
MINUTES OF THE MEETING OF THE LICENSING COMMITTEE**HELD ON THURSDAY 31 OCTOBER 2013 AT 7.30 P.M.****IN THE COUNCIL CHAMBER, WEELEY**

Present: Councillors Fawcett (Chairman), Platt (Vice-Chairman), Caines, Casey, Colbourne, De-Vaux Balbirnie MBE, D Oxley, Powell, Pugh, Sambridge, Shearing, Skeels and White

Also Present: Councillor Brown

In Attendance: Environmental Services Manager (John Fox), Senior Solicitor (Michael Gibson-Davies), Licensing Manager (Simon Harvey), Senior Democratic Services Officer (Ian Ford) and Licensing Assistant (Michael Cook)

1. APOLOGIES FOR ABSENCE AND SUBSTITUTE MEMBERS

Apologies for absence were submitted on behalf of Councillors A J Mitchell and G L Mitchell. There were no substitutions.

2. MINUTES OF THE LAST MEETING

The minutes of the last meeting of the Committee held on Friday 7 September 2012 were approved as a correct record and signed by the Chairman.

3. DECLARATIONS OF INTEREST

There were none.

4. MINUTES - LICENSING (GENERAL PURPOSES) SUB-COMMITTEE

The Committee received and noted, for information only, the minutes of the meetings of the Licensing (General Purposes) Sub-Committee held on 12 November 2012, 15 March 2013, 5 July 2013 and 30 September 2013.

5. MINUTES - PREMISES/PERSONAL LICENCES SUB-COMMITTEE 'A'

The Committee received and noted, for information only, the minutes of the meeting of the Premises/Personal Licences Sub-Committee 'A' held on 19 March 2013.

6. MINUTES - PREMISES/PERSONAL LICENCES SUB-COMMITTEE 'B'

It was moved by Councillor D Oxley and seconded by Councillor De-Vaux Balbirnie that, subject to it being noted that Councillor D Oxley had not moved the decision of the Sub-Committee to grant a premises licence at that meeting nor that he had in fact voted in favour of the decision, the minutes of the meeting of the Premises/Personal Licences Sub-Committee 'B' held on 4 September 2013 be received and noted, for information only.

Councillor D Oxley's motion, on being put to the vote was declared LOST on the Chairman's casting vote.

It was then moved by Councillor Platt, seconded by Councillor White and:

RESOLVED that the minutes of the meeting of the Premises/Personal Licences Sub-Committee 'B' held on 4 September 2013 be received and noted, for information only.

7. MINUTES – PREMISES/PERSONAL LICENCES SUB-COMMITTEE 'C'

The Committee received and noted, for information only, the minutes of the meeting of the Premises/Personal Licences Sub-Committee 'C' held on 17 September 2012 and 8 October 2012.

8. LICENSING ACT 2003 – APPLICATIONS APPROVED UNDER DELEGATED POWERS

The Committee noted the contents of a report on Premises Licence/Club Premises Certificate and Personal Licence applications, which had been approved under Delegated Powers, during the period 1 September 2012 to 22 October 2013, which report was submitted for information only.

9. LIMITED RE-DESIGNATION OF PROHIBITED STREET TRADING STREETS TO STREET TRADING CONSENT STREETS IN CLACTON TOWN CENTRE

The Committee's approval in respect of a proposed resolution to allow a limited re-designation of Prohibited Street Trading Streets to Street Trading Consents Streets within Clacton Town Centre and to advertise that resolution and invite public consultation on it in accordance with the requirements of Section 2 paragraphs (2) to (13) of the Local Government (Miscellaneous Provisions) Act 1982.

It was reported that the success of the Continental Market held in the Clacton Town Square for four days in July 2013 had highlighted a need to re-designate the streets which encompassed the Town Square locality from prohibited streets to consent streets. That measure would enable the Council to be able to positively promote such occasional market events in the future. It was considered that the market had attracted many additional visitors to the town and had created a vibrant and colourful atmosphere for residents, visitors and businesses alike and therefore the Council wished to put into place the proper mechanism to allow and promote such markets that enhanced Clacton town centre.

Members were made aware that any re-designation to street trading consent streets would still maintain the Council's control of street trading in that locality and the decision on whether to grant a street trading consent would still solely rest within the Council's remit.

The roads that it was proposed to re-designate from their current status as Prohibited Street Trading streets to Consent Street Trading streets were from the junction of Jackson Road/Rosemary Road to the junction of Rosemary Road/Station Road to the junction of Station Road/West Avenue to the junction of West Avenue/Jackson Road to the junction of Jackson Road/Rosemary Road and the remainder of Pier Avenue up to the junction of Marine Parade Clacton on Sea and all forecourts, roads, footways or other areas adjacent to those streets for a distance of 10 metres which the public had access to without payment.

Having considered the proposal, it was moved by Councillor White, seconded by Councillor De-Vaux Balbirnie and:

RESOLVED that

- (a) the Committee agrees, in principle, to re-designate those streets detailed in the draft public notice, as attached as Appendix 2 to item A.2 of the Report of the Corporate Director (Public Experience), from prohibited street trading streets to street trading consent streets;

(b) the draft public notice be published in the public notice section of a local newspaper and a public consultation undertaken in accordance with that public notice and with the following interested parties:

- the Chief Officer of Police for the area;
- the Highway Authority;
- the Councillors for the Pier Ward; and
- the Clacton Town Partnership;

(c) the results of the public notice and public consultation exercise be reported to the Committee at its next appropriate meeting for its final decision on whether to re-designate the streets in question from prohibited street trading streets to street trading consent streets.

10. RESPONSE TO HOME OFFICE CONSULTATION ON PROPOSAL TO ABOLISH PERSONAL LICENCES

The Committee's approval was sought to a response prepared by the Licensing Manager to the Home Office's consultation document entitled 'Personal Licences: Enabling Targeted, Local Alternatives'. The document sought views on the Government's proposals to abolish the renewal of Personal Licences and the system of Personal Licences entirely as part of its wider alcohol strategy and its agenda to reduce 'red tape' and bureaucracy as a burden on businesses.

It was reported that the Government was concerned that the system of Personal Licensing was not effective in ensuring responsible sales of alcohol or tackling crime and disorder and also that the system was not targeted, but was a national blanket requirement that encompassed all premises whether they be high risk or low risk and as a result incurred the licensed trade industry in significant costs in training, application fees and criminal records checks. Instead the Government was proposing through its consultation document to replace the system of Personal Licences by Local Licensing Authorities imposing conditions on premises licences that were more precisely and appropriately targeted towards individual premises in respect of staff training and criminal records check requirements.

The Government had therefore suggested strengthening existing legislation by the following means:

- i. Requiring all alcohol sales to be made or authorised by the Designated Premises Supervisor (DPS), rather than a personal licence holder;
- ii. Allowing the Police to object to a new DPS based on the crime prevention objective in general, rather than only in 'exceptional circumstances';
- iii. Allowing licensing authorities to require a criminal records declaration to be provided with any new application to vary a DPS; and
- iv. Allowing those who either were named as the DPS in relation to a premises licence, or had accredited training, to give up to 50 Temporary Event Notices (TENs) a year; those without would be limited to giving five.

Members were informed that the Home Office consultation document did not explain or clarify how the Government proposed to maintain the validity and responsibility of the DPS when the proposal was to abolish the system of Personal Licensing given that to be a DPS (who was normally the person who had been given day-to-day responsibility for running the premises by the premises licence holder) an individual must hold a Personal Licence. Therefore removing the requirement to hold a Personal Licence would potentially de-value the authority and responsibility that the DPS position held.

The Committee was advised that its licensing authority officers did not agree with the Government's proposal as they felt that they potentially de-valued the professionalism and

responsibility of the licensed trade and worked against a partnership approach of tackling the problems of alcohol related crime and disorder and public nuisance. The proposals were also likely to increase costs for businesses because the responsible authorities could have no other recourse than to seek training and criminal records checks for staff working in licensed premises through the use of premises licence review applications or by conditions imposed on new, or variation, premises licence applications that, as a result, led to more appeals to the Magistrates' Court and a commensurate increase in time spent and costs incurred for all parties concerned.

In addition, the aim and ethos of Personal Licence training was to ensure that licence holders were aware of licensing law and the wider social responsibilities associated with the sale of alcohol. It was therefore not clear to officers how abolishing the requirement to hold a Personal Licence would result in promoting awareness of those wider social responsibilities.

The Committee was also advised that, significantly, the licensed trade itself was not supportive of the proposed abolition of Personal Licences.

Having considered the Licensing Manager's draft response to the consultation, which was before Members as Appendix 1 to item A.3 of the Report of the Corporate Director (Public Experience):

It was moved by Councillor White, seconded by Councillor D Oxley and:

RESOLVED that the draft response prepared by the Licensing Manager in respect of the Home Office's consultation document titled 'Personal Licences: Enabling Targeted, Local Alternatives' be approved and submitted to the Home Office as the Licensing Committee's formal response, on behalf of the Council, to that consultation document.

11. INFORMATION ON THE LATE NIGHT LEVY AND EARLY MORNING RESRICTION ORDERS IN RESPECT OF ADOPTIVE POWERS AVAILABLE TO COUNCILS TO CONTROL THE LATE NIGHT ECONOMY

The Committee gave consideration to a comprehensive report which provided it with information on the use of the Late Night Levy (LNL) or Early Morning Restriction Orders (EMRO) in connection with premises and club premises authorised to sell alcohol between the hours of midnight and 6.00 a.m. The LNL and EMROs were two of the new licensing powers made available to Licensing Authorities under the provisions of the Police and Social Responsibility Act 2011 and were adoptive powers that could be implemented if the local circumstances permitted or warranted their use, based on sufficient evidence being supplied through prior consultation with interested parties and stakeholders, in particular Essex Police.

The Committee received a presentation by the Licensing Manager (Simon Harvey), which informed it of the nature of the statutory powers available to the Council under the LNL and EMRO mechanisms and raised some issues and concerns surrounding the use of those powers.

Having considered the comprehensive information submitted in the report and the presentation by the Licensing Manager:

It was moved by Councillor Platt, seconded by Councillor Shearing and:

RESOLVED that

- (a) Officers seek to obtain evidence from the Police and Crime Commissioner for Essex and Essex Police in order to determine whether there is sufficient evidence to support

the implementation of the Late Night Levy in the District of Tendring which is robust enough to defend such a measure against a judicial challenge and report the results of such evidence to the Committee; and

- (b) Officers seek to obtain evidence from the Essex Police in order to determine whether there is sufficient evidence to support the implementation of an Early Morning Restriction Order in the District of Tendring which is robust enough to defend such a measure against a judicial challenge and report the results of such evidence to the Committee.

12. ANY OTHER ITEMS WHICH THE CHAIRMAN DECIDES ARE URGENT

There were none.

13. EXCLUSION OF PRESS AND PUBLIC

It was moved by Councillor De-Vaux Balbirnie, seconded by Councillor Pugh and:-

RESOLVED that under Section 100A(4) of the Local Government Act 1972, the public be excluded from the meeting for the item of business to be considered below on the grounds that it involves the likely disclosure of exempt information as defined in Part 1 of Schedule 12A of the Act.

14. EXEMPT MINUTES - LICENSING (GENERAL PURPOSES) SUB-COMMITTEE

The Committee received and noted, for information only, the exempt minutes of the meetings of the Licensing (General Purposes) Sub-Committee held on 12 November 2012, 15 March 2013, 5 July 2013 and 30 September 2013.

The meeting was declared closed at 9.36 p.m.

Chairman