say Friday to listen to the sounds of the equipment Vittorio Di Gregorio refers to.

Yours sincerely

[REDACTED]

**Email 31 August 2022**

Dear [REDACTED],

I refer to your email below and now advise that this application is being considered on its own merits and that Mr Di Gregorio has not applied for Private Entertainment or Playing of Recorded Music. I have spoken to Mrs Di Gregorio as her husband is hearing impaired and she assures me that only soft background music would be played, if at all.

The licensable hours for LNR and Sale of Alcohol have been agreed with the Police and have been amended to Restaurant Core Hours:

**Late Night Refreshment:**

Friday to Saturday: 23:00 to 00:00

Sale of Alcohol:

Monday to Thursday: 10:00 to 23:00

Friday to Saturday: 10:00 to 00:00

Sunday: 12:00 to 22:30

I have received confirmation from the applicant that remedial works to the extractor fan and chimney were carried out satisfactorily in 2020 and therefore should no longer be an issue. The applicant has gone to some considerable expense to upgrade the restaurant to a high standard (see attached photograph) and is eager to start trading. Please can you consider the steps taken to alleviate any inconvenience to you and advise if you will now withdraw your objection to the application.

Kind regards,  
Mary

**Mary Pring**  
Senior Licensing Officer



**Email 31 August 2022**

Dear Ms Pring

I am grateful that the unrestricted private entertainment is not being proceeded with and if the music is kept to a low level I hope I will not be able to hear it but my experience is that if someone is hard of hearing and they wish to listen to something they usually have to turn the volume up high to hear it. If the music is for the benefit of the restaurant's customers rather than the owner it does not necessarily mean it will always be on low. One of my concerns is that the previous purported licence referred to the playing of recorded music at unrestricted times as I used to be able to hear the sound of music playing at any time between about 4.30 am and 6.30 from about 2016 onwards.

If the serving or sale of alcohol is permitted up to midnight it means the premises won't be locked up and the staff won't leave until after that and I will be able to hear the noise. I find I can usually hear noise overnight on Fridays. A night porter reported that Mr Di Gregorio remained on the premises all night one night in the early days of taking on the lease. The pattern of Friday night tube strikes may mean staff linger on the premises for longer than they otherwise would. I was told that under the previous holders of the lease the last member of staff to go in on all nights of the week when the restaurant was open was the kitchen porter who used to enter at closing time and not leave until later, all of which activity I could hear.

Please can you clarify the position with regard to the times authorised for Christmas, New Year and Good Friday as stated in Annex 1 of the alleged previous licence?

Despite the work which was done in September 2020 when a part called a baffle plate was installed or replaced in one of the fan systems under the supervision of the surveyor to the block Gawen Cox it could be heard loudly on about 4 August 2022 when I became aware it was on and could hear it in my sitting room then even more loudly on the landing outside my flat and outside. Part of the problem as a night porter said is that the cover to the outhouse where the apparatus is kept did not fit so rattled and added to the noise, if you can confirm that is one of the adjustments that have been made? On that date the side cover was held in place by the bins which were propping it up. Noise at the level heard on about 4 August would also trouble the people in the council block opposite. It was them who were on the receiving end of the flying corrugated perspex panel which was lifted and propelled over the security fence by the wind and could have caused serious injury had anyone been in the line of fire. If the noise

levels have not improved since about 4 August there is no point in my coming to witness them again on Friday.

Yours sincerely

[REDACTED]

**Email 1 September 2022**

Dear Ms Pring

There was one more matter I would like you to clarify if possible, please. The Chairman of Marsham Court Management Company Limited said that in respect of its opening hours the restaurant need two items, a licence according to the Premises Act 2003 and a lease for premises. The opening hours that the restaurant can then operate is bounded by the latest opening time and earliest closing time in these two documents. Please can you confirm whether that is the correct position?

Many thanks

Yours sincerely

[REDACTED]

**Email 2 September 2022**

Dear Ms Pring

Further to my last email, having put the former board member of the Marsham Court Management Company Limited to proof on the comment he made in about 2018 about the soundproofing having been removed from the rear of house and left in the front I have elicited a response from him. He said the builder who undertook the refurbishment works to the restaurant premises when the lease changed hands in the second half of 2014, [REDACTED] [REDACTED], told him that the method of constructing the suspended ceiling in the function room was the cause of sound transmission. I imagine this former Board member must have raised a complaint about an increase in noise in his own flat above it or nearby. The builder then arranged a different method of construction in respect of that ceiling and the noise disturbance came to an end.

His experience is similar to my own in that there was a sudden increase in the amount of noise the restaurant were generating after that refurbishment compared to before when the original restaurant had occupied the premises which, in my case, represented a material change of position. Mr Di Gregorio has stated that the restaurant kitchen below my flat had a suspended ceiling.

The previous Board member also thought the terms of the two leases (with MCMCL and with "planning consent") should be in alignment to avoid penalties from either body and stressed the need to address the overriding needs of the residents' quiet enjoyment in a block in which they are bound by leases which preclude their making noise between the hours of 11pm and 8 am. He said the permitted hours in the lease (by which I assume he means that between the Board and the restaurant namely the Counterpart Lease) used to be in alignment with the residential leases and state that all activities associated with the running of the restaurant had to have stopped by the latest time stated namely 11 pm, a position which had been expressly stated by the MCMCL lawyers at the time.

Yours sincerely

[REDACTED]

**Email 8 September 2022**

Dear [REDACTED]

I am preparing the Committee papers for this application.

I am not sure if you have been advised but the applicant has now reduced the closing hours applied for to Westminster core hours for restaurants (as set out below) and has agreed a number of additional conditions with the Metropolitan Police, a copy of which are attached together with a plan showing the area referred to in condition

**Westminster core restaurant hours**

Monday to Thursday: 23:30

Friday to Saturday: 00:00

Sunday: 0900 – 2230

The following conditions have also been proposed by the Council's Environmental Health Team

- No noise generated on the premises, or by its associated plant or equipment, shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
- Loudspeakers shall not be located in the entrance lobby or outside the premises building.

If these additional measures have addressed your concerns and you wish to withdraw your representation at this stage, please could you confirm by email as soon as possible.

As you will be aware the application has been set for hearing by the licensing sub committee on 22nd September 2022 however if you are minded to withdraw your representation, I believe that the hearing could be dispensed with and the application granted under the Council's delegated authority.

I look forward to hearing from you.

Regards

Kevin Jackaman

**Email 8 September 2022**

Dear Mr Jackaman

Thanks for kindly forwarding these latest additional conditions. I am looking at them now and will let you know if I consider the hearing is no longer going to be necessary.

Yours sincerely

[REDACTED]

## Email 9 September 2022

Dear Mr Jackaman

Yesterday afternoon (16.04 and 16.11) and this morning (about 11.30 and before that) I have been troubled by the loud sound of doors slamming below my flat also causing vibrations in my main room which is one of the noise nuisances which developed during the occupation of the previous tenants in the restaurant premises which fall under the remit of the Council's Environmental Health team so my concerns have not been allayed, unfortunately.

I consider that the issues need to progress to a hearing. The contentious issues include whether the suspended ceiling conducts noise rather than suppresses it because of the sudden escalation in the amount of noise being generated following the refurbishment in 2014-2015, whether the Chairman of the Marsham Court Management Co is correct to say the restaurant is bound by the latest opening time and earliest closing time in the combination of the New Premises Licence and the Counterpart Lease, whether the leases need to accord with the residential leases which prohibit noise after 11 pm as the former Management Co member stated, which was endorsed and enforced by the Management Co's lawyers in the past when the restaurant operated silently which was the position when I first bought my flat.

Am I at liberty to contact the restauranteur and the Management Company members/Managing Agent now the matter is progressing to a hearing? Can I request a test run of the air systems comprising the extractor and air vent on all three settings to assess the noise levels supervised by the surveyor to the block as occurred in 2020 after which time the restaurant did not take on the lease so the noise levels were never put to the test in practice. According to the headporter, the Air Vent was repaired following storm damage two weeks ago but it looks new and I have never seen it before. It sits literally immediately outside my flat. I last heard loud noise coming from an outhouse with a louvred side on it outside the block on about 4 August which was even louder on the landing outside my flat and outside. From memory, that was the area the tradesman was working on on a trial and error basis to try to quieten the air system down in 2020 when he installed a "baffle plate" to reduce the vibration.

Yours sincerely

[REDACTED]

## Email 12 September 2022

Dear [REDACTED]

Yes, it is acceptable for you to contact the applicant to discuss the issues you are experiencing.

Regards

Kevin Jackaman

## Email 13 September 2022

Dear Mr Jackaman

Application Reference:22/06977/LIPN

I have been advised to check which environmental health officer is going to be inspecting the premises of Visconti of Westminster, 1 Marsham Court, Marsham Street, London SW1P 4JY if you have this information, or can supply the contact details of the relevant department please?

I am currently assembling the documents on which I intend to rely to forward to you by email by 12 noon.

Yours sincerely

[REDACTED]

**Email 13 September 2022**

Dear Kevin

Please find attached further documents in respect of the hearing on 22 Sept 2022. The first of these are emails from [REDACTED] the former Marsham Court Management Company board member who stood down in about 2017 whom I put to proof as to the effectiveness of the suspended ceiling at keeping out noise. He would be prepared to be called as a witness but could only make himself available after 4pm remotely by phone not Teams.

I have accessed the previous premises licences (not attached).

I have now had disclosed the new Licence to Underlet which supercedes the Counterpart Lease I founded part of my representations on. I will elaborate on this when I draft my skeleton argument having had sight of the report.

On the law, I draw on the following pages of the City of Westminster Statement of Licensing Policy-Prevention of Public Nuisance Policy PN1 at pp 32-35, the Core Hours policy at pp 62-63, HRS51 at pp 64-68, Ancillary Policies DEL1 at pp 114-118, Licence Conditions and Enforcement at p 122 and Appendix 11: Guidance on Noise at pp 151-156 (documents not attached).

I also rely on the latest Licensing Handbook 2003-Councillor's handbook (England and Wales) particularly the Representations and Licence Conditions sections (documents not attached).

Yours sincerely

[REDACTED]

**Attachment**

Dear [REDACTED]

Thanks very much for your response. I have not been notified that connecting by phone will be an option but I can put it to the Licensing Officer and see what they say although the start time of the list will be 10 am. I doubt the hearings will still be ongoing by 4 pm. From my brief skim reading of the information you have just disclosed it appears to contradict your earlier statement that the suspended ceiling had the effect of conducting noise rather than deadening it but perhaps that was the unintended outcome. Can you remember what the replacement method of construction of the ceiling was or what adjustment was made which had the desired effect of cutting out the noise?

Kind regards

[REDACTED]

On Tue, 13 Sept 2022 at 05:05, [REDACTED] wrote:  
[REDACTED] - I am happy to be whatever help I can, but it will be limited.

I am well away from London so cannot attend any meetings. I can speak to people by phone but the internet is not reliable for video meetings. I am 3hrs ahead of UK time so am not available after, say, 4pm your time. My number [REDACTED] Let me know, with significant notice in advance, by text, please if anyone is going to be calling me.

By all means refer to my email, or the note I have just sent to you. I hope MCMCL have shared details of the restrictive conditions in the lease as that it seems to me will be foundational. You might also want to see if the HP has a log of noise disturbances that you could use.

Good luck.

[REDACTED] (from my iPad)

On 12 Sep 2022, at 21:35, [REDACTED] wrote:

Dear [REDACTED]

I hope you are still well. This is just to say the representations I made to the council in respect of the restaurant's Application for a New Premises Licence have triggered a Licensing Sub-Committee hearing and I wondered whether I could name you as the person who raised concerns about the suspended ceiling's inadequacy with regard to noise? I have just learned that I am allowed to call witnesses and wondered whether you might be prepared to attend in that capacity on 22 Sept at 10 am (remotely using Microsoft Teams or in person at Westminster City Hall, Victoria Street, but the case may not be called on until later) or permit me to disclose your email about the suspended ceiling in my bundle of documentation which has to be submitted by tomorrow?

I look forward to hearing from you as soon as possible.

Kind regards

[REDACTED]  
On Thu, 1 Sept 2022 at 22:32, [REDACTED] wrote:

Dear [REDACTED]

Thank you very much for your prompt and helpful reply. I shall forward the points you make to the current Chairman of MCMCL and the council licensing department.

Kind regards

[REDACTED]  
On Thu, 1 Sept 2022 at 05:04, [REDACTED] wrote:

[REDACTED] - we hope you are well. I am currently away so have not seen any post, nor details of any planning applications, nor had any experience of any restaurant activity since March 2020!

My recollection of the refurbishment is that [REDACTED] told me the method of constructing the suspended ceiling in the function room (I.e. NOT the main restaurant nor the kitchen or general offices) was the cause of sound transmission. He arranged a different method of construction and the sound disturbance certainly came to an end.

But I do not know if [REDACTED] arranged for any specialist sound insulation to be installed as well. Neither do I know whether anything different was done in the main restaurant or in the kitchen (though that seems unlikely given the hygiene and ventilation needs of a commercial kitchen).

But I am interested in the relationship between the restaurant lease with MCMCL and the restaurant planning consent. I would have thought they would need to run in tandem as for either to be out of step would lead to penalties - either from MCMCL if the terms of the lease were breached, or by the planning authority if the conditions of any consent were breached.

As I said I am away at present but my own view is that the restaurant owners are fully aware they are surrounded by residential properties and so need to address the overriding needs of residents for the quiet enjoyment of their property (in MC as well as other neighboring properties). For the residents of MC our leases have various conditions preventing us from causing disturbance to neighbors at any time, and an absolute prohibition on all noise between 11pm and 8 am. I hope similar constraints apply to the restaurant - anything less restrictive would be intolerable. So I agree any relaxation of either planning conditions, or lease conditions, need to be resisted (although most will accept there is a special case to be made for New Year and MCMCL did provide such a waiver for a number of years when requested by Shepherds).

One point to be aware of is that the restaurant lease used to define a time when all business should stop. It might have been 11pm (to align with the condition in all residential leases). The MCMCL lawyers, at the time, clarified that this lease condition was not the closing time for the restaurant but the time when all operations must be ended. So, whatever time the restaurant closed, all the customers and staff had to be gone by 11pm, any clearing up, furniture shifting, rubbish disposal, kitchen hygiene routines etc - everything had to be finished by the 11pm deadline. Anything outstanding would have to be done the next morning.

I think you should ask [REDACTED] for details of the lease conditions that currently apply, as the planning officers need to understand they cannot usefully consent to anything which is not permitted by the lease. Perhaps the MCMCL lawyers should be brought into play.

Hope this helps.

[REDACTED]  
On 1 Sep 2022, at 02:59, [REDACTED] wrote:

Dear [REDACTED]

I hope you and your wife are well. This is to reiterate what I said in the letter I posted to your Marsham Court address in light of the recent Application for a New Premises Licence Application Reference: 22/06977/LIPN by Visconti of Westminster, Shepherd's Restaurant, Marsham Street, London. I made a representation opposing the request for extended hours in respect of Late Night Refreshment to half an hour longer than the hours set out in the only Counterpart Lease I have had sight of between MCMCL and Shepherd's Restaurants Limited dated 11 Jan 2019 and two hours longer on New Year's Eve.

>>

>> The reason I am involving you (as you are no longer on the Board) is that, if you remember, you said in about Dec 2018 that you thought the noise insulation had been removed from the rear of house of the restaurant during the refurbishments the restaurant undertook when it changed hands at the end of 2014 (overseen by [REDACTED] the builder on behalf of [REDACTED] [REDACTED] the proprietor) but not reinstated whilst the soundproofing had been put back in the front of house and I just wanted you to confirm this? My flat [REDACTED].

>>

>> I am currently negotiating with the new restauranteur and the Council's licensing department about it and look forward to hearing from you as soon as possible.

Yours sincerely

[REDACTED]  
[REDACTED]

**Email 13 September 2022**

Dear Kevin

This afternoon, following the noon deadline for the submission of documents on which I intend to rely, I have received the attached illuminating email document which assists my case from the former member of the Marsham Court Management Company giving an account of the dramatic change in noise levels experienced in his flat following the installation of a suspended ceiling in the restaurant below following refurbishments in late 2014. I also asked him how the situation was remedied in the hope similar work can be undertaken to the ceiling below my flat.

Please can you also include this document in the Licensing Sub-Committee Report if it is not too late? The chain you should already have is also attached. I'm sorry if the documents I submitted this morning involved some repetition but I was anxious all the emails should be caught.

Many thanks.

Yours sincerely

[REDACTED]

**Attachment**

The sequence (without identifying dates) is:

1. Disturbed on a nightly basis around 23:00 by thumping and banging. We thought it was the flat upstairs. Examination from various locations indicated sounds emanated from GF restaurant.
2. Speaking to restaurant manager it became clear that on refurbishment they had removed fitted carpets in favour of timber floors. He also explained that staff cleared up and re-arranged furniture at end of working day ready for next opening. The noise was caused by thumping of cleaning equipment on floor and dropping of furniture into place.
3. On refurbishment by [REDACTED] he explained to me that element of the sound transference was the suspended ceiling acting as a sound box and amplifying all sounds. I cannot recall the actual form of construction, nor why the suspended ceiling then fitted, would be an improvement, but it was.
4. The notes of the site meeting merely show that restaurant noise was a problem and that the new lessors were on notice to ensure - either through the physical refurbishment or through the daily operations - that there was no disturbance to residents, and no breach of the restrictive lease conditions.

Hope that helps clarify.

[REDACTED]  
On 13 Sep 2022, at 12:24, [REDACTED] > wrote:

Dear [REDACTED]

Thanks very much for your response. I have not been notified that connecting by phone will be an option but I can put it to the Licensing Officer and see what they say although the start time of the list will be 10 am. I doubt the hearings will still be ongoing by 4 pm. From my brief skim reading of the information you have just disclosed it appears to contradict your earlier statement

that the suspended ceiling had the effect of conducting noise rather than deadening it but perhaps that was the unintended outcome. Can you remember what the replacement method of construction of the ceiling was or what adjustment was made which had the desired effect of cutting out the noise?

Kind regards

[REDACTED]

**Licence & Appeal History**

<b>Application</b>	<b>Details of Application</b>	<b>Date Determined</b>	<b>Decision</b>
05/10948/LIPC	Conversion	05.10.2005	Granted under delegated authority
05/12264/LIPDPS	Variation of Designated Premises Supervisor	14.12.2005	Granted under delegated authority
06/09937/WCCMAP	Master licence	05.10.2005	Granted by Licensing Sub Committee
12/05989/LIPT	Transfer of premises licence - Coq D'Or Restaurant Company Ltd to Shepherds Restaurants Limited	29.07.2012	Granted under delegated authority
13/01030/LIPDPS	Variation of Designated Premises Supervisor	12.03.2013	Granted under delegated authority
14/10058/LIPT	Transfer of premises licence - Shepherds Restaurants Limited to Marsham Street Restaurant Limited	13.01.2015	Granted under delegated authority
14/10102/LIPDPS	Variation of Designated Premises Supervisor	13.01.2015	Granted under delegated authority
16/00979/LIPDPS	Variation of Designated Premises Supervisor	26.02.2016	Granted under delegated authority (Licence lapsed March 2022)

**There is no appeal history**

<b>Temporary Event Notices</b>	<b>Date of Event</b>	<b>Activities/Hours</b>	<b>Decision</b>
22/08327/LITENP	12.09.2022 – 17.09.2022	Supply of Alcohol – 12:00 to 23:59	Event permitted
22/08353/LITENP	19.09.2022 – 24.09.2022	Supply of Alcohol – 12:00 to 23:59	Event permitted

## **Appendix 4**

### **CONDITIONS CONSISTENT WITH THE OPERATING SCHEDULE AND CONDITIONS PROPOSED BY A PARTY TO THE HEARING**

When determining an application for a new premises licence under the provisions of the Licensing Act 2003, the licensing authority must, unless it decides to reject the application, grant the licence subject to the conditions which are indicated as mandatory in this schedule.

At a hearing the licensing authority may, in addition, and having regard to any representations received, grant the licence subject to such conditions which are consistent with the operating schedule submitted by the applicant as part of their application, or alter or omit these conditions, or add any new condition to such extent as the licensing authority considers necessary for the promotion of the licensing objectives.

This schedule lists those conditions which are consistent with the operating schedule, or proposed as necessary for the promotion of the licensing objectives by a responsible authority or an interested party as indicated. These conditions have not been submitted by the licensing service but reflect the positions of the applicant, responsible authority or interested party and have not necessarily been agreed

#### **Mandatory Conditions**

1. No supply of alcohol may be made at a time when there is no designated premises supervisor in respect of this licence.
2. No supply of alcohol may be made at a time when the designated premises supervisor does not hold a personal licence or the personal licence is suspended.
3. Every supply of alcohol under this licence must be made or authorised by a person who holds a personal licence.
4. (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.  
(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises—
  - (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to;
    - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
    - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
  - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
  - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or

- less in a manner which carries a significant risk of undermining a licensing objective;
- (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
  - (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).
5. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
6. (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
- (2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
- (3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either—
- (a) a holographic mark, or
  - (b) an ultraviolet feature.
7. The responsible person must ensure that—
- (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—
    - (i) beer or cider: ½ pint;
    - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
    - (iii) still wine in a glass: 125 ml;
  - (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
  - (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

A responsible person in relation to a licensed premises means the holder of the premise licence in respect of the premises, the designated premises supervisor (if any) or any individual aged 18 or over who is authorised by either the licence holder or designated premises supervisor. For premises with a club premises certificate, any member or officer of the club present on the premises in a capacity that which enables him to prevent the supply of alcohol.

- 8(i) A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.
- 8(ii) For the purposes of the condition set out in paragraph 8(i) above -
- (a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;
  - (b) "permitted price" is the price found by applying the formula -

$$P = D + (D \times V)$$

Where -

- (i) P is the permitted price,
  - (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
  - (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
- (c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence -
- (i) the holder of the premises licence,
  - (ii) the designated premises supervisor (if any) in respect of such a licence, or
  - (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;
- (d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
- (e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.
- 8(iii). Where the permitted price given by Paragraph 8(ii)(b) above would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.
- 8(iv). (1) Sub-paragraph 8(iv)(2) below applies where the permitted price given by Paragraph 8(ii)(b) above on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.
- (2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

**Conditions proposed by the Police and agreed by the applicant so as to replace those contained in the operating schedule**

9. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises and will include the external area immediately outside the premises entrance. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the entire 31-day period.
10. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises is open. This staff member must be able to provide a Police or authorised council officer copies of recent CCTV images or data with the absolute minimum of delay when requested.
11. Save for in the area hatched on the approved plan, the premises shall only operate as a restaurant,
  - (i) in which customers are shown to their table or the customer will select a table themselves,
  - (ii) where the supply of alcohol is by waiter or waitress service only,
  - (iii) which provide food in the form of substantial table meals that are prepared on the premises and are served and consumed at the table,
  - (iv) which do not provide any takeaway service of food or drink for immediate consumption off the premises,
  - (v) where alcohol shall not be sold or supplied, otherwise than for consumption by persons who are seated in the premises and bona fide taking substantial table meals there, and provided always that the consumption of alcohol by such persons is ancillary to taking such meals.

For the purpose of this condition ‘Substantial Table Meal’ means – a meal such as might be expected to be served as the main midday or main evening meal, or as a main course at either such meal and is eaten by a person seated at a table, or at a counter or other structure which serves the purposes of a table and is not used for the service of refreshments for consumption by persons not seated at a table or structure servicing the purposes of a table.

Notwithstanding this condition customers are permitted to take from the premises part consumed and resealed bottles of wine supplied ancillary to their meal.

12. In the area hatched on the approved plan, the supply of alcohol is by waiter or waitress service only to persons who are seated.
13. There shall be no sales of alcohol for consumption off the premises after 2300 hours.
14. All sales of alcohol for consumption off the premises shall be in sealed containers only, and shall not be consumed on the premises.
15. Sales of alcohol for consumption off the premises shall only be supplied with, and ancillary to a takeaway meal or meal consumed in a designated external seating area.

16. Substantial food and non-intoxicating beverages, including drinking water, shall be available in all parts of the premises where alcohol is sold or supplied for consumption on the premises.
17. A Challenge 25 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport or proof of age card with the PASS Hologram.
18. A record shall be kept detailing all refused sales of alcohol. The record should include the date and time of the refused sale and the name of the member of staff who refused the sale. The record shall be available for inspection at the premises by the police or an authorised officer of the City Council at all times whilst the premises is open.
19. An incident log shall be kept at the premises, and made available on request to an authorised officer of the City Council or the Police. It must be completed within 24 hours of the incident and will record the following:
  - (a) all crimes reported to the venue
  - (b) all ejections of patrons
  - (c) any complaints received concerning crime and disorder
  - (d) any incidents of disorder
  - (e) all seizures of drugs or offensive weapons
  - (f) any faults in the CCTV system, searching equipment or scanning equipment
  - (g) any refusal of the sale of alcohol
  - (h) any visit by a relevant authority or emergency service.
20. Patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke or make a phone call, shall not be permitted to take glass containers with them.
21. Deliveries will only be made to bona fide residential or business addresses.
22. A warning shall be displayed on the digital platform on which an order is placed informing customers that they must be aged 18 or over to make a purchase of alcohol and notifying customers that the delivery personnel will carry out age verification on delivery. The customer will be asked to provide ID to prove their age in accordance with Challenge 21 or 25 scheme. If the rider is not satisfied, then the alcohol in the order will be withheld.
23. The premises licence holder will ensure that an age verification policy will apply whereby all delivery personnel will be trained to ask any customer to whom alcohol is delivered, who appears to be under the age of 25 years to produce, before being sold alcohol, identification being a passport or photocard driving licence bearing a holographic mark or other form of identification that complies with any mandatory condition that may apply to this licence.
24. All delivery personnel shall receive training in age restricted sales.
  - Induction training must be completed and documented prior to the delivery of alcohol by the rider.
  - Refresher/reinforcement training must be completed and documented at intervals of no more than 6 months.
  - Training records will be available for inspection by a Police Officer or other authorised officer on request. Training records will be electronically stored by the licence holder for a period of 12 months.

25. All delivery personnel shall be trained to record refusals of sales of alcohol in a refusal's log/register. The log/register will contain:
  - details of the time and date the refusal was made.
  - the identity of the delivery personnel refusing the sale.
  - details of the alcohol the person attempted to purchase.

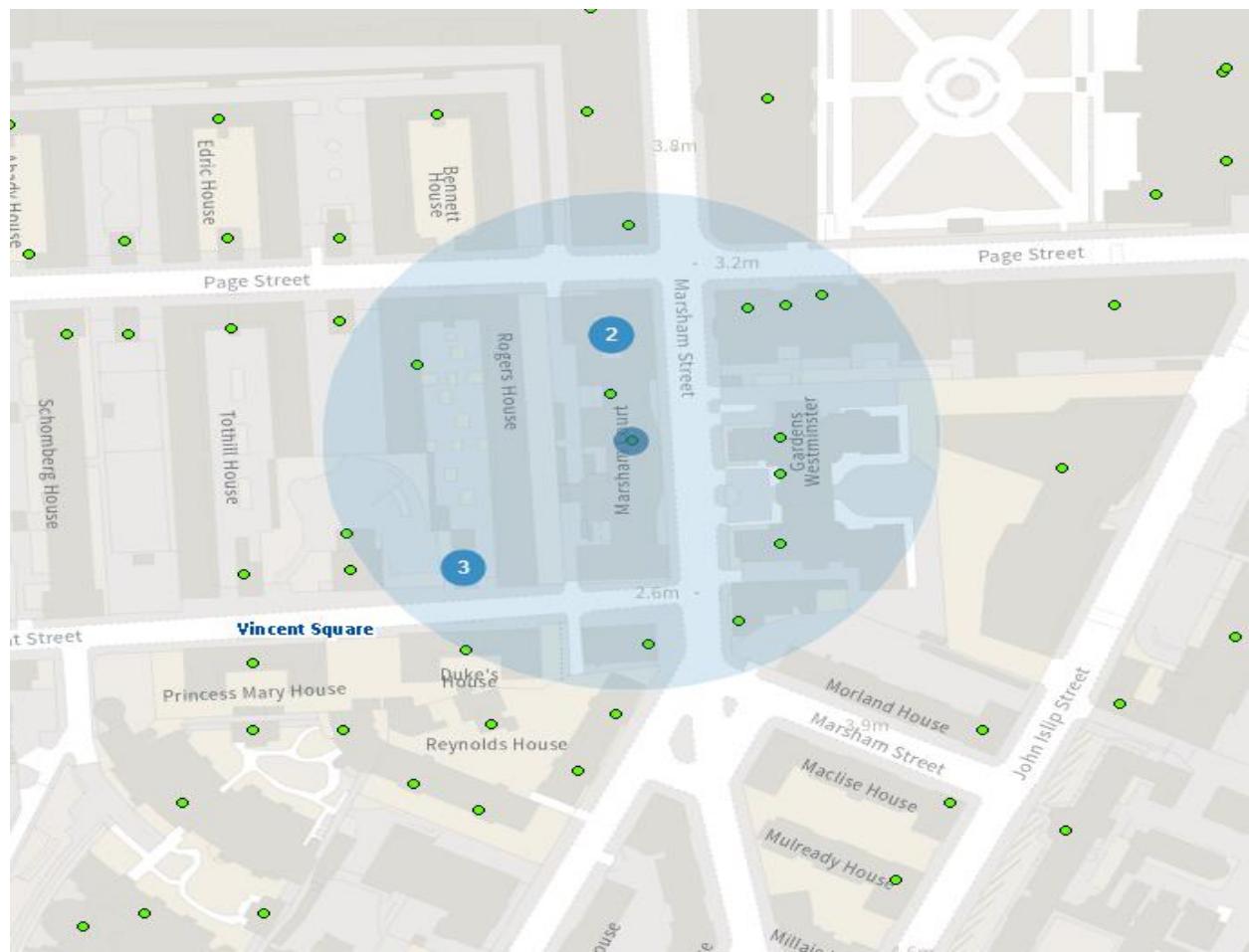
This log/register will be available for inspection by a Police Officer or other authorised officer on request.

#### **Conditions proposed by the Environmental Health**

26. No noise generated on the premises, or by its associated plant or equipment, shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
27. Loudspeakers shall not be located in the entrance lobby or outside the premises building.

## Residential Map and List of Premises in the Vicinity

## Appendix 5



Licensing premises within 75m of 1 Marsham Court, Marsham Street, London, SW1

Licence Number	Trading Name	Address	Premises Type	Time Period
21/10240/LIPT	Not Recorded	75 Page Street London SW1P 4EJ	Not Recorded	Monday; 06:00 - 23:30   Tuesday; 06:00 - 23:30   Wednesday; 06:00 - 23:30   Thursday; 06:00 - 23:30   Friday; 06:00 - 00:00   Saturday; 08:00 - 00:00   Sunday; 08:00 - 22:30
18/04975/LIPN	Lokkanta Meyhane Restaurant	75 Page Street London SW1P 4EJ	Not Recorded	Sunday; 07:30 - 23:00   Monday to Saturday; 07:30 - 23:30
07/00685/WCCMAP	Westminster Grocery & General Store	12 Vincent Street London SW1P 4HB	Shop	Sunday; 10:00 - 22:30   Monday to Saturday; 08:00 - 23:00