



Licensing Sub-Committee

MINUTES of the OPEN section of the Licensing Sub-Committee held on Wednesday 7 October 2015 at 10.00 am at Ground Floor Meeting Room G02B - 160 Tooley Street, London SE1 2QH

PRESENT: Councillor Renata Hamvas (Chair)
Councillor Eliza Mann
Councillor Charlie Smith

OTHERS PRESENT: Alexander Greaves, legal counsel advising the sub-committee
Yassine Melki, street trader
Enitam Yusuph, street trader's legal representative
Kofo Anifowoshe, street trader's legal representative
Eileen Conn, Peckham Rye Traders' Association
Corrine Turner, witness for Peckham Rye Traders' Association
Elaine Carrigan, witness for Peckham Rye Traders' Association
Rosaline Boyo-Amusa, other person supporting the street trader
Albert Tummasi, other person supporting the street trader
Susan Edwards, other persons supporting the street trader
Nicola Goldman, representative for Meteor Investments Ltd
John Oliver Bellasis, representative for Meteor Investments Ltd

OFFICER SUPPORT: Hanna Lilley, markets officer
Lisa York, markets and street trading manager
Nicky Costin, business unit manager, environment and leisure (observing)
Andrew Weir, constitutional officer

1. APOLOGIES

There were none.

2. CONFIRMATION OF VOTING MEMBERS

The members present were confirmed as the voting members.

3. NOTIFICATION OF ANY ITEMS OF BUSINESS WHICH THE CHAIR DEEMS URGENT

There were none.

4. DISCLOSURE OF INTERESTS AND DISPENSATIONS

There were none.

5. RESCISSION OR VARIATION OF LICENCE STREET DESIGNATIONS IN SOUTHWARK (PITCH 001 MONCRIEFF PLACE (95A RYE LANE SE15 4ST))

The markets officer addressed the sub-committee. They advised that there was a late representation which had not been included in the agenda. The chair agreed to accept this representation. The markets and street trading manager also addressed the sub-committee. Members had questions for the markets officer and the markets and street trading manager

The street trader and their legal representative addressed the sub-committee. Members had questions for the street trader and their legal representative

The licensing sub-committee heard from a representative from the Rye Lane Traders' Association and two witnesses. Members had questions for the representative from the Rye Lane Traders' Association and the witnesses.

The licensing sub-committee heard from other persons supporting the street trader. Members had questions for the other persons.

The licensing sub-committee heard from the representatives acting for Meteor Investments Limited. Members had questions from the representatives acting for Meteor Investments Limited.

The chair allowed the parties to ask questions of one another.

All parties were given five minutes for summing up.

The meeting went into closed session at 1.30pm.

The meeting resumed at 4.27pm and the chair read out the decision of the sub-committee.

RESOLVED:

That the licensing sub-committee resolved, pursuant to Section 24(1) of the London Local Authorities Act 1990 (as amended), to vary the licence street designation of Moncrieff Place (95A Rye Lane SE15 4ST) formally known as Moncrieff Street by de-designating the area currently occupied by pitch 001.

Reasons

The licensing sub-committee considered the recommendation by the street markets team

to vary the street designation.

The licensing sub-committee heard from the markets officer who informed the sub-committee of the proposed resolution and what it would involve.

They advised that they had met and written to the street trader concerned in May 2015 to advise him of the proposal to vary the designation of Moncrieff Place and that this would impact on his current trading pitch (pitch 001). They informed the sub-committee that they had also recommended that the street trader sought legal advice on this matter. They advised that there were a number of subsequent meetings to discuss matters with the street trader and other interested parties.

The officer advised that consultation had been carried out and that a notice had been published in a local newspaper (6 August 2015) in accordance with the requirements specified in Section 24 of the London Local Authorities Act (as amended) (LLAA).

The markets and street trading manager explained the rationale for this proposal. They advised that their role was to enhance the locality and to ensure that all businesses benefitted from the development of the area. She advised that, in her opinion, by varying the designation this would increase access and footfall to Moncrieff Place, facilitating better access to the cinema, the proposed gym and would overall benefit the street traders in the locality as a result of this increased footfall.

Officers highlighted that alternative trading pitches were available in the immediate vicinity and that the street trader concerned would be invited to apply for one of these pitches if the variation to the street designation was granted. Officers felt that due to the close proximity of these alternative pitches there would be no detrimental impact to the business of the street trader. Officers also explained that there had been a case of historic oversizing of pitches 001 and 002 and that this had previously affected the viability of other pitches. Going forward, officers advised that they would ensure that all traders only occupied their designated pitches. It was considered that this would prevent pitch 002 from overshadowing the street trader should he accept the offer to relocate behind pitch 002.

Officers advised that they had been made aware that the agents acting on behalf of Meteor Investments had approached the street trader and had made a time limited financial offer to him if he agreed to surrender his existing pitch. However, officers advised that they had not endorsed this approach and that this was not a matter for the council to take into consideration.

The licensing sub-committee heard from the street trader who advised that his business would be impacted should he have to move pitch. By his calculations, his business would decrease by up to 70% as his customers would be unwilling to walk the small extra distance to a relocated pitch. He expressed further concerns as to what would happen to his business and the impact on his family.

The street trader's legal representative raised issues relating to the planning application for the gym. These related to the adequacy of consultation and consideration of alternative exits.

The legal representative submitted that no consideration had been given to Section 28 (1)

(a) of the LLAA and the reasons for revoking the licence. At this point, the legal advisor to the sub-committee confirmed that the sub-committee was considering an application under Section 24 of the LLAA, which was a separate statutory process, and that this was not a revocation of the street trader's licence but a consideration to vary the street designation.

Towards the end of her submission, the legal advisor for the street trader made a request for an adjournment because she felt that there was insufficient information in front of the sub-committee. However, this was rejected by the sub-committee as they felt that they had sufficient information to consider all matters that were relevant to their determination.

The licensing sub-committee heard from a representative from the Rye Lane Traders' Association and two witnesses.

They informed the sub-committee that there had been a lack of joined up thought regarding proposals for Moncrieff Place. They also referred to what they considered were flaws in the planning process regarding the proposed gym. They questioned the location and the design of the entrance and whether there might be more suitable alternatives.

They questioned whether Santander Bank, which occupies a building adjoining Moncrieff Place, had been adequately consulted on the proposals. Officers confirmed that Santander Bank had been notified and had been invited to make representations, but had chosen not to.

They supported the street trader's view that his business would be impacted by being moved slightly further back from the Rye Lane. It was their view that there would be less footfall and as a result his trade would drop.

They highlighted the importance of market stalls to the Peckham area and that they brought economic benefits and vibrancy to the area and attracted people from miles around.

The licensing sub-committee heard from three other persons objecting to the proposed variation and noted the other written representations which had been received.

They advised that they had known the street trader for a number of years and echoed concerns that the street trader's business would be adversely affected should he have to relocate to an alternative pitch. They also questioned why it was necessary to locate the access to the gym where it had been proposed, as per the planning permission granted.

The licensing sub-committee heard from the representatives acting for Meteor Investments Limited who advised the sub-committee that their client had acquired the building in 1994 when it had been occupied by Woolworths. Since the demise of Woolworths, the ground floor was now occupied by Sports Direct and a 99p Store neither of which were occupying the first floor, which had been empty for some time.

They addressed the issue of the location of the entrance for the proposed gym and explained that stair case one represented the only option to provide the required platform lift for disabled access to the gym due to physical and legal constraints at the other access points to the building. They informed the sub-committee that the development of the gym would not proceed if the street trader continued to occupy his existing pitch. They felt that the gym would provide a number of jobs and would create a beneficial space for local

residents, further enhancing the local area.

They confirmed that a time limited financial offer had been made to the street trader but no agreement had been reached.

Having considered all the representations both oral and written, the sub-committee considered that, on balance, the proposed variation to the street designation would benefit a number of surrounding businesses, the appearance and accessibility of Moncrieff Place without having an adverse impact on the street trader's business. The sub-committee noted in particular that there were alternative locations in the immediate vicinity which would be available and provided a suitable alternative.

In reaching this decision, the sub-committee felt that issues relating to the adequacy of consultation during the planning application, and the financial offer from Meteor Investments were not relevant to its determination.

The sub-committee acknowledged that this decision may result in a limited interference with the street trader's Human Rights under Article 1, protocol 1. However, the sub-committee considers that any interference would be proportionate.

In reaching this decision the sub-committee had regard to all the relevant considerations and considered that this decision was appropriate and proportionate.

Appeal rights

Pursuant to section 30(11) LLAA, any person aggrieved by a resolution rescinding or varying a designating resolution may appeal to the Secretary of State whose decision shall be final.

An appeal under subsection (11) above may be brought at any time before the expiration of the period of three months beginning with the date on which notice of the passing of the resolution is published for the second time in accordance with subsection (10) of section 24 (designation of licence streets) of this Act.

Meeting ended at 4.36 pm

CHAIR:

DATED: