

BRIGHTON & HOVE CITY COUNCIL
LICENSING COMMITTEE (LICENSING ACT 2003 FUNCTIONS)

3.30PM 24 APRIL 2009

COUNCIL CHAMBER, BRIGHTON TOWN HALL

MINUTES

Present: Councillors C Theobald (Chairman), Lepper (Deputy Chairman), Allen, Mrs Cobb, Fryer, Hamilton, Harmer-Strange, Hyde, Janio, Kitcat, Older, Pidgeon, Simson, Watkins and West

Apologies: Councillors Marsh and Young

PART ONE

37. PROCEDURAL BUSINESS

37A Declaration of Substitutes

37.1 Councillor Janio declared he was substituting for Councillor Young.

37.2 Councillor Allen declared he was substituting for Councillor Marsh.

37B Declarations of Interest

37.3 There were none.

37C Exclusion of the Press and Public

37.4 In accordance with section 100A of the Local Government Act 1972 ('the Act'), the Licensing Committee (Licensing Act 2003 Functions) considered whether the press and public should be excluded from the meeting during an item of business on the grounds that it was likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the press or public were present during that item, there would be disclosure to them of confidential information (as defined in section 100A(3) of the Act) or exempt information (as defined in section 100(1) of the Act).

37.5 **RESOLVED** – That the press and public be not excluded.

38. MINUTES OF THE PREVIOUS MEETING

38.1 **RESOLVED** – That the minutes of the previous meeting held on 5 February 2009 be approved and signed by the Chairman as a correct record.

39. CHAIRMAN'S COMMUNICATIONS

39.1 There were none.

40. PUBLIC QUESTIONS

40.1 There were none.

41. CUMULATIVE IMPACT AREA ASSESSMENT

41.1 The Committee considered a report of the Assistant Director of Public Safety regarding the Cumulative Impact Area (CIA) Assessment (for a copy see minute book).

41.2 The Head of Environmental Health and Licensing summarised the report and stated that the Cumulative Impact policy had been in effect for just over one year and been imposed to help reduce violent crime and public nuisance within the city centre. Both Sussex Police and the Environmental Health and Licensing Team were satisfied that the policy was contributing to the improving picture of violent crime within the city.

It was noted that Residents' Associations living close to the perimeter had requested that the area be extended, but there was currently no evidence to justify this and the Head of Environmental Health and Licensing stated that licensing laws should not be the primary mechanism for controlling crime and disorder. The main purpose of the policy was to allow Members discretion to refuse an application if they felt it was necessary, but it was noted that such policies should not be absolute in their application, and that they should be based on evidence. Due to this, it was required to review the policy regularly and the Head of Environmental Health and Licensing explained that if any part of the policy was to change, a consultation exercise would need to take place on the new proposals. The Head of Environmental Health and Licensing requested that Chief Inspector Mills from Sussex Police be allowed to address the Committee regarding this issue.

41.3 Chief Inspector Mills stated that there had been two requests for an extension to the area: in London Road and in the North Laine area. He confirmed that there would need to be an evidential basis for any extensions and they would need to be proportionate, legal and necessary to the area. Chief Inspector Mills stated that Sussex Police were wholeheartedly behind the policy, and felt that the policy had assisted the Police in managing a much safer city.

41.4 The Environmental Health Manager, Annie Sparks, stated that the city had seen a 35% drop in noise complaints relating to licensed premises between 2008-09, and felt that the current mechanisms for managing complaints and the option to hold a review hearing were excellent.

41.5 Councillor Watkins stated he supported the Cumulative Impact Area, but asked for the boundary of the area to take in the whole of the Brunswick and Adelaide ward, as it currently only covered half of it.

41.6 Councillor Simson stated that she would be concerned if the area were pushed out incrementally and asked if there was any evidence to support the extensions. The Head

of Environmental Health and Licensing stated that it was natural for residents who lived just outside the boundary to request inclusion in the CIA, but the policy had to be evidence based to be justifiable. He noted that there were other options available for the control of problem premises, including the powers of review, which were open to all communities in the Brighton and Hove area. If the policy was to be changed, or the area moved in any way, it would be subject to a new consultation exercise and the approval of Full Council again.

- 41.6 Councillor Kitcat asked if the CIA applied to off-licensed premises. The Head of Environmental Health and Licensing stated that the policy was based around evidence obtained regarding on-licensed premises, and the government had stated it was not justified to include off-licensed premises in this evidence base. Once initiated, the policy had the affect of including all licensed premises within the area however.
- 41.7 Councillor Janio asked Chief Inspector Mills if Sussex Police would like to see the CIA extended. Chief Inspector Mills stated that the Police were satisfied with the current area, which they felt they had evidence to justify.
- 41.8 Councillor Janio asked if off-licensed premises needed to be included in the policy and the Head of Environmental Health and Licensing replied that the Committee could have taken a different view at the time of approving the policy. Legal challenges to the policy had to be made within the first three months to be valid, however the current policy gave favourable consideration to small restaurants and theatres, as demonstrated by developments in Black Lion Street.
- 41.9 Councillor Fryer asked what level of incidents would need to occur before Officers considered there was enough evidence to extend the area. The Head of Environmental Health and Licensing stated that there was not a recognised threshold at which an area would automatically be considered for inclusion, but the purpose of the review was to ensure that the policy was adequate, reasonable and justifiable. It was felt that the current policy met these conditions.
- 41.10 Councillor Fryer felt that although there had been a drop overall in noise complaints across the city, there had been a rise in certain areas. She stated that evidence for the CIA could also include noise complaints, and on this basis there were areas that should be included in the policy. The Environmental Health Manager agreed that noise complaints directly relating to licensed premises could be included in the evidential basis for agreeing the area, but general noise in the streets would not qualify for this. She noted that the complaints position would be reviewed regularly.
- 41.11 Councillor West felt that the CIA was a positive development but felt that there was a lack of rigour and detail in the report presented to Committee. He felt that the London Road hotspot differed only slightly in terms of crime rates compared with the CIA, but there were no reasons given as to why this was not being considered for inclusion in the area. He felt that the issue of noise complaints had not been dealt with effectively and no comparative data was offered regarding other CIA policies across the country. He requested that at the next review, a more detailed and comprehensive report be submitted to the Committee and take into consideration areas where the policy might be expanded.

- 41.12 Chief Inspector Mills replied that the statistical volume of premises was not the main driver for including an area in the CIA. The policy was based around the negative impact premises were having in an area, and on the London Road area in particular, the majority of the negative impact was being created by drug dealers, and street drinkers who were buying alcohol from various places across the city. Chief Inspector Mills stated that there were other, more effective ways of dealing with problems such as these, and noted that a survey of residents had been conducted in 2008 regarding licensing issues in the area and only 28 responses had been received. This indicated that there was not a strong feeling among residents that licensed premises were causing a problem in this area.
- 41.13 The Head of Environmental Health and Licensing stated that he had attended recent London Road Local Action Team and Traders Association meetings and felt there was a strong feeling about licensed premises in the area. However, there had been only one new application in this area in the past year, and it was likely that there had in fact been a net reduction in premises, and so it would be difficult to justify a cumulative impact policy for this area. He also noted that licensing policy was not the primary way to deal with crime and disorder in an area. He stated that better geographical information would become available over time to demonstrate trends across the city to help assess the policy, but a way forward for better information sharing and gathering could be to include representatives of Residents' Associations in the Licensing Strategy Group.
- 41.14 Councillor Hyde stated that any expansion to the policy would need to meet robust criteria. She also felt that there was no need to include comparative data in future reports as Brighton & Hove were leading the way in this issue, and it not be relevant to the circumstances.
- 41.15 Councillor Simson proposed an amendment to the recommendation of the report to include the word 'regularly' and this was agreed by Members.
- 41.16 **RESOLVED** – That the Committee has considered and agrees with the recommendations as follows:
1. To continue to adopt the Cumulative Impact Area (as defined in appendix 1 of the report [for a copy see minute book]) and to continue to adopt the Special Policy (as defined in appendix 2 [for a copy see minute book]) in relation to that Cumulative Impact Area.
 2. To review *regularly* the need for a Cumulative Impact Area or Areas and Special Policy within Brighton & Hove.
 3. To recommend that the Council continues to include the Special Policy and associated defined Cumulative Impact Area as part of its current Licensing Act 2003: Statement of Licensing Policy.

42. HEALTH IMPACT ASSESSMENT OF LICENSING

- 42.1 The Committee considered a report from the Director of Environment regarding the Health Impact Assessment of Licensing (for copy see minute book).
- 42.2 The Head of Environmental Health and Licensing stated that he had hoped to bring a full report to the meeting, but the consultant appointed to conduct the work had

unfortunately been taken ill. Therefore an interim report had been submitted to update Members on the situation.

- 42.3 Councillor Fryer asked for the results of the final report to be included in the scrutiny review of alcohol and younger people and the Head of Environmental Health and Licensing stated that they had received an interim report and would be included in the final report. He noted that a number of different scrutiny bodies were interested in this issue, but were approaching it from different perspectives.
- 42.4 Councillor Fryer asked for the views of the scrutiny review to be taken into account when drafting the final report and the Head of Environmental Health and Licensing stated that the report would be submitted to the Licensing Committee for approval, but would include ideas from other areas of the Council where appropriate.
- 42.5 **RESOLVED** – That the Committee notes the interim report on the Health Impact Assessment of Licensing.

43. SCHEDULE OF LICENSING REVIEWS

- 43.1 **RESOLVED** – That the Committee notes the Schedule of Licensing Reviews.

44. SCHEDULE OF LICENSING APPEALS

- 44.1 **RESOLVED** – That the Committee notes the Schedule of Licensing Appeals.

45. GAMBLING ACT SCHEDULE

- 45.1 **RESOLVED** – That the Committee notes the Gambling Act Schedule.

46. ITEMS TO GO FORWARD TO COUNCIL

- 46.1 There were none.

The meeting concluded at 5.40pm

Signed

Chairman

Dated this

day of