
MINUTES OF THE SPECIAL MEETING OF THE LICENSING AND REGISTRATION COMMITTEE HELD ON THURSDAY 18 FEBRUARY 2016 AT 7.30 P.M. IN THE COUNCIL CHAMBER, WEELEY

Present: Councillors Platt (Chairman), Callender (Vice-Chairman), Amos, B E Brown, V E Guglielmi, J Henderson, Newton, Raby, Skeels Jnr, Watson, Whitmore and Winfield

Also Present: Councillor McWilliams (Well-being and Partnerships Portfolio Holder)

In Attendance: Environmental Services Manager (John Fox), Licensing Manager (Simon Harvey), Solicitor (Linda Trembath), Senior Democratic Services Officer (Ian Ford), Democratic Services Officer (Katie Sullivan)

25. APOLOGIES FOR ABSENCE AND SUBSTITUTE MEMBERS

Apologies for absence were submitted on behalf of Councillors Davis and White.

26. MINUTES OF THE LAST MEETING OF THE COMMITTEE

The minutes of the last meeting of the Committee held on Wednesday 20 January 2016 were approved as a correct record and signed by the Chairman.

27. DECLARATIONS OF INTEREST

There were none.

28. PROPOSED TAXIWATCH SCHEME IN TENDRING

The Committee was aware that a representative of Essex Police had been due to attend the meeting to discuss, on an informal basis, the possibility of setting up a TaxiWatch Scheme in Tendring.

The Licensing Manager informed Members that due to ongoing organisational changes at Essex Police this item had had to be deferred until a future meeting of the Committee.

In response to a question from Councillor V E Guglielmi, the Licensing Manager outlined the purpose of a TaxiWatch Scheme to Members.

The Committee noted the forgoing.

29. CHANGE TO LICENSING ACT 2003 IN REGARDS TO LATE NIGHT REFRESHMENT

The Committee had before it a report which asked it to determine whether it wished to adopt the optional mechanism made available through the Deregulation Act 2015 in order to exempt premises that provided Late Night Refreshment (which was classified as the sale of hot food and/or hot drink between the hours of 11.00 p.m. and 5.00.a.m.) from the requirement to hold a licence, or permission to do so, under the Licensing Act 2003.

It was reported that in November 2015, the Government had introduced Regulations which gave Councils the ability to exempt premises that currently held a premises licence under the Licensing Act 2003 to provide Late Night Refreshment (LNR) from needing to be licensed. The exemption would also apply to any premises wishing to include LNR as a licensable activity as part of a new premises licence application, or LNR as the sole activity

permitted on a new application. In terms of premises that solely held a premises licence to provide LNR there were 28 of those licensed across the District. A list of those premises was attached as Appendix 1 to the report of the Corporate Director (Life Opportunities).

The Committee was made aware that the Licensing Act 2003 (Late Night Refreshment) Regulations 2015 provided a list of prescribed premises which a Licensing Authority could exempt from the requirement under the Licensing Act 2003 for the provision of late night refreshment. That list includes premises such as:

- Motorway service areas;
- Premises used for the retailing of petrol or derv;
- Licensed Premises authorised to sell by retail alcohol for consumption on the premises between 11:00p.m and 05:00a.m;
- School and Local Authority premises where no more than 500 people are present (non-domestic premises); and
- Community premises and hospitals subject to certain requirements.

The Committee was also informed that Licensing Authority could also decide to exempt premises within a certain geographic area of the District from the requirement to license LNR, and also change the hours during which LNR premises would require a license which would apply across the whole of the District. For example, the Licensing Authority could decide that it would only require premises to hold a LNR license if they remained open between the hours of Midnight and 05:00a.m. Those were matters for the Licensing Authority's discretion and are not prescribed in any Regulations. In deciding whether to apply an exemption for either part of the District or the whole of the District the Licensing Authority would take into consideration matters such as the levels of late night anti- social behavior that occurred in the geographic area proposed for exemption, or the instances of late night anti –social behavior linked to a particular take away or takeaways in a geographic area, or the likely effect on late night anti-social behavior by applying an exemption from licensing to such premises.

Members were advised that, if the Licensing Authority, through the decision of this Committee decided to apply any of the exemptions to LNR that could be applied by implementing the new LNR Regulations it must publicize that exemption and also statutorily re-consult on its Statement of Licensing Policy in accordance with Section 5 of the Licensing Act 2003. As such, this would entail substantial costs to the Council in carrying out such a consultation and to report it back to this Committee. Exempting all premises from being required to hold a premises license to provide LNR could cost the Council £4095 annually through lost revenue to the Licensing Act 2003 budget. There was no provision within the Council's budget to balance that shortfall.

Members were further advised that there were three potential risks to the Council in agreeing to exempt premises from needing to hold a permission, or a licence, to provide Late Night Refreshment. Those were:

- Loss of control of Late Night Refreshment premises through the grant, variation or review of licenses under the Licensing Act 2003. This could have a potentially negative impact on the promotion of the licensing objectives.
- Loss of annual fee and grant of new license revenue.
- Once exempted, Late Night Refreshment premises could not be brought back into the licensing regime if, for example, the premises became the cause or source of crime and disorder and/or public nuisance.

The Committee was therefore requested to consider the potential for exempting premises from the requirement to be licensed to provide Late Night Refreshment in either part of the

District or the whole of the District that the Licensing Act 2003 (Late Night Refreshment) Regulations 2015 allowed and to weigh the possible benefits of de-regulation to businesses against the loss of control and revenue to the Council and its residents that such an exemption was likely to bring. It was considered prudent and transparent that the Committee did so in order that if asked by any of the businesses or license holders concerned to consider implementing the Licensing Act 2003 (Late Night Refreshment) Regulations 2015, it would be clear that the Council had considered the matter and had taken a position on it.

Having considered the responses it was moved by Councillor V E Guglielmi, seconded by Councillor Callender and **RESOLVED** that the Committee:

- (a) notes the content of the report and the Home Office document 'Guidance on the licensing of late night refreshment'; and
- (b) agrees not to implement any of the optional provisions of 'The Licensing Act 2003 (Late Night Refreshment) Regulations 2015'.

The meeting was declared closed at 7.50 p.m.

Chairman