

**MINUTES OF THE REGULATORY COMMITTEE
THURSDAY, 12 APRIL 2012**

Councillors Basu, Beacham, Brabazon, Demirci (Chair), Egan, Erskine, Hare, Mallett, Rice, Schmitz and Waters

Apologies Councillor Scott and Councillor Peacock

Also Present: Marc Dorfman (Assistant Director, Planning, Regeneration and Economy), Paul Smith (Head of Development Management), Daliah Barrett (Licensing Manager), Tracy Duguid (Legal Services), Myles Joyce (Planning Enforcement Team Leader) and Helen Chapman (Clerk)

| MINUTE NO. | SUBJECT/DECISION | ACTION BY |
|-------------------|---|------------------|
| REG39. | <p>APOLOGIES FOR ABSENCE</p> <p>Apologies for absence were received from Cllr Peacock, for whom Cllr Egan was substituting, and from Cllr Scott.</p> | |
| REG40. | <p>URGENT BUSINESS</p> <p>There were no new items of urgent business.</p> | |
| REG41. | <p>DECLARATIONS OF INTEREST</p> <p>There were no declarations of interest.</p> | |
| REG42. | <p>MINUTES</p> <p>RESOLVED</p> <p>That the minutes of the meeting held on 21 February 2012 be approved and signed by the Chair.</p> <p><u>Matters arising</u></p> <p>Cllr Schmitz confirmed that he had circulated the information on the recovery of Housing Benefit paid for unlicensed HMOs, as agreed at the previous meeting.</p> <p>It was confirmed that s106 payments had been received in respect of both Winns Mews and Hale Village.</p> <p>In response to a question from the Committee regarding the issue of overage, no firm figures could be provided, but the Committee was advised that current sales were moving towards the point at which overage would be triggered, although last year's riots had had an impact on sales.</p> | |

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REG43. LATE NIGHT LEVY PROPOSAL

Daliah Barrett, Licensing Officer, presented a briefing on the consultation issued by the Home Office on the Late Night Levy and Early Morning Restriction Orders. Subsequent to the publication of the agenda for the meeting, it had been decided to freeze the introduction of any Levy until 2013, although the consultation would still take place. Ms Barrett gave an outline of other proposed changes to Licensing legislation to take effect from 25 April 2012, although secondary guidance was still awaited, which would provide details:

- Licensing Authorities to become responsible authorities in their own right. A report would be brought to the Committee proposing an amendment to the Scheme of Delegations accordingly.
- The Director of Public Health to become a responsible authority.
- Abolition of interested parties – anybody would be entitled to make representations on licensing applications, although vexatious or frivolous representations could be rejected.
- The wording ‘appropriate to promote the licensing objectives’ to replace the previous ‘necessary to promote the licensing objectives’ as part of the guidance to Licensing Sub Committees on modifying conditions or rejecting the whole or part of the application.
- The Licensing Authority to be responsible for advertising all licensing applications.
- TENs could be for up to 7 days, with Environmental Health having the right of veto. Contested TENs applications to be brought to a Sub Committee for determination.
- Increased penalties for those persistently selling alcohol to underage persons.
- The Licensing Authority to have the power to suspend licences for non-payment of fees.
- Licensing Policies to last for 5 years rather than the current 3 years; the existing Policy to be updated to reflect The Government’s Alcohol Strategy, produced in 2012.
- Sub Committees to be required to take into account reasonable representations from the Police.
- It would now be legitimate to set fixed / staggered closing hours for an area.
- Applicants to be required to give greater consideration to the local area.

In response to concerns raised by the Committee, it was clarified that these were changes from Government, which the Licensing Authority had no discretion to approve or reject. It was confirmed that, as soon as detailed guidance was received, a full training session would be held for Members on the legislative changes.

Ms Barrett spoke to the Late Night Levy consultation document, which had been circulated with the agenda pack. The Late Night Levy would allow the licensing authority to charge any premises with a licence to serve alcohol between 0000 and 0600. Feedback from licensees in the

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borough was that this would be unaffordable for them, and several had indicated that they would give up their licences completely. It was reported that a clause was proposed that, were a borough to approve the introduction of a Late Night Levy, premises would be given the option to give up their licences for the hours affected by the levy, in order to avoid being liable for payment. This process would be managed at the Council's expense.

In response to a question from the Committee, it was confirmed that the Levy would not affect private parties, but that a community hall with a licence for alcohol past midnight would be required to pay the levy. It was confirmed that the levy would be payable by any premises with a licence to serve alcohol after 0000, but would not apply to premises whose usual licensing hours did not go past 0000, but who applied for TENs for the occasional event after 0000. It was confirmed that the borough had discretion regarding the start time for the levy, but that whatever was decided would be the same for premises across the borough.

With regards to the proposal that community centres could apply to be exempt from the requirement to have a DPS, Ms Barrett reported that Haringey's response to the consultation would be strongly against this proposal.

It was confirmed that training for Members would be arranged as soon as details on the guidance and regulations were received.

NOTED

REG44. REVIEW APPLICATIONS TO LICENSING SUB COMMITTEES - PROCEDURE

The Committee considered a report on proposed amendments to the wording of the summary of procedure in respect of Licensing Review applications. The proposed wording was to make the roles of the respective parties clearer, as in review hearings these differed from the parties in licence application hearings.

RESOLVED

That the new procedure for Licensing Sub Committee, specifically in relation to Review Applications, as set out in the report, be approved and adopted.

REG45. DELEGATED POWERS FOR PLANNING DECISIONS

The Committee considered a report on the principles and process of delegated planning powers, Haringey's delegation scheme, the volume of applications decided under delegated powers within the borough and how this compared to national guidelines.

The following points were raised in discussion:

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- Government advice is that local authorities should delegate at least 90% of applications received; for the period 2006-2012, the level of delegation at Haringey had been between 97.1% and 97.9%.
- Members should raise any concerns regarding the delegations process with Marc Dorfman or Paul Smith.
- The wording of the scheme of delegations had been updated in recent days to reflect the current job titles in the Place and Sustainability directorate.
- In addition to the list of delegations to planning officers of matters otherwise within the terms of reference of the Planning Committee, officers were able to refer any application to the Committee.
- Mr Smith outlined the process whereby the list of delegated decisions was forwarded to the Chair and Vice Chair of the Committee on a Friday, to give them time to raise any issues prior to the decisions being implemented on the following Tuesday. In addition to this, any controversial issues would be drawn to the attention of the Chair and the Vice Chair.
- All Councillors were notified of planning applications affecting their ward, and all Councillors were encouraged to respond to applications.
- In response to point (r) of the scheme of delegations, Members stated that they were aware of applications where residents' associations had made representations, and the application had not been referred to the Committee. It was clarified that that "any other applications" as referred to in (r) only applied to applications that did not fall within any of the categories (a) to (p) on the preceding list.
- Determination of whether an application should go to Committee depended on the quality of consultation responses rather than the quantity, although an application attracting a high number of representations would be considered carefully and may be referred to the Committee.
- Ward Councillors were encouraged to contact the Chair of the Regulatory Committee regarding any applications they were notified of which they felt should come to the Committee, and the Chair could then discuss this with Planning.
- The Committee requested information on the level of delegation within other boroughs, and it was agreed that Marc Dorfman would circulate this information outside the meeting.
- The Committee asked how many applications Members requested to go to Committee and, of these, how many were actually referred to Committee. Mr Dorfman advised that generally requests by Councillors for referrals to Committee were accommodated and usually did go to the Committee for determination; it was reported that the number of applications affected was very small – there had only been one such example this year.
- Mr Dorfman advised that the Council had a very good appeals record, well above the national target, and that performance in this area continued to improve each year.

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- It was emphasised that getting planning decisions right was vitally important, as they had a significant impact on local communities – the focus had to be on ensuring that appropriate systems were in place such that decisions were made in the best interests of the local community.
- All decisions, both delegated and Committee, were made in line with planning policy. It was therefore suggested that, where areas of concern were identified, these should be addressed by means of considering changes to planning policy in those areas, on the basis of robust evidence regarding the impact of a particular type of decision.
- It was felt that there was currently a good balance between delegated decision and those taken at Committee, and that any change to the scheme of delegations would have an impact on the level of business considered by the Committee. Members were urged to make full use of the existing mechanisms for feeding into planning applications and influencing policy in the first instance, before making amendments to the scheme of delegations.
- The Committee suggested that there should be an opportunity to consider the issue of the scheme of delegation for planning in greater detail, and it was agreed that the appropriate mechanism for taking this forward be identified.
- The Committee requested that information on how Councillors should engage with the planning process be circulated to all Members, and it was agreed that Planning would issue guidance accordingly.

RESOLVED

That the content of the report be noted.

REG46. DELEGATED DECISIONS - JANUARY - MARCH 2012

The Committee considered a report on delegated decisions made between 30 January and 25 March 2012. The following points were raised in discussion of the report:

- The Committee raised concerns regarding the Change of Use from C3 to C4 at 13 Reform Row, Tottenham Hale Ward – it was agreed that Marc Dorfman would look into the circumstances of this case and report back to the Committee.
- It was agreed that Planning would look at the possibility of including information on cases of ‘established use’ in future reports, to show cases where permitted development had been allowed due to becoming immune from enforcement after 4 years.
- Mr Dorfman agreed with the Committee’s recommendation that arrangements to consult the private sector on issues such as space standards, etc, on receipt of HMO applications should be formalised. Mr Dorfman advised that, while there was already regular liaison with the private sector regarding these issues, work on a protocol for this liaison was currently underway.

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| | <ul style="list-style-type: none">• In response to concerns raised regarding the way in which delegated decisions were brought to the attention of the Chair, it was reported that key issues were raised at the monthly meeting between the Chair and Planning officer. It was suggested that, if Members had any concerns regarding an application, these should be raised with planning officers or the Chair so that they could be discussed in further detail. <p>RESOLVED</p> <p>That the content of the report be noted.</p> | |
| REG47. | <p>PLANNING APPEALS FEBRUARY 2012</p> <p>The Committee considered a report on appeal decisions determined during February 2012, and noted that, of the 6 appeal decisions during this period, 100% had been dismissed.</p> <p>The Committee asked for an update on the Wards Corner appeal, and Mr Dorfman advised that the inquiry was scheduled for October. Work was taking place to complete the statement of case by the end of May, and the Council had made contact with the Wards Corner Coalition to discuss the points they wished to raise. Mr Dorfman advised that it was essential for the Council to focus on the reasons for refusal and defend the decision of the Committee. Cllr Schmitz agreed to supply Mr Dorfman with a copy of his representation to the Planning Inspectorate.</p> <p>It was agreed that details regarding the date and venue of the Wards Corner appeal would be circulated to all Members.</p> <p>RESOLVED</p> <p>That the content of the report be noted.</p> | |
| REG48. | <p>DEVELOPMENT MANAGEMENT, BUILDING CONTROL & PLANNING ENFORCEMENT WORK - PERFORMANCE STATISTICS</p> <p>The Committee considered a report on performance statistics for Development Management, Building Control and Planning Enforcement since the 21st February Regulatory Committee meeting.</p> <p>RESOLVED</p> <p>That the content of the report be noted.</p> | |
| REG49. | <p>PLANNING ENFORCEMENT UPDATE TO 23 MARCH 2012</p> <p>The Committee considered the Planning Enforcement year report to 23rd March 2012, and discussed details of the cases referred to in the report with Myles Joyce, Planning Enforcement.</p> <p>The following points were discussed:</p> | |

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| | <ul style="list-style-type: none"> • Members asked whether there was any scope for funds recovered as a result of Planning Enforcement action to contribute to the Planning Enforcement budget. • The need to widely promote successful enforcement action was emphasised, and officers confirmed that they liaised with the Council's communications team to promote enforcement successes both within the Council and externally. • It was confirmed that additional detail would be added to the prosecutions and outcomes table (at appendix 4) for future reports, to indicate the nature of the breach. • Marc Dorfman and Myles Joyce would look at how best to communicate the outcome of planning enforcement action to ward councillors. <p>RESOLVED</p> <p>That the content of the report be noted.</p> | |
| <p>REG50.</p> | <p>PLANNING ENFORCEMENT APPEALS 2011-12</p> <p>The Committee considered a report on planning and planning enforcement appeals for the year 2011/12, up to 23rd March 2012. It was reported that improvements were continuing to be made on the administrative side, and that results of appeals were continually reviewed to identify area for further improvement.</p> <p>RESOLVED</p> <p>That the content of the report be noted.</p> | |
| <p>REG51.</p> | <p>NEW ITEMS OF URGENT BUSINESS</p> <p>The Chair advised that training dates would be identified for sessions on both the Localism Act and the new National Planning Policy Framework. Mr Dorfman suggested that a report on the Localism Act could be brought to a future meeting.</p> <p>As the last meeting of the Regulatory Committee for the municipal year 2011/12, the Chair thanked Members for their contributions, assistance and feedback throughout the year.</p> <p>NOTED</p> | |
| <p>REG52.</p> | <p>DATES OF FUTURE MEETINGS</p> <p>29 May 2012 (tbc).</p> <p>The meeting closed at 2100hrs.</p> | |

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CLLR ALI DEMIRCI

Chair