



# LONDON BOROUGH OF BRENT

## MINUTES OF THE PLANNING COMMITTEE

Tuesday 1 July 2014 at 7.00 pm

PRESENT: Councillor Marquis (Chair), Councillor Colacicco (Vice-Chair) and Councillors Agha, S Choudhary, Filson, Hylton, Kansagra and Mahmood

Also present: Councillors Colwill and BM Patel

### 1. **Declarations of personal and prejudicial interests**

None declared.

### 2. **Proposed introduction of greater gambling protections and controls**

Stephen Weeks (Head of Planning, Regeneration and Growth) presented the report and explained that proposals for greater gambling protections and controls arose from a wider concern about the future of shopping areas. Members heard that the Department for Culture, Media and Sport (DCMS) was consulting on the proposals that included the creation of a separate planning use class containing betting shops. Presently, betting shops fell within A2 use class, meaning any premises with this permission could be converted to a betting shop without requiring planning permission. Under the new proposals, any new betting shop would require separate planning permission for such use.

Stephen Weeks advised that there had been a significant increase in particular amongst smaller betting operators in the borough and their tendency to cluster was affecting the vitality of town centres. Whilst it was not so evident that the number of betting shops amongst the three largest betting operators was increasing, they tended to want to extend their existing premises or find a larger building in order to be able to offer more services. Stephen Weeks drew members' attention to the council's proposed response to the DCMS consultation in appendix A of the report and advised that although the council agreed with DCMS's proposals, it felt that there also that there should be further changes and that a separate use class for payday loan shops and pawnbrokers should be introduced as these also could have a similar negative impact on shopping areas. Stephen Weeks added that such businesses also tended to cluster and threaten the vitality of the area.

During members' discussion, clarification was sought with regard to the role of planning legislation and licensing legislation in regulating gambling premises and whether the Gambling Act 2005 only required operators to prove they were fit to operate and not take into consideration the surroundings. It was queried how a

separate class use for payday loan shops and pawnbrokers could be introduced and could any action be taken to reduce the number of existing betting operators in the borough. Another member enquired whether under previous legislation, it was the responsibility of the gambling operator to prove there was demand and had the subsequent relaxation in gambling regulation been the main cause for the explosion in the number of betting premises. He felt that the increase of betting premises in town centres and other shopping areas was detrimental and was responsible for taking money out of Brent's economy as the costs of those who gambled reduced their spending power to purchase other items or services. He commented that although the proposed new legislation would help reduce the number of new gambling premises, he queried whether it could be used to reduce the number of betting premises already in existence, except possibly in situations where the existing betting operator wished to transfer to a new premises. He indicated his support in respect of separate use class for pawnbrokers and payday loan shops and agreed that such businesses often clustered, as well as betting shops. He also enquired whether smaller gambling operators would challenge the new proposals under competition law.

In respect of small betting shop operators, a member enquired whether there would be exceptions in allowing new premises in shopping areas where there were a lack of businesses. He also suggested that rather than allowing GP practices and accountants in primarily residential areas, these should be encouraged to move into vacant retail properties. Clarification was sought with regard to the policy for smaller shopping precincts and of the powers the council currently had in relation to betting premises and what they would be if the proposed legislation came into force. In relation to pawnbrokers and payday loan shops, a member asked if planning legislation could take into account social responsibility factors. It was commented that particular attention should be given to the approach where high roads came under Brent and a neighbouring local authority and working jointly with them would be desirable. It was also asked whether the council's response to the DCMS consultation required Cabinet approval.

In reply to the issues raised, Stephen Weeks confirmed that under the Gambling Act 2005, applicants were only required to prove they were fit and proper to operate and did not need to prove there was a demand for betting. Members noted that the Gambling Act 2005 and planning legislation were two separate regulatory pieces of legislation and one did not necessarily prejudice the other. Stephen Weeks felt that the relaxation of legislation had contributed to the increase in betting shops. Members noted that under previous legislation, the applicant had been required to provide evidence of demand and demonstrate what other businesses were in the locality. Stephen Weeks clarified that the new legislation could not be used to reduce the number of existing betting shops, however would primarily be used in restricting the growth of new betting premises or the expansion of existing ones. Members heard that the council could use its discretion in using the policy, including in such situations where a small gambling operator had applied for a use in a shopping area otherwise lacking in businesses and the premises in question was derelict or in a poor condition. He added that the proposals would impact most on smaller operators as this was the main group seeking to obtain new premises. Similarly, although it was difficult to ascertain as to whether there was a saturation of pawnbrokers and payday loan shops in the borough, there was evidently a need to restrict their future growth because of their

impact in shopping areas. Stephen Weeks advised that if the proposals allowed the council to include a separate class use for pawnbrokers and payday loan shops, the council could then write its own policy to define the use and set out terms on which it would be applied, such as restricting such a use in certain areas, particularly if there were already a number of premises of this type there.

Stephen Weeks informed members that a more relaxed approach was taken with regard to premises being used as GP practices and other community uses in residential areas. However, he stated developing a policy to encourage such uses in commercial areas where there were vacant properties could be considered. Members heard that in core shopping areas, A1 use was more strictly controlled unless a high level of vacancies could be demonstrated. More flexibility was afforded in smaller or fringe shopping areas and A1 uses such as newsagents, for example, would be a desirable use in such areas. A more relaxed approach to places of worship and for community use was also taken in fringe areas, whilst A2 uses were more likely to be refused. Stephen Weeks felt that it would be difficult for the DCMS's proposals to be challenged under competition law as there a number of gambling operators in the country. In relation to pawnbrokers and payday loan shops, Stephen Weeks advised that an increase in these type of properties would be a valid planning consideration rather than any perceived effects on the community. He informed members that the council did consult and coordinate with neighbouring London boroughs regarding gambling applications, including where they shared High Streets, although it was not yet at the stage where boroughs were developing similar policies. Stephen Weeks confirmed that the council's response to DCMS's proposals would not be required to be put before the Cabinet and the Planning Committee's endorsement would be the council's formal response on the matter.

The Chair requested that this item be reported back to the committee following the outcome of the DCMS consultation notifying members of any changes to the original proposals.

RESOLVED:-

that the proposed draft response to the DCMS consultation on greater gambling protections and controls in Appendix A of the report which supports the proposed creation of a separate use class for betting shops, and highlights to the DCMS the need for a separate class for pawnbrokers and pay day loan shops, given that they present similar issues to that of betting shops, be noted.

### **3. Appeals decision monitoring: 2013/2014**

Stephen Weeks presented the report and advised that the number of planning appeals allowed by the inspectorate in 2013/14 had risen by 9% compared to 2012/13. As a result of this, he advised that decisions particularly in respect of household applications needed to be revisited. Members noted that the Government had issued a temporary relaxation in respect of permitted developments in the hope that it would encourage the building industry and boost the economy. Stephen Weeks advised that a number of applicants were taking advantage of obtaining the opportunity for prior approval and these arrangements were due to remain until June 2016. The relaxation in permitted developments was impacting on the Planning Inspectorate's decisions and had led to an increase

in appeals being allowed. As a result, Stephen Weeks advised that the Planning Service would issue revised guidance on household applications relaxing some requirements and this would be put before the Planning Committee at a future meeting.

During discussion, a member enquired whether an additional extension to an existing extension on a house dwelling could be done under the current more relaxed planning regulations. Another member expressed interest in receiving a report providing information on funds that had been received from Section 106 agreements and whether it was possible for members to have access to Acolaid. It was queried whether residents were required to consult their neighbours in respect of prior approval applications. Another member asked whether it was possible for future reports to break down appeals allowed by application type. Reasons were sought of the occasions when the Planning Inspectorate had disagreed with the council's decision. In acknowledging that most of the appeals involved household applications, a member asked what the processes for the updating the council's policy on design and neighbourhood amenities would be and how long would the consultation and subsequent implementation of the changes take. It was also asked what approach would be taken to household applications between now and the changes being introduced. Information was sought on the impact this would have on council policy and it was asked whether the permitted development policy applied to conservation areas.

A member asked what impact extensions had on green space and was there a policy to address this. A question was raised as to whether an increase in enforcement appeals was likely because applicants had not understood the changes to permitted developments and they had not obtained prior approval. It was also queried whether permitted developments applied to flats. A member enquired on the costs of the appeal to the council. Another member asked if information could be provided on the council's Supplementary Planning Guidance (SPG) 5 and SPG17.

In reply to the issues raised, Stephen Weeks advised that an additional extension to an existing one would be permitted providing the existing extension had been built as a permitted development and that the additional extension did not exceed that allowed under permitted development. Stephen Weeks informed members that Section 106 agreements did not apply to refused permissions and a separate report on Section 106 funds and the Community Infrastructure Levy could be provided at a future meeting. Members heard that they would each require a separate licence to access Acolaid and this would require further discussion if there was a desire to have this. Stephen Weeks explained that under prior approval, applicants were not required to consult their neighbours other than what was required under the Party Wall Act but the Council were. It was noted that prior approval did not apply to flats and the permitted development policy applied to conservation areas subject to some restrictions. Stephen Weeks stated that future reports could include a breakdown of appeals by application type and he commented that large scale planning application appeals were uncommon to date, and while there were a few more middling sized application appeals, the bulk of the appeals were household applications which was understandable in view that most applications were of this type. Stephen Weeks advised that staff time spent on appeals, as opposed to costs, had a larger on resources. Typically, an informal

hearing may last a day or longer, whilst a public inquiry could take up a number of days and there would be costs involved in legal and specialist representation.

Stephen Weeks advised that the reasons on the occasions that the Planning Inspectorate disagreed with the council's decisions varied, however making changes to design and policy in response to this would reflect a priority area in terms of decisions by the Planning Inspectorate. Stephen Weeks informed members that updating the council's policy on design and neighbourhood amenities would involve consultation that would then lead to changes to the council's SPG5 and SPG17. Consideration of the major issues was already being undertaken and a more cautious approach was being taken. In terms of timescale to implement the changes, Stephen Weeks advised that ideally this would be done by the end of 2014/15, however this would be dependent on filling vacant posts. Members noted that a number of local authorities were also having similar issues and were considering revising their policies. With regard to extensions and loss of green space in rear gardens, members noted that the only policy that applied was in relation to ensuring 'sustainable drainage' in front gardens when hard surfacing took place. Turning to enforcement appeals, Stephen Weeks advised that applicants usually had a reasonable knowledge of what is permissible and that lack of understanding of planning regulations were not the usual reasons for the appeals. Enforcement appeals were rarely upheld and the council was focusing its efforts in particular on outbuildings that may be used as separate dwellings, commonly referred to as 'beds in sheds'. Stephen Weeks added that a report on this issue could be presented at a future meeting. He also agreed to provide members with the web link to the council's SPG5 and SPG17.

RESOLVED:-

that the report on appeals decision monitoring 2013/14 be noted.

#### **4. Any other urgent business**

None.

The meeting ended at 8.20 pm.

S. MARQUIS  
CHAIR