



CITY OF WESTMINSTER

MINUTES

Licensing Committee

MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Committee** held on **Wednesday 21st September, 2016**, Rooms 1A, 1B & 1C - 17th Floor, Westminster City Hall, 64 Victoria Street, London, SW1E 6 QP.

Members Present: Councillors Nickie Aiken (Chairman), Rita Begum, Melvyn Caplan, Peter Freeman, Murad Gassanly, Angela Harvey, Louise Hyams, Tim Mitchell and Aziz Toki

Apologies for Absence: Councillors Heather Acton, Susie Burbridge, Nick Evans, Jean-Paul Floru, Jan Prendergast and Shamim Talukder

1 DECLARATIONS OF INTEREST

1.1 There were no declarations of interest.

2 MINUTES

2.1 The minutes of the Licensing Committee meeting held on 9 March 2016 were agreed as a correct record and were signed by the Chairman.

3 NIGHT TUBE - IMPACT MONITORING

3.1 The Chairman referred to the Night Tube service having commenced on the Victoria and Central lines on 19 August. She had made a statement when the service had previously been due to begin operating in 2015 that consideration would not be given to any extension of hours for premises licences until the Council had evidence of the impact of the Night Tube on the borough. She had invited Jo Lodge, Head of Westminster Business Intelligence and Dominic Baker, Business Intelligence Business Lead, who were assessing the impact of the Night Tube to produce a report and provide a presentation at the meeting.

3.2 Mr Baker asked Members of the Committee to give him some feedback as to how they would like to see the data presented in the future. The data was in some cases sourced from within the Council such as fixed penalty notices, street cleansing incidents and noise complaints. Also Business Intelligence had worked very closely with the Business Improvement Districts ('BIDs') who

had provided significant levels of footfall data from over fifty sites in the borough. Crime data would be obtained from the Police which was released in monthly batches. Currently the most recent Police crime data available was from June 2016.

- 3.3 Mr Baker made the point that the current outputs were for the Victoria and Central Lines and in the future data would be provided for the Jubilee, Piccadilly and Northern lines when they begin to operate a Night Tube service. Mr Baker explained in respect of Figure 1 in the report, which summarised the results of the network analysis, that before the Night Tube service went live in August, the Business Intelligence team had looked at which areas were most likely to be most impacted and have the greatest footfall. They had assessed which sources within the Council provided reliable data, such as that relating to licensed premises. They had worked out the likely routes that people would take from licensed premises to the Central and Victoria underground stations. Once there was a record of data over time from the Night Tube service it would be possible to measure it against the initial analysis undertaken.
- 3.4 Mr Baker stated in respect of Figure 2 of the report that it gave an idea of the extent of the footfall sensor locations across the borough. New West End Company in the Oxford Street area had granted the Council access to detailed footfall data from a number of sensors at retail sites. Marble Arch was well represented. Soho was not currently as well represented although there was Heart of London and Northbank data. In response to a question from Councillor Harvey, Mr Baker informed Members that he was in discussions regarding accessing datasets for the Victoria area. He was currently contacting other stakeholders in areas where there was currently less information being supplied.
- 3.5 Mr Baker took Members of the Committee through some of the data outputs on the interactive dashboard. There was a graph which compared weekly 'noise in the street' incidents between 00:00 and 07:00 on Friday and Saturday night (the hours of operation of the Night Tube service). The team was looking at whether the number of incidents would increase following the introduction of the Night Tube. Ward and cumulative impact data was available and the types of noise could also be ascertained. Mr Baker clarified that whilst the data shown in Figure 3 was for the last three financial years, it could be displayed in terms of calendar years. He also made the point that with the Night Tube having operated for four to five weeks, a trend was not apparent as yet. He showed Members an initial output of footfall data count. Any trends were likely to be found over the next ten weeks or so, taking into account the Night Tube services on the additional lines. Ms Lodge advised the Committee that more in depth analysis would be taken forward by specialist analysts. This was likely to commence towards the end of 2016.
- 3.6 Councillor Mitchell stated that whilst the datasets provided were particularly useful, it would be very helpful to have further footfall data on the Villiers Street and Covent Garden areas. He appreciated the detail of sensor data provided there would not be comparable to what was supplied by New West End Company. He added that it would be useful to have data from Transport

for London, including the correlation of the footfall with the use of underground stations and asked how detailed the Police crime data was. Mr Baker replied that the Police open data set out the volume of crime over a 24 hour period but not the exact times of the crimes.

- 3.7 Councillor Caplan and Councillor Freeman welcomed the work that had been commenced by the Business Intelligence Team. They agreed that it was too early to attempt to interpret the data at this stage. It would be of interest after six months of the Night Tube operating. Councillor Caplan made the additional point that no conclusions could be drawn until after at least twelve to eighteen months or so. He expressed the view that officers would have to be careful in how they interpreted the Police data. There would likely be a time lag in terms of what the information related to as arrests and convictions often took place a while after the incidents took place.
- 3.8 The Chairman thanked Mr Baker and Ms Lodge for the report and presentation and stated that the Committee would watch the evolving work in this area with interest.
- 3.9 **RESOLVED:** That the Committee welcomed the work to date of the Business Intelligence Team in monitoring the impact of the Night Tube in Westminster.

4 REVISION OF STANDARD CONDITIONS FOR STREET TRADING LICENCES AND PENALTY POINT SCHEME

- 4.1 Robin Grey, Senior Licensing Officer (Street Trading), introduced the report. He stated that street trading activities in Westminster are regulated under the City of Westminster Act 1999. The Council was able to prescribe standard conditions that are applicable to all street trading licences. The current standard conditions had applied since 15 March 1999. Mr Grey advised that the Council had adopted its current street trading policy in 2013. Certain provisions of the policy could not be applied to street trading activities unless they were incorporated into the conditions of the licence. Therefore a proposed set of revised standard conditions had been drafted and were included with the report. In drafting the revised conditions, consultation had taken place with Environmental Health, Trading Standards, the City Inspectors and the Fire Service. The Committee were being asked to give their approval for notice to be given to all holders of street trading licences of the proposed amended standard conditions and of the right for representations to be made in accordance with the statutory procedure set out in the City of Westminster Act 1999.
- 4.2 Mr Grey explained that the licensing conditions are enforced by the City Inspectors and that a penalty point scheme had been in place since August 1996 to deal with breaches of street trading and temporary licence conditions. Each licence condition under the current scheme had a prescribed number of points that would be allocated to a licence holder by the City Inspector if they breach that condition. Where a licence holder received 15 penalty points in a 6 month period, they would be given a written warning. If the licence holder received 25 points in a 6 month period, they would be required to attend a

hearing before a Licensing Sub-Committee or Licensing Officer Panel. The current scheme allowed a trader to breach a 'one point' condition 15 times before a written warning is given. By increasing the minimum penalty points from one to three, non-compliance could be dealt with faster whilst still taking a staged approach to enforcement and giving sufficient opportunity for a trader to modify their operation and comply with their conditions. Mr Grey referred to the fact that the Committee were being asked to give their approval for consultation to be undertaken with relevant stakeholders on the amended schedule to the street trading penalty point scheme in order to reflect the proposed changes to the standard conditions.

- 4.3 Members of the Committee considered that whilst it was very important to maintain health and safety standards such as keeping the receptacle in good condition and updating the food safety condition which were mentioned by Councillor Mitchell, it was also necessary to give the small businesses at the markets some flexibility and support. The emphasis should not be on penalising the traders. They had in many cases been operating successfully in the markets for many years and worked hard, often in difficult circumstances. Councillor Harvey, the Chairman and Councillor Gassanly did not consider that an onus should be placed on the City Inspectors to enforce if the distance above ground level of any part of any roof, awning, or supports of the stall or goods suspended from any of these was not at least 2.6 metres. As stated by the Chairman, the Committee were keen that there was a comprehensive consultation process and that the comments of the traders were taken fully into account. The language used in the consultation should be easy to understand. Councillor Harvey recommended that there was a simplified guide to street trading for new traders. Councillor Gassanly made the point that it was important not to discourage new traders coming to the markets in Westminster which would lead to them deciding to set up businesses elsewhere. There needed to continue to be diversity in business and trade in the borough. Councillor Hyams queried whether the insurance cover having a minimum liability of £2m was set at an appropriate level.
- 4.4 Mr Grey, in response to the comments of the Committee, advised that many of the conditions did arise from the 2013 street trading policy which had been approved by the Council and had been subject to extensive consultation. Officers were required to implement that policy such as that 'no trading shall take place unless the trader or a registered assistant is present on the stall'. Mr Grey informed Members that the 2.6 metre minimum roof height requirement was part of the current conditions and it was now proposed that this requirement would be removed, except for stalls at the Bayswater Road Exhibition Site where the artists' association wanted this consistency from its traders. Officers worked with new traders regarding the receptacles and whilst each market tended to have a theme there was a variety of stalls that could be approved. In respect of the insurance, there was no proposal to increase the minimum level of cover but the proposed conditions would require that traders are insured throughout the time that they are licensed. There were street trading associations who offered insurance to traders at a cost of approximately £50 a year as part of their membership. He added that it would be possible to provide a simplified guide for market traders and meetings would be held with traders to discuss the proposed conditions if they

requested them. It was his aim to update the Committee at the next meeting scheduled for 30 November.

4.5 **RESOLVED:** (i) That the Committee give their approval for consultation to be given to all holders of street trading licences of the proposed standard conditions and of the right for representations to be made in accordance with the statutory procedure set out in the City of Westminster Act 1999; and

(ii) That the Committee give their approval for consultation to be undertaken with relevant stakeholders on the amended schedule to the street trading penalty point scheme to reflect the proposed changes to the standard conditions.

5 LICENSING ENFORCEMENT BRIEFING REPORT

5.1 The Committee received an update on the licensing enforcement work being carried out in the City of Westminster for information. It was agreed that if Members had any queries or thoughts in relation to the report post meeting they would contact Jonathan Deacon, Senior Committee and Scrutiny Officer and/or the report author directly, Andrew Ralph, Head of Service, West End and City Operations – Public Protection and Licensing.

5.2 **RESOLVED:** (i) That the contents of the report be noted; and

(ii) That if Members of the Committee have any queries or thoughts in relation to the report post meeting, Jonathan Deacon and/or Andrew Ralph be contacted.

6 LICENSING APPEALS

6.1 The Committee noted the most recent information in respect of appeals which had been submitted in relation to decisions taken by the Licensing Sub-Committee. One appeal for Press, 32-34 Panton Street had been withdrawn by the Appellant and costs had been paid to the City Council in February 2016. There was one appeal that had recently been submitted for Chutney Mary, 72-73 St James's Street, SW1 and a date for the full hearing had yet to be set.

6.2 The judgement of the European Court of Justice was awaited. Councillor Harvey sought clarification that the Council's legal representatives had previous experience of taking forward cases in the CJEU.

6.3 **RESOLVED:** (i) That the contents of the report be noted

(ii) That clarification be provided to Councillor Harvey as to whether the legal representatives employed by the Council had previous experience of taking forward cases in the European Court of Justice.

7 PAPERS FOR INFORMATION

- 7.1 The Committee received three papers for information. These were an update on the Licensing Team's work in relation to the Gambling Act 2005, including the development of the new gambling policy, a summary of the Licensing Team's performance from the commencement of the Public Protection and Licensing restructure in April 2015 to August 2016 and the Council's written response to the House of Lords Select Committee On the Licensing Act 2003's 'Call for Evidence'. The Committee welcomed the indicators of improved performance in respect of the work of the Licensing Team. Councillor Begum requested further information in respect of the 2016/17 figures for issuing unopposed major applications within 28 days from determination. Claire Hayes, Senior Practitioner – Licensing, replied that the 274 licences issued was for a period from April to August 2016.
- 7.2 The Committee also approved of the comprehensive response to the House of Lords Select Committee On the Licensing Act 2003 which had been finalised in consultation with the Chairman of the Licensing Committee and had been submitted prior to the deadline in early September. In response to a question from Councillor Mitchell, Richard Cressey, Principal Policy Officer, advised that the Council had offered to provide evidence at the Select Committee hearings should they require it and would continue to do so.
- 7.3 **RESOLVED:** That the contents of the report be noted.

8 ANY OTHER BUSINESS WHICH THE CHAIRMAN CONSIDERS URGENT

- 8.1 Councillor Harvey raised with the Committee the point that an awkward situation had been caused when a ward councillor had sent an additional representation directly to the Members of the Sub-Committee meeting which she had chaired. The applicant's legal representative had been informed that Members were fully aware that the councillor had not followed the correct procedure of forwarding the concerns via the Licensing Team and that they were therefore not taking his additional submission into account. This statement had been accepted by the Applicant's legal representative.
- 8.2 Members of the Licensing Committee were also concerned that there appeared to be other instances where councillors were not fully aware of the differences between the licensing and planning regimes. For planning committee meetings, representations are typically submitted via the planning officer dealing with the application but Members may be directly lobbied in advance of any Committee hearing. That is considered to be a legitimate part of the process provided that the Members disclose the details of all communications that have been received in advance of the Committee meeting and do not pre-determine the application. For licensing sub-committee meetings, it is not possible for someone to submit any evidence if that person has not made a representation within the statutory time limit (28 days following the date on which the application is made). Members of the Licensing Sub-Committee must not be lobbied in advance of the meeting, either orally or in writing and should refuse to accept or read any

representations or evidence submitted directly to them in advance of a hearing. Only the applicant and parties who have made relevant representations can submit evidence to the Licensing Sub-Committee and that must be done via the Licensing Team. It was agreed by the Members of the Licensing Committee that this distinction between the two regimes would be set out in the Council's internal publication to Members, the Weekly Information Bulletin.

8.3 Councillor Gassanly wished to express his concerns at the treatment of the Chairman of Islington Council's Licensing Sub-Committee which had considered the Fabric Review application. He had spoken to her and she was under Police protection having received death and rape threats following the decision which had been taken. He was greatly concerned by some of the unacceptable challenges which some elected representatives were being asked to face, including in this instance. This could potentially be replicated in the event of high profile applications at Westminster's Sub-Committee meetings. He also believed that it was disappointing that politicians should publicly question the decisions of councils' licensing authorities. Members stated that they had experienced verbal abuse in relation to decisions they had made at licensing and planning meetings. The Chairman made the point that following an incident which had been brought to her attention, she had agreed a protocol with the Licensing Team that applicants or objectors do not leave licensing sub-committee meetings at the same time as the Members.

8.4 **RESOLVED:** That the distinction between the licensing and planning regimes and how Members should respond to them be set out in the Weekly Information Bulletin.

9 FUTURE LICENSING COMMITTEE MEETING DATES

9.1 It was noted that the next meetings of the Licensing Committee would be held on Wednesday 30 November 2016 and Wednesday 22 March 2017. All meetings are scheduled for 10.00am.

The Meeting ended at 11.01 am

CHAIRMAN: _____

DATE _____