

LICENSING COMMITTEE (LICENSING ACT 2003 FUNCTIONS)	Agenda Item 11 Brighton & Hove City Council
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BRIGHTON & HOVE CITY COUNCIL

LICENSING COMMITTEE (LICENSING ACT 2003 FUNCTIONS)

3.00PM 24 JUNE 2010

COUNCIL CHAMBER, HOVE TOWN HALL

MINUTES

Present: Councillors Cobb (Chairman), Lepper (Deputy Chairman), Hawkes, Kitcat, Marsh, Older, Phillips, Pidgeon, Simson, C Theobald, Watkins, West, Fryer, Smart and Young

Apologies: Councillors Harmer-Strange, Hyde and Wrighton

Officers: Tim Nichols (Head of Environmental Health & Licensing); Jean Cranford (Licensing Manager); Annie Sparks (Environmental Health Manager); Rebecca Sidell (Lawyer); and Penny Jennings (Democratic Services Officer)

PART ONE

1. PROCEDURAL BUSINESS

1a Declaration of Substitutes

1.1 Councillor Smart declared that he was substituting for Councillor Harmer-Strange.

1.2 Councillor Young declared that she was substituting for Councillor Hyde.

1.3 Councillor Fryer was substituting for Councillor Wrighton.

1b Declarations of Interests

1.4 There were none.

1c Exclusion of the Press and Public

1.5 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).

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

2. MINUTES OF THE PREVIOUS MEETING

2.1 **RESOLVED** – That the minutes of the meeting held on 4 March 2010 be signed by the Chairman as a correct record.

3. CHAIRMAN'S COMMUNICATIONS

One Step Licensing Appeal

3.1 The Chairman explained that since the last licensing Committee, the Licensing Authority had won an important victory (27 April) by using a One Step licensing appeal. The Magistrates court had upheld the decision made by the Licensing Panel of 5 January 2010 to refuse permission for a convenience store in West Street to operate as an off licence. The Panel decision had considered and given weight to concerns raised by the police, residents ward councillors and the Children and Young People's Trust that an additional outlet selling alcohol in West Street would lead to an increase in anti-social behaviour and undermine licensing objectives. The magistrates' dismissed the appeal from the operators being concerned that the premises were in the most sensitive part of the Cumulative Impact Area (CIA) and had accepted evidence presented by the police that one more premises would undermine the licensing objectives in this highly stressed area and would have an adverse effect.

3.2 The decision of the magistrate's court was very important as it showed that as expert licensing councillors Members could have confidence in their decisions and policy making. It was a vindication for sensibly grounded public policy and a good example of regulation by a mature, accountable licensing authority in touch with local people and alcohol issues working in close partnership with experts like the Sussex police.

3.3 **RESOLVED** – That the position be noted.

4. PUBLIC QUESTIONS

4.1 The Committee considered a report of the Director of Strategy and Governance setting out a question received from Ms Lizzie Deane in the following terms:

4.2 "I am very concerned about the detrimental impact that late night drinking and anti-social behaviour is having on the lives of many residents of St Peter's and North Laine Ward and on other parts of the city centre.

Since the introduction of the Licensing Act 2004 we have seen an unwelcome proliferation of on-licensed and off-licensed establishments. Of particular concern is the growing number of off-licences selling cheap, high strength booze which is attractive to street drinkers the negative impact of which is being acutely felt in the London Road area and on The Level.

The Cumulative Impact Area is clearly a helpful tool in limiting the number and activities of new premises. Moreover, Green councillors have gained agreement by the Council for their initiative of establishing a Responsible Licensing scheme to encourage adoption of best practice for licensees and their customers: which has been welcomed by responsible sections of the trade.

Can I ask:

- What is being done to curb the availability of low cost and high strength alcohol?
- When an extension to the boundary of the CIA will be made to include the North Laine and London Road area?
- What progress is being made with the resourcing and implementation of the Responsible Licensing Scheme ”

4.3 The Chairman Councillor Cobb thanked Ms Deane for her question and responded as follows;

“You will see that on the agenda of this Licensing Committee meeting there are two reports which deal with the Cumulative Impact Area and with responsible licensing, items 5 and 6 on the agenda. You will note that both the Council and the Home Office have been researching responsible licensing in the report (Item 6) concerning best practice in licensed premises. This matter was discussed at the last Licensing Committee meeting when one of my colleagues, Councillor Hyde, pointed out that operating the Responsible Licensing star or scores scheme for off-licences could be counter productive by way of publicizing irresponsibly managed premises.

As you may know, the council and its partners were awarded Beacon status for managing the night time economy and for its partnership work. Experience is that the local licensing trade is responsible and very important to the local economy. The few that let the side down are dealt with firmly under our enforcement policy. This is also reviewed in the policy report (Item 5).

On the agenda, you will see a progress report on the development of the Council’s third version of the Statement of Licensing Policy. Our special policy around the Cumulative Impact Area will be dealt with within that process. There must be an evidential basis for a special policy covering impact. You will see in the report that crime and disorder and public nuisance arising from licensed premises appears to be declining. This is due to a responsible licensed trade, the excellent work undertaken by Sussex Police and Operation Marble, the partnership approach and intelligence sharing between the Council and the focused way the council and particularly Licence Panels enforces the Licensing Act. The improvements in London Road are a testament to its local action team working with the authorities to address problem premises.

The Council has limited powers to curb the availability of high strength alcohol. However, the new legislation Policing and Crime Act introduces mandatory conditions prohibiting irresponsible promotions. Licensing Authorities are not allowed to promote fixed prices. Responsible authorities must show a clear causal link between discounting and disorder to take action against irresponsible premises. The Coalition Government has indicated that it will ban the sale of alcohol below cost price and review taxation and

prices to ensure that it tackles binge drinking without unfairly penalising responsible drinkers, pubs and important local industry.”

4.4 Ms Deane asked if concrete examples could be provided in the written response to be sent to her following the meeting. The Chairman referred to the reports which would be considered as part of the Committees’ business that afternoon both of which cited full details of the initiatives carried out and the on-going work being carried forward across the city.

4.5 **RESOLVED** - That the position be noted.

5. STATEMENT OF LICENSING POLICY REVIEW - PROGRESS REVIEW

5.1 The Committee considered a progress report of the Director of Environment detailing progress of the current Statement of Licensing Policy.

5.2 The Head of Licensing, Mr. Nichols explained that the Council as Licensing Authority had a statutory duty to review its Statement of Licensing Policy (SoLP) every three years. This process had included the creation and adoption of a Cumulative Impact Area (CIA) and Special Policy (SSA’s). Following a public consultation process for this, feedback, legal opinion and analysis of the proposal had been adopted with effect from 13 March 2008. It had been agreed that both the cumulative impact and special stress areas would be reviewed regularly, in consequence those areas were reviewed regularly and review data was available for them year on year following their implementation. It was recommended that recommendation 2.2 be removed as it was a statement of fact.

5.3 Councillor Kitcat sought confirmation regarding whether it was proposed that this recommendation be removed as it would pre-judge the outcome of other consultations. He was concerned that reference was made to licence fees for Sex Entertainment / Licensed Sex Shop premises, these formed the subject of a separate report for consideration by the Non Licensing Committee. He was unclear where issues arising should be discussed. It was confirmed that this report provided a contextual overview and met statutory requirements. Non Licensing Act Matters should be considered elsewhere.

5.4 Councillor Kitcat then referred to the letter sent to the appropriate minister within the previous government drawing attention to issues of concern to the Committee, he considered that it would be timely to forward this to the appropriate minister within the recently elected government. The Chairman Councillor Cobb, suggested that it would be appropriate for this letter to be re-circulated to Members in order for them to decide whether and which aspects of it remained relevant and whether they wished it to be resubmitted to central government, the consensus view would prevail. Members were in agreement and the Head of Environmental Health and Licensing agreed to re-circulate the letter.

5.5 Chief Inspector Nelson responded to questions of Councillor Lepper that effective and collaborative interagency working had resulted in the containment of offences in the city, this had included advice and support to premises licence holders to encourage responsible operation. A concerted rigorous and robust approach meant that overall the levels of reported crime had remained stable with sustained reductions in some areas.

The proposed revisions represented “refinements” to the established and solid framework which was already in place. It was recommended that the cumulative impact and special stress areas were retained in their current form. The Senior Environmental Health Officer, Mrs Sparks, confirmed that this position was supported by the Council’s Environmental Health Officers dealing with pollution, prevention and minimisation. Chief Inspector Nelson referred to a power point presentation which had been given to the spring meeting of the Magistrates Bench in April 2010 on policing the night time economy and alcohol related crime and disorder, this had been well received and he stated that he would be happy to circulate this to members of the Committee.

- 5.4 In answer to further questions Mrs Sparks referred to leafleting of students at each of the university campuses at the start of each academic year advising on how to enjoy alcohol and the city’s night life safely and responsibly and how to behave as a responsible neighbour. In addition to halls of residence this information was also provided to letting agents.
- 5.5 Councillor Simson welcomed the report stressing the importance of maintaining the cumulative impact and special stress areas and the recognition that noise and other nuisance could occur outside the CIA and that measures were in place to enable problems to be addressed.
- 5.6 Councillor C Theobald commended the work carried out by the noise complaints team and their pro-active approach.
- 5.7 Councillor Smart referred to the boundaries of the current CIA and special stress areas and to the importance of their boundaries remaining such that they could be effectively policed.
- 5.8 Councillor Young referred to the need for early intervention by and meetings between the relevant officers. In responding officers referred to the recent temporary closure of the Bevendean Hotel. That premises was situated outside the CIA but repeated problems had been responded to proactively. It was stressed such action was not taken lightly and was considered only when considered warranted due to serious circumstances.
- 5.9 **RESOLVED** (1) – That the Committee authorises officers to bring the results of the consultation and the Revised Statement of Licensing Policy to its next scheduled meeting in November 2010.

(2) The recommendation of Sussex Police that the cumulative impact and special stress areas be retained in their current form be agreed. It is noted that this position is supported by the Council’s Environmental Health Officers dealing with pollution, prevention and minimisation.

6. BEST PRACTICE IN LICENSED PREMISES

- 6.1 The Committee considered a report prepared following a Notice of Motion presented at Council on 4 March 2010 regarding responsible licensing. The Committee had agreed at its previous meeting to draw up a list of best practice taking account recommendations of the “Reducing Alcohol Related Harm to Children and Young People Scrutiny Panel

and, to look into ways of publicly recognizing and rewarding responsible licensees who followed best practice, in a similar way to its successful “Scores on the Doors” scheme.

- 6.2 Councillor West stated that he was very disappointed with the report before the Committee stating that he was unable to support the recommendations as they stood as there should be a greater emphasis on working with the trade.
- 6.3 The Chairman, Councillor Cobb, stated that co-operative working with the licensing trade was actively encouraged and worked very well. At the previous meeting of the Committee, Councillor Hyde had referred to the need to seek to prevent over counter sales to underage drinkers.
- 6.4 Whilst recognizing the good work that had been carried out in the past, the current processes were entirely reactive, whereas the licensing authority needed to reach out to the industry.
- 6.5 Chief Inspector Nelson, present from the Police Authority stated that the “Scores on the Doors” and other schemes had worked well and had been well received as had the support provided to responsible licence holders.
- 6.6 Councillor West stated that he considered that it was important that the Licensing Strategy Group set up a “soft” group to monitor the existing scheme, he made a formal amendment to that effect supported by Councillor Fryer. A vote was taken and on a vote of 4 to 11 the proposed amendment was lost.
- 6.7 A substantive vote was then taken and Members voted to receive the report and note its contents.

6.8 **RESOLVED** – That the contents of the report be noted.

7. SCHEDULE OF LICENSING REVIEWS

7.1 The Committee considered a report setting out details of the Licensing Reviews carried out during the period covered by the report.

7.2 **RESOLVED** – That the content of the report be noted.

8. SCHEDULE OF LICENSING APPEALS

8.1 The Committee considered the schedule of Licensing appeals carried out during the period covered by the report.

8.2 **RESOLVED** – That the content of the report be noted.

9. ITEMS TO GO FORWARD TO COUNCIL

9.1 There were none.

The meeting concluded at 4.10pm

Signed

Chairman

Dated this

day of

