

**MINUTES OF THE REGULATORY COMMITTEE
THURSDAY, 22 NOVEMBER 2012**

Councillors Basu, Brabazon, Christophides, Demirci (Chair), Ejiofor, Mallett, McNamara, Peacock (Vice-Chair), Reid, Schmitz and Solomon

Apologies Councillor Beacham and Scott

MINUTE NO.	SUBJECT/ DECISION	ACTION BY
REG63.	<p>APOLOGIES FOR ABSENCE</p> <p>Apologies for absence were received from Cllr Beacham and Cllr Scott.</p>	
REG64.	<p>URGENT BUSINESS</p> <p>There were no new items of urgent business, however minutes of the special Licensing Sub Committees held on 18 October and 5 November had been added as late items under agenda item 4, Minutes.</p>	
REG65.	<p>DECLARATIONS OF INTEREST</p> <p>There were no declarations of interest.</p>	
REG66.	<p>MINUTES</p> <p>It was noted that comments made by Cllr Ejiofor with regard to the performance statistics report had been omitted from the minutes of the 29 May 2012; subject to this being added to the minutes it was:</p> <p>RESOLVED</p> <p>That the minutes of the 29 May 2012 meeting be approved and signed by the Chair.</p>	
REG67.	<p>LICENSING UPDATES</p> <p><u>Late Night Levy – Regulations</u></p> <p>Daliah Barrett presented the briefing on the draft Late Night Levy regulations, as set out in the report circulated, and discussed the issues with the Committee.</p> <ul style="list-style-type: none"> Concerns were raised regarding the engagement of the police in Licensing matters; it was felt that Members should hear from the police regarding the criteria they 	

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applied in determining whether to make representations on applications.

- It was felt that there needed to be a good level of engagement between licensees and the police, as had been the case when the 2003 Licensing Act was introduced.
- In assessing the case for a Late Night Levy, it was felt that there was a need to discuss with the police their resource requirements around policing the late night economy.
- Concern was raised that premises could alter their hours for licensable activity in order not to be liable for the levy charge, but would be able to allow customers to remain on the premises with alcohol previously purchased; this would make regulation and enforcement of licensable activity more challenging.
- Concern was expressed that there may be pressure from other organisations for the Council to adopt the Late Night Levy and that the Council should try to be ahead of the process in order to be able to handle such pressure appropriately. Ms Barrett advised that the police had indicated that they did not intend to try to influence the decision of any borough with regards to the adoption of the measures.
- It was noted that licensees of smaller premises could not always attend meetings or forums as they could not close down their premises in order to be able to attend, however information was distributed to all licence holders to ensure that they were aware of issues affecting them.
- It was suggested that this issue should be looked at in greater detail in another type of way, for example a wider forum or seminar attended by the police and other responsible authorities, rather than a formal meeting, to enable a more rounded look at the relevant issues. It was agreed that this should be arranged.
- The Committee requested a further report that reflected the discussions that had been held with Corporate Board and the Cabinet Member around this issue. Ms Barrett agreed to produce a more detailed report.
- Once the Regulatory Committee had considered this issue in greater detail, with a fuller report and evidence from other responsible authorities, it was felt to be essential that all Councillors should be invited to a session on this issue, as it would affect all Ward Members.
- It was suggested that this was an issue the Environment and Housing Scrutiny Panel could look at; Cllr McNamara would contact the Chair and Ms Barrett regarding taking this forward outside the meeting.

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- Cllr Demirci advised that he would be discussing this issue with the Cabinet Member as part of his regular meetings as Chair of the Committee.
- Ms Barrett reminded members that a training session which would cover this topic was scheduled for the new year; all Committee Members were encouraged to attend.

Revision of Statement of Licensing Policy

Daliah Barrett presented the briefing on the need to update the statement of Licensing Policy, as set out in the report circulated, and discussed the issues with the Committee.

- Members were encouraged to contact Ms Barrett with any suggested ideas relating to the statement of licensing policy.
- It was suggested that the process for engaging with licensing applications and consultations should be made more explicit to local residents, in order to encourage a greater level of response to applications.
- It was noted that the list of consultees needed to be updated to reflect the change from the Area Child Protection Committee to the Local Safeguarding Board, and the new Health service structures.
- Ms Barrett advised that with regard to individual applications, the Council had trialled writing out to local residents within the vicinity of premises subject to a licensing application, but that this had resulted in a significantly higher level of work for the Council and had not led to a noticeable increase in the number of submissions received.
- Joan Hancox, Head of Neighbourhood Services, advised that a budget had been identified for consultation on the Statement of Licensing Policy itself.
- The Committee suggested that the budget for consultation on licensing applications should be considered carefully to ensure it was sufficient for adequate consultation, and that there was a need to balance affordability with ensuring that consultation was reaching all the appropriate people.

Live Music Act 2012

Daliah Barrett presented the briefing on the amendments to the Licensing Act 2003 contained within the Live Music Act, as set out in the report circulated, and discussed the issues with the Committee.

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	<ul style="list-style-type: none">• In response to a question from the Committee, it was confirmed that mechanisms were in place to address any concerns raised as the result of complaints about a premises.• It was agreed that Ms Barrett would produce a chart mapping out the various pieces of Licensing legislation for the Committee's information, and that this would be covered in the training in January.	
REG68.	<p>DECISIONS MADE UNDER DELEGATED POWERS BETWEEN 14 MAY AND 4 NOVEMBER 2012</p> <p>The Committee considered a report, previously circulated, which set out details of decisions made under delegated powers between 14 May and 4 November 2012.</p> <ul style="list-style-type: none">• The Committee discussed whether these figures should come to the Committee on a more frequent basis, however it was noted that the same information was circulated to all Members on a weekly basis, for their information.• In response to a request from the Committee, it was agreed that the information could be provided in a spreadsheet format, to enable the data to be searched and / or reorganised according to the specific information sought.• The Committee asked about 'observations to other boroughs', and it was confirmed that this was where a scheme was of such scale in one borough that neighbouring London boroughs were consulted on the application.• In response to a question regarding applications affecting properties owned by the Council in other boroughs, it was confirmed that this would be handled by the Council's Properties Department, and in such cases the Council would not be acting as the Local Planning Authority.• It was agreed that a sampling exercise of delegated decisions would be useful, and it was agreed that a report on the principles of undertaking such an exercise should form the basis of a report to the Committee at a future meeting.• It was suggested that the information in the report might be more useful in a solely electronic format, given that the information was for noting only, however after some discussion, the Committee on balance felt that the report should be retained.• A report was requested for a future Committee on the issues taken into account where a delegated decision to grant permission was taken in respect of an application	

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	<p>that conflicted with planning policy; it was noted that this issue was covered in the 'how the planning application process works' item, later on the agenda.</p>	
REG69.	<p>APPEAL DECISIONS DETERMINED MAY - OCTOBER 2012</p> <p>The Committee considered a report, previously circulated, on appeal decisions determined between May and October 2012.</p> <ul style="list-style-type: none">• It was suggested that some case analysis be undertaken to identify any particular learning points from the appeals, and to indicate whether any costs were awarded against the Council. It was confirmed that this was already underway and monthly review of appeal decisions would be ongoing. It was reported that costs would only be awarded against the Council in the event that the Council was deemed to have behaved unreasonably.• In response to a question from the Committee, it was reported that judicial reviews were not covered by this report; there was one case which was currently in the process of applying for judicial review, and this was Wards Corner.• It was requested that future reports on appeals should indicate where a decision had been considered by Committee, and whether the decision reached had been in line with the recommendation of the planning officers' report.	
REG70.	<p>DEVELOPMENT MANAGEMENT, BUILDING CONTROL AND PLANNING ENFORCEMENT WORK REPORT</p> <p>The Committee considered a report, previously circulated, which set out statistics relating to development management and building control since the last meeting.</p> <ul style="list-style-type: none">• The Chair asked Marc Dorfman to comment on the recent announcement by Eric Pickles, Secretary of State for Communities and Local Government, in the House of Commons. Mr Dorfman reported that Mr Pickles had originally named Hackney as the worst-performing Local Planning Authority in England, and had later corrected this to Haringey. This was on based on the criterion relating to performance for determining major applications within a 13-week time-frame, for the year 2011/12. Mr Dorfman reported that performance for 2012/13 was improving, with 2 of 4 major applications so far determined within the target.• Mr Dorfman outlined some of the major applications for 2011/12, which included several very large and complex schemes, some applications which had only missed the	

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target by days and some where there had been difficulties getting the s106 agreement signed, but he acknowledged there were some schemes which could have been better managed. While all of these applications could have benefited from a more efficient approach, it was noted that some were always going to take longer than 13 weeks to determine, on account of their complexity.

- Mr Dorfman advised that performance in respect of appeals and approvals was positive, and that the service had introduced the Design Panel, more design assessments, more consultation, including pre-application discussions involving applicants and local residents, and was looking at the introduction of performance monitoring and management.
- The Committee thanked Mr Dorfman for his outline. It was acknowledged that, while the circumstances of the announcement could have been better, and the selection of the specific criterion on which it was based clearer, Haringey received relatively few major applications compared with some other boroughs, and performance on determining these within the 13-week target had not been acceptable.
- Cllr McNamara asked whether it was the case that the Leader and Cabinet Member had been in possession of inaccurate information when they had challenged the DCLG's figures; Mr Dorfman responded that the information on which the Secretary of State's announcement was based had not been in the public domain at the time when the announcement had been made, and it had taken time to obtain the data from the DCLG in order to advise the Leader accordingly. It was agreed that a letter should be written to the Cabinet Member on behalf of the Committee to clarify what information he was provided with in order to respond to the Secretary of State, and whether this needed to be corrected at any point subsequently. In response to the direct question of whether the Cabinet Member had been provided with incorrect information at any point, Mr Dorfman replied that this was not the case.
- The Committee asked about the reasons behind the disappointing performance with regards to the determination of major applications within 13 weeks. Mr Dorfman advised that in 2010/11 there had been very few major applications being submitted, and he had taken the view that it was better to negotiate in order to reach a point where officers could recommend such applications for approval, in order to bring them forward;

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in 2011/12, it was reported that the Council had received 9 of the largest applications it had ever had to deal with, and this had had a negative impact on the statistics. Mr Dorfman reported that figures were now improving, and that over the past five months two of the four major applications received had been determined within 13 weeks. With regard to resources, it was reported that there had been some staff reductions, but that resources were not significantly less than in comparable London boroughs.

- Cllr Ejiofor expressed concern regarding the performance levels reported, and that there had so far been no clear analysis regarding the underlying issues for the poor performance. It was felt that there must be a way of determining applications more quickly, and that it was not acceptable simply to report on the performance; information must also be provided on the actions being taken to remedy the situation. There was a need to balance the requirement to resolve applications in a timely manner with ensuring that correct decisions were brought made. It was agreed that a more detailed report on the work being undertaken to address the performance issues against this target should be brought back to the next meeting of the Committee.
- Mr Dorfman advised that work did need to be done to improve the timeliness of decisions on major applications, but that performance in respect of appeals was very good, which indicated that accurate decisions were being made.
- In response to a comment from the Committee regarding why information not being in the public domain meant that it was not possible for the Cabinet Member to be supplied with accurate data, Mr Dorfman advised that the Cabinet Member was provided with the statistics held by the Council, but that they then needed to check with the DCLG the specific way in which their statistics had been presented in order to ensure that the Council's own data was presented in a comparable way.
- The Committee asked whether any complaints had been made regarding the non-determination of applications; Paul Smith advised that there had been an appeal in respect of non-determination at 163 Tottenham Lane, but that the appeal had been won by the Council.
- It was clarified that an application was classified as a major application if it was over 1,000m², or more than 10 residential units.
- The Committee expressed concern that 13 weeks may not be sufficient time for particularly large or complex applications where extensive consultation was required,

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and asked what the penalty was where this target was not met. Mr Dorfman advised the current penalty was that determination of the application could be taken out of the hands of the local planning authority. Under the new Growth and Infrastructure Bill, local planning authorities who were failing on one of two criteria, major applications and appeals, would be put on special measures, meaning that decisions would transfer directly to the Secretary of State.

- Concern was expressed that, by trying to meet the 13 week target for some complex applications, there was a risk that officers would be more focussed on timescales than the quality of the work being undertaken – there was a need to meet standards in respect of both timeliness and professionalism.
- It was suggested that there should be a split between planning and regeneration, as it was felt that these two aspects of the service could conflict with one another, for example with the Spurs and GLS developments. Mr Dorfman accepted that the planning applications such as Lawrence Road, Spurs and GLS, could have been handled more efficiently, but that the level of consultation required meant that they would always have taken a long time to resolve. It was felt that development and economic investment had continued to be delivered during the recession and that while both planning and regeneration came under the same department, it was not felt that there was a conflict between the two.
- The Committee asked about the current status of the planning application relating to 19 Lansdowne Road, as two Planning Sub Committee meetings had been held since a decision had been taken that the application should be determined by the Sub Committee rather than delegated decision. Mr Smith advised that officers had been asked to undertake further work on the assessment of the issues around demolition within a Conservation Area.
- The Committee emphasised the need for target timeframes to be taken seriously, as if these were not met in future there was a chance the local planning authority could be put on special measures. It was noted that not all of the major applications had been of exceptional scale or significance and that poor performance was not acceptable – it was necessary to review the processes to identify where the delays were occurring and to deal with these.
- In summary on this topic, the Chair confirmed that the Committee wanted a report back from Mr Dorfman and the Director of Place and Sustainability on the measures

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being put in place to address performance against this target, for the next meeting of the Committee. The Chair confirmed that he would communicate all of the points raised by the Committee directly with the Cabinet Member and Director.

- With regards to the statistics for Building Control, it was noted that the Council was performing well, and that building control services was a competitive field. Mr Smith advised that developers had the option to use alternative approved inspectors rather than the Council's in-house building control service, in which case the Council had no involvement unless there was an enforcement issue. It was reported that there was no formal research comparing the quality of external building control inspectors with Council services but the fact that the Council was able to be competitive in this area and had retained local business on the basis of its performance indicated that the Council was performing well.
- Concerns were raised that serious accidents could occur on a site where an external inspector was being employed, and the Council would not necessarily be made aware of this.
- The Committee asked if it would be possible for the Council to provide building control services to other local authorities, in response to which Mr Dorfman advised that there were opportunities to work in partnership with other authorities, and the Council already had 9 such contracts in place. Expanding the provision of the Council's services further in this manner would require a business case.
- It was confirmed that building control was a statutory function, but that there was no requirement for this to be provided in-house and could be contracted out.
- In response to a question from the Committee, it was confirmed that the Council would act in the event of a building becoming unsafe regardless of whether an external inspector had been used, as dangerous structures was an area where the Council had a statutory obligation to take action.
- The Committee were encouraged to contact Bob McIver if they required any further information around building control issues.

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The Committee considered a report, previously circulated, on planning enforcement's progress in maintaining service delivery for the first half of 2012/13. Myles Joyce, Planning Enforcement Team Leader, advised that the report covered information up to the 30th September 2012, and that the number of open cases should read 394.

- Mr Joyce advised that 'minded to uphold' with regards to an appeal meant that the applicant may receive planning permission on appeal, but would still be fined for breach of a planning enforcement notice.
- Mr Joyce reported that the service was looking to undertake some analysis of appeal decisions, as there appeared to be some discrepancy between appeal decisions in different areas of the borough as well as for reasons of quality control.
- It was reported that a POCA (Proceeds of Crime Act) case was heard and the Crown Court confiscated £141,000 from the defendants. A further POCA case is scheduled for next month. Another possible case may be in the pipeline, but was at an early stage. The Committee was pleased to note the use of POCA, and suggested that local ward councillors could be written to, to let them know when successful action had been taken in their area. It was also suggested that successes under POCA could be communicated at the landlords' forum, or via social media sites such as Harringay Online, in order to spread the word when successful action had been taken.
- Tony Michael, Legal Services, advised that the Council received 18.75% of the amount awarded, but that there was a cost implication in reaching the point at which a reward was made, and it also depended on the amount being recoverable from the defendant. It was also noted that defendant could opt for a prison term rather than pay the amount awarded. Although that would not extinguish the debt, further legal action (and consequently delay) would be sustained to actually recover the award.

REG72. PLANNING ENFORCEMENT UPDATE - AREA FORUMS FROM 2009-12 AND FIRST HALF OF 2012-13

The Committee considered a report, previously circulated, on Planning Enforcement's progress in maintaining service delivery from 2009-12 when broken down into constituent Area Forums, and the cumulative weight of caseload and enforcement activity. The report also gave an update of cases received and closed for each ward and area for the first half of 2012-13.

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	<p>In response to a question from the Committee, it was confirmed that there had been an increase in enforcement activity borough-wide including Northumberland Park and White Hart Lane, and this was reflected in the increase in cases and formal enforcement action. It was noted that the number of cases varied between wards as did formal enforcement activity, with less formal action in the west of the borough than the east, but with the proportion of cases resolved being similar, reflecting the different nature of breaches of planning between the two parts of the borough.</p>	
REG73.	<p>TRAVEL PLANS: POLICY, GUIDANCE AND IMPLEMENTATION</p> <p>The Committee considered a report, previously circulated, on the Council's policy around the threshold for requiring travel plans, guidance used to identify best practice and issues surrounding effective delivery. The Committee was asked to consider and support the suggestion that applications requiring a travel plan not be validated until the plan was submitted, and that all travel plans be secured by s106 agreement, in order to strengthen the Council's processes for requiring, implementing and monitoring travel plans.</p> <p>The Committee welcomed the idea of strengthening the Council's processes for monitoring travel plans, as enforcement around this issue was essential in order to avoid problems in future. In response to a question from the Committee, it was confirmed that policy around travel plans was updated on a regular basis, in line with guidance issued by Transport for London. It was reported that this and other issues were looked at by the planning policy group, to ensure that policies were complementary and based on local evidence.</p>	
REG74.	<p>LOW CAR / CAR FREE DEVELOPMENT</p> <p>The Committee considered a report, previously circulated, which set out the policies and implementation issues surrounding low car and car free residential developments.</p> <p>The Committee noted that whenever the issue of low car or car free developments came up in a planning application, this tended to be quite contentious, and tied in with the issue of CPZs.</p> <p>It was felt that this was an issue which warranted longer discussion, and as the time was approaching 10pm, it was agreed that this item be adjourned to the next meeting of the Committee, and the remaining items on the agenda be deferred to the same meeting.</p>	

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REG75.	HOW THE PLANNING APPLICATION PROCESS WORKS This item was deferred to the next meeting of the Committee.	
REG76.	INFORMATION REPORT - THE WORKINGS OF THE STREET NAMING AND NUMBERING PROCESS IN NEW DEVELOPMENTS This item was deferred to the next meeting of the Committee.	
REG77.	THE ROLE OF WARD COUNCILLORS IN DISCUSSIONS WITH PLANNING OFFICERS AND APPLICANTS This item was deferred to the next meeting of the Committee.	
REG78.	NEW ITEMS OF URGENT BUSINESS RESOLVED That the minutes of the special Licensing Sub Committees held on 18 October and 5 November be approved and signed by their respective Chairs. The Chair advised the Committee that he was meeting with the Director of Place and Sustainability, the Assistant Director, Planning, Regeneration and Economy and the Cabinet Member on a regular basis to feed back the views of the Committee. The Chair also encouraged Members of the Committee to accompany enforcement response officers on duty, as he had found this a valuable exercise. It was agreed that a date for the next meeting of the Committee should be sought for January or early February 2013. The meeting closed at 10pm.	

CLLR ALI DEMIRCI

Chair