

LICENSING COMMITTEE

MONDAY, 16 JANUARY 2012

Minutes of the meeting of the LICENSING COMMITTEE held at Guildhall, EC2, on MONDAY, 16 JANUARY 2012, at 1.45pm.

Present

Members:

Edward Lord (Chairman)
Marianne Fredericks (Deputy Chairman)
Alex Bain-Stewart
The Revd Dr Martin Dudley
Deputy The Reverend Stephen Haines
Stephen Quilter
Jeremy Simons
James Tumbridge
Alderman Simon Walsh

Officers:

Simon Murrells	- Assistant Town Clerk
Rakesh Hira	- Town Clerk's Department
Ignacio Falcon	- Town Clerk's Department
Bruce Hunt	- Remembrancer's Department
Paul Chadha	- Comptroller & City Solicitor's Department
David Smith	- Director of Markets & Consumer Protection
Jon Avern	- Director of Port Health and Public Protection, Department of Markets & Consumer
Steve Blake	- Assistant Director of Port Health and Public Protection, Markets & Consumer Protection

Also in attendance:

Matthew Richardson CC (present for items 8 -11)

1. APOLOGIES

Apologies were received from Deputy Doug Barrow, Chris Punter, Peter Dunphy and Dr Peter Hardwick.

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

The Revd Dr Martin Dudley declared a general personal interest as a Designated Premises Supervisor (DPS) of a City premises and a personal licence holder. He did not consider this interest to be prejudicial.

3. MINUTES

The Committee approved the public minutes of the meeting held on 24 October 2011 subject an amendment under the matters arising section of the minutes; the heading "*Public* Reform and Social Responsibility Bill" be amended to read "*Police* Reform and Social Responsibility Bill".

Matters Arising

Training Session

The Chairman explained that a training session had taken place on 1 November 2011 which he, the Deputy Chairman, officers and City of London Police officers had attended. The Chairman emphasised that the training session had been extremely valuable and that another training session was scheduled for 13 March 2012 which all Members should aim to attend.

Olympic Preparedness for Licenced Premises in the City

The Chairman informed Members that a breakfast seminar on Olympic Preparedness for Licenced Premises was due to take place on 31 January 2012 between 9:30am – 12:00noon and that if Members wished to attend they should inform the Town Clerk accordingly.

In response to a question by a Member, the Assistant Director of Environmental Health & Public Protection explained that the licensing application form could not be amended to insert a tick box in relation to applicants complying with the London Olympic Games and Paralympics Games Act 2006 and other relevant legislation in relation to the use of the Olympic brand and symbols associated with the Olympics. It was noted that a request would be made on the website for applicants to confirm this information however there was no legal requirement for applicants to comply with the request.

Licensing of Tables and Chairs

The Chairman explained that he had not as yet met with the Chairman of the Planning and Transportation Committee to discuss the responsibility of licensing tables and chairs. It was noted that the Deputy Chairmen of the Planning and Transportation and Licensing Committees would also be invited to attend the meeting.

Appeals Against Licensing Sub Committee Decisions

The Comptroller & City Solicitor informed Members that a cheque for £10,000 had been received for the legal costs in connection with the judicial review for Charlie's Wine Bar.

Advertising of Licensing Applications

The Town Clerk explained that, following the decision of the Committee at its previous meeting, the wording of the guidance for applicants on advertising licensing applications had been agreed by way of delegated authority by the Town Clerk in consultation with the Chairman and Deputy Chairman, which was as follows:

"For the purposes of Section 17 Licensing Act 2003 and Regulation 25 Licensing Act 2003 (Premises Licences and Club Premises Certificates) Regulations 2005, the City of London recognises the following publications as being a "local newspaper":-

London Evening Standard
London Metro
City AM

In the event that Applicants wish to use alternative publications, the licensing authority would remind Applicants to ensure that the publication complies with the requirements of being a "local newspaper". The Newspaper Society defines a "local newspaper" as:

"Any publication in written form on newsprint or a similar medium, published in the British Isles (excluding the Irish republic) at regular intervals not exceeding seven days and available regionally rather than nationally (i.e, not available throughout all or most of the British Isles). It contains news and information of a general nature, updated regularly, rather than being devoted to a specific interest or topic."

It would be most helpful if you could supply a copy of the advertisement".

The Port Health and Public Protection Director explained that there had been correspondence between the Licensing Department and the editor of the *City of London & Dockland Times* to explain the decision taken by the Licensing Committee in October 2011. It was noted that applicants did not necessarily have to advertise licensing applications in the three recommended newspaper publications but could choose another publication, which met the statutory criteria, if they so wished.

A Member said that it was not the role of the Licensing Committee to state which publications should not advertise licensing applications, but an objector could challenge the advertisement of the licensing application if they felt that it did not meet the statutory criteria. The Town Clerk was keen to see clarification

of this point.

The action taken as reported by the Town Clerk and referred to above, was received.

4. MINUTES OF LICENSING SUB COMMITTEE HEARINGS

The Committee received the public minutes of the following Licensing Sub Committee hearings:-

- (a) **20 October 2011 – Apex Temple Court Hotel, 1-2 Serjeants Inn, London, EC4Y 1LL.**
- (b) **25 October 2011 – The Bathhouse, 7-8 Bishopsgate Churchyard, London, EC2M 3TJ**
A Member, also the Chairman of the Sub-Committee, pointed out that this hearing was unusual as it was an application sought to transfer the premises licence and as premises licence holder to vary the premises licence; the application did not seek to vary any of the licensable activities. It was noted that there were a number inadequacies and that the Sub-Committee's concerns had been raised with the Commissioner of Police.
- (c) **12 December 2011 – 26 Smithfield, 26 Smithfield Street, London, EC1A 9LB.**
- (d) **16 December 2011 – Bangalore, 1 Corbet Court, Gracechurch Street, London, EC3V 0AT.**
- (e) **21 December 2011 – Anokha 2, 9-13 Fenchurch Buildings, London, EC3M 5HR.**

5. APPEALS AGAINST LICENSING SUB COMMITTEE DECISIONS

The Comptroller and City Solicitor informed the Committee that an application for an appeal had been received relating to Anokha 1, 9-13 Fenchurch Buildings, London, EC3M 5HR, against the decision of the Licensing Sub Committee. He pointed out that a date had been listed for 5/6 March 2012 at the City of Westminster Magistrates' Court.

It was noted that if an objector to an application was a Magistrate who sat at any of the Courts covered by the Central Area (City of London, Westminster and/or West London) then the Central Area Bench could not hear the appeal. It was also pointed out that any Magistrate who was a Member of the Court of Common Council could not sit on any of the appeals.

RECEIVED

6. POLICE REFORM AND SOCIAL RESPONSIBILITY ACT 2011

The Committee considered a report of the City Remembrancer which provided an update following the passing of the Police Reform and Social Responsibility Act 2011.

The key points for Members to note were that:

- The Act introduced amendments to the Licensing Act 2003 in eight main areas and created a new “late night levy”;
- Once the provisions were brought into force, licensing authorities would have the discretion to set their own fees on a cost recovery basis;
- Licensing authorities would become responsible authorities in their own right and therefore could object to applications or initiate reviews;
- Licensing Policy Statements would in future be reviewable every five years rather than every three years and;
- Part 2 of the Act which contained the licensing provisions had not yet been brought into force and that much of the Act would be implemented through secondary legislation in the form of regulations but these had not yet been published.

The City Remembrancer explained that the Police Reform and Social Responsibility Act 2011 had received Royal Assent on 15 September 2011 and that the main impacts on the City Corporation were that it would become a responsible authority and could set its own fees.

A discussion took place on the Early Morning Restriction Orders (EMRO's) and the Late Night Levy; it was noted that secondary legislation was still awaited from Government which would provide further information.

RESOLVED — that Members note the contents of the report.

7. DELEGATED DECISIONS PERTAINING TO PREMISES LICENCES

The Committee considered a report of the Director of Markets and Consumer Protection which detailed the premises licences and variations to premises licences, granted under the Licensing Act 2003 by the Licensing Service from 1 October 2011 to 31 December 2011. The report did not include any premises where members had been involved in the decision making process i.e. decisions made at Licensing Sub-Committee hearings. The report also set out a summary of the enforcement action taken under the Licensing Act 2003 between 1 October 2011 and 31 December 2011.

A discussion took place on the conditions in the premises licences which were issued by way of delegated authority. A Member pointed out that a number of conditions were unclear, difficult to enforce and poorly worded. Members agreed that fewer and simpler conditions were more likely to be enforceable.

In relation to the warning letters which had been issued to licenced premises Members discussed the possibility of these being made available in the public reports or being tabled at the Committee meeting. Members were keen to have sight of the warning letters and therefore agreed that these should be made available subject to the advice of the Comptroller & City Solicitor on any likely disclosures of exempt information or freedom of information issues.

The Assistant Director of Port Health & Public Protection informed the Committee that the number of warning letters issued was five and not six as set out in the report.

In response to a question by a Member it was noted that the 14 noise complaints received related to licenced premises. It was pointed out that further work was being undertaken between the licensing service and the City of London Police on co-ordinating and logging noise complaints.

RESOLVED — That;

- (a) Members note the contents of the report and;
- (b) Warning letters be made available to Members in the public reports subject to the advice of the Comptroller & City Solicitor on any likely disclosures of exempt information or freedom of information issues.

8. LICENSING SUB-COMMITTEE SITE VISIT PROTOCOL

The Committee considered a report of the Director of Markets and Consumer Protection which set out a protocol for site inspections by Sub-committees.

A discussion took place and a Member pointed out that the guidance was too prescriptive and that more flexibility needed to be allowed for undertaking site inspections. It was noted that other Councils/Boroughs i.e. Westminster, Tower Hamlets, Wandsworth and Birmingham rarely undertook site inspections. The Comptroller & City Solicitor pointed out that the LACORS guidance stated that “Site visits by Sub-Committee members were generally unnecessary and could put the Members and the Licensing Authority at risk of accusations of bias”.

Members agreed that site inspections should only take place in exceptional circumstances and that officers would provide advice to Members on the relevant issues that they needed to be aware of at the necessary time.

RESOLVED — that Members agree that the policy on site inspections by Sub-committee Members be as follows:

“Site visits may be arranged only in exceptional circumstances to premises which are the subject of licence applications to enable Sub-committee Members to become familiar with the issues to be considered. During the visits,

Members will be accompanied by a licensing officer(s) and they should only enquire about and discuss factual matters, avoiding the temptation to put forward their own opinions. They should not, under any circumstances, accept refreshments on the premises or any other gift or offer of hospitality.

If the Licensing Team considers that there are grounds for the Sub-committee to visit a premise, this will be mentioned in the report to the Sub-committee and the reasons outlined. Wherever possible, the Licensing Team will notify the Sub-committee Chairman of the circumstances prior to the report being circulated. If the Sub-committee Chairman agrees that an inspection is required, he/she will request that the Licensing Manager makes the necessary arrangements in advance of the hearing.

When, on receipt of a report that does not recommend a site visit, a Licensing Sub-committee Member considers that a site inspection is necessary, he/she will advise the Sub-committee Chairman accordingly. If he/she concurs, the Sub-committee Chairman will liaise with the Licensing Manager to arrange a visit of all the Sub-committee Members to the premises, following an adjournment of the hearing”.

9. CONSULTATION RESPONSES TO THE DEPARTMENT OF CULTURE, MEDIA AND SPORT

The Committee considered a report of the Director of Markets and Consumer Protection which detailed that in September 2011 the Department of Culture, Media and Sport issued a consultation paper which examined the deregulation of Schedule One of the Licensing Act 2003 regarding regulated entertainment and had required a response by 3 December 2011. Subsequently, the Home Office also issued a consultation paper in October 2011 concerning the relaxation of the licensing hours during the period of the Queen’s Diamond Jubilee in June 2012 which required a response by 1 December 2011.

The report highlighted that the responses drafted on behalf of the City Corporation were agreed, prior to submission, by the Chairman and Deputy Chairman.

It was noted that in future consultation responses would be circulated to the full Committee in order for Members to provide their comments.

RESOLVED — That;

- The response made on behalf of the City Corporation for both consultations be noted and;
- Where timescales do not permit the full Committee to consider proposed responses to consultations, these be dealt with under delegated authority by the Town Clerk in consultation with the Chairman and Deputy Chairman, with all Members of the Committee being invited to comment.

10. QUESTIONS ON MATTERS RELATING TO THE WORK OF THE COMMITTEE

There were no questions.

11. ANY OTHER BUSINESS THAT THE CHAIRMAN CONSIDERS TO BE URGENT

Licensing Hearing Issues

The Chairman explained that following a number of Licensing Hearings the Chairman, Deputy Chairman and Alderman Simon Walsh met with the Town Clerk, the Assistant Commissioner of the City of London Police, the Director of Markets and Consumer Protection and the Comptroller & City Solicitor to express their concerns on a number of licensing matters, particularly licensing hearings.

The Town Clerk pointed out that the Bathhouse Hearing acted as a catalyst for the licensing issues to be drawn out which related to improving the evidence in the Licensing Sub-Committee papers; providing better advice and guidance to Members; improving the quality of reports; providing clear and accurate maps and plans; improving the information available on the website; and concerns around the wording of conditions.

It was noted that an Officer Group had been established which considered the licensing issues and made the following determinations:

- A peer review by an external practitioner from the City of Westminster Licensing Team had been engaged to look at City Corporation procedures and for the City to share best practice;
- A review would be undertaken to look at the way in which evidence was produced by the City of London Police to ensure accuracy;
- Ensuring better and improved quality of committee papers;
- A clear process had been developed for the circulation of committee papers;
- Legal advice provided to the City Police would be looked at to ensure support and guidance would be made available;
- Maps and plans would be clearer;
- Publication of an application would be made available on the website;
- More training would be provided to both Members and officers and;
- A 'pool of conditions' document would be put in place to assist potential applicants.

The Chairman pointed out that the Committee expected the City to provide an excellent licensing service and that a full report would be submitted to a future meeting to update Members on the actions taken.

RESOLVED — That an update report be submitted to a future meeting on the actions taken to address the licensing issues.

The meeting closed at 3.02pm.

CHAIRMAN

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