

**NOTES
OF THE MEETING OF THE
ALCOHOL & ENTERTAINMENT LICENSING COMMITTEE
TUESDAY 16 NOVEMBER 2010**

Held at 7.00 pm in the Council Chamber, Civic Centre, Pavilion Road, West
Bridgford

PRESENT:

Councillors J E Fearon (Chairman), Mrs D M Boote, B Buschman, R L Butler,
T Combellack, G Davidson, Mrs C E M Jeffreys, I I Korn, G R Mallender,
G S Moore, E A Plant, P Smith and J A Stockwood

OFFICERS PRESENT:

B Adams	Neighbourhood Manager
D Banks	Head of Environment and Waste Management
D Collings	Senior Licensing Officer
A Goodman	Member Support Officer

APOLOGIES FOR ABSENCE:

Councillors F J Mason and B Venes

5. Declarations of Interest

There were none declared.

6. Notes of the Previous Meeting

The notes of the meeting held on Wednesday 7 July 2010 were accepted as a true record.

The Senior Licensing Officer reported that an offer had been received from Trading Standards to hold a mock hearing, based on an actual case. The event would be open to all Members of the Council and would include training on the overlapping issues of the planning and licensing processes.

Action The Senior Licensing Officer to arrange a mock hearing and training on the overlapping issues of the planning and licensing processes, for January/February 2011.

7. 2010 Review of the Statement of Licensing Policy

The Senior Licensing Officer reminded Members that the current legislation required the Council to review its statement of Licensing Policy every three years and the current review must be completed by 7 January 2011. At the previous meeting of the Committee on 7 July 2010 Members had considered the draft licensing policy before a twelve week consultation exercise, from 12 July 2010 to 4 October 2010 was undertaken.

Under section 5(3) the Licensing Authority, were required to consult with the following statutory consultees; the chief officer of police, the fire authority, representatives of holders of premises licences, club premises certificates and personal licences, and any such other persons the Licensing Authority considered to be representative of businesses and residents in its area.

In addition to the statutory consultees outlined above, the consultation exercise was extended in line with the recommendations contained within the statutory guidance, to include additional organisations, whose opinion it was felt appropriate to seek. The general public were also given the opportunity to comment, as the amended policy was placed on the Council's website for the duration of the consultation period, with the opportunity to submit comments electronically.

Members were informed that responses had been received from, Keyworth Parish Council, CAMRA and the Council's planning policy department, who had no comments to make, and the British Beer and Pub Association who had provided a generic response to all policy reviews. The final amended version of the Policy would then be presented for approval at Council on 16 December 2010 and be published by 7 January 2011.

It was AGREED that the final amended Statement of Licensing Policy be presented to Council on for approval 16 December 2010.

8. Re-balancing the Licensing Act - Government Consultation and Sexual Entertainment Venues

The Senior Licensing Officer gave a presentation to the Committee on the Government Consultation in respect of the Rebalancing of the Licensing Act and Sexual Entertainment Venues. He informed Members that as part of the Enabling Bill, the Home Office had undertaken a six week period of consultation with Licensing Authorities. The paper contained 29 questions and outlined below were some of the areas covered and a summary of the response given by the Nottinghamshire Authority Licensing Group.

- “Making the Licensing Authority a Responsible Authority”. This would create additional work and could potentially give rise to a conflict of interest, as the licensing authority was the decision making body with a quasi judicial role.
- “Reducing the burden of proof when making determinations on licences from “necessary” to “consider more widely”. The current system of necessity was robust and auditable. Reducing the burden would lead to decisions being challenged, more onerous conditions and would undermine the review process.
- “When considering representations from the police on applications to accept all the police recommendations unless there was clear evidence they are not relevant”. It was felt that this approach could be detrimental and fetter the discretion of the licensing authority, by placing the decision making process in the hands of the police. It would also have

the effect of giving greater weight to the Crime and Disorder Objective, whereas currently all evidence was treated in an equitable manner.

- “The introduction of a requirement that the Licensing Authority consult more widely on their Licensing Policy Statements”. Wider consultation when reviewing and publishing the authority’s licensing policy, to include community groups that were not currently involved, would encourage greater involvement. The statutory guidance would therefore need to be amended to provide a more definitive list on consultees.
- “Removing the term vicinity from interested parties on applications leaving any person or body, no matter where they live, able to make a representation”. This would allow national organisations to put in automatic representations, resulting from commercial or ideological concerns, possibly removing local involvement in the decision making process. Potentially there could be an increase in the number of hearings and appeals and an increase in associated costs which would need to be recovered.
- “Including health bodies as a Responsible Authority and making Heath Harm the fifth licensing objective”. It was unclear which health bodies would be responsible authorities and how they would assess their obligations under the Act.
- “What would the effect be of making community groups interested parties”. Under the current guidance community groups were treated as Interested Parties and as such were able to be represented by an Elected Member. It was felt that this proposal would add unnecessary burden of red tape to the procedure.
- “Making changes to the appeals process so that the default position in any appeal was to remit the case back to the Licensing Authority”. Although in principle there was support for speeding up the appeal timetable, it was difficult to see how appeals without evidential consideration would fulfil the requirements of natural justice and the right to a fair hearing. Subsequent appeals would need to be subject to a different set of rules, or the same matter would end up being heard by various panels, potentially with no resolution and considerable resource implications.
- “Making any decision made by a Licensing Panel effective once the decision had been notified”. This was a long awaited proposal and would remove the temptation for licence holders to enter appeals simply to continue trading for a substantial period before a decision was implemented.
- “Extending early morning restrictions orders, currently from 3 am to 6 am, to enable licensing authorities to reflect local needs”. This proposal would need careful consideration, as the original aim of the Act was to remove the common terminal hour in high density areas to prevent flashpoints when large numbers of people vacate premises at the same

time. Smaller town centres could also find that trade could be lost to other unrestricted areas with longer trading hours.

- “Repealing Alcohol Disorder Zones”. This currently did not apply in Rushcliffe.
- “Removing evidential requirement for Cumulative Impact Policies (CIPs)”. This would make the creation of CIPs easier but there would still need to be some evidence to justify the imposition of such a policy.
- “Allowing local authorities, not licensing authorities, to charge a late night levy, to be collected as a tax, on premises as a means of recovering additional late night policing costs”. It was felt that any levy should be limited to reasonable costs to avoid additional burdens on local businesses and the mechanism for collecting and distributing the levy needed to be fair and properly defined.
- “Licensing Authorities to be given greater powers in regard to fixed closing times, zoning or staggered closing times”. Evidence suggested that incidences of alcohol related crime take place in direct correlation to premises closing times. It was felt that judicious use of police and local authority resources, combined with a policy for managing closing times would help to minimise alcohol related crime.
- “Amending the legislation in relation to Temporary Events notices (TENs) to include allowing response authorities to object, giving the police longer to object, having a two tier system in relation to notice periods, reducing the number of TENs in the same vicinity and reducing the number of TENs a personal licence holder can apply for from 50 to 12”. Allowing all the responsible authorities to object to a TEN would create a very complex system and would inevitably lead to a higher fee to enable additional costs incurred by the licensing authority to be recovered. However, it would be good practice to give the licensing authority discretion on who else to consult, as well as retaining the Police as mandatory consultees. Giving the Police and other responsible authorities five working days to object to a TEN would allow time for any difficulties to be resolved with the applicant and potentially remove the need for a hearing.

Introducing a two tier system in relation to notice periods for applying for a TEN would allow longer for any issues or potential problems to be resolved, but could be confusing for applicants that were not familiar with the Act. Reducing the number of TENs that a personal licence holder could apply for to twelve, would be difficult to administer as they were portable and not linked to premises. This could also have an affect on farmers markets, outside caterers and other commercial businesses that may rely on TENs to operate. Restricting the number of TENs that could be applied in the same vicinity would prevent multiple applications for one event and force the applicant to apply for a full license for larger events, thus allowing for proper consultation.

- “Increasing the voluntary closure period after the service of a notice by the police for underage sales from 48 hours to 7 days and to double the fine from £10,000 to £20,000”. It was felt that the Police were better placed to respond to this question. However the issue of proportionality needed to be taken into account when premises “voluntary” close and that closure powers should also emphasise the seriousness of offences. Currently there had been no cases of premises receiving the maximum 10,000 fine.
- “Making reviews automatic when premises are found persistently selling alcohol to children”. Although this could impose a substantial administrative and financial burden on some local authorities. It was already current practice in Nottinghamshire to automatically review a licence for those found selling alcohol to children on two occasions in a three month period. It was felt that this policy would reinforce the message that this type of conduct would be regarded seriously.
- “Ideas on how to define the cost of alcohol in order to ban below cost sales and when this is achieved to add a mandatory condition to all licenses so that no sale of alcohol can be below cost price”. There was the potential for Trading Standards to enforce a ban on selling below cost alcohol, however the issue of cost would have to be clearly defined to enable enforcement, and any conditions would require enforceable parameters. It was felt that the “cost” of alcohol was not for local authorities to define as they were not experts in that field.
- “Allowing local authorities to set and increase licensing fees on a full cost recovery basis”. This would allow authorities to take into account and budget for local enforcement costs and ensure that these costs did not fall on the general council tax funds.
- “Allowing licensing authorities to revoke licenses when the annual fee is not paid”. This suggestion was fully supported and seen as a long awaited move.
- “Would authorities support the repeal of the seven mandatory conditions that were applied to all licenses from April 2010”. Some of the conditions needed to be reviewed as they were poorly worded and difficult to enforce, whilst the others were of value in their current format, but needed revising to gain better effect.

In respect of licensing of sexual entertainment venues, the Senior Licensing Officer informed Members that reforms to the legislation meant that such venues had been removed from the Licensing Act 2003 and were now part of the Local Government (Miscellaneous Provisions) Act 1982. This meant that strip clubs and lap dancing venues would now fall under the same licensing regime as sex shops and sex cinemas. The process for applications would be similar to that for licensed premises and with the exception of uncontested transfers, all applications would be considered by a committee.

At the Council meeting in December Members would consider adopting the new legislation and the formation of a General Licensing committee to deal with all licenses that did not fall under the remit of the Alcohol and Entertainment Committee. If approved by Council the adoption of the new regime would come into effect in from 1 February 2011 and the first applications would be dealt with from 1 August 2011. If the new provisions were not adopted the Council would have to conduct a formal public consultation.

The meeting closed at 8.10 pm.

Action Sheet
ALCOHOL & ENTERTAINMENT LICENSING COMMITTEE
TUESDAY 16 NOVEMBER 2010

Minute Number	Actions	Officer Responsible
2 Declarations of Interest	None	
3 Minutes of the Previous Meeting	Arrange a mock hearing and training on the overlapping issues of the planning and licensing processes, for January/February 2011.	Senior Licensing Officer
4 2010 Review of the Statement of Licensing Policy	None	
5 Re balancing the Licensing Act - Government Consultation and Sexual Entertainment Venues	None	