

SCRUTINY REVIEW PANEL 2- LICENSING POLICY

MINUTES

Thursday 21 September 2017

PRESENT: Councillors: Anthony Young (Chair), *Natasha Ahmed-Shaikh (Substitute for Councillor Theresa Byrne)*, *Mohamed Aslam (Substitute for Councillor Munir Ahmed)*, Paul Conlan (Vice Chair), *Steve Hynes (Substitute for Councillor Katherine Crawford)*, Harbhajan Kaur Dheer, Anthony Kelly, Rajinder Mann, *Gareth Shaw (Substitute for Councillor Josh Blacker)*, Andrew Steed.

Co-opted Members Present:

Ann Brennan Mill Hill Park Residents' Association Chair

Ealing Officers Present:

Harjeet Bains	Scrutiny Review Officer
Jess Murray	Acting Head of Community Safety, Tenancies and Regulatory Operations
Paula Portas	Democratic Services Officer
Helen Statham	Operations Manager, Regulatory Services Legal Officer

Other Attendees:

Sgt Graham Edwards	Ealing Licensing Police
Inspector Andrew Deane	Ealing Police
Cathal Curtis	Chair, Ealing Pubwatch
Natasha Patel	Ealing Pubwatch/ Make it Ealing

1. Apologies for Absence

(Agenda Item 1)

Councillor Mohamed Aslam substituted for Councillor Munir Ahmed.
Councillor Ahmed-Shaikh substituted for Councillor Theresa Byrne.
Councillor Gareth Shaw substituted for Councillor Josh Blacker.
Councillor Steve Hynes substituted for Councillor Katherine Crawford.
Councillor Mohinder Midha and Councillor Nigel Sumner sent their apologies.
Ms Ann Chapman sent her apologies.

2. Declarations of Interest

(Agenda Item 2)

There were none.

3. Matters to be Considered in Private

(Agenda Item 3)

There were none.

4. Minutes of the meeting Held on 05/07/2017

(Agenda item 4)

The Panel considered the minutes of the first meeting of the Panel which had taken place on 5 July 2017.

Resolved: That the minutes of the previous meeting of the Panel held on 5 July 2017 be agreed as a true and correct record

5. Panel Operations in 2017/18 Report

(Agenda Item 5)

The Panel was asked to note a change in membership, as Councillor Harbhajan Kaur Dheer had replaced Councillor Chris Summers.

The Chair asked Panel members to formally accept Ms Ann Brennan (Chair, Mill Hill Park Residents' Association) and Ms Ann Chapman (Chair, Walpole Resident's Association) as the new non-voting advisory members of the Panel.

The Chair introduced the Panel Operations Report and the updated Work Programme and asked the Panel to approve the agenda items and actions for the next meeting on 23 November 2017. The main item for review was the night time and visitor economy. The potential expert witnesses to be invited were Ms Amy Lamé (London's Night Czar), Ealing Bid and the Ealing and Southall Chambers of Commerce.

Resolved: That:

- (i) the change in membership be noted; and
- (ii) Ms Ann Brennan and Ms Ann Chapman be formally accepted as non-voting advisory members of the Panel; and
- (iii) the updated work programme be approved.

6. Ealing Licensing Police Presentation

(Agenda Item 6)

The Chair invited Sgt Graham Edwards (Ealing Licensing Police) to present an introduction of the Ealing Licensing Police work to members.

Sgt Edwards explained that he led a team of three officers (Dc Louise Carrigan, Pc Natalie Harrison and Pc Kerry James) and since May 2011 the team was co-located with LBE Regulatory Services, in Perceval House (LBE headquarters). In his view co-location had been a very positive step that had brought better document exchange, increased meeting of key deadlines for teams, enhanced communication flows and a multi-skill approach to robust law enforcement.

Sgt Edwards explained that Ealing licensing police responsibilities included engaging with premises to bring them into compliance with the Licensing Act 2003; undertaking licensing visits; vetting of all Temporary Event Notice applications, variations and new premises licenses; objecting to an application when necessary and

consequently attending Licensing Sub Committee hearings; bringing about expedited reviews for premises which consistently failed to comply; participating in multi-agency enforcement operations; monitoring all recordable notifiable crimes in licenced premises and engaging with stakeholders such as Pubwatch, Betwatch etc.

Sgt Edwards presented slides referring to the licensing objectives, to the number and main use of licenced premises and to licence applications received and issued during the year 2016-17. Sgt Edwards said that his team monitored a high number of licenced premises.

Sgt Edwards referred to the Special Area Policy (SAP) in Ealing, Acton and Southall. The effect of the Special Area Policy was to create a rebuttable presumption that an application which is likely to add to the existing cumulative impact (the saturation of licensed venues in a particular area that can impact on public nuisance and disorder) in the designated area would normally be refused.

He explained that, by shifting the burden of proof to the applicant – as it was applicants who must show that their premises would not add to the existing problems in the area — the SAP had been very useful and had contributed to facilitate his team's efforts. In his view the policy had worked very successfully to reduce the number of premises that did not comply with the Licensing Act 2003 in busy areas. He said that the SAP was a powerful tool.

Sgt Edwards referred to the public authorities responsible for revising licensing applications and briefly mentioned that a new one, Home Office Immigration, had recently been added to the list. This was useful for the Home Office as immigration officers now had power of entry in a licenced premises rather than just relying on consent.

Sgt Edwards succinctly described how a Licensing Sub Committee worked and its powers, before explaining how a standard review and expedited reviews worked. Whereas any responsible authority or any other person may apply for a standard review of a licence – provided that the reason was relevant to the licencing objectives — an expedited review could only be applied for by the police, and only in relation to premises authorised to serve alcohol. In order for the police to apply for an expedited review the premises must be associated with serious crime or disorder.

Sgt Edwards explained the importance of the expedited reviews as a tool to enforce compliance with the Licensing Act 2003, and narrated in detail the complexities of his team's work, by presenting a run-down of police actions and engagement in two real exemplary cases: the standard review of the Tune Inn in Acton and the expedited review of the Tudor Rose in Southall.

The Chair thanked Sgt Edwards for his presentation and invited Panel members to comment and ask questions.

The Chair asked whether there were presently any threats to the practice of co-location of licensing police officers with LBE Regulatory Services.

Inspector Andrew Deane responded that at the moment, in the context of the current cuts to the police budget and, consequently, of the need to share resources, the delivery of the police licensing function was being assessed. He said that practice in

Ealing was considered to be the gold standard. This was due to the expertise in the team. With one dedicated sergeant and three officers, Ealing licensing police actions were seen to have focus and direction. However, he said the threat was there regardless. No decision had been made so far, yet he envisaged that co-location would be maintained but the Ealing team might be given wider responsibilities, such as being in charge of neighbouring boroughs.

Officers mentioned that another threat to co-location derived from the refurbishment of Perceval House, as office space would be considerably more limited in the near future. However, they said they were doing their utmost to protect the present collaborative space between Regulatory Services and Ealing Licensing Police.

Councillor Steve Hynes asked whether the police and the Council had recovered the costs of the prolonged interventions in the two reviews presented by Sgt Edwards and, if not, whether increasing fees would be an option. Sgt Edwards said that costs were recovered. Officers added that licensing fees were statutory and could not be raised by local authorities. They explained that bigger premises paid higher fees than smaller ones.

Councillor Natasha Ahmed-Shaikh asked about the costs incurred as a result of the withdrawal of licensing applications. She asked whether the Panel could recommend that Regulatory Services offered an advice service to applicants to ensure applications submitted were improved. Officers responded that an advisory service had been previously suggested by the Licensing Committee and the possibility of offering it had been fully explored. They had reported then that it would be challenging for Licensing Officers and Regulatory Services to offer it for a variety of reasons. Firstly, there was a conflict of interests, as the body giving advice would also ultimately be the one in charge of enforcement. Secondly, there was a cost argument, as the level of licensing applications received in Ealing – unlike in other boroughs such as Westminster — would not allow for the costs of the service to be recovered. Instead, it had been suggested that a broader advisory service could be offered to residents (i.e. not just in relation to licensing but on a variety of different applications) by the Department of Regeneration. Officers noted also that they were working with their colleagues in Regeneration to educate them better on work related to licensing matters.

Councillors asked questions about the Special Area Policy.

Cllr Ahmed-Shaikh asked Ealing licensing police representatives whether, in light of a potential increase in licensing applications with the advent of Crossrail and the regeneration of the borough, they were reviewing their policies on premises that applied for extended hours.

Sgt Edwards responded that they treated premises individually and on merits. In order to ensure that premises were compliant with the Licensing Act 2003 what they did was to carefully review each individual application. The Special Area Policy (SAP) was another tool they relied on to ensure town centre areas endured less problems.

Officers said that Ealing had already changed significantly and most licenced premises were good, compliant with the law and contributed positively to the life and economy of the borough. They said that there was a need to take balanced measures in order not to damage positive achievements. They also noted that

licensing police had no policy on how tough or lenient they were with licenced premises. Instead, every case was treated individually and the law applied consistently.

Cllr Kelly asked if licensing police would welcome the extension of the existing SAP to include areas such as Hanwell and West Ealing. Sgt Edwards said that they would welcome such an extension, provided it was based on evidence. He said that the SAP made it harder for applicants to obtain a licence. The policy had given a tool to the police they appreciated, but they had no wish to punish good licensees.

Responding to a question by Councillor Kelly, officers clarified that it was the duty of Regulatory Services to provide evidence that would underpin recommendations as regards the extension of the SAP. Officers also noted that half of the licenced premises in the borough were already inside a SAP. However, some areas often perceived as a town centre, such as West Ealing, are not part of the SAP.

The Chair said that other London boroughs had SAP that covered the whole of the borough area. He asked police representatives whether they would be in favour of such approach.

Inspector Andrew Deane responded that offences related to the night-time economy had a knock-on effect and that the SAP recognised that problem. These problems amounted to a third of offences registered in Hackney for instance. He also mentioned the recent attack in Parsons Green. A big number of officers had to be moved to that site and reduced police effectives were left in boroughs to deal with other incidents. He said that the SAP was an important element of safeguarding in challenging times. There was a need for intelligence to underpin it, but he was supportive of such a move.

The Vice Chair, Councillor Paul Conlan, asked if there were any identifiable downsides to expanding an SAP. Sgt Edwards said that there were none he could identify from an enforcement perspective. He said SAPs were not blanket bans on licensed premises but they were more burdensome to applicants. From the applicant's perspective, he said, such a decision would not be popular.

Ann Brennan, Chair of the Mill Hill Park Residents' Association and co-opted member of the Panel, said that the SAP had been of benefit to residents. She said that it was difficult for residents to collect evidence and that the SAP, as it created the presumption that applications likely to add to the existing cumulative impact in an area would be refused and rebutting that presumption was the responsibility of the applicant, made things easier for residents who objected to an application. She said that town centres were also changing and there was a balance to strike for residents there, between having amenities and having a peaceful enjoyment of home life.

The Chair moved the conversation on to off-licence premises and street drinking, asking Ealing licensing police and officers for their views.

Sgt Edwards said that one of the main difficulties they experienced when dealing with street drinking was obtaining valid evidence that would allow them to connect particular instances of the practice to specific off-licence premises. Officers similarly noted that it was not easy to link street drinking problems to any particular premises. Officers said that the Safer Communities Department had been implementing a

battery of strategies targeting problem drinkers, drinking hotspots and licenced premises (to deal with the issue by obtaining usable and valid evidence) since 2014.

Firstly, they recognised that not all drinking outdoors was a problem and therefore they had demarcated better which actions were problematic. Responsible drinking in a park on a warm summer's day was an acceptable way of enjoying leisure time for urban dwellers, whilst people urinating, vomiting, behaving anti-socially in parks and streets were problems. Intelligence was being gathered on the people that caused trouble in a joint effort between the police and park guards. A metric had been created to categorise and grade street drinkers' behaviour. Information was sought, analysed and kept about the most serious street drinkers to stop them from congregating in parks.

Secondly, street drinking hotspots had also been targeted for enforcement action. Finally, there had been an effort to identify where drinks were bought. This effort had been assumed by licensing police together with trading standards and other responsible authorities in order to take these operators to task.

Inspector Andrew Deane said that information coming from the community via ward forums, complaints, etc. helped to identify the hotspots of anti-social behaviour – a lot of which referred to environmental issues that were connected to problem street-drinking. Good results, he said, were being obtained from multi-team enforcement visits that tackled counterfeit tobacco, high-strength lager selling, etc.

Officers added that they were confident the approach already in place was a good one, but that there was a need to keep up with the enforcement to keep driving the message to street drinkers and licenced premises.

The Chair asked officers and the police if there was any other measure that could be of help for them, for instance marked labels.

Sgt Edwards said that in his view the problem with marked labels was one of logistics. In order to work adequately this measure required all licenced premises to apply it simultaneously. The experience was that that was not the case. Because it was voluntary, good operators complied whilst bad operators ignored it. The result was the creation of an uneven playing field, where good operators were more likely to be blamed than bad ones. Moreover, there were significant costs for operators to implement the measure. Large operators, such as supermarkets, would not agree to do it.

Ann Brennan said that the association she represented was keen on ensuring that the marking of cans was applied as a licensing condition.

Sgt Edwards replied that in his view it was a burdensome condition. It required funding for the initiative and for its enforcement and it was not cost effective. Councillor Steve Hynes added that apart from potentially being an expensive condition for licenced premises, in his view, it was a condition which would be unlikely to be upheld in Court. Officers said that the only realistic circumstance in which licenced premises would accept such a condition was if there were leverage against them, such as in the cases when revoking a licence was being considered.

Sgt Edwards said that in his view, rather than marking labels, the focus ought to be on restricting the sale of high strength alcohol.

Ann Brennan said that in her view stopping the sales of high-strength alcohol was a very positive step in reducing street drinking. She referred to the positive work in regards to the selling of high strength alcohol being carried out by Acton Central Safer Neighbourhood Team. She suggested that ensuring that cans of lager were only sold as four-packs would also make a difference to street drinking levels.

The Chair asked if licensing police asked licenced premises to sell only 4-packs.

Sgt Edwards said that, whilst there could not be blanket bans on the selling of high strength alcohol, for the last 3 years they had consistently asked applicants that cans were not sold as individual units. This might have affected up to 80% of licence applications.

Ann Brennan said that the condition had to be worded carefully, insisting that lager be sold as packs of four cans.

Sgt Edwards said that any condition asked for had to be proportionate and believed that a blanket condition on minimum sales of 4-packs only would be successfully challenged in Court.

There was a discussion around the legality of asking for a condition limiting the sale of high strength beer in Licensing Sub Committee hearings, given that selling this beer is legal in the UK. The Chair asked for a Licensing Legal Advisor to provide a briefing note on this issue and for them to be present at the next Panel meeting.

Cllr Anthony Kelly asked whether there was evidence linking sales of high-strength beer and increased anti-social behaviour. Officers responded that it was difficult to demonstrate a correlation. Building the necessary evidence was an incremental and laborious process. This process was aided by residents' complaints and submissions of reviews. Officers also suggested that sale of high strength alcohol was an issue better suited for national legislation around minimum pricing, such as in Scotland where the introduction of minimum pricing had been evaluated positively.

Councillor Rajinder Mann raised the issue of problem gambling with Ealing licensing police. Sgt Edwards said that the legislation did not restrict the number of gambling premises that could concentrate on the high street. Officers noted that gambling was not covered by the Licensing Act 2003.

Councillor Mohamed Aslam asked about the discrepancies between applications received and issued in Sgt Edwards' presentation. The Chair reminded the Panel that a similar question had been asked at the previous meeting and that discrepancies appeared because some applications approved had been received in the previous year; also the table included the issuing of personal licences.

The Chair thanked Ealing police officers for their presentation and invited Cathal Curtis, Chair of the Ealing Pubwatch, to address the Panel.

Cathal Curtis explained the Pubwatch comprised over 50 members, mostly pubs part of the late night trade that met regularly to discuss security issues and share

information. He offered to present an overview of their activities and position on the off-licence trade at the next meeting.

The Chair welcomed Cathal Curtis's suggestion, thanked officers for their contribution and drew the item to a close.

Resolved: That

- (i) the Ealing Licensing Police presentation be noted; and
- (ii) a Licensing Legal Advisor to provide a briefing note on the sale of high strength alcohol and attend the next meeting of the Panel.
- (iii) the Chair of Ealing Pubwatch to provide a presentation to the Panel at the next meeting.

7. Date of Next Meeting (Agenda Item 10)

It was noted that the next meeting of the Panel would take place on 23 November 2017.

Councillor Anthony Young, Chair.

The meeting ended at 8:50 pm.