

Licensing Committee

Meeting held on Wednesday, 30 September 2020 at 6.30 pm. This meeting was held remotely; to view the meeting, please click [here](#).

MINUTES

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

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)
Thomas Downs (Democratic Services)

Apologies: Councillor Andy Stranack

PART A

8/20 **Election of Vice-Chair**

The Chair announced, following the resignation of Vice-Chair Councillor Neal from the Committee, that a new Vice-Chair needed to be appointed (alongside Councillor Pat Clouder) for the remainder of the 2020/21 municipal year.

The Chair nominated Councillor Margaret Bird as Vice-Chair for the remainder of the 2020/21 municipal year.
Councillor Pat Clouder seconded the motion.

The Committee **RESOLVED** to appoint Councillor Margaret Bird as Vice-Chair for the remainder of the 2020/21 municipal year.

9/20 **Apologies for Absence**

Apologies were received from Councillor Andy Stranack, for whom Councillor Richard Chatterjee was in attendance as substitute.

10/20 **Minutes of the Previous Meeting**

The minutes of the meeting held on 8 January 2020 were agreed as an accurate record.

11/20 **Minutes of previous Licensing Sub-Committee Meetings**

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

- 28 May 2020
- 23 June 2020
- 18 August 2020

12/20 **Urgent Business (if any)**

There were no items of urgent business.

13/20 **Disclosure of Interests**

Councillors Chatterjee, Clouder, Jewitt and the Chair informed the committee that whilst there were applications in the next item located within their wards, there had been no previous involvement with these applications.

14/20 **London Local Authorities Act 1990: Applications for Street Designation Orders**

The Committee considered the application to designate the **Clocktower Market, on the highway outside Aldi, Station Road, South Norwood, SE25 (Appendix A)**.

The Head of Public Protection and Licensing introduced the item, explaining the process of designation for street trading, applying for street trading licences and the details of the application before the Committee. The Committee heard that the site had an existing designation, but as the holder had sought to trade on a larger area of public highway, a new street trading designation was required. The Committee heard that the nearest designation was at 2 Station Road. 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 present and stated that the market had been in operation for five years. A recent increase in popularity had prompted the application for a larger designation to accommodate more traders.

A Committee Member asked whether parking bays were suspended when the market was in operation, and heard that they were, as the stalls occupied the bays, facing towards the Aldi shopfront. Traffic Cones were placed behind the stalls to stop cars parking on the street. In response to a question about

whether the larger designation would block bicycle parking, the Applicant responded that it would not.

In response to a question about whether the designation would impede traffic, the Head of Public Protection and Licensing responded it would not, as the new row of stalls would back on to the Aldi shopfront. A Committee Member queried whether foot traffic could cause gridlock on Crystal Palace match days, with particular concern to social distancing; the Applicant responded that the police had requested there be no markets on match days, and that this had been agreed.

A Committee Member queried how social distancing and hygiene measures were maintained; the Applicant responded that hand sanitiser was present at both ends of the market and at stalls, mask use was encouraged, and market organisers encouraged customer flow to avoid bottlenecks.

Some Committee Members stated that they were familiar with the market, and praised the quality and organisation.

In response to a question about how queuing into Aldi could interfere with the market, the Applicant responded that the door near the market was not currently in use. When the door had been operational, this had been managed, and stalls were not placed close to this door.

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

1. To designate the **Clocktower Market, on the highway outside Aldi, Station Road, South Norwood, SE25** for the purposes of street trading.
2. To grant a street trading licence to the Applicant.

The Committee considered the application to designate a section of public highway outside **Marmaris Cafe, 75 Mitchley Avenue, South Croydon, CR2 9HN (Appendix B)**.

The Head of Public Protection and Licensing introduced the item, explaining the process of designation for street trading, 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 provide further comment on the application.

In response to questions about whether there were flats above the site, and if they had made any representations regarding smoking, the Market and Street

Trading Compliance Officer confirmed that they had not, and that there was a condition on the license that the Applicant make sure the area was clean and tidy. A Committee Member commented that it was a shame that the Applicant was not present to answer questions and queried who occupied the flats above the site; the Head of Public Protection and Licensing responded that this was not known. A Committee Member commented that there seemed to be adequate space in the street to allow such street trading as was applied for.

In response to a question about whether there would be a barrier or cordon, the Head of Public Protection and Licensing responded that this was a standard condition, but was not required until the license was granted. A Committee Member queried whether there was enough space for the barrier given the width of the chairs and the designation; the Market and Street Trading Compliance Officer responded that if chairs were orientated to face the tables there should be enough space.

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

1. To designate a section of public highway outside **Marmaris Cafe, 75 Mitchley Avenue, South Croydon, CR2 9HN** for the purposes of street trading.
2. To grant a street trading licence to the Applicant.

The Committee considered the application to designate a section of public highway outside **145 Wickham Road, Shirley, CR0 8TE (Appendix C)**.

The Head of Public Protection and Licensing introduced the item, explaining the process of designation for street trading, 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 TfL maintained.

The Applicant was present and thanked the Committee for their time. The Applicant stated that the business was normally closed by 15.30 on weekdays, and 16.30 on weekends. The outside seating was used by customers eating, drinking and smoking; ashtrays were provided, and the site was kept clean and tidy. The upstairs neighbours were known to the applicant, and customers of the business.

The Applicant responded to a question from a Committee Member regarding the 22.00 closing time listed on the application, stating that they had been advised to apply for later hours in case these were needed in the future, possibly for Christmas parties or private hire.

Committee Members queried whether an A-board shown in a photo on page 63 of the agenda would be kept in place to ensure there was enough space on the highway; the Applicant responded that it would be. In response to a question about whether there had been any issues with school children, the Applicant responded that some had sat in chairs to wait for buses on occasion, but there had been no issues.

Councillor Clark left the meeting at 19:35

Councillor Clark re-joined the meeting at 19:38

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

1. To designate a section of public highway outside **145 Wickham Road, Shirley, CR0 8TE** for the purposes of street trading.
2. To grant a street trading licence to the Applicant.

The Committee considered the application to designate a section of public highway outside **147 Wickham Road, Shirley, CR0 8TE (Appendix D)**.

The Head of Public Protection and Licensing introduced the item, explaining the process of designation for street trading, 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 TfL maintained.

The Applicant was present and stated the opening hours of the business, informing the Committee that when the business from the previous application closed, this one opened. The business normally closed at 22.00 on weekdays, and by 22.45 on weekends. There had been no issues with neighbours, the police or the council. The designation was kept clean and tidy, and customers were asked to leave quietly at closing time.

In response to a Member's question, the Applicant informed the Committee that the last orders for food were usually 21.00, with the last orders for drinks being 21.45; customers normally left reasonably early.

A Member noted the similarity to the previous application, and stated that they did not have any concerns. A Committee Member commented on the possibility of increased trade during the summer, and stated their support for the business.

Councillor Clark left the meeting at 19:50

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

1. To designate a section of public highway outside **147 Wickham Road, Shirley, CR0 8TE** for the purposes of street trading.
2. To grant a street trading licence to the Applicant.

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

The Head of Public Protection and Licensing introduced the item, explaining the process of designation for street trading, applying for street trading licences and the details of the application before the Committee. The Committee heard that there were three designations nearby at 117, 119 and 121 High Street, and that the site sat within the saturation policy for street trading. 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 provide further comment on the application.

In response to a question about nearby designations, the Market and Street Trading Compliance Officer commented that these displays were a similar width and consisted of household goods, fruit, vegetables, and luggage. The pavement outside the site had been widened as part of a regeneration scheme, and problems with flooding had been corrected. Members commented that railings had been removed as part of the regeneration works; this had been done as the pavement was widened, however, concern was raised that if the designation was granted, the unobstructed highway would be the original width, but without a railing.

Members expressed concerns about the busyness of the highway, and the possible impact of the designation on pedestrians. A Committee Member asked for reassurance that the application did not conflict with the saturation policy; the Solicitor responded that the site was within the saturation area in the policy, however each matter needed to be considered individually and on its merits. The Committee needed to be satisfied that there was enough space for free movement on the highway, and that the designation would not form an obstruction. The Committee Member responded that, from personal experience, they were not confident the designation left enough space for free movement; the Member raised further concern about how close pedestrians might need to walk to the busy road when passing others, should the designation be granted.

In response to a concern from a Member about the Applicant complying with the designation size listed on the license, the Market and Street Trading Compliance Officer responded that compliance in the area was good, and that the remaining highway width was in excess of what was required.

In response to a question about whether complaints concerning deliveries from the High Street to shops in this area had been resolved, the Market and Street Trading Compliance Officer stated that they were not aware of the complaints. If there had been complaints, these would likely have been raised with Neighbourhood Safety Officers, who were notified of the application, and had not submitted representations.

A Committee Member commented that they had recently visited the site, and that the designation did not come out as far as the neighbouring designations, and raised concerns that these were not complying with their licenses. The Head of Public Protection and Licensing stated that this was an enforcement matter and would be looked into.

Committee Members raised concerns about the how representative the photos included in the report were, and stated that they felt they did not give a clear indication of the designation, and were taken on a day with below average footfall. A Committee Member stated that they felt the width of the designation was too wide as applied for. A Member stated they felt the extra width of the designation compared to its neighbours may create an unwanted pinch point. A Committee Member raised the possibility of asking the Applicant to submit a new designation for a lesser width.

A motion to **DEFER** the application pending further information and photographs, with an extension of the temporary licence, was proposed by Councillor Pat Clouder and Seconded by Councillor Robert Ward.

The Committee **RESOLVED** to **DEFER** the application to designate a section of public highway outside **Jalal Butcher's & Grocer's, 123 High Street, Thornton Heath, CRZ 8RZ**, pending further information and photographs, with an extension of the temporary licence in the intervening period.

15/20

Licensing Act 2003 (Hearings) Regulations 2005 and Gambling Act 2005 (Proceedings of Licensing Committees & Sub-Committees) (Premises Licenses and Provisional Statements) (England and Wales) Regulations 2007, Procedures for Licensing Sub-Committee Hearings

The Head of Public Protection and Licensing introduced the item and summarised the report. The Committee heard that they were being asked to approve additional protocols for Sub-Committee meetings, to allow for remote meetings. These protocols had already been applied at four Sub-Committee hearings, with the Chair approving the protocol at each meeting; if this report was approved, the Chair would no longer need to approve this report at each Sub-Committee.

The Vice-Chair stated that they had chaired all of the virtual Sub-Committees, and that the amended protocols had worked well.

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

1. Approve the revised protocol for Licensing Sub-Committee hearings under the Licensing Act 2003 as set out in full at Appendix 1 to the report for use in relation to remote Licensing Sub-Committee meetings, that the revised protocol be appended to Part 5F as Annex 2 and that the current Annex 2 to Part 5F be relabelled Annex 3 and that consequential amendments be made to Part 5F to ensure the correct references to the Annexes throughout.
2. Note that the Chair of the Sub-Committee had approved the use of the revised protocol for use during proceedings under the Licensing Act 2003 at the Sub-Committees set out at paragraph 3.6 in accordance with the authority in Annex 1 to Part 5F of the Constitution.
3. Approve the revised protocol for Licensing Sub-Committee hearings under the Gambling Act 2005 as set out in full at Appendix 2 to the report for use in relation to remote Licensing Sub-Committee meetings under the Gambling Act 2005; that the revised protocol be appended to Part 5G as Annex 2 and that consequential amendments be made to Part 5G to ensure the correct references to the Annexes throughout.

16/20 **Pavement Licensing: Update on Delegation of Functions**

The Head of Public Protection and Licensing introduced the item and informed the Committee that the Business and Planning Bill 2020 had introduced Pavement Licenses. This legislation was temporary, and aimed to assist businesses reopening following lockdown who wanted to put tables and chairs outside. The bill had come into force from the 22 July 2020.

The functions of the Bill had originally been Executive, however, on the 21 July 2020 the functions had been changed so that they were Non-Executive. This had meant that the delegation of powers had come from the Council Solicitor, instead of the Leader as originally planned. The Chair and Vice-Chairs of the Committee had been consulted.

The Chair thanked the Head of Public Protection and Licensing and invited questions. In response to a question from a Member about the duration of the scheme, the Head of Licensing responded that the scheme had been implemented in August 2020 and would run until September 2021, but could be extended by the government.

The Committee **RESOLVED** to:

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1. Note the delegation of functions in respect of Pavement Licensing.

17/20 **Exclusion of the Press and Public**

This was not required.

The meeting ended at 8.50 pm

Signed:

Date: