



	Licensing Committee Report
Date:	14 November 2012
Subject:	Lamp Post Notices – NEW PROPOSALS

Summary

This report seeks approval to either remove the requirement of advertising new and variation applications entirely or amend the lamp post notices relating to new and variation applications for the Licensing Act 2003 and Gambling Act 2005.

Recommendations

That the Committee approves one of the following options

- that the requirement for lamp post notices is removed
- that the requirement for lamp post notices remain but the wording and format are changed amended as described in paragraph 4.12
- that the requirement of lamp post notices remain with the substantial amendments as described in paragraph 4.14



City of Westminster

Committee report

Date: **14 November 2012**

Classification: **For General Release**

Title of Report: **Lamp Post Notices – NEW PROPOSALS**

Report of: **Operational Director for Premises Management**

Wards involved: **All**

Policy context: **None**

Financial summary: **A potential saving of approximately £7845.48, or no associated changes to current costs or potential increase of £7436.99 to £15282.47.**

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1. Executive Summary

- 1.1 This report seeks approval to either remove the requirement of advertising new and variation applications entirely or amend the lamp post notices relating to new and variation applications for the Licensing Act 2003 and Gambling Act 2005.

2. Recommendations

- 2.1 That the Committee approves one of the following options
- 2.1.1 that the requirement for lamp post notices is removed
 - 2.1.2 that the requirement for lamp post notices remain but the wording and format are changed amended as described in paragraph 4.12
 - 2.1.3 that the requirement of lamp post notices remain with the substantial amendments as described in paragraph 4.14

3. Background

- 3.1 Since the implementation of both the Licensing Act 2003 (2003 Act) in 2005 and the Gambling Act 2005 (2005 Act) in 2007 all new and variation applications were, in addition to the statutory requirements, advertised by the placing of two notices on the nearest two lamp posts to the premises. This practice is historic and dates back to the old Public Entertainment / Night Café licensing regimes.

4. Reasons for the amendment of the lamp post notices

- 4.1 The Licensing Service has received a number of comments from both applicants and residents stating that the notices can be misleading and in addition that the notices are not always removed promptly after the end of the consultation period which causes 'littering' of the lamp posts. The 'littering' issue is more prominent in areas which have a large number of licensed premises and in particular the West End Stress Area as defined by the councils Statement of Licensing Principles. It is worth noting however, that other departments, such as planning, also use lamp post notices so not all of the notices can be attributed to Licensing.
- 4.2 The lamp post notices are A5 in size and licensing notices are printed on orange paper, to distinguish them from other notices such as planning which are yellow. However, unlike Licensing notices, planning notices are a statutory requirement.
- 4.3 In the financial year 2011/2012 666 2003 Act and 2005 Act applications had lamp post notices put up on the two nearest lamp posts. For each of the 666

applications the Licensing Service was charged £11.78, therefore totalling £7845.48.

- 4.4 Lamp post notices currently state the application type, the opening hours, the last day for representations, details of how to view the applications and where to send representations. Please refer to Annex A for an example of a current notice.
- 4.5 The notices are currently generated from the licensing database (Uniform) and given the current restraints of the system and of the size the notice has to conform to (A5) only a certain amount of information can be included.
- 4.6 Applicants and residents have commented that the notices can be misleading as they contain information that have no bearing to the actual application except the basic premises information and the opening hours. For example, if a variation is made to vary the plans or amend conditions the opening hours have no bearing as they will not be changing. Additionally for new applications the opening hours applied for can be longer than the actual activities applied for which again could be misleading to local residents or businesses.
- 4.7 Due to the concerns raised by applicants, their agents and local residents it was considered necessary for the Licensing Service to consider the options available to the council in relation to these non statutory notices. The Licensing Service are proposing three options to the Committee:

Option 1

- 4.8 That the lamp post notice requirement is removed which will eliminate the issues raised relating to the misleading information and it is estimated that this option will produce a saving of approximately £7845.48, the saving will be dependent on how many applications are received each year.

Reasons for option 1

- 4.9 The lamp post notice requirement is not a statutory requirement under either the 2003 or 2005 Acts. Since the introduction of lamp post notices new technology has been introduced to make it easier for those interested in application in their area to be notified. The council has introduced a significantly improved Licensing register on the council's website, which enables any member of the public to view licensing applications on line. Additionally, the register allows users to save searches so as to be informed of any new applications in a particular area / street/ premises and to track applications and additionally it allows the user to comments directly to an application. The information available on line via the register is the applications in their entirety and allows the user to view copies of the application forms, plans and any other additional information provided by the

applicants, therefore providing accurate information rather than only a snippet of the details as currently provided in the notices.

- 4.10 The statutory requirements under both the 2003 and 2005 Acts require applicants to advertise their applications in a newspaper circulating in the area of the premises. In addition, applicants must also place a notice on the premises (or near the premises if it hasn't been built) for a period of 28 consecutive days. The notices are checked by the Council's Licensing Inspectorate to confirm that the information contained within the notice is correct and that the notice is displayed correctly. Failure to advertise an application correctly results in the application being invalidated and the applicants have to re-start the advertising process again.
- 4.11 The notices on the premises do require people to walk by the premises to be made aware of the application. Given the change in legislation in April 2012 which removed the vicinity requirement for representations the use of the notices has a potentially limited audience unlike the use of the online licensing register.

Option 2

- 4.12 The lamp post notice requirement continues with an amended notice to remove the details of the application so as not to confuse anyone viewing the notice and to clearly set out how anyone interested in viewing the application and its accompanying documentation can view it via the council's online Licensing Register. Please see an example of the notice at Annex B

Reasons for option 2

- 4.13 Residents who are used to the current practice continue to receive information on applications in the same way. There is no increase in the current cost associated with the notices. By removing the opening hours from the notice will remove the main issue that causes confusion as to what the application is actually about. The notice as amended will inform anyone passing the premises that there is an application outstanding, when the last day for representations is, how to view a copy of the applications and how to submit a comment.

Option 3

- 4.14 That the lamp post notices are individually created for each application by the Licensing processing officers. This can be done in part by using the current template on our database used to comply with S26 of Licensing Act 2003. S26 requires the Licensing Authority to have a notice of the application viewable on the Council's website. This option would require a different notice for each of the licence types (variation & new). Examples of the proposed notices are attached at Annex C1 & C2.

Reasons for option 3

- 4.15 Each notice will be specific for each premises and outline the application in full. New and variation applications will need to be different to be able to truly reflect the application. This will provide detailed information as to what is being applied for to any person passing the notice and premises. However, this option will create additional work for the Licensing Service. It would be necessary for the Processing officer to manually check the notice to ensure that it remains within the constraints of the A5 size requirement and make amendments when required. It will also require the processing officer to e-mail the notice for it to be dispatched which is currently done automatically by the database. It is estimated that to manually check and dispatch a lamp post notice will take an additional 10 minutes per application which has a cost implication of £7436.99 for the service, in addition to the current expenditure for placing the notices.

Conclusions

4.16 Option 1

- Will save the Licensing Service the current associated costs
- Will resolve any associated confusion the current lamp post notices cause
- Will remove some of the lamp post 'littering' issues
- Some members of the public may miss applications if they are unaware of the proposed change – however the applications will still be advertised by the applicants (statutory requirements), by the inclusion of applications in Licensing news, the licensing register and with the residents letters sent for each applications to all premises in a 30 metre radius.

4.16 Option 2

- Will continue the status quo with updated notices.
- The current cost to the Licensing Service will be maintained
- Removing the opening hours should resolve any associated confusion the current lamp post notices cause
- The current licensing database will allow this change without any additional costs
- Will not address any complaints relating to the 'littering' of lamp posts

4.17 Option 3

- Will continue the practice of lamp post notices but with additional information which should resolve any associated confusion the current lamp post notices cause
- The current licensing data base will not currently accommodate this change fully so there would be additional costs / resources to the Licensing Service as they would have to be checked and amended manually

- Updates to the current licensing database will not negate the requirement for the manual checking of the notices as it is purely dependant on the individual application.
- The notices have to conform to A5 size so complex applications would have to be made smaller to accommodate the size of the notice holders.

5. Legal Implications

- 5.1 Both the Licensing Act 2003 and the Gambling Act 2005 are prescriptive in that they set out detailed requirements with respect to the advertising and notification of applications.
- 5.2 It is open to the licensing authority, at its discretion, to supplement the statutory procedures with notification procedures of its own. If that is done, issues can arise if the statutory procedures are complied with but the authority itself does not comply with its own procedures. Complaints may be made that it is because of the Council's own failure that an objector lost an opportunity to submit an objection.
- 5.3 In Albert Court Residents Association v the Corporation of the Hall of Arts and Sciences and Westminster City Council (the Albert Hall case) in 2011 the Court of Appeal held that a failure to comply with any such non-statutory notification procedures could not give rise to any right to interfere with the performance of its statutory duties

6. Financial Implications

6.1 Option 1

Savings of approximately £7485.48

6.2 Option 2

No increase of current associated costs

6.3 Option 3

Increase of approximately £7436.99 which added to the current costs will total £15282.47 per year. Please note the cost of lamp post notices will always depend on how many applications are received each year.

7. Equality Implications

- 7.1 It is not considered that any changes to lamp post notices will give rise to any equality implications.

Annexes

Annex A – example of current lamp post notice

Annex B – example of new lamp post notice without application details

Annex C1 – example of a new application lamp post notice with all details included

Annex C2 – example of a variation application lamp post notice with all details included

If you have any queries about this Report or wish to inspect any of the Background Papers please contact: Claire Hayes, Senior Licensing Practitioner
chayes@westminster.gov.uk Telephone: 020 7641 7816

BACKGROUND PAPERS

Statement of Licensing Principles

LICENSING ACT 2003 - NOTICE OF APPLICATION

Notice is given that

Jermyn Street Theatre

has applied to Westminster City Council for a

New Premises Licence

Premises address

Jermyn Street Theatre

Basement

16B Jermyn Street

London

SW1Y 6LT

Proposed Hours

FRIDAY: 13:00 TO 23:00

SATURDAY TO THURSDAY: 13:00 TO 22:00

Proposed Capacity

<100

Residents and businesses in the vicinity of these premises wishing to oppose the application must give notice by email to premiseslicensing@westminster.gov.uk or in writing to the Operational Director of Premises Management, Westminster City Council, Westminster City Hall, 64 Victoria Street, SW1E 6QP, by 11 September 2012, specifying the grounds of opposition and quoting 12/07165/LIPN. Such notice is open to public inspection.