

Licensing Committee

Meeting of Licensing Committee held on Wednesday, 14 July 2021 at 6.30 pm in Council Chamber, Town Hall, Katharine Street, Croydon CR0 1NX

This meeting was Webcast – and is available to view via the Council's Web Site

MINUTES

Present: Councillor Robert Canning (Chair);
Councillor Pat Clouder (Vice-Chair) and Councillor Margaret Bird (Vice-Chair);
Councillors Nina Degrads, Karen Jewitt, David Wood, Maddie Henson,
Stephen Mann (In place of Chris Clark), Jan Buttinger, Andy Stranack,
Badsha Quadir and Robert Ward

Also Present: Jessica Stockton (Solicitor and Legal Advisor)
Michael Goddard (Head of Environment Health, Trading Standards and
Licensing)
Fiona Woodcock (Market and Street Trading Compliance Officer)
Michelle Ossei-Gerning (Democratic Services)
Tariq Aniemeka-Bailey (Democratic Services)

Apologies: Councillor Chris Clark. Councillor David Wood for lateness.

PART A

8/21 **Minutes of the Previous Meeting**

The minutes of the meeting held on Wednesday 17 March 2021 were agreed as an accurate record.

9/21 **Minutes of previous Licensing Sub-Committee Meetings**

The Committee **RESOLVED** to approve the minutes of the last Licensing Sub-Committee meetings held on Wednesday 24 March 2021, Thursday 29 April 2021 and Wednesday 23 June 2021 as an accurate record.

10/21 **Urgent Business (if any)**

There were no items of urgent business.

11/21 **Disclosure of Interests**

There were none.

12/21

London Local Authorities Act 1990: Application for Street Designation Order

The Committee was advised that the application to designate a section of public highway outside **288 London Road, CR0 2TG (Appendix A)** had been withdrawn by the applicant, and thus was not considered at the meeting.

The Committee considered the application to designate a section of public highway outside **228 London Road, CR0 2FT (Appendix B)**.

The Licensing Manager introduced the item, explaining the process of designation for street trading and applying for street trading licences and the details of the application before the Committee. The Committee was informed that the application had been sent to responsible authorities and advertised in the local press; no representations had been received.

The section of highway in question was Croydon Council maintained.

The Applicant was not present to make a representation.

In response to questions from the Committee, the licensing manager advised that the application site fell within the saturation area of the Council's street trading policy.

The Committee discussed their concerns around the storage and removal of the display cages after 11pm from the highway which would create noise and disturb neighbouring residents who resided above the shop. As the applicant was not present, the concerns were not addressed. The Committee were not satisfied, on the basis of the information before them that the applicant would be able to adhere to the requirements for street trading.

The Committee were asked to indicate whether they were in favour of granting a street designation order for the site applied for and none were in favour. The Committee were then asked whether they were in favour of refusal and this was carried with all twelve Members unanimously voting in favour of refusal.

The Committee **RESOLVED**:

1. To refuse to designate 228 London Road for the purposes of street trading and accordingly the Committee did not consider whether or not to grant a Street Trading License to the Applicant.

London Local Authorities Act 1990: Review of Trading Pitch Licence Fees - Surrey Street

Officers spoke to the report on the trading pitch licence fees of Surrey Street and highlighted the proposal to increase the fees. In summary, officers informed the Committee that the Council was entitled to calculate fees so that the estimated income for the year covered the estimated costs to the Council of providing the service. The current fees were set in 2006. It was estimated that the additional income from the revised fees would be sufficient to balance the current costs of the council providing street trading services.

Officers informed the Committee that the new fee proposed is £95 per week per trading pitch where the pitch measured 3m x 3m for permanent annual licence holders trading six days a week, Monday to Saturday; £10 per day per trading pitch measuring at 3m x 3m for the first four weeks of trading for new casual (start-up) temporary licence holders; and £20 per day per trading pitch, measuring 3m x 3m, after the first four weeks of trading for casual temporary licence holders. For a permanent and any casual temporary licence holder to trade on a Sunday it would cost £20 per day.

Officers explained that under the London Local Authorities Act 1990 a street trading licence issued by the Council is required to display goods for sale or to supply a service for gain, such as the placing of tables and chairs on the public highway. The current fixed fee in Surrey Street for an annual street trading licence to trade Monday to Saturday from a fixed pitch of 3m x 3m was £75.10. In addition, casual traders are charged £10 per day for the first four weeks and £15 per day thereafter. Temporary street trading licences were also available to permanent and casual traders to trade on Sunday at £15 per day.

Officers further informed the Committee of the statutory consultation process that had been followed by the Council in accordance with the London Local Authorities Act 1990 to give notice of the proposed new fees. It was noted that the permanent traders were predominantly of fresh fruit and vegetables, and were issued with an annual street trading licence. In more recent years, there were a number of hot food vendors trading on Surrey Street, who operated as casual traders and under temporary licences.

The Act allows the local authority to charge such fees for the grant or renewal of a street trading licence or for the grant of a temporary licence so that the fees are sufficient in aggregate to cover in whole or in part the reasonable administrative or other costs to the Council in connection with their functions under the Act. Other costs may include enforcement and compliance, the cleansing of streets in which street trading takes place and the collection and disposal of refuse.

Officers informed the Committee that there were sixty-seven available trading pitches with currently seventeen permanent licence holders trading over thirty-six and a half pitches, and eight casual traders who trade for an average of

three days a week. There were a small number of casual traders who traded on a more occasional basis.

Members' attention was drawn to Appendix 3 of the report which set out the comments received in response to the statutory notice and consultation. Two comments were received during the statutory consultation period and the points raised by both respondees were addressed in the report to the Committee.

Market traders had been able to continue trading for selling food throughout the pandemic as they were classed as essential retail.

Committee Members welcomed the report presented by officers.

A Member of the Committee queried the sixty-seven pitches that were available, as there were seventeen permanent traders and eight casuals that did not fill the Surrey Street area. The Member was concerned that the increase in fees may put traders off from doing business at Surrey Street; although the Member was in favour that fees should increase as the last increase was in 2006.

There was a discussion around the hard times traders experienced during the pandemic and it was desired for more people to be encouraged to conduct business on Surrey Street. Further questions were raised by Members around the administration and enforcement compliance and costs to the Council and the issues around parked cars affecting trading.

Officers clarified that the seventeen permanent traders covered over thirty-six pitches and a half of pitches traded three days or more per week. Traders had also been classed as essential retailers and able to continue to trade during the pandemic. In relation to the enforcement and compliance for parking, Members were informed that officers were present at Surrey Street daily to ensure trader compliance with trading conditions and other matters such as dealing with disputes, complaints and resolving matters that troubled traders.. The parked vehicles were not the problem they were 20 years ago with access to Surrey Street being much more controlled now and enforced by cameras. The camera enforcement was very successful and it was rare for vehicles to be left overnight, though infrequently there were issues around Christmas.

In relation to questions raised around the financial risk assessment in the report over the next three years and whether the rise in fees could be introduced incrementally, officers clarified that the finance section in the report was forecasted only and that the main focus was the current shortfall in terms of fees income versus how much it would cost to deliver services to traders. Whilst fees needed to increase in full now to meet all of the costs currently being incurred by the Council, it was noted that fees may increase or decrease in the future.

In relation to questions around the number of stallholders pre-pandemic and post-pandemic and the types of stalls provided, officers informed Members that the permanent or established traders (such as the fruit and vegetables stalls) had either one or one and a half or more pitches and had been trading throughout the pandemic. The fish stalls had also been trading through the pandemic though the flower stall had stopped trading over the past year. There were a number of free pitches where officers were hopeful that all traders would return. There was also a growth in hot food vendors.

Some Members had concerns around the timing of the request to raise fees given that there had been a global pandemic and it has been a particularly difficult time for traders during the previous year.

One Member raised concerns about the possible loss of ethnic diversity on Surrey Street and the wider economic impact on traders from the increase of fees at this particular time. Whilst this would benefit the Council financially, it may reduce the number of businesses on Surrey Street and therefore risk having to increase fees again to cover the lost income from businesses who had left.

Officers recognised that businesses had struggled during the pandemic, but noted that the traders were classed as essential retail and had continued to trade. Information on the grants available to them was provided where they had been impacted by covid.

A Member asked what work had been undertaken to reduce the cost of the waste contract. It was noted that the waste charges were part of the wider waste contract and the sums included in the report were only the costs for cleansing and removal of the Surrey Street waste. The new fees which traders would pay was licensed fees that included enforcement, refuse collection removal of waste and cleansing, which was required for what was serviced. The Chair noted that the Cabinet Member for Resources and Financial Governance is reviewing a range of contracts to ensure that the Council is getting good value for money.

In response to a question around comparative costs for markets across London, officers confirmed that fees were based on the actual costs of the service being provided and not in comparison to the fees levied by other local authorities. The fees levied were to cover the costs incurred. These could vary between councils.

In response to questions relating to the nature of the review of fees and what had triggered a review of fees and how traders received the consultation documents (as there were concerns as to the reliability of the postal system during covid), officers confirmed to Members that the fees had not increased since 2006, though the costs of providing services had. The decision to review the fees was therefore made and it was clear that the costs of service had exceeded the Council's income and therefore the proposal before Members was to raise the fees so the Council's financial situation in Surrey Street was balanced.

Further, Members were reminded that as part of the Croydon Renewal Plan the Council was to review all fees and charges across the Council to ensure that the Council was recovering the full costs of the services it was providing in order to balance its budget. The consultation documents were sent to all traders electronically and instantly received and the fact that two responses to the consultation were submitted showed that traders were aware of the consultation.

There were comments raised by Members on the detrimental impact of raising the fees for the casual and smaller traders or temporary traders. Other comments acknowledged that the fees had not increased since 2006 whilst costs to the council had; and though the new fees may seem reasonable, there was concern for the affect the pandemic has had on trading and hitting traders with a large increase in fees in one go. There was also uncertainty around what trading in Surrey Street would look like in the future.

The Chair summarised that there was never a good time to increase fees but a sizeable increase after a pandemic was not helpful to the market traders. However, the increase in fees was about removal of what is essentially a subsidy which the traders have enjoyed since 2006 and which the Council can no longer afford.. The Chair also suggested that, going forward, officers should review the fees on a more frequent basis.

The Committee was referred to the recommendations in the report and the vote to approve the recommendations, was carried with eight Members voting in favour, three Members voting against and one Member abstained their vote.

The Committee **RESOLVED** to:

- 1.1. Consider the comments received in response to the giving of notice of the proposed new fees.
- 1.2. Determine that for the reasons detailed in paragraphs 4.2 & 4.3, the revised fees for trading pitch licenses on Surrey Street as set out below be adopted and agree the giving of public notice for these to be brought into effect on 1 August 2021:
 - £95 per week per trading pitch measuring 3m x 3m for permanent annual licence holders trading six days a week Monday to Saturday
 - £10 per day per trading pitch measuring 3m x 3m for the first four weeks of trading for new casual (start-up) temporary licence holders
 - £20 per day per trading pitch measuring 3m x 3m after the first four weeks of trading for casual temporary licence holders including Sunday (this would also apply to any permanent licence holders who wish to apply for a temporary licence to trade on a Sunday).

Pavement Licensing - The Business and Planning Act 2020

Officers spoke to the report highlighting that the hospitality sector was heavily affected by the pandemic, where businesses such as cafés, pubs and restaurants were required to close. The Business and Planning Act 2020 enabled the hospitality sector with furniture, such as table and chairs, to serve on the public highway once covid restrictions started to be eased and the hospitality sector re-opened. This Act was temporary legislation until 30 September 2021, at a maximum fixed price of £100 per licence.

Officers reminded the Committee that though there had been an easing of lockdown restrictions, the hospitality sector was still affected and thus the government had extended The Business and Planning Act 2020 legislation until 30 September 2022.

The legislation enabled businesses within the hospitality sectors to apply for a pavement licence, and for a delegation to be put in place so that the requirements of the legislation could be met.

The Chair welcomed the report and advised that the Committee was being asked to agree the recommendations presented.

Members asked questions relating to the uptake thus far, and whether pavement licensing would merge into permanent street trading at the end of the temporary pavement licence scheme. Officers clarified that pavement licensing was under the Business and Planning Act 2020, which was a completely separate statutory regime from the street trading licenses, which was considered under the London Local Authorities Act 1990 and had different requirements and considerations.

Further, officers confirmed that should the legislation not be extended beyond September 2022 it would mean businesses would have no permit for a pavement licence and their licence would expire after that date. The service would ensure that all the businesses were advised of the end of their licence and that they are required to apply for a permanent street trading licence under the London Local Authorities Act in advance should they desire to continue providing services on the pavements after the Business and Planning Act 2020 had expired. Additionally, the enforcement team would intervene to ensure that businesses adhered to their licence.

Members noted the difficulties the hospitality industry has had where some businesses' solution to mitigating the risks of covid was to have tables and chairs outside their establishment having not done so before. Members asked questions relating to the implications of businesses taking advantage if the local authority failed to determine an application within the set time period in the legislation and how applications would be handled in saturation areas.

Officers informed the Committee that they had currently issued forty-eight businesses with the current extension that had been available for the last nine months. There was no expectancy of an increase in numbers of applications

as the licence was extending what businesses currently have for another year. The service was up to date with all applications that had requested an extension. Saturation areas were not applicable under the Business and Planning Act. Saturation areas only relate to street trading designations made under the London Local Authorities Act which is a different piece of legislation.

Members said that they would be interested to hear at a subsequent meeting how services would work with traders when the temporary legislation came to an end, as there were concerns around possible difficulties for hospitality businesses that will have become used to trading on the public highway.

The proposed recommendations were put to the vote and carried with all twelve Members unanimously voting in favour.

The Committee **RESOLVED** to:

- 1.1. Delegate authority to the Interim Executive Director Place to do all things necessary to extend and continue to implement and operate the pavement licensing arrangements under the Business and Planning Act 2020, as amended, including but not limited to the determination of standard conditions which apply, determining applications, revocation of licenses and authorising officers to enforce and exercise these functions.
- 1.2. Set the fee for an application for a pavement licence at £100, which is the maximum fee permitted under the legislation for these licenses, such licenses to be granted for a period up to and including 30 September 2022.

15/21 **Update of Proposed Training for Licensing Committee**

The Committee discussed the training sessions available for Members. The Chair acknowledged that there were new members and returning members sitting on the Committee and the required training was proposed to be completed by all Members before the next Committee meeting scheduled for Wednesday 15 September 2021.

Officers informed that it was important that Members were trained specifically for the Licensing Sub-Committee on the Licensing Act and the Gambling Act and were looking into appropriate providers for training.

There was a request from the Chair to have briefing on the Safety Advisory Group (SAG) where there were licensable activities such as major events, and whether Members were interested in understanding the way in which SAG worked regarding health and safety, and the planning and management of events in parks, for reassurance when considering applications on the Licensing Sub-Committees. Members of the Committee were in favour of the SAG briefing.

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It was therefore concluded that mandatory training would be scheduled and provided to all Members with a separate additional briefing of the work of the Safety Advisory Group open to all Committee Members and other Ward Members if of interest.

16/21 **Exclusion of the Press and Public**

This was not required.

The meeting ended at 8.15 pm

Signed:

Date: