



CITY OF WESTMINSTER

# MINUTES

## Licensing Committee

### MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Committee** held on **Wednesday 4th July, 2018**, Room 3.1, 3rd Floor, 5 Strand, London, WC2 5HR.

**Members Present:** Councillors Angela Harvey (Chairman), Susie Burbridge, Melvyn Caplan, Murad Gassanly, Jim Glen, Louise Hyams, Aicha Less, Tim Mitchell, Karen Scarborough, Shamim Talukder, Aziz Toki and Jacqui Wilkinson

**Apologies for Absence:** Councillor Heather Acton, Councillor Rita Begum and Councillor Peter Freeman

#### 1 DECLARATIONS OF INTEREST

1.1 There were no declarations of interest.

#### 2 MINUTES

2.1 The matters raised in relation to the minutes included the following:

- The Chair raised queries submitted by Councillor Acton, regarding progress of the Nightsafe Project and the two NHS buildings in Soho Square that were under consideration (page 2). Mr Kerry Simpkin, Interim Licensing Policy & Strategy Manager, responded to the query advising that progress had been made regarding the Nightsafe project. Volunteering positions are currently being advertised and officers are also completing a training programme for volunteer staff. Regarding the NHS, Mr Simpkin advised that engagement is ongoing, however a meeting with the NHS has not yet been organised.
- The Chair updated the Committee on the London Mayor's Night Time Commission, advising that a new Chair and Deputy Chair had been appointed, both from drink industries (retailer and DrinkAware). The Chair had participated in a meeting of the Commission earlier that week where the evening and night time economy of London from 6pm-6am was discussed, more widely than just the Night Time Economy (NTE).(Page 3)

- The Chair raised a query re Gambling policy regarding 5.3 (page 5) meeting with Public Health representatives. Ms Sutton responded confirming that there had been a number of meetings held with Public Health and a further meeting is planned for the following week relating to joint working opportunities. Ms Sutton advised that a work programme is being developed, identifying joint commissioning opportunities.
- The Chair asked about film classifications 7.8 (page 8) for a subsequent committee meeting. Ms Acik, responded, advising the Committee that there had been a delay in finalising this work and that an update will come to the Committee in November. Ms Acik agreed to provide an interim update in the next few weeks, in advance of the London Film Festival.

2.2 **RESOLVED:** That the minutes of the Licensing Committee meeting held on Wednesday 21 March 2018 be signed by the Chair as a correct record of proceedings.

### **3 ANNUAL PERFORMANCE OF THE CITIZENS ADVICE BUREAU LICENSING PROJECT**

- 3.1 The Committee was given a presentation on the annual performance of the Citizens Advice Bureau Licensing Project, by Mr Richard Brown, CAB Project Officer. The Westminster Citizen Advice Bureau Licensing Project, paid for by the City Council, was established in 2005 in response to the implementation of the Licensing Act 2003 with the intention to provide an independent and expert advice, assistance, and representation service, free of charge to all Westminster residents and local businesses, in respect of their rights and responsibilities as potential “interested parties” at licensing sub-committees under the Licensing Act 2003, the gambling Act 2005, and Sex Establishments.
- 3.2 The matters raised in relation to the report included the following:
- 3.3 The Chair and members of the Licensing Committee thanked Mr Brown for his effective work. The Chair made enquiries regarding Mr Brown’s opinion on democratic openness, especially regarding the withdrawal of premises plans from public electronic search. Mr Brown advised that the public were very concerned about this aspect as accordingly representations would be constrained. Ms Acik, advised that plans will be made available again.
- 3.4 Councillor Gassanly thanked Mr Brown for his service and excellent work. He asked that information regarding the CAB Licensing Project should be prominently displayed on the Council’s website and felt that this would really help residents in making representations. The Chair suggested adding something in the WIB to inform other ward councillors of the available service.
- 3.5 Councillor Caplan enquired to the number of residents who sought help after deadlines had closed. He also asked if there was anything else that members could do to publicise the service. Mr Brown advised that he does not have

many residents who come to him missing deadlines. However, residents often contact him 2 or 3 days before the hearing, by which time it is difficult to get things in order.

- 3.6 Councillor Scarborough also thanked Mr Brown and sought guidance on what specific support was needed from the Council. Mr Brown advised that he has confidence in the work the Licensing Committee members do, allowing residents to be a part of the process and a chance to have their say. Mr Brown did not have any specific comments on what additional support the Council could provide.
- 3.7 Councillor Gassanly advised the Committee that the Council Website is currently being reviewed and requested feedback from the Committee and Mr Brown on how the Council could best promote the project. Councillor Gassanly specifically mentioned the uniqueness of the project and finding a way to promote it. Ms Acik advised the Committee that she had recently become aware of two residents who contacted the Licensing team to make a representation after the deadline. The Licensing Team are taking the opportunity to review how clear and simple the website messages and instructions are.
- 3.8 **RESOLVED:** That the report was noted by the Committee.

#### **4 GAMBLING POLICY DEVELOPMENT**

- 4.1 The Committee received a report introduced by Mr Kerry Simpkin Interim Licensing Policy and Strategy Manager. The report considered the Council's approach to the development of the Council's new Statement of Gambling Principles (gambling policy) under the Gambling Act 2005 ahead of the public consultation in August and September. This included a draft proposal to introduce a formalised voluntary approach for operators to promote engagement with the local community before submitting a formal application to the council.
- 4.2 Mr Simpkin advised the Committee that there are three key areas within the report. First, the service had carried out research relating to vulnerable residents in 2015/16, which has been updated and transferred into index maps. Mr Simpkin advised the Committee that the maps highlight areas that have changed over the last three years and areas which will require further monitoring. The second area raised by Mr Simpkin was the Community Impact Assessment processes, which is an opportunity for operators to engage with residents much earlier in the process to hear their views and adapt the process if necessary. Mr Simpkin advised the Committee that the third matter for consideration, is the approach identified for consultation as set out in the report, which will be from July-September and seek formal approval for the policy at Full Council in November.
- 4.3 The Chair welcomed the report and thanked Mr Simpkin and colleagues for work lobbying the government for change on maximum bets for Fixed Odd

Betting Terminals (FOBT). The Chair sought clarification regarding the timeline for completing this work. Mr Simpkin advised that the Government's timeline had now changed and will not take effect until 2020, under the terms of a deal with the Treasury. The Chair queried the groups within the dataset and Mr Simpkins confirmed the figures represent the National Statistics for that area.

- 4.4 Ms Acik advised that the proposal to postpone the policy implementation until 2020 was announced in the last week. Ms Acik felt that discussions needed to be had, in terms of agreeing what the Council's position would be and whether further lobbying would take place, in an attempt to bring that date forward. The Chair sought the Committee's views and the Committee agreed that lobbying should occur to bring forward the implementation date.
- 4.5 Councillor Burbridge sought clarification on the acronyms for Gambling terminology and asked if this could be simplified. Councillor Burbridge also queried how officers could be sure of the numbers of residents living with mental health issues, living in City West Homes. Mr Simpkins responded to the query advising that information had been gathered through partners such as Public Health and Housing, GP referrals and NHS data. Councillor Burbridge felt that for specific data, officers should liaise directly with the Mental Health Assessment Team. The Chair requested that officers review current data sources and a briefing note be circulated to Committee Members.
- 4.6 Committee discussed the proposed timeframe for public consultation and the workshops organised for August. As many people will be away in August it was proposed this should be carried out in September.
- 4.7 Councillor Caplan advised that the Committee should not be moved on its policy and that it was very important that the Committee sends a strong message. Councillor Caplan also suggested that the Committee should take into account in their deliberations online gambling. Councillor Caplan advised the Committee that it would need to take care, and that by addressing the betting shops on the high streets, may drive the issue to unregulated sites online. Mr Simpkins advised the Committee the Council are only responsible for premises-based regulatory element, however one of the things that the Council can do is set out its concerns regarding online gambling within the policy.
- 4.8 The Chair asked how Officers engage with the online gambling industry. Mr Simpkin advised that WCC does not have a relationship with the online gambling industry and the policy is limited in terms of what the Council can and can't specify in terms of gambling regulations. Councillor Hyams advised that online gambling adverts are everywhere and this should be a part of the Council's policy. The Chair summarised that this should go back to the Cabinet Member as there appears to be is very strong support for this.
- 4.9 Councillor Wilkinson raised a query relating to the Community Impact Assessments as she felt that they do not address the impact of the proposals. She also queried the non-statutory requirement for applicants to carry these out and how the council may convince the applicant to complete such. Mr

Simpkin responded to the queries advising that the impact had not been presented in the report as well as it could have been. The benefits for the operator will be in developing relationships with residents.

4.10 The Chair summarised that the Council should look more widely at advanced strands, such as education and social care. The Committee asks the Cabinet Member to review the policy.

4.11 **RESOLVED:** That further developments in terms of the Gambling Policy be reported to the Committee.

## **5 STREET TRADING/MARKET FEES REPORT (PRESENTATION TO BE DELIVERED AT MEETING)**

5.1 The chair noted that the West End Street Traders Association (WESTA) were in the public gallery, and that questions they had submitted in advance had been circulated to members.

5.2

Mr Greg Ward, Director of Economy, gave a presentation on the Westminster Markets Strategy. Detailing the scope of the consultation, its main aims and principles and the time lines involved. Ms Acik introduced a report on the Markets Fee and Charges review, which will be included in the market strategy public consultation

- Ms Acik explained that the fees and charges review will only consider recovery of costs associated with dealing with applications (the Application Fee) and costs associated with cleansing, waste collection and costs of administration and enforcement of the provisions of the Act (the Daily Charge). Proposals represent cost recovery only and costs shown at Appendix G of the report represent annual costs in 17/18.
- Ms Acik explained that the City of Westminster Act (Section 22) allows the council to recover these costs and all options proposed are based solely on these costs as defined in the Act.
- The market strategy consultation will also scope ideas for other discretionary services that traders may find beneficial which could include for example, improved facilities, public realm or promotional activities.
- Under the City of Westminster Act, should the majority of traders on a market wish an additional discretionary service to be provided, this can be facilitated by the council. There is the potential for sponsors and partners to fund investment in the services traders want and need.

- Ms Acik explained that Westminster has one of the lowest cost, market-trading pitches in London – currently £10.61 Monday to Thursday, £18.16 Friday and £24.40 Saturday.
- The current fees and charges have not increased since 2006 and there is a deficit on the street trading account; Ms Acik explained that the council is currently subsidising the costs of Westminster's markets by £300,000 a year, which is not sustainable, and that fees and charges proposed do not seek to recover this deficit, as it is recognised that this would place significant financial pressure on existing traders.
- Ms Acik explained that the options put forward aim to provide a simple fee and charges model that will achieve cost recovery fairly across all traders, encourage local and new enterprise and demonstrate commitment to our local residents, Proposals include concessions on application fees, with a proposal for a 50% discount for start-up businesses (< 12 months registered at Companies House or self-employed with evidence provided) and 20% reduction for WCC residents, with the concession capped at 50%.
- Impact on traders had been considered and Ms Acik directed members to the appendices of the report which provided examples of typical trading patterns and impact.
- Ms Acik sought the Committee's approval, to undertake statutory consultation on a revised set of fees for the application for a licence for street trading on market pitches in Westminster, and the charges applied for each day that the licence is in force. Ms Acik advised the Committee that the proposed fees and charges will enable the Council to recover its costs in managing and administering the Street Trading licence regime on markets across the City.
- If approved it was proposed that consultation on the market strategy and fees and charges shall run between 6<sup>th</sup> July – 29<sup>th</sup> October. Technical surgeries are planned in July for traders to discuss their individual circumstances with members of the Licensing Service.
- Following the full consultation period, the proposed fees and charges will be brought to the November Licensing Committee for reconsideration and if appropriate approval.

5.3 The Chair welcomed the presentations and asked if Mr Ward had considered enticing the fashion and art colleges to take stalls, especially during London Fashion week as an example. The Chair felt that the Council should be giving the colleges an opportunity to display their work. The Chair also raised a question of a sustainability discount, advising that stall holders using non environmental friendly materials (e.g. polystyrene) or hot food stalls where oil is poured down drains and the cleaning up after hot food stalls. The Chair felt

that the council may need to consider the environmental impact when considering setting fees.

- 5.4 Councillor Mitchell raised the issue of tension between local residents and hot food stall holders, as residents have had to keep doors and windows closed due to smells. Councillor Mitchell welcomed the bespoke approach supporting the individuality of each of the WCC markets and was interested in the number of Westminster residents that held pitch licences. He welcomed the fee structure and queried why there had been no fee increases since 2006. Councillor Mitchell suggested that differences such as different areas, types of markets and types of stalls, such as hot foods, should all be considered as part of the consultation. He wished to know if the presentation related to isolated street trading pitches as well. Ms Acik confirmed that the consultation and fee and charges review related to street trading pitches on markets and that isolated pitches were not included.
- 5.5 The Chair requested information on the City of Westminster Act and fee charges in comparison to other councils. Mr Ward advised the Committee that the key element to the Act is the restriction on pitch use, cleaning, licensing and the general day to day running of the markets. Mr Ward advised that the council had to work within the scope of the Act and there is nothing that conflicts with the Act. Mr Ward advised the Committee that fees are significantly higher elsewhere, e.g. Edinburgh at £80 per day and that Westminster's fees were some of the lowest in the UK
- 5.6 Councillor Toki made inquiries as to the surrender of a number of licences from Church Street market. Ms Hick, Licensing Team Manager responded, advising that she was aware and was looking into the pressures due to current works in Church Street Market. Councillor Caplan felt that the report did not cover Farmer's markets and private markets, and made suggestions regarding the consultation focusing on the whole WCC economy, before coming back to the Committee in November. Councillor Hyams felt that the Council should be encouraging more people to come to the area and visit WCC markets, especially because high streets are struggling. Councillor Hyams also felt that there was more work the Council could do encouraging start-up businesses to become pitch holders
- 5.7 Councillor Less made inquiries regarding pitch holders who do not turn up and the process for dealing with such incidences. Ms Hick advised that for one off incidences, if the pitch holder informs the Council in advance, then the Council can issue a temporary pitch licence to someone on the waiting list. Ms Hick advised that if this is an ongoing issue then enforcement action would take place. The Committee felt that more could be done to ensure that temporary pitches are advertised early, so that opportunities are not lost.
- 5.8 Councillor Gassanly asked about the deficit and how this had been dealt with. Ms Acik advised that accounts had been adjusted and deficit had been absorbed by the Council. Councillor Burbridge enquired to the number of current pitch holders who were in debt to the Council. Ms Acik advised it was a small number, and that officers monitor payments regularly. Councillor Wilkinson enquired about the procedure for stall holders when there is bad

weather and was informed that if there is bad weather, stall holders do not have to set up; the decision is made by the stall holder.

5.9 The Chair advised that some of the questions posed by West End Street Traders Association (WESTA) has been addressed and Ms Acik would respond to WESTA directly.

5.10 **RESOLVED:** The Committee felt that the consultation should be wider and include areas as detailed in discussions, before coming back to the Committee in November.

(l) The Committee agreed the recommendations and requested that Mr Greg Ward also attend the Licensing Committee meeting in November.

## 6 GENERAL LICENSING FEE REVIEW

6.1 The item was introduced by Mr Kerry Simpkin and set out the General Fee Strategy for the licensing regimes, and where the authority can set a fee to attempt to recover its own costs. The Licensing Service brought forward this year's fee review so that it would align with the dates of the corporate approach to setting fees and charges. The Committee agreed the recommendations to bring the fee review report and proposed fees to the Licensing Committee in July each year going forward.

6.2 Councillor Gassanly advised that he welcomed the report and was happy that this was the second year in a row that fees had not been raised. Councillor Gassanly enquired to the licensing of dog breeders, specifically with the media coverage regarding breeder's breaking the law. Councillor Gassanly wanted to know if there were any breeders like this in WCC. Mr Simpkin advised that there are no licensed breeders in WCC, however Officers are aware of a number of online advertisement located in WCC and there is work currently underway with the city inspectors to address this with enforcement action.

6.3 **RESOLVED:** The Committee agreed the recommendations to bring the fee review report and proposed fees to the Licensing Committee in July each year going forward.

## 7 NOTTING HILL CARNIVAL UPDATE

7.1 The Committee received an update report from David Sycamore, Licensing Manager on the licensing approach to the Notting Hill Carnival for 2018. The Licensing Service updated the Committee on its involvement with this year's Carnival planning meetings which included all the key stakeholders involved in delivery of a successful and safe event.

7.2 The Committee felt that the report was positive and made enquiries regarding the approach of RBKC.

7.3 **RESOLVED:** That the contents of the report be noted.

## **8 LICENSING APPEALS**

8.1 Heidi Titcombe, Principal Solicitor, Shared Legal Services provided an update on licensing appeals since the March meeting of the Committee. She confirmed that Shared Legal Services had been handling seven appeals and Hemmings case on the Council's behalf during this time. Ms Titcombe confirmed that Belgrave Square Gardens had withdrawn its appeal and the Council recovered its costs.

8.2 The Chair welcomed the report and thanked the Licensing team for their work, both Councillors and Officers. Councillor Caplan queried the date of when Windmill need to apply for their new annual licences; David Sycamore confirmed that this date was 30<sup>th</sup> September, close to the appeal date.

8.3 **RESOLVED:** That the contents of the report be noted with thanks.

## **9 ANY OTHER BUSINESS WHICH THE CHAIR CONSIDERS URGENT**

9.1 There was no urgent business.

## **10 FUTURE LICENSING COMMITTEE MEETING DATES**

It was noted that the next meetings of the Licensing Committee would be held on Wednesday 28 November 2018 and 20 March 2019. All meetings are scheduled for 10.00am.

The Meeting ended at Time Not Specified

**CHAIRMAN:** \_\_\_\_\_

**DATE** \_\_\_\_\_