

Scrutiny Sub-Committee C

Wednesday 17 March 2010

7.00 pm

Town Hall, Peckham Road, London SE5 8UB

Membership

Councillor Toby Eckersley (Chair)
Councillor Anood Al-Samerai (Vice-Chair)
Councillor Richard Livingstone
Councillor Jane Salmon
Councillor Mackie Sheik
Councillor Robert Smeath

Reserves

Councillor Columba Blango
Councillor Robin Crookshank Hilton
Councillor Helen Jardine-Brown
Councillor Alison McGovern
Councillor Gordon Nardell

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Contact

Karen Harris on 020 7525 0324 or email: karen.harris@southwark.gov.uk

Members of the committee are summoned to attend this meeting

Annie Shepperd

Chief Executive

Date: 9 March 2010



Scrutiny Sub-Committee C

Wednesday March 17 2010
7.00 pm
Town Hall, Peckham Road, London SE5 8UB

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SCRUTINY SUB-COMMITTEE C

MINUTES of the Scrutiny Sub-Committee C held on Wednesday 3 March 2010
7.00 pm at Town Hall, Peckham, London SE5 8UB

PRESENT: Councillor Toby Eckersley (Chair)
Councillor Richard Livingstone

OTHER MEMBERS PRESENT: Councillor Gordon Nardell

OFFICER SUPPORT: Amma Boateng, Acting Principal Lawyer
Rachel McKoy, Legal Services
Gary Rice, Head of Development Management
Dennis Sangweme, Group Manager, Planning Enforcement
Barbara Selby, Head of Transport Planning
Karen Harris, Scrutiny Project Manager

ALSO PRESENT: Eileen Conn
Jeremy Leach, Living Streets

1. APOLOGIES

1.1 Apologies were received from Councillors Anood Al-Samerai and Jane Salmon.

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

2.1 There were none.

3. DISCLOSURE OF INTERESTS AND DISPENSATIONS

3.1 There were none

4. MINUTES

RESOLVED:

That, subject to the following amendments, the minutes of the meeting held on Wednesday 11 November 2009 be agreed as an accurate record:

Paragraph 6.3, delete the words “such as the main road into Kennington”

Delete paragraph 6.18 and replace with, “A member pointed out that there is a gap in the cost-benefit analysis, in that increased journey times in 20mph zones has not been addressed in this MVA report”

5. 20MPH AND SPEEDING REVIEW

5.1 Councillor Eckersley reminded the sub-committee that at the last meeting it had been agreed to take up the recommendations made in the MVA consultants report. He referred to a paper prepared by the head of transport planning (distributed at the meeting and attached to these minutes as appendix 1 for information) which sets out the current position against each of the recommendations in the MVA report.

5.2 The sub-committee agreed to discuss each of the recommendations in turn (these minutes use the reference numbers in the paper from the Head of Transport Planning) and agree the recommendations to be included in the Scrutiny Report.

6.2.2 The sub-committee discussed that work is already underway against this recommendation, but that other measures should be considered in the context of the budget available in addition to the “predominant” use of bumps and humps. This use of a wider range of measures would ensure that the comfort of drivers and passengers in emergency vehicles is taken fully into account.

It was agreed that the recommendation from MVA should be amended to remove the word “predominantly”

6.2.3 The element of this recommendation on sinusoidal humps has already been accepted as a deign norm. This was welcomed by the sub-committee.

On the second element of this recommendation about the speed reduction benefits of informal traffic calming measures, the head of transport planning confirmed that the Council is participating in two 20mph speed camera technology trials.

The first trial is in Salter Road, and is a test of a particular type of camera technology. These cameras are smaller and less intrusive, but have not yet been approved by the Government.

The sub-committee welcomed this trial and asked for further advice from the head of transport planning on what could be done to speed up the completion of the trial.

The second trial is in Albany Road and is part of a Transport for London (TfL) programme to evaluate the effectiveness of speed cameras as a

speed calming measure.

The sub-committee welcomed the participation in these experiments but agreed that considerable caution would need to be used if there are plans to install speed cameras with gantry requirements. In any instances where this is an option, there should be detailed consultation with local stakeholders

- 6.2.4 It was agreed that this recommendation should be accepted and that officers should be encouraged to make use of all available sources of research.
- 6.2.5 The sub-committee welcomed the advent of the design guide relating to street clutter. It was agreed that the wording of the recommendation should be altered from “considered” to “adopted”, so that the design guide will include the “quality audit” approach for older schemes.
- 6.2.6 This recommendation relates to the consideration of maintenance costs for 20mph zones. This will be covered in the design guide. The sub-committee welcomed this.
- 6.2.7 On the issue of the enforcement of 20mph zones and streets, the Head of Transport Planning reported that a proposal has gone forward to LGA for the establishment of a local camera safety partnership which would take the lead on this. The sub-committee welcomed this, along with the implementation of more local measures by safer neighbourhood teams which are appropriate to neighbourhood circumstances (e.g. speed guns in Dulwich).
- 6.2.8 The need to monitor the issue of displacement of traffic from 20mph zones is underway and will inform policy going forward. The sub-committee welcomed this and emphasised that it will be an ongoing need.
- 6.2.9 As above
- 5.3 The sub-committee discussed forward plans for the roll out of 20mph zones in the borough. The head of transport planning advised that future schemes will be more holistic in nature, looking not only at speed and road safety but how the integration of other policy areas, e.g. parking, can assist in speed reduction.
- 5.4 The sub-committee welcomed the wider-ranging approach, and the need to look at whether roads are “fit for purpose” not just always use to speed humps as a default measure.
- 5.5 The sub-committee also re-emphasised the need for community consultation and economic impact assessments to be undertaken on future schemes to assess suitability.
- 5.6 Councillor Eckersley welcomed Jeremy Leach to the meeting from Living Streets, and thanked him for his written submission to the sub-committee (which is attached to these minutes as appendix 2). Mr Leach explained that Living Streets is a local branch of a national charity which is focused on improving road safety for

pedestrians. Living Streets work closely with the council.

- 5.7 Mr Leach explained that his main interest is in town centres and would welcome the extension of the Walworth Road approach to other areas.
- 5.8 The sub-committee discussed with Mr Leach the distinction between areas with limits and areas which are zones. Mr Leach advocated the use of limits in town centres because they are enforceable.
- 5.9 To pursue this endeavour, which is in line with the MVA recommendations, would need the support both of the council and of TfL for red routes.
- 5.10 The sub-committee agreed to include a recommendation in the review report which would invite the executive to consider 20mph limits in appropriate town centre locations and invite TfL to do likewise on red routes.
- 5.11 The advice to both will recommend testing one scheme to begin with. If this is successful it will lead to natural pressure for more.
- 5.12 It was agreed that the recommendations on 20mph zones resulting from the review will be drafted, and circulated to the sub-committee members present at the meeting for agreement.

6. PLANNING ENFORCEMENT REVIEW

- 6.1 Councillor Eckersley welcomed Councillor Gordon Nardell to the meeting and reminded the sub-committee that it was Councillor Nardell who had originally requested this scrutiny. He referred to the supplemental agenda which contains the background papers produced by Councillor Nardell.
- 6.2 The Head of Development Management and Group Manager, Planning Enforcement were welcomed to the meeting. Councillor Eckersley thanked them for the paper distributed with the agenda.
- 6.3 The sub-committee invited Councillor Gordon Nardell to say a few words of introduction
- 6.4 Councillor Nardell suggested two or three core areas for evidence gathering
1. How does enforcement benefit from different approaches to pre-emptive strikes – in particular the use of
 - Stop Notices
 - Injunctions
 2. Joined Up working. Are there ways in which better joined up working between planning enforcement and the community, or planning enforcement and other departments could be developed?
 3. The Scheme of Delegation – Have we got the level of Member involvement right? We have none in planning enforcement, in some authorities Members

operate as micro-managers. What should the balance be?

It may be a good idea to look at good practice from elsewhere

- 6.5 The sub-committee agreed that this topic based approach would be very helpful.
- 6.6 Councillor Eckersley welcomed Eileen Conn, an active member of the local community to the meeting, and invited her to say a few words.
- 6.7 Ms Conn felt there will be a lot of interest in the planning enforcement scrutiny. She was surprised it has not been better publicised.
- 6.8 She went on to say that the reports on enforcement to community councils are very welcome; they give feedback communication to local residents who are the eyes and the ears on the ground for the Department
- 6.9 In terms of joined up working, she feels there is a big vacuum in Peckham in terms of joined up working since the demise of the "Peckham Partnership"
- 6.10 Councillor Eckersley asked Eileen Conn to put her points in writing for the sub-committee including the issues around recent changes which may be making planning enforcement more difficult.
- 6.11 Councillor Richard Livingstone said we would welcome more information on good practice in terms of reporting to community councils, in particular are the community council reports routine?
- 6.12 Councillor Eckersley explained the tight timescale around the planning enforcement scrutiny was the reason why there has been no publicity. There is limited time before purdah so the scrutiny exercise has to be very narrowly focussed, but we wanted to make use of the scoping work done by Councillor Nardell, and if we don't go ahead now, we have to wait until the new overview and scrutiny committee is established after the election and at that time, the whole list of priority topics for scrutiny may change
- 6.13 Councillor Richard Livingstone explained that this tight process does not preclude people coming along to the meeting on 17 March to give their input
- 6.14 It was agreed that it would be helpful if Eileen Conn could help bring forward examples of good practice from a residents perspective and encourage other people to do so in writing before the next meeting.

Scheme of Delegation

- 6.11 Councillor Richard Livingstone asked if there were any examples that could be looked at on the scheme of delegation issue before 17 March 2010.
- 6.12 Councillor Gordon Nardell talked about barn conversion scheme in Macclesfield where the decision was taken by the planning committee. He suggested that such a role for the planning committee would not be appropriate in Southwark

- 6.13 He also suggested that enforcement on matters of strategic importance should be set by members and strategic priorities, principles and approaches for the enforcement team should be set by members in committee
- 6.14 Suggestion was that perhaps at the moment we have not got the balance quite right in Southwark Council.
- 6.15 The head of development management responded by confirming that the team always welcome member input. Current priorities take into account the views of the executive member. If there is a way to formalise member input, it would be worth doing.
- 6.16 It was the general feeling of the sub-committee that routing all enforcement through community councils on every issue would very much slow things down.
- 6.17 Councillor Richard Livingstone asked for benchmarking on what other London Boroughs are doing in terms of delegation of powers.
- 6.18 Councillor Toby Eckersley added that it will be important in particular to look at more formal planning endorsement on priorities and practice in other Boroughs where there has been a degree of delegation and when this has been a good and bad thing.
- 6.19 Gordon Nardell was invited by Councillor Eckersley to submit further evidence on where further delegation might work.
- 6.20 It was agreed that the benchmarking exercise would be undertaken in relation to delegation with a look at other authorities. Gordon Nardell suggested that as well as looking at other authorities we should also be looking beyond London.
- 6.21 Councillor Livingstone referred to paragraph 42 in the report from the head of development management which has some case closure decisions based on "not expedient" criteria. He suggested that this is the category of decisions which could benefit from some Member input. If "not expedient" decisions are made on the basis of cost-effectiveness, that may not be best criteria, on that basis lots of small cases could get closed, but their cumulative effect on the whole community would be.
- 6.22 The sub-committee recognised the difficult issues about speed of response and balancing that with Member and community engagement.
- 6.23 The head of development management referred to paragraph 45 of the report and the fact the members may like briefing- on cases where it has been decided not to take action which may be high profile or controversial, and the reasons why. Councillor Eckersley mentioned that this is quite different to members taking the decisions.
- 6.24 It was agreed that the head of development management would provide some more information on the different categories of action and decision-making around case closure

Use of Temporary Stop Notices and Injunctions

- 6.25 The sub-committee discussed the issue of the use of Temporary Stop Notices and the approach that the council takes to the use of this tool.
- 6.26 There was discussion over the level of caution used with this approach, and whether the perceived risk of compensation claims is affecting the use of Temporary Stop Notices.
- 6.27 The Government guidance on Temporary Stop Notices allows the council to stop any activity for a short period in cases of serious harm to an amenity.
- 6.28 Before a Temporary Stop Notice is issued, a cost/benefit analysis must be undertaken. The council may be liable for compensation in some circumstances.
- 6.29 There is currently a lack of clarity over the circumstances of council liability. Some consider that the council could be liable if the activity is later approved through a planning application, whilst others feel that the risk lies with the developer alone if there has been "any time" during which the activity did not have permission to be undertaken.
- 6.30 The legal interpretation of the guidance has affected the use of Temporary Stop Notices by the planning enforcement team, although officers assured the sub-committee that if development activity is contrary to the development plan then a Temporary Stop Notice would be issued.
- 6.31 It was agreed that the sub-committee would seek independent legal counsel on this issue and consider this issue further once this has been received.
- 6.32 The evidence presented to the sub-committee shows that the use of Temporary Stop Notices between 2006 and 2009 had been low. The sub-committee discussed the use of Notices in cases when a retrospective planning application is expected, and is likely to be approved. It was agreed that it would be useful to receive further information from the planning enforcement officers on whether there were any borderline cases where Temporary Stop Notices had not been issued so that the policy approach can be further considered.
- 6.33 The sub-committee discussed the use of injunctions to prohibit activity. Again there are a broad spectrum of views on when the use of an injunction is appropriate, and whether the council's approach is over cautious.
- 6.34 It was queried whether injunctions are more effective than Temporary Stop Notices. The key differences are that injunctions can be used on a pre-emptive basis to prevent activities from going ahead and that the consequences for breaching an injunction can be custodial sentence, compared with fines for breaching a Temporary Stop Notice.
- 6.35 It was agreed that more information will be provided by Councillor Nardell on the use of injunctions, to enable the sub-committee to formulate recommendations on

appropriate use of this power.

- 6.36 The sub-committee discussed the overall approach to enforcement taken by the council, and whether the pragmatism of “inviting” planning applications to resolve issues of infringement, whilst it may be good for specific cases, could lead to individual members of the community “taking a chance” by undertaking development without consent or assuming “a consent” allows them to stretch the rules once the development is underway.
- 6.37 It was acknowledged that these issues can only be addressed by effective monitoring and vigilance from planning enforcement officers, and that this is resource intensive.

Joined up Working

- 6.38 The sub-committee discussed the importance of joined up working across the council on planning issues, both in terms of passing information to the enforcement team, and in terms of ensuring compliance from the council’s own activities.
- 6.39 Unfortunately, there have been incidents of non-compliance with planning regulations from other council departments and the sub-committee were keen to understand what lessons could be learnt from experiences to date. Such incidents lead not only to risk to amenities, but can also reflect on the broad reputation of the council. It was agreed that the sub-committee would seek written evidence connected with known incidents of planning breach, for consideration at the next meeting, so that failures in the processes which have lead to this happening can be rectified.
- 6.40 It was agreed that written information on the cases of Grosvenor Park and Northfield House would be requested from the Housing Department, and on Grange Road from the Highways Department.
- 6.41 It was also agreed that it would be useful to gather information on how other authorities approach this issue, for presentation to the sub-committee.
- 6.42 The sub-committee went on to discuss broader issues around joined-up working between the planning department and other organisations, including other parts of the council, responsible for other elements of the regulatory regime. The value of a systematic partnership based approach was discussed, and the feeling that this had considerable benefits. The example of the partnership work which used to be in place in Peckham was cited as an example of a helpful catalyst for partnership working. It was agreed that it would be helpful to ensure best use is made of the various fora available in the borough to facilitate a partnership based approach.
- 6.43 The sub-committee agreed to use the example of licensing to pursue this issue further, by requesting information from the Licensing Department on their connection with the planning system and processes and policies/ joint working arrangements you have in place to facilitate your work with the planning enforcement process and team. In addition they would be invited to put forward ideas you have for how the policies and systems could be improved.

- 6.44 The sub-committee turned its attention to the issue of resources to undertake planning enforcement work. The service in Southwark as suffered from staffing issues in the past, both in terms of recruitment and retention and the lack of continuity that can result from the heavy reliance on Agency staff. The head of development management explained that planning enforcement posts have historically been hard to fill across the planning profession. In Southwark work has been underway over the past three years to develop a departmental structure which is fit for purpose and progress and service improvements have been swift since new staff have come into post. Agency staff dependency has now dropped from 51% to 10%.
- 6.45 The sub-committee discussed the speed of progress on the recruitment and restructuring process, and it was agreed that the head of development management will provide an update for the next meeting.
- 6.46 The sub-committee discussed the issue of requests for enforcement investigations, and the processes and procedures in place for prioritising investigations and whether the complainant has information about this. It was agreed that the sub-committee will recommend that the Enforcement Protocol be sent to complainants and the pro-forma be amended to prompt those receiving complaints to do this.
- 6.47 The Chair thanked everyone for their contributions to the meeting and re-emphasised the need for prompt submission of additional evidence and information as requested, to facilitate the conclusion of the review by the close of the sub-committee's business on 17 March 2010.

The meeting ended at 10pm

Southwark Living Streets
28 Sutherland Square
London SE17 3EQ.

1st March 2010

Dear Councillor Eckersley,

Ref Scrutiny Committee C – Review of 20mph Speed Limit.

I hope that you will not mind Southwark Living Streets making a submission to this committee as part of its work on 20mph and Speeding Review. We were sorry not to have been made aware of the work of this committee as lower speeds is one of the areas that our group is most interested in.

The committee has obviously had a great deal of data to look at and we would only like to make one principal point to the committee and that is the significance of speed limits in our town centres. In our participation in the review of the Southwark Road Safety Plan last year, it became clear just how high the levels of casualties were on our main roads and how casualties, especially amongst pedestrians and cyclists, were particularly focused on our town centres such as Peckham, Camberwell and Borough High Street.

We feel that it is important to focus on these town centres as they are the economic lifeblood of the borough and at present, their domination by at times fast moving traffic, leaves them at a significant disadvantage to out-of-town locations (principally outside the borough). We are keen to see our town centres be vibrant places, economically, socially and culturally for local people who live within walking and cycling distance of them and this made far harder for them if those who visit them face the threat that fast moving traffic presents. This is of course particularly difficult for who are elderly, less mobile and those with young children as they try to cross town centre roads for example.

Our experience of calming and slowing traffic in the major scheme on the Walworth Road, carried out jointly with TfL, is that this has enhanced retail activity, reduced (by almost half) road casualties and encouraged walking and cycling. Walworth Road, which is on the Strategic Road Network (SRN), carries 188 buses per hour in each direction. Their journey times have not been harmed by the significant changes that have been made. In the light of this very positive experience, we would like to see 20mph speed limits extended to all of the borough and SRN roads that pass through town centres (such as Lordship Lane).

We would also like to see TLRN roads become 20mph. Red routes in our town centres have the highest levels of casualties in the whole of Southwark and this policy of keeping them as 30mph appears at odds with all of the work that the current Mayor of London is seeking to do. The most recent draft of the Mayor's Transport Strategy proposes a concentration on town centres for transport connectivity, retail activity and quality of life. It also expresses an intent to work with London boroughs on road safety.

We would very much like to see the Scrutiny Committee encouraging Southwark to work with Transport for London to support these town centres by making them safer. 20mph speed limits can clearly play an important role in this. As we have noted, the experience of the Walworth Rd (which has a 20mph speed limit from Elephant Rd in the north to John Ruskin St in the south) is that bus times are not affected by such a speed limit, while casualties are halved and economic life and quality of life are increased significantly.

We would very much like the Scrutiny Committee to support the broadening of the 20mph speed limit approach to cover, in the medium term:

- Southwark's town centres that sit on borough roads - Half Moon Lane and Nunhead Lane/Evelina Rd.
- Town centres that sit on the Strategic Road Network (SRN) - Lordship Lane, Walworth Rd (currently 20mph), Camberwell (Camberwell Rd and Denmark Hill) and Lower Road.
- Those that sit on the TLRN - Borough High St, Camberwell (including the shops at Clarendon Terrace on Camberwell New Rd), Peckham (inc around Queen's Rd station) and Tower Bridge Rd (shops south of the junction with Grange Rd).

We thank you for allowing us to make this submission.

Yours sincerely,

Jeremy Leach
Southwark Living Streets.

EXTRACT FROM THE MVA REPORT

6.2 Recommendations

6.2.1 A detailed set of recommendation are identified in Chapter 5, and these have been summarised below.

6.2.2 The Council should continue to use a variety of traffic calming measures (but predominantly speed humps and cushions) to maximise cost effectiveness, meet the needs of different road users, attenuate traffic speeds, minimise the loss of kerbside parking and avoid the issue of driver intolerance.

[In the revision of the road safety plan, included a 'toolkit' of measures including the items suggested by MVA in their report. For further reference see section five, creating safer environments of the Road Safety Plan.](#)

6.2.3 Where possible, sinusoidal humps should be used over other round-topped humps and consideration should be given to quantifying the speed reduction benefits of informal traffic calming measures.

[This recommendation has been put forward to the public realm team who have agreed to support.](#)

The Government are getting closer to approving camera technology for measuring average traffic speeds and Southwark may consider it beneficial to participate in the trials currently being undertaken in London.

[Southwark is currently participating in two separate technology trials in Salter Road and Albany Road.](#)

6.2.4 As officer time is often taken up in responding to enquiries from the public regarding environmental impacts, the Council should consider working with the DfT/TfL to undertake research to quantify these impacts.

[This will be considered as part of the monitoring framework for trials referred to above.](#)

6.2.5 The Council should be commended for adopting a 'clean-sheet' approach to design. However, there is still scope to improve clutter, especially for older schemes. The schemes would benefit from establishing a 'quality audit' programme to review issues regarding clutter and maintenance.

[To be considered as part of the development of the streetscape/streetscene design guide.](#)

6.2.6 It is important to set out at an early stage the maintenance requirements for 20mph zones and consideration should be given to whether 20mph zones should form a sub-set of Southwark's character areas. In this was they could

be identified as distinct elements, which would help to form a maintenance programme for 20mph zones, through which they could be reviewed periodically.

This should be considered through the development of the streetscape design guide.

6.2.7 In order to restrict speeds to below 20mph across the borough the Council would need to use 20mph zones, and a combination of enforcement, selective use of traditional traffic calming and other speed reduction measures for main roads. This exercise would need to be completed through close consultation with the Metropolitan Police, and where necessary with TfL.

Through the Sustainable Communities Act consideration has been given to establishing a local safety camera partnership which would lead on engagement with both the police and TfL on speed enforcement in 20mph limited areas.

6.2.8 As more of the borough is covered by 20mph zones it will become increasingly important to monitor the impacts of adjacent zones and on main roads, and with the LIP reforms monitoring requirements are likely to become more stringent.

Additional monitoring was introduced through the road safety plan review. With the development of Lips2 and the development of local targets further monitoring will be required and will be considered as part of this work.

6.2.9 The council should review the current monitoring programme and take a view as to whether future (routine) surveys should be supplemented by additional surveys such as traffic speed and traffic flow data. This additional data would help determine the success of the zones /traffic calming measures and ensure compliance with the speed limit.

In 2010/11, a strategic monitoring programme will be established to better understand traffic movement in and around the borough. This will include a screenline programme which will encompass both vehicle speed and volume assessment.

Scrutiny Review of Planning Enforcement

Response from Richard Parkins, Southwark Health Safety & Licensing Manager

1. The relationship between licensing and planning is not a straightforward one. To help clarify this, I feel it would be best if I firstly set out the guidance provided to local licensing authorities by the Department of Culture Media and Sport (DCMS) under section 182 of the Licensing Act 2003 (consolidated version published 28 January 2010).

"13.64 The (council's) statement of licensing policy should indicate that planning, building control and licensing regimes will be properly separated to avoid duplication and inefficiency. Applications for premises licences for permanent commercial premises should normally be from businesses with planning consent for the property concerned. However, applications for licences may be made before any relevant planning permission has been sought or granted by the planning authority.

13.65 The planning and licensing regimes involve consideration of different (albeit related) matters. For instance, licensing considers public nuisance whereas planning considers amenity. As such licensing applications should not be a re-run of the planning application and should not cut across decisions taken by the local authority planning committee or following appeals taken by that committee. Licensing committees are not bound by decisions made by a planning committee, and vice versa.

13.66 The granting by the licensing committee of any variation which involves a material alteration to a building would not relieve the applicant of the need to apply for planning permission or building control where appropriate.

13.67 There are also circumstances when as a condition of planning permission, a terminal hour has been set for the use of premises for commercial purposes. Where these hours are different to the licensing hours, the applicant must observe the earlier closing time. Premises operating in breach of their planning permission would be liable to prosecution under planning law.

13.68 Proper integration should be assured by licensing committees, where appropriate, providing regular reports to the planning committee on the situation regarding licensed premises in the area, including the general impact of alcohol related crime and disorder. This would enable the planning committee to have regard to such matters when taking its decisions and avoid any unnecessary overlap. A planning authority may also make representations as a responsible authority as long as they relate to the licensing objectives."

2. The position established by DCMS guidance is reflected within the Southwark Statement of Licensing Policy (November 2009 revision). Section 6 on “Other policies, objectives and guidance” sets out

“... Lastly, it should be made clear that the planning, building control and licensing regimes will be properly separated to avoid duplication and inefficiency.

Applications for premises licences for permanent commercial premises should normally be from businesses with planning consent for the property concerned. Licensing applications should not be a re-run of the planning application and should not cut-across decisions taken by the local authority planning committee or permissions granted on appeal. Similarly, the granting by the licensing committee of any variation of a licence which involves a material alteration to a building would not relieve of the need to apply for planning permission or building control where appropriate.

While the licensing authority is conscious that there is no legal basis for a licensing authority to refuse a licence application solely because it does not have planning permission, it may be inconsistent for the authority to give a licence for an activity when it has refused planning permission for the same activity to take place. In such cases the council would expect the applicant to address the reasons why planning permission had not been granted and provide reasons as to why licensing consent should be.

There may also be circumstances when as a condition of planning permission, a terminal hour has been set for the use of the premises for commercial purposes which carry different hours to the licensing hours. Where these hours are different to the licensing hours, the applicant must observe the earlier closing time. Premises operating in breach of their planning permission would be liable to enforcement under planning law.

Borough-wide and area based planning guidance exists through the Southwark Plan and supplementary planning guidance. Where relevant representations are made on applications, the Licensing Authority will have regard to the appropriate relevant guidance.

Proper integration with the planning regime will therefore be assured. This will include, where appropriate, the provision of regular reports to the planning committee on the situation regarding licensed premises in the area, including the general impact of alcohol related crime and disorder.”

3. A similar position exists with regard to the situation between licensing and planning in respect of gaming and betting premises under the Gambling Act 2005 and guidance from the Gambling Commission.

4. Crucial to the relationship between licensing and planning, however, is the inclusion of planning as one of the stated 'responsible authorities' under both Acts. Through this nomination as 'responsible authority' every applicant for a new or varied premises licence is required to provide a full copy of their application to the planning team and the team, in turn, is enabled to make representations to the licensing service about any particular application. Such representations must concern one or more of the four licensing objectives under the Act, which are

- The prevention of crime and disorder;
- Public safety;
- The prevention of nuisance; and
- The protection of children from harm

but there is cross-over around the issue of public nuisance which affects both amenity and the licensing objectives. Although, admittedly, there were teething problems with the system we do now have a process that works well. Planning receive and consider every premises licence application; representations are being made by the planning team as appropriate (and good evidence has been provided on occasions which have contributed toward the licence determinations reached by the licensing committee at public hearing - a case in example being that of premises at 5-7 Rockingham Street, SE1); and every licence application report in front of the sub-committee now contains information on the planning position, irrespective of whether a representation is considered necessary or not. This situation should ensure that planning are aware of and, if necessary, have contributed toward all licensing decisions.

5. As per our policy, licensing officers will urge applicants to seek planning consent for their premises before they apply for a premises licence. If applicants insist on applying for licences and consent simultaneously or the licence firstly, the licensing officers will ensure that the applicant understands that both licence and consent must be obtained before lawful operation can commence. Similarly, if officers are aware that any application is granted without planning permission they will be re-inforcing advice that the new licensing consent cannot be enacted until planning permission is obtained. By way of this system it should be rare that any premises commences operation without both licence and consent in place or without planning being ready and able to take action.
6. Situations where a planning breach remains a possibility are
- a) Where a premises transferred into the new licensing regime back in 2007 under 'grandfather rights' without appropriate planning permission. During the 'conversion process' existing licence holders were entitled to transfer their existing justices, entertainments and night cafe licences into the new system as a paper exercise. If any premises was operating under the old system without appropriate planning consent the conversion process would not have identified this; and

- b) Where a licensed premises evolves into a different entity without any amendment to its licence being necessary. The most likely situation here is where a bar or restaurant holding a licence allowing alcohol sales and music and dancing entertainment with a late licence moves incrementally toward providing what is effectively a night-club environment.
7. Licensing officers are mindful of planning issues and are directed to contact planning should they believe a planning breach is being committed. They are willing and able to provide evidence of operation if this should be required. However, in the case of a) this situation may not come to light unless the premises management decide to put in an application for a new or varied licence and, in the case of b), it is difficult to identify the point at which a premises operation may be deemed to have become something different to that which it originally was.
8. In all, I consider the working relationship between licensing and planning to be greatly improved and fairly effective (though I recognise there is always further room for improvement). The applications process works well and planning are contributing. Planning, as a responsible authority, are also consulted upon and have contributed toward licensing policy development (including on the council's saturation policies which deal with cumulative impact of licensed premises on the Southwark community). In turn the licensing service is consulted on local planning development and the environmental protection team has input into both licensing and planning applications around nuisance issues.
9. Some steps that could be taken that might further improve the working relationship are
 - a) A formal training session for licensing enforcement staff from planning on planning consent to be followed by discussion and agreement around when 'changing circumstances' should be drawn to the attention of the planning team;
 - b) Electronic access to planning registers for licensing staff (if possible) which might provide ready confirmation of planning status where concerns arise;
 - c) Notification to licensing of planning applications enabling licensing officers to flag up current licence status, whether premises are situated in saturation areas, or other relevant information; and
 - d) If this were to be helpful to the planning committee, the regular six-monthly partnership analysts reports received by the licensing committee on alcohol related violence against the person, crime and disorder and ambulance pick-ups which inform saturation policy development could be forwarded on for consideration. (At present while planning are included in all consultations on

saturation policies the regular reports are not provided to both committees).

10. I hope that these comments are helpful. I am, of course, happy to provide further information if needed.

Richard Parkins
Health Safety & Licensing Manager
5 March 2010

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