



CITY OF WESTMINSTER

MINUTES

Licensing Committee

MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Committee** Committee held on **Wednesday 5th July, 2017**, Room 3.1, 3rd Floor, 5 Strand, London, WC2 5HR.

Members Present: Councillors Angela Harvey (Chairman), Heather Acton, Julia Alexander, Susie Burbridge, Melvyn Caplan, Jean Paul Floru, Peter Freeman, Murad Gassanly, Louise Hyams, Tim Mitchell, Jan Prendergast, Karen Scarborough and Shamim Talukder

Apologies for Absence: Councillor Rita Begum and Councillor Aziz Toki

1 DECLARATIONS OF INTEREST

1.1 There were no declarations of interest.

2 MINUTES

2.1 **RESOLVED:** That the minutes of the Licensing Committee meeting held on Wednesday 22 March 2017 be signed by the Chairman as a correct record of proceedings.

3 DEVELOPING AN APPROACH TO TACKLE THE GROWING IMPACT ON LOCAL RESIDENTS FROM FOOD AND DRINK DELIVERY SERVICES

3.1 The report was introduced by Kerry Simpkin, Licensing Team Manager. He referred to the growing 'gig' economy in London and elsewhere in the country. One of the issues which had arisen in more recent times, particularly in Westminster, related to the delivery of food and drink from restaurant or takeaway premises. The impact which resulted from this included public nuisance, anti-social behaviour, litter being discarded and parking offences and general poor behaviour on the part of delivery drivers. The Licensing Service had been looking at identifying and addressing some of the issues which were associated with this growing market.

3.2 Mr Simpkin explained that whilst the Licensing Service had a role to play in this process there were limitations to what could be requested of licence holders under the terms of the Licensing Act 2003. For instance the sale of

hot food and hot drink (late night refreshment) was only licensable between 23:00 and 05:00 hours. It was also the case that a lot of deliveries were carried out by unlicensed operators. There was greater scope for controls over the activities of licence holders in respect of the delivery of off sales as the hours for off sales were not restricted in the same way as late night refreshment.

- 3.3 Mr Simpkin referred to the proposed stepped approach by the Licensing Service and other Council departments. These included looking at the locations where the issues were most severe and the extent of these issues. Once the evidence was obtained, there would then be engagement with the operators offering deliveries and in the event they used third party delivery companies there would also be discussions with them. The aim was that agreement would be reached as to how these operations should proceed in the borough. This could involve small changes in operation such as relocating staging areas for riders/drivers away from residential areas. The Licensing Service was working with local residential problem solvers and the Council's Planning department who were looking at planning uses.
- 3.4 Mr Simpkin added that the Licensing Service was investigating how best to address the environmental factors raised by the delivery vehicles including noise and emissions and to encourage a movement towards low emission vehicles.
- 3.5 The views of the Committee were sought. The Chairman referred to the signs of success of the new anti-idling action campaign which drivers had begun to comply with. She also made the point that the younger demographic had often expressed interest in environmental issues. This she believed was an opportunity for the delivery companies' apps or websites to provide greener options where deliveries would be by bicycle, foot or electric vehicles rather than by mopeds and motorbikes. Some delivery companies were setting up kitchens in industrial areas. This could potentially reduce the amount of mileage that the third party delivery companies were travelling, and engagement with such companies should start.
- 3.6 Councillor Floru raised the issue of the operators saying at Sub-Committee hearings that they could not adhere to Members' or residents' requests about using bicycles or electric vehicles for deliveries because they had no control over the third party delivery companies. He expressed the view that there needed to be a pan-Westminster approach. Councillor Scarborough commented that the problem was not simply noise but also delivery motorbikes in residents' parking bays and also whilst deliveries of food and drink was part of the problem, there were plenty of other companies who were delivering items at times which caused nuisance to residents. Councillor Prendergast raised the point that the deliveries caused irritation to residents because the drivers/riders did not always know the location destination and rang doorbells, waking up people in flats. Councillor Mitchell recommended that discussions took place with landlords who could influence tenants that were operating licensed premises and signing up to providing deliveries.

- 3.7 Members had some concerns about the feasibility of the proposed stepped approach. Councillor Burbridge stated that there had been similar discussions with delivery services in her ward (Lancaster Gate) and the approach was not working. She believed that it was known what the problems were such as the number of motorbikes on the road, the noise they make and the litter which is discarded and also where the problems were particularly acute. She recommended encouraging operators to run their own delivery businesses and have a greater interest in respecting the needs of the community rather than depending on third party delivery companies. Councillor Acton was of the view that planning options needed to be investigated more thoroughly. She took the view that it was not sufficient to look only at where the problems were most severe because they were not restricted to where the delivery vehicles congregated or set off from but the journeys that the noisy motorbikes were taking, such as down backstreet mews. She referred to officers having previously talked to third party delivery companies and that the companies were not changing their style of operation. Councillor Acton concurred with the Chairman that the users of the service were made aware of the adverse impact it was having, including on the environment.
- 3.8 Councillor Caplan believed it was unfair and opportunistic for such restrictions to be placed purely on companies who were applying for new premises licences. There were many companies who were providing deliveries who were not affected as they were not applying for the licences. He believed it was known where the areas were acute and that it is a city wide issue. He did not believe the stepped approach would work. He believed more could be achieved via the planning regime than the licensing one. The Council had to be clearer what it wanted to achieve on this issue, including whether it supported legislation. It needed to be made easy for the public to do the right thing if they were to choose 'greener' delivery methods.
- 3.9 Councillor Gassanly spoke about the need to better understand the delivery industry. He had had discussions with third party Deliveroo cyclists. They had informed him that they planned to buy motorbikes in order to be able to carry out more deliveries as they earned more money on the basis of the number of deliveries made as self-employed individuals.
- 3.10 The Chairman and Councillor Acton emphasised the need for the Council's Communications Team to develop a strategy which could reflect the adverse impact of environmental pollution and mental health from the increased use of vehicles on the road and also that the use of motorcycles risked the safety of inexperienced delivery riders. There had been two deaths of Deliveroo motorcycle riders. This was related to how the company structured the rewards. Councillor Scarborough said that she was agreeable to the idea of lobbying for legislation but that it was important that as a result of the communications strategy the Council was not presented as being anti-business. The Chairman was keen to emphasise that the Council, the operators and the third party delivery companies encouraged good business practices.

- 3.11 Barry Panto, Senior Assistant Solicitor, advised that if firms were undermining the licensing objectives when delivering alcohol or hot food or hot drink by for instance causing public nuisance, there was the option to review the premises licence. There was then the potential for appropriate conditions to be attached to the licence or for the hours of the delivery to be restricted. Any such review was likely to be noted by similar companies.
- 3.12 Annette Acik, Head of Licensing, stated that officers were very mindful of the fact that there were colleagues in other service areas who deal more with anti-social behaviour or public nuisance issues and the Licensing Service were linking up with them. This would enable them to identify the problematic premises and obtain the evidence which could be used for a review of a premises licence. It would take time to do down any legislative route. It was a developing picture and officers needed to be managed in the best way possible.
- 3.13 The Chairman requested that the Licensing Service further investigate all the policy strands available in responding to the issues raised by deliveries of off-sales and hot food and hot drink. She added that there needed to be a communications strategy in place and also discussions take place with operators and the third party delivery companies to encourage good healthy business practices rather than continuing to pursue an approach which impacts adversely on health.
- 3.14 **RESOLVED:** (i) That the Licensing Service further investigate all the policy strands available in responding to the issues raised by food and drink delivery services and, in consultation with the Chairman, bring a paper with recommendations to the next meeting of the Licensing Committee; and,
- (ii) That a communications strategy on the issue of food and drink delivery services be developed by the Communications Team, in consultation with the Chairman and the Licensing Service.

4 BUSINESS INFORMATION & LICENSING SERVICE PERFORMANCE REVIEW 2017

- 4.1 Steve Rowe, Senior Licensing Practitioner, addressed the Committee on this item. He advised that Key Performance Indicators had been developed to ensure efficient progress of all applications, effective case management and the provision of a high quality service. This was reflected in the digital transformation of the Licensing Service. An online form had been created for applicants to fill in which would populate data into the Licensing Service's Uniform system. This reduced the amount of time that officers would otherwise be using for data input. It enabled them to focus more on managing the interaction between applicants, residents and responsible authorities at the initial stages of the application process. They could then determine which applications were likely to proceed to a Licensing Sub-Committee hearing.
- 4.2 Mr Rowe commented that Members of the Committee would be aware that the Licensing Service was now making representations to applications as the Licensing Authority. Officers had found that on a number of occasions

applicants were amending applications at the initial stage following discussions with officers and these applications were often resolved prior to proceeding to the Licensing Sub-Committee. In some cases applications had been withdrawn when it had been pointed out by officers to the applicants that they were contrary to policy.

- 4.3 Mr Rowe referred to the statistics set out in the briefing note that the Licensing Service receives over 6000 applications a year, of which approximately 160 applications require determination at Licensing Sub-Committee hearings. He believed there was the potential for the continued reduction in the number of applications proceeding to the hearings due to the proactive approach by officers at the initial stage.
- 4.4 The Sub-Committee was also advised by Mr Rowe of the effectiveness of the performance dashboard which would monitor and report on performance and key information that would enable the Licensing Service to better understand trends. It would be possible to assess for instance how the Evening and Late Night Economy was operating in terms of how many applications for restaurants or bars were being received or where officers could best be allocated applications so that the Licensing Service did not miss performance targets.
- 4.5 The Chairman welcomed the fact that the technology enabled the Licensing Service to be more efficient with the resources available. She welcomed the ability to better understand trends such as applications where food and drink delivery services were sought. Members of the Committee congratulated officers in the Licensing Team on the work set out in the briefing note.
- 4.6 Councillor Floru asked for clarification in respect of the briefing note which referred to an increased number of licensing applications received each month but that the number of licences issued each month had remained reasonably steady. Mr Rowe replied that the applications received also took into account temporary event notices. No licences were issued for temporary event notices. Councillor Burbridge asked for further details on the Licensing Service's role in making representations to applications as the Licensing Authority. Mr Simpkin provided the information that the Licensing Authority is a Responsible Authority and officers had taken on this role in terms of assessing applications in line with the Council's policy. This function had previously been mainly carried out by Environmental Health but they were now focussing purely on whether applications met the licensing objectives of public safety and preventing public nuisance.
- 4.7 **RESOLVED:** That the contents of the briefing note be noted.

5 LICENSING ACT 2003 - MODEL CONDITIONS

- 5.1 The Committee received a report which advised of the intention to review the Council's model conditions. The model conditions are proposed for applications under the Licensing Act 2003 by applicants and other parties. Chris Wroe, Licensing Strategy and Policy Manager, introduced the report.

He stated that it had been almost two years since the model conditions had been published. They were available on the Council's website. There was an ongoing process where he discussed individual conditions with the likes of Mr Panto, Legal Adviser at Licensing Sub-Committee meetings and also Police and licensing and enforcement officers. He had written to many stakeholders regarding the review of the model conditions and intended to consult external solicitors. The aim was to publish the updated model conditions in the next couple of months or so.

- 5.2 The Chairman recommended that more information was provided on the model conditions to Westminster councillors who are not Members of the Licensing Committee. Councillor Mitchell made the point that there was the option for officers to provide some licensing training as part of the Member Development Programme to non-Licensing Committee Members in November/December 2017 which would include model conditions. It would be beneficial for all Members to understand how they could engage with the licensing processes. Members were often not aware for instance that they should not directly contact the Sub-Committee prior to the hearing or that they could not address the Sub-Committee at the hearing without submitting a timely representation or being requested to speak on behalf of a resident. Mr Wroe responded that he would be happy to provide some input into the proposed training.
- 5.3 Councillor Caplan requested that officers review a number of matters regarding the model conditions. He queried whether there needed to be as many model conditions in existence as was currently the case, including 15 model conditions relating to off-sales and 4 works conditions. He also asked that officers have a look at whether model conditions could cater for premises which did not constitute a bar but were equally not restaurants. He recommended that officers review the wording for takeaway food, deliveries and pavement cleansing conditions. He believed it would be beneficial to have a glossary of the most frequently used model conditions.
- 5.4 Councillor Floru said that he agreed with Councillor Caplan's comments, in particular the request that officers look at reducing the number of model conditions. He asked that officers consider removing the word 'comprehensive' from the CCTV Model Condition 01. He had concerns that this could mean cameras everywhere in and around the premises building and could therefore be excessive. Councillor Floru expressed the view that Model Condition 24 was useful in terms of a direct telephone number for the manager of the premises being available to residents and businesses. However, he believed there was added value in adding a sentence to the model condition that the telephone number 'shall be displayed near the main entrance to be visible from outside in letters not less than two inches tall'.
- 5.5 Councillor Alexander recommended an amendment to Model Condition 42 so that there was a requirement for the area immediately outside the premises to be cleaned 'effectively'. She made the point that she had seen filthy pavements which had been hosed but no detergent had been used.

5.6 Mr Wroe in response to the points that had been made stated that he would re-assess how best to index the model conditions. One option would be to list them in terms of subject. He would examine the model conditions to see if there were any that could be removed. The model conditions were designed to meet the needs of any of the parties to a hearing in as many circumstances as possible.

5.7 **RESOLVED:** (i) That officers be available to provide some licensing training as part of the Member Development Programme to non- Licensing Committee Members in November/December 2017 which would include model conditions;

(ii) That the comments of the Committee be taken into account in the review of the model conditions; and,

(iii) That the contents of the report be noted.

6 EVENING AND NIGHT TIME ECONOMY LICENSING CHARTER PAPER

6.1 The Chairman advised that she had attended a number of conferences recently with officers where they had looked to influence on the benefits of the Evening and Night Time Economy. She was due later that afternoon to give evidence with Richard Cressey, Principal Policy Officer, to the Greater London Authority's Economy Committee about the 'Night Time Economy'. She would be putting the case there that they should be referring to the 'Evening and Night Time Economy'.

6.2 Mr Cressey explained that the report set out the process for developing the Council's own vision and plan for the Evening and Night Time Economy. However, the subject matter was also important across London and elsewhere in the country. Westminster's approach was not limited to the licensing vision but also included economic development, regeneration and planning.

6.3 Mr Cressey referred to the feedback from the previous meeting of the Licensing Committee in March 2017 being that there was the potential for a full Council discussion on this topic (the next Council meeting after the one on 12 July was not until November). There had also been discussions regarding the Business Planning and Transport Policy and Scrutiny Committee and the Adults Health and Public Protection Policy and Scrutiny Committee holding a joint task group in the autumn to look at the evening and night time economy and aspects of the night tube. There would be a consultation process with councillors, including those who were not on the Licensing Committee and with those whose wards were most affected by the Evening and Night Time Economy. The Council would consult external stakeholders including businesses with premises licences and also from a retail background, office workers and local residents.

6.4 Mr Cressey commented that the Mayor had his views of what the Evening and Night Time Economy should look like across London. The Council had its own positive view of what this should look like in the West End and needed to

engage in the wider London debate. Westminster's Evening and Night Time Economy was the most mature in the country and the Council had a lot of experience of managing it. This could be shared with other London boroughs that had less experience of managing it and the Council was also able to learn from these other London boroughs. The Chairman added that the Night Tube was a particular catalyst for the Evening and Night Time Economy in other areas of London.

- 6.5 Councillor Mitchell recommended that Members contact Mr Cressey if they wished to be involved with the proposed process for developing the Council's vision as set out in the report. He added that the St James's Ward councillors would appreciate having a session where they were consulted on this topic and this was likely to also be the case for the West End Ward councillors. The Chairman stated that the open sessions for councillors to discuss ideas and thinking that she would be leading with Councillor Cox, Cabinet Member for Public Protection and Licensing was now scheduled for September 2017. This followed key officers being involved with the Grenfell Tower response.
- 6.6 Councillor Hyams informed those present that she had recently attended a meeting with representatives of the arts market and galleries and they were keen to make their art more accessible. She was keen on assisting cultural activities via the evening economy. Museums and galleries could potentially stay open later. The Chairman made the point that she wanted to encourage people to shop and aid the economy in the borough. Councillor Acton recommended that there was also a focus on the Edgware Road Evening and Night Time Economy as well as in the West End, including seeking to address the problems there, such as the issues raised by shisha. She also recommended that the Task and Finish Group which was responsible for developing the detailed thinking, strategy and policy proposals for the Council's vision include a representative from Public Health.
- 6.7 Councillor Floru requested that any proposals from the Task and Finish Group were also brought to the Licensing Committee at the next meeting on 29 November.
- 6.8 In response to Councillor Hyams' point about assisting cultural activities via the evening economy, Mr Cressey said it was necessary to understand what the current barriers were to the likes of the museums and galleries staying open later into the evening. One matter that could arise was if these organisations enquired as to the potential for selling alcohol in order to make staying open until later economically viable. There could potentially be a dialogue as to how this could be made viable to the organisations without it having an adverse impact on the city.
- 6.9 **RESOLVED:** (i) That the Task and Finish Group take into account the comments made by Members of the Licensing Committee; and,
- (ii) That the Committee notes the contents of the report.

7 LICENSING APPEALS

- 7.1 The Committee noted the current position in respect of licensing appeals which had been submitted in relation to decisions taken by the Licensing Sub-Committee. Heidi Titcombe, Principal Solicitor of the Planning, Highways and Licensing Team, Tri-Borough Shared Legal Services, provided an update on the appeal for Sophisticats, 3-7 Brewer Street, London, W1. It had taken place in the last week of June. However, the District Judge had decided to adjourn the case to allow further evidence to be submitted by both parties. Provided the parties produced the evidence in a timely fashion, a judgement could potentially be received in August.
- 7.2 Ms Titcombe confirmed that a judgement was still awaited from the Supreme Court in respect of the 'Hemming' Sex Establishment Licensing Fees case and Members would be updated at the next meeting.
- 7.3 Ms Titcombe also advised the Committee that an appeal had been received in response to the Sub-Committee's decision in April 2017 to refuse the application for Crocker's Folly, 24 Aberdeen Place, NW8. She added that fifteen local residents, two ward councillors and Environmental Health had objected to the application and the Council would be defending the decision robustly.
- 7.4 **RESOLVED:** That the contents of the report be noted.

8 NOTTING HILL CARNIVAL

- 8.1 The Committee was provided with a verbal update on the Notting Hill Carnival by Ms Acik. She advised that a new event management company for the Carnival had been in place for approximately five or six weeks. They were communicating with local residents, stakeholders, Westminster City Council and Royal Borough of Kensington and Chelsea Council ('RBKC').
- 8.2 Ms Acik explained that proposals for the Carnival included fewer smaller vehicles along the main Carnival route and an earlier start and finish for the event. Further clarity on the policing plans was likely to be received in the next few weeks. There were likely to be much more stringent controls on vehicles coming in and out of the Carnival and also hostile vehicle mitigation measures introduced. Westminster councillors would be provided with a briefing on the Carnival in the near future, including proposed changes and the licensing approach.
- 8.3 Ms Acik stated that there were current proposals regarding sound systems at the Carnival. RBKC had particular concerns about the links to crime and disorder issues and they were not permitting two of the several sound systems to be present during the event. Ms Acik informed Members that a report of a review had been published which had been jointly commissioned with MOPAC ('The Mayor's Office for Policing and Crime Police and Crime Committee'). This had engaged independent expertise and was focussed on crowd dynamics/movements. One of the areas which affected Westminster's footprint was around Westbourne Park Station. The report referred to the Sir Lloyd sound system, which had a premises licence, and the issues relating to

crowd congestion. It had been decided following discussions with the Police not to review the premises licence. Officers had communicated with Lloyd Roberts who was responsible for the sound system and it had been agreed that some of the risks could be mitigated by extending the barriers and creating a sterile corridor with greater access along Leamington Villas Road. This would reduce the congestion which had previously been caused with Sir Lloyd sound system at one end of the road and Channel One sound system at the other end. There would also be higher levels of security there. Similar plans were being proposed for the Channel One sound system.

- 8.4 Ms Acik drew Members' attention to the point that four temporary event notices for sound systems were expected to be received by Westminster City Council. The officers' approach would be that those submitting the TENs would be expected to put forward very robust event management plans.
- 8.5 Further information provided by Ms Acik included that expressions of interest had been sought earlier in the year for use of street trading pitches. There had been less interest than in previous years and the number of pitches had been reduced from 39 to 36. She added that it was helpful that the Police Superintendent involved with the Carnival was also involved with community engagement following the Grenfell Tower tragedy.
- 8.6 Councillor Burbridge expressed concerns that people attending the Carnival had been able to enter residents' gardens. She requested that tougher cardboard or a more effective barrier could be used to prevent this. Ms Acik offered to raise this with CityWest Homes.
- 8.7 Councillor Floru raised concerns about agitators, seeking to exploit the anger felt by the local community towards the Grenfell Tower tragedy, surfacing at the Carnival. Ms Acik referred to the comments of Pepe Francis MBE, the Chairman of the London Notting Hill Carnival Enterprises Trust who had recently commented that 'Notting Hill Carnival will show the local community's solidarity, support and respect for the victims of the appalling fire at Grenfell Tower. Grenfell Tower is at the heart of our neighbourhood. The survivors of the fire, our friends and neighbours, have suffered dreadfully. The families and loved ones of those who died and who are missing continue to suffer. This year, the blackened marker of Grenfell Tower casts a dark shadow over the joy and celebration of Carnival. We do not pretend to provide solace. But we can, and will, offer respect and solidarity. Carnival is a celebration of inclusivity, diversity and harmony. We will not provide a platform for those who espouse the politics of division and hate and who seek to create disharmony'.
- 8.8 **RESOLVED:** That the verbal update on the Notting Hill Carnival be noted.

9 ANY OTHER BUSINESS WHICH THE CHAIRMAN CONSIDERS URGENT

- 9.1 There were no additional items of business.

10 FUTURE LICENSING COMMITTEE MEETING DATES

10.1 It was noted that the next meetings of the Licensing Committee would be held on Wednesday 29 November 2017 and Wednesday 21 March 2018. All meetings are scheduled for 10.00am.

The Meeting ended at 11.45 am

CHAIRMAN: _____

DATE _____