

Licensing Committee

Meeting of held on Wednesday, 9 December 2020 at 6.30 pm.
This meeting was held remotely.

MINUTES

Present: Councillor Robert Canning (Chair);
Councillor Pat Clouder (Vice-Chair) and Councillor Margaret Bird (Vice-Chair);
Councillors Karen Jewitt, Nina Degrads, Robert Canning, Felicity Flynn,
Chris Clark, Robert Ward, Badsha Quadir, Jan Buttinger and Andy Stranack

Also Present: Michael Goddard (Head of Public Protection and Licensing)
Fiona Woodcock (Market and Street Trading Compliance Officer)
Jessica Stockton (Solicitor and Legal Advisor to the Committee)
Anoushka Clayton-Walshe (Committee Clerk)

PART A

18/20 Election of Chair

Councillor Karen Jewitt nominated and Councillor Margaret Bird seconded the motion to appoint Councillor Robert Canning as Chair for the remainder of the municipal year 2020/21.

19/20 Minutes of the Previous Meeting

The minutes of the meeting held on 30 September 2020 were agreed as an accurate record.

20/20 Minutes of previous Licensing Sub-Committee Meetings

The minutes of the following Licensing Sub-Committees were approved as an accurate record:

- 24 September 2020
- 6 October 2020
- 22 October 2020
- 4 November 2020
- 12 November 2020

21/20 Urgent Business (if any)

There were no items of urgent business.

22/20 **Disclosure of Interests**

There were no items of urgent business.

23/20 **London Local Authorities Act 1990: Application for Street Designation Order**

The Committee considered the application to designate a section of public highway outside **Jalal Butcher's & Grocer's, 123 High Street, Thornton Heath, CR7 8RZ.**

The Head of Public Protection and Licensing introduced the [application](#). He explained the process of designation for street trading, applying for street trading licences and the details of the application for the Committee to consider as written in the appendices. He highlighted the following:

- In reference to Page 48 of the agenda, he said that the application asked for a trading area length of 1.8 metres and a width of 1.2 metres to each side of the front entrance area. This would leave a clear pavement width of 3.6 metres tapering 3.3 metres from the edge of the proposed display to the curb. This was a Croydon Council maintained stretch of public highway, where the minimum required width of pavement was 2 metres.
- This matter was originally considered by the Licensing Committee on 30 September 2020 where members resolved to defer the application.
- No objections or comments had been received for the application.
- The measurements in the application had been agreed by an enforcement officer following a site visit and a temporary licence was currently in place.
- There were three other premises on the same row already licensed for street trading.
- The premise was in the saturation zone in the council's street trading policy.

The applicant was not present to make a representation.

Councillor Nina Degrad's joined the meeting at 6.40pm.

The Market & Street Trading Compliance Officer told the Committee that the applicant had agreed with officers that he would be willing to reduce the width to 1 metre and replace the brown display box to improve the appearance if necessary. There was no written record of this.

The Chair opened Committee Member questions to officers.

The Head of Public Protection and Licensing confirmed to a Member that the entirety of the pavement was public highway and the drainage grill did not indicate a border of ownership.

A Member stated that the pavement had been extended wider during a past regeneration project and there used to be railings which were removed. She noted that in response to comments made about the closeness of buses to

the curb, as a Ward Councillor for the Thornton Heath area she had no recollection of buses mounting the pavement. She asked for the comparisons in width of the pavement between this premise application and the neighbouring premises. The Market & Street Trading Compliance Officer replied the other premises held a street designations of 0.8 and 0.9 metres.

Members raised concern over the potential overhang of a bus bumper when turning the corner onto the pavement which was higher risk due to the congestion of the street. Residents with mobility issues and visual impairments needed to be considered when encroaching on to the pavement in those conditions. They noted that the premise was located in a saturation area and stated that it would be preferable for a smaller width in line with other shops on the street, however they wanted to support local businesses particularly in the current economic climate.

The Committee noted that new photographs showing the location had been provided following its decision on 30 September 2020 to defer the application. In response to a Member asking when the pictures had been taken, in light of the lockdown measures this year, the Market & Street Trading Compliance Officer stated that they were captured at 2.15pm on 13 November 2020. Members commented that the pictures were taken at a quiet time and this area was close to busy crossings, Thornton Heath train station and school children at peak times which caused concern for safety of residents passing by.

A Member noted that there were no representations received from Highways Officers or Transport for London therefore no concerns had be raised in regard to clearance on the pavement. He noted that the applicant had said he was willing to make an adjustment to the application to reduce the width, however questioned if this was a necessity and what the reasoning would be to place further restrictions.

For clarification in response to a Member stating that she saw the applicant extend their display when she was recently in the area, the Head of Public Protection and Licensing stated that any extending displays more than a permitted license measurement was an enforcement issue which could escalate to a fixed penalty notice. The Market & Street Trading Compliance Officer confirmed that a fixed penalty notice was issued to the applicant on 8 October 2020 for overspreading his designated temporary license by 0.2 meters, without any excuses given, which had since been paid. Members expressed concern over the noncompliance from the applicant. It was added that the council had suggested to the applicant they mark the pavement to help comply with not crossing over the designated line, however this advice was not followed.

Members expressed their disappointment in the missed opportunity to ask questions to the applicant given his absence, particularly as the applicant had not attended the application hearing on 30 September 2020. It was confirmed that multiple officers had been in contact with the applicant prior to the meeting and unsuccessful attempts had been made to reach him on the day

of the meeting. Some Members understood that circumstances may have arisen which meant he was unable to attend the meeting. A Member stated that the time of the meeting would be particularly inconvenient for a shopkeeper, the technology to access the virtual meeting may not be easily accessible, the Committee should be more sympathetic and support local businesses and the case should not be judged harshly due to his absence. If members were concerned they should consider reducing the designated area permitted to grant.

In response to the Chair, the Corporate Lawyer confirmed that it was within the gift of the Committee to grant a smaller street trading area than applied for.

In response to a Member noting that unless there were mitigating circumstances on an application within a saturation zone it should be rejected, the Corporate Lawyer stated that there was no automatic rejection of an application in a saturation area and all applications had to be considered individually on their merits. In addition, Members' attention was drawn to the provisions of the Street Trading Policy which provides that in determining whether a street or particular site should be designated for the purpose of street trading the following matters may be considered:

- The presence of existing street furniture;
- The proximity and nature of any road junctions and pedestrian crossing points;
- The number of sites already designated in the same street;
- Whether the proposed site for designation would ensure continued free access to members of the public using the road or pavement or cause obstruction to e.g. pedestrians, prams and wheelchairs;
- Whether it leaves the recommended minimum clear passage of 2.0 metres (or 2.8m on TfL roads), between the front edge of any display and the edge of the kerb or any item of street furniture (railings, lamp posts etc.) – whichever is the nearer to the display;
- Put the safety of pedestrians at risk;
- Have a negative effect on the character and appearance of the area;
- Any relevant Council policies relating to the town or district centre in question whose implementation might be impeded or compromised by the designation.

The Committee confirmed that they were satisfied that they had heard the entirety of the presentation and discussion and **RESOLVED**:

1. To **REFUSE** to designate **Jalal Butcher's & Grocer's, 123 High Street, Thornton Heath, CR7 8RZ** for the purposes of street trading as set out in Appendix A of the report due to the proposed trading width of 1.2 metres being considered to be too wide in the circumstances and potentially put pedestrians safety at risk.
2. To **GRANT** designation to **Jalal Butcher's & Grocer's, 123 High Street, Thornton Heath, CR7 8RZ** for the purposes of street trading at a revised trading width of 0.8 metres.

3. To **GRANT** a street trading licence to the Applicant.

24/20

Licensing Act 2003: Review of Cumulative Impact Zones/Policies within London Borough of Croydon's Statement of Licensing Policy & Creation of Cumulative Impact Assessment

The Head of Public Protection and Licensing introduced the [report](#). He stated that Croydon's Licensing Statement of Policy was last reviewed in 2017 and republished in 2018. The Licensing Act 2003 required local authorities to review and republish the policy every five years, therefore a review for Croydon Council was due in 2022. Since 2018, Cumulative Impact Zones (CIZs) had been put on an equal statutory footing to the licensing objectives. CIZs could be introduced or removed by councils during a review. For CIZs already in existence before 2018, guidance recommended that they be reviewed at a maximum of three years following the legislative change, which meant Croydon must review its existing CIZs before 6 April 2021 using a Cumulative Impact Assessment (CIA). According to those deadlines, during 2020 the council ideally would have collected data, however the pandemic had seriously limited the ability to measure valid data due to the effect on premises and street activity during this time.

The proposal to Committee was that the licensing authority undertake a six week consultation, with the proposal to extend the current cumulative impact policy in its current form on the understanding that a comprehensive review would be undertaken when the council reviewed its overarching Licensing Statement of Policy in 2022. Following consultation, the proposal would return to the next Licensing Committee for consideration in March 2021.

In response to the Chair, the Head of Public Protection and Licensing stated that consultation would commence as soon as possible following agreement from the Committee today.

In response to Members noting that restrictions resulting from CIZs would hinder struggling businesses in the current financial climate, the Head of Public Protection and Licensing commented that the removal of CIZs had to be based on data and CIZs were not a blunt tool. CIZs set a presumption to refuse an application in the area, however exceptional applications were able to be granted on their merits. Other Members noted the need for CIZs in particular areas in Croydon and they did not affect good applications being granted.

In response to a Member asking if other councils were using a similar approach to that proposed here, the Head of Public Protection and Licensing stated not all councils would be in the same position as they may not be due for a review at the same time as Croydon, but they would be in a situation of considering this extension when required. Some councils may have decided to withdraw CIZs, however he would question the validity of the data in this period.

In response to Members' questioning how the licensing department would consulting with stakeholders, the Head of Public Protection and Licensing stated they would be consulting with statutory consultees, as listed at paragraph 3.7 of the report, and council would send out communications as an engagement consultation. In the future event of any proposal to add or remove a CIZ based on data, rather than temporally maintain the current policy, they would consult more widely.

Members commented that the proposals were a pragmatic approach to the circumstances and holding the two reviews alongside each other made sense operationally. The Chair noted that it would be worth the Licensing Committee discussing the future of CIZs in Croydon in a future meeting when more reliable evidence was available.

It was agreed that the consultation would run for a seven week period, instead of the initially proposed six week, to make up for lost time over the Christmas period and to ensure an adequate response time was given to consultees.

The Committee **RESOLVED** to:

1. Consider the proposal to commence consultation on the proposal to maintain Cumulative Impact Areas as currently set out in the Licensing Statement of Policy 2018 and the reasons for this;
2. Agree that consultation be commenced regarding Cumulative Impact Areas as detailed in paragraph 3.6; and
3. Note that the outcome of the consultation exercise will be reported back to Committee for further consideration and, if necessary, onward recommendation to Full Council.

25/20

London Local Authorities Act 1990: Request for Delegation of Decision Making Authority to the Director of Public Realm in respect of Uncontested Street Trading Designation and Variation Applications and Uncontested Street Trading Licence related Applications, including variations

The Head of Public Protection and Licensing introduced the [report](#), which outlined the proposal to delegate decisions for uncontested applications of street trading licenses to the Director of Public Realm, in consultation with the Chair of Licensing Committee. He stated this would save resource where Members and applicants would not be summoned for non-contentious business.

It was noted by a Member that there were some applications where it was useful for Members to meet and utilise their specific knowledge in their wards and local areas, which would not be considered otherwise. The Chair added that all Members of the Council were provided with a generic weekly notification of licensing applications, however they were not personally sent to individual Members on a ward basis. He proposed that if the delegation was

granted, going forward Members should receive personalised notifications to inform them of relevant applications to their ward as an extra safeguard. He asked how many applications were received in a typical year. The Head of Public Protection and Licensing replied that each Committee considered 6-7 designations and occasionally an application to vary a license. He agreed the Licensing department would look into sending applications to specific ward councillors.

A Member raised concern for increasing delegation to officers following the findings of the Report in the Public Interest (RIPI) from external auditor Grant Thornton, which concluded that a small number of Members and officers made decisions for the council. The Chair responded that the proposal mirrored the Planning department model and that any application with an objection would still be considered in front of Members. Once ward councillors received more personalised application notifications from the Licensing department, their awareness and empowerment to represent local businesses, residents and communities would be increased from the current position. Another Member added that following the RIPI recommendations, it made sense to support this proposal and allow efficient use of council resources.

The Committee **RESOLVED** to:

1. Delegate authority to the Director of Public Realm, in consultation with the Chair of the Licensing Committee, to consider and determine the following matters pursuant to the provisions of the London Local Authorities Act 1990 ("the Act"), as amended:
 - a) Applications for a Street Designation Order (designation of a License Street or part of street) under Section 24 of the Act which are not located within the Council's Saturation Zone for these purposes and in respect of which no objections have been received (or if received but have been subsequently withdrawn). If the Director of Public Realm is satisfied that street trading should be licensed in the authority area (or specified part thereof), the Director of Public Realm may, subject to consultation requirements, pass one or more of the following resolutions:
 - A designating resolution designating any street (or part thereof) within the borough as a "licence street";
 - A resolution specifying in relation to any such street (or part thereof) any class/es of articles, things or services which will or will not be prescribed in any street trading licence granted in respect of that street (or part thereof)
 - b) Applications to vary or consideration of rescinding a Street Designation Order in respect of which no objections have been received (or if received but have been subsequently withdrawn) and the associated resolutions required.

-
- c) Applications for the grant/renewal/variation/revocation of Street Trading Licenses under Sections 25, 28 and 29 of the Act in respect of streets or part(s) of street(s) which are designated for the purposes of street trading as "license streets" where no objections have been received (or if received but have been subsequently withdrawn) to the application under consideration and to impose Standard Conditions, Appendix 1 hereto, and such site specific conditions as are reasonable in relation to the license.

Such delegations shall not preclude the Director of Public Realm referring a matter to the Committee for consideration and determination where it is considered appropriate to do so.

- 2. Update the Council's Street Trading Licensing Policy, Appendix 2 to this report, to reflect the above delegations where necessary, to update outdated references to previous officers' titles contained therein and to include the Standard Conditions as an Appendix to the Policy.

26/20 **Exclusion of the Press and Public**

This item was not required.

The meeting ended at 8.50 pm

Signed:

Date: