

BRIGHTON & HOVE CITY COUNCIL
LICENSING COMMITTEE (LICENSING ACT 2003 FUNCTIONS)

3.30PM 26 NOVEMBER 2009

COUNCIL CHAMBER, HOVE TOWN HALL

MINUTES

Present: Councillors Cobb (Chairman), Lepper (Deputy Chairman), Allen, Harmer-Strange, Hawkes, Hyde, Kitcat, Older, Phillips, Pidgeon, Simson, C Theobald, Watkins and West

Apologies: Councillors Marsh

PART ONE

11. PROCEDURAL BUSINESS

11a. Declarations of Substitutes

11.1 Councillor Kevin Allen declared that he was substituting for Councillor Mo Marsh.

11b. Declarations of Interests

11.2 There were none.

11c. Exclusion of the Press and Public

11.3 In accordance with section 100A of the Local Government Act 1972 ('the Act'), the Licensing Committee (Licensing Act 2003 Functions) considered whether the press and public should be excluded from the meeting during an item of business on the grounds that it was likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the press or public were present during that item, there would be disclosure to them of confidential information (as defined in section 100A(3) of the Act) or exempt information (as defined in section 100(1) of the Act).

11.4 **RESOLVED** – That the press and public be not excluded.

12. MINUTES OF THE PREVIOUS MEETING

12.1 **RESOLVED** – That the minutes of the meeting held on 26 June be signed by the Chairman as a correct record.

13. CHAIRMAN'S COMMUNICATIONS

13.1 There was none.

14. PUBLIC QUESTIONS

14.1 There were none.

15. ALCOHOL DISORDER ZONES

15.1 The Committee considered a report from the Director of Environment regarding Alcohol Disorder Zones (for copy see minute book).

15.2 The Head of Environmental Health & Licensing presented the report and stated that requests had been made from Local Action Teams in the city to impose alcohol disorder zones in certain areas. If these zones were established however, more detailed evidence and work would be needed before they could be imposed. Options could include provision of taxi marshals; street wardens attached to and paid for by business districts; more CCTV in public places and additional street lighting. Additional Police resources would need to be prioritised and although Section 27 Dispersal Powers were suggested, these were already being effectively used by Sussex Police. He added that he would like to correct the recommendation in the report as follows:

1. That Members adopt the governments favoured approach, only exploring ADZs as a last resort and following a request from the Chief Officer of Police, and receipt of evidence for the need in a tightly defined area.

15.3 Inspector Nelson from Sussex Police addressed the committee and stated that the Police were keen to see taxi marshals progressed and a scheme was being introduced which would provide two marshals at two main ranks in the city. He stated that the most obvious benefit of this was the release of Police Officers to other tasks who would otherwise be fulfilling this duty.

Inspector Nelson stated that Sussex Police were traditionally keen to embrace any opportunities provided by Central Government legislation and that their primary duty was to keep citizens safe. He added there was a wider responsibility to community cohesion however, and part of this was a need to consider the financial climate of the city. He believed that the results of Alcohol Disorder Zones (ADZ) might place a financial burden on businesses that was not proportionate to the problems they were trying to tackle.

Sussex Police had seriously considered the situation in St James' Street, but other measures had been introduced to ameliorate the problems and the situation had considerably improved. He reiterated that in this case, an ADZ would have been particularly onerous on the businesses in the St James' Street area. The Police were keen to discuss issues with Local Action Teams (LAT) to avoid introducing what was essentially a crisis measure.

15.4 Councillor Watkins stated the Cumulative Impact Area (CIA) cut through his ward, and this was of particular concern to the LAT. He stated that his residents wanted the entire area to be included as more and more premises were selling alcohol in his area and the CIA would help to control this growth. Councillor Watkins added that Brunswick and Adelaide Ward was the most densely populated area of the city and it was incumbent on

the authorities to consider the impact of this expansion of licensed premises on the residents of the area. He said that the issues would not go away, and each area needed to be considered on an individual basis.

- 15.5 Inspector Nelson clarified that the CIA area was open to review and the Police would always keep an open mind on possible extensions to the area. However, the area was essentially about controlling the boom in licensed premises that had been experienced previously, but this was less evident in the current economic climate. There was a presumption of refusal in the CIA, but this needed to be proportionate and with valid reasons. He added that the Police were keen to explore other methods of controlling the problems residents were experiencing as a result of licensed premises however.
- 15.6 Councillor Kitcat believed that the CIA was not delivering the controls it promised. He cited only one premises being turned down in the CIA, which had resubmitted recently and been approved. He felt the position of rebuttal was not being used effectively and ADZs could help with the problems his residents experienced and would be very welcome in his ward. Councillor Kitcat added that the residents in his ward were tired of being let down by the Police on this issue and added that in the current regime, it was difficult for residents to build evidence of problems against a specific premises, given the times these problems occurred, and felt that the Police should be working harder on this issue. He asked if it was legal to allow anyone to request an ADZ.
- 15.7 The Chairman replied that although any organisation could request an ADZ if the Council allowed it, it would require proof and the Police were considered the only authority who had the ability to provide this proof.
- 15.8 Inspector Nelson added that the CIA was not an irrebuttable presumption and that the policy provided the Police with a sound basis for requesting much more strenuous conditions on a new licence. However, any decision had to be proportionate and if conditions were enough to ameliorate the negative impact of an application, then there was no grounds to refuse it.

He added that the Police took on board residents views of the problems they were suffering, but it was the case that crime had been reduced in the city centre for several years now. The Police did not expect residents to place themselves in danger at night to gather evidence against a premises, but added that they needed residents intelligence to target a particular establishment if necessary. If the Police were alerted to a problem premises they would investigate carefully, but he added that it was difficult to control problems created by people passing through the area.

- 15.9 Mr Nichols stated that anyone could request an ADZ but noted that ADZs and the CIA were different issues. When the CIA had been initially introduced, Mr Nichols had expressed caution about its effectiveness, and the possible perception that it was an immediate resolution to the problems created by alcohol related anti-social behaviour. The CIA concept was not based in statute and it created an unrealistic expectation for residents. He understood the frustrations expressed by communities in the city centre and realised it was difficult to identify one particular premises as the cause of the problems. However, the review process was the main tool by which communities could address the issues in their area and this process had steps which could help to alleviate

persistent problems, including removal of the Designated Premises Supervisor (DPS) and possible revocation of the licence.

- 15.10 Councillor Hawkes stated that the problems created by students returning to Varley Hall in Coldean was being investigated by Police Officers and noted that it was not just premises in the city centre causing problems but people commuting home through areas afterwards. She suspected this issue was prevalent across the city.
- 15.11 Councillor West felt that the Police had been very enthusiastic about the CIA when it was first introduced, but now when new applications were submitted a general concern about the problems in the city was evident from all concerned, but the Police would deal with the application by negotiating conditions, which was disconcerting for the residents. There was an evident lack of success for this policy and although crime had been reduced, he felt this was attributable to the current recession. He asked if the Police would take a more robust approach in defending the CIA.
- 15.12 Inspector Nelson stated that it was not in the Police powers to refuse an application outright. The CIA afforded the benefit of placing more onerous conditions on a new licence than usual. He added that a greater benefit could be gained from ensuring that current licences were operated effectively. To this effect the Police and other responsible authorities met on a regular basis to look at premises where intelligence had been gathered raising concern about their operation and to ensure that effective and ongoing management of these premises was put into place.
- 15.13 Councillor Wrighton felt there was a gap in the law and in service of control of street noise, which she believed had a major effect on residents' lives. She felt ADZs could be used to alleviate this problem and that street marshals could be the way forward.
- 15.14 Mr Nichols noted that this had not been implemented anywhere else in the Country and the Council would be exploring new territory. He added that there was no Council funding for this however and felt it would be a difficult case to assess, as a problem area would need to be identified with evidence, and action plan put into place and a review conducted on a three monthly basis. He noted that by-laws already created offences for noisy individuals in the street, although recognised that this did not represent a practical solution.
- 15.15 Inspector Nelson added that Police Officers regularly dealt with individuals who were breaching the peace, but this often happened late at night and was not always an immediately obvious action for residents to note.
- 15.16 Councillor Kitcat asked what could be paid for using ADZs. Mr Nichols replied that all of the actions and proposals as listed in the report could be funded, but this was not an exclusive list and other options could be considered.
- 15.17 Dr Scanlon from the Public Health Directorate of Brighton & Hove stated that he was very keen to support and explore this idea further as he felt there was much that could be done to tackle problems in the city that were over and above the Police's remit.

- 15.18 Inspector Nelson added that the Police and health colleagues were discussing initiatives including advice on how people could drink responsibly and keep themselves safe. He felt this gave a strong message that the Police cared about residents' safety.
- 15.19 Councillor Simson added that the Police and the Council were working in conjunction with different faiths in the city to provide a street pastors scheme, which would be implemented in March-April 2010.
- 15.20 Councillor West felt that it was clear there were problems being experienced by residents relating to these issues, which were not being addressed. He understood the authority would be the first to implement this but felt that elements of the proposals could be used as a useful tool to alleviate the problems without having to implement a full ADZ. He added that unless the Council explored the options and tested to see if they were successful they would not know if they were effective. He did not want to miss the opportunity to resolve some of these issues and felt that the recommendation in the report was limiting. He proposed the following amendment, seconded by Councillor Watkins, to the recommendation:
1. That Members adopt the governments favoured approach, only exploring ADZs as a last resort and following a request from the Chief Officer of Police, LATs or properly constituted community groups, and receipt of evidence for the need in a tightly defined area.
- 15.21 Councillor Watkins felt that the options to request an ADZ did need to be widened out to LATs, but felt that if ADZs were being used as a last resort all other options needed to be explored and made available to residents first. He added that LATs were extremely responsible organisations with detailed knowledge of their communities.
- 15.22 Inspector Nelson agreed that new legislation should be embraced where opportunities were evident but he reiterated that levying businesses to pay for options could result in an unfair economic burden at a difficult time. He added that the Police were part of the LATs in the city rather than separate from them, and if any LAT wanted to explore ADZs further, this would be considered by the Police.
- 15.23 Councillor Kitcat felt that the opportunities inherent in ADZs should be embraced and proposed another amendment to the recommendations, seconded by Councillor West, as follows:
1. That Members adopt the governments favoured approach, only exploring ADZs as a last resort and following a request from the Chief Officer of Police, LATs or properly constituted community groups, and receipt of evidence for the need in a tightly defined area.
 2. That the Committee accepts the St James Street LAT request for an Alcohol Disorder Zone and will investigate the options further.
- 15.24 A vote was taken on Councillor Kitcat's amendment and was lost. A vote was taken on Councillor West's amendment and was lost. A vote was taken on the recommendation in the report, as corrected by the Head of Environmental Health and Licensing, and was carried.

15.25 **RESOLVED** – That Members adopt the governments favoured approach, only exploring ADZs as a last resort and following a request from the Chief Officer of Police, and receipt of evidence for the need in a tightly defined area.

16. HEALTH IMPACT ASSESSMENT OF LICENSING

16.1 The Committee considered a report from the Director of Environment regarding the Health Impact Assessment of Licensing (for copy see minute book).

16.2 The Head of Environmental Health and Licensing presented the report and noted that the assessment had already been considered at the Alcohol Strategy Group where colleagues from the Police had reviewed the findings. The Alcohol Strategy Group felt that lobbying of Central Government on the issues would not be particularly helpful at this current time, given the impending general election. The Group also expressed concern over the management of the actions, given there were so many. However, it was recognised that these were unfiltered responses from members of the public and whilst they were honest accounts, they were not necessarily legally achievable, funded, practical or in some cases, desirable.

In terms of the action points that related to the licensing function of the Council, the Head of Environmental Health and Licensing noted that the Statement of Licensing Policy was due to be reviewed by December 2010, and the Cumulative Impact Area to be reviewed by April 2010. The aspirations in this document could be used to inform these policies.

16.3 Dr Scanlon, Director of Public Health for Brighton & Hove City Council and Brighton & Hove PCT addressed the Committee and stated that this had been an independent report commissioned by Brighton & Hove Primary Care Trust and the Brighton & Hove City Council Directorate of Public Health. The work had been tendered out to expert consultants in health inequality assessment. The original consultation process had produced fairly subjective results and the consultants had been asked to obtain statistical data in support of this.

However, Dr Scanlon felt the data still did not clearly reflect the trend in alcohol related health issues over a significant period, as the information did not adequately pre-date the introduction of the Licensing Act. There was however, some valuable data in the report and the findings did show a significant increase in alcohol related hospital admissions, an increase in alcohol related domestic abuse and an increase in alcohol related violent crimes over the period assessed.

Dr Scanlon added that consultation had been undertaken with the general public, licensees, relevant service providers and elected Members regarding the effects of the Licensing Act, and the general perception was largely negative. Some positive effects of the Act were recognised however, including the increase in tourist trade to Brighton and Hove and the positive economic effects of the licensed trade on the city. Dr Scanlon recognised there was a large amount of recommended actions in the assessment and so a more manageable action list had been drafted as part of the Officers report to consolidate the actions.

- 16.4 Councillor Lepper agreed that the assessment was interesting, but felt the number of actions that had been produced was unreasonable, and many were impossible to implement. She felt that increasing the number of Noise Patrol Officers was highly desirable but financially unachievable, as was the case with many of the action points.
- 16.5 Dr Scanlon agreed that the actions did represent a 'wish list' from residents and local businesses and understood that many of the actions could not currently be implemented. The truncated list in the Officers report represented more attainable goals however.
- 16.6 Councillor Simson agreed with Councillor Lepper and felt that even the truncated list was still a 'wish list' in some respects as there was no money to pay for many of the actions. She noted the cultural change in drinking habits over the last few years, and felt that this played a large part in contributing to the problems. Councillor Simson added that home drinking and 'pre-loading' was as much a problem for society as street drinking, and tackling irresponsible parents was one of the major issues for the authority. A follow-up scheme for young people who had been admitted to hospital as a result of underage drinking had been set up in conjunction with the Health Authority and Councillor Simson felt this was an excellent example of how the local authority could combat anti-social drinking.
- 16.7 Councillor Older noted that one of the actions was to limit the number of licensed premises across the city and asked how this would be achieved. She also raised the issue of anonymous representations from interested parties to Licensing Panels, and asked if this was being considered as an option. The Head of Environmental Health and Licensing stated that the only legal way to cap the number of licensed premises in the city would be to impose a city-wide Cumulative Impact Area (CIA), but this would need evidential proof before it could be imposed.

He added that whilst the actions were not always practical or in some cases legally defensible, they did represent the unfiltered wishes of the local community with regard to licensing issues, and as such were a valuable tool for informing the development and review of the Statement of Licensing Policy. He believed that it would be worthwhile lobbying Central Government in the near future on the issues raised.

The Head of Environmental Health and Licensing went on to add that consideration could be given to the submission and acceptance of anonymous representations at Licensing Panels, but added that the Police and the Local Ward Councillor were able to make representations on behalf of individuals who had safety concerns in this respect. If anonymous representations were accepted an amendment would need to be made to the Statement of Licensing Policy.

- 16.8 Chief Inspector Nelson addressed the Committee and stated that Sussex Police ran a comprehensive test purchase programme of licensed premises to help ensure that underage young people were not sold alcohol, and added that this was now being rolled out to the testing of proxy purchasing. He stated that once a licence had been granted to a premises the Police were also responsible for ensuring that the licensing objectives were upheld and if they gained information that a premises was acting irresponsibly then they would take action.

- 16.9 Councillor Hyde felt that increasing the availability of any product would increase its consumption, and local authorities were now dealing with the impact of this, which she believed was a result of the Licensing Act 2003. She noted the recommendation for referral to Planning Committee and welcomed the report, adding that consideration could be given to directing S106 monies into community facilities that mitigated the effects of increased alcohol consumption.
- 16.10 The Chairman was not sure that an increase in the number of licensed premises necessarily related to an increase in alcohol consumption. She felt that the change in people's lifestyles and attitudes towards alcohol had a more direct impact than the availability of alcohol.
- 16.11 Councillor West was concerned that the value of the report was being disregarded because some of the actions were not currently achievable or affordable. He recognised that it represented a 'wish list' in some respects but felt that this should not detract from the evidence that had been gathered about the negative effects of alcohol on local communities. He felt this was a desperate problem for Brighton & Hove and the authority needed to find imaginative answers to deal with it.
- 16.12 Councillor Wrighton agreed and felt the report represented a damning indictment of the Licensing Act 2003. She noted the 30 per cent increase in alcohol related hospital admissions, the increase in alcohol related crime and the increase in noise complaints and felt these were directly related to the Licensing Act. Councillor Wrighton felt that the Council needed to lobby government for public health to be included as a licensing objective. Councillor Wright proposed, and Councillor Phillips seconded, amendments to 2.2 of the recommendations, and to include an extra recommendation at 2.3, as follows:
- 2.2 That the Licensing Committee refers the Health Impact Assessment to the Planning Committee, the Health Overview and Scrutiny Committee, the Environment and Community Safety Overview and Scrutiny Committee and to Full Council under Procedure Rule 24.3a for information and to inform other corporate policies and strategies.
- 2.3 That the Licensing Committee refers the Health Impact Assessment report to the relevant government minister and requests that due consideration is given to enabling 'public health' impacts to be considered as a Licensing Act objective.
- 16.13 Councillor Watkins felt that the amendments were extremely useful and believed that the Health Impact Assessment was an excellent document. He hoped that A&E departments were keeping their own records of under-age alcohol related hospital attendances, and also of attendances related to illegal drug usage. Councillor Watkins referred to the recent White Night festival as an important example of how communities should be using city facilities at night, and believed that action needed to be taken to ensure that the streets of Brighton & Hove were safe and welcoming for everyone to use whenever they wished.
- 16.14 A vote was taken on each of the recommendations, as amended and proposed, and each vote was carried.
- 16.15 **RESOLVED –**

1. That the findings from this report are considered by the relevant stakeholders and that findings are used to influence the next review of the Statement of Licensing Policy.
2. That the Licensing Committee refers the Health Impact Assessment to the Planning Committee, the Health Overview and Scrutiny Committee, the Environment and Community Safety Overview and Scrutiny Committee and to Full Council under Procedure Rule 24.3a for information and to inform other corporate policies and strategies.
3. That the Licensing Committee refers the Health Impact Assessment report to the relevant government minister and requests that due consideration is given to enabling 'public health' impacts to be considered as a Licensing Act objective.

17. REDUCING ALCOHOL RELATED HARM TO CHILDREN AND YOUNG PEOPLE - CYPOSC REFERRAL

- 17.1 The Committee considered a referral from the Children and Young People's Overview & Scrutiny Committee (CYPOSC) regarding a report on Reducing Alcohol Related Harm to Children and Young People (for a copy see minute book).
- 17.2 Councillor Kitcat and Councillor West raised concern that there were no recommendations resulting from the report and Councillor West proposed, seconded by Councillor Hawkes, a deferral of consideration of the CYPOSC referral as follows:
 1. To defer consideration of the referral from CYPOSC to enable officers in Environmental Health and Licensing to consider the report and establish recommendations to the Committee.
- 17.3 A vote was taken on Councillor West's proposed deferral and was carried.
- 17.4 **RESOLVED** – To defer consideration of the referral from CYPOSC to enable officers in Environmental Health and Licensing to consider the report and establish recommendations to the Committee.

18. GAMBLING ACT 2005 - REVISED POLICY

- 18.1 The Committee considered a report from the Director of Environment regarding the Gambling Act 2005 – revised policy (for a copy see minute book).
- 18.2 The Licensing Manager presented the report and stated that the policy needed to be reviewed every three years according to procedures set out in the Gambling Act 2005, which included details of whom should be consulted. In addition to these statutory consultees, responses were also received from a charity, East Sussex Fire and Rescue Service and Sussex Police. The main proposals in the report were to continue with the existing policy and the Licensing Manager added that the reviewed policy would need to be referred on to Full Council for adoption.

- 18.3 Councillor Wrighton expressed concern that details of regional casinos had been taken out of the reviewed policy and asked what impact this would have. The Licensing Manager stated that when regional, large and small casino sitings were originally proposed by Government, Brighton & Hove City Council had considered accepting a large casino. The city had not be chosen to take this forward however, so there was no longer any need to include this provision in the policy.

Councillor Wrighton remained concerned that Brighton & Hove might be chosen as a site at a future date and the Licensing Manager stated that there was no longer a risk to the city as it had not been chosen as part of the original plans.

- 18.4 Councillor West recognised that casino gambling in the city was an issue that needed to be controlled, but believed that as this was done in a more social atmosphere it was easier to control any problems or help people with gambling additions. He felt that the more serious issue was controlling solitary gambling and finding ways to help people with gambling addictions that were using the internet or TV to gamble.

18.5 **RESOLVED –**

- 1) That the Director of Environment be authorised to refer the final version of the Statement of Gambling Policy to Full Council for adoption; and
- 2) That final Statement of Gambling Policy is presented to Full Council and recommended for adoption.

19. SCHEDULE OF LICENSING APPEALS

- 19.1 **RESOLVED –** That the Committee notes the Schedule of Licensing Appeals.

20. SCHEDULE OF LICENSING REVIEWS

- 20.1 **RESOLVED –** That the Committee notes the Schedule of Licensing Reviews.

21. ITEMS TO GO FORWARD TO COUNCIL

- 21.1 **RESOLVED -** That the Licensing Committee refers the Health Impact Assessment to the to Full Council under Procedure Rule 24.3a for information and to inform other corporate policies and strategies.

The meeting concluded at 6.45pm

Signed

Chairman

Dated this

day of