



City of Westminster

Committee Agenda

Title:

Licensing Committee

Meeting Date:

Wednesday 7th July, 2021

Time:

10.00 am

Venue:

This will be a Virtual Meeting

Members:

Councillors:

Matthew Green (Chair)
Heather Acton
Barbara Arzymanow
Susie Burbridge
Rita Begum
Maggie Carman
Aicha Less
Murad Gassanly

Jim Glen (Vice Chair)
Louise Hyams
Tim Mitchell
Karen Scarborough
Jacqui Wilkinson
Aziz Toki
Richard Elcho

This will be a virtual meeting. Members of the public and press are welcome to attend the meeting and listen to the discussion Part 1 of the Agenda.

This meeting will be live streamed and recorded. To access the recording after the meeting, please revisit the link.

If you require any further information, please contact the Committee Officer, Tristan Fieldsend, Senior Committee and Councillor Liaison Officer.

**Email: tfieldsend@westminster.gov.uk Tel: 07812 760 335
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 2, 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. MEMBERSHIP

To report any changes to the membership

2. DECLARATIONS OF INTEREST

To receive declarations by Members and Officers of the existence and nature of any pecuniary interests or any other significant interest in matters on this agenda.

3. MINUTES

To approve the minutes of the meeting held on 24 March 2021 as a correct record of proceedings.

(Pages 3 - 8)

4. PROPOSED REVISION TO THE COUNCIL'S STATEMENT OF LICENSING POLICY - DELIVERIES OF LICENSABLE PRODUCTS AND SHOPS

To receive a report from the Head of Licensing, Place and Investment Policy.

(Pages 9 - 36)

5. RUPERT STREET MARKET LAYOUT - STANDARDISATION, DEMARCATION AND NUMERATION OF PITCHES

To receive a report of the Director of Public Protection and Licensing and the Director of Economic Development.

(Pages 37 - 46)

6. OVERVIEW OF THE WORK UNDERTAKEN BY THE LICENSING SERVICE DURING THE COVID-19 PANDEMIC

To receive an update from the Head of Licensing and Regulatory Services.

(Pages 47 - 58)

Stuart Love
Chief Executive
2 July 2021



CITY OF WESTMINSTER

MINUTES

Licensing Committee

MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Committee** held at **10:00am** on **Wednesday 24 March 2021**, This meeting was held virtually.

Members Present: Councillor Matthew Green (Chair), Jim Glen (Vice Chairman), Heather Acton, Barbara Arzymanow, Rita Begum, Susie Burbridge, Maggie Carman, Richard Elcho, Murad Gassanly, Louise Hyams, Tim Mitchell, Karen Scarborough, Aicha Less, and Aziz Toki.

Officers present: Kerry Simpkin, (Head of Licensing Policy, City Policy and Strategy), Heidi Titcombe (Principal Solicitor), Andrew Ralph (Head of Licensing and Regulatory Service), and Kisi Smith-Charlemagne (Senior Committee and Governance Officer).

Apologies for Absence: Councillor Jacqui Wilkinson

1 MEMBERSHIP

- 1.1 Heidi Titcombe, Legal Advisor to the Committee opened the meeting with the first order of business, for the appointment of a new Chairman. The Committee appointed Councillor Matthew Green as Chairman and Councillor Jim Glen as the new Vice Chairman following nomination and approval.

2 DECLARATIONS OF INTEREST

- 2.1 There were no declarations of interest

3 MINUTES

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

4. REVIEW OF LICENSING FEES FOLLOWING THE IMPLEMENTATION OF FURTHER RESTRICTIONS UNDER THE HEALTH PROTECTION (CORONAVIRUS, RESTRICTIONS) (ENGLAND) REGULATIONS 2020

- 4.1 The Licensing Committee received a report from the Interim Director of Public Protection and Licensing. Mr Andrew Ralph, Head of Licensing, informed the Committee that this was the second report that had been brought to the Licensing Committee to consider in relation to fees resulting from the Covid-19 Pandemic. He informed the Committee that the first report was considered by a Licensing Urgency Committee in June 2021.
- 4.2 Mr Ralph advised the Committee that the report in front of them, sought approval to waive the fees for the Street Traders who had been legally unable to trade due to the various lockdowns and also to reduce Part B of the fee for a number of other licensing types as specified in the report. He advised the Committee that Part B related to the monitoring and enforcement element of the licensing fees. He confirmed that many of the premises referred to in the report had been unable to operate legally as a result of the lockdown and had resulted in a reduction in costs for the Council as less inspections had been carried out.
- 4.3 Members of the Committee queried whether the costs for waving the fees would impact the Council's budget and if the Council would be reimbursed from central government under the Covid-19 regulations. Mr Ralph advised the Committee that under the regulations and extraordinary measures the Council would be reimburse for up to 75% of the costs. The Chair commented on the fairness of the approach and hoped to see many traders take advantage and bring the city back to life in the very near future.
- 4.4 **RESOLVED:** Unanimously **(14 Votes)**. Approved:

That the Licensing Authority can waive the full fees for non-essential market traders that were and are unable to trade during the COVID-19 restrictions in November 2020 and again in December 2020, January, February, March 2021 and up to April 2021.

That the Licensing Authority is authorised to reduce renewal fees and/or Part B fees, on a pro-rata basis, for businesses that are closed and not permitted to trade, whilst the COVID-19 restrictions are in place in November 2020 and again in December 2020, January, February and March 2021 for the licensing regimes specified in paragraph 3.3 of this report, where the Licensing Authority has the discretion to set the fees.

That the Licensing Authority be at liberty to waive fees for street traders of essential goods, should the government impose further restrictions restricting their trading.

5. AMENDMENT TO LICENSING ACT 2003 MODEL CONDITIONS

- 5.1 Mr Kerry Simpkin, Head of Licensing, Place and Investment addressed the Licensing Committee and advised the Committee the report before them related to a proposed revision to the Council's pool of model conditions under the Licensing Act. He informed the Committee that the reason for the revision follows on from the adjustment and revision to the Statement of Licensing Policy that was completed last year. Mr Simpkin advised the Committee that officers had undertaken a review of the current pool of model conditions and had put forward suggested amendments that related to the changes that were made to the Statement of Licensing Policy and specifically around restaurants conditions (66, 38 70 and 70A).
- 5.2 Mr Simpkin advised the Committee that the Metropolitan Police had put forward an adjustment to condition 1 which related to CCTV and had also put forward a number of other conditions which were detailed within the report. He advised that the Council's Environmental Health Service and the Licensing team had also commented and made some minor adjustments to existing model conditions relating to major events. Mr Simpkin noted that the pool of model conditions was there as a supportive document that is available to applicants, residents and the Committee.
- 5.3 Mr Simpkin advised the Committee that that the pool of model conditions are not standard conditions, as standing conditions are not permitted under the Licensing Act 2003. Mr Simpkin informed the Committee that the proposal put forward was to amend the current pool of model conditions and to delegate the authority to make further revisions and changes as and when needed to the Director of Public Protection and Licensing.
- 5.4 The Chair thanked Mr Simpkin, his team, and officers across the Council for their work. The Chair opened the discussion and queried the new Class E usage. the Chair sought confirmation that Planning colleagues had reviewed the model conditions through the premise of the new Class E usage. Mr Simpkin confirmed that he had engaged specifically with Planning colleagues on this issue, however, currently there were no proposed conditions to address the issues that may arise as a result of the change of use class.
- 5.5 Mr Simpkin advised the Committee that his team would continue to monitor the situation, and this was the rationale behind delegating the authority to amend the pool of model condition to the Director of Public Protection and Licensing. He stated that this enabled changes to be made to the model conditions as and when necessary, particularly around use classes. The Chair welcomed the flexibility at the early stage of the implementation, he noted that members can add their own conditions and did not always need to follow the model conditions.
- 5.6 Members requested that any changes made by delegated authority should be made in consultation with the Chairman of the Licensing Sub-Committee. Members also raised issues with regard to the Police agreeing conditions prior to licensing committee hearings. Members felt constricted when the Police

agreed conditions in advance of the hearing, as the Committee were unable to clarify matters with them at the hearing, and such proposed conditions appeared to take precedence over the Committee's ability to make a determination of the conditions which should or should not be attached to the licence. Members felt that it would be helpful, if the Police could attend meetings in future, even if they had agreed conditions as this would allow Members to ask relevant questions.

- 5.7 Mr Simpkin advised the Committee that the Police, as a responsible authority are independent from the Council in terms of their approach. He informed the Committee that the Council and the Police do work hand in hand, and he would raise with the Police the Committee's concerns when considering some applications to be satisfactory, when they withdraw their representations and fail to attend meetings.
- 5.8 In response to a question, Ms Heidi Titcombe, advised the Committee that the Council is not able to insist that the Police attend Licensing Sub-Committee meetings. The Police are entitled to withdraw their objection if they wish so, but it is important for the Police and Licensing Authority to work together to address the concerns raised.
- 5.9 Ms Titcombe advised the Committee that where the Police or indeed, any other party agrees proposed conditions in advance of a hearing, the Committee still has the discretion to decide what conditions are appropriate and proportionate to attach to licence, which includes amending conditions which may have been proposed by the parties involved. Ms Titcombe advised the Committee that where there is an issue about crime and disorder, the Secretary of State's Guidance says the Police should usually be the Committee's main source of advice as they are the experts on crime and disorder.
- 5.10 The Chair advised the Committee that he did recognise the specific case relating to gambling policy and he had pledged to launch a review of the Council's gambling policy, he hoped some of those issues could be addressed. Councillor Acton, the Cabinet Member responsible for Policing addressed the Committee, she advised that liaising with the Police is important and confirmed that such liaisons were taking place at the highest level. Councillor Acton advised the Committee that the conversations had already taken place and things were in motion with the Police.
- 5.11 Members discussed the model conditions, querying if a condition could be added regarding idle engines, however it was advised that this was already illegal. Members raised further queries with regards to premises that operate as restaurants but did not have a kitchen and premises that had outside space and have use of the public highway. Mr Simpkin advised the Committee that some premises have food prepared elsewhere which is brought in and reheated for consumption. The Chair suggested that using the delegated authority, Mr Simpkin and Ms Titcombe review the model conditions 65 and 70A and provide additional clarity to ensure they deliver the Committee's intentions.

- 5.12 Members welcomed the clarity in regards to a clear definition of a substantial meal, the sensible updates to reflect modern trading and endorsed the new model condition 66. Members also raised concerns regarding hubs that provided a click and collect service, it was thought this could be a problem if alcohol is provided for sale or delivery 24 hours a day. Members believed that this could cause nuisance to residents and was an issue the Committee needed to be aware of. Members raised a final point regarding restaurant deliveries after 10:00pm.
- 5.13 Mr Simpkin advised the Committee that this was something the Council was aware of and was monitoring with interest. He informed the Committee that if necessary, model conditions would be amended to reflect the specific requirement the Council may need to impose. Mr Simpkin also advised the Committee that he welcomed liaising the Chairmen of Licensing Sub-Committee's in relation to any proposed changes to the model conditions before agreement by officers. With regards to late night deliveries, Ms Titcombe informed the Committee that deliveries could only be restricted in relation to licensable activities granted.
- 5.14 **RESOLVED: Unanimously (14 Votes).** That the proposed model conditions and delegated authority to the Director of Public Protection and Licensing are agreed.

6. LICENSING APPEALS UPDATE

- 6.1 Ms Heidi Titcombe, Legal Advisor introduced the report and advised the Committee that this was a report to note which detailed the appeals that the Council have dealt with in the last year. Ms Titcombe informed the Committee that she was pleased to report there had only been two new appeals. She advised the Committee that the appeal referred to in paragraph three, related to 100 Wardour Street on the ground floor, where noise had been escaping into adjoining premises. She noted that one of the residents was not happy with the outcome of the review and attempted to appeal the decision, but quickly withdrew. Ms Titcombe advised the Committee that the Council were able to recover costs in December.
- 6.2 Ms Titcombe advised the Committee that the outstanding appeal related to Scotch, a premises in Mason's yard. She informed the Committee that we are waiting for the summons to be issued, as there have been delays with the magistrates courts during the Covid-19 pandemic. Ms Titcombe advised the Committee that the Council was also waiting for a case management hearing in relation to this matter and members would be updated further as the case progresses.
- 6.3 Ms Titcombe advised the Committee that the only other matter was Hemmings, she stated that members, would recall that the Council have sent papers to the Administrative Court of the High Court, who are only dealing with priority cases during the lockdown. No directions have been given at the present time.

6.4 The Chair thanked Ms Titcombe for an excellent record and believed that this was testament to her and her fellow solicitors, for the excellent advice given to Committee members. The Chair also thanked the Committee members for their sound judgment and the balanced way they adjudicate applications.

6.5 **RESOLVED:** That the report be noted for information.

7. ANY OTHER BUSINESS WHICH THE CHAIRMAN CONSIDERS URGENT

There was no other business raised by the Committee.

The meeting ended at 11:00am.

CHAIRMAN: _____

DATE _____



Licensing Committee Report

Date	07 July 2021
Classification	For General Release
Title or report	Proposed Revision to the Councils Statement of Licensing Policy – Deliveries of Licensable Products and Shops.
Report of	Director of Innovation and Change and Director of Public Protection and Licensing
Decision maker	Licensing Committee
Wards involved	All
Financial summary	None
Report author and telephone	Mr Kerry Simpkin, Head of Licensing, Place and Investment Policy. Tel: 07583 108491. Email: ksimpkin@westminster.gov.uk

1. Executive Summary

- 1.1 The Councils Statement of Licensing Policy (SLP) under the Licensing Act 2003 (2003 Act) documents how the Council will carry out its duty under the 2003 Act when considering and determining applications for premises licences or club premises certificates. The SLP was last reviewed in 2020 and that review sought to implement the findings of the 2020 Cumulative Impact Assessment findings and set out a new policy framework based.
- 1.2 There has been growing concern about the increase in delivery services that provide licensable products, such as alcohol or late-night refreshment. Residents have raised issues around public nuisance that is caused by these services. To ensure that the Councils approach to determining applications for delivery services is established a new policy will be required for both ancillary delivery services and for delivery centres.
- 1.3 It has also been identified that the current SLP doesn't provide a policy approach to shops who want to provide licensable activities other than the off sales of alcohol. Due to the increase in applications for licensable activities in shops a new policy approach for shops may be required.

- 1.4 It is proposed that the Council revises its SLP to include policies that will address these types of applications. The Council has set out its proposed revisions to the SLP in a consultation paper (attached at Appendix 1). Consultation on these proposals commenced on the 14th June and will end on the 25th July 2021.

2. Response Required

- 2.1 The Licensing Committee views and comments on the proposed revisions to the Council's SLP are sought. The Committee are asked to discuss the contents of this report and provide officers with feedback so that it can be considered along with other responses to this consultation.

3. Background

- 3.1 There has been a significant increase in the offer of food and alcohol deliveries from existing licensed premises to customers in their homes over the past 3 years. Deliveries themselves are not regulated, but the sale of alcohol at any time and the provision of hot food and hot drink between the hours of 11pm and 5am (late night refreshment) is. A business that offers the sale of alcohol or late-night refreshments will require a premises licence under the Licensing Act 2003 (the 2003 Act). The ability to deliver alcohol and late-night refreshment has become a key ancillary service to the operation of some licensed premises during the Covid-19 pandemic.
- 3.2 There has been a growing number of applications for delivery centres where food and drink are stored, picked and then delivered to customers at home or work via either their own delivery personnel or via a third-party delivery service. Alcohol is often offered alongside unregulated items, such as groceries for delivery. There has also been a growing trend across the country of consolidated food preparation and delivery centres which are provided only for the delivery of food and drink to people in their homes. They do not provide a walk-in service for customers. These food preparation and delivery centres often will operate beyond 11pm and in some cases offer the delivery of alcohol alongside the delivery of the food. These delivery centres are linked to their own or a third-party website or phone application that customers can order from.
- 3.3 Residents have reported increased levels of public nuisance around venues that provide deliveries and at the locations where deliveries are being made to customers. Deliveries also often take place in the evening through to the early hours of the morning when residents are more likely to be disturbed by noise. Public nuisance is often related to noise from delivery personnel congregating outside the premises or from their delivery vehicles. Other issues of public nuisance raised with the Council have included littering, obstructing the highway and street urination by delivery personnel.
- 3.4 The sale of alcohol is specifically regulated so that it is illegal to sell alcohol to anyone under the age of 18. Premises must have age verification measures for customers who wish to purchase alcohol within their premises. The same age verification requirement must also be provided for the delivery of alcohol to ensure the customer, who ordered the alcohol for delivery is over the age of 18. This provides an onus on

delivery personnel to ensure that the licensed premises meet their legal and licensing obligations and undertake age verification checks before the alcohol is handed to the customer.

- 3.5 The Council's SLP does not currently include a policy approach for the delivery of alcohol or late-night refreshment. Each application relating to the delivery of licensable activities is considered on its own merits, having regard to the operation of the premises, any concerns that have been raised by residents or responsible authorities and whether the application will promote the licensing objectives.

4. Proposed Revisions

- 4.1 The proposed SLP revisions document at Appendix 1 sets out a possible policy approach that would be used to determine applications for the delivery of alcohol and food from licensed premises. Due to the construction of the SLP the attached proposal also includes a number of minor amendments to the SLP to enable the implementation of the new policies.
- 4.2 There are two types of delivery services that have become more prevalent across the City. The first type is the ancillary delivery offer that is provided by existing licensed premises where deliveries are made either by themselves or via a third party, such as Deliveroo. These delivery services provide alcohol and/or hot food that are stored or prepared on their premises for customers in their home or at work. This delivery service is an ancillary function to the main use of the premises, for example as a restaurant. It is proposed to include a new policy that applies to the ancillary delivery of alcohol and/or food that will be applicable across all licensed premises uses defined within the SLP. This policy will only be relevant in the consideration of the application if the premises provides or intends to provide a delivery service where licensable activities are provided to customers.
- 4.3 This policy will have a general policy approach to grant applications that meet the other policies within the SLP and are within Core Hours. For the purposes of this policy the Core Hours will be the relevant premises use hours, e.g. restaurant hours. Applications that do not meet the other policies within the SLP or are beyond core hours will be considered on their own merits. This will enable the Licensing Authority to consider each case and whether the proposal, including the hours will likely impact on the Licensing Objectives. This policy approach will provide sufficient flexibility, to grant the application as presented, reduce the hours as appropriate, amend or add any terms and conditions as they see fit or refuse the application. At present Officers have not sought a more stringent policy approach to applications beyond Core Hours. It is felt that the proposed approach will enable sufficient flexibility to the Licensing Authority to determine whether to grant applications or not based on the evidence presented. However, if concerns are raised during the consultation process relating to the policy approach for applications beyond Core Hours Officers may look to strengthen this policy.
- 4.4 The second type is the new and developing businesses that provide a dedicated delivery centres for groceries which often includes the alcohol or premises that prepare takeaway food for delivery only. The delivery of alcohol and/or hot food is the

primary use of these premises unlike the delivery services from restaurants or fast-food premises where it is an ancillary function. As referred to above the licensable activities that can be regulated under the 2003 Act are the sale of alcohol at any time and the sale of hot food and hot drink between 11pm and 5am. The majority of applications for this type of delivery business intend to provide alcohol for delivery to customers at home. However, officers are aware of a growing number of business models that are dedicated to the delivery of “takeaway” food that is cooked, prepared, and dispatched from that premises. The delivery of this pre-prepared hot food and hot drink will be the primary function of the premises and these operations do not have a walk-in customer service. It is proposed to add a new policy on the Council’s approach to determining applications where the delivery of alcohol and/or hot food and drink is the primary use of the premises.

- 4.5 The new policies referred to above will explain the Council’s approach to determining applications that include the provision of deliveries. The policy approach is to generally grant these applications if they meet the other policies and criteria within the SLP. However, due to the increasing concerns about the potential impact of public nuisance from delivery centres and at the point of delivery, applications for predominantly residential areas will not have a general policy approach to grant them. Any application within a predominantly residential area will be considered on their own merits. This policy approach will provide responsible authorities and residents when making representations. If an application does receive a representation against it then the Council’s Licensing Sub-Committee is required to determine the application after due consideration of any representations and with regard to the Council’s policy. It was not possible to support a policy approach that had a presumption to refuse applications for delivery centres without a stronger evidence base.
- 4.6 When developing the policy approach for delivery centres it became apparent that the current Off Licence policy OS1 did not fit the premises use policy approach that has been taken within the current SLP. The Off Licence policy was intended to apply to shops, stores and supermarkets. However, retail premises are not directly referred to within the current licensing policy for the consideration of licensable activities, other than alcohol. To support the wider approach of encouraging retail premises to offer a diverse and experiential environment to attract and retain customers it is proposed to remove the Off-licence policy and replace it with a dedicated policy for shops. This new policy will mirror the off-licence policy approach but expand it to include the consideration of other licensable activities that shops may wish to offer, such as music, late night/early morning food or consumption of alcohol on the premises. There will be a general policy approach to grant a licence for shops up to core hours both inside and outside the Cumulative Impact Zone if they meet the other policies within the SLP. This policy approach is consistent with other low risk premises use policies within the SLP
- 4.7 There are a number of other proposed minor amendments to other policies within the SLP. These amendments are limited to enabling the introduction of the three new policies and the removal of the Off-licence policy. These changes include the addition of new Core Hours for Delivery Centres, amending premises use policies to include a consideration of the ancillary delivery of alcohol and/or food policy and amend the

definition of a restaurant to include the ancillary delivery of food. All of the proposed amendments to the existing SLP are set out in the attached proposed revision.

5. Consultation

- 5.1 On the 14th June the Council began its public consultation on the proposed revisions to its SLP. The consultation will run for 6 weeks and end on the 25th July. Officers will review all of the responses that are received. Officers and the Cabinet Member for Business, Licensing and Planning will consider the comments and what amendments to the proposed policy are required.
- 5.2 The final proposed revision to the SLP will be referred by the Cabinet Member for Business, Licensing and Planning for consideration and adoption at the Full Council meeting on the 22nd September. If adopted, the revised policy will come into effect on the 1st October 2021.

6. Legal Implications

- 6.1 There are no legal implications as a result of this report.

7. Financial and Staffing Implications

- 7.1 There are no staffing implications as a result of this report.

Appendices

Appendix 1 – Proposed Revisions to the Statement of Licensing Policy Consultation Document – 14th June 2021.

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

Mr Kerry Simpkin, Head of Licensing, Place & Investment Policy
Innovation and Change
Tel: 07583 108491, Email: ksimpkin@westminster.gov.uk

Background Papers

Westminster City Council's Statement of Licensing Policy – January 2021
Westminster City Council's Cumulative Impact Assessment – November 2020
Licensing Act 2003

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City of Westminster

Proposed revisions to Westminster City Council's Statement of Licensing Policy - Delivery of alcohol and/or late-night refreshment to customers at home or their workplace and the provision of licensable activities in shops.

Section 5, Licensing Act 2003

14th June 2021

1. Introduction

- 1.1 There has been a significant increase in the offer of food and alcohol deliveries from existing licensed premises to customers in their homes or at their place of work. Deliveries themselves are not regulated. However, the sale of alcohol and the provision of hot food and hot drink between the hours of 11pm and 5am (late night refreshment) are licensable. A business that offers the sale of alcohol at any time for delivery and/or provides late night refreshments between 11pm and 5am will require a premises licence from the Council. The ability to deliver alcohol and late-night refreshment has become a key ancillary element to the primary operation of licensed premises.
- 1.2 The delivery of food and drink from existing licensed premises has been an essential service for existing licensed premises during the COVID-19 pandemic. A large number of licensed premises opted to provide a takeaway and delivery service to their customers during lockdowns. There significant growth in a delivery offer from licensed premises is expected to remain once restrictions are lifted and the pandemic ends. The use of phone applications to facilitate orders and the availability of third-party delivery services has provided a cost-effective option for licensed premises to sell their food and drink to customers at home.
- 1.3 In addition to the increase in ancillary deliveries from existing premises, there has been a growing number of applications for delivery centres where food and drink is stored, picked and then delivered to customers at home or work via either their own delivery personnel or via a third-party delivery service. Alcohol is often offered alongside unregulated items, such as groceries for delivery. Delivery centres require regular deliveries to them to enable to flow of goods to customers. The delivery of goods to delivery centres generated significant concern regarding the time and day of delivery, the noise nuisance from refrigeration vehicles and the noise nuisance from the unloading of these vehicles.
- 1.4 There has been a growing trend across the country of consolidated food preparation and delivery centres which only provide the delivery of food and drink to people in their homes. They do not provide a walk-in service for customers. These food preparation and delivery centres often will operate beyond 11pm and in some cases offer the delivery of alcohol alongside the delivery of the food. These delivery centres are linked to their own or a third-party website or phone application that customers can order from.
- 1.5 The delivery of food and drink can create additional impacts on the licensing objectives under the Licensing Act 2003 and therefore the Council has a duty under the Act to ensure that licensed premises which do so operate in a way that does not impact these objectives. Residents have reported increased levels of public nuisance around venues that provide deliveries and at times when deliveries are being made customers. Public nuisance is often related to noise from delivery personnel congregating outside the premises or from their delivery vehicles. Other issues of public nuisance raised with the Council have included littering, obstructing the highway and street urination by delivery personnel. The Council is committed to supporting licensed businesses within Westminster to grow and diversify in a safe, responsible, and positive way that promotes the licensing objectives.
- 1.6 The sale of alcohol is specifically regulated so that it is illegal to sell alcohol to anyone under the age of 18. Licensed premises are very familiar with the licensing objective concerning the protection of children from harm. Premises must have age verification measures for customers who wish to purchase alcohol within their premises. The same age verification measures must also be in place for the delivery of alcohol to ensure the customer who

ordered the alcohol for delivery is over the age of 18. This provides an onus on delivery personnel to ensure that the licensed premises meet their legal and licensing obligations and undertake age verification checks before the alcohol is handed to the customer.

- 1.7 The Council's Statement of Licensing Policy does not currently include a policy approach for the delivery of alcohol or late-night refreshment. Each application relating to the delivery of licensable activities has been considered on its own merits, having regard to the operation of the premises, any concerns that have been raised by residents or responsible authorities and whether the application will promote the licensing objectives. The delivery of alcohol and food has become a key service that licensed businesses want to provide to their customers. However, the operation of delivery services can have a significant impact on the licensing objectives and cause significant detrimental issues to residents living around the premises or at the point of delivery.
- 1.8 The Council is therefore proposing to revise its Statement of Licensing Policy in accordance with section 5 of the Licensing Act 2003 (the Act) to introduce new and amended policies that will set out the Council's approach for determining applications associated with the delivery of alcohol and/or late-night refreshment to customers at home or at their place of work and for shops providing licensable activities. The first policy will focus on the Licensing Authority's approach to businesses that wish to provide a delivery service for alcohol and/or late-night refreshment, either operated by them or through a third party, which is ancillary to the main use of the premises, e.g. a restaurant. This policy will only apply if the applicant or licensee intends to provide a delivery service which is ancillary to their main premises use. The second policy will be for businesses operating as a delivery centres, where their primary use will be to provide a delivery service, that includes alcohol and/or late-night refreshment to customers at home or at their workplaces.
- 1.9 Whilst shops are currently referred to within the Off-Sales of Alcohol Policy OS1, that policy does not reflect the other licensable activities that shops can provide. The current Off-Sales Policy relates to the function of selling alcohol off the premises and not the specific premises use which the other policies are based around. It is proposed to add a new policy for shops that wish to provide licensable activities as an ancillary function or, in the case of off licences as their main use. The proposed new policy for shops will set out the Council's existing approach to determining applications for off licences but also expand the considerations to other types of licensable activities that can be offered within shops. With the introduction of the new shops policy and the proposed delivery centre policies it is proposed to remove the Off-Sales of Alcohol Policy as this would no longer be required.
- 1.10 In considering this proposed revision the Licensing Authority, in accordance with section 5 (6D) of the Act, has had regard to the Council's Cumulative Impact Assessment that was published in October 2020 in accordance with section 5A of the Act.¹
- 1.11 The proposed revisions to the Council's Statement of Licensing Policy are set out in detail below. Views and comments are only sought in relation to the proposed revisions set out within this consultation document.

¹ <https://www.westminster.gov.uk/licensing/licensing-policy-and-strategy/cumulative-impact-assessment>

2. New Policies

Ancillary Delivery of Alcohol and/or Late-Night Refreshment Policy DEL1

- 2.1 It is proposed to introduce a new policy for premises that intend to provide a delivery service for alcohol and/or late-night refreshment as an ancillary function to the main premises use. Sometimes this will not be clear from the application, although there will be an expectation that applicants would indicate their intention to provide a delivery service to their customers within their operating schedule. With the introduction of this new policy the Licensing Authority and other responsible authorities are likely to enquire with applicants whether a delivery services will be provided or is intended to be provided in the future. This will be necessary to ascertain which policies will apply and to ensure that consideration is given to the operation of the premises if licensed and its potential impact on the licensing objectives. This policy is intended to be considered alongside the relevant premises use policy when determining applications that intend to provide an ancillary delivery service for alcohol and/or late-night refreshment.
- 2.2 Applications that intend to provide alcohol and/or late-night refreshment for home delivery as the primary function of the premises operation will not be considered under this policy. Applications for these premises, commonly referred to as delivery centres, will be considered under a dedicated Delivery Centre policy.
- 2.3 The draft policy for ancillary alcohol and/or late-night refreshment delivery services is set out below.

Ancillary Delivery of Alcohol and/or Late-Night Refreshment Policy DEL1

A. Applications for premises that intend to sell alcohol and/or late-night refreshment for delivery to customers at a residential or workplace address, which is ancillary to the main use of the premises, will generally be granted subject to not being contrary to other policies within this Statement of Licensing Policy and that it meets the criteria set out below:

- 1. The application meeting the requirements of policies CD1, PS1, PN1 and CH1***
- 2. The hours when delivery will take place is within the relevant Core Hours for that premises use,***
- 3. The delivery of alcohol and/or late-night refreshment to customers at their residential address or workplace will be ancillary to the main premises use,***
- 4. The applicant has taken account of the Special Consideration Zone Policy SCZ1 if the premises are located within a designated zone.***
- 5. That the applicant will,***
 - a. Implement their own age verification procedures for the sale and supply of alcohol for their delivery staff and ensure that they receive regular training in the company's age verification procedures, and/or***
 - b. ensure that any third party, to which they have contracted the delivery of alcohol and/or food has sufficient age verification***

procedures in place for the sale of alcohol and has regular training for its delivery personnel on their age verification procedures.

6. *That the applicant will,*
 - a. *implement their own procedures and provide mitigation to reduce the risk that their delivery service and delivery personnel will create public nuisance either at the premises where the delivery originates and/or at the delivery destination, and/or*
 - b. *ensure that any third party, to which they have contracted their delivery service have sufficient procedures and mitigation in place to ensure that their delivery personnel do not create public nuisance either at the premises where the delivery originates and/or at the delivery destination.*

B. *Applications for the ancillary delivery of alcohol and/or late-night refreshment for delivery to customers at a residential or workplace address that do not meet the criteria in Clause A will be considered on their own merits, subject to other relevant policies within this statement, and with regard to the following:*

1. *The demonstration of compliance in the requirements of policies CD1, PS1, PN1 and CH1 associate with the likelihood of the effect of the grant of the licence for the delivery of alcohol and/or late-night refreshment on the licensing objectives,*
2. *If the application is located within a Special Consideration Zone, have they demonstrated that they have taken account of the issues identified in that area and provided adequate mitigation,*
3. *Whether the premises are located within a predominantly residential area*
4. *Whether the delivery personnel are directly employed by the applicant*
5. *The contractual agreements with the use of third parties to carry out the delivery of alcohol and/or late-night refreshment from the premises,*
6. *The operation and management of the proposed delivery service from the premises,*
7. *The proposed hours for the operation of the delivery service,*
8. *The types of vehicles that will be used for the delivery of alcohol and/or late-night refreshment and whether they will likely create public nuisance,*
9. *The history of the premise's operation in relation to any impact on the licensing objectives,*
10. *What measures the applicant or the third party providing the delivery service has put forward to mitigate the specific risk of public nuisance by the operation of the delivery service at the premises or at the end point of delivery,*
11. *What measures and processes the applicant or the third party providing the delivery service has put forward to mitigate the risk from the delivery of alcohol to children to ensure that they are protected from harm.*

C. *For the purposes of Clause B. 3. reference to 'a predominately residential area' means an area of the City in which housing is the predominant use.*

D. *For the purposes of this policy premises uses are defined within the relevant premises use policies within this statement.*

Reasons for Policy DEL1

- X.1 *It is recognised that licensees may seek to provide a delivery service, either directly operated by them or provided via a third party. The availability of dedicated platforms for the ordering of food and drink has made it simpler for the customer to find what they want and to order it directly without leaving their home or place of work. This growing market has meant that a large number of licensed premises may now wish to provide food and drink deliveries as an ancillary activity to the main use of the premises. This market provided a valuable lifeline to many premises during periods when they were affected by COVID-19 restrictions.*
- X.2 *The sale and delivery of hot food and drink before 11pm and after 5am is not a licensable activity and therefore this policy would apply to premises that operate outside of these hours. However, the policy will apply to all premises that intend to provide alcohol for delivery no matter what time of the day.*
- X.3 *This policy is intended to apply to premises that provide a delivery service for alcohol and/or late-night refreshment which is ancillary to the main use of the premises. For example, this policy would apply to an existing licensed premise that intended to provide an alcohol and late-night refreshment delivery service from their venue if to enable it a variation of their licence was necessary. However, premises that intend to primarily operate as a delivery hub, with or without an ancillary or customer walk in retail element will not be considered under this policy. These types of operations will instead be considered under the Delivery Centre Policy DC1.*
- X.4 *The Licensing Authority is concerned with the growing levels of residential complaints and issues associated with public nuisance that is either generated at or in the general vicinity of the licensed premises where deliveries are collected or at the end destination where the delivery is made. Complaints often relate to noise from delivery personnel waiting around the licensed premises or from their delivery vehicles. Applicants must consider the potential impact of noise nuisance from delivery personnel and their vehicles at the licensed premises or at the end destination. Appropriate waiting areas inside the licensed premises should be considered to prevent delivery personnel congregating outside the venue.*
- X.5 *The applicant will be expected to consider where delivery vehicles or cycles will be parked or stored when the delivery service is being operated or when the premises is closed. Applicants should ensure that the public highway is not obstructed and that delivery vehicles are not in contravention of the Road Traffic Act. If the applicant intends to use a specific area for the delivery vehicles to wait, then this should not be located in a place that is likely to cause nuisance to residents. Premises that have residential properties immediately above them or near to a location where delivery vehicles are to wait must consider the impact that this can have on residents, especially if the operation of the delivery service will be late at night when roads are quieter. Applicants in these circumstances may consider the use of cycles for local deliveries or electric vehicles rather than vehicles that can generate engine noise.*
- X.6 *The Council is committed to making Westminster a leader in tackling climate change and improving air quality. One of the key principles of the Council's vision for a City for All is to make Westminster greener and cleaner. We want to be known for leading the way in tackling climate change and improving air quality. We want our residents' children to inherit not just a more equitable, better, and healthier living*

environment but also a working model of how a global city can successfully take on the environmental challenges facing the next generation. Some areas of the City have unacceptably high levels of pollution. The Council is working tirelessly to ensure air quality meets the legal limits to enable all people to live well. Applicants who will commit to the use of cycles or no emission vehicles, such as electric cars and vans will help to reduce emissions within the City.

- X.7 Although the use of non-emission delivery vehicles will not warrant an exception to any other policies it will demonstrate a commitment from the operator to support the Council's vision to reduce pollution, improve air quality and reduce the carbon footprint of businesses. These non-emission vehicles often generate far less noise than polluting vehicles and therefore can also provide an element of mitigation towards the prevention of public nuisance.*
- X.8 The Council's recently adopted City Plan prioritises carbon reduction through reduced traffic and congestion and largely reflects the London Plan's approach to facilitate safe, clean, and efficient deliveries. London Plan policies seek to reduce number of trips, coordinate the provision of infrastructure and facilities to manage freight at an area-wide level, support new consolidation and distribution facilities, enable and encourage off-peak deliveries to reduce congestion, require micro-consolidation facilities at large development, enable sustainable last-mile movements, encourage modal shift from road to water or rail. In addition, the City Plan also requires that all collection and delivery needs be fully met within a development site or, where this is not possible, that they are carried out in a way that minimises adverse impacts on other highway and public realm users and activities.*
- X.9 The Council's Freight, Servicing and Deliveries Strategy and Action Plan (FSD) sets out a number of measures to develop the City Plan policies further into action for implementation over the lifetime of the City Plan. The FSD sets out a total of 55 measures which are structured around three themes:*
- Reducing. Reducing the number of trips generated by freight, servicing and delivery activity, the time spent in the city and the impact on the local road network and environment.*
 - Remoding. Making use of alternative modes (including rail and water) and increasing the uptake of zero emission vehicles, wherever possible, and enhancing the infrastructure required to support their use.*
 - Retiming. Making best use of an extended delivery, collection and servicing operating window in a managed monitored and enforced way, utilising non-peak hours.*
- X.10 Applicants should consider the packaging that is used for any products that are being delivered either to their premises or from it. The use of packaging made from recyclable materials is highly recommended and operators are encouraged to avoid the use of single use plastic packaging.*
- X.11 Whilst protecting the environment is not a licensing objective, we feel strongly that responsible businesses should be incorporating measures to reduce their impact on the environment and protect our residents. The requirements of the Council's City for All vision for a greener and cleaner city, its City Plan policies and the associated FSD Strategy and Action plan are not binding for considering and determining*

applications under the Licensing Act 2003. However, the Council will continue to promote these key principles to improve air quality, reduce the impact on the environment and protect residents. Applicants that consider the principles of the City Plan and FSD along with the requirements of this policy will go towards demonstrating that they are focused on how their business will contribute to the Council's wider City for All vision to create a greener and cleaner Westminster.

- X.12 Public nuisance does not just relate to the noise generated by delivery personnel and their vehicles. Littering in and around locations where delivery personnel congregate can also cause public nuisance and generate additional street cleaning for the Council. Applicants will be expected to ensure that delivery personnel do not litter or create unnecessary waste. Applicants can ensure that this is done through appropriate information and training to delivery personnel, the provision of a waiting area inside the licensed premises for delivery personnel, adequate bins outside the premises and additional street cleaning around the premises by the licensee.*
- X.13 The applicant should ensure that delivery personnel have access to toilet provisions within the licensed premises. It is not acceptable that delivery personnel urinate on the street or in private spaces in and around the licensed premises. The applicant must ensure that delivery personnel are made aware of the availability of toilet facilities at the premises and that urinating in the street is not acceptable.*
- X.14 Applicants that provide their own delivery service will be expected to have a robust disciplinary process for staff carrying out the delivery function who are found to generate noise, drop litter or urinate on the street. Applicants that contract out the delivery service to a third party must ensure that as part of the contractual agreement, delivery personnel working for or under the direction of that third party can receive disciplinary action for actions that risk or impact public nuisance.*
- X.15 Applicants who employ their own delivery staff are likely to have far greater control to ensure that the licensing objectives are not negatively impacted upon. Therefore, the Licensing Authority will consider whether the delivery service is being delivered by the applicant or provided by a third party and their ability to manage any risk associated with the licensing objectives when determining that application. Applicants that do provide their own delivery service, with sufficient measures in place to promote the licensing objectives are likely to be considered more favourably than those using third party delivery companies.*
- X.16 The Licensing Authority and the Metropolitan Police Service have specific concerns around the delivery of alcohol off the premises due to issues around the end location of delivery, age verification checks, the increased possibility for alcohol to be consumed in open spaces or parks, as well as the personal safety of drivers when having to refuse to deliver the alcohol to the customer due to intoxication or failed age verification.*
- X.17 Alcohol delivery poses a unique set of challenges as it often transfers the final age verification to a person who has no responsibility in relation to the Premises Licence which authorised the sale of alcohol. A premises licence holder needs to be satisfied that their drivers or the delivery drivers of the third-party company they chose to use, have received regular and comprehensive training in age verification and identifying persons who have consumed too much alcohol.*

- X.18 *There are concerns that customers can use landmarks/businesses not related to them as addresses for delivery so that alcohol could be consumed in open spaces or parks. The risk being that this may lead to an increase in crime and disorder, public nuisance or a possibility that underage persons can gain access to alcohol.*
- X.19 *Concerns have also been raised about the delivery of alcohol to known street drinking hotspots. Therefore, a condition requiring all deliveries to be to a verifiable residential or business address and a face to face ID verification is vital in mitigating some of this risk.*
- X.20 *While the Licensing Authority recognises this is a growing area of business, new or variation applications that include the delivery of alcohol off the premises will be subject to increased scrutiny.*

New - Shops Policy SHP1

- 2.4 The current Off Sales of Alcohol Policy OS1 currently applies to shops, stores and supermarkets that sell alcohol for consumption off the premises. However, shops can provide a variety of other licensable activities that are ancillary to the sale of goods or provision of service that they provide.
- 2.5 It is the Council's intention to remove the Off Sales of Alcohol Policy OS1 and replace it with a new Shops Policy. This new policy will apply to any premises whose primary function is the retail sale of goods or the offer of services by payment.

Shops Policy – SHP1

- A. *Applications for a shop outside the West End Cumulative Impact Zone will generally be granted subject to:***
- 1. *The application meeting the requirements of policies CD1, PS1, PN1 and CH1.***
 - 2. *The hours for licensable activities are within the Council's Core Hours Policy HRS1.***
 - 3. *The operation of any delivery services for alcohol meets the Council's Ancillary Alcohol and/or Late-night Refreshment Delivery Service Policy DEL1.***
 - 4. *The applicant has taken account of the Special Consideration Zone Policy SCZ1 if the premises are located within a designated zone.***
 - 5. *The application and operation of the venue meets the definition of a shop in Clause C.***
- B. *Applications for a shop inside the West End Cumulative Impact Zone will generally be granted subject to:***
- 1. *The application meeting the requirements of policies CD1, PS1, PN1 and CH1.***
 - 2. *The hours for licensable activities are within the Council's Core Hours Policy HRS1.***

3. ***The operation of any delivery services for alcohol meets the Council's Ancillary Alcohol and/or Late-night Refreshment Delivery Service Policy DEL1.***
 4. ***The applicant has demonstrated that they will not add to cumulative impact within the Cumulative Impact Zone.***
 5. ***The application and operation of the venue meets the definition of a shop in Clause C.***
- C. ***For the purposes of this policy a shop will include premises where the primary activity is to provide the retail sale of goods or to provide services to customers upon payment. The sale of alcohol off for consumption off the premises can form the primary function of the premises. However, all other licensable activities, including the sale of alcohol for consumption on the premises must be ancillary to the main use of the premises as a shop.***

Reasons for Policy SHP1

- X.21 *Westminster offers an unparalleled range of shops ranging from small units to large department stores. The West End and Knightsbridge are International Centres providing London's prime retail destinations offering specialist and comparison retail of regional and national importance that draws in international visitors. The West End International Centre includes Oxford Street, Regent Street and Bond Street, while Knightsbridge International Centre includes Brompton Road and extends beyond the city boundary in the Royal Borough of Kensington and Chelsea. Westminster attracts international retail brands to our City due to its unique historic character and the large number of domestic and international visitors.*
- X.22 *Recent changes in the Use Class Order under planning legislation recognise that to ensure long-term sustainability, town centres and high streets need to be able to adapt to changing consumer demands and behaviours. These changes combine several town centre uses under a new Class E (commercial, business and service uses) with the aim of enabling a shift towards mixed-use and multi-purpose spaces.*
- X.23 *The Council's City Plan and this policy support the evolution of Westminster's town centres and high streets as multifunctional commercial areas where a mix of commercial uses provide activity at street level and creates a welcoming, attractive and healthy environment for people to shop, access services, work and spend leisure time.*
- X.24 *The Licensing Authority recognises that shop operators need to continually evolve to compete with online retailers as well as keep existing customers and attract new ones into their stores. As part this evolution shops often seek to provide other activities within their premises that will help them achieve this. This can include activities that are licensable.*
- X.25 *The Licensing Authority is keen to support shops who wish to offer ancillary licensable activities to the main purpose of their shop. However, the Licensing Authority will expect shop operators to apply for licensable activities that will be operated in a way that will promote the licensing objectives and not impact residents. Operators must manage the provision of licensable activities in a*

responsible way so as to ensure that those activities do not adversely change the character of the premises main use as a shop.

- X.26 This policy is intended to apply to premises offer the retail sale of goods or provide services to customers as the primary use of the premises. Common examples of a premises that would be considered under this policy will include traditional off licences, speciality stores, supermarkets, department stores, general stores, boutique, outlets, delicatessens, butchers, grocers, hairdressers, massage parlours, or anything of a similar nature where the primary use is the purchase of goods by customers or to provide a service. Cafes, coffee shops or similar venues providing food for takeaway or for consumption on the premises will be considered under either the Fast-Food Premises or Restaurant policies. The sale of alcohol for consumption off the premises can form the primary function of the premises, e.g. traditional off licences. However, all other licensable activities, including the sale of alcohol for consumption on the premises must be ancillary to the main use of the premises as a shop.*
- X.27 The Licensing Authority will generally grant applications that are within Core Hours as set out in the policy HRS1, subject to not being contrary to other policies in the licensing statement. Revised Guidance recommends that shops selling alcohol should generally be permitted to match the hours during which they may sell alcohol with their normal trading hours, unless there are good reasons, based on the licensing objectives, for restricting those hours. This is in the context of paragraph 10.13 of Revised Guidance which states that licensing authorities are best placed to make decisions about appropriate opening hours in their areas based on local knowledge and in consultation with responsible authorities.*
- X.28 The hours when shops can start to sell alcohol for consumption off the premises will be specifically considered when determining applications. This is because problematic street drinkers, and other people who are seriously addicted to alcohol, may be drawn to shops that sell alcohol earlier in the morning and create public nuisance.*
- X.29 There are problems of street drinking found across the city. While there are some areas with recurring problems of street drinking 'schools', they also crop up in different areas at different times and seasons. Shops selling alcohol can be a focus of antisocial behaviour, disorder, and disturbance. These include the day-long consumption of alcohol on the street and in open spaces by groups of drinkers who cause various types of public nuisance and engage in antisocial behaviour. In the Victoria Special Consideration Zone, for example, new licences for the off sale of alcohol will be considered in the light of the problems of street drinking in that area and may be restricted in their numbers and have conditions imposed on their management and supervision.*
- X.30 If there are significant concerns associated with street drinkers in the area the Licensing Authority may impose conditions that there should be no sale of alcoholic beverages over a specified limit of alcohol by volume or of specified quantities (e.g. of beers, lagers and ciders over 5.5% alcoholic content by volume). Other conditions may be imposed directed at reducing problematic street drinking. There will be concerns over irresponsible drink promotions that do not follow best practice, that*

would appeal to underage drinkers or street drinkers or encourage excessive consumption.

- X.31 *Some shops selling alcohol in Westminster's commercial and residential areas have been a focus for anti-social behaviour, disorder and disturbance. This has been caused by street drinkers and underage drinkers who have tried to obtain or have obtained alcohol from such premises. Due to these concerns over crime, disorder and disturbance, the Licensing Authority will not, as a general rule, grant applications for the 24- hour sale of alcohol for consumption off the premises for premises outside the West End Cumulative Impact Zone. It will consider seriously any representation made by the police, other responsible authorities, and relevant representations from other persons and will consider Policy HRS1 in determining applications.*
- X.32 *The Council has introduced a controlled drinking zone across the whole city, by making Orders to give police powers to stop street drinking and seize alcohol and receptacles under the powers of the Criminal Justice and Police Act 2001. Originally it introduced such a zone in the south of the city centred on Victoria. It extended this zone northwards in April 2004, acknowledging that the problems were widespread and that the awareness of the boundary of the zone gave rise to drinkers congregating just outside it. Short term Dispersal Zones have also been used in various parts of the city to break up street drinking "schools" and disrupt patterns of street drinking. These Orders continue to be in force under the Crime and Policing Act 2014.*
- X.33 *Where the police or others make representations against the grant of a further licence for off-sales, because of their serious concerns over problems of street drinking or late-night disorder associated with the off sale of alcohol in the area, the Licensing Authority will give specific consideration to restricting the number, type, and the hours of premises selling alcohol exclusively for consumption off the premises. This is to hinder both underage drinkers and problematic street drinkers masking their consumption by purchasing from a series of premises and using a number of premises to try to buy alcohol if they are refused in one.*
- X.34 *Where there are representations on problems of late-night disorder (these are generally within the West End Cumulative Impact Zone) the hours for the sale of alcohol on and/or off the premises may be conditioned to be less than core hours.*
- X.35 *In appropriate cases, the hours of selling alcohol for consumption off the premises may be conditioned to cease before the terminal hour of premises in the vicinity supplying alcohol for consumption on the premises. This is to discourage the consumption of alcohol on the streets after premises in the vicinity which sell alcohol for consumption on the premises have closed.*
- X.36 *Whilst it is likely that shops providing licensable activities beyond core hours are likely to add to cumulative impact in the West End Cumulative Impact Zone the Licensing Authority is not, at this time, going to implement a general presumption against new licences for shops, or restrict their hours below the current core hours as set out within the Council's Core Hours Policy HRS1. The restriction of premises to core hours and the imposition of conditions can be an effective means of promoting the licensing objectives. However, this will be considered on a case by case basis.*

- X.37 *The proliferation of premises for the sale of alcohol off the premises is of concern if it leads to consumption of alcohol on the streets or being carried into premises licensed to sell alcohol on the premises. In light of the evidence it has considered, the Licensing Authority is concerned that alcohol loading from off-licence sales is a significant problem, particularly within the West End and adversely affects the licensing objectives.*
- X.38 *It is accepted that shops may wish to include areas within their premises where customers can eat and drink. The sale of alcohol on the premises must be an ancillary function to the main use of the premises. Applications that include the sale of alcohol for consumption on the premises will need to ensure that adequate measures are put forward to ensure that this activity will not adversely impact the licensing objectives. Applications within the West End Cumulative Impact Zone that wish to sell alcohol for consumption on the premises beyond 9pm will also need demonstrate that they will not add to cumulative impact in the area.*
- X.39 *The provision of entertainment, such as live music can provide a significant draw to a premises. Entertainment can add to the experience of shopping at the premises which elevates it above its competitors. Shop operators who wish to provide regulated entertainment on their premises must ensure that this is an ancillary function to the main use of the premises as a shop. Adequate measures must be included in the applications operating schedule to ensure that the entertainment will promote the licensing objectives. Particular attention will need to be given to the impact of noise and ensure public safety. Entertainment of an adult nature must not be provided in shop that is often frequented by children or families. Applications wishing to provide entertainment that is directed at adults must ensure that children are protected and access to children is restricted.*
- X.40 *The sale of alcohol from shops can be a small part of their overall business or, in the case of traditional off licences, can be their primary products. Applicants will be expected to ensure that the sale of alcohol is adequately managed to ensure that alcohol is not sold to anyone under the age of 18. The Licensing Authority will expect applicants to implement think 21 or think 25 policies associated with age verification. Staff training is also extremely important to reduce the risk that alcohol will be sold illegally. The Licensing Authority will take a robust approach to any licensee who knowingly or negligently sell or enables the sale of alcohol to children.*
- X.41 *The Licensing Authority will impose, where appropriate to promote the licensing objectives, conditions on the checking of the age of those who appear under 21 or 25 to ensure that alcohol is not sold to those under 18, Licence holders of smaller outlets need to have sufficient day to day control of operations. They can be held responsible for breaches of the licence and that they have not provided adequate staffing and training.*
- X.42 *The sale of alcohol to underage young people, which, apart from being a criminal offence, gives rise to disorder, public nuisance and concerns over public safety and harm to children. The sale of alcohol to people who consume it on the way to other premises gives rise to problems of drunkenness and disorderly behaviour.*
- X.43 *The Council and police will continue to use young people for test purchasing of alcohol and CCTV, which has proved its usefulness in prosecutions for unlawful sales*

of alcohol. The likely consequences of review of licences for underage sales include the imposition of additional conditions such as the attendance of a personal licence holder and, where appropriate, revocation.

- X.44 The Licensing Authority will expect applications to set out within their operating schedule how the premises will operate, where licensable activities will take place, what conditions and mitigation measures they propose to ensure that the premises promotes the licensing objectives, the training procedures and staffing levels within the premises and the types, quantities and whether alcohol is high strength; and where and how alcohol will be securely stored.*

New – Delivery Centre Policy DC1

- 2.6 A new type of business model surrounding the delivery of food and drink has emerged which is not currently addressed within the Council's current Statement of Licensing Policy. The Council has been receiving applications for premises that will operate as a delivery centre for food and drink to customers in the local area. Often these businesses will provide a website or phone application that customers can use to order food and drink which can be delivered within an hour or scheduled for a specific delivery time.
- 2.7 With the growing concern surrounding delivery services within the City generating public nuisance and the need to ensure children are not able to purchase alcohol the Council is proposing to create a new policy specifically for these types of premises. The proposed Delivery Centre Policy sets out the Council's approach to determining applications where the primary function of that licence is to permit the sale of alcohol and/or late-night refreshment from that premises via a delivery service to customers either in their homes or at a place of work.

Delivery Centre Policy DC1

- A. Applications for a delivery centre outside the West End Cumulative Impact Zone will generally be granted subject to:**
- 1. The application meeting the requirements of policies CD1, PS1, PN1 and CH1,**
 - 2. The hours for licensable activities are within the Council's Core Hours Policy HRS1,**
 - 3. The applicant has taken account of the Special Consideration Zone Policy SCZ1 if the premises are located within a designated zone,**
 - 4. The premises are not located in a predominantly residential area, and**
 - 5. The application and operation of the venue meets the definition of a delivery centre in Clause C.**
- B. Applications for a delivery centre within the West End Cumulative Impact Zone will generally be granted subject to:**
- 1. The application meeting the requirements of policies CD1, PS1, PN1 and CH1,**
 - 2. The hours for licensable activities are within the Council's Core Hours Policy HRS1,**

3. ***The applicant has demonstrated that they will not add to cumulative impact within the Cumulative Impact Zone,***
 4. ***The premises are not located within a predominantly residential area, and***
 5. ***The application and operation of the venue meets the definition of a delivery centre in Clause C.***
- C. *For the purposes of this policy a delivery centre is a premises that's primary function is to temporarily store alcohol and/or to prepare hot food and hot drink, so that it is available when ordered for transportation to a customer's home, workplace or other residential or workplace location.***
- D. *For the purposes of Clause B. 4. reference to 'a predominately residential area' means an area of the City in which housing is the predominant use.***

Reasons for Policy DC1

- X.45 *There has been a growing interest from businesses seeking to find a location within Westminster where they can store and distribute alcohol and/or late-night refreshment to customers at home. The operation of the delivery service to customers will be the primary use of the premises. In some cases, applicants may offer an ancillary retail element to their operation for click and collect customers. This policy is only intended to apply to applications where the primary use of the premises is the storage, preparation, and delivery of alcohol and/or late-night refreshment to customers residential properties or places of work. Where a business intends to provide a delivery service as ancillary to their main operation, for example a traditional off licence then they will be considered under the relevant premises use and the ancillary alcohol and/or late-night refreshment delivery service policies.*
- X.46 *The Licensing Authority is concerned with the potential impact of the operation of distribution or delivery centres within residential areas. The Council has seen growing levels of complaints and issues associated with the impact of delivery services within the City. Most complaints relate to the noise generated by delivery personnel and their vehicles. The Council has also had complaints about littering and street urination by delivery personnel.*
- X.47 *Delivery centres will require regular deliveries to them to maintain stock levels for the delivery of those goods to residents. These centres are likely to generate additional noise depending on the time and day of the delivery, the types of vehicles that are used for delivering goods to the centre e.g. refrigeration vehicles and how they are unload and loaded.*
- X.48 *Applicants that intend to operate a delivery centre that provides licensable activities must consider the likely impact of their operation on residents within the vicinity of the premises, where delivery personnel gather or park their vehicles and when completing their delivery. Applicants have a responsibility to ensure that they promote the licensing objectives. Applicants will be expected to specifically explain the operation of their distribution and delivery service and how they will prevent or mitigate the impact on the licensing objectives.*
- X.49 *Applicants that provide their own delivery service will be expected to have a robust disciplinary process for staff carrying out the delivery function who are found to*

generate noise, drop litter or urinate on the street. Applicants that contract out the delivery service to a third party must ensure that as part of the contractual agreement, delivery personnel working for or under the direction of that third party can receive disciplinary action for actions that risk or impact public nuisance.

- X.50 Applicants who employ their own delivery staff are likely to have far greater control to ensure that the licensing objectives are not negatively impacted upon. Therefore, the Licensing Authority will consider whether the delivery service is being delivered by the applicant or provided by a third party and their ability to manage any risk associated with the licensing objectives when determining that application. Applicants that do provide their own delivery service, with sufficient measures in place to promote the licensing objectives are likely to be considered more favourably than those using third party delivery companies.*
- X.51 Consideration must be given to where delivery vehicles or cycles will be parked or stored when the delivery service is being operated or when the premises is closed. Applicants should ensure that the public highway is not obstructed and that delivery vehicles are not parked illegally. If the applicant intends to use a specific area for the delivery vehicles to wait, then this should not be in a place that is likely to cause nuisance to residents. Premises that have residential properties immediately above them or near to a location where delivery vehicles are to wait must consider the impact that this can have on residents, especially if the operation of the delivery service will be late at night when roads are quieter. Applicants in these circumstances may consider the use of cycles for local deliveries or electric vehicles rather than vehicles that can generate engine noise.*
- X.52 Applicants will generally be granted, subject to other policies within this statement and the criteria or considerations of this policy if the application is made within Core Hours. Applications beyond core hours and not located within a predominantly residential area will be considered on their own merits. Applicants who apply for hours beyond core hours within a predominantly residential area will be expected to provide sufficient mitigation and propose conditions that would ensure that the premises can operate in a way that will promote the licensing objectives. Applicants in such areas should engage with residents and local resident or amenity associations to explain their application and consider any concerns they may have.*
- X.53 The Council is committed to making Westminster a leader in tackling climate change and improving air quality. One of the key principles of the Council's vision for a City for All is to make Westminster greener and cleaner. We want to be known for leading the way in tackling climate change and improving air quality. We want our residents' children to inherit not just a more equitable, better, and healthier living environment but also a working model of how a global city can successfully take on the environmental challenges facing the next generation. Some areas of the City have unacceptably high levels of pollution. The Council is working tirelessly to ensure air quality meets the legal limits to enable all people to live well. Applicants who will commit to the use of cycles or no emission vehicles, such as electric cars and vans will help to reduce emissions within the City.*
- X.54 Although the use of non-emission delivery vehicles will not warrant an exception to any other policies it will demonstrate a commitment from the operator to support the Council's vision to reduce pollution, improve air quality and reduce the carbon*

footprint of businesses. These non-emission vehicles often generate far less noise than polluting vehicles and therefore can also provide an element of mitigation towards the prevention of public nuisance.

- X.55 *The Council's recently adopted City Plan prioritises carbon reduction through reduced traffic and congestion and largely reflects the London Plan's approach to facilitate safe, clean, and efficient deliveries. London Plan policies seek to reduce number of trips, coordinate the provision of infrastructure and facilities to manage freight at an area-wide level, support new consolidation and distribution facilities, enable and encourage off-peak deliveries to reduce congestion, require micro-consolidation facilities at large development, enable sustainable last-mile movements and encourage modal shift from road to water or rail. In addition, the City Plan also requires that all collection and delivery needs be fully met within a development site or, where this is not possible, that they are carried out in a way that minimises adverse impacts on other highway and public realm users and activities.*
- X.56 *The Council's Freight, Servicing and Deliveries Strategy and Action Plan (FSD) sets out a number of measures to develop the City Plan policies further into action for implementation over the lifetime of the City Plan. The FSD sets out a total of 55 measures which are structured around three themes:*
- Reducing. Reducing the number of trips generated by freight, servicing and delivery activity, the time spent in the city and the impact on the local road network and environment.*
 - Remoding. Making use of alternative modes (including rail and water) and increasing the uptake of zero emission vehicles, wherever possible, and enhancing the infrastructure required to support their use.*
 - Retiming. Making best use of an extended delivery, collection and servicing operating window in a managed monitored and enforced way, utilising non-peak hours.*
- X.57 *Applicants should consider the packaging that is used for any products that are being delivered either to their premises or from it. The use of packaging made from recyclable materials is highly recommended and operators are encouraged to avoid the use of single use plastic packaging.*
- X.58 *Whilst protecting the environment is not a licensing objective, we feel strongly that responsible businesses should be incorporating measures to reduce their impact on the environment and protect our residents. The requirements of the Council's City for All vision for a greener and cleaner city, its City Plan policies and the associated FSD Strategy and Action plan are not binding for considering and determining applications under the Licensing Act 2003. However, the Council will continue to promote these key principles to improve air quality, reduce the impact on the environment and protect residents. Applicants that consider the principles of the City Plan and FSD along with the requirements of this policy will go towards demonstrating that they are focused on how their business will contribute to the Council's wider City for All vision to create a greener and cleaner Westminster.*
- X.59 *Public nuisance does not just relate to the noise generated by delivery personnel and their vehicles. Littering in and around locations where delivery personnel congregate can also cause public nuisance and generate additional street cleaning for the*

Council. Applicants will be expected to ensure that delivery personnel do not litter or create unnecessary waste. Applicants must provide appropriate information and training to delivery personnel on littering, they should provide adequate waiting areas inside the premises for delivery personnel, provide adequate bins outside the premises or in areas where delivery personnel wait for their job and where necessary provide additional street cleaning around the premises.

- X.60 The applicant should ensure that adequate toilet provision is provided within the licensed premises. It is not acceptable that delivery personnel urinate on the street or in private spaces within Westminster. The applicant must ensure that delivery personnel are made aware of the availability of toilet facilities at the premises and that urinating in the street is not acceptable.*
- X.61 Applicants will be expected to have a robust disciplinary process in place for their own staff carrying out the delivery function who are found to generate noise, drop litter or urinate on the street.*
- X.62 The Licensing Authority and the Metropolitan Police Service have specific concerns around the delivery of alcohol off the premises due to issues around the end location of delivery, age verification checks, the increased possibility of the alcohol be consumed in open spaces or parks, as well as the personal safety of drivers when having to refuse to deliver the alcohol to the customer due to intoxication or fail age verification.*
- X.63 Alcohol delivery poses a unique set of challenges as it often transfers the final age verification to a person who has no responsibility in relation to the Premises Licence which authorised the sale of alcohol. A premises licence holder needs to be satisfied that their drivers or the delivery drivers of the third-party company they chose to use, have received regular and comprehensive training in age verification and identifying persons who have consumed too much alcohol.*
- X.64 There are concerns that customers can use landmarks/businesses not related to them as addresses for delivery so that alcohol could be consumed in open spaces or parks. The risk being that this may lead to an increase in crime and disorder, public nuisance, or a possibility that underage persons can gain access to alcohol.*
- X.65 Concerns have also been raised about the delivery of alcohol to known street drinking hotspots. Therefore, a condition requiring all deliveries to be to a verifiable residential or business address and a face-to-face ID verification is vital in mitigating some of this risk.*

3. Other Proposed Policy Amendments

- 3.1 The following amendments to existing policies are intended only to implement the proposed new policies for Ancillary Delivery Services, Shops and Delivery Centres premises uses.

Deletion of the Off Sales of Alcohol Policy OS1

- 3.2 As referenced above it is proposed to delete the Off Sales of Alcohol Policy OS1 as this policy is being replaced by the new Shop and Delivery Centre policies. It is therefore necessary to delete any references to this policy within this Statement.

Amendment to the Core Hours Policy HRS1

- 3.3 It is proposed to amend the Core Hours Policy to delete the Off Licences Core Hours in Clause C. 4. The Off Sales of Alcohol Policy will be deleted and replaced with the new Shops and Delivery Centre policies and new Core Hours are proposed for these two new premises use policies.
- 3.4 Shops provide a number of licensable activities in addition to the sale of alcohol off the premises. Therefore, it is proposed to retain the off sales of alcohol Core Hours for shops selling alcohol in sealed containers for consumption off the premises. For all other licensable activities, it is proposed to enable shops to operate to Core Hours that are consistent with other licensed premises uses. The proposed Core Hours for shops is set out below:

10.a Shops (all licensable activities except the off sale of alcohol)
Monday to Thursday: 9am to 11.30pm
Friday and Saturday: 9am to 12am.
Sunday: 9am to 10.30pm.
Sundays immediately prior to a bank holiday: 9am to 12am.

10.b Shops (off-sales of alcohol)
Monday to Saturday: 8am to 11pm
Sunday: 9am to 10.30pm

- 3.5 It is proposed to apply the off-licence hours for delivery centres. Although it is noted that some delivery centres may also provide late night refreshment for delivery. There are concerns over the impact that these premises can have on public nuisance associated with their delivery operation. The Hours proposed reflect the need to ensure that residents are not adversely affected by these premises late at night.

3. Delivery Centres
Monday to Saturday: 8am to 11pm.
Sunday: 9am to 10.30pm

Amendment to Fast Food Premises Policy FFP1

- 3.6 Fast Food Premises will provide food for immediate consumption on the premises or to take away from the premises. This policy is intended to apply to walk in venues where the main operation of the premises will be to walk in customers. It is acknowledged that some premises, to which this policy would apply have historically offered ancillary alcohol and/or

late-night refreshment delivery to their customers. However, to ensure that the key considerations of the new Ancillary Delivery of Alcohol and/or Late-Night Refreshment policy DEL1 are taken into account by applicants it is proposed to insert a new sub-clause within both Clause A and B that states:

The operation of any delivery services for alcohol and/or late-night refreshment meets the Council's Ancillary Delivery of Alcohol and/or Late-Night Refreshment Policy DEL1.

- 3.7 It is intended to add a new Sub-Clause within Clause D to amend the definition of a Fast-Food Premises within this policy so that it is clear that delivery services can be provided. However, the provision of the delivery service must be ancillary to the main function of the fast-food premises as described within the definition. It is proposed to add a new sub-clause to Clause D which will state:

4. *A fast-food premises can provide a delivery services as part of its operation, however that service must be ancillary to the main function of the premises as defined within sub-clauses D,1 to D,3 above.*

Amendment to the Restaurants Policy RNT1

- 3.8 Restaurants are the main premises use that will offer ancillary alcohol and/or late-night refreshment delivery to their customers. The policy needs to reference the new Ancillary Delivery of Alcohol and/or Late-Night Refreshment policy DEL1. It is proposed to insert a new sub-clause within both Clause A and B that states:

The operation of any delivery services for alcohol and/or late-night refreshment meets the Council's Ancillary Delivery of Alcohol and/or Late-Night Refreshment Policy DEL1.

- 3.9 The definition of a restaurant currently restricts the provision of takeaway from the premises. It is proposed to amend the definition to enable restaurant businesses to provide delivery services as an ancillary function to the main operation of the premises. It is proposed to amend the definition to add that delivery services can be provided as ancillary to the main function of the premises as a restaurant. It is proposed to amend sub-clause 3 of Clause C as follows:

3. *Which do not provide any takeaway service of food and/or drink for immediate consumption, except if provided via an ancillary delivery service to customers at their residential or workplace address.*

Amendments to other premises use policies

- 3.10 It is proposed to insert a new sub-clause within both clauses A and B of policies CAS1, CCSOS1, COMB1, HOT1, QUC1 and SCEV1 and Clauses A and C of policies, PB1 and MD1 that refers to the Ancillary Delivery of Alcohol and/or Late-Night Refreshment Policy DEL1. The proposed sub-clause will state:

The operation of any delivery services for alcohol and/or late-night refreshment meets the Council's Ancillary Delivery of Alcohol and/or Late-Night Refreshment Policy DEL1.

4. Consultation

- 4.1 The consultation period for the proposed revisions of the Council's Statement of Licensing Policy will run from Monday 14th June 2021 to Sunday 25th July 2021 (6 weeks). Consultation responses can be made using the dedicated online consultation response from which has been made available at www.westminster.gov.uk/licensing-consultation. Responses can also be sent via email to licensingconsultation@westminster.gov.uk or via post to:

Licensing Policy Consultation
Innovation and Change
17th Floor
Westminster City Council
Westminster City Hall
64 Victoria Street
London
SW1E 6QP

- 4.2 The responses received during this consultation period will be collated and considered by the Council before it is adopted. Any views expressed by stakeholders or responsible authorities through pre-arranged meetings with the Council will also be considered alongside all submitted formal consultation responses.
- 4.3 If a consultee does have an issue meeting the deadline for their consultation response, then they can email licensingconsultation@westminster.gov.uk requesting an extension for their submission. Extension will be permitted if there is a genuine and reasonable reason that the consultee is unable to submit their views in time. Any extension to the deadline will be at the discretion of the Council the period of the extension will be agreed between the consultee and the Council.

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Licensing Committee Report



Item No:	
Date:	July 2021
Title of Report:	Rupert Street Market Layout – Standardisation, demarcation and numeration of pitches.
Report of:	Director of Public Protection and Licensing/ Director of Economic Development
Wards involved:	West End
Policy context:	City of Westminster Statement of Street Trading Policy 2013 and Strategy for Westminster City Council's markets 2019-2022
Financial summary:	None
Report Author:	Andrew Ralph Head of Licensing and Regulatory Services Catherine Brice Programme Director - Market Development Team
Contact details	Email: aralph@westminster.gov.uk Tel: 07801 915 532 Email: cbrice@westminster.gov.uk Tel: 07811 240137

1. SUMMARY OF THIS REPORT

- 1.1 Rupert Street Market is a designated market with 31 pitches that operates Monday to Saturday. The market is closed on a Sunday. The market currently operates without a formal layout and without pitch markings. The lack of clear pitch demarcations and numbering also represents challenges for City Inspectors, making day to day management more difficult.
- 1.2 The Market Development Team has conducted a survey of the market and identified that standardising pitch sizes will maximise visibility and result in an increase in pitch size for traders. However, to facilitate this, will require a reduction in the number of pitches from 31 to 15.
- 1.3 This report sets out the proposed standardisation, demarcation and numeration of pitches for Rupert Street Market. The rationale for amending the layout and reducing the overall number of pitches of the current market is to ensure the market thrives and prospers alongside fulfilling the Council's vision for the area, as set out in the Markets Strategy.
- 1.4 The proposals have been designed, in line with commitments made in the Council's Markets Strategy, improving health and safety and wayfinding at the market. The aim is to create a modern destination market, where vendors can trade safely, and visitors navigate more easily.
- 1.5 The plans are part of a wider holistic vision for the future of the market, which includes a reprofiling of the storage space to benefit traders and reduce vehicle congestion in the area, consistent and visible market branding and free WiFi on the market.
- 1.6 These changes aim to address some of the main challenges facing the market, as identified in the Council's Markets Strategy. These included the lack of branding and signage in the areas immediately surrounding the market, a poor market layout which is not conducive to customers moving around the market easily and the lack of Wi-Fi, all of which were highlighted by residents and traders in their response to the 2018 Markets Consultation.

2. Consultation

- 2.1 The existing market trader and other key stakeholders (including Street Food Union) have been invited to take part in a formal consultation regarding these proposals. The consultation ran from 19th April 2021 to 10th May 2021. A copy of the consultation letter can be found at **Appendix 3** of the report.
- 2.2 Relevant Cabinet Members and Ward Councillors have been briefed and consulted on the proposed changes.
- 2.3 Only one response was submitted in response to the consultation in April 2021. Below is an overview of the points received from the Soho Neighbourhood Forum.

See **Appendix 4**. The Market Development Team confirms that neither the existing market trader nor Street Food Union have provided responses to the consultation.

3. Pitch realignment

3.1 The proposed pitch realignment will involve introducing a 1 metre gap between stalls and as such ensure the market is safer by eliminating the risk of fire spreading between hot food stalls.

- Standardise pitch sizes to 3m x 3m to improve the markets image
- Reorganise the market layout to improve wayfinding and market appearance
- Create clear pitch markings with pitch number locations to avoid confusion
- Ensure equal pedestrian circulation from either end of the market by aligning traders along the retail frontages.
- Traders will be able to trade outwards or inwards depending on the nature of their stall, given the natural breaks between stalls, customers can easily navigate and access all stalls.

4. Implications for trader licences

4.1 Street trading in Westminster is governed by the City of Westminster Act 1999. In the case of Rupert Street Market, the street is designated and there is an approved layout. A change in layout must be approved by the Licensing Committee.

4.2 The new proposed layout has enough pitches to operate as a market destination.

4.3 Currently there is only one street trading licence holder on Rupert Street Market. Following approval by the Committee, of the proposed new layout, he will be invited to submit a variation application to vary his pitch dimensions to 3m x 3m.

4.4 The Licensing Authority will open the vacancy period and applicants will be invited to apply for temporary 6-month licences that are renewable bi-annually. It is proposed that applicant's will only be permitted to apply for single pitches.

4.5 Previously Street Food Union operated under an "umbrella licence" that permitted them to operate 12 stalls on Rupert Street where their traders rented the stalls from them and could trade on a casual basis. They are currently unlicensed and are not trading, but discussions are ongoing with the organiser about the potential of returning to Rupert Street.

5. Recommendations

- 5.1 The Council's Licensing Authority recommends that the Licensing Committee:
- a) Approve the proposal for the standardisation of the market pitches to 3m x 3m.
 - b) Approve the reduction in the number of pitches from 31 to 15.

6. Legal Framework

- 6.1 Street Trading within Westminster is regulated by the City of Westminster Act 1999 ('the Act'). Sections 16(2) of the Act provides:

(2) Subject to the provisions of this Act, the council may also at any time vary a street trading licence on application by the licence holder in accordance with his application.

- 6.2 The Council has acted reasonably during the decision-making process by carrying out a consultation exercise in respect of the above proposals, and by taking into account the responses received this ensures openness and transparency throughout.
- 6.3 These proposals will have the desired effect of standardisation for all of the market pitches which will in turn bring positive benefits to the Council for operational and enforcement purposes.
- 6.4 The trader that benefits from a Street Trading Licence on the market will be invited to submit a variation application to vary his pitch dimensions to reflect the change in pitch size.

7. Policy Guidelines

- 7.1 The Council from time to time makes adjustments to the size and location of designated street trading pitches so as to implement desirable and practical changes.
- 7.2 Policy ST5 - Designation and De-designation - of the Westminster City Council Statement of Street Trading Policy relates to the criteria that the Licensing Authority will follow when considering changes to an existing designation. Paragraph 5 (7) states 'Alterations to a pitch could include increasing its size to better accommodate its operational needs (chairs and tables) and allow the ability to have sufficient space for refuse, storage etc'.
- 7.3 Additionally paragraph 5(8) states 'Where a public realm scheme is proposed consideration should be had to the best way to accommodate any existing street traders in that location. Where a scheme is approved and implemented which includes the relocation, reorientation or increase/decrease in pitch size, this will initiate the formal licensing process to make the necessary changes to the pitch

in question in order to facilitate the approved scheme. Changes to existing pitches will be subject to consultation’.

8. Next steps and timeline

- 8.1 Subject to the Committees approval of this proposal, officers would recommend and plan for an implementation of the new layout in September 2021.

9. Staffing Implications

- 9.1 There are no staffing implications as a result of this report

10. Appendices

Appendix 1	Current layout of Rupert Street Market
Appendix 2	Proposed layout of Rupert Street Market
Appendix 3	Consultation letter dated 12 April 2021
Appendix 4	Comments received by the council following its first consultation in April 2021

Report author:	Andrew Ralph Head of Licensing and Regulatory Services Catherine Brice Programme Director - Market Development Team
Contact:	Email: aralph@westminster.gov.uk Tel: 07801 915 532 Email: cbrice@westminster.gov.uk Tel: 07811 240137

If you have any queries about this report or wish to inspect one of the background papers please contact the report author.

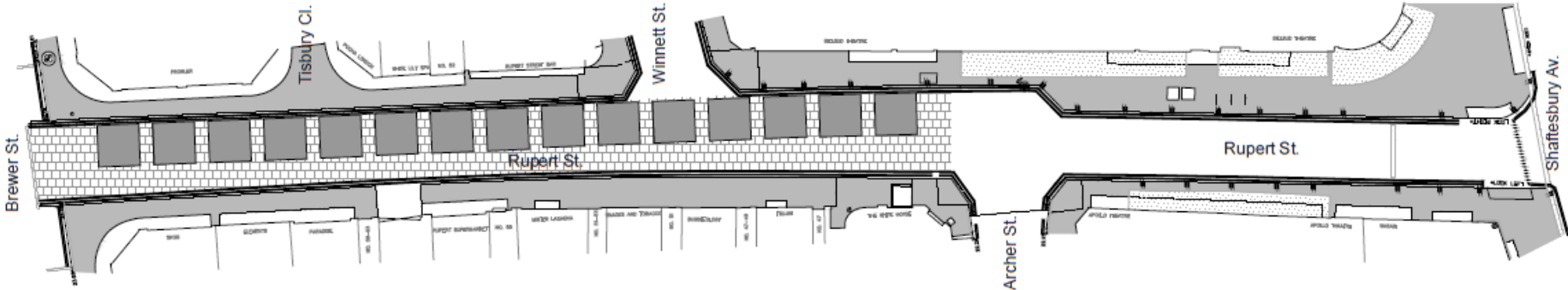
Background Documents – Local Government (Access to Information) Act 1972

1	City of Westminster Act 1999	N/A
2	City of Westminster Statement of Street Trading Policy 2013	N/A
3	Strategy for Westminster City Council's Market 2019-2022	N/A

Existing layout of Rupert Street Market

Appendix 1







Licensing Service
15th Floor Westminster City Hall
64 Victoria Street London
SW1E 6QP

Please reply to:
Email: markets@westminster.gov.uk

12th April 2021

Dear Trader,

Proposed Rupert Street Market Improvements

We are writing to let you know that Westminster City Council propose to implement changes at Rupert Street Market to improve daily operations, provide a safer, more pleasant environment for vendors to trade seamlessly from. We are confident that the proposed changes will be beneficial for all.

While adjusting the existing market layout, we propose to realign the pitch distribution along the right hand side of Rupert Street to maximise visibility and trading potential for all vendors. We are confident that this layout (please refer to the attached drawing, appendix A) will enhance the market by improving the ease of movement, which will allow vendors to operate more effectively, subsequently increasing footfall throughout.

The proposed changes will include making each pitch a standard 3m x 3m, as well as clearly marking and numbering each pitch's location on the street. Standardising pitch sizes will transform the market's perception, giving it a more consistent look and improve its visual appearance. The new pitch markings and numbering will allow traders to easily locate their pitches on arrival and will facilitate regular customers to identify the location of traders. We believe that this new method of operation will not only increase the customer serving area for each trader but will also increase visibility from the surrounding shop frontages.

We propose to introduce a 1 metre gap between individual stalls that cook food to mitigate the risk of potential fire spreading between these stalls. In order to accommodate this requirement, we will need to adjust the existing layout. The 1 metre gap between cooking stalls has been adopted by the Licensing Service to apply throughout all WCC markets following informal advice from the local fire officer.

The Market Development Team is looking to implement a number of projects including free wifi across all markets and the introduction of pay as you go electrical bollards which will make the market an attractive proposition for potential traders.

We would like to take this opportunity to ask you to give your initial feedback on this proposal. The formal consultation will run from 19th April 2021 for three weeks. Please let us know your thoughts in writing, by emailing markets@westminster.gov.uk. Alternatively, you can write to us, addressing letters to the Head of Markets, Catherine Brice at the address above.

Please ensure that you send your comments or thoughts no later than COP 10th May so that the licensing authority can take them into consideration when deciding how to proceed. We will assume that you have no objection to the proposals if we do not receive a response from you by that date.

Thank you in advance for sharing your views and helping to ensure that Rupert Street Market thrives and prospers.

Yours sincerely,

Westminster Markets Team
Westminster City Hall
64 Victoria Street,
SW1E 6QP
London

The below comments were received from The Soho Neighbourhood Forum following the consultation:

Proposed revisions to Rupert Street Market

The Soho Neighbourhood Forum (www.planforsoho.org) a business forum run equally by residents and local businesses is grateful for the opportunity to comment on these proposals and welcomes the proposals to offer to future stall holders wi-fi access and pay as you go electricity from street bollards. We are also aware that there may be commercial relations and or sensitivities which we are not fully aware of.

However, we do not think that the proposals take account of the reality of Rupert Street. It has been known for decades as a major hotspot for crime and anti-social behaviour, particularly from Winnett St and Tisbury Court up to the junction with Brewer Street. There was a previous street market but the provision of simple stalls, like those now proposed did not work in attracting sufficient passing trade and use by stall holders was patchy and numbers declined over the years. That decline allowed the anti-social atmosphere of the street to become clearly present even in the daytime. Open drug dealing was a continuously observed by many. A member of the 16member Forum Steering Group (FSG), John James, has already responded by email on 14th April setting out some of this history.

We discussed the matter at our FSG meeting on 28th April. It is unclear to us that there is likely to be sufficient footfall in Rupert Street in the foreseeable future to generate the numbers which will attract a diverse range, or sufficient number, of stall holders to want to take up these small, standardised stalls. If take up is low and footfall sporadic the risk is that anti-social day time use will rise again.

The Forum would prefer to see an approach which understands the importance of the deterrent social value which came from the undeniable success of the Rupert Street Food Union. Our preference would be to allow that organisation to restart in a clearly defined part of the street. We suggest this should be the upper part from Winnett Street northwards and to trial the 3m x 3m stalls you propose from Winnett Street southwards. Such an approach would allow the City Council a period of time to assess demand for small standard stalls of the type proposed but without risking the reappearance of the daytime problems we have referred to.

Matthew Bennett, Chair

On behalf of Soho Neighbourhood Forum.



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Licensing Urgency Committee Report

Date	07 July 2021
Classification	For General Release
Title or report	The work of the Licensing Service 2020/21 during the pandemic.
Report of	Calvin Mclean, Director of Public Protection & Licensing
Decision maker	Licensing Committee
Wards involved	All Wards
Financial summary	There are no direct financial implications as a result of this report.
Report author	Andrew Ralph Head of Licensing & Regulatory Services

1. Summary

- 1.1. The Licensing Service administers 25 licensing regimes. The majority of applications received by the Licensing Service are governed by the Licensing Act 2003, including, temporary event notices (TENs), new premises licence applications and applications to transfer the premises licence holder. There are many pieces of legislation which allow the council to regulate and issue licences.
- 1.2. On 23 March, all members of the Licensing Service were advised to begin working from home due to the onset of the pandemic.
- 1.3. In April, the team worked closely with Committee Services to set up and implement Virtual Licensing Committees, including developing the procedure for how the committees work, helping to train officers, Members and external participants to the committees.
- 1.4. At the same time officers were working with Members to support street traders by waiving Licence Fees for April and May (the first lockdown) and delaying the agreed fee increase from April to July. This was ratified by the Licensing Committee in June. A further waiver was implemented following the second and thirds lockdowns in November and January to April.



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- 1.5 In May the service began working closely with Highways on the reopening of the hospitality sector. This involved setting up a Licensing Advice Line for businesses.
- 1.6 Due to the time gap between the reopening to hospitality sector, 4 July, and the implementation of the new Pavement Licence scheme the service set up a new Fast Track Licence scheme for T&Cs to support businesses. The Service received 405 applications and issued 315.
- 1.7 In July, the new Pavement Licence scheme was implemented. This was an entirely new online application process for Tables and Chairs. To date the service has processed over 1700 pavement licence applications and there are currently over 750 valid licences across the city.
- 1.8 Despite all this additional work due to the pandemic, the service continued to deliver on business as usual.

2. Recommendations

- 2.1 That the Committee notes the work undertaken by the Licensing Service during the pandemic.

3. Virtual Licensing Committees

- 3.1 On 23 April 2020 the Licensing Service held its first virtual licensing committee. Since that date over 60 hearings have taken place with 112 cases being heard within that time.
- 3.2 Working closely with the Committee Services team the Licensing Service tested the online system and provided training to officers which enabled the virtual process.
- 3.3 Although it has not been easy, the Licensing Service has maintained a high level of professionalism throughout providing test sessions for applicants and interested parties the day before each hearing and have supported everyone involved to ensure that the hearings run as smoothly as possible and with little delays as possible. With the addition of test sessions and the hearings themselves the team has scheduled and attended well over 120 virtual meetings.
- 3.4 Alongside the virtual hearings the Licensing Service has also focussed on providing mediation between parties. The basis of the mediation has been to provide applicants with representations as soon as they are received and then



acting as an intermediary between the applicants and the objector to find a suitable resolution for the parties to agree which has resulted in applications being determined under delegated authority. This has received very positive feedback from all parties and has allowed the service to control the number of applications needing to be determined by Members. In total, 4118 applications have been granted under delegated authority by the Licensing Service.

4. Fee Reviews due to Government Restrictions

- 4.1 Since the beginning of the Coronavirus pandemic the Government has imposed national restrictions under coronavirus legislation, many of these resulted in licensed businesses and individuals being unable to trade at specific times.
- 4.2 Many of these businesses and traders approached the council asking for fees and charges to be waived or reduced to support their businesses.
- 4.3 In June, a report was submitted to a Licensing Urgency Committee for approval to waive fees and reduce Part B fees associated with other licence applications. This was approved and the decision resulted in a reduction of £887K in licensing income.
- 4.4 On 31 October 2020 the Government imposed further restrictions from 5 November to 2 December requiring all non-essential business and hospitality to close. From midnight, on 20 December 2020 all non-essential retail was required to close again, as London moved into Tier 4 of the Government's measures to combat the coronavirus pandemic. A new national lockdown was implemented on January 4 reiterating the need for non-essential retail and hospitality to remain closed, which remained in place until 12 April.
- 4.5 Another report was put before the Licensing Committee in March 2021, again recommending waiving fees due to the national restrictions. The implementation of those recommendations resulted in the further reduction of £1.05million income for the Licensing Authority.
- 4.6 In total, £1.9M of licensing fees were waived in 2020/2021 as a direct result of the national restrictions imposed by central government.

5. Implementation of Street Trading Fee Increase

- 5.1 In July 2020, the daily street trading fees for markets increased to £22. This increase was the second phase of the revised fees and charges that were approved by Licensing Committee on 28th November 2018.



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- 5.2 The phased increase was scheduled to take place in March 2020; however due to the pandemic the decision was taken to defer this increase until market traders were able to resume trading.

6. Fast Track Licences

- 6.1 In June 2020, the Licensing Service implemented an interim licensing regime to support hospitality premises to operate outside of their businesses in order to support social distancing. The Fast Track licences mirrored the existing table and chairs licences but were charged and processed in line with the anticipated pavement licences; specifically, there was no requirement to have planning permission in place and the application fee was charged at £100.
- 6.2 Between June and August 2020, the Licensing Service processed a total of 405 application and issued a total of 315 licences under this scheme.
- 6.3 All of the fast track licences were licensed until September 2020 and then following the extension of hospitality measures throughout the city, the decision was taken to extend all fast track licences until 31 October 2020. Any businesses requiring a licence after October 2020 were required to apply for a pavement licence.

7. Pavement Licences

- 7.1 In July 2020, the Business and Planning Act 2020 (“the Act”) was introduced by the Government. The Act introduced a ‘pavement licence’ scheme so that operators of businesses selling food and drink may apply to their local authority for authorisation to put removable furniture such as tables and chairs on the highway in front of or adjacent to their premises so that their customers can eat and drink outside their premises.
- 7.2 This is temporary legislation until 30 September 2020 and the aim of the legislation is to provide a quicker and cheaper process for businesses to gain permission to use pavement areas outside their premises to enable them to seat customers safely outside and continue to trade during the period of the coronavirus pandemic whilst enabling customers to adopt social distancing measures by using outside spaces.
- 7.3 The Act came into force on 22 July 2020, and applicants began to apply for Pavement Licences immediately and therefore in order to start processing applications, set the fees payable and the standard conditions, the Chief Officer made an urgent decision in consultation the Chair of the Licensing Committee and two other Members of the Licensing Committee to approve the delegations to officers to process applications, and approve the fees and the standard



conditions under the Urgency procedure of the Constitution. The Decision was made on 23 July 2020.

- 7.4 To date the Licensing Service has received more than 1800 pavement licence applications.
- 7.5 314 pavement Licences were issued as part of the Winter Hospitality scheme. Unfortunately, these licences were not used as anticipated due to London moving into Tier 4 in December and then into a third national lockdown in January. However, they were able to be used when premises reopened on 12 April for outdoor drinking and dining as part of Step 2 of the Government's Road map to reopening. All of these licences expired on 30 April.
- 7.6 As part of the Al Fresco scheme the service has now issued a further 754 pavement licence which are valid until 30 September. These licences allow an additional seated capacity for pubs and restaurants of over 16,000 and were a lifeline for many businesses during Steps 2 and 3 of the Government's roadmap to reopening.

London Boroughs – Issued Pavement Licences Business and Planning Act 2020

Data collected on the 16th and 17th June 2021





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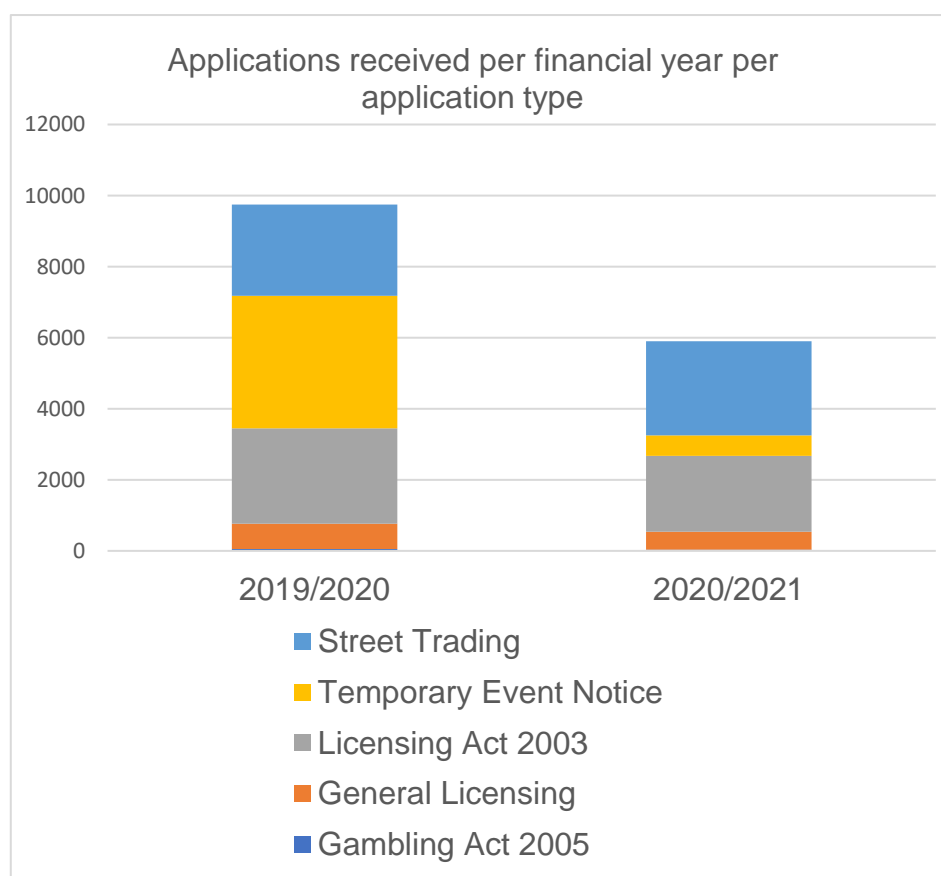
8. Licensing Advice Line

8.1 The Licensing Advice Line was set up to provide information about the hospitality scheme to applicants and residents. With the constant updates to the scheme and changes to road closures and having to adapt to amendments in the regulations it was imperative that customers could contact the service and get answers. Initially, four Senior Licensing Officers manned the phones but after the first week and over 100 phone calls it was clear that more resources were needed to be provided to deal with the deluge of calls.

8.2 Since the Licensing Advice Line was set up the Service has received 2746 calls. The team has had to adapt to each change in regulations and has provided professional advice to all the customers who have called.

9. Business as Usual & Performance Stats.

9.1 The graph below shows the number of applications received per financial year per application type for the years 2019 to 2020 to 2021.





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- 9.2 The table below shows the actual number of applications received per financial year supporting the information provided in the graph above.

Financial Year	Total Number of Applications Received	Applications Split				
		Gambling Act 2005	General Licensing	Licensing Act 2003	Temporary Event Notice	Street Trading
2019/2020	9749	51	711	2685	3733	2569
2020/2021	5898	33	504	2141	573	2647

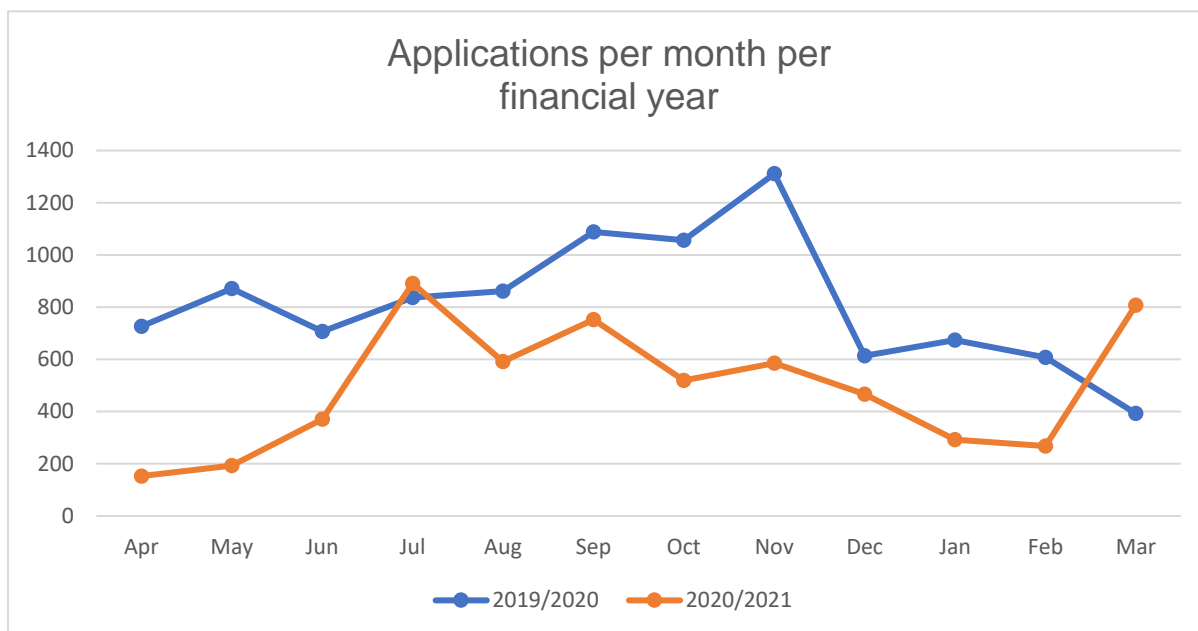
Team Performance

- 9.3 The Licensing Service has an internal key performance indicator of processing applications within 2 working days of receipt. This did not change during the pandemic. During the year 2020 to 2021 more than 97% of applications were processed within this deadline.
- 9.4 The table below shows the total number of applications received by the Licensing Service year on year, as well as the number of those applications to have been processed within 2 days of receipt.

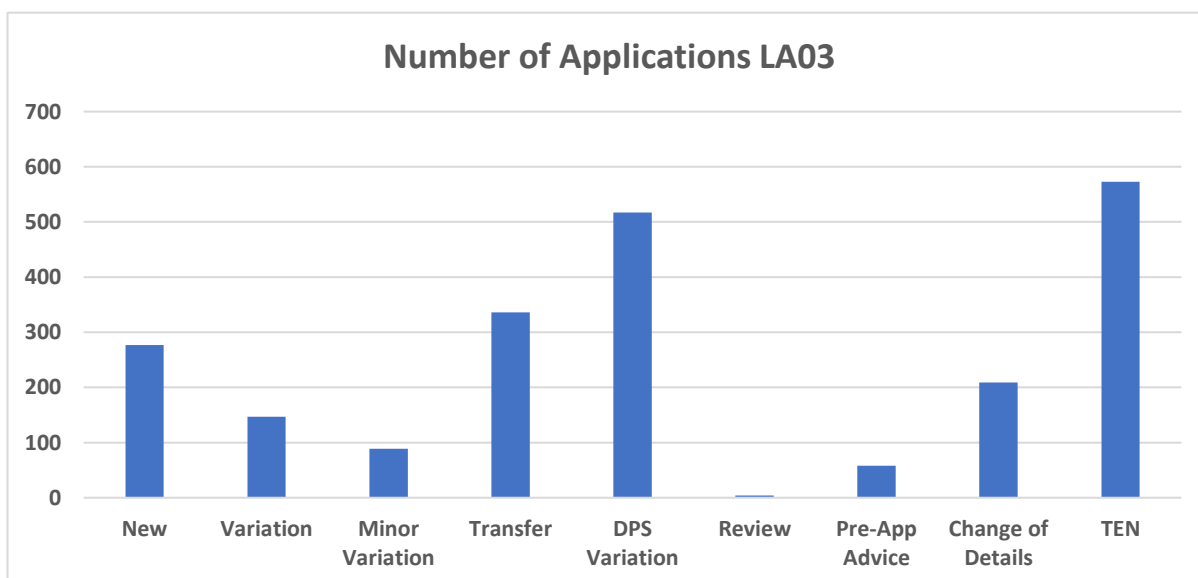
Financial Year	Total Number of Applications Received	Number of Applications Received Within 2 Days of Receipt	Percentage of Applications Processed Within 2 days of Receipt
2019/2020	9749	9359	96%
2020/2021	5898	5609	97%

Licensing application trends

- 9.5 The Licensing Service receives applications on a consistent trend year on year. The graph below indicates the number of applications received each month for the years 2019/2020 and 2020/2021.



Licensing Act 2003	
Total number of applications	2210
New	227
Variation	147
Minor Variation	89
Transfer	336
DPS Variation	517
Pre-App Advice	58
Change of Details	209
TEN	573





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Gambling Applications	
Total number of applications	33
New	6
Adult Gaming Centre	4
Bingo	1
Betting Shop	1
Other	21

Massage and Special Treatment Applications	
Total number of applications	324
New	102
Renewal	209
Other	13

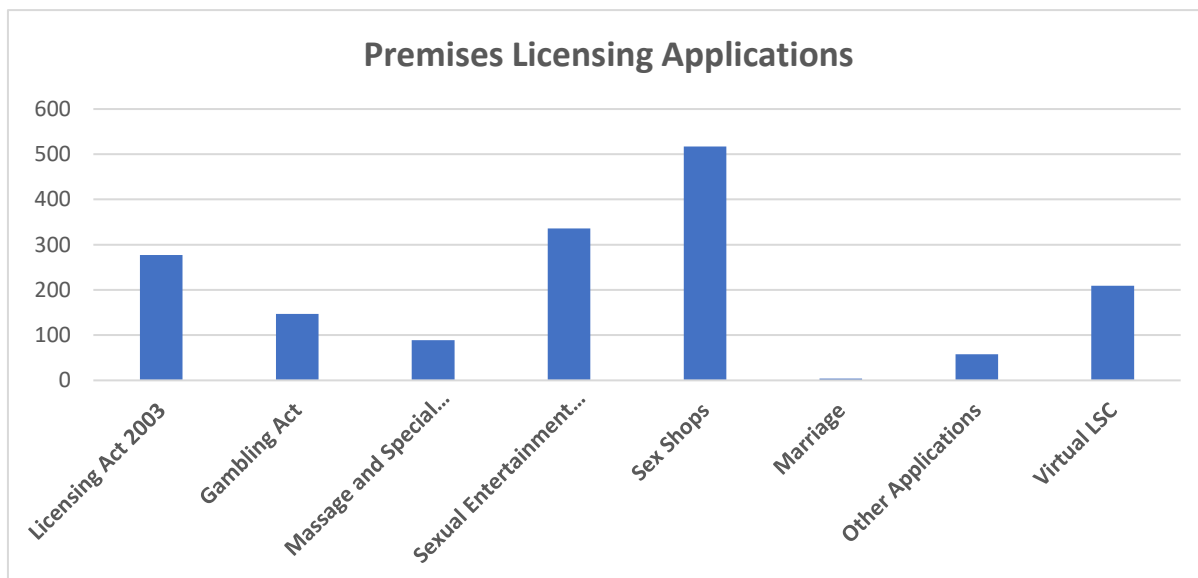
Sexual Entertainment Venues Applications	
Total number of applications	19
New	1
Renewal	13
Other	5

Sex Shop Applications	
Total number of applications	9
Renewal	9

Marriage Applications	
Total number of applications	64
New	27
Renewal	35
Other	2

Other Applications	
Total number of applications	10
Film Classifications	10

Virtual Licensing Sub Committees	
Total number of applications	10
Film Classifications	10



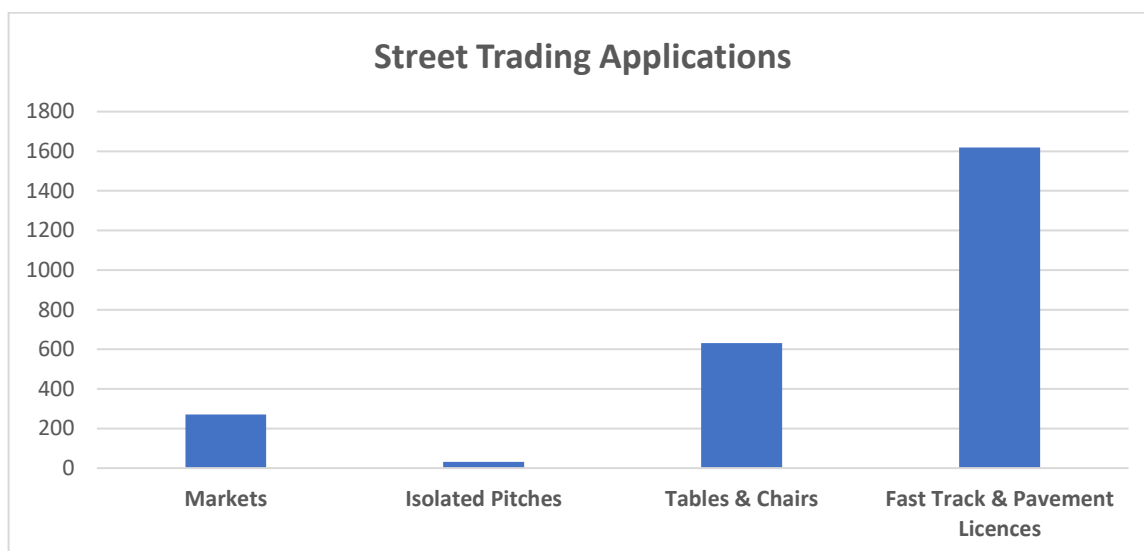
Street Trading	
Markets	
Total number of applications	270
Permanent applications	0
New Temporary applications	94
Further Temporary applications	157
Variation applications	2
Other	17

Fee Review Waivers:	
Total number of waivers:	332
Total number of traders:	109

Isolated Pitches	
Total number of applications	32
New applications:	13
Variation applications:	19

Table and Chairs	
Total number of applications	32
New applications	126
Renewal applications	485
Variation applications	20

Fast Track & Pavement Licences	
Total number of applications	1619
Fast track applications	405
Pavement licences	1214



10. Financial Implications

10.1 There are no financial implications arising from this report.

11. Legal Implications

11.1 There are no legal implications arising from this report.

12. Equality Implications

12.1 S.149 of the Equality Act 2010 places a duty on local authorities to have due regard to the need to eliminate unlawful discrimination, to advance equality of opportunity between people who share a protected characteristic and to encourage good relations between those who share a protected characteristic and those who do not.

12.2 When determining applications, the licensing authority gives due regard to applicants and the public in line with all the criteria it will consider in determining whether an application should or should not be granted. The statutory conditions also take account of the needs of persons with mobility and visual impairments.

Additional Papers

None

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