

# LICENSING COMMITTEE (LICENSING ACT 2003 FUNCTIONS)

## Agenda Item 12

Brighton & Hove City Council

### BRIGHTON & HOVE CITY COUNCIL

#### LICENSING COMMITTEE (LICENSING ACT 2003 FUNCTIONS)

3.00PM 23 JUNE 2011

#### COUNCIL CHAMBER, HOVE TOWN HALL

#### MINUTES

**Present:** Councillors Deane (Chair), Cobb, Gilbey, Hyde, A Kitcat, Lepper, Marsh, Pidgeon, Rufus, Simson, Sykes (Deputy Chair), C Theobald, Turton and West

**Apologies:** Councillors Duncan

Officers Present : Tim Nicholls, Head of Environmental Health and Licensing; Jean Cranford, Licensing Manager; Annie Sparks, Divisional Environmental Health Officer, Pollution Team; Rebecca Sidell Lawyer and Penny Jennings, Democratic Services Officer

#### PART ONE

#### 1. APPOINTMENT OF DEPUTY CHAIR

- 1.1 Councillor Cobb was proposed by Councillor Pidgeon but declined to be considered for the position as a decision had been taken by her group that they would not take on this role, she understood however that councillor Lepper had been offered the Deputy Chair. Councillor Lepper stated that this was not the case.
- 1.2 It was confirmed that as both of the other political groups had been offered place on record his disappointment that a Member of one of the other the position of Deputy Chair and had declined that the majority group could appoint from one of their number. Councillor West wished to groups had been unwilling to take on this responsibility.
- 1.3 Councillor Sykes was proposed as Deputy Chair by Councillor West Councillor Deane seconded the proposal and Councillor Sykes was therefore duly appointed as Deputy Chair.
- 1.4 **RESOLVED** - That Councillor Sykes be appointed Deputy Chair for the ensuing Municipal Year.

**2. PROCEDURAL BUSINESS****2a Declaration of Substitutes**

2.1 There were none.

**2b Declarations of Interest**

2.2 There were none.

**2c Exclusion of the Press and Public**

2.3 In accordance with section 100A of the Local Government Act 1972 ('the Act'), the Committee 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 100I of the Act).

2.4 **RESOLVED** - That the press and public be not excluded from the meeting during consideration any item on the agenda.

**3. MINUTES OF THE PREVIOUS MEETING**

3.1 **RESOLVED** – That the minutes of the Licensing Committee (Licensing Act 2003 Functions) Meeting held on 10 February 2011 be agreed and signed as a correct record.

**4. CHAIR'S COMMUNICATIONS**

4.1 There were none.

**5. PUBLIC QUESTIONS**

5.1 There were none.

**6. PETITION(S)**

6.1 The Committee considered a report of the Strategic Director, Resources detailing a joint e-petition and accompanying paper petition which had originally been presented at Council on 24 March 2011. The joint petitions contained a total of 371 signatures.

6.2 The Chair suggested that as this item was taken up in the report "Review of the Cumulative Impact Zone", Item 7 on that afternoon's agenda that the petition be noted and received as the issues raised by the petitioner would be taken up under that item. It was confirmed that the lead petitioner (who was not in attendance at the meeting) would receive a written response in relation to their petition and to any recommendations agreed in respect of the review of the Cumulative Impact Area.

6.3 **RESOLVED** – That the content of the petition be noted and received.

## 7. REVIEW OF THE CUMULATIVE IMPACT AREA

- 7.1 The Head of Environmental Health and Licensing explained that the Council as Licensing Authority had a statutory duty to review its Statement of Licensing Policy (SoLP) every three years following the creation of the Cumulative Impact Zone (CIZ). Post March 2008, this area and the Special Stress Areas SSA's had been reviewed regularly and consequently year on year data was available in respect of those reviews.
- 7.2 Consequently at Full Council on 17 December 2010 the updated policy had been adopted and it had been recommended that the Licensing Committee receive a report as part of the Annual Review of Licensing Policy following consultation with ward councillors and the Police and having regard to the concerns of local residents reviewing the evidence with a view to the possible inclusion of the Special Stress Areas (SSA's) in the Cumulative Impact Zone. The merits of using a matrix approach were also explored in Appendix F to the circulated report.
- 7.3 At the meeting of the Licensing Committee held 10 February 2011 the Committee had requested a report on the annual review of licensing policy following consultation with Ward Councillors and the Police, reviewing evidence and having regard to residents concerns with a view to possible inclusion of special stress areas in the Cumulative Impact Zone. The merits of a matrix approach to licensing decisions would also be explored. At Full Council on 24 March 2011, a petition had been received containing signatures of 371 residents concerned about the licensing of further establishments in Brunswick and Adelaide Ward and had been referred forward to that meeting of the Licensing Committee (Item 6 on the above agenda refers). At a recent meeting of the Licensing Strategy Group, the North Laine Community Association had confirmed their previous and consistent request for inclusion of that area of the city in the Cumulative Impact Zone.
- 7.4 In answer to Members' questions, the Head of Environmental Health and Licensing explained that the purpose of the report was to receive a steer from Members on this issue. Officers would then consult further and bring a report back to the next scheduled meeting of the Committee in November. Any changes proposed to the existing arrangements at that stage would need to go forward to Full Council for approval at that time. The noise maps and other charts circulated highlighted the findings extrapolated from the data collected and continuing to be collected.
- 7.5 Chief Inspector Nelson was in attendance representing the Police. The Head of Environmental Health and Licensing explained that the Police had provided data and commentary included in the report and that officers of the Council, the Police, health and other partners had worked co-operatively in order to seek to protect the economic health of city and to support a responsible approach to alcohol consumption whilst also having measures in place to counter some of its worst excesses.
- 7.6 Chief Inspector Nelson explained that it had been recognised that a balance needed to be found, measures taken needed to be appropriate and proportionate without

compromising the economic health of the city, the needs of residents also had to be respected. Over the past two years as a result of the measures put into place (particularly within the CIA), the city had not witnessed the further increases in crime and disorder and anti-social behaviour that had occurred elsewhere in the country. There had been a shift towards “pre-loading” whereby individuals purchased and consumed alcohol, usually at far cheaper prices than bars, pubs and clubs from off-licences and supermarkets earlier in the evening prior to visiting other establishments. As a result the average spend per head in pubs and clubs had reduced and some were struggling. Residents in areas of the city on the periphery of the CIA, the North Laines and the Brunswick and Adelaide Ward which was adjacent to Western Road were effected by people noise and other late night disturbance and this needed to be addressed sympathetically.

- 7.7 Chief Inspector Nelson referred to Operation Marble, the Policing Operation which focused on the night time economy in the city centre (CIA) each weekend. A pro-active approach taken in that it enabled resources to be focused on areas where potential problems had been identified and to contain them. The success of the previous weekends operation was reviewed each week and it was stressed that the Police needed to be able to exercise a degree of flexibility in relation to deployment of their officers. The Police’s preference would be to distinguish between the different types of premises, based on the available data and in relation to the relative harm they might present. It was appropriate to support growth of appropriate businesses.
- 7.8 Mrs Sparks, Divisional Environmental Health Manager, Pollution, referred to the level and concentration of noise complaints across the City. Noise complaints related arose from domestic and commercial locations and the last year had seen a 22% in the number of complaints. Complaints in relation to late night premises related not only to noise break out and noisy music but to people noise and noise from gardens and private forecourts. On street noise caused by those leaving premises late and in the early hours of the morning was difficult to deal with under the Council’s statutory powers. However, use of resources within the CIA and Special Stress Areas where the noise patrol team had extended their activities and had held intelligence gathering meetings and had particularly focused their attentions on identified “problem” premises had borne fruit. The noise maps showed the distribution of noise nuisance “hotspots” and indicated how particularly in the Brunswick and Adelaide area of Hove, which was located in a Special Stress Area (SSA) but not the CIA, late night noise issues could arise as a result of people noise and other nuisance arising from those leaving the CIA to go home.
- 7.9 Councillor West was pleased to note that the number of noise complaints had reduced, but sought reassurance that this was not due in part to residents or Ward Councillors ceasing to complain if notwithstanding their complaints it became clear that the remedies available were limited. Mrs Sparks stated that whilst she was aware that complaint fatigue could be an issue, a pro-active approach was taken, as officers attended Local Action Team (LAT) meetings receiving feedback from residents as well as providing the opportunity to explain the legal processes and procedures available. Whilst the necessity of keeping noise diaries had been criticised as being burdensome, nonetheless a robust case needed to be made in order to secure success in the Magistrates Court.

- 7.10 In answer to further questions by Councillor West, Mrs Sparks explained that the department conducted customer satisfaction surveys as follow up to ascertain whether complaints had ceased because a problem had been resolved.
- 7.11 Mrs Lawson was in attendance on behalf of the NHS Trust. Although health was not currently a licensing objective she considered that both the short and longer term impact on health and the implications for resourcing which arose in consequence should not be lost sight of.
- 7.12 Councillor Simson enquired whether the evidence collected was sufficiently compelling to suggest that it would be appropriate to extend the existing CIA and or to include the SSA's. Some of the data provided by the Police was difficult to comprehend and confusing. Robust evidence was necessary in order to support any changes to the existing areas otherwise the licensing authority would find itself vulnerable to legal challenge.
- 7.13 Chief Inspector Nelson stated that if changes were ultimately to be made the Police would need to give thought to how best to support those changes. Currently 20% of the premises in the CIA contributed to 40% of the violent crime there. The Head of Environmental Health and Licensing explained that there was sufficient evidence to at least give further thought to drawing a new boundary to the CIA and to carry out a detailed consultation process which would form the basis of a report for consideration by the Committee at its next scheduled meeting. He referred to the apparent change in direction of travel by central government in relation to policies surrounding licensing and to the advice and input especially in relation to adoption of a matrix approach given by Philip Kolvin QC at the Members' training session he had delivered the previous autumn.
- 7.14 Councillor C Theobald referred to the problems currently experienced in the Brunswick and Adelaide might have been reduced by its earlier inclusion in the CIA. Chief Inspector Nelson explained that currently Operation Marble had been extended into this area on a trial basis. This was subject to review but could be made permanent. Councillor Sykes stated that as one of the Ward Councillors for this area he was contacted regularly by residents associations and directly by residents expressing their concerns in relation to late night people noise and other nuisance.
- 7.15 Councillor Cobb stated that previously Members had been informed that crime figures across the City were reducing, however this seemed to be contradicted by the information being presented. It was explained that whilst crime overall had reduced across the city as a whole, on-going concerns were continuing to be addressed in relation to some aspects of the night time economy.
- 7.16 The Chairman, Councillor Deane stated that the reference to the CIA in some instances and to the CIZ in others was confusing and that one or the other, whichever was considered to be the most appropriate should be used for consistency. Councillor Cobb concurred in that view.
- 7.17 Councillor Simson sought clarification that if members agreed to some of the recommendations that others would automatically fall, stating that she considered a matrix approach could be effective and would provide the licensing authority with some

“teeth”. The legal adviser to the Committee gave advice in respect of this matter and the Head of Environmental Health and Licensing explained the context of each of the recommendations.

- 7.18 Councillor Hyde stated that it was important to ensure that consultation took place in relation to all of the recommendations agreed as she did not consider that this had been explicitly spelt out.
- 7.19 Councillor Lepper welcomed the report and cited the effective and collaborative approach adopted when drawing up the CIA. The CIA had enabled the Licensing Authority to work in concert with the Police to maintain control of the night time economy. Off sales appeared to be at the root of a number of problems particularly on the periphery of the existing SSA's, this was an issue which needed to be addressed. She also favoured a matrix approach.
- 7.20 Councillor West also welcomed the report and agreed with Councillor Lepper it was appropriate to make exceptions in some instances rather than adopting a blanket approach. He considered that various problems remained and needed to be addressed, it was timely therefore to consult further. Whilst a matrix approach could be helpful it was as yet untested and might not ultimately provide the best approach.
- 7.21 **RESOLVED** - That Committee resolves to adopt the following recommendations for the purposes of authorising officers to follow the procedure set out in the statutory licensing guidance to create a special policy, consulting with those specified in 5.3 of the 2003 Act (including Ward Councillors);
- (1) To expand the current CIA to incorporate the current SSA's and to expand the SSA's as shown in the map at Appendix D to the report;
  - (2) To apply the decision making matrix at Appendix F to the report to the areas referred to in (2) above and in the map at Appendix G;
  - (3) That officers are authorised to follow the consultation procedure described at above;
  - (4) That subject to the outcome of the consultation Officers report back to the Committee.

## 8. SCHEDULE OF LICENSING APPEALS

- 8.1 The Committee considered the schedule of Licensing appeals carried out during the period covered by the report.
- 8.2 **RESOLVED** – That the content of the report be noted.

## 9. SCHEDULE OF LICENSING REVIEWS

- 9.1 The Committee considered a report setting out details of the Licensing reviews carried out during the period covered by the report.

9.2 **RESOLVED** – That the content of the report be noted.

**10. ITEMS TO GO FORWARD TO COUNCIL**

10.1 There were none.

The meeting concluded at 4.30pm

Signed

Chairman

Dated this

day of

