



CITY OF WESTMINSTER

MINUTES

Licensing Committee

MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Committee** held on **Wednesday 22nd March 2017**, Rooms 5, 6 & 7 - 17th Floor, Westminster City Hall, 64 Victoria Street, London, SW1E 6 QP.

Members Present: Councillors Angela Harvey (Chairman), Heather Acton, Julia Alexander, Susie Burbridge, Melvyn Caplan, Jean-Paul Floru, Murad Gassanly, Louise Hyams, Tim Mitchell, Jan Prendergast, Karen Scarborough and Aziz Toki

Apologies for Absence: Councillors Rita Begum, Peter Freeman and Shamim Talukder

1 DECLARATIONS OF INTEREST

1.1 There were no declarations of interest.

2 MINUTES

2.1 **RESOLVED:** That the minutes of the Licensing Committee meeting held on Wednesday 30 November 2016 be signed by the Chairman as a correct record of proceedings.

3 CITIZENS ADVICE BUREAU LICENSING PROJECT ACTIVITY REPORT 2016

3.1 The Committee received the 2016 Annual Report of the Licensing Advice Project which is provided by Citizens Advice Westminster and funded by the Council. Richard Brown, a solicitor who specialises in licensing law, offers advice to local residents and businesses and is available to represent them at Licensing Sub-Committee hearings. He was in attendance at the Licensing Committee meeting and answered a number of questions from Members on the service provided, including the following:

- Councillor Caplan asked what was changing and evolving in Mr Brown's role and what could be done differently by the Licensing Sub-Committee? Mr Brown referred to seeing what recommendations the House of Lords Licensing Act 2003 Select Committee would make to the Home Office.

He had given evidence before the Committee in October 2016. He also made the point that he had never attended a Sub-Committee meeting where he had felt that residents had not had a fair hearing. He had found that residents tended to be happier after the hearing had taken place, when they had been given the opportunity to speak or had observed proceedings, than they were before the hearing began.

- The Chairman stated that one area she believed could be improved and was the reason it had been included as an item on the Licensing Committee agenda was communicating the Council's licensing work. She asked Mr Brown whether more could be done to promote the Licensing Advice Project service. Mr Brown replied that he would encourage any councillors, when approached by residents, to mention the Project. He added that there were a number of councillors who do that. Officers did inform residents of the service provided. He added that it would be difficult if every resident who objected to an application required his help. Mr Brown explained that most residents requested assistance rather than having everything done for them in opposing an application.
- Mr Brown clarified that by far the majority of his cases were on behalf of residents but he was available to help any 'interested parties' including businesses who objected to an application.
- Councillor Hyams asked whether other authorities had considered providing a similar service to the Licensing Advice Project. Mr Brown replied that he was the only one providing such a service in the country. Other authorities had expressed an interest, including when he had attended Institute of Licensing events. He added that a recommendation had been made by the Institute of Alcohol Studies this year that the advice service model would be beneficial to residents. It was one of the aims of the legislation in moving licensing decisions from magistrates' courts to local authorities that it would give residents more of a say.

3.2 Councillor Floru stated that he had observed that it was often difficult for the applicants who had smaller businesses and did not employ a legal representative at Licensing Sub-Committee meetings. Annette Acik, Head of Licensing, responded that the Licensing Service had discussed making the application process as simple as possible whilst being subject to the requirements of the legislation. The discussions within the Licensing Service had included whether some form of mediation service could be provided, fulfilling both a regulatory role and a supportive role. This would need to be examined with the Chairman of the Licensing Committee. Councillor Gassanly suggested a parallel licensing advice project which would help applicants.

3.3 The Committee thanked Mr Brown for the all the work he had done which had helped to promote the licensing objectives.

3.4 **RESOLVED:** That the Committee noted the Activity Report produced by the Westminster Citizen Advice Bureau Licensing Project.

4 DEVELOPING A VISION FOR THE EVENING AND NIGHT TIME ECONOMY IN WESTMINSTER

- 4.1 The Chairman recommended that the Council always referred to the 'Evening and Night Time Economy' rather than the 'Night Time Economy' as it was a more appropriate description of what the Council was trying to achieve.
- 4.2 The report was introduced by Annette Acik, Head of Licensing. She thanked Richard Cressey, Principal Policy Officer for writing the report. She also referred to the commitment in City for All 2017/18 to 'set out a clear vision and plan for our night time economy, to promote the interests of residents, businesses and visitors'. The report summarised how the Council would start to do that prior to implementing the vision. There would be engagement with Members, residents, industry and businesses and other key stakeholders such as the Police.
- 4.3 Ms Acik picked up on a point made earlier by the Chairman that the Council would potentially be able to assist its fellow London boroughs in relation to the evening and night time economy. Ms Acik stated that Westminster had the largest evening and night time economy in the country and Members and officers had a local perspective, expertise and knowledge that can be used to lead both Westminster and London as a whole.
- 4.4 Ms Acik referred to the trends set out in the report including that 'traditional' forms of nightlife and entertainment are in decline. As could be seen in the number of applications received by the Licensing Service, cafes and restaurants were on the increase. The number of applications received for pubs, bars and nightclubs was somewhat more variable.
- 4.5 Ms Acik referred to the Mayor's ambition to 'make London a 24-hour city that's open to all'. The Mayor had also talked about diversification away from alcohol-led activity. The Council's policy supported diversification away from alcohol-led activity and also protecting residents.
- 4.6 Ms Acik also drew Members' attention to the fact that the evening and night time economy did not relate just to licensing. Other areas were relevant, including economic development. It was necessary to link up with these other areas. There was a list of key principles set out at paragraph 4.9 of the report for discussion.
- 4.7 A number of points were made by the Committee, including the following:
- Members supported the Chairman's view that there is an urgency to shape the debate on the evening and night time economy and potentially assist other London boroughs. They also supported her view that the term 'evening and night time economy' was more applicable.
 - Members had concerns at the concept of a 24 hour city. They supported the key principle set out in paragraph 4.9 to protect established residential communities from negative impacts. Members preferred the concept of 'a city that's open to all' rather than a '24-hour city that's open to all'. They also questioned the extension of the night tube to every night of the week. Sara Sutton, Director of Public Protection and Licensing, observed that the Mayor had softened his tone more recently, including mentioning

balancing the needs of those making use of the evening and night time economy and residents' requirement for sleep. It was an area where Westminster could have influence.

- The Council needed to look carefully at evolving trends. Whilst there was less consumption of alcohol overall, there was more consumption of alcohol by some in terms of refuelling. One particular area of the Council's policy that potentially needed to be looked at was late night applications for off-sales.
- Bars were discussed. Councillor Floru had concerns that there might be an opportunity to improve the bar offering which could potentially promote the licensing objectives (particularly if this did not involve outside drinkers) but that this would be likely to fall foul of the Council's policies. Other Members questioned whether there was a demand for them given the trend away from alcohol led establishments and a move towards cafes/restaurants. Lesser demand was not down to the Council's licensing policy. They were also concerned about the potential impact on residents from drink led premises.
- The Committee agreed with the point that the evening and night time economy did not relate just to licensing. It was necessary to link up all those areas which are affected by the evening and night time economy. It was recommended that the evening and night time economy is a topic that is debated at full Council.

4.8 **RESOLVED:** (i) That it be recommended that the evening and night time economy be debated at full Council; and,

(ii) That it be noted that further engagement will take place with Members and stakeholders.

5 LICENSING COMMUNICATIONS STRATEGY

5.1 The Chairman explained that it had become apparent to her when chairing a recent review hearing that the Council needed to be more proactive in terms of responding to the likely external media communications, in many cases anticipating them. It had been clear from the Fabric case and having spoken to the Chair of the Licensing Committee at Islington Council that there was some misunderstanding externally about the matters that licensing authorities are required to consider in relation to licensing. The Chairman added that the Cabinet Member for Public Protection and Licensing, Councillor Antonia Cox, was very supportive of a new approach to the Strategy.

5.2 Ben Maloney, Senior Account Executive in Policy, Performance and Communications, introduced the report. He stated that he did not believe that there needed to be a major change from what was taking place currently. The main change was in terms of showcasing the work of the Licensing Sub-Committees and to prevent a news vacuum from forming. It was important to be able to respond to those commenting on Rah Rah Room or the Mayor and Amy Lamé on the evening and night time economy. The report set out a number of ways in which the Council's position could be communicated. The

proactive approach included building relationships with key journalists and working around the broader narrative such as the City for All agenda.

- 5.3 Mr Maloney advised that journalists were on occasion time and information poor which could lead to an article where the message was misinterpreted or a sensationalist approach taken. It was useful where possible to proactively release information in advance or respond to media stories. There were constraints, however, including in terms of commenting on pre Sub-Committee stories such as the CCTV footage which had appeared in respect of Rah Rah Room. The Council had offered to contribute to the 'Inside Out' programme on licensed premises, including Rah Rah Room but the programme makers had not wanted to include this.
- 5.4 Mr Maloney said that the Council needed to work more closely with journalists to explain the rationale in respect of the Evening and Night Time Economy. He had also included in the report a calendar of events where the Council would proactively work with the media.
- 5.5 The Committee agreed that there was a need for the Licensing Communications Strategy. The Chairman clarified that the Strategy was not just required to counter a story in a newspaper. It was also about the approach to communicating with people of influence. Councillor Gassanly supported having a strong social media presence as part of the Strategy, including in terms of defending contentious decisions.
- 5.6 **RESOLVED:** (i) That the requirement for the Strategy be supported by the Committee; and
- (ii) That the objectives and the identified opportunities for communications activity be noted.

6 USE OF GAMBLING RESEARCH IN FUTURE POLICY DEVELOPMENT AND TARGETED SUPPORT

- 6.1 The item was introduced by Kerry Simpkin, Licensing Team Manager. He explained that the report provided an update on the Council's current approach in relation to gambling and what the next steps would be. The Council had partnered with Manchester City Council to commission a major piece of research which had been the first in the country to explore area based vulnerability and the risk associated with gambling. This had highlighted five key hotspot areas within the City which were identified as having a higher concentration of at risk and vulnerable people to gambling related harm. These areas are North West (Harrow Road), Paddington and Edgware Road (North), West End (North), West End (South) and Victoria and Pimlico.
- 6.2 Mr Simpkin advised that the Licensing Service was looking to use the findings of the research in a number of different ways. There was the development of the gambling policy, including the establishment of the Special Consideration Zones based on the five key hotspot areas. It was also intended to adopt a

cluster policy that requires operators to have heightened measures in place to identify and support those who may be at risk or who are problem gamblers. It was also being investigated how the Council could develop its policy in relation to the issues caused by Fixed Odds Betting Terminals ('FOBT')

- 6.3 Mr Simpkin said that consideration was being given to establishing special policies for risk areas where it was known from evidence received locally that there had been a history of issues with gambling premises, notably Harrow Road and the Prince of Wales Junction. It would then be necessary for gambling premises to demonstrate why they would want to be located in a risk area rather than expecting that there would be a presumption to grant the application.
- 6.4 Mr Simpkin stated that a further area the research evidence had contributed to was targeted care provision. He advised that the Licensing Service had been working with Gamcare and had discussions with the Council's Public Health Team and the Homeless Team in order to establish care provision for Westminster residents and those using the commissioned services. Gamcare were offering their services free of charge for local residents and to train commissioned services staff. He added that this would tie in with the Council's new rough sleeping strategy. Mr Simpkin welcomed the views of the Committee on work to date and the suggested approach.
- 6.5 The Committee supported both the work undertaken so far and the suggested approach. The Chairman described it as a very impressive piece of work which was an example of reaching out beyond what was expected for the good of local residents. The proposals were well founded. Councillor Caplan stated that gambling premises had become increasingly reliant on FOBTs and that it was perverse that those who were least able to afford it were able to lose hundreds of pounds in a matter of a few minutes. The establishments had not originally been set up to operate FOBTs. These had a massive social effect on the vulnerable. He believed that there should be a policy in place to significantly restrict FOBTs. Such machines were more applicable to casinos. Councillor Floru queried what would be the approach if there continued to be a trend towards online gambling and away from gambling at betting premises. Mr Simpkin replied that the Gambling Act 2005 was very specific that the Council is responsible for licensing premises based gambling within the borough but online gambling was overseen by the Gambling Commission nationally. There were therefore very limited options available to the Council. A response to the effects of online gambling was to provide a support network and signposting and counselling.
- 6.6 **RESOLVED:** (i) That the Committee expressed support for the work undertaken to date and the suggested approach in relation to gambling set out in the report; and,
- (ii) That the indicative timescales set out in the report be noted.

7. LICENSING ACT 2003 DELEGATED OFFICER DECISIONS 2016/17

7.1 The Committee received a report which provided a full review of Licensing Act 2003 new and full variation applications that were determined under officer delegated authority between 1st July 2016 and 2nd March 2017. The review examined whether there were cases of applications being determined under officer delegation against the Council's Licensing Policy in response to concerns raised by Members. The Committee noted the report with Members commenting that the contents were useful and helpful.

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

8 LICENSING APPEALS

8.1 The Committee noted the current position in respect of appeals which had been submitted in relation to decisions taken by the Licensing Sub-Committee. Heidi Titcombe, Manager and Principal Solicitor of the Planning, Highways and Licensing Team, Tri-Borough Shared Legal Services, provided the additional information that the appeal which had been settled in respect of Chutney Mary, 72-73 St James's Street, SW1 had resulted in the Council being awarded costs of just under £16K and these had been received. There were now three live appeals, two of these had been submitted on behalf of Sophisticats, 3-7 Brewer Street, W1 and the other was on behalf of 28th and 29th Floor, Millbank Tower, 21-24 Millbank, SW1. In respect of the Sophisticats appeals, a date for the full hearing would be set shortly. The appeal relating to 28th and 29th Floor, Millbank Tower, 21-24 Millbank, SW1 would be heard at the end of March.

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

9 NOTTING HILL CARNIVAL

9.1 The Committee was provided with a verbal update by Sara Sutton, Director of Public Protection and Licensing on discussions which had taken place in relation to the Notting Hill Carnival. She informed those present that there had been several assessments undertaken, particularly in relation to safety and security of the Carnival. There had been a number of incidents at the Carnival last year that had led to significant concerns from all agencies, including the Police, particularly in relation to the potential for crowd crushing. This had led to reviews, including one by The Mayor's Office for Policing and Crime ('MOPAC') Police and Crime Committee. They had submitted a report with a number of recommendations. A further review had been jointly commissioned with MOPAC which had engaged independent expertise and was focussed on crowd dynamics/movements. This looked at the wider footprint and a number of pinchpoint issues. The further review was due by the end of March. There were a number of workshops taking place in relation to this in order to look at the mitigating actions for the 2017 Carnival and future years.

9.2 Ms Sutton emphasised that there is limited time to deal with the issues in relation to the 2017 Carnival. She stated that the Strategic Partnership

Group, which was having regular meetings, brought together a number of agencies including MOPAC, WCC, RBKC, the Police and the Notting Hill Carnival Trust. The Police were carrying out a counter-terrorist review which was looking at the potential impact of hostile vehicle attacks at the Carnival. There was therefore a convergence of activity happening and the Strategic Partnership Group needed to understand how all these issues could best be addressed. Ms Sutton advised the Committee that the Partnership Group was of the view that the limited time before the Carnival meant it would not be possible to make any significant changes or recommendations from a licensing perspective. However, there were some matters within the Council's gift that would allow officers to make some changes and this would be in partnership with RBKC. It was not yet known what changes would be proposed in the crowd dynamics report. There were highways powers which could be used if it was felt appropriate to do so. Ms Sutton added that officers were totally committed to doing all they could so that they fully engaged with stakeholders and the mitigation measures that would be taken would be appropriate for safety and security of the Carnival. There would be significant changes in future years but for this year key ones would be taken based on risk assessments in the concurrent pieces of work.

- 9.3 The Chairman asked Ms Sutton whether further consideration should be given to progress on the Notting Hill discussions by the Licensing Committee on 5 July and full Council on 12 July once matters were more advanced. She replied that it was necessary to understand what the scale of change would be for this year's Carnival and how to respond to that prior to providing further information to the Licensing Committee. Ms Sutton expressed the view that there would need to be communications to full Council. She also stated that one of the recommendations was likely to be the need for an event management company to be set up by the Carnival Trust. As a partner, there was likely to be the request for funding to support that.
- 9.4 The Chairman asked whether there would be any restrictions on the community being permitted small business opportunities, such as selling food or drink, at the Carnival. Ms Sutton replied that the celebratory nature of the Carnival was understood. There was however evidence that in some areas there was serious risk of crushing from crowd movement. Any recommendations to the Sub-Committee such as in relation to any temporary event notices applied for were likely to depend on the location / pinchpoints.
- 9.5 **RESOLVED:** That an updated report on the Notting Hill Carnival be provided for the next meeting of the Committee on 5 July 2017.

10 ANY OTHER BUSINESS WHICH THE CHAIRMAN CONSIDERS URGENT

- 10.1 In response to the Chairman consulting Members on potential matters for discussion at the Licensing Committee, Councillor Acton had requested that shisha and delivery vehicles were raised as topics.
- 10.2 Members of the Committee received a briefing note on shisha premises prior to the meeting. The briefing note had referred to Westminster's shisha

strategy presenting licensing as a way forward to ensure effective management of certain shisha premises where the issues of public safety and nuisance could not be adequately managed through the various pieces of legislation currently applied. The briefing note also drew the Committee's attention to the House of Lords Licensing Act 2003 Select Committee examining whether health should be included as a fifth licensing objective which could potentially have an impact on the Council's approach to shisha premises based on the impact of smoking shisha on health.

- 10.3 Councillor Acton stated that Westminster's Shisha Symposium had been very successful. It had been agreed there that the Council would work with other local authorities, including Brent and Birmingham. One aspect discussed was to lobby Central Government to introduce licensing powers in relation to shisha premises. She asked whether the Committee considered this to be appropriate.
- 10.4 The majority of Members of the Committee agreed with this approach. Councillor Caplan stated that his answer would be yes but that lobbying for a change in licensing legislation required careful consideration in terms of choosing the appropriate legislative route. He was doubtful that any changes would be made under the current licensing regime. Councillor Acton in response to Councillor Caplan's points commented that the Department of Health had been represented at the Symposium and had suggested using devolution powers rather than lobbying Central Government so this way forward was being looked at.
- 10.5 Councillor Gassanly made the point that whilst there were issues at certain shisha premises, he believed it was important that the Council did not cross a line in terms of lecturing to people about the personal choices in their lives. He expressed the view that the Council's only focus in this area should be on reducing the impact of public nuisance.
- 10.6 Councillors Burbridge and Hyams expressed concerns regarding the health impact of shisha. Councillor Hyams added that the key aspect was to get the health message across. Shisha was not opposed on cultural grounds.
- 10.7 Councillor Acton also requested that at every Licensing Sub-Committee meeting where an applicant sought to deliver off-sales, hot food or hot drink, Members of the Sub-Committee ask the applicant to consider providing the deliveries via electric vehicles, bicycle or on foot. She believed it would be of value to have something in writing which officers were able to show to applicants that this is the requirement in Westminster. Mr Simpkin informed those present that there had been a meeting some months ago between Councillor Acton, Councillor Aiken (Chairman of Licensing Committee at that time) and licensing officers regarding nuisance to residents from delivery companies. There was a plan to come up with some policy options and have a consultation exercise on these later this year. There were some limits to what could be done. It was not possible to enforce that the delivery companies use the modes of transport proposed.

10.8 Councillor Scarborough made the point that requiring the applicants to use their best endeavours to persuade the delivery companies to use the proposed modes of transport was not good enough (applicants had advised the Sub-Committee that employees of the delivery companies that were either being used by them or would be used by them were third parties and they could not be held responsible for the modes of transport used by the third parties). Councillor Caplan commented that it would be ideal if all the delivery companies used the proposed modes of transport. However, there were many companies who had not made applications who could deliver via any mode of transport that they wished.

11 FUTURE LICENSING COMMITTEE MEETING DATES

11.1 It was noted that the next meetings of the Licensing Committee would be held on Wednesday 5 July 2017, Wednesday 29 November 2017 and Wednesday 21 March 2018. All meetings are scheduled for 10.00am.

12 CLOSE OF MEETING

12.1 The Meeting ended at 12.10pm

CHAIRMAN: _____

DATE _____