



City of Westminster

Committee Agenda

Title: **Licensing Committee**

Meeting Date: **Wednesday 21st March, 2018**

Time: **10.00 am**

Venue: **Room 3.1, 3rd Floor, 5 Strand, London, WC2 5HR**

Members: **Councillors:**

Angela Harvey (Chairman)	Murad Gassanly
Heather Acton	Louise Hyams
Julia Alexander	Tim Mitchell
Rita Begum	Jan Prendergast
Susie Burbridge	Karen Scarborough
Melvyn Caplan	Shamim Talukder
Jean Paul Floru	Aziz Toki
Peter Freeman	

Members of the public are welcome to attend the meeting and listen to the discussion Part 1 of the Agenda.

Admission to the public gallery is via a visitor's pass which is available from the main ground floor reception at 5 Strand from 9.30am. If you have a disability and require any special assistance please contact the Committee Officer (details listed below) in advance of the meeting.



An Induction loop operates to enhance sound for anyone wearing a hearing aid or using a transmitter. If you require any further information, please contact the Senior Committee and Governance Officer, Jonathan Deacon.

**Email: jdeacon@westminster.gov.uk Tel: 020 7641 2783
Corporate Website: www.westminster.gov.uk**

Note for Members: Members are reminded that Officer contacts are shown at the end of each report and Members are welcome to raise questions in advance of the meeting. With regard to item 1, guidance on declarations of interests is included in the Code of Governance; if Members and Officers have any particular questions they should contact the Director of Law in advance of the meeting please.

AGENDA

PART 1 (IN PUBLIC)

1. DECLARATIONS OF INTEREST

To receive any declarations by Members and Officers of any personal or prejudicial interests in Matters on this agenda.

2. MINUTES

To sign the minutes of the meeting held on Wednesday 29 November 2017.

(Pages 1 - 12)

3. LICENSING CHARTER AND NIGHTSAFE PROJECT

Presentation and Question and Answer session to be provided at the meeting (Powerpoint document included in agenda papers).

(Pages 13 - 28)

4. EVENING AND NIGHT TIME ECONOMY IN WESTMINSTER - 6PM-6AM - OUR PRINCIPLES AND RESPONSE TO THE NIGHT TIME COMMISSION

City of Westminster Council's response to the Night Time Commission Consultation.

(Pages 29 - 38)

5. GAMBLING POLICY REVIEW APPROACH FOR 2018/19

Report of the Director of Public Protection and Licensing.

(Pages 39 - 54)

6. NOTTING HILL CARNIVAL APPROACH AND TEMPORARY EVENT NOTICES

Report of the Director of Public Protection and Licensing.

(Pages 55 - 60)

7. LICENSING SERVICE OVERVIEW 2015/16 TO 2017/18

Report of the Director of Public Protection and Licensing (to follow)

8. LICENSING APPEALS

(Pages 61 - 68)

Report of the Director of Law.

9. ANY OTHER BUSINESS WHICH THE CHAIR CONSIDERS URGENT

10. FUTURE LICENSING COMMITTEE DATES

4 July 2018 and 28 November 2018

**Stuart Love
Chief Executive
16 March 2018**

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CITY OF WESTMINSTER

MINUTES

Licensing Committee

MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Committee** held on **Wednesday 29th November, 2017**, Room 3.1, 3rd Floor, 5 Strand, London, WC2 5HR.

Members Present: Councillors Angela Harvey (Chairman), Heather Acton, Melvyn Caplan, Jean Paul Floru, Peter Freeman, Murad Gassanly, Louise Hyams, Karen Scarborough, Shamim Talukder and Aziz Toki

Apologies for Absence: Councillor Julia Alexander, Councillor Rita Begum, Councillor Susie Burbridge, Councillor Tim Mitchell and Councillor Jan Prendergast

1 DECLARATIONS OF INTEREST

1.1 There were no declarations of interest.

2 MINUTES AND MATTERS ARISING

2.1 The Chairman expressed concerns that eight councillors had signed up for the Licensing and Planning training session on the evening of Monday 27 November and that whilst one apology for absence had been received, only two Members (herself and Councillor Cox) had attended. She emphasised the importance of Member training and that three senior officers had been present to provide the training.

2.2 In respect of paragraph 6.6 of the minutes, the Committee requested an update from the Task and Finish Group which it had been stated would develop the Council's vision and plan for the evening and night time economy. This would be forwarded to the Committee prior to the next meeting.

2.3 In respect of paragraph 8 of the minutes, the Committee requested a verbal update on the Notting Hill Carnival. David Sycamore, Licensing Team Manager, advised that there had been a slight reduction in the number of street traders for the Notting Hill Carnival which had been of benefit in those areas where there had been congestion issues due to the large number of people. The Licensing Service had taken on some actions to look at the locations of street trading pitches for next year's event to further assist with the flow of people. Meetings had been held with the Royal Borough of

Kensington and Chelsea officers regarding further improving partnership working. It was believed that there had been no major issues arising from the Carnival in 2017 in the Westminster area and that there had been a slight reduction in the number of incidents the Police had attended. It was understood that there had also been a reduction in the number of noise complaints received in relation to this year's event. It was felt that Carnival had been policed appropriately and resourced appropriately by the Council.

- 2.4 Mr Sycamore was asked by the Chairman whether there were any licences which were granted for on street trading which contributed to problems during the Carnival. Mr Sycamore replied that officers had taken feedback from City Inspectors who were at the event and were examining some of the locations for traders who were granted temporary event notices ('TENs') and others which were already licensed. It had been found that meeting with the traders this year was useful and potentially if officers were able to engage with them at an earlier stage there could be an overall benefit in terms of where they would be located.
- 2.5 Mr Sycamore was asked by Councillor Caplan whether there was now a greater understanding of the process regarding TENs as there had previously been a misunderstanding amongst officers that it was not possible to modify the TENs at hearings, including those relating to the Carnival. He replied that this had been taken on board and additional training had been provided for officers. The greater knowledge would be reflected in the initial communications between officers and the Premises Users.
- 2.6 Councillor Scarborough asked whether the Council had paid more money in terms of its efforts on behalf of the Carnival. Annette Acik, Head of Licensing, replied that the Council had paid roughly the same amount towards the Carnival as in 2016. Additional staff were not employed specifically for the event. There was a prioritisation for existing staff to be present at the event.
- 2.7 **RESOLVED:** (i) That the minutes of the Licensing Committee meeting held on Wednesday 5 July 2017 be signed by the Chairman as a correct record of proceedings; and,
- (ii) That an update on the Task and Finish Group be forwarded to the Committee prior to the next meeting.

3 LICENSING SERVICE FEE REVIEW (EXCLUDING STREET TRADING REGIMES) JANUARY - JULY 2018

- 3.1 The Committee considered a report which set out the proposed fees for the licensing regimes where the Council has the power to set them. Kerry Simpkin, Licensing Service Consultation Team Manager, advised the Committee that there was minimal adjustment to the fees in comparison to the previous year's. The fees would enable the Council to recover its costs in managing and administering the licensing regimes. It was being requested that the fees set out in Appendix 1 of the report were approved by the Committee up until July 2018 when there would be a further review to be in

keeping with the corporate timeframe for fees and charges. The report for the next fee review would be brought before the Committee in July 2018.

- 3.2 Councillor Gassanly expressed some concerns about charges for special treatment premises, including in comparison to other London local authorities. The Chairman also queried whether it was reasonable to charge the smaller special treatments premises exactly the same as the larger businesses when it may have considerably less facilities, such as beds. Mr Simpkin, in response, advised that it was the case that Westminster is the local authority which charges the highest fees for special treatment premises in London. This was in order to recover costs and work relating to enforcement compliance and applications. The Licensing Service was investigating a different approach to charging smaller special treatments premises and larger special treatment premises. The Licensing Service would be able to propose some options for the Committee at a future meeting. It was agreed that the options would be provided to the next meeting of the Committee in March 2018 ahead of the next review in July.
- 3.3 Councillor Acton requested clarification as to why there was no income set out under the zoo licensing regime. Mr Simpkin responded that this was due to zoo licences being over a period of six years. Fees had been increased for the January to July 2018 period for the zoo licensing regime in order to recover costs. However, there was no expected income due for a number of years because of the six year cycle.
- 3.4 **RESOLVED:** (i) That the proposed fees in Appendix 1 of the report be approved commencing 1 January 2018; and,
- (ii) That a report be brought to the next meeting of the Committee in March 2018 with options for differential charging of small and large special treatment premises.

4 DCMS CONSULTATION ON PROPOSALS FOR CHANGES TO GAMING MACHINES AND SOCIAL RESPONSIBILITY MEASURES UNDER THE GAMBLING ACT 2005

- 4.1 The Committee received a report summarising the Department for Digital, Culture, Media and Sport's ('DCMS') Consultation on proposals for changes to gaming machines and social responsibility measures under the Gambling Act 2005. Mr Simpkin, introducing the item, stated that the headline in the Consultation was the proposal to reduce the maximum stake for B2 gaming machines (Fixed Odds Betting Terminals) from £100 down to a figure between £2 and £50. The Licensing Service would be formulating a draft response to DCMS' Consultation that would be forwarded to the Deputy Leader and Cabinet Member for Business, Culture and Heritage. Views from the Committee were welcomed until 5 January 2018 prior to the submission of the draft response to the Cabinet Member. The Council's final response would be sent to DCMS before the 23 January 2018 deadline.

- 4.2 Mr Simpkin advised that aside from the headline item relating to the B2 gaming machines, there were a number of other important matters referred to in the Consultation particularly in terms of the Licensing Service's work to protect the vulnerable. He explained that B3 gaming machines in bookmakers were also shown to have a significant impact on the vulnerable. Whilst DCMS were not proposing to specifically change how the B3 machines operated, (the stake was currently £2) there was an impact which was set out in their documentation. Mr Simpkin said that this needed to be included in the Council's response, pointing to the Licensing Service's work on vulnerability to gambling addiction locally.
- 4.3 Mr Simpkin also drew the Committee's attention to other matters set out in the report relating to the Consultation including converted casinos and also social responsibility measures, such as the advertising of online gambling.
- 4.4 Members of the Committee were keen to explore how the vulnerable in terms of gambling addiction could be better protected. The Chairman and Councillor Hyams noted that the Association of British Bookmakers' code on social responsibility had introduced voluntary measures that players could select to limit their spend and the time they play the B2 gaming machines. However, only 0.5% of machine sessions in the first month after its implementation included a voluntary time and money limit. It was felt that this area could be strengthened as could technology in order to identify problem gamblers. The Chairman recommended that contactless debit or credit cards were not permitted for gaming use as research had shown that it did not have the same effect as passing over coins or notes. Mr Simpkin advised that it was not currently possible to use a debit or credit card for a gaming machine. The Government continued to support this position. The industry was proposing the potential use of debit and credit cards. Mr Simpkin also stated that the Licensing Service had previously looked at the ability to track data on gaming machines in order to check whether those using the machines were reaching a limit in terms of what they could afford. At the moment those using gaming machines were anonymous, in contrast to online gaming where users had accounts. He added that this could be included in the response to the DCMS consultation.
- 4.5 Mr Simpkin said that Westminster was leading the way on protecting the vulnerable from gambling addiction and he expected the response to the DCMS to be quite detailed, taking into account the work undertaken and that it was known where the localised areas of problem gambling are. There would also be a significant refresh in 2018 of Westminster's licensing policy associated with gambling to reflect the work undertaken. There had been success on the part of the Council in respect of major licensing applications for betting shops where a more stringent approach had been taken due to higher levels of vulnerability to gambling addiction in localised areas of the borough. The Committee supported the inclusion of the more detailed work in the Consultation response. Councillor Scarborough referred to the issues with clustering of betting shops in Edgware Road and the Chairman referred to the research which had taken place in South Westminster.

- 4.6 Members, including Councillors Gassanly, Caplan and Freeman, requested that whilst the vulnerable needed to be protected, it should also be reflected in the response to the Consultation that their constituents live in a free society where gambling is permitted, including the national lottery. It also needed to be recognised that the majority of gambling was online which is not regulated by the Licensing Authority. Mr Simpkin made the point that the Council was seen positively by the gambling industry. It took an evidence based approach and was only more stringent if there was seen to be a real risk to the vulnerable.
- 4.7 The Committee strongly supported that the maximum stake for B2 gaming machines should be £2 in order to protect the vulnerable.
- 4.8 **RESOLVED:** That the views of the Committee at the meeting and any further views from Members of the Committee made prior to 5 January 2018 be taken into account in the Council's formal response to the DCMS Consultation.

5 LICENSING CHARTER UPDATE

- 5.1 The Committee received a report setting out progress on delivering the City for All Year 2 commitment to introduce a voluntary standard, now named Westminster's Licensing Charter. Mr Sycamore advised that the vision was to support the entertainment industry to sign up voluntarily to the Licensing Charter. The Charter focused on recognising achievement in well run premises and that the premises' protection of the vulnerable from harm (including from the impact of alcohol) was a key element, supporting the licensing objective. The intention was to reduce anti-social behaviour, crime and poor health issues. Mr Sycamore said that it was hoped that the resulting improvement would lead to the responsible growth of the evening and night time economy which was sought by businesses and a closer working relationship with the industry, the Police and other stakeholders on a Charter steering group. He informed Members that it had been useful to have talked to businesses already informally at meetings about the Licensing Charter.
- 5.2 Mr Sycamore referred to the Charter being piloted in the Heart of London Business Alliance ('HOLBA') Business Improvement District area. The plan was to have 15 members of HOLBA sign up to the Best Bar None scheme. This was a national accreditation scheme which required premises to reach minimum standards in promoting responsible management and operation of alcohol licensed premises. In response to questions from the Sub-Committee, Mr Sycamore stated that the application process for the Best Bar None scheme would commence in the New Year and the promotion of the scheme was currently taking place. The launch had taken place on 30 October and was held in Tiger Tiger in Haymarket. This had been attended by the Leader of the Council. A 'Super Pub Watch' event had also recently been held at Café de Paris in Coventry Street where officers had met with industry leaders. There would be a social media and poster campaign to promote the Licensing Charter in January 2018.

- 5.3 Councillor Talukder asked whether councillors would be able to attend future Licensing Charter events, including Members of the Licensing Committee. Mr Sycamore replied that a number of Members had attended the launch of the Best Bar None scheme. He gave a commitment that licensing officers would review circulation lists for invitations to the Licensing Charter events, including to take into account Members of the Licensing Committee.
- 5.4 **RESOLVED:** That the circulation lists for invitations to the Licensing Charter events be reviewed, including to take into account Members of the Licensing Committee.

6 THE GOVERNMENT RESPONSE TO THE REPORT FROM THE HOUSE OF LORDS SELECT COMMITTEE ON THE LICENSING ACT 2003

- 6.1 The Committee received a report which summarised the recommendations made by the House of Lords Select Committee on the Licensing Act 2003 published on 4 April 2017 and the Government's response to the recommendations published on 6 November 2017. Ms Acik provided the additional information that the Select Committee had accepted submissions, including from the Council. It had heard from witnesses, including Richard Brown, Solicitor at the Citizens Advice Bureau Licensing Advice Project.
- 6.2 The Committee noted that the Government had not supported the recommendation of the Select Committee to enact the provision for permitting locally set fees. Ms Acik drew Members' attention to some points in the recommendations of the Select Committee and the Government response that could potentially be taken forward at Westminster. The Government response to the Select Committee accepted the point that planning and licensing could work better together and coordination was encouraged where appropriate (there was not support from the Government or from the Council for the recommendation of the Select Committee for the transfer of functions of Licensing Committees to Planning Committees). Ms Acik advised that further thought could be given to licensing and planning officers engaging more than was the case currently. The Select Committee had recommended that there was a minimum level of training for councillors before they are permitted to sit on a Licensing Committee or Licensing Sub-Committee. Ms Acik commented that there was a good standard of licensing training for Members at Westminster. Members' views were welcomed however as to whether this could be improved, including whether the training could be provided differently. There was a recommendation relating to the Late Night Levy. Ms Acik stated that the Government's response referred to local initiatives and the Licensing Charter was an example of the Council's local initiatives. Finally, the Select Committee had recommended that licensing authorities should publicise the reasons which had led them to settle an appeal and should hesitate to compromise if they are effectively reversing an earlier decision which residents and others intervening may have thought they could rely on. Ms Acik said that this was a matter to be discussed with Legal as ideally the process could be made more transparent.

- 6.3 Heidi Titcombe, Principal Solicitor for Shared Legal Services was asked to give advice on the issues relating to settlement of appeals. She explained that in the event the applicant decided to appeal a Licensing Sub-Committee decision, the appeal would take the form of a re-hearing. At the appeal hearing, new evidence would be produced. Those who may have made representations to the Sub-Committee originally, including residents, may decide not to take part in the appeal process. The appellant would endeavour to resolve any issues at the premises prior to an appeal hearing. A Court would need to determine the appeal, based on the position at the time of appeal, including taking into account any change of circumstances and any new measures proposed by the appellant in terms of practices and additional conditions they are proposing to add to the licence, if the Court is minded to allow the appeal. The appellant's legal representatives often attempt to achieve a compromise in respect of the appeal in order to avoid a full hearing. The licensing authority is required to consider any compromise very carefully. The House of Lords Select Committee had concerns that discussions between the parties tended to take place in private so the parties to the original committee hearing would not necessarily be involved. Different authorities have different practices in terms of settling cases, decisions to settle can be made by officers. However, in Westminster if it is proposed to settle a case, the decision is made by the Licensing Sub-Committee, who receive a report from officers. This determination is in private but depending on the case, if a lot of residents are involved and in appropriate cases, meetings can be held with residents to explain the reasons why a compromise is recommended. The licensing authority's legal representative does liaise with any residents who had made representations to the Sub-Committee during the appeal process.
- 6.4 Ms Titcombe stated that it is important to explain to any parties opposing the appeal, why a compromise is being considered. However, these discussions generally have to take place in private so that it does not undermine the Licensing Authority's defence of the appeal. In appropriate cases, it is a good idea, to have a meeting with local residents to go through the evidence being produced at that stage and the reasons why a compromise should be achieved. She referred to the Council's success in managing appeals, including the settlement of appeals.
- 6.5 The Committee agreed that the Select Committee's recommendations had not recognised the good practices and trained Committee Members which applies to larger local authorities. It had not been taken into account when the Select Committee had recommended a transfer of functions of Licensing Committees to Planning Committees. Councillor Caplan asked officers to consider whether it was possible for Members of the Sub-Committee to be better informed at an earlier stage when an appeal has been submitted, when a decision had been made by the Court or when it had been settled.
- 6.6 **RESOLVED:** That the contents of the report be noted.

7 **GIG AND SHARING ECONOMY: LICENSING IMPLICATIONS ASSOCIATED WITH DELIVERIES**

- 7.1 The item was introduced by Ms Acik. She stated that the report had been produced with the assistance of Policy officers. It was a response to the concerns regarding the impact on local residents from food and drink delivery services which was discussed at the meeting of the Committee in July 2017.
- 7.2 Ms Acik referred to the impact on the community of a restaurant in Westbourne Grove. Significant action had been taken by the Council since the previous meeting of the Committee. It had required considerable staff resources, with colleagues looking at the powers available from legislation such as the Anti-Social Behaviour, Crime and Policing Act 2014. Eventually planning powers had been used with the premises being served a Planning Contravention Notice. Ms Acik made the point that there were limitations in terms of the action which could be taken from a licensing point of view. The report asked whether the Council should be considering a voluntary Licensing Charter type approach to encourage licensed premises to become more responsible when deliveries take place from their buildings.
- 7.3 Councillor Floru wished to provide clarification in relation to paragraph 4.11 of the report. He and Councillor Acton were agreed that they had no objection to motorised vehicles being used provided they were environmentally friendly and less noisy vehicles, such as electric vehicles. Other options included bicycles or deliveries on foot which created less emissions and noise nuisance. Councillor Floru and Councillor Acton had noted, when seeking to add conditions to the premises licence for applicants to use environmentally friendly and less noise intrusive delivery methods, that applicants had said to them at Licensing Sub-Committee meetings that they were not in a great bargaining position to demand this from the delivery companies. This was because the delivery companies are in many cases not directly employed by the applicants. Councillor Acton had suggested, and Councillor Floru had agreed with the view, that all businesses in Westminster should be asked to use environmentally friendly and less noise intrusive delivery methods. Ms Acik responded that any action from a licensing point of view would have to focus on the licensing objectives and the prevention of public nuisance rather than focussing on whether the delivery companies' methods were environmentally friendly or not.
- 7.4 The Committee appreciated that there were limitations to what could be done purely from a licensing point of view as set out in the report. It was necessary, as stated by Councillors Caplan and Freeman, to act within the powers permitted and to recognise, as stated by Councillors Gassanly and Talukder, that many of the delivery companies do not directly employ staff and that there was a benefit to those working on behalf of the delivery companies to carry out more deliveries via motorbike. The Committee asked officers to bring a report to the next meeting which would investigate the potential for a cross departmental Council wide approach, in order to protect residential amenity.
- 7.5 **RESOLVED:** That a report be brought to the next meeting of the Committee which would investigate the potential for a cross departmental Council wide approach in respect of deliveries, in order to protect residential amenity.

8 LICENSING POLICY REPRESENTATION AND CHANGES TO REPORTS

- 8.1 The item was introduced by Mr Sycamore. He explained the operational change where senior licensing officers were representing the Licensing Authority on policy matters for applications within the Council's cumulative impact areas. This enabled Environmental Health officers to focus on the licensing objectives of public safety and preventing public nuisance when examining licensing applications that have been submitted. The Licensing Service was able to ensure at an early stage that applicants focussed on the Council's policy and met the requirements of the policy. Mr Sycamore advised that there were a number of cases where, because the Licensing Service was able to discuss policy considerations with the applicants at an early stage, there were amendments to an application. There had also been a number of applications withdrawn. Mr Sycamore stated that the discussions between the Licensing Authority and Applicant assisted in limiting the aspects of the applications which the Sub-Committee needed to consider at the hearing and resulted in the Licensing Sub-Committee reports being more specific.
- 8.2 In response to a question from the Chairman, Mr Sycamore commented that he had benefitted in terms of gaining skills from being involved in the licensing consultation process and following his promotion to Licensing Team Manager, his colleagues were also looking forward to being involved. Councillor Caplan said that the Licensing Authority's role had worked well and recommended that one improvement would be if the Licensing Authority and Environmental Health gave some more thought to being slightly more distinctive and less repetitive in terms of their representations at the Sub-Committee meetings. The Chairman thanked Mr Sycamore for his work on behalf of the Licensing Authority.
- 8.3 Councillor Hyams asked about the provision of pre-application advice and whether the Licensing Authority charged a fee for its policy advice. Mr Sycamore replied that pre-application advice was supplied by the Environmental Health Consultation Team. Policy considerations by the Licensing Authority took place following the submission of the applications. There was no fee charged by the Licensing Authority as the policy discussions were related to its statutory duties as a Responsible Authority. The Chairman made the point that what was achieved with the policy advice was greater efficiencies.
- 8.4 The Committee noted the changes to the Sub-Committee reports. Members of the Sub-Committee and interested parties for applications had access to names, addresses and plans whilst the publicly published versions had the name and address of the objector or supporter for an application redacted. Those who were not interested parties could inspect plans at Council offices. There was also mention in the report of the Council's obligations to have regard to its public sector equality duty under Section 149 of the Equality Act 2010. This would now be set out in all Licensing Sub-Committee reports.

- 8.5 The Chairman asked whether the requirement to prepare and publish notices of licensing applications for advertising in newspapers could be provided as a service by the Licensing Service. She wished to know whether this could be produced at a reduced cost in comparison to that of the applicants' lawyers and provide a better service to the applicants. Mr Simpkin replied that it was possible for the Licensing Service to provide this service as a means of recovering its costs. The Licensing Service was planning in the New Year to look at options to expand the services it was offering, including educating applicants about the Council's expectations and assisting applicants with submissions. Ms Acik added that the Licensing Service was considering what could be offered in terms of discretionary services and different levels of service. The preparation of notices would be part of this process.
- 8.6 It was agreed that the Committee would be updated on the additional services the Licensing Service would be looking to provide. This was likely to be in a report to the Committee meeting in July 2018.
- 8.7 **RESOLVED:** That the Committee be updated in a report on the additional services the Licensing Service plans to provide.

9 LICENSING APPEALS

- 9.1 Heidi Titcombe, Principal Solicitor for Shared Legal Services, provided an update on licensing appeals since the previous meeting of the Committee in July 2017. She confirmed at the meeting that the appeals in respect of Sophisticats, 3-7 Brewer Street had been dismissed by the District Judge. Also, the Appellants had withdrawn their respective appeals for Crocker's Folly, 24 Aberdeen Place and London Film Museum, 45 Wellington Street prior to the appeal hearings taking place. In the case of Sophisticats and Crocker's Folly, the Appellants had been ordered to pay costs to the Council and the Council was endeavouring to recover these. In the case of London Film Museum, the Council was seeking to recover its legal costs as the appeal had only very recently been withdrawn. There was one remaining appeal for Swingers, 15 John Prince's Street which recently had been received. No date had yet been set for the appeal hearing.
- 9.2 In response to a question from Councillor Caplan in respect of the Hemming case, Ms Titcombe clarified that the Council had been required by an order of the Court of Appeal to refund a number of years' licence fees to the operators within a specific timeframe even though the Council was due to appeal and subsequently did appeal to the Supreme Court. The Supreme Court decided decisively in favour of the Council that it could recover a reasonable fee for the monitoring and enforcement of the sex licensing regime in Westminster. The Council would now be seeking recovery of all sums repaid, in addition to a reasonable sum for the monitoring and enforcement of the licensing regime for the years ending 2011, 2012 and 2013 as swiftly as possible.
- 9.3 **RESOLVED:** That the contents of the report be noted.

10 ANY OTHER BUSINESS WHICH THE CHAIRMAN CONSIDERS URGENT

- 10.1 The Chairman informed those present, as requested by Councillor Acton that an event was being held the following day where the Council was giving regulatory advice and health information to any business offering shisha.
- 10.2 The Chairman advised that evidence was being submitted to the London Night Time Commission on the merits of an evening and night time economy, distinguishing it from the limitations of being referred to as a night time economy. If Members of the Committee had any evidence they would like to submit on this point they should forward it to the Chairman in the next few days in her capacity as a member of the London Night Time Commission.

11 FUTURE LICENSING COMMITTEE MEETING DATES

- 11.1 It was noted that the next meetings of the Licensing Committee would be held on Wednesday 21 March 2018, Wednesday 4 July 2018 and Wednesday 28 November 2018. All meetings are scheduled for 10.00am.

The Meeting ended at 11.48 am

CHAIRMAN: _____

DATE _____

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Expanding the Licensing Charter beyond the pilot and introducing the Nightsafe Initiatives

Enhancing our safe and prosperous evening and night time
economy



Aims of the Licensing Charter

1. Premises better able to support vulnerable individuals in and around their premises;
2. Reductions in associated anti-social behaviour, crime and disorder and emergency health issues;
3. Evening and Night Time Economy supported to grow responsibly; and
4. Improved partnership working between council, police, key stakeholders and the industry



HOLBA pilot



- Created a steering group for the evening and night-time economy.
- Chose Best Bar None (BBN) as their first Licensing Charter Initiative.
- HOLBA BBN launch event held in October 2017.
- Supported the ‘Stay with you pack’ campaign during run up to Christmas.
- Documentation and standards published by HOLBA in January 2018.
- HOLBA assessors trained and attained the required qualification.
- Initial assessment of premises commence between Mar – May 2018.
- Unannounced inspections to take place in the Summer.
- Awards event October 2018.

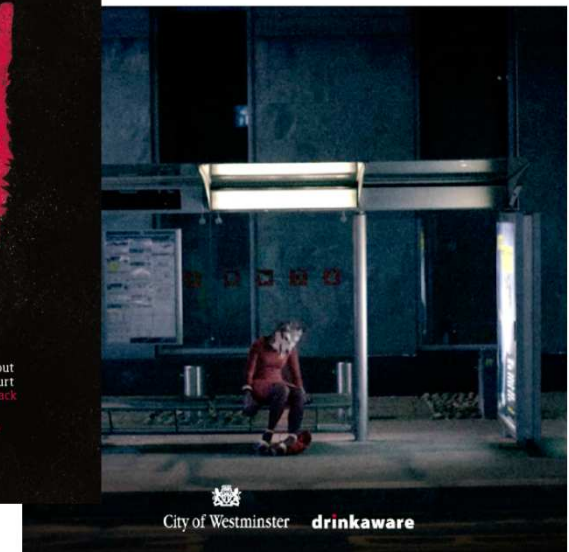
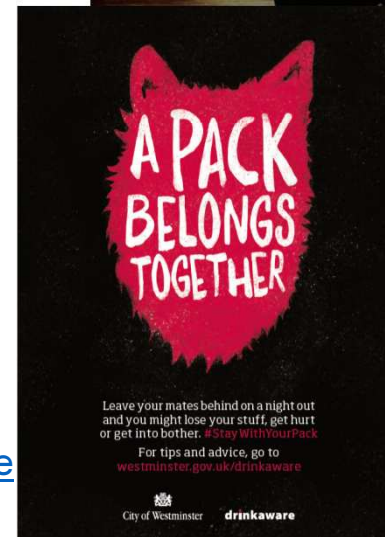
Best Bar None/Licensing Charter sign-ups

1. All Bar One
2. Bar Rumba
3. Bear and Staff
4. Café De Paris
5. Hippodrome Casino
6. Jewel
7. London Reign
8. McDonalds Leicester Square
9. McDonalds Shaftesbury Avenue
10. Moon Under Water
11. Piccadilly Institute
12. Ruby Blue
13. Tiger Tiger
14. Zoo Bar

More to follow as engagement continues.

drinkaware ‘Stay with your pack’

- Drinkaware – Stay with your pack campaign ran between 7th December 2017 and 4th January 2018
- 323 unique people viewed the website for an average of 6 minutes each
- Nearly 40,000 people viewed our tweets during the campaign
- 430 people engaged in our tweets on the campaign, including 64 retweets and 45 likes
- Our posters were displayed in over 65 different targeted large premises during the campaign including (Novus Leisure Venues, University of Westminster, Imperial College students union)
- Dedicated webpage: www.westminster.gov.uk/drinkaware



Findings from the pilot

Positives

- Positive support for the Licensing Charter aims from businesses and stakeholders.
- Collaboration and partnership seen as able to achieve some positive results.
- Ideas for improvement being driven by operators.
- Local steering group key to driving forward initiatives.
- Recognition for the good work undertaken by operators.
- Feeling that the Council are keen to support and develop the evening and night-time economy.
- Localised area based approach to achieving the Charter Aims

Challenges

- Lack of understanding of what the Licensing Charter is
- Funding can be a barrier to developing initiatives where there is a cost.
- Some operator had the view of “What's in it for me?”
- Expectations need to be managed.
- Premises on their own cannot make a marked difference on the area, requires an area based approach.

Learning from the pilot

- Information about the Licensing Charter and its benefits needs to be set out and readily available
- The real improvements and benefits can only come from the Charter being adopted in an area.
- A steering group is needed to channel ideas, make decisions and review progress.
- The Council and the police must be involved in the steering group
- The Licensing Charter must have its own clear brand identity
- Businesses that are working under the Licensing Charter to achieve its aims shall receive the Licensing Charter mark.
- The Council shall consider what benefits can be provided if the licensed premises operating under the Licensing Charter make marked improvements to that area.

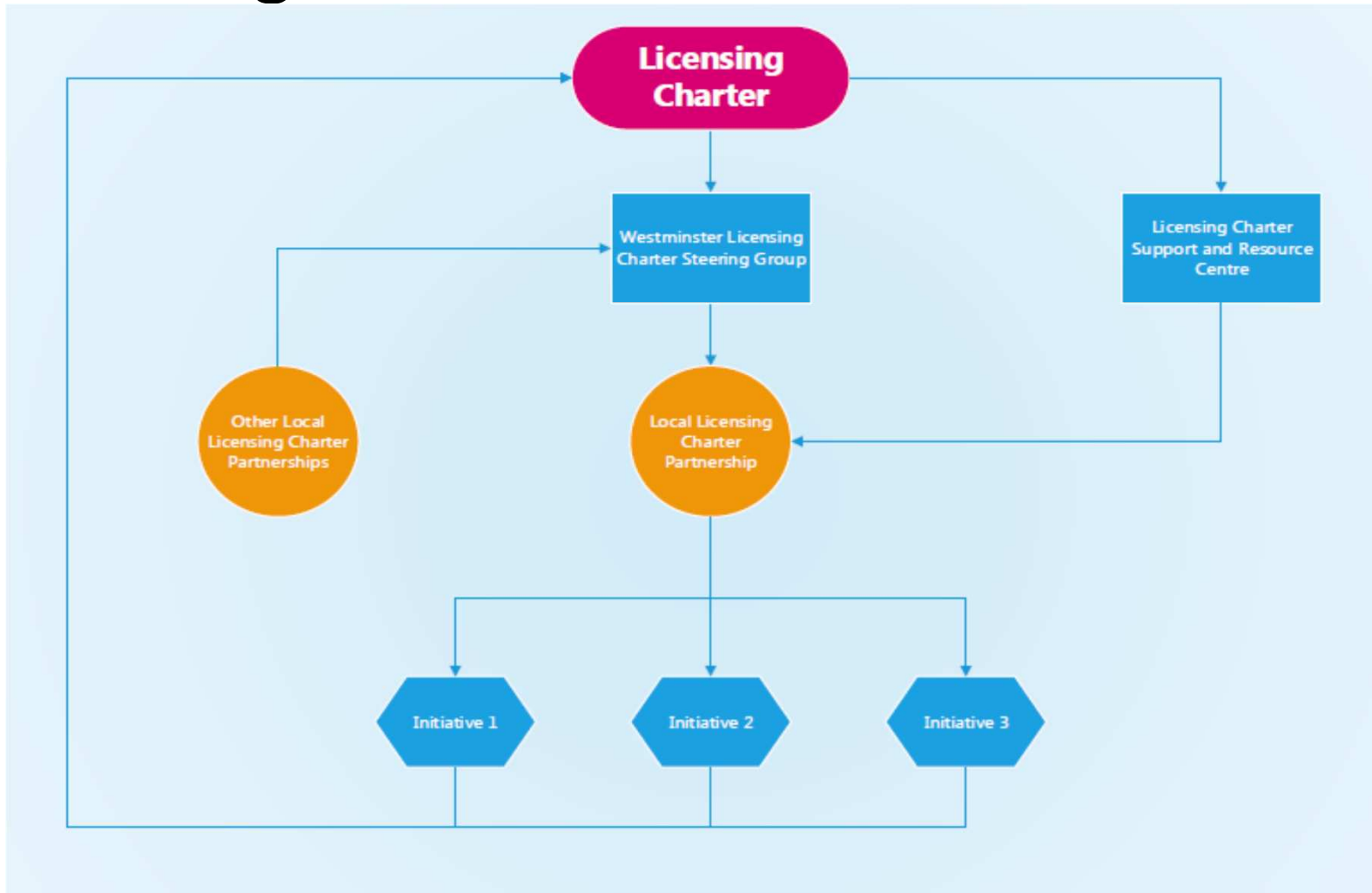
Local Licensing Charter Partnerships (LLCPs)

- Local partnership of licensed premises operators
- Partnership will consider and implement initiatives
- The partnership will select initiatives that best suit their unique area
- Include representatives from the Council, Police and other stakeholders
- Each LLCP will have its own constitution / membership arrangements.
- Chairs of groups will be a member of the Westminster Licensing Charter Steering Group.
- Partnership to act as local body to consult with for policy, etc

City Wide Steering Group

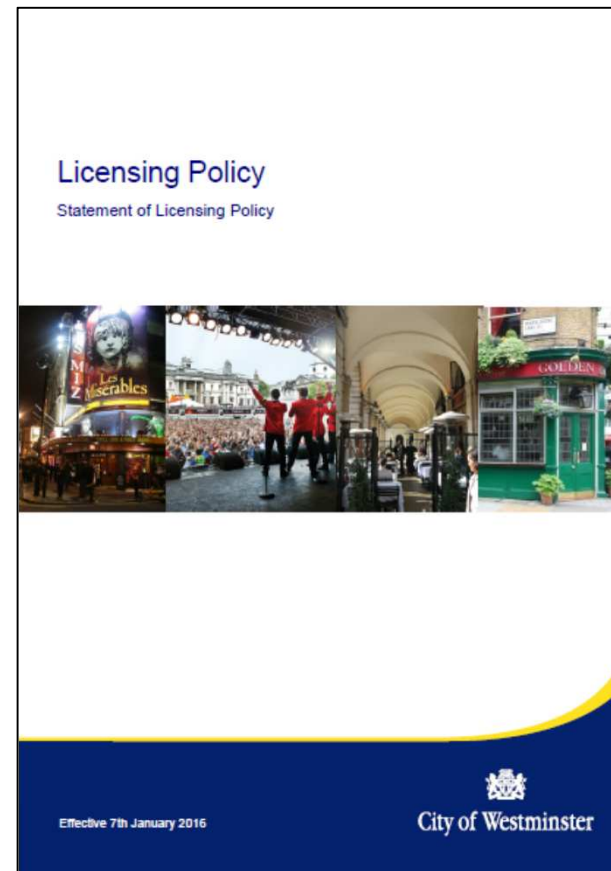
- To co-ordinate and communicate key information or initiatives to all LLCPS
- Meet once or twice a year or more often if necessary
- Group is made up of LLCPS chairs and key stakeholders
- The scope of the group will be to:
 - develop and promote the Licensing Charter,
 - comment on and agree developments to existing initiatives,
 - develop new initiatives to tackle the Licensing Charter aims, and
 - consider options and respond to future Council or GLA policy developments.

Licensing Charter Structure



Future Licensing Policy Development

- Could include Licensing Charter, how it can be adopted and how it can be delivered in an area.
- Consideration could be given to special policies associated with recognising areas who have made improvements.
- Policy development would need to be balanced to support growth and business but ensuring residential and local amenity.



Nightsafe Project

- Developed by the Licensing Service to support the Licensing Charter Aims.
- The Nightsafe Project objectives are to: Establish, operate and evaluate a set of initiatives that strive to:
 - Improve the safety and amenity of the public domain;
 - Provide a harm reduction service where vulnerable people can access support and a safe space;
 - Reduce the risk of crime, specifically to prevent intoxicated people from becoming a victim or perpetrator of crime;
 - Collaborate with key stakeholders to establish a governance model that is sustainable and enhances the evening and night time economy;
 - Support organisations that operate in the City at night (e.g. venue security staff, Police and Ambulance)

Nightsafe Project Initiatives

Nightsafe Hub

- Operate Friday and Saturday from 10pm to 5am
- HQ for ENTE network of Ambassadors, Police, City Inspectors and BID Patrol Staff.
- A safe space for those who need it
- A place to recover
- A place to gain information and support
- Access to Water or Hot Drinks
- A meeting place for those separated from friends
- Ability to recharge phones
- Access to basic medical attention
- Signposting to other services

Nightsafe Ambassadors

- Operate Friday and Saturday from 10pm to 5am
- Made up of trained volunteers
- Network of on street support for visitors
- Provide assistance to licensed premises
- Travel and visitor information
- Hand out vomit bags, refreshments, lollipops, etc
- High visibility presence
- Provide (Public Health) educational information
- Additional deterrent and reassurance for visitors to the ENTE (CT element)

Nightsafe Project Initiatives

Nightsafe Dispersal

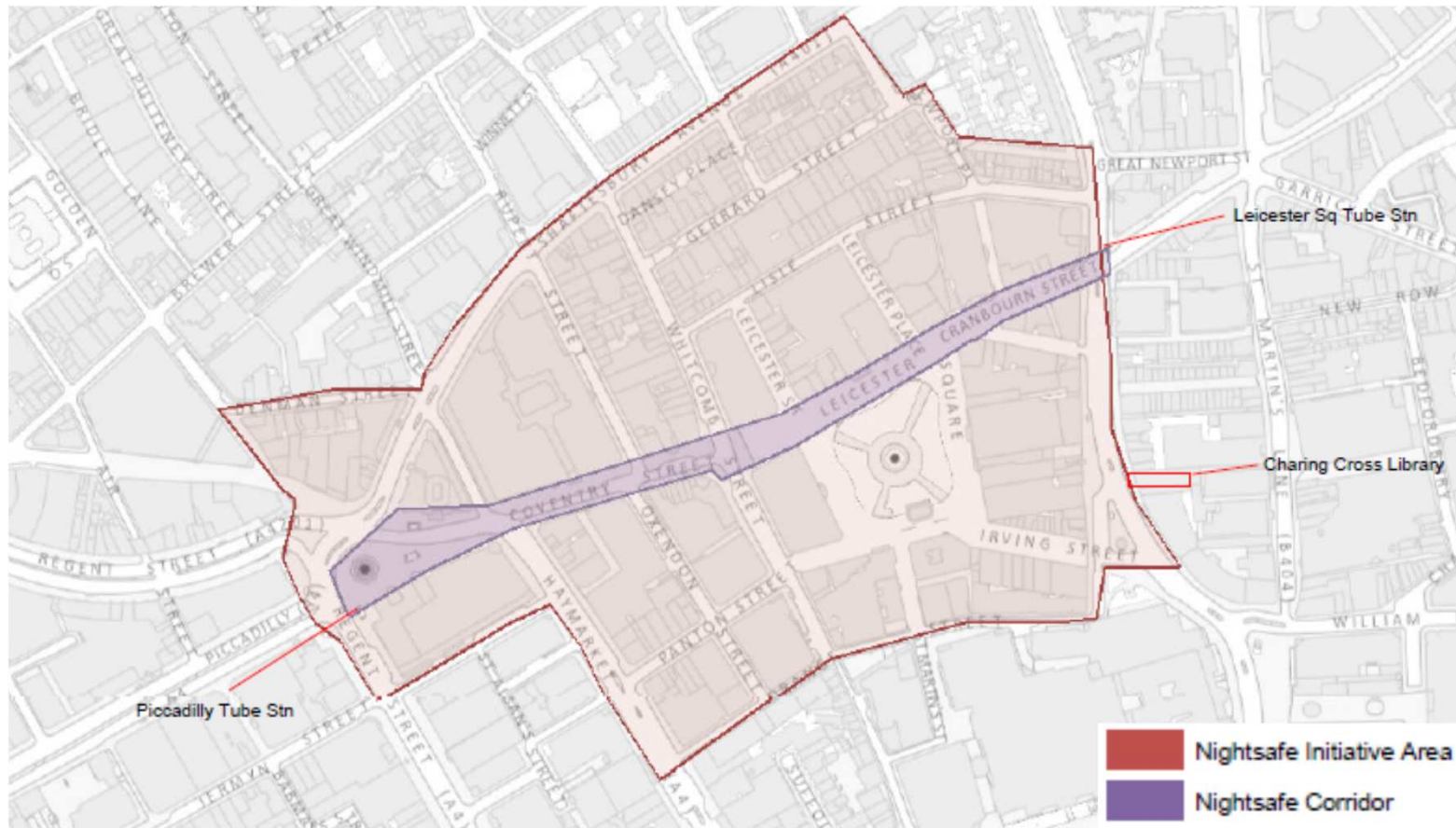
- Involve venue SIA security staff
- Provide a high vis presence in vicinity of their premises for 30mins to 1 hour
- Engage with visitors and provide support
- Light-touch disperse people to transport links
- Identify visitors who require the support from Ambassadors
- Provide a higher level of SIA trained staff

Nightsafe Corridor

- Operate Friday and Saturday
- Ambassadors, BID Patrol staff and Police (Special Constables) create a safe corridor to transport hubs
- Designed patrol area to create high visibility presence in designated safe corridor
- Use of volunteers a key element of Nightsafe initiative

Proposed Nightsafe Initiative Area

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Timeframe for Nightsafe Initiatives

- Recruitment for Ambassadors – **April to July**
- Development of operational procedures, contracts and resources – **April to August**
- Training for Ambassadors and SIA Door staff – **Early August**
- Hub and Ambassador Training and Operational Problem Solving Nights – **25th and 31st August.**
- First week of Nightsafe Initiatives **7th and 8th September**
- Aim to operate the Nightsafe Initiatives every Friday and Saturday nights for a year.
- Additional operation on New Years Eve – **Monday 31st December**

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City of Westminster

The evening and night time in Westminster (6pm – 6am)
Night Time Commission Consultation Response

INTRODUCTION

The Night Time Commission defines 'night' as 'all activities between 6pm and 6am, across the whole of London...' and has the stated objective of seeking 'to understand the experiences of evening and night workers [as well as] our streets, open spaces and public transport at night.'

Westminster City Council welcomes the broad scope adopted by the Commission beyond 'pubs, clubs, venues and restaurants' and this response provides evidence from the full range of our local experience on Westminster between 6pm and 6am. However, despite the broad definition of 'night' we were surprised by the narrow focus of the questions asked in the consultation with their very specific concentration on the 'night time economy'. Therefore, our consultation response is provided in two parts:

- **Part 1** sets out the five principles which we believe are essential to making Westminster operate successfully for half its daily cycle between the hours of 6pm to 6am. While this includes the evening and night time economy, it also goes much further by taking into account residents, workers and visitors who are not participating in the economy but doing other things, such as delivering public services or using public space.
- **Part 2** answers the specific questions asked in the consultation.

For any queries or follow-up information on the council's position, please contact Catherine Ford, Principal Policy Officer, cford@westminster.gov.uk.

PART 1

Westminster is a global city made up of strong neighbourhoods and a thriving community. For half the day – 6pm to 6am – what happens during the evening and night defines the experiences of everybody who uses the city. The evening and night time (ENT) is therefore not just for the estimated 43,925 people employed in the evening and night time economy¹ and the estimated 26 million people who visit Westminster annually. The ENT is also for Westminster's 227,000 residents² and the estimated 164,836³ who work in the city between 6pm and 6am in activities not related to the economy – such as nurses, tube drivers and cleaners – as well as the sizeable proportion of the 26 million visitors who do not spend money but may visit for other purposes, such as enjoying Westminster's public spaces.

We strongly believe that a broad view should be taken of the ENT to make sure that it is accessible and inclusive for all. The ENT should be as much for somebody walking their dog at 6pm, visiting friends for dinner at 8pm, working as a nurse at 2am, or taking part in the charity Moonlight Walk at 3am, as it is for somebody going to the theatre, eating out at restaurant, drinking in a bar or going to a music venue.

The evening and night time economy is a major component of the wider evening and night time. The evening and night time economy in Westminster is concentrated in the West End (i.e. Soho, Leicester Square, Piccadilly, Covent Garden), as well as Bayswater and Edgware Road and is larger than Edinburgh, Manchester, and Birmingham's evening and night economy combined.

To take full account of all the activities that happen between 6pm and 6am we would encourage the Night Time Commission to both broaden and shift its focus. To do this, we would recommend that the commission:

- **Broadens its scope to include the full breadth of the evening and night time offer by recognising that the current focus on 'night time economy' is restrictive** and not reflective of the diversity of activity - from public safety, to inclusivity, transport, public realm, diversification and resident amenity.
- Recognises the ENT offer needs to be **more inclusive and diverse across venues, transport and public realm** so that it is accessible to people of all backgrounds and inviting to those who do not want to participate in alcohol led activities. It must also operate for those who work in the ENT.

¹ Source: Labour Force Survey. Including jobs in licensed restaurants, unlicensed premises, takeaways, licenced clubs, pubs and bars, cinemas and theatres, gambling, arts facilities, sports and fitness facilities

² Based on ONS 2013 mid-year estimates

³ Source: Labour Force Survey.

- **Recognises the evening and the night as requiring different operational and policy approaches.** The evening and night time have flexible time frames depending on the area and day of the week, however, the evening can broadly be defined through its offer of a variety of activity and entertainment for a diverse range of people, families and interests. The relaxed evening environment impacts less on public resources and on the surrounding residents. The night however requires an increased level of public protection and service resources to manage, can impact negatively on resident's comfort and there is an inherent need to provide a wider offer of amenities.
- Acknowledges that the evening and night time differs from place to place and across boroughs, and **each local authority must be supported to develop localised assessments and solutions to adequately balance the needs of businesses, residents and visitors.**

We are firmly committed to protecting, managing and enhancing the evening and night time in a way that maximises benefits for residents, businesses and visitors, keeps negative impacts to a minimum, and embraces growth – all whilst improving management, increasing inclusivity, and supporting responsible economic growth. Below **we outline our five principles which we would encourage the commission to consider adopting as a wider terms of reference for its work.** Further evidence and detail for the development of these principles is currently being scoped, and when finalised will be embedded into our City Plan.

Five principles for an inclusive and diverse evening and night time

1) Tailoring an inclusive evening and night time

We recognise the need for policy and operational distinction between the evening (approximately 18:00 – 23:59) and the night (approximately 00:00 – 06:00), and that our ENT does not exist in isolation from the day time.

Many of those taking advantage of the evening offer are employed here, or have visited here during the day, and the opportunities and choice for evening socialising is key to central London's success as a business and entertainment location. These evening activities should be celebrated and supported. This environment does however migrate into predominantly alcohol-led nightlife post 12am, which reduces lifestyle choice for workers and visitors, increases pressure on emergency and local authority resources, and impacts resident comfort. We want to promote a more inclusive atmosphere by encouraging a broader range of late nightlife, for instance encouraging later opening hours into the evening for museums, galleries and cultural institutions, which will help to mitigate against the negative effects of the late night economy on residents and workers.

We also want to make sure that the ENT works for people who are not participating in the evening and night time economy eg those working night shifts.

2) Creating a balanced evening and night time through local assessments and London-wide innovation

Across London there are multiple town centres with distinct ENT offers, with significant differences between and within boroughs in terms of size, intensity, nature and impacts. As a local authority, it is our responsibility to identify and balance the different area based needs, including protecting residential amenity, ensuring our evening and night time is inclusive and accessible to all including activities which are suitable for families and communities, whilst also providing the right environment for responsible businesses to thrive and grow.

We have a number of tools available to promote this balance, such as ensuring a suitable policy framework within licensing and planning, building partnership approaches to improve business compliance/best practice, and ultimately, use of enforcement against unacceptable behaviour and irresponsible business practice. Parallel to our local role we also have a responsibility to support the shaping of London as a global city and be open to creativity and innovation from new markets.

3) Developing integrated street-based services

Our day and night offers are supported by street based services and policing that maintain and protect the needs of the area (e.g. waste and street cleansing, public protection, crime), however there is a need to develop a tailored model of street-based public service provision that works in partnership with the Business Improvement Districts, landowners, businesses, the Security Industry Authority (SIA), and the voluntary and community sector to manage the growing ENT. This means moving beyond the current model, which is often based on adapting or extending day-time patterns of service. This should be a flexible approach that is coordinated locally, evidence-led, developed in conjunction with all the partners involved, and properly resourced through a sustainable financial mechanism.

4) Managing the evening and night time through collaborative leadership

Delivering the services required to support the evening and night time requires close working across the public, private and voluntary sectors. Working together, we are able to identify the needs of individual areas, and design solutions that promote a rich diversified cultural and entertainment offer, without the need for increasing regulation. Our responsibility is to help define these objectives, building and maintaining these alliances, and supporting the industry to self-regulate where appropriate.

5) Promoting growth and diversity within a flexible and changing economy

Our ENT is dynamic and fluctuates with market trends and consumer demand. Local Authority powers are however limited in encouraging (or discouraging) certain activity in the private sector and cannot preserve activities the market no longer supports. The powers and tools available to us must therefore be used in an evidence-led and realistic way that proactively influences the market, which may encourage some premises to diversify their offer. Any policy must work in tandem with the market rather than in place of it.

PART 2

Westminster City Council's Response to the questions asked in the Night Time Commission Consultation

Westminster City Council was surprised by the narrow focus on the 'night time economy' in the consultation. We would encourage the Commission to see the council's response to the specific questions within the context of our wider focus on supporting a diverse and inclusive evening and night time.

Q1. What are the strengths of London's night time economy?

- **Internationally recognised:** Our ENT is a highly visible with a number of internationally recognised venues and premises. Linking this with our day time offer brings in approximately 5 million visitors each week.
- **Economic growth:** Across Westminster, the ENT employs approximately 220,000 people and generates approximately £24.5 billion in revenue each year. This accounts for approximately 18% of our total annual economy.⁴ A report conducted by London First indicates that across London the ENT generates c.£40 billion in annual revenue which could increase by £1.6 billion annually by 2026.⁵
- **Synergy with the daytime offer:** Those that work or visit our city during the day can easily move to different venues and activities in the evening and into the night.
- **Proximity and choice of venues:** Our ENT offers an abundance of choice and experience for all ages and interests within close proximity including (but not limited to): restaurants, pubs, clubs, theatres, cinemas, bars, exhibitions, ad hoc pop up experiences and markets, gyms, night time tours, accommodation and retail offers.
- **Transport:** London has some of the best connected and affordable night time transport links for getting between venues and home, including taxis, minicabs, bicycle, and night buses. The Night tube has also significantly improved transport connectivity.

Q2. What are the weaknesses of London's night time economy?

- **Concentrated areas of late night anti-social behaviour, crime and waste:** Whilst the abundance of ENT premises in localised areas has a positive impact for the economy and consumer convenience, issues such as crime, ASB, excessive noise and waste from high footfall areas late into the night become concentrated. This impacts surrounding residents and places considerable pressure on emergency and public service resources. For example in 2016/17, 26% of all crime and disorder incidents in Westminster were reported between 00:00-06:00.⁶

⁴ TBR (2015) Westminster ENTE: A cost Benefit Study, page 25

⁵ London First in association with EY (2016) London's 24 Hour Economy: The economic value of London's 24-hour economy.

⁶ Data from: MET Police, the British Transport Police, London Fire Brigade and London Ambulance Service

- **Lack of late night diversification:** Whilst our evening offer has a significant choice of venues that cater for all, this choice becomes increasingly narrowed to predominantly alcohol-led later into the night. This restricts the inclusivity of all ages and interests, and there is a need to provide a more diverse offer of late night activity such as late night coffee bars, restaurants, retail offers, arts, creativity and sports, for a wider range of consumers. However, we are encouraged by recent examples of diversification such as multi-use function venues and/or experiential offers such as immersive social experiences.
- **Protection for vulnerable people:** There can sometimes be a lack of basic social care provided by ENT premises for vulnerable persons including intoxicated people, night workers, people with physical or mental health disabilities etc. We are aware that some venues will remove vulnerable persons from in or around their premises without concern for their health or safety and rely on members of the public to assist people home or to contact emergency and local authority services.

Q3. What are the threats to London's night time economy?

- **Fluidity of market trends:** The ENT is market led, and any policy influencing the ENT must have flexible parameters to support growth and change within this consumer environment. For example, national data has suggested that alcohol consumption amongst young people is declining.⁷ Whilst we are unclear whether this national trend is representative within a Westminster or London context, this may suggest that consumer tastes are tending towards undefined alternatives and reinforces the need for a more diverse late night offer. Similarly, the increasing closure of night clubs and other venues are in part thought to be attributable to the increased ease and use of electronic dating means, reducing the need for places to organically meet new people.
- **Creating a suitable residential environment:** London is a residential city as well as a prime evening and night-time destination, and there are several areas where residential areas and clusters of evening and night-time zones overlap. There can be friction between business and residents and local authorities run the risk of being labelled as pro-business or vice-versa. Any approach to the management of the ENT needs to delineate between how we will respond to the legitimate concerns of residents while not alienating businesses with the threat of unnecessary levels of regulation.
- **Rising rent costs, business rates and redevelopment impacting on historic culture:** The loss of certain venues resulting from economic and local changes has to be reviewed within the context of how this might affect certain groups. For example, over the past decade London has lost 58% of LGBT+ spaces according to a report by the UCL Urban Laboratory. This loss may demonstrate the increasing success of LGBT+ needs integrating into mainstream venues, as well as an increase in the use of electronic dating means (as noted above), however we are working closely with the LGBT+ community and partners to do all we can to support venues that are valued to the community.

⁷ ONS (2017) Adult drinking habits in Great Britain: 2005 -2016, Page 3

- **Inequality:** With reference to the above point, the closure of certain premises such as LGBT+ venues impact on the equality of the offer and reduces diversification. Similarly access to affordable space for small businesses becomes increasingly out of reach. There is also a risk that without increased diversification away from alcohol-led activities after midnight, the available offer for night workers and the diverse range of visitors seeking alternative venues is restricted.

Q4. What are the opportunities for London's night time economy?

- **Improving the public realm:** Whilst the ENT has traditionally been thought about as what happens inside premises, people's experience of the ENT is also affected by their perception and experience of the infrastructure and streetscape on their way to and from venues. The public realm should be reviewed from an ENT perspective as this can impact personal safety, way finding (which may be impaired if intoxicated), as well as opportunities for late night crime and ASB.
- **Improving partnership working with the industry:** There are opportunities to build new partnerships with the industry from a public protection angle and to explore potential areas of development, particularly on the issue of night time safety. These partnerships will deliver better social value outcomes for businesses, residents and visitors alike by improving overall management of venues and ensuring local environments are well managed and safe, including providing protection to those made vulnerable through intoxication. We already have demonstrated this with our Licensing Charter and initiatives set within that framework, including the Best Bar None scheme, and proposal for our Nightsafe hub. Venues are included in the governance structure and management of the ENT, and benefit from the value of shared best practice and approach. Any such partnerships however need to be properly resourced through a sustainable financial mechanism.

Q5. What innovations, or ideas from other cities, would make London better at night?

- **Recognising the differences between the evening and night time:** During the evening activities like dining, cinema, light-drinking, socialising, and West End Theatre are predominant. Fewer residents are trying to sleep and the provision of street based services are not as significant as the night time. The night time offer tends to be more centred on alcohol consumption, where individual behaviour can become more disruptive and amenity issues for residents and other people using the area become increasingly significant. The evening and night time (timings to be defined locally) therefore need tailored policy and operational approaches.
- **Merit based licensing:** A key short-term tool used by local authorities is licensing policy, which can be proactive in delivering desired social and economic outcomes in the ENT. We have a well-designed licensing policy developed in consultation with stakeholders, that delivers the preferred social outcomes in particular areas i.e. each licensing application is individually considered on the basis of the impacts in the area it intends to open.

- **Local area-based policies:** Policy which is area focused and designed to optimise the balance of venues can enable local authorities to ensure that spatial and economic development is balanced.
- **Inviting private-sector championship and self-regulation:** There is a key role for private-sector championship and self-regulation, and the local authority has an important role to play in encouraging this approach. For example, if we want to steer the industry to self-regulate more by tackling excessive drinking and alcohol related violence, it would be more impactful if we had a champion in the industry, who can articulate the council position to the industry in a way which is meaningful to businesses but which can also deliver added value outcomes for the local area and its residents. We are developing these approaches, and have already demonstrated this in the Leicester Square and Piccadilly Circus areas through our Licencing Charter and Best Bar None scheme to encourage better management of venues (i.e. responsible sales of alcohol and discourage the conditions which allow for disruptive behaviour).

Q6. In July, the Mayor published his Vision for London as a 24-Hour City which contains ten principles for the development of London at night. What do you like or not like about the vision? Are the ten principles right? What would you add or exclude, and why?

- We would like to invite the NTC to review our recommendations and five principles set out in the beginning of this document.
- The Mayor's vision should acknowledge that the management of the ENT is subject to the changes and demands of market and consumer trends, and any policy must be malleable enough to adequately support this.
- The commitments should also account for what can realistically be achieved. For example, as a local authority our main short-term tools are campaigning for change and the use of licensing policy to discourage undesirable behaviours and embed new behavioural standards. Longer-term outcomes can be achieved through planning policy, which would embrace developments that support diversification in the market, and public realm design which would encourage responsible behaviour, cohesion, and natural guardianship.



City of Westminster

Licensing Committee Report

Date:	Wednesday 21 st March 2018
Classification:	For General Release
Title:	Gambling Policy Review Approach for 2018/19
Report of:	Director of Public Protection and Licensing
Wards Affected:	All
Financial Summary:	N/A.
Report Author and Contact Details:	Mr Kerry Simpkin, Licensing Service Team Manager. Tel: 020 7641 1840

1 Executive Summary

- 1.1 The report outlines the current research and thinking around vulnerability and the risk of harm from gambling associated with these groups in certain areas across the City.
- 1.2 It also outlines research on the impact of high concentrations of gaming venues in certain areas and high densities of Fixed Odds Betting terminals (FOBTs)
- 1.3 The report also explains the plans to develop a new policy approach for gambling which will be more localised, include the key requirements that the Authority have established during the administration and enforcement of this regime and the time frame for determination and consultation on that new policy.

2. Recommendations

2. The Committee note the contents of this report and provides views on the proposed policy development approach and timeframe for consultation and determination.

3. Background

- 3.1 The Council is responsible for licensing local gambling within its area. The main gambling activities are provided within gambling premises which must be licensed by the Licensing Authority. The licensing of gambling premises is regulated within the Gambling Act 2005 (the Act). The Act has three licensing objectives:
1. to prevent gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime
 2. to ensure gambling is conducted in a fair and open way
 3. to protect children and other vulnerable persons from being harmed or exploited by gambling
- 3.2 Westminster is the leading local authority on gambling licensing within the United Kingdom. It has the highest concentration of gambling premises within the United Kingdom (122 licensed premises), the largest number of casinos within a local area (22 out of a total of 167 across England and Wales) and we are the first local authority in the country to refuse two betting shop applications and review another for local area based risk. The Council's Licensing Service has been proactive in working in with the Gambling Commission which is the National Regulator, alongside gambling operators and gambling care providers. Westminster's approach to licensing of premises used for gambling is considered to be the most robust in the United Kingdom.
- 3.3 The Licensing Service, as part of its wider work on assessing applications for gambling premises, sought to identify those vulnerable groups with an increased risk of experiencing harm as a result of gambling. It also sought to identify their locations within Westminster. In 2015, the council collaborated with Manchester City Council to commission Geofutures: Gambling and Places Research Hub to undertake this research to explore area-based vulnerability to gambling-related harm.
- 3.4 The output from this research was the publication of two reports. The first report set out the evidence base in terms of those groups at risk of gambling related harm and was titled 'Exploring area-based vulnerability to gambling-related harm: Who is vulnerable? Findings from a quick scoping review'. This report was published in July 2015. This report also defined gambling related harm and supporting evidence. . Gambling related harm can be defined as:
- "Harm or distress of any kind caused or exacerbated by a person's gambling, and includes personal, social or economic harm suffered by the person, their spouse, partner, family and wider community, or in their workplace or society at large."*
- 3.5 The second report used the groups identified within the first report and mapped them across Westminster and Manchester, based on a newly developed risk matrix. This report was titled 'Exploring area-based vulnerability to gambling-related harm: Developing the gambling related harm risk index'. This report was published in February 2016. The Risk Matrix for Westminster is attached as Appendix one.

- 3.6 The report established that there were five key hotspot areas within the City where a higher proportion of people were located who may be at risk of gambling related harm. These areas are:
1. North West (Harrow Road)
 2. Paddington and Edgware Road (North)
 3. West End (North)
 4. West End (South)
 5. Victoria and Pimlico
- 3.7 Each area has distinct vulnerability traits that require various approaches based on where gambling premises are located within the City. Even though the risk matrix has identified these hotspots within the City this does not mean that there are no risks of gambling related harm outside of these hotspot areas. The matrix indicates that within those hotspots there are high concentrations of risk factors, which heighten the risk of harm.

4. Gambling Local Risk Assessments

- 4.1 In April 2016 a new Operating Licensing Condition of the Gambling Commissions Licence Conditions and Codes of Practice (LCCP) came into effect. This condition required all premises based gambling operators to undertake a local gambling risk assessment of their premises and the potential impact that the premises and its operation may have on the licensing objectives. The condition made it a requirement for the gambling operator to consider local area information provided by the Licensing Authority via their Statement of Licensing Principles for Gambling (Licensing Policy).

5. Gambling Policy Review

- 5.1 The Council's Gambling Licensing Policy has to be reviewed every three years. This was undertaken in 2015. The Cabinet Member made a decision that the Council would undertake a minor amendment to the policy at that time. However, once the research had been completed and consideration on the Councils policy approach was undertaken a further review would be undertaken. Since the review in 2015, the Licensing Service has been considering the Council's approach to gambling. There has also been significant change by the government during this period on the perceived risk from FOBTs (Fixed Odd Betting Terminals) in betting shops.
- 5.2 The Licensing Service believes that a fundamental review of the Councils gambling policy is necessary. The original policy was developed from a template produced at the time by LACORS. The current policy is very generic and is still within the format established in 2006 when the Act came in.
- 5.3 The Licensing Service has commenced drafting a new gambling policy that has developed around the risk-based approach introduced by the Gambling Commission. The new policy will consist of a number of parts that are based on three specific

themes. These themes are geographical and local information (local area profiles), policies relating to gambling premises and permit and other authorisation approach.

Local Area Profiles

- 5.4 The Local Area Profiles (LAP) will be a new concept within the policy document and will contain local information relating to Westminster. It will include the research findings and the risk matrix as well as key information on crime, care provisions, school and special education facilities and sensitive premises (homeless hostels, alcohol and drug addiction centres, gambler anonymous meeting locations, etc). The aim of the LAP is to set out the information that gambling operators need to consider for new applications or when updating their risk assessments for existing premises.

Special Consideration Zones

- 5.5 The LAP will establish five zones, which have provisionally been named Special Consideration Zones. The zones are the locations of the hot spots identified within the Geofutures risk matrix. These zones will have special policy significance as if a new or variation application is made for premises in that area, then they will have to meet a higher threshold than other applications outside of these zones. Applicants will be expected to specifically set out how they will address the key risk factors for these areas within their risk assessments. The Licensing Authority will assess these and determine whether it feels that the steps suitably mitigate the risks of harm in these areas. If applicants do not sufficiently address the concerns then the Licensing Authority may refuse the application on that basis.

Special Policy

- 5.6 The Licensing Service is considering whether the Council establishes the concept of special policies for areas where there is a high level of risk to one or more of the licensing objectives and/or history of local issues at the existing licensed premises. A potential area that the Licensing Service is considering as having a special policy provision is the area around the Harrow Road and Prince of Wales Junction. Due to the level of risk within that area and the previous refusal of a new betting shop and review of William Hills licence there may be sufficient evidence to support a restriction on any new gambling premises in the future due to the impact on the licensing objectives. This area also has a cluster of betting shops that would also increase the risk in that area.

Clustering Policy

- 5.7 In September 2016 Geofutures published a further piece of research that was funded by the Responsible Gambling Trust (now Gambleaware) which is funded by the gambling industry. This report titled 'Examining the effect of proximity and concentration of B2 machines to gambling play'. This research used betting operator loyalty card data to examine the relationship between concentrations of category B2 gaming machines (Fixed Odds Betting Terminals FOBT's) in betting shops and gambling behaviour.

- 5.8 The research found that there were higher gambling prevalence rates in those who had a risk of becoming or were considered to be problem gamblers when there are 3 or more betting shops in a local area. The research identified that for a cluster to exist the betting premises had to be within 400m of each other. There was evidence to show that problem gamblers and those who scored a moderate risk of gambling harm were higher in these areas. The research identified that higher density concentrations of B2 gaming machines in betting shops are associated with stronger patterns of gambling.
- 5.9 The Licensing Service has identified 11 clusters of gambling premises (3 or more within 400m of each other) within Westminster (see Appendix two). These are:
1. Victoria
 2. Pimlico
 3. Mayfair (West)
 4. Mayfair (East)
 5. Soho and China Town
 6. Baker Street (North)
 7. Edgware Road (South)
 8. Edgware Road (North)
 9. Queensway (North) and Church Street
 10. Queensway (South)
 11. Harrow Road
- 5.10 Officers intend to introduce a clustering policy that requires operators to have heightened measures in place to identify and support those who may be at risk or who are problem gamblers. Measures may include more support information on site, additional staffing levels to detect those who show signs of gambling related harm and a heightened level of staff training in identification of problem gambling signs and signposting to local support services.
- 5.11 The feedback that has been received since the operation of the current design of the policy is that it is generic in nature and although the key policy's may apply to all or some categories of gambling premises the criteria is not clearly set out to distinguish what the Council want from each of those categories. Each category of gambling premises has very different statutory entitlements and restrictions. The approach that the Licensing Authority will take in considering applications associated with these categories may also be different due to their operations.
- 5.12 The Licensing Service proposes to produce the new policy in parts. There will be specific parts for each of the six categories of gambling premises (Casinos, betting shops, betting tracks, Bingo, Adult Gaming Centres and Family Entertainment

Centres). Each part will contain the policies, expectations, and criteria that the authority will consider when determining an application under the Act. The policy requirements and justification will be specific to that licence category. This provides the opportunity to ensure that gambling operators are specifically looking at the relevant policies and the requirements that the Council has set out relating to that gambling operation. It will also enable the Council to specifically review and consult on amendments to those parts at any point within the three-year statutory cycle. This will allow for a simpler consultation process in the event certain aspects of the policy need to be changed.

- 5.13 The proposed new policy for gambling will be significantly different from any other local authority policy in the Country in order to address the unique circumstances and challenges in Westminster. It will also be the first to use local information to create areas where the test for consideration of applications will be set at a higher level based on local risks. The intention is to include the knowledge and approach that the Council has taken over the 10 years. The aim for the policy is to clearly set out the Council's approach and enable it to be a document that applicants and existing operators must properly consider before applying for or amending an existing licence.

6. Risk and Mitigation

- 6.1 Westminster's lead in this area and this new approach to gambling policy may pose a risk of challenge from certain areas of the gambling trade. The draft policy will go through thorough internal scrutiny, which will include legal experts. Once the Cabinet Member approves the draft policy there will be a public consultation period whereby residents, businesses, responsible authorities and licensees will be able to review and make submissions about the proposals. The consultation period will be over 12 weeks to enable full consideration of the new policy. The Licensing Service will also undertake a number of workshops to set out the rationale for our policies and record attendee's views as part of the wider consultation.
- 6.2 The government is current considering the responses to its consultation on Gaming Machine stakes and prizes and social responsibility measures. DCMS, the department responsible for gambling received approximately 7000 responses of which 40 were from local authorities including Westminster. One of the major elements of this consultation was the possible reduction in the stakes for B2 gaming machines. These are more commonly known as FOBT's and are located in Betting shops. The government were considering reducing the current maximum stake of £100 to either £50, £10 or £2, which was the Councils preferred option. The government is currently considering the responses and no date has been set when it will announce its plans for changing the stakes and prizes and social responsibility measures.
- 6.3 The potential outcome from the consultation is likely to have a significant impact on the betting sector. It will also open up a number of further potential risks where betting operators seek alternative options to ensure that they mitigate any loss in revenue. This may represent a reduction in betting shops where operators consolidate their portfolios or they will seek alternative options for existing shops that will mitigate the reduction in revenue from these machines. The later approach is

more likely within Westminster. We are already aware that Ladbrokes/Coral are seeking to convert some Betting shops to Adult Gaming Centre licences in some areas around the Country as a trial.

6.4 Adult Gaming Centres are adult only arcades and can provide up to 20% of the total number of gaming machines available as category B3 gaming machines. These machines have a maximum stake of £2 and maximum prize of £500. B3 gaming machines are another form of higher risk gaming and there is growing concern and evidence that these machines also represent a risk to those who are vulnerable of becoming or are problem gamblers. A key element of the new policy will be to attempt to future proof it to ensure we have robust policies and measures in place to mitigate the risk that diversification may have in the betting sector.

7. Timeframe for Drafting, Consultation and Decision-Making

7.1 The Licensing Service has a provisional timeframe for the drafting, consultation and determination process for the review of the Councils gambling policy. This timeframe is set out below.

Action	Key dates and time frames
Final drafting and legal considerations of gambling policy and consultation	12 th March to 29 th May 2018
Cabinet member report seeking formal approval to consult for 12 weeks	W/C 29 th May 2018
Public Consultation (12 weeks)	11 th June to 2 nd September 2018
Gambling Sector workshops	W/C 25 th June 2018
Licensing Committee Hearing report on policy consultation and workshop	4 th July 2018
Consultation responses consideration, finalisation of draft revised policy and legal clearance.	3 rd September to 14 th October 2018
Cabinet member report submitted for approval of policy and referral to full Council	W/C 17 th October 2018
Full Council for determination of new/revised policy	7 th November 2018
Formal press notice placed in local newspaper	W/C 3 rd December 2018
New/revised gambling policy commences	1 st February 2019

7.2 The timeframe specified above will enable the Council to meet the statutory requirements of reviewing this policy and having it in place by the 1st February 2019.

Appendices

Appendix One – Geofutures Gambling Risk Matrix Westminster
 Appendix Two – Gambling Cluster Areas

Background Papers

- Westminster City Council Statement of Principles 2016 - 2019
- Cabinet Member Briefing on Gambling policy development dated February 2017
- Geofutures report: 'Exploring area-based vulnerability to gambling-related harm: Who is vulnerable? Findings from a quick scoping review' – Published 2016
- Geofutures report: 'Exploring area-based vulnerability to gambling-related harm: Developing the gambling related harm risk index' – Published 2016
- Geofutures report: 'Examining the effect of proximity and concentration of B2 machines to gambling play' – Published 2016
















Gambling Risk Matrix

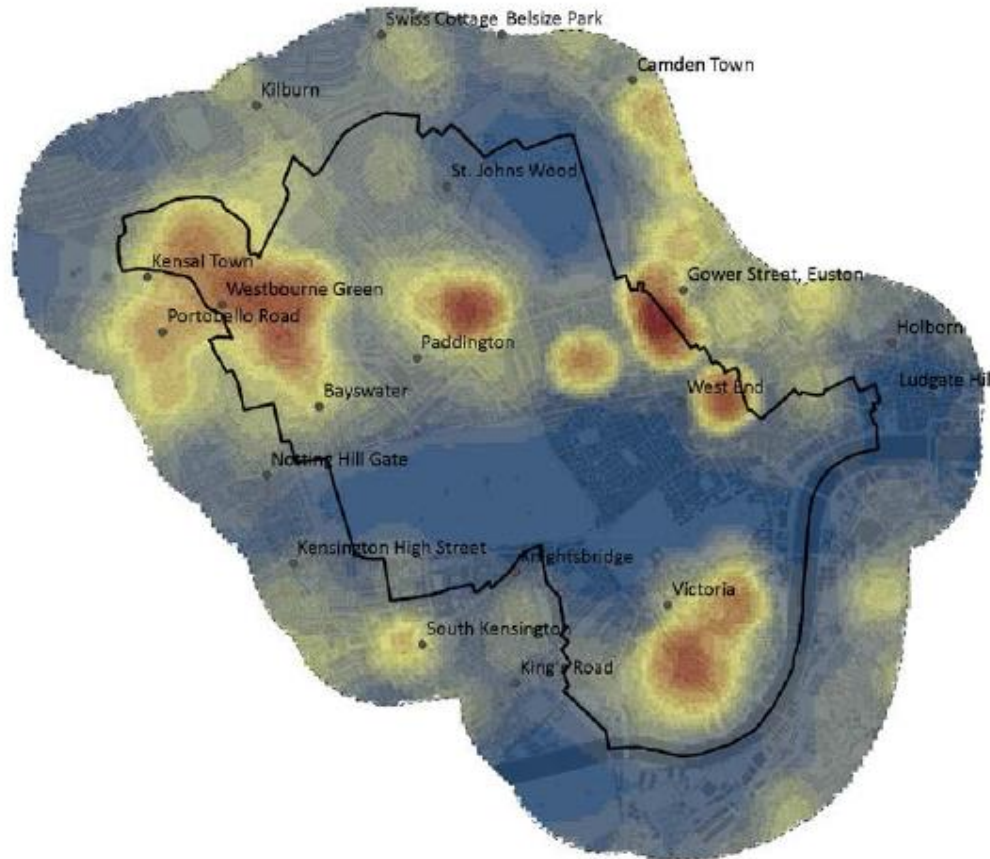
Appendix One

Risk index

-  Westminster City Council Boundary
-  Westminster City Council 1km Buffer

Composite index

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-  4.1 - 8
-  8.1 - 12
-  12.1 - 16.2
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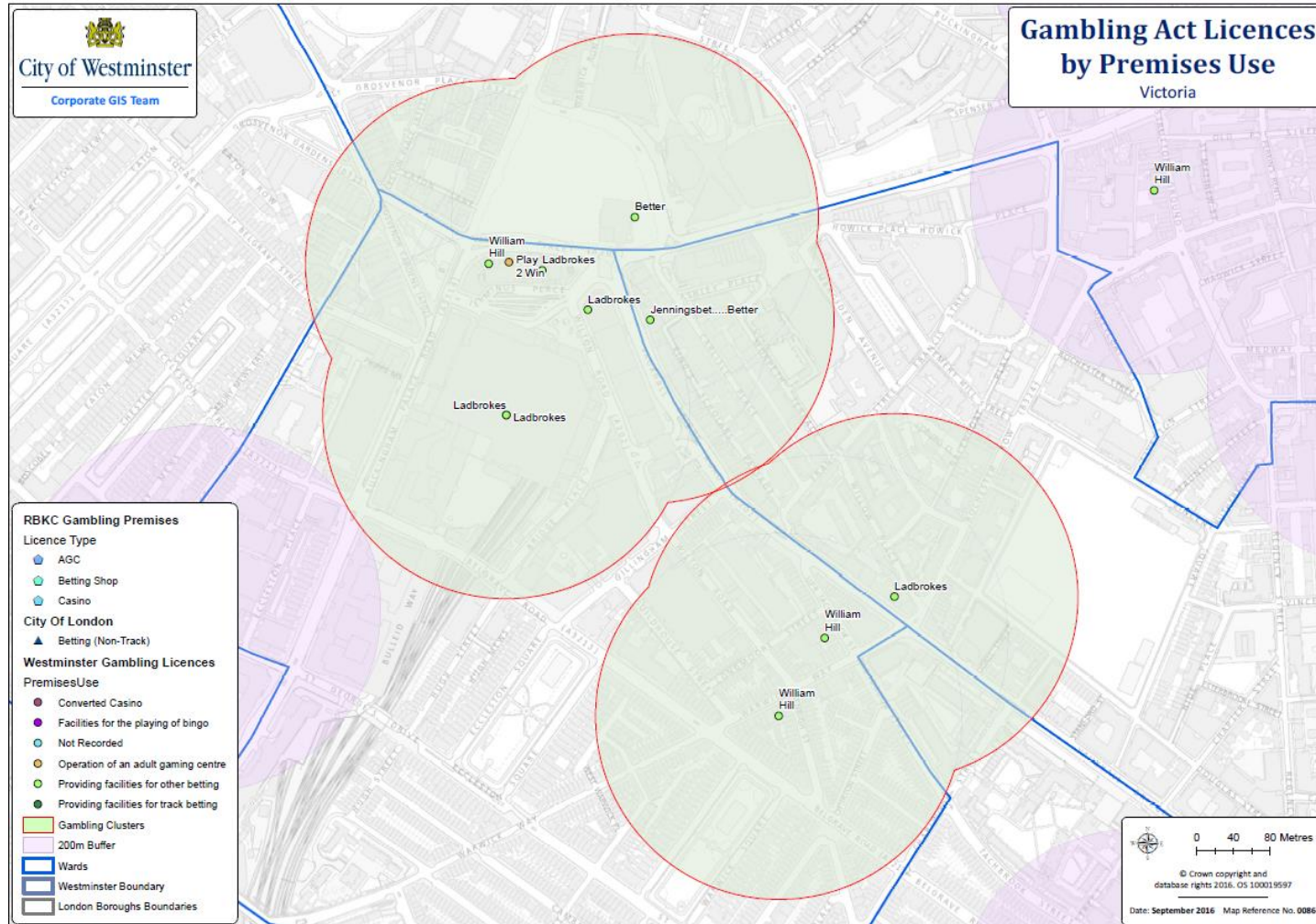


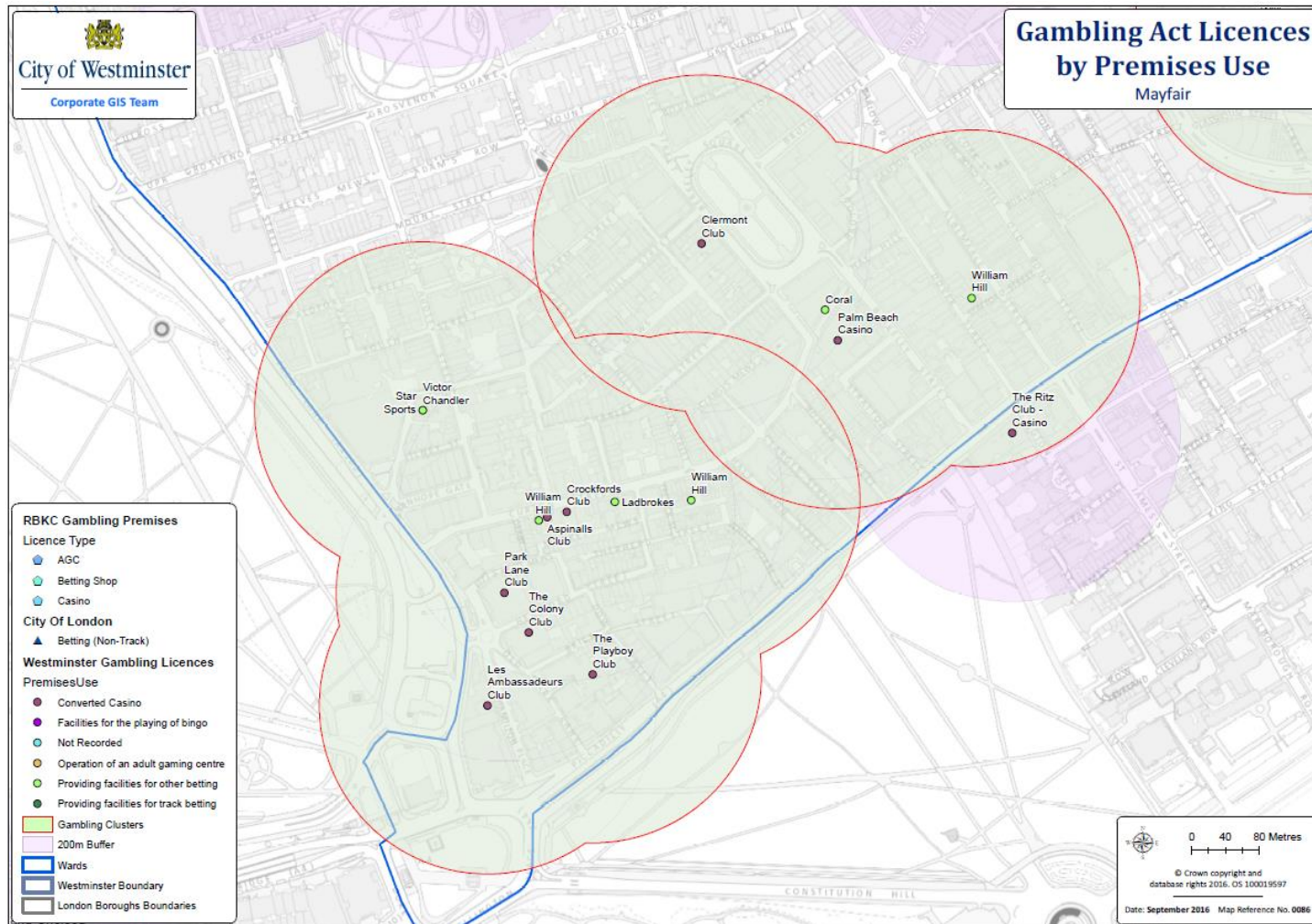
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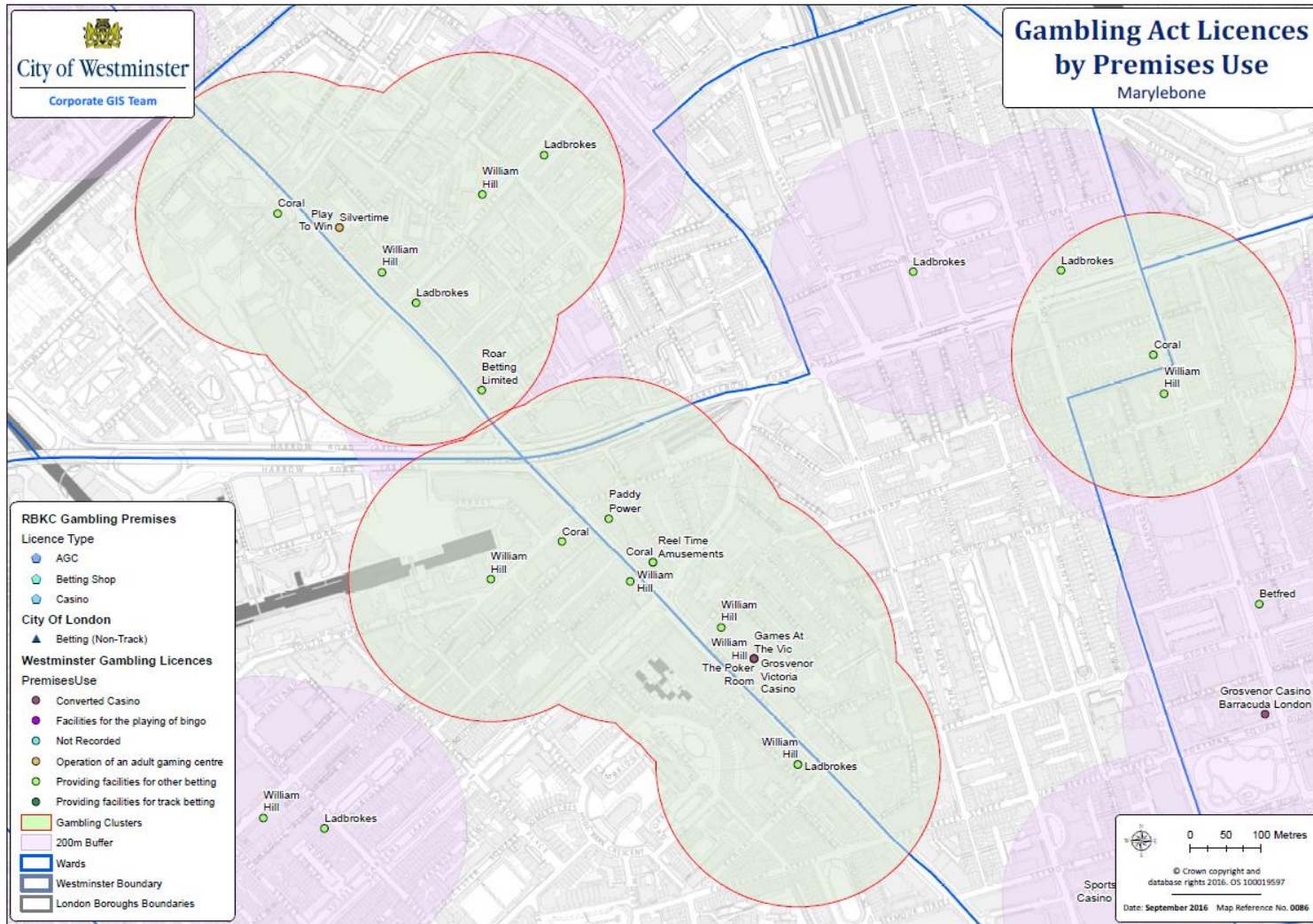
Gambling Premises Clusters

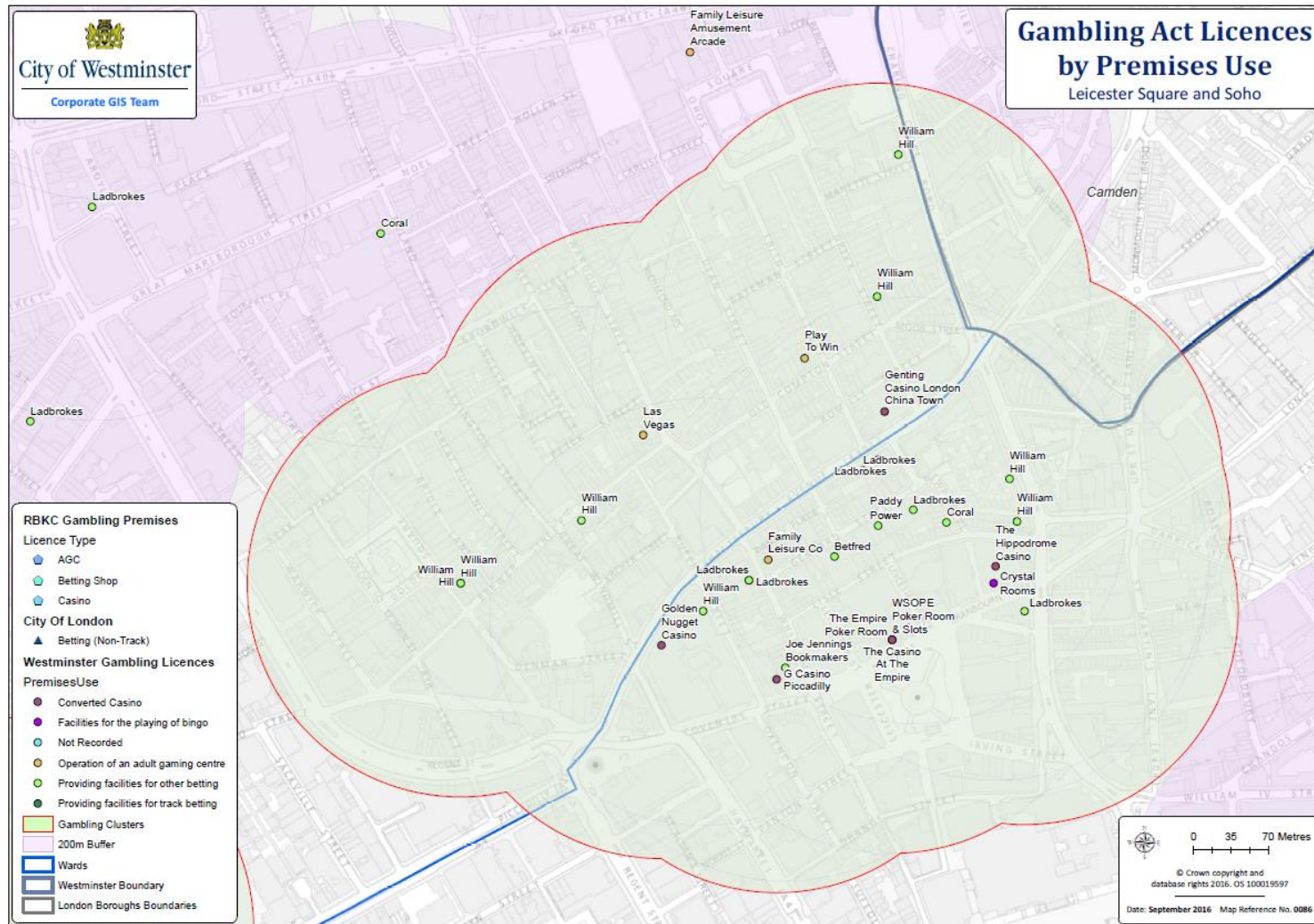
Appendix Two

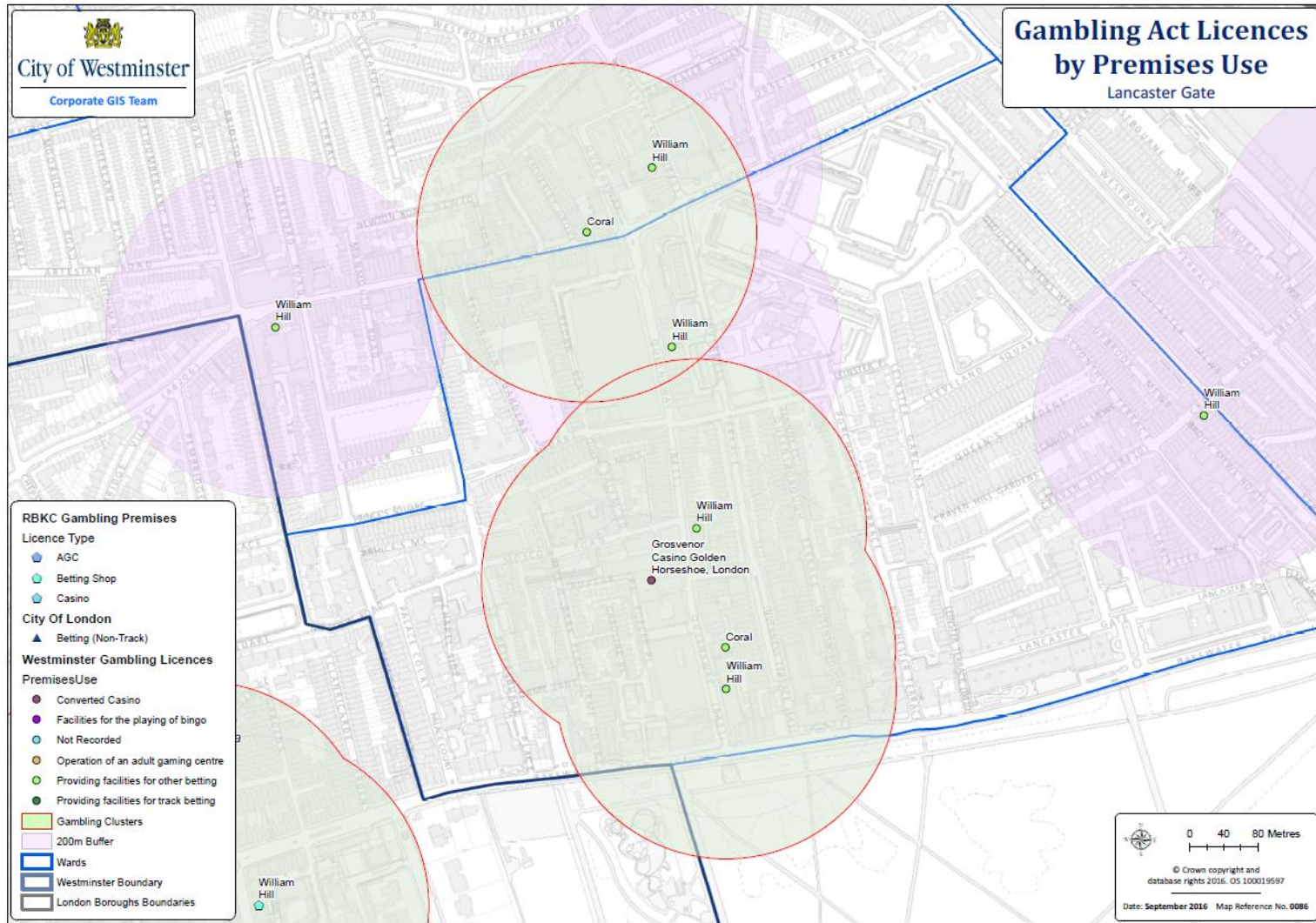
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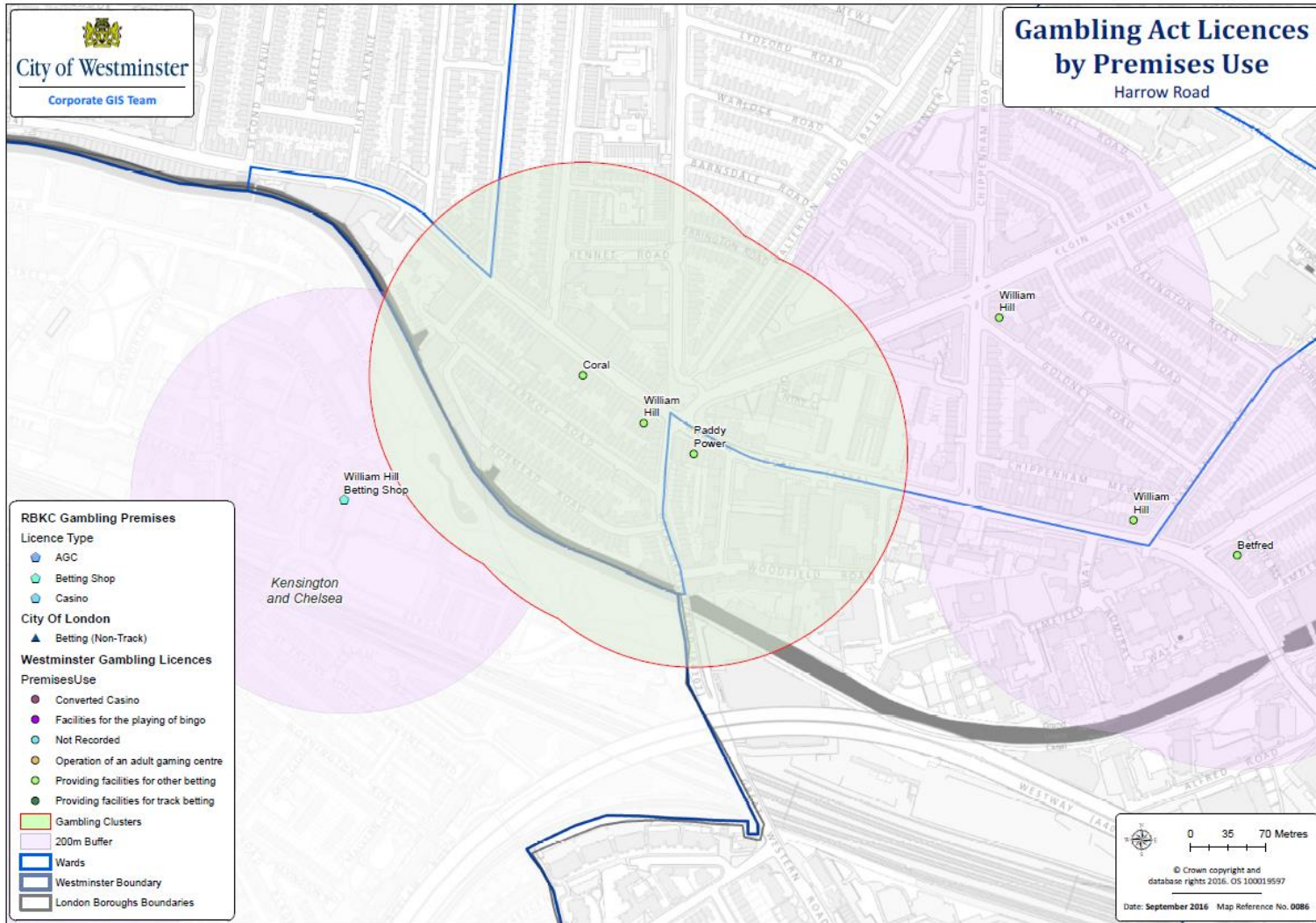












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City of Westminster

Licensing Committee Report

Date:	Wednesday 21 st March 2018
Classification:	For General Release
Title:	Notting Hill Carnival Approach and Temporary Event Notices
Report of:	Director of Public Protection and Licensing
Wards Affected:	All
Financial Summary:	N/A.
Report Author and Contact Details:	Mr David Sycamore, Licensing Team Manager. Tel: 020 7641 8556

1. Executive Summary

- 1.1 This report updates the Licensing Committee on the licensing approach to the Notting Hill Carnival for 2018.
- 1.2 Regular planning meetings for this year's Carnival have begun with all stakeholders across all services involved in delivery of a successful and safe event.
- 1.3 Officers from the Licensing Service and Events and Filming will be available to support our applicants to complete event management plans, applications and any extra information.
- 1.4 Consideration will be given to the appropriate use of Temporary Event Notices for sound systems, which have the potential to exceed the capacity limit of 499.
- 1.5 Street trading pitch locations, particularly at points between RBKC and WCC boundaries will also be considered to ensure improved pedestrian flow across the Carnival footprint.

2. Background

- 2.1 In 2017 Westminster licensed 3 temporary event notices and 3 premises licences for a total of 6 sound systems and 23 street trading licences were also granted. There was no change in these numbers from 2016. Appendix one shows plans covering the whole footprint of Carnival.
- 2.2 In 2017 all sound system operators were invited to meet with the Licensing Service and Environmental Health Consultation Team to offer advice and guidance on submitting applications and event management plans.
- 2.3 In 2017 every street trading applicant was met by an officer of the Licensing Service to ensure that all application requirements were fully understood. This included input and advice from the Environmental Health Consultation Team.
- 2.4 Event management plans were considered by Licensing Police, Environmental Health Consultation, and the council's Events and Film Team, as part of the application process.
- 2.5 During the Carnival, Environmental Health Consultation Officers and our City Inspectors were onsite to ensure compliance with conditions, agreed undertakings and event management plans.

3. Licensing Approach 2018

3.1 Feedback and actions

- 3.1.1 As a result of operational feedback from 2017, this year's Carnival approach will change slightly to reflect lessons learned. Westminster will continue to engage with all stakeholders and best practice guidance will be published by April 2018.
- 3.1.2 Where a sound system cannot ensure the capacity is no higher than 499 it may be appropriate for the Licensing Authority to indicate that a premises licence should be applied for. The Licensing Service and Events and Film Team will support any operator who requires assistance in completing event management plans and conditions to be attached to the licence.
- 3.1.3 Private forecourts that have in previous years sold alcohol and other refreshments including food have been identified. At times, these cause Carnival goers to queue in the public highway causing concern. Properties permitting this in the past will be written to this year to remind them of the requirements under the City of Westminster Act.
- 3.1.4 In previous years, the location of some sound systems has added to limited pedestrian access, which has been evidenced in the Crowd Dynamics Study published in 2017. Appendix two to this report illustrates 2016 plans of sound systems.

3.2 **Engagement**

- 3.2.1 As with previous years, Westminster will meet with all stakeholders prior to Carnival. This includes, but is not limited to, the organising committee, B.A.S.S (British Association of Sound Systems) the Metropolitan Police, Street Traders and relevant associations, Mayor's office and the Royal Borough of Kensington and Chelsea.
- 3.2.2 Starting in April, previous licensed street traders and sound system operators will be invited to meet with Westminster. Officers from Westminster will also be attending organiser meetings with sound systems and arenas.
- 3.2.3 Environmental Health Consultation Team Officers and City Inspectors will be attending Carnival to promote compliance and good practice.

3.3 **Temporary Event Notices**

- 3.3.1 Where Temporary Event Notice applications receive objections from Environmental Health Consultation Team or the Police, the applicants will be contacted as soon as possible directly by the objecting officer. Where possible undertakings will be suggested to the applicant and if these are agreed, the objection will be withdrawn.
- 3.3.2 If the objecting authority is not satisfied that licensing objectives will be upheld, the objection will remain in place and the committee must determine the notice.
- 3.3.3 The Licensing Service has responded to feedback from the Licensing Sub Committee in relation to Temporary Event Notices. Committee reports for Temporary Event Notices will now explain detail of the original application, any mediation held between applicants, and the reason why an objection has been maintained. We will also make clear to applicants that at Licensing Sub Committee, members can only consider the original notice and not undertakings offered. The process will be explained in detail to applicants when the notice of hearings is sent out.
- 3.3.4 Officers within the Licensing Service will receive additional training in relation to Temporary Event Notices to include the full appeals process.
- 3.3.5 Members should expect to see Temporary Event Notices at Licensing Sub-Committee in June, July and August in cases where agreement is not reached.
- 3.3.6 The Licensing Service will state clearly that all applicants for Temporary Event Notices should apply as soon as possible and submit these with an effective event management plan.

3.4 **Sound Systems**

- 3.4.1 It is not expected that there will be an increase in sounds systems within Westminster's Carnival footprint in 2018. Where sound systems cannot operate within a capacity of 499, they will be encouraged and supported to apply for premises licences.

3.4.2 Up to date event management plans will be requested in April 2018 to give operators time to produce suitable documents.

3.5 **Street Trading**

3.5.1 As with previous years a number of roads in Westminster have permitted street trading. 2017 saw generally good compliance and applicants presented all information to the Licensing Service in good time.

3.5.2 Westminster will again be accepting street trading applications and will actively promote all vacancies with letters to previous traders, W.C.C. website and at upcoming meetings.

4. Financial implications

4.1 None

5. Legal implications

5.1 None

6. Ward member consultation

6.1 None.

If you have any queries about this report or wish to inspect any of the background papers, please contact:

Mr David Sycamore
Licensing Team Manager
020 7641 8556

Background Papers from Notting Hill Carnival Crowd Movement Data Book:	
Appendix 1	Operational Boundary and Boroughs
Appendix 2	Location of Sound Systems

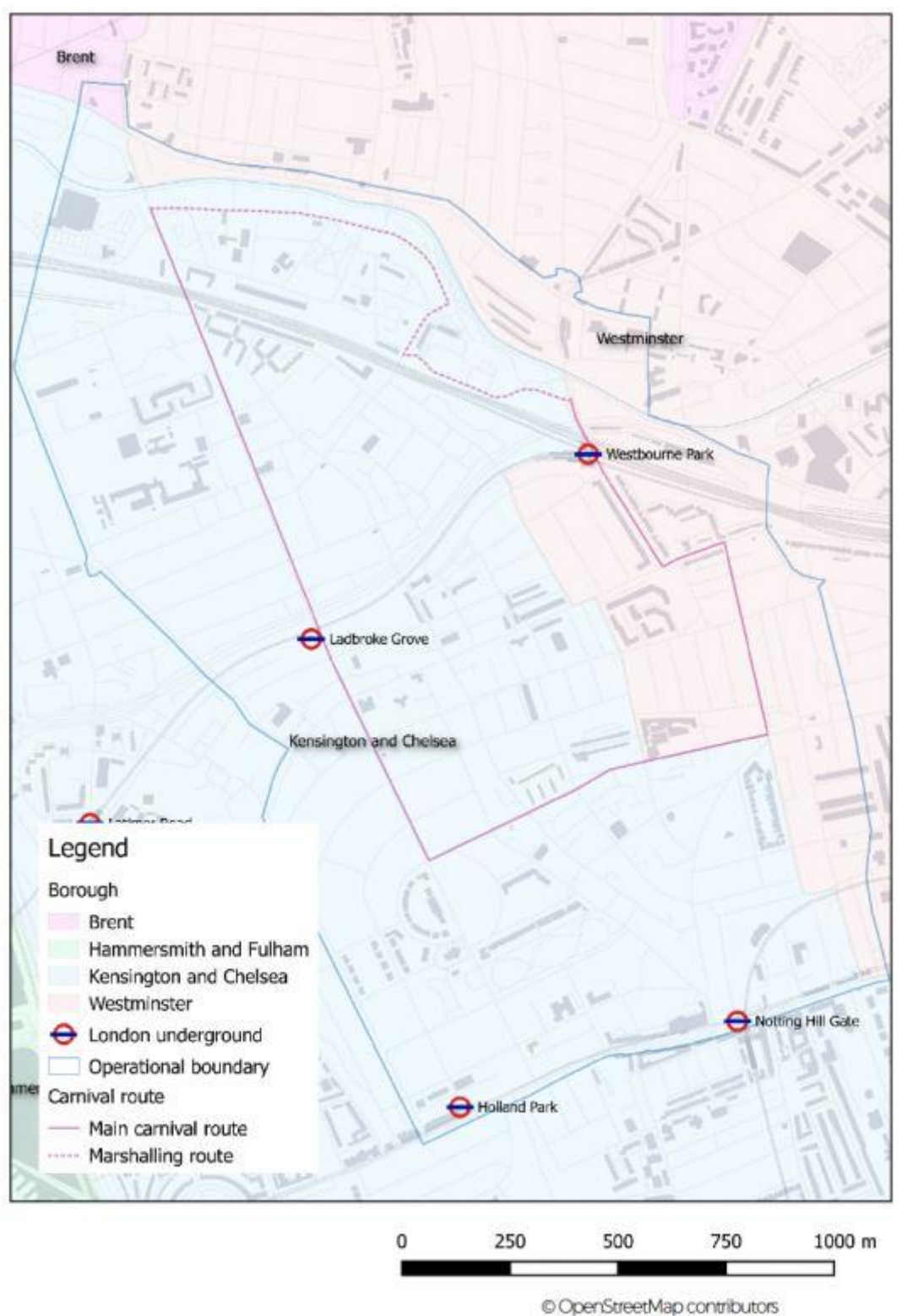


Figure 1: Operational boundary and boroughs.

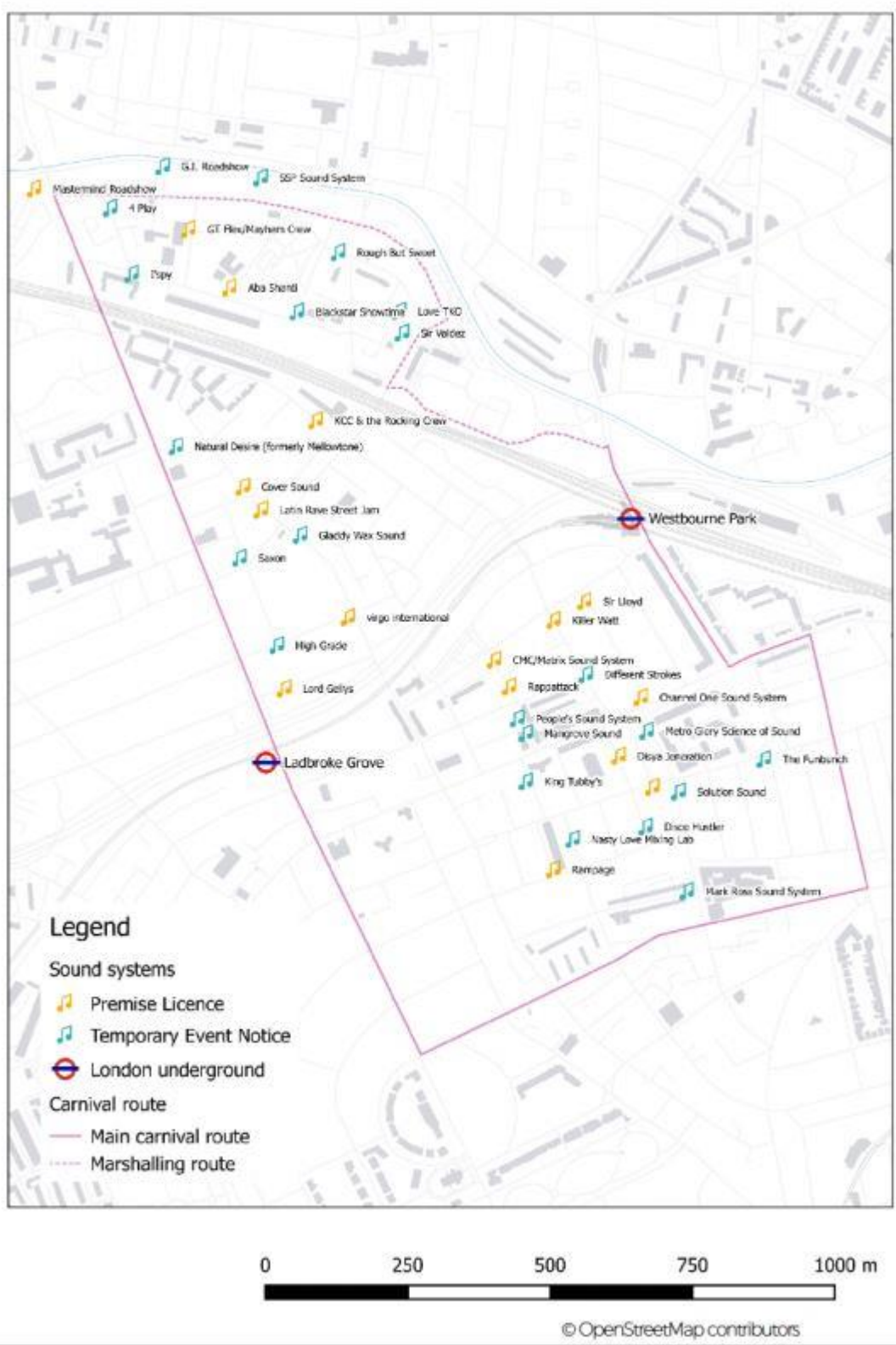


Figure 4: Location of sound systems.



City of Westminster

Licensing Committee Report

Date:	Wednesday 21 st March 2018
Classification:	For General Release
Title:	Licensing Appeals
Report of:	Director of Law
Wards Affected:	All
Policy Context:	A business like approach
Financial Summary:	N/A
Report Author and Contact Details:	Heidi Titcombe, Principal Solicitor for Shared Legal Services. Tel: 020 7361 2617 Email: heidi.titcombe@rbkc.gov.uk

1. Summary

1.1 This report provides a summary of recent appeal results.

2. Recommendation

2.1 That the report be noted.

3. Background

3.1 Over the last quarter we have been dealing with the appeals and Hemmings case as specified in section 4 and 5 of this report.

4. Licensing Act 2003 Appeals

4.1 Sophisticats, 3 – 7 Brewer Street, London, W1F 0RD – Appeal dismissed

4.1.1 This was an appeal by Devine Restaurants Ltd (“Appellant”) against two decisions of the Licensing Sub-Committee made on 1st December 2016 and 6th April 2017. Both appeals were conjoined and heard at Westminster Magistrates’ Court on 27th and 30th June 2017. Both appeals were dismissed because District Judge Baraitser concluded that both decisions of the Licensing Sub-Committee were not wrong. The Council sought recovery of its legal costs from the Appellant. A costs hearing took place on 14 September 2017, when the Appellant was ordered to pay £42,684 to the Council. The monies have been received in the Appellants’ solicitor’s client account and we are expecting the monies to be paid once an invoice has been

issued.

4.2 Crocker's Folly, 24 Aberdeen Place, London, NW8 8JR - Appeal withdrawn

- 4.2.1 This Premises is a public house and restaurant which has an outside seating area. On 24 January 2017, the Premises Licence Holder, (Firestone Management Ltd) sought permission to vary the licence by extending the hours when the external outside area could be used from 21:00 hours to 23:00 hours each day. The application was opposed by Environmental Health, 2 ward councillors and 15 local residents.
- 4.2.2 The Licensing Sub-Committee refused the application on 27 April 2017 on the grounds that the variations would not promote the prevention of public nuisance licensing objective.
- 4.2.3 The appeal was scheduled to be heard at Westminster Magistrates' Court over three days from 4 to 6 October 2017. However, on 10 August the Appellant withdrew its the appeal. At the costs hearing on 11 October 2017, the Appellant was ordered to pay £15,180 to the Council. It has been agreed that the Appellant can pay the costs by six monthly instalments so that the costs will be paid in full by 3 June 2018. £9,000 has been received so far.

4.3 London Film Museum, 45 Wellington Street, WC2E 7BN - Appeal withdrawn

- 4.3.1 The premises licence allows the following licensable activities: exhibition of films, performance of dance, live music, performance of plays, anything of a similar description, late night refreshment and the sale by retail of alcohol until 00:30 hour from Monday to Saturday, with an earlier terminal hour on Sunday of 22:00. The Applicant, London Film Museum (Covent Garden) Ltd applied to extend the terminal hour for all the licensable activities to 02:00 Monday to Saturday, with closing by 02:30 hours. No change was proposed for Sundays. No conditions were proposed with the application or at the hearing.
- 4.3.2 The Police and the Licensing Authority objected to the variations sought but no other representations were received. On 6 July 2017 the Licensing Sub-Committee decided to refuse the application firstly, on the basis that the proposal would be contrary to the Council's Cumulative Impact Policy. Secondly, that no conditions had been offered to address the problems which could arise in relation to the substantial increase in hours and this would be contrary to the promotion of three of the licensing objectives. The Authority was also concerned that the premises would be able to hold 150 events per year, which could mean an event every weekend all year around.
- 4.3.3 The Premises Licence Holder appealed and the appeal was scheduled to be heard over two days on 25 and 26 January 2018.
- 4.3.4 The Appellant subsequently put forward a compromise offer to the Council which would have effectively resulted in another proposal to vary the licence. The Council decided that it would be inappropriate for the Council to agree to the proposal and it was rejected.

4.3.5 The Appellant subsequently withdrew their appeal on 21 November 2017. The Appellant was contesting the level of legal costs payable but has now agreed to pay the Council the sum of £15,387.50.

4.4 Studio 88 47 Whitcomb Street WC2H 7DH – Appeal withdrawn

4.4.1 The Premises Licence Holder applied for the grant of a premises licence for playing of films, live music, recorded music, performance of dance and supply of alcohol from :-

- 10.00 – 01.00 hours on Monday and Tuesday;
- 10.00 – 02.00 hours on Wednesday;
- 10.00 – 03.00 hours on Thursday to Saturday and
- 12.00 – 22.30 hours on Sunday. Late Night refreshment was also sought with the same terminal hours, save for Sunday. The premises would close 30 minutes after the end of those terminal hours.

4.4.2 Representations were received from Environmental Health, the Police and the Licensing Authority.

4.4.3 The Licensing Sub-Committee determined the application on 30 October 2017 and decided to refuse the application in its entirety because it considered that the proposals did not go far enough to promote the licensing objectives.

4.4.4 The decision was appealed and the Case Management Hearing was listed for 10 January 2018. However, on 8 January the Council was notified that the appeal had been withdrawn. Very minimal legal work was undertaken and therefore no costs were sought from the Appellant.

4.5 Swingers, 15 John Prince's Street, W1 – Appeal settled

4.5.1 Swingers 2 Ltd sought the grant of a new licence which aimed to provide indoor golf and a number of restaurants within the premises. They originally sought a terminal hour for licensable activities until 00:30 hours on Sunday to Wednesday and until 01:30 hours on Thursday, Friday and Saturday. However, the hours were cut back to core hours at the hearing.

4.5.2 The application was opposed by the Police, Environmental Health and four local residents who were concerned about the initial hours requested. However, once the hours had been cutback one of the primary concerns remaining for the Police was the availability of glass receptacles in the areas where the golf was proposed to be played, should any conflict arise between groups. Consequently, the Licensing Sub-Committee granted the application on 21 September 2017 subject to a number of conditions. These included a condition that all drinks should be supplied throughout the Premises in polycarbonate vessels rather than glassware, save for when the Premises was used for private or pre-booked events within specified areas of the Premises with the consent of the Police (condition 40 on the licence).

4.5.3 Swingers 2 Ltd appealed against the Committee's decision only in relation to attaching the polycarbonate condition to the licence. The Appellant swiftly put forward a proposal to the Council to amend the condition and as this was acceptable to the Police and the Licensing Sub-Committee, the appeal has been settled. The amended condition prohibits glassware of any kind from being taken onto the golf courses, as the entire venue is being used for a

private or pre-booked event. The Appellant has paid the Council's legal costs of £5, 200.

4.6 Continental Food and Wine, 27 Craven Road, Paddington, London, W2 3PX. – Appeal ongoing

- 4.6.1 This appeal concerns a convenience shop which has permission to sell alcohol off the Premises from 08:00 hours to 23:00 hours Monday to Saturday and from 10:00 hours to 22:30 hours on Sunday.
- 4.6.2 The Premises Licence Holder sought an extension of hours. Initially they applied to extend the terminal hours for the sale of alcohol to 01:00 hours Monday to Sunday. However, at the hearing before the Licensing Sub-Committee on 14 December 2017, the Premises cut back the extension of hours sought to midnight on Sunday to Thursday and continued to seek a terminal hour of 01:00 hours on Friday and Saturday.
- 4.6.3 The Applicant also offered a number of conditions in support of the application including CCTV, a challenge 25 policy and restrictions on selling alcohol after 23:00 hours if the Committee were minded to grant the application. The Applicant argued that the extension was needed to enable tourists to purchase the alcohol at these times so that they could consume alcohol in their hotel rooms.
- 4.6.4 The Police opposed the application because it was considered that the availability of alcohol would potentially add to anti-social behaviour including drinking in the street, which is a sensitive area. Further, whilst the Premises were situated in a controlled drinking zone, it would place additional strain on Police resources and it was likely that the Premises would become a destination venue.
- 4.6.5 The application was also opposed by Environmental Health and by the South East Bayswater Residents' Association, who was represented by Mr Brown, on the grounds that the application would not promote the prevention of public nuisance licensing objective.
- 4.5.6 The Licensing Sub-Committee refused the extension of hours in light of the objections received. The Sub-Committee agreed that it was likely to become a destination venue and the extension would not promote the prevention of public nuisance licensing objective.
- 4.5.7 The Summons has yet to be issued so we are awaiting the details of the case management hearing.

4.6 The Windmill 17-19 Great Windmill Street, London W1D 7LQ - ongoing

- 4.6.1 The Council received a renewal application of the sexual entertainment venue ("SEV") premises licence from Big Country Ltd to provide full nudity striptease, pole dancing and table dancing between the hours of 09:00 to 05:30 on each of the days Monday to Saturday and from 14:00 to 03:00 on Sunday at The Windmill. The Applicant did not ask to change the relevant entertainment or remove any standard conditions to the licence.

- 4.6.2 An objection to the application was received on 12 October 2017 and the objector stated that they believe in women's rights and do not believe in the objectification of women. They alleged that the club allows groping, pinching and slapping of the performers. The objector employed covert ex-police officers to observe what happens within the venue and the statements from the officers were submitted as evidence before the Licensing Sub-Committee. In addition, the objector maintained that there were breaches to the licence conditions and that the current owners and management are not fit and proper persons to hold an SEV licence.
- 4.6.3 The Westminster City Inspectors also submitted an objection to the renewal application which advised that following an investigation it was noted that there were breaches of conditions, the CCTV needed to be improved to allow for better coverage of the premises and allegations of criminal activity taking place at the premises.
- 4.6.4 On the 11 January 2018 the Licensing Sub-Committee decided that it would not allow the renewal of the SEV licence application as it was considered that the Applicant was not suitable to hold the SEV premises licence.
- 4.6.5 Big Country Ltd has appealed this decision and the Case Management Hearing took place on 30 January 2018. The appeal has been listed for hearing at Hendon Magistrates' Court over three days commencing on 8 October 2018.

5. JUDICIAL REVIEWS

5.1 Hemming and others v Westminster City Council

- 5.2 Members of the Committee will be aware that Hemming and a number of other proprietors of sex establishments in Soho have challenged the fees charged by Westminster for sex shop licences. They have alleged that the Council is only entitled to recover the administrative costs of processing the application within the licence fee, and not the costs of monitoring and enforcing the whole licensing regime against unlicensed and licensed operators. They claimed that this would be contrary to the Service Provision Regulations, which came into force in 2009, and the European Union Services Directive. At the time of the claim, Westminster were charging just over £29,000 for the annual licence fee. This was on the basis that the licensing regime should be self-financing.
- 5.3 The High Court and the Court of Appeal had both previously held that that the European Directive prevented Westminster from recovering the fees for monitoring and enforcing the licensing regime, against licensed and unlicensed operators. Westminster were therefore ordered to repay that element of the fee which related to monitoring and enforcement.
- 5.4 Westminster appealed to the Supreme Court which held in 2015 that local authorities were entitled to charge a fee towards the monitoring and enforcement of the licensing regime. The Supreme Court was clear that it was lawful to charge a licence fee which was payable in two tranches. The first fee, payable at the time when the application was made to cover the costs of processing the application. Then if the application was successful, a second fee to cover the costs of monitoring and enforcing the whole regime against licensed and unlicensed operators. This scheme is commonly called a Type A

scheme.

- 5.5 However, the Court wanted clarification as to whether it was lawful under European law to charge one fee, covering both the costs of processing the application and a refundable fee for monitoring and enforcing the licensing regime, payable at the time the application was made, (commonly called a Type B scheme). The Court therefore referred the latter issue to the Court of Justice of the European Union (“CJEU”). Westminster originally adopted the Type B scheme but as the case progressed it adopted a Type A scheme. On 16 November 2016 the CJEU held that Type B scheme was unlawful as a matter of European Union law.
- 5.6 On 19 July 2017 the Supreme Court decided decisively in favour of Westminster that the Council could recover a reasonable fee for the monitoring and enforcement of the sex licensing regime in Westminster (including the costs of enforcement against unlicensed operators).
- 5.7 The case has returned to the Supreme Court for final decisions to be made following the earlier decisions in the Supreme Court and the CJEU.
- 5.8 There are two issues outstanding, namely (1) obtaining an assessment as to what costs should be paid to Westminster by Hemmings and the other Operators to cover the monitoring and enforcement costs which are were not payable and (2) seeking an order for costs against the Claimants in relation to the hearing before the Supreme Court and the CJEU.
- 5.9 The Council has filed draft skeletons of arguments and draft orders with the Supreme Court so that these matters can be remitted to the Administration Court for determination and it is estimated that these matters will be resolved some time in 2018.

6. Legal implications

- 6.1 There are no legal implications for the City Council arising directly from this report.

7. Staffing implications

- 7.1 There are no staffing implications for the City Council arising directly from this report.

8. Business plan implications

- 8.1 There are no business plan implications arising from this report.

9. Ward member comments

- 9.1. As this report covers all wards, comments were not sought.

10. Reason for decision

- 10.1 The report is for noting.

If you have any queries about this report or wish to inspect any of the background papers please contact Heidi Titcombe, Principal Solicitor and Manager of the Planning, Highways and Licensing Legal Team on 020 7361 2617;
email: heidi.titcombe@rbkc.gov.uk

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