



CITY OF WESTMINSTER

MINUTES

Licensing Committee

MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Committee** held on **Wednesday 25 November 2020**, This meeting was held virtually.

Members Present: Councillors Heather Acton (Chair), Barbara Arzymanow, Rita Begum, Margot Bright, Susie Burbridge, Maggie Carman, Richard Elcho, Murad Gassanly, Jim Glen, Louise Hyams, Tim Mitchell, Karen Scarborough, Aziz Toki and Jacqui Wilkinson.

Officers present: Raj Mistry (Executive Director of Environment and City Management), Kerry Simpkin, (Head of Licensing Policy, City Policy and Strategy), Heidi Titcombe (Principal Solicitor), Andrew Ralph (Head of Licensing and Regulatory Service), Rebecca Gordon (Project Manager) and Kisi Smith-Charlemagne (Senior Committee and Governance Officer).

Apologies for Absence: Councillor Aicha Less.

1 MEMBERSHIP

1.1 There were no changes to the membership of the committee

2 DECLARATION OF INTEREST

2.1 During item 5 Councillor Mitchell declared that he was the current chair of the Safer Business Network but he did not participate in the drafting of the comments submitted.

3 MINUTES

3.1 Councillor Glen advised that there was a typo on page 6 on the minutes which should read marked pitches not pictures. The chair also noted that the word 'licence' should be spelt correctly, in all forms, as auto correct also has that effect on our notes.

3.2 **RESOLVED:** That the minutes of the Licensing Committee on 23rd September 2020 were approved.

4 LICENSING COMMITTEE REPORT ON BUSKING AND STREET ENTERTAINMENT

- 4.1 The Licensing Committee received a report from the Executive Director of Environment and City Management. The Chair advised the Committee that this was the fourth report brought to the Committee on the matter of Busking and Street Entertainment and since 2018, officers have been seeking to develop a new policy in Westminster that supports busking, improves safety, and reduces the impact of noise and obstruction for residents and businesses.
- 4.2 The Chair advised that she wanted to emphasise that the Licensing Committee would like Westminster to be a place where fantastic arts, music, drama, culture can be experienced on our streets. She added that the formation of the policy was really important for various parties which included buskers and street entertainers, many of whom developed their performances and built their livelihoods on our streets, and new talent, wishing to practice performing on our streets.
- 4.3 The Chair noted the importance of the policy for our visitors, who enjoyed the experience and value of seeing and hearing some great performances; our residents and businesses, many of whom also value busking, but can find that performances every day for up to eight hours can cause significant impact on their wellbeing and can affect their ability to work. The Chair also noted the council officers, with current powers which were not effective enough for them to take quick and meaningful action when responding to complaints.
- 4.4 The Chair advised the Licensing Committee that over the last two years, officers had been reviewing evidence, learning from others, listening and discussing the issues and that during that time two major consultations were conducted, the most recent attracting 900 responses. The Chairman noted that as a result of that work, the policy proposal being heard today was to present an approach balancing the different, sometimes conflicting, interests mentioned earlier.
- 4.5 The Chair confirmed that the council had held a number of engagement events where people had been able to present their views but thought that it was important that the Committee also heard directly from those who would like to address them on the matter. The Chair welcomed the fact that 20 residents, businesses, performers and their representatives had taken the time today to join the meeting, so that the Licensing Committee may listen to their views and perspectives before reaching a decision.
- 4.6 The Chair then invited Mr Raj Mistry, Executive Director of Environment and City Management to introduce the report and Mr Andrew Ralph, Head of Licensing to provide an overview of the November consultation results, the draft policy, and outline the recommendations that the Committee members had received and were considering today. The Chair noted the receipt of a late representation from the Royal Opera House and asked Mr Ralph to outline this when he addressed the committee.
- 4.7 Raj Mistry, Executive Director Environment and City Management presented

the report addressed to the Licensing Committee and outlined the challenges and the many steps that had been taken before arriving at the proposed solution. He advised that busking had taken place every day on our streets over a long period of time, and was a spontaneous, enjoyable artform which could be a vibrant experience.

- 4.8 Mr Mistry added that there is often another perspective, one where the activity is causing a significant detrimental impact on residents and businesses, and in some cases risked the safety of the public. Mr Mistry informed the committee that many performers are responsible, they take care of noise, they make sure that they are safe, and control their crowds well. He advised the committee that there were also some performers who are not considerate in this way, with volumes so loud that it can be heard from a considerable distance.
- 4.9 Mr Mistry advised the Licensing Committee that the challenge the council faces, particularly around the issue of amplification, is that, regardless of whether a performer is acting in a responsible or inconsiderate way - due to the proximity of residents and businesses, and the way sound travels through the dense urban environment it is heard. He advised the committee that the constant churn of amplified performances for up to eight hours each day caused a cumulative and repetitive impact which was damaging and causing harm to those who live and work nearby.
- 4.10 Mr Mistry added that furthermore, as the responsible authority for the highway, the council was also responsible for public safety and that footfall pre COVID was already the highest in the UK. He informed the Committee that often performances cause trip hazards, bottlenecks, opportunities for pickpocketing, and pedestrians spilling out into roads. He noted that as a result of the challenges, the council receive around 2,200 complaints each year, as well as witnessing bad practices relating to busking.
- 4.11 Mr Mistry informed the Licensing Committee that the council did have some powers to manage the issues, however, in most cases, faced some significant challenges in their ability to act. He advised the committee that the current process was much too long and did not enable council officers to take quick action immediately when coming across a problem. He informed the committee that none of the powers given to the council provides an ability to tackle the cumulative noise nuisance experienced from the constant performances in a single area. Mr Mistry advised the committee that officers were not able to be everywhere all the time to advise buskers.
- 4.12 Mr Mistry advised the Licensing Committee that the council had previously avoided formal regulation, choosing to instead encourage buskers to set up informal management groups, self-regulate and more recently abide by the Mayor of London's 'Busk in London' Code. He informed the committee members that the consultation results demonstrated that residents and businesses felt strongly that voluntary measures alone had never been enough to protect them effectively. Mr Mistry advised the committee that the council had been clear from the start of the endeavour that it wanted to find a balance that retained responsible busking in Westminster. However, he

stated that the council could no longer accept that voluntary measures and current powers available were enough to improve the situation and reduce concerns effectively.

- 4.13 Mr Mistry informed the committee that the council had not taken the decision lightly. He advised the committee that knowing what was at stake for everyone involved, the council had spent two years engaging with residents, businesses, performers, and other interested organisations and institutions. He advised that the council had also held two public consultations, including a number of discussion events, to help understand and reach the most balanced position. Mr Mistry advised the committee that the council was committed to keeping its position under close monitoring and review. He added that the council proposed to regulate busking across the centre of the city, by adopting Part five of the London Local Authorities Act 2000.
- 4.14 Mr Mistry advised the committee that the council was aware that the approach was not generally supported by the buskers. However, the council had also made sure to keep its licensing process simple and affordable. Mr Mistry informed the committee that the council had tried to ensure it offered pitches that would allow for all the different types of acts. He informed the committee that licence conditions were only centred on matters of safety, audible sound and obstruction. Mr Mistry advised the committee that there was the freedom within the policy for performers to organise and manage themselves. He added that the council was encouraging buskers to do so, as well as pressing for their continued engagement, through the development of; a website, a street entertainment forum, and the council's commitment to review the impact of the policy.
- 4.15 The chairman then introduced Mr Andrew Ralph, Head of Licensing, to provide an overview of the November consultation results. Mr Ralph advised the committee that on 23rd September 2020 the Licensing Committee approved the recommendation for the council to hold a second public consultation on the busking and street entertainment draft policy. He noted that the committee would recall the main change from the previous policy and consultation results in July this year, was that the area regulated was widened across the centre of the city to ensure the delivery of a more consistent approach to busking and enforcement, and to protect against the likelihood of displacement.
- 4.16 Mr Ralph advised the committee that the policy included:
- The City-wide code of conduct, which sets out clear guidelines on what the council considers responsible busking
 - The Busking and Street Entertainment Forum, which would become the direct avenue for our ongoing engagement with the busking community
 - Support for Street Performers' Associations (SPAs) which can play a vital role in managing performance activities, as well as engagement with the wider busking community
 - Maps of the regulated area for licensing across the centre of the City and the 25 pitches proposed
 - The Standard Licence conditions, and pitch terms and conditions

- The Application process
- The council's commitment to keeping the policy under close review.

4.17 Mr Ralph advised the committee that officers launched the consultation on the 24th September, and it ran for just over 5 weeks until 1st November. He informed the committee that officers had invited people to respond during the consultation period through an online survey, written representations, as well as in three engagement sessions. Mr Ralph advised the committee that the council had received a great response, having received almost 900 survey responses, 30 written responses, and good attendance from a variety of different stakeholders at our open sessions. He added that the detailed analysis, as well as the responses, are contained in the report and attached in appendices.

4.18 Providing an overview of the consultation, Mr Ralph informed the committee that in summary, breaking down the views, officers concluded that most residents and businesses were in support of the proposals, whilst most buskers and visitors oppose them. He advised the committee that the main comments received from those who opposed the policy were:

- That they were not in agreement that busking should be regulated
- That performances should remain free and open to all without unnecessary controls
- That introducing licensing is not cost effective
- That the fee is too high and alienates some, including students
- That there are not enough pitches
- That the council should do more to make use of existing powers and work with performers on voluntary approaches

Mr Ralph informed the committee that others disagreed with the policy for different reasons, citing that it was not strict enough, and more specifically that the council should place more controls on preventing busking with amplification. He advised that the council had reviewed all responses at great length.

4.19 Mr Ralph advised the Licensing Committee that the council should continue to introduce licensing to regulate busking, because this will bring about a balanced benefit for all - as it allows the council to support busking, improve safety, will help to reduce the impact of noise and obstruction, as well as providing better powers to manage any issues. Mr Ralph informed the committee that in response to the feedback, the council had considered that some changes to the proposals are required to achieve a better balance. Some are specifically for the busking community including:

- an additional pitch in Covent Garden and vocal amplification in James Street
- a reduced licence fee for shorter length licences and also for students
- the removal of some requirements from the licensing conditions, specifically the requirement to have a 20-minute break between acts
- the relocation of the pitch in Villiers street, away from neighbouring residents to near Hungerford bridge on the Northumberland Avenue side.

- 4.20 Mr Ralph advised the Licensing Committee that the council had retained the amplified pitch in Leicester Square. He advised that the pitch had received much attention from residents and businesses in the area, who wished for the pitch to be non-amplified. Mr Ralph advised the committee that officers had concluded that, because Leicester Square is an open pedestrianised public space surrounded by businesses, with high footfall, external hospitality use, and that also an area that is widely recognised and associated with busking and street entertainment - one amplified pitch in this area, where sound levels will be regulated, is considered proportionate.
- 4.21 Mr Ralph highlighted section 2 of the report noting several legal requirements, statutory notifications, and timescales that officers must ensure are followed to bring the policy into fruition. He advised that should the committee make the decision today to recommend to Full Council on the 9th December 2020 the adoption of the policy, it will include:
- Adopting Part V of the London Local Authorities Act 2000
 - adopting the draft designating resolution for licensed streets, along with the application procedures and standard conditions which, if approved, will go out for a seven-week consultation between December and January.
- 4.22 Mr Ralph advised the committee that it will then be for Full Council in March 2021 to decide whether to adopt the draft designating resolution either as drafted or as amended, in light of any written and oral representations during the seven-week consultation period. He informed the committee that if Full Council decided to license the proposed streets in March the changes would then come into effect on 5th April 2021. Mr Ralph brought the committee's attention to point 4 on page 9, where it said "premises". He advised that it should say "property" in line with the pitch conditions and will be amended if the scheme was recommended to Full Council.
- 4.23 Mr Ralph mentioned a late submission received in relation to the additional amplified pitch in James Street. He advised the committee that amplification was something which the council had considered necessary for some of the pitches across the city. He informed the committee that it was proposed that, by regulating how that happens in the policy, alongside the conditions on the licence, it will allow the council to work with buskers to improve upon current conditions. Mr Ralph advised the committee that the pitch referred to in the late submission is for vocal amplification only (not music) and that it is to facilitate performances where Street Performers would need to project their voice. He added that the change came following consultation responses from a number of different sources including buskers and businesses.
- 4.24 The chairman thanked both Mr Mistry, Mr Ralph and all the officers for their hard work. The chairman then welcomed the interested parties to address the Licensing Committee, allowing each person 3 minutes. The Licensing Committee then heard from 19 interested people who represented some of the sides and stakeholders impacted by the policy.
- 4.25 Buskers and Street Performers: generally objected to the policy and raised concerns with the following:

- Street performing has built many careers and these would be negatively impacted
- The high number of pitches being removed and the low number of proposed pitches that will be available to them
- The low number of proposed amplified pitches available to them
- The popular areas where there are pitches are being removed
- The loss of livelihoods
- The history and culture of busking and street performing would be negatively impacted
- The vibrancy and enjoyability of the city would be negatively impacted
- Safely executed “Dangerous acts” performances will not be permitted
- International performers will not be attracted to perform on the west end streets
- Covid had impacted negatively on Buskers and Street Performers
- Tourism would be negatively impacted
- The low overall percentage of residents and businesses that responded negatively
- Finding ways to work together with the current laws to improve the situation
- Similar schemes had not been successful
- Self-employed people would be negatively impacted

4.26 Local Businesses: were generally in support of the policy and raised concerns with the following:

- The constant noise disruption
- The volume of noise
- Unable to function at work or hear themselves talk or think
- Direction of pitch 9 northeast corner of Leicester Square and amplification in Leicester Square
- The loss of livelihood as unable to use or rent spaces due to noise or disruption
- Safety, overcrowding and petty crime
- Self-regulation had not been successful
- Enforcement and resources for the policy
- What constitutes nuisance and how it will be measured

4.27 Residents were generally in support of the policy but raised concerns with the following:

- The negative impact of amplification on the quality of homelife and on mental health
- The constant noise disruption
- The volume of noise, even without amplification
- Unable to function at home or hear themselves talk or think
- Difficult legislation to enforce and how it will be resourced
- Covid – working from home has been affected by noise from busking

- 4.28 The Chair again thanked all the speakers for speaking so clearly and also keeping within the time constraints and requested the committee members to be brief in asking questions. Cllr Hyams thanked the two opposing sides for their contributions to the meeting. She advised that she was hopeful that the policy would be a way of bringing those sides closer together. Councillor Hyams advised that she was one of three Ward Councillors for St James', and the ward includes many of the areas discussed; Leicester Square, Trafalgar Square, Covent Garden, Piccadilly Circus, many of the places where pitches were proposed and busking and street performing was very much in evidence. She noted that over the years the numbers of complaints from residents and businesses has increased. She added that she believed that increase in complaints was commensurate with the growing sophistication of amplifications.
- 4.29 Councillor Hyams advised the committee that she supported street performing and was not objecting to street performing as such but objecting to the consequences of it, and in particular around noise. She felt that the policy was about managing the issues in a way that is fair for everybody. She noted the particular issue of amplification of the pitch near the Opera House and stressed that the council would be monitoring all pitches. Councillor Hyams noted similar concerns about the pitch in Leicester Square, advising that the committee had heard from the Hippodrome regarding the effects that loud amplification has on their business and also from the Chinese community Association on how it affects them. She added that there were residents in Leicester Square and emphasised how residential the Centre of London was.
- 4.30 The Chair raised a query regarding pitch nine remaining in situ with reference to comments from others with regard the pitch being removed, or the direction of the pitch changed. The chairman requested the officers' technical view on the query raised. In responding to the queries raised Mr Andrew Ralph advised the committee that in terms of monitoring, the council were proposing to undertake that task during the run up to the implementation date. He advised the committee that if the policy was agreed, the city inspectors would engage proactively in key areas, which would include Leicester Square, Trafalgar Square, Covent Garden and Oxford Street. Mr Ralph advised the committee that his team would liaise with performers and buskers to ensure that they are aware of the impending implementation date and the requirements that will and will not be accepted after the implementation date.
- 4.31 Mr Ralph advised that from the implementation date, officers will again, engage proactively in those areas, dealing with the buskers, with the street entertainers and trying to resolve any teething issues that there might be. He advised the committee that the council was proposing a three strikes approach in terms of licensed buskers in those areas. 1) Officers would engage with the busker and point out what was not correct 2) take more formal action and then 3) potentially escalate to the highest level which would be to suspend the performer in order to deal with the issue.
- 4.32 Mr Ralph also responded to the point made in relation to dangerous props and confirmed that it was correct that the conditions do prohibit certain types of props. However, he brought the committee's attention to page 27 of the

policy, which makes it very clear that the council would allow applicants to make variations against those standard conditions. Mr Ralph advised the Committee that this would allow the council to have a more engaged conversation with the performers and understand what it is they want to do, how they propose to do it, and therefore be able to waive conditions and allow acts, where appropriate, and where the activity can be done safely, so the policy would not prohibit those particular acts. With regards to turning the direction of pitch number nine around, Mr Ralph advised that his team would certainly look into the matter.

- 4.33 Councillor Glenn advised the committee that he valued what street performers brought to Westminster and London as a whole and was concerned the council does not sanitise and homogenise what is offered. He asked for clarification on the number of pitches that are proposed, as he advised that he read in the papers that it was 25, however the first few speakers all spoke of about 6 pitches. He also enquired whether one licence would allow buskers to perform on any of the pitches across Westminster. Councillor Glen also sought clarification regarding the definition of nuisance; he felt that as neither side was happy with the proposals, it highlighted how difficult a problem this was. He felt that a balance needed to be struck in terms of what was acceptable, both to encourage the vibrancy of the street performing and also to make London liveable. Councillor Glenn also sought confirmation regarding the ongoing relationships with the street performing associations and the Covent Garden Street Performance Association.
- 4.34 The Chair confirmed that there were 26 proposed pitches and believed that six were amplified, and that the reference was being made to the limited number of amplified pitches, but that as had been heard, amplification is one of the major issues. Responding to the query regarding licensing and noise nuisance, Mr Ralph advised the committee that the licence would be granted for a period of one or six months and that either of those licences would allow the holder to perform on any of those 26 pitches.
- 4.35 Mr Ralph added that in terms of noise nuisance, this was notoriously difficult to address. He advised the committee that ambient noise levels would change throughout the course of the day and that therefore the noise levels that the performances would output would have to go up and down accordingly. He added that equally, if there were other activities in the area at the time, they would also have an impact on background noise, and therefore that may also require some adjustment of volume levels. Mr Ralph advised the committee that it was something that the council would continue to work on and would try to make clearer. However, it did mean that council officers would need to be listening on the streets, within businesses and residences; and engaging with the buskers. He added that this would be a key part of the council's city-wide voluntary code; and the buskers and street performers would need to consider how their volume was impacting on the surrounding neighbours – both business and residents.
- 4.36 The Chair advised the committee that the Covent Garden Street Performers Association had worked with officers and neighbours and that it was important that their partnership role continued and kept under review with the

potential to develop this. She added that she valued the intent that has been mentioned by some of the street performers to sit around the table and keep up the engagement process. She felt that there was opportunity to build relationships even further, not just with the Covent Garden SPA but with other SPAs.

- 4.37 Councillor Mitchell advised the committee that he was also a ward councillor in the St James's ward, which represents a substantial part of the proposed new policy. He advised the committee that he felt everybody had not fully understood the intentions behind the proposals. He noted that the committee had heard very impassioned speeches from many street performers and particularly Covent Garden performers, which was a very important part of his ward. He pointed out that the committee had also heard from residents and businesses about the impact of street performing on them.
- 4.38 Councillor Mitchell acknowledged that street performing, and busking is an important part of the city, but getting a balance right was equally as important. He added that he felt it was really important to understand that it is amplified noise that is the main issue, adding that some of the points had been mentioned in the papers, but that this is also apparent from the correspondence that he and his ward colleagues had received from local residents and businesses regarding the impact of the existing, unregulated, regime across the ward.
- 4.39 Councillor Mitchell referred to the ongoing issues in Piccadilly Circus where for years there has been a pitch, which has been used for drumming, dancing and various other performance, which is very popular with visitors. However, sound travels and only recently he recalled getting an email from a resident complaining about the disturbance in his flat in Charing Cross Road. For those who were familiar with the area, they might realise that it's quite a few hundred meters away from Piccadilly Circus and yet still has an impact. He added that he is also receiving complaints from local residents who live on the junction to St Martin's Lane and Cranbourne street, where there is a completely unauthorised pitch adjacent to the Agatha Christie Memorial.
- 4.40 Moving to Covent Garden itself, Councillor Mitchell advised the committee that it had heard very eloquently the impact on residents of what is generally seen to be a well-managed pitch outside Saint Paul Church. He added that, with due respect to the Covent Garden Street Performers Association, and as the papers really made clear, even with a well-run SPA there are still problems. Councillor Mitchell informed the committee that there were particular problems on the eastern side of the piazza outside the Opera House, which impacted a major cultural institution and local residents, but also outside the London Transport Museum. He added that the policy is a massive step and a step in the right direction and should be approved today for the formal processes to be put in place.
- 4.41 Councillor Scarborough addressed the Licensing Committee and advised the committee that she, like many others, agrees that busking and Street Entertainment was an integral part of culture in Westminster and it was appreciated by many. She added that she was completely supportive of

busking and Street Entertainment; however, it did need to be managed. Councillor Scarborough thanked residents who had contacted her regarding the disturbance from Street Entertainment in her ward of Marylebone High Street which includes parts of Oxford Street.

- 4.42 She added that she welcomed the proposals for Oxford St, Regent Street and Bond Street, which will allow four pitches, and the pitch at Marble Arch was proposed to be amplified. She noted that that it was very residential area, particularly off Oxford Street, which was in her ward, along with Picton place, Barrett Street, Duke Street and Gilbert Street, where many residents living there were already disturbed by Street Entertainment. Councillor Scarborough welcomed the policy and felt that it was important to continue to work with everybody and that busking, and Street Entertainment did need to be managed.
- 4.43 Councillor Burbridge addressed the Committee, advising that it had been an exceedingly useful meeting, having the opportunity to hear from the performers, business and residents and thanked them for taking the time to join the meeting. Councillor Burbridge addressed earlier comments made with regard to the Committee having already made its decision and she added that this was misleading. She said that officers and councillors had worked hard to find a balanced approach. Councillor Burbridge discussed the need for modernisation and not gentrification and she also felt that performers with liability insurance and safe practices should be able to continue with their acts.
- 4.44 Councillor Burbridge advised the Committee that the council was doing the right thing by bringing in the policy and she welcomed officers and the Chair for reminding the Committee that the policy would be kept under review; meaning that any issues that arise can be brought forward for solutions and resolved. Councillor Burbridge acknowledged that amplified noise was causing certain problems, and, as her fellow committee members had pointed out, there was a need to define nuisance. She added that she supported the policy put forward, however it should be kept under review, so that changes could be made and adopted that would be helpful to everyone.
- 4.45 Councillor Carman addressed the Licensing Committee; she recognised that that performers would need to supply a national insurance number or proof of the right to work and she felt that this could be seen as a barrier to international performers. She queried if the process could be simplified to avoid this. The Chair advised the committee that officers had amended the process, in response to comments from street entertainers. The Chair asked Mr to Ralph to provide the Committee with a further information. Mr Ralph advised the Committee that the council did have a duty to make sure that the individuals that are working in Westminster under a licence granted by the Council have a right to be here working in the UK. He added that initially two forms of photographic ID were requested; however, that had been reduced to one plus one alternative form of ID.
- 4.46 Councillor Toki sought further clarification regarding the licence fees, duration of the licence and how licences will be reviewed later on. He also sought further clarification on how many buskers and entertainers had shown an

interest in having a licence. The chairman advised the committee that as outlined in the policy, the licence would generally be for six months. She added that, again, following comments from the consultation, officers had introduced a shorter-term licence at a reduced fee, and also a reduced fee for students to perform. The Chair advised the committee that the council is currently speaking to arts and music colleges which were expressing interest in getting involved, perhaps through the forum but also to encourage their students to perform on our streets.

- 4.47 Mr Ralph addressed the Committee and advised that it was difficult to estimate how many street performers would apply for a licence. He informed the Committee that they envisaged between 120 to 140 may apply for a licence across the city. He added that he envisaged each pitch could be used for a number of 40-minute performances, until 21:00, and so it would allow multiple buskers on each pitch throughout the course of a day. He advised that buskers hold licences to perform on those pitches and then it would be the buskers themselves who would arrange how the slots were organised. He added that this was one element of the self-regulation that applied to the buskers.
- 4.48 The Chair advised the Committee that with regards to Covent Garden, one circus performance was only able to work on one of the Covent Garden pitches, as that was the only size that accommodated it safely. She added that there were 12 shows a day and over 30 performers who could not perform elsewhere. The Chair advised the Licensing Committee that the SPA was keen to keep in place their own audition and licensing system of the West pitch and the council were keen to work with the SPA to help enable that to happen. The Chair also addressed an earlier comment which stated that the council refused to meet the Covent Garden SPA, advising that the council did hold meetings with the Covent Garden SPA. The Chair also added that it was certainly possible and indeed essential to have a SPA representative as part of the monitoring discussions and any changes over the year.
- 4.49 Councillor Elcho advised the Licensing Committee that as one walks around the borough, it can be such a joy to walk through an area where somebody's playing music or performing another type of act. It can be uplifting, and as Ronald Reagan once said, "Government is not the solution to our problems, Government is the problem." He added that liberty is a wonderful thing, but he did sympathise with those who live or work near a busking pitch. Councillor Elcho informed the Committee that he was in an area where there was a lot of amplified music, which had an impact, especially during a lockdown. He felt that the policy was about managing, regulating, and licensing an activity for the common good. He added that he also agreed that performance of swords, beds of nails and those similar, should still be allowed.
- 4.50 The Chair thanked officers and the Licensing Committee members for comments, hard work and again thanked all the parties for attending. Mr Ralph brought the Licensing Committee's attention to the paragraph where it referred to it being possible for performers with props that might otherwise be considered dangerous, (eg swords and axes), to still apply for a licence. The members of the Licensing Committee then voted to approve the

recommendations as specified in section two of the report.

- 4.51 **RESOLVED:** Unanimously (**14 Votes**). That the policy be recommended to Full Council.

5 LICENSING POLICY AND CUMULATIVE IMPACT AREA (CIA) CONSULTATION REPORT

- 5.1 Mr Kerry Simpkin, Head of Licensing, Place and Investment addressed the Licensing committee and informed them that The Licensing Act 2003 (the Act) was amended in 2008 to make it a requirement to undertake a Cumulative Impact Assessment (CIA) if it has areas of the city that were believed to be under cumulative stress due to the number and concentration of licensed premises. He advised the Licensing Committee that the licensing authority produced a CIA earlier this year based on data from a wide range of sources over a period of three years (2017-2019). He added that the CIA was carried out prior to COVID-19.
- 5.2 Mr Simpkin advised the Licensing Committee that the Licensing Authority carried out consultation to statutory consultees and the wider public between the 12th October and 15th November 2020 on the authority's intention to publish the CIA. He informed the Licensing Committee that the consultation was run in parallel with the consultation on the Council's proposed revisions to its Statement of Licensing Policy under the Act. He added that a total of 166 responses were received to the consultation. He informed the Licensing Committee that there was a mix of responses and that, although the questions posed in the consultation related to the CIA, the responses often related to the proposed policies associated with cumulative impact or as a result of the findings from the CIA.
- 5.3 Mr Simpkin advised the Licensing Committee that no significant issues were identified during the consultation exercise that would require the Licensing Authority to amend the 2020 Cumulative Impact Assessment as produced. He advised the Licensing Committee that it was proposed that the CIA should be published on the 1st December 2020. Mr Simpkin informed the Licensing Committee that the Act required the Licensing Authority to undertake a review of the CIA within three years. He added that it was anticipated that, due to the impact of COVID-19, and the recovery needed following the pandemic, potentially the Licensing Authority would need to undertake a review within the next 18 months.
- 5.4 Mr Simpkin told the Licensing Committee that the current and proposed revision of the Council's Statement of Licensing Policy contained a Cumulative Impact Policy, which has a presumption to refuse certain applications within a designated cumulative impact zone. The current cumulative impact zones are located within the West End, Queensway/Bayswater and Edgware Road. He added that it is proposed under the new revised policy that both Edgware Road and Queensway/Bayswater zones would no longer be classified as a Cumulative Impact Zone.

- 5.5 Mr Simpkin advised the Licensing Committee that Queensway/Bayswater and Edgware Road were found not to be under cumulative stress. He informed them that the levels of incidents rates in these areas were higher than the borough average, but that the incidents could not be linked conclusively to licensed premises in order to demonstrate cumulative impact. Mr Simpkin advised the Licensing Committee that it was recommended to note the responses to the consultation and agree to publish the 2020 Cumulative Impact Assessment (CIA) in accordance with Section 5A of the Licensing Act 2003 from Tuesday 1st December 2020.
- 5.6 Councillor Mitchell addressed the Licensing Committee and informed them that it was brought to his attention by the Chief Executive of the Saver Business Network that they had made a representation which is in paragraph three of the consultation responses. He declared that he was the current chair of the Safer Business Network but that he did not participate in the drafting of the comments. Councillor Mitchell noted the point that Mr Simpkins made that it was the intention to review the cumulative impact assessment within a shorter duration and he hoped that it would be shorter than the three-year review required by statute. He advised that the same point was being made by the business networks, in that they would like to see a review after no later than one-year from now.
- 5.7 Councillor Glen addressed the Licensing Committee and sought further clarity on the report where it stated that Westminster suffers more incidents than in other London boroughs, in fact 10% of all incidents in London, despite being very small area. He queried whether it was appropriate under the legislation to compare areas of Westminster with other areas of Westminster rather than London as a whole, when considering what should make up the cumulative impact area, and whether Westminster has a higher bar, which may be correct.
- 5.8 Responding to the queries raised, Mr Simpkin confirmed that the council is anticipating a review within 18 months. He advised the Licensing Committee that the council's approach was based on the city and how CIA affects different parts of the city. He advised the Committee members that if they looked at comparing other local boroughs and where the bar is in terms of where it is felt cumulative impact occurs, he did not feel that the Westminster bar, particularly for the approach used to review the CIA in this case was much higher than other areas. He stated that the team had looked at other CIAs, not just across London, but also across other major cities around the country.
- 5.9 Councillor Scarborough addressed the Licensing Committee and expressed her thanks to the officers for the hard work and the production of the extensive reports. Councillor Burbridge addressed the Licensing Committee and also thanked officers for an excellent piece of work. She raised queries regarding the current Queensway/Bayswater regeneration which had been ongoing for the last two years. She felt that this had probably kept the numbers of incidents down and was unsure whether that had been taken into consideration. Councillor Burbridge also advised the Licensing Committee

that since this review started there had been changes to the planning legislation D class which will make it much easier for premises to become restaurants. She queried whether the issue had been considered as it would be very relevant to Queensway.

- 5.10 Mr Simpkin advised the Licensing Committee that Queensway/Bayswater would be part of the special consideration zone. He advised the Licensing Committee that the analysis for the CIA did not allow for more localised activity like regeneration, it could only use the evidence base over a three-year data set period. He added that the team was not able to go out for observational analysis, given COVID and so had no choice but to use the evidence before them. He added that to maintain any sort of cumulative impact policy approach it was a requirement to produce a Community impact assessment. Mr Simpkin added that therefore it could be important to undertake a further review of the CIA in the next year, subject to the recovery from COVID. He advised the Licensing Committee that the planning use class had not come into effect or had not gone through Parliament at the time of the analysis, so that was not a consideration. However, that element, along with the issues associated with special consideration zones, would be addressed in the report to the Council.
- 5.11 Councillor Arzymanow thanked officers for the report. It was useful to compare the wards, as it did put things into perspective and why some wards were not included as Cumulative Impact Zones. She expressed that she would welcome a review in order to look at boundaries, and also as there were many gambling and sexual entertainment venues located in her ward.
- 5.12 **RESOLVED: Unanimously (14 Votes).** That the consultation responses are noted and approved to be published.

6 SUMMARY OF CONSULTATION RESPONSES TO THE PROPOSED REVISIONS OF THE COUNCILS STATEMENT OF LICENSING POLICY

- 6.1 Mr Kerry Simpkin, Head of Licensing, Place and Investment addressed the Licensing Committee and informed them that the Licensing Authority began its statutory consultation on its proposed revisions to the Statement of Licensing Policy on the 12th October 2020. He advised the Licensing Committee that the consultation ran for a period of 5 weeks ending on the 15th November. Mr Simpkin informed the Licensing Committee that the Licensing Authority received 166 responses to date from a range of different stakeholders. He added that the report provided a summary of those responses.
- 6.2 Mr Simpkin advised the Licensing Committee that the Licensing Act 2003 (the Act) required that each Licensing Authority must for every five-year period determine its policy with respect to the exercise of its licensing functions and publish a statement of that policy before the beginning of the period. Before the Licensing Authority can determine its policy for a five-year period it must consult those specified within the Act. Mr Simpkin advised the Licensing Committee that the current Statement of Licensing Policy (SLP) five-year term will end on the 6th January 2021. He informed the Licensing Committee that the Licensing Authority has undertaken a review of the policy and proposed a

number of revisions. He added that some of these revisions were as a result of the findings of the Cumulative Impact Assessment (CIA), which provided evidence to support the inclusion of an amended cumulative impact policy within the SLP.

- 6.3 Mr Simpkin told the Licensing Committee that in light of the findings from the CIA and the potential impact of COVID-19 the Licensing Authority had taken a pragmatic approach in considering the CIA findings and the proposed revisions to the SLP. He advised the Licensing Committee that as a direct result of the ongoing uncertainty, impact on licensed premises and the reduction in visitor numbers, the Licensing Authority had decided that expanding the current West End Cumulative Impact Area and implementing further restrictions on other premises uses within that area would not be appropriate. He added that due to the current COVID-19 impact and restrictions on the hospitality sector the Licensing Authority did not believe that the approach would be at odds with its duty to promote the licensing objectives.
- 6.4 Mr Simpkin advised the Licensing Committee that the next steps would be for the Cabinet Member for Public Protection and Licensing to agree the final revisions to the Statement of Licensing Policy and refer it to Full Council on the 9th December requesting that it be formally adopted. He added that the report provided an opportunity for the Licensing Committee to provide their final views on the proposals in light of the consultation responses. Mr Simpkin advised the Licensing Committee that it was recommended to provide their views on the summary of the consultation responses relating to the proposed revisions of the Statement of Licensing Policy, and, having had regard to the responses to the consultation, provide a steer on whether any of the proposed revisions should be amended.
- 6.5 Mr Kaner from the Covert Garden Residents Association (CGRA) addressed the Licensing Committee and he advised that there was a general theme from businesses that they would like to see a further relaxation of the CIA policy. However, residents who live in the CIA zone suffer from a level of impact which was at times far higher than the borough average and were concerned that any relaxation of the CIA or the wording of the CIA policy would make the situation worse. It was also clear that, despite the presumption to refuse applications to certain types of premises, the number of licences in the cumulative impact zone had increased and so had the negative impacts.
- 6.6 Mr Kaner advised the Licensing Committee that an observational study would have shown an even higher level of issues than those reported. He said that residents had given up reporting public nuisance issues, especially for noise in the street, because nothing happens as a result. This meant that this type of nuisance was not going to be visible in the council's analysis. It was his view that as the CIA policy is focused on the presumption to refuse certain types of premises, it meant that applicants just applied successfully for a different type of licence, such as the restaurants in the CIA. Mr Kaner felt that many applicants are granted a licence because restaurants are not normally associated with crime and disorder, but they do generate public nuisance, especially as people leave or arrive, and this is particularly the case when

there are lots of them grouped together.

- 6.7 Mr Kaner advised the Licensing Committee that he had seen a significant increase in the number of MC66 restaurants in the CIA and an increase in the level of issues on the street; he felt that this was not a coincidence. He advised the Licensing Committee that applicants for all types of premises should work harder and put greater focus on mitigating the impacts of the granting of a licence. Mr Kaner informed the Licensing Committee that Covent Garden Resident Association asked that officers review the wording of the cumulative impact policy so it makes absolutely clear that, within the CIA, the presumption to refuse is not dependent on the type of operation but on whether or not it will add to cumulative impact.
- 6.8 The chairman thanked Mr Kaner for his submission and welcomed questions from the Licensing Committee members. Councillor Burbridge thanked Mr Kaner and stated that she agreed with the points that he raised. Responding to Mr Kaner, Mr Simpkin advised the Licensing Committee that the in the next review there was scope to review and consider this representation and balance it alongside other responses received.
- 6.9 **RESOLVED:** Unanimously **(13 Votes)**. That the changes to Statement of Licensing Policy be approved.

7 ANY OTHER BUSINESS WHICH THE CHAIR CONSIDERS URGENT

- 7.1 There was no other business raised by the Committee.

The Meeting ended at 2:00pm

CHAIRMAN: _____

DATE _____