

SPECIAL MEETING OF THE LICENSING COMMITTEE
WEDNESDAY, 30 MARCH 2011

Minutes of the special meeting of the LICENSING COMMITTEE held at Guildhall, EC2, on WEDNESDAY, 30 MARCH 2011, at 1.45pm.

Present

Members:

Edward Lord (Chairman)
Alderman Simon Walsh (Deputy Chairman)
Deputy Douglas Barrow
The Revd Dr Martin Dudley
Kevin Everett
Marianne Fredericks
Deputy The Revd Stephen Haines
Wendy Mead
Chris Punter

Officers:

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|-----------------|---|
| Simon Murrells | - Town Clerk's Department |
| Tia Cox | - Town Clerk's Department |
| Iggi Falcon | - Town Clerk's Department |
| Richard Jeffrey | - Comptroller & City Solicitor's Department |
| Philip Everett | - Director of Environmental Services |
| Jon Averbs | - Department of Environmental Services |
| Peter Davenport | - Department of Environmental Services |

In Attendance:

| | |
|-------------------------|------------------------|
| Roger Chadwick | Deputy Joyce Nash |
| Simon Duckworth | Ann Pembroke |
| Alderman Alison Gowman | Henry Pollard |
| Alderman David Graves | Henrika Priest |
| Michael Hudson | Deputy Gerald Pulman |
| Alderman Sir Paul Judge | Virginia Rounding |
| Vivienne Littlechild | John Spanner |
| Anthony Llewelyn-Davies | Deputy Michael Welbank |
| Sylvia Moys | |

Philip Kolvin QC - Leading Counsel

WELCOME

The Chairman welcomed all Members and members of the public to the meeting, and in particular Philip Kolvin QC, Leading Counsel instructed by the City Corporation in this matter, who had drafted the proposed Sexual Entertainment Venue (SEV) policy.

In accordance with Standing Order 33(1), the Chairman granted those Members of the Court who were not Members of the Committee permission to speak during the meeting.

1. APOLOGIES

Apologies for absence were received from Deputy John Barker, Dr Peter Hardwick, Stephen Quilter and Jeremy Simons.

2. DECLARATIONS BY MEMBERS OF PERSONAL OR PREJUDICIAL INTERESTS IN RESPECT OF ITEMS TO BE CONSIDERED AT THIS MEETING

The Chairman asked the Town Clerk to remind all Members present of the provisions of the Code of Conduct in respect of personal and prejudicial interests.

There was some discussion as to whether Members should declare an interest if they were regular customers of SEVs, and the Town Clerk, Comptroller and City Solicitor, and Deputy Chairman were heard thereon.

The Chairman and Henrika Priest declared personal interests in Items 3 and 4 as members of the Fawcett Society, which was a lobbying group that had recommended the change in legislation on Sexual Entertainment Venue licensing. They did not consider the interest to be prejudicial.

The Revd Dr Martin Dudley declared a personal interest in Items 3 and 4 as the freeholder of a place of worship in Smithfield. He did not consider this interest to be prejudicial.

3. WARDMOTE RESOLUTIONS

The Committee received the following resolutions passed at recent Wardmotes, and which the Grand Court of Wardmote at its meeting on 29 March had referred to the Court of Common Council for consideration on 7 April:-

(a) WARD OF CASTLE BAYNARD

“Noting the recent public consultation by the City Corporation on future licensing of Sexual Entertainment Venues (SEV), the voters in the Ward of Castle Baynard wish to add their voices to those calling for a nil limit to be set in view of the inevitable proximity that any SEV within the Ward would have to residents, places of worship, the Shoe Lane Library, St Bride's Institute and other educational establishments but also across the City and would like to know what the City Corporation will be doing to ensure that such a policy is adopted?”

(b) WARD OF TOWER

“This Ward is opposed to the location of SEVs within its environs and within the City of London as a whole. They are not suitable in a youthful environment and one would not wish to have to explain to a child the purpose of such premises. They denigrate the life and honour of the City. The clientele will not promote the safety of women working late in the City.

“We ask that the Court of Common Council promote a ‘Nil Limit’ being imposed on the number of SEVs permitted in the Ward of Tower and we would support a ‘Nil Limit’ in the Wards of the City generally.”

4. SEXUAL ENTERTAINMENT VENUE (SEV) LICENSING POLICY

The Committee considered a report of the Director of Environmental Services relative to the Sexual Entertainment Venue (SEV) Licensing Policy.

The Chairman introduced the item and reminded Members of the background to the issue. The Committee endorsed the principle of the City Corporation adopting an SEV policy, which would be discussed further later in the meeting.

Appropriate Number of SEVs

The Committee having accepted the principle of the City Corporation adopting an SEV policy, the Chairman then referred to the matter of determining an appropriate number of SEVs that could be licensed in localities within the City.

He expressed the view that there was instinctive opposition to banning a licensable activity that Parliament had said was a legitimate business, with many reputable operators managing well-run SEVs. However, he said he recognised that this type of licensable activity caused considerable concern, particularly owing to the fears of harassment or of women feeling at risk near such premises, as well as concern that such social activity served to exclude women, especially those working in financial services in the City, and makes them feel undervalued. He said that several people had expressed those concerns to him, and he referred to the robust consultation exercise commissioned by the City Corporation.

He suggested that the Committee’s stance should bear in mind the following:-

- the unique character of the City of London by virtue of its history and tradition, as well as its status as the world’s leading financial and professional services centre;
- the City Corporation’s duty to preserve the City’s reputation as such;
- the small but highly valued community of residents to whom Members had a duty of care, particularly those who felt vulnerable;
- the consultation results that indicated that many stakeholders did not feel that SEVs were appropriate for any City localities;
- the need for the City as a whole to promote gender equality;
- the genuine fear felt by many women in the City — residents, workers and visitors — about this type of venue.

He therefore moved from the Chair that the Committee agree Option (i) of recommendation (b) of the report, that is, to state as a matter of policy that there is no place within the City of London which, it could be said, is situated in a locality where it would be appropriate to license SEVs.

The Deputy Chairman, in seconding the motion, suggested that the City Corporation might have been at risk of legal challenge if it had decided upon a 'nil' policy the previous July. However, he said the position had since changed as the City Corporation now had the benefit of the results of extensive consultation on the matter and had drawn up a suitable draft policy.

The following motion was therefore moved and seconded (the Chairman and the Deputy Chairman) and was carried: that the Committee agree Option (i) of recommendation (b) of the report, that is, to state as a matter of policy that there is no place within the City of London which, it could be said, is situated in a locality where it would be appropriate to license SEVs.

SEV Licensing Policy

Philip Kolvin QC introduced the draft policy and answered several general questions and observations, most of which Members had given notice of, including that:-

- the City would be too large to be considered as a single locality, although the City could say that, as a matter of policy, it was unaware of any locality in the City where it would be appropriate to have an SEV;
- applications would still have to be considered on their merits in the light of the policy, and the applicant may try to make a case for why an exception to the policy should be made;
- currently operating SEVs had no 'grandfather rights';
- this decision would not pre-empt any decisions regarding the Local Development Framework, the spatial strategy for the City, as it was acceptable for the Planning and Transportation and Licensing Committees to take different views;
- it was difficult to make a definitive judgement as to whether activities such as burlesque, swingers' clubs and topless bars would be considered to be SEVs as defined by the legislation, and the City would have to apply the law to the facts of any case arising before it.

He referred to a Member's suggestion about Condition 8 in Appendix 3 to the policy and undertook to amend that to include '*before the hour*' as well '*after the hour specified in the licence*'. He also provided an update to the situation set out in paragraph 58 of the report concerning neighbouring boroughs.

The Director of Environmental Services advised that he would take on board other suggestions Members made before the meeting about minor drafting and formatting amendments for the policy, such as referring throughout the regulations to the 'Common Council' rather than 'Council'. He confirmed that, whilst the statistics were drawn from the consultants' face-to-face survey, the results of other submissions had also been considered when drawing up the policy. He answered various questions, including one from a non-Committee Member about the procedure for handling the application that had already been received, and he explained that the applicant would be advised of the City's decision and asked to submit the fee if he wished to proceed with the application.

The following motion was moved and seconded (Marianne Fredericks and the Revd Dr Martin Dudley) and was carried: Part (iii) in (5) of paragraph 7.9 (ie 'will favour proposals with little or minimal impact on the street scene') in Policy 8 (Character of Locality) be deleted.

The following motion was moved and seconded (Marianne Fredericks and the Deputy Chairman) and was carried: that 'late night shopping and entertainment areas' be added to the list in paragraph 1 of Policy 9 (vicinity) of areas where a licence for an SEV premises was not likely to be granted.

Following a request for clarification about private rooms/booths and a majority vote (5 to 3), it was agreed that the policy would be amended to prohibit private booths, and thus amend (6) in Policy 10 (Layout, Character and Condition) and any other such references.

In answer to a question by a Member of the Court, Philip Kolvin QC said it would be difficult to find a reason within the licensing authority's regulatory function that would allow it to forbid in the City the business model frequently used by SEVs whereby performers paid fees to work in the clubs. At the request of a Member, the Chairman agreed that the matter could be given further consideration as a separate matter to see whether grounds within the licensing authority's remit could be found to support the concern expressed, in which case it could be brought back to the Committee to consider in due course.

Fees

The Committee agreed the recommendations about fees.

Gender Equality

Philip Kolvin QC referred to the Committee's decisions and its duty under equalities legislation to have due regard to the need to advance equality of opportunity between men and women. He stated that, while the draft policy may be considered to protect women performers, residents and workers, it might be argued to reduce opportunity for female performers. He suggested, and the Committee agreed, that it be noted that the Committee had taken account of such considerations in performing its gender equality duty.

The Chairman expressed his gratitude to those present and to the officers who had assisted in the consultation and drafting of the proposals put before the Committee.

RESOLVED— That it be agreed that:-

(1) Subject to the concurrence of the Court of Common Council:-

- (a) as a matter of policy, there is no place within the City of London which, it could be said, is situated in a locality where it would be appropriate to license SEVs, ie the 'zero' option;

- (b) The document attached at Appendix 1 of the report be adopted as the Sexual Entertainment Venue Licensing Policy of the City of London Corporation, subject to the following amendments:-
- (i) Part (iii) in (5) of paragraph 7.9 (ie 'will favour proposals with little or minimal impact on the street scene') in Policy 8 (Character of Locality) being deleted;
 - (ii) 'late night shopping and entertainment areas' being added to the list in paragraph 1 of Policy 9 (Vicinity) of areas where a licence for an SEV premises was not likely to be granted;
 - (iii) Amending (6) in Policy 10 (Layout, Character and Condition) and any related references in order to ensure that the policy prohibits private booths
 - (iv) Amending Condition 8 in Appendix 3 to include '*before* the hour' as well '*after* the hour specified in the licence'
- (2) authority be delegated to the Town Clerk, in consultation with the Chairman and Deputy Chairman, to consider matters of detail and approve the final version of the draft policy to be submitted to the Court of Common Council;
- (3) SEV applications attract a fee of £23,200 (to be reduced to £20,000 if the application is unsuccessful); and
- (4) the level of fees be reviewed in March 2012, and every two years thereafter.

5. QUESTIONS

(a) Licensing Act

In answer to a question, Philip Kolvin QC explained that the primary differences between this legislation and the Licensing Act were that the latter set out specific objectives and a defined procedure and required evidence to show that one or more of the objectives would be contravened before an application could be refused. He said the legislation relating to SEVs left more to the judgement of the licensing authority.

(b) Boundaries

In answer to a question, Philip Kolvin QC said that administrative boundaries would not prevent a licensing authority from considering an application for a venue that crossed the boundary of the City.

6. ANY OTHER BUSINESS THAT THE CHAIRMAN CONSIDERED TO BE URGENT

Sex Trafficking and Prostitution

The Chairman expressed concern that, with the City Corporation and possibly other neighbouring boroughs agreeing 'nil' policies for SEVs, there was a real risk of unlicensed sexual activity being driven 'underground' and the potential for an increase in sex trafficking and prostitution in the Capital. He expressed the view that the City Corporation should consider initiating discussions with other interested parties, with a view to considering whether this would become an issue and, if so, how it might be addressed. He recommended that the Committee support a request that the Policy and Resources Committee endorse this view and authorise the matter being raised at an appropriate level, such as with colleagues and Borough Leaders at London Councils.

RESOLVED— That the Policy and Resources Committee be requested to note this Committee's concerns about the risks of increased sex trafficking and prostitution in the Capital and initiate discussions with London Councils colleagues on how the issue might be approached in future.

The meeting closed at 3.40pm.

CHAIRMAN

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