



ISLINGTON

Corporate Resources
Town Hall, Upper Street, London N1 2UD

Report of : Director of Corporate Resources

Meeting of	Date	Agenda Item	Ward(s)
Licensing Committee	23 November 2006	B2	All

Delete as appropriate		Non-exempt
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Subject: LICENSING SUB-COMMITTEE SITE VISIT PROTOCOL

1. Synopsis

- 1.1 To consider the option of site visits by Licensing Sub-Committees when determining premise licence applications and the procedure necessary to conduct such visits in a fair and open matter.

2. Recommendations

- 2.1 To agree that with regard to Premises Licence applications (including Reviews) due for determination at hearing; site visits will only take place where necessary,
- 2.2 To agree the Licensing Site Visit Protocol as detailed in Appendix A.

3. Details

- 2.1 Guidance on the Role of the Elected Members, published in February 2005 by LACORS (The Local Authorities Coordinators of Regulatory Services) makes specific reference to the site visits, as follows:

“ Site visits by Licensing Sub-Committee members are generally unnecessary and can put the Members and the Licensing Authority at risk of accusations of bias. If a Licensing Authority believes that there might be occasions where visits are required then it would be advised to have set-out the reasons why this might be the case in local guidance, so that there is clear criteria for justifying any visit, which can be documented. Licensing Authorities would also be advised to have clear guidance as to how the visits are conducted.”

- 2.2 Currently, licensing reports produced for the Sub-Committee's consideration provide a location map, full copy of the application, current licence and any submitted representations. Floor plans are also available to the Sub-Committee as required. On occasion, photographs have also been submitted, as well as video evidence provided by parties.

- 2.3 To date, Sub-Committees have made determinations on the merit of each application and been provided with sufficient information to do this. However, it is important in the context of the diverse licensable activities provided for in the Licensing Act 2003 and the new powers under the Gambling Act 2005; that the Licensing Sub-Committees have the flexibility to conduct a site visit should an application arise which necessitate this.
- 2.4 It is considered good practice that site visits should only take place where the sub-committee would gain 'substantial benefit' in their consideration of the application and where at least one of the following criteria applies:
- i) The impact of the proposed application is difficult to visualise from the plans and any supporting material;
 - ii) There is a good reason why the comments of the applicant or representatives cannot be expressed adequately in writing.
 - iii) The proposal is particularly contentious.
- 2.5 Site visits are currently conducted for particular applications due to be considered at the Area Planning Sub-Committee meetings; Members are accompanied by a planning officer and a democratic services officer. Similar arrangements are proposed for the site visits conducted by the Licensing Sub-Committees.

4. Implications

4.1 Finance Implications

- 4.1.1 There is currently no allocated provision for Licensing Committee site visits. Any costs incurred as a result of these new arrangements would have to be met from existing departmental budgets.

4.2 Legal implications

- 4.2.1 The Licensing Act 2003 provides procedures for regulating the discharge by the licensing authority of its functions. Authorities are required to publish a policy framework document every three years. In producing the document a licensing authority is required to take account of the views of those representing the holders of licences and certificates, local residents and businesses, the police and the fire authority. Licensing authorities are also required to take into account guidance issued by the Secretary of State.
- 4.2.2. The Act requires that each licensing authority to establish a licensing committee of between ten and fifteen members of the authority. A licensing committee may form one or more sub-committees, each comprising three members of the committee. The Secretary of State is given the power to make regulations relating to the committees and sub-committees' proceedings, public access to their meetings, publicity, agendas and records. Otherwise, licensing committees may regulate their own procedure and that of their sub-committees.
- 4.2.3. Site visits are not a compulsory part of the decision making process. Site visits must only be requested if it is essential to evaluate the application. The purpose of the visit is to see the site rather than engage in any discussion with either applicants or interested parties. The Licensing Visit Site Protocol sets out criteria for when a site visit will be appropriate and procedure for site visits. All parties will have to be notified of the date and time of the site visit.

4.2.4. The Licensing Act 2003 and the issued under it Guidance do not deal with site visits. However, if a site visit complies with the proposed procedure it will be within the spirit of the Licensing Act 2003 and will promote the licensing objectives.

4.3 Equality Implications

4.3.1 There are no direct equality implications arising from the proposed arrangements for Licensing Committee site visits.

Background papers:

Islington Council's Constitution (as amended, May 2006 and Oct 2006)

Islington Licensing Policy

Licensing Act 2003

LACORS Guidance on Role of Elected Members (Feb 2005)

Final Report Clearance

Signed by

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Date

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London Borough of Islington Licensing Sub-Committee Site Visit Protocol

1. Site visits are generally unnecessary and can risk putting the Members and the Licensing Authority at risk of accusations of bias if not conducted properly.
2. Site visits should only take place where the sub-committee would gain *substantial benefit* in their consideration of the application and where at least one of the following criteria applies:
 - The impact of the proposed application is difficult to visualise from the plans and any supporting material;
 - There is a good reason why the comments of the applicant or representatives cannot be expressed adequately in writing.
 - The proposal is particularly contentious.
3. In any such special circumstances, the Assistant Director of Environment and Regeneration (Public Protection) may make recommendation that the Licensing Sub-Committee visit the premises prior to the hearing. In such cases, the Assistant Director must provide full written reasons justifying the visit and this must be provided to the applicant and any other parties making representations.
4. Members of the Licensing Sub-Committee may adjourn or defer the hearing in special circumstances, to undertake a site visit. The Chair of the Licensing Sub-Committee must give detailed reasons justifying the need for a site visit, and all parties should be notified of this. In this instance, Members should take into account whether special justification exists for this delay; including consideration as to likely inconvenience and expense caused to all involved by carrying out a visit.
5. If a site visit by the Licensing Sub-Committee is deemed necessary, the following procedure must be followed:
 - The Site visit should be undertaken as a group visit attended by all the Licensing Sub-Committee and its purpose should be confined to that indicated by the Head of Public Protection or the Chair;
 - The Sub-Committee should be accompanied by a Licensing officer who may be asked factual questions by the Members.
 - No indication of the likely outcome of the application should be given on the visit;
 - No representation from the applicant or from those making representations shall be heard or accepted on the visit;
 - The Licensing Sub-Committee should keep together as a group and not engage individually with any parties;
 - Details of those attending the visit, questions asked and answers given should be recorded.
 - The Sub-committee should not, under any circumstances, accept refreshments on the premises or any other gift or offer of hospitality.
 - Decisions will not be made on site visits but will be made at a subsequent meeting of the appropriate Sub-committee hearing conducted under the Authority's hearing procedure.