

Public Document Pack

BRECKLAND COUNCIL

At a Meeting of the

LICENSING COMMITTEE

Held on Wednesday, 23 January 2013 at 10.00 am in
Norfolk Room, The Conference Suite, Elizabeth House, Dereham

PRESENT

Mr S.G. Bambridge (Chairman)	Mr T. J. Lamb
Mrs E. M. Jolly (Vice-Chairman)	Mr K. Martin
Mrs S Armes	Mr F.J. Sharpe
Mr T.J. Lamb	Mrs P.A. Spencer

Also Present

Mr T. Grover

In Attendance

Julie Britton	- Senior Committee Officer
Fiona Inston	- Licensing & Business Support Manager
David Spencer	- Joint Deputy Planning Manager

Action By

1/13 MINUTES (AGENDA ITEM 1)

The Minutes of the meeting held on 24 October 2012 were confirmed as a correct record and signed by the Chairman.

Members were informed that a report had been produced as suggested under Minute No. 19/12 in relation to raffles and would be included on the agenda for the next meeting for information.

2/13 APOLOGIES (AGENDA ITEM 2)

Apologies for absence were received from K Millbank, K Pettitt and J Rogers. A late apology was also received from Councillor C Bowes who had said that she would be attending as a substitute but was unable to make the meeting due to car problems.

3/13 NORFOLK CONSTABULARY'S WORK WITH LICENSED PREMISES (AGENDA ITEM 6)

Tony Grover from the Norfolk Constabulary Team was in attendance following the postponement of his briefing at the Licensing Committee meeting on 24 October 2012.

Mr Grover was the designated Licensing Officer for the Norfolk Police dealing with licensing issues at licensed premises. He had not come across any problems in relation to gambling.

**Action
By**

The Team was based in Norwich and were part of the Community Safety Team incorporating an Inspector a Sergeant, 3 constables and administrative support. The job entailed checking through licensing applications and addressing issues as and when they arose.

Mr Grover gave a detailed explanation on how the Team dealt with problems at licensed premises and circulated a Visits or Interventions Actions flow chart.

The Chairman stated that he would prefer the Breckland Licensing Team, the Police, Health and the Trading Standards to work more closely together. He mentioned the visit to a licensed premise that he had attended accompanied by the Constabulary Team and the Licensing & Business Support Manager which he had found very useful as he was able to ascertain first hand how the system worked and how any problems were dealt with. He encouraged other Members to do the same.

Councillor Spencer asked how the Team segregated its way of doing things from Breckland's Enforcement Team. Members were informed of the process. When a licensing application came in the Team would make sure that it had been completed correctly, as did the Licensing Authority; then he, on behalf of the Police, Planning, Fire Service and Trading Standards would all be sent a copy so that all had an opportunity to make representations. The Police's aim was crime and disorder and public safety and discussions would take place with the applicant on any of these issues in relation to risk. If there was a risk, conditions would then be placed on the licence which would be enforceable. However, he reminded Members that there were many old licences under the previous Licensing regime that had been converted enbloc making many conditions unenforceable.

The paper that had been circulated highlighted how the Police approached a particular problem and Mr Grover further highlighted the difference between the Police approach and the Licensing Authority approach. Any licensing offences detected were normally put back to the Licensing Authority. The Licensing & Business Support Officer stated that this depended on the action needed but it ensured that there was never an issue that no-one wanted to take ownership of. This approach had been adopted across Norfolk; however, there were very very few prosecutions in regard to licensing premises and generally the Licensing Authority dealt with problems during a review as pursuing offences through the courts was a time consuming process.

Councillor Spencer asked who a problem should be reported to - the Police or the Licensing Authority. Members were informed that if it was an assault, anti-social behaviour or an attack then it would be the

**Action
By**

Police, a fire risk would be the Licensing Authority first then the Fire Brigade. Mr Grover said that all information was shared between the responsible authorities. Multi operations were also engaged as there were often conflicts between planning requirements and licensing requirements. There were quite a few problems that the Police came across in relation to planning and it was felt that there was an opportunity for planning to take a little more interest.

Referring to the application form, Councillor Armes asked if it was through a lack of understanding when incorrectly completed and was it too detailed for the European community who might not be aware of the full implications of the form. The Licensing & Business Support Officer stated that advice was available if applicants so wished. In relation to the application form, this was a national form and was a legal requirement. However, the form was currently being reviewed by the Home Office.

Mr Grover said that some people found the forms to be quite intimidating as there were quite a few pages to complete even though 3 sections had been removed.

Councillor Martin stated that there were two premises in Attleborough where the Police had to be often called. Mr Grover reminded Members that these problems could only be dealt with if they were reported to the Police – obviously they had not. Attleborough had not caused the Police any problems of late.

Referring to reviews, Mr Grover highlighted the fact that the last review to take place in Breckland was in relation to a public house in Swaffham. The premises had since re-opened and there had not been any problems as yet. The Licensing & Business Support Manager reminded Members that any review would have to be dealt with by the Licensing Sub-Committee backed up by evidence before a decision could be made. Councillor Lamb felt that it had been a much better system when the Magistrates and the Police had dealt with Licensing issues. He thought that the new regime was too complicated and much too costly and further felt that many problems had stemmed from alcohol being too easily available and questioned why there were so many places allowed to sell it in such a small area. Mr Grover explained that there was no Cumulative Impact Policy in place in Norfolk. The Licensing & Business Support Manager advised that Council's did not have the powers to restrict the sale of alcohol but any premises would have to come before a Sub-Committee to sell if objections were received.

The Chairman stated that this meeting had been called to understand and ask questions in relation to licensing and pointed out that Members had authority to put their views forward to the appropriate department if they felt that there were too many off-licences in an area. Councillor

**Action
By**

Lamb said that this subject was often raised at Planning Committee. The Chairman stated that even if the Planners gave permission to an applicant to turn a normal shop into an off-licence the Licensing Authority could look into this further – in fact, these issues needed to be brought forward more often. The Licensing & Business Support Manager advised that cumulative impact would have to be heavily evidence based. Councillor Sharp asked if it was possible for a person to be disqualified from holding a Premises Licence. Mr Grover stated that there was no such thing as being disqualified from holding such a licence but a personal licence could be removed under certain circumstances. In response, Councillor Sharp asked how the Police would know if an applicant applying for a premises licence who was new to the area had been involved in criminal activities. Members were informed that this was one of the reasons why so many checks were carried out to determine a person's background. The system was far from perfect as there was no central database or recording systems; however, a different system was in place for a personal licence. Hackney Carriage Licences were mentioned where opportunities/second chances were given to applicants at the Appeals Committee discretion.

In response to a further question about cumulative impact and whether the amount of licensed premises were taken into consideration, the Licensing & Business Support Officer advised that if there were many such premises in close proximity crime levels could be classed as suitable evidence; however, there were no exclusion zones in the East. She mentioned a similar case in Brighton where the costs of bringing such a case forward had been extortionate.

Mr Grover said that we were quite fortunate in Norfolk as there was a good working relationship between the responsible authorities. He reminded Members that they were quite welcome to participate in visiting premises which could quite easily be arranged. The Licensing & Business Support Officer said that she had accompanied the Chairman on one of these visits – there had not been any problems but it had been a good experience for all concerned.

The Chairman thanked Mr Grover for attending the meeting and encouraged him to stay for the remainder.

4/13 THE ROLE OF THE RESPONSIBLE AUTHORITY (AGENDA ITEM 7)

The Joint Deputy Planning Manager had been invited to the meeting to provide the Committee with an overview of Planning's involvement with regard to betting shops and other licensed premises and how licensing as a whole fitted in with the wider area of the planning committee.

A planning permission ran with the land or a building – the morality or the ethics of the applicant was not a planning consideration. The

**Action
By**

planning perspective was to focus on the suitability of the development. Material planning considerations included: amenity, crime & disorder, design, layout, appearance and the suitability of the use. It was considered unlikely that an off-licence or betting shop would be given permission in employment areas. However, even in these stringent times there was still a strong demand for licensable activities such as entertainment, alcohol and late night refreshments.

There were three main policies for licensed premises within the Local Development Framework - to support leisure facilities in town centres (75% in terms of policy in town centres had to be retail), protection of amenity and support new community and leisure proposals in villages and to protect existing facilities.

The Planning System could approve a development at variance with the Licensing Authority. The Local Planning Authority was not bound by the conclusions of the Licensing Committee.

Once a use had been long established its control would be through the licensing regime and changes in operation might not require planning consent but would require amendments to the Licence.

What could be acceptable from a licensing point of view could have planning issues (e.g. highways) which would result in a scheme being refused planning permission.

Members were provided with the meaning of retail use and were also provided with a list of planning uses that gave an indication of the types of use within A1 and A2 use class.

A1 Shops – Shops – butchers, bakers, supermarkets, clothing, off-licences.

A2 Financial and professional services - Financial services such as banks and building societies and betting shops.

Certain changes involving similar types of use did not require planning permission; for example permission would not be needed when both the present and proposed uses fell within the same class. However, it was felt that betting shops should be seen as a 'standalone' use but the Government did not want to be seen to be interfering with market activities. These were issues that Members could consider through the new Local Plan; for example if there was a specific issue for Breckland such as cumulative impact that could be backed up by appropriate evidence.

Councillor Armes asked which category car showrooms came under. Members were informed that car showrooms were a form of retail but came under a use without class meaning it would require planning

Action
By

permission if a change of use was applied.

In response to a further question, it was noted that Charity Shops came under retail definitions. The Licensing & Business Support Manager stated that Licensing did get involved in charity collections.

Overall there were perceptions of disconnection between Planning and Licensing. There were also a number of licensed premises that had been around for hundreds of years that were beyond the planning system. Further to this, the Planning Authority was not bound by a decision of licensing and visa versa. A planning condition on opening times could be attached to the permission and if breached it would then become an enforcement issue.

Members were reminded that any objections in relation to the Licensing Objectives would automatically be referred to the Licensing Sub-Committee. The Chairman said that he did take account of objections but every authority had to work within the Law but felt that more weight should be given to the Police. Mr Grover outlined his responsibilities.

The Joint Deputy Planning Manger advised from a planning point of view, the key driver was amenity, looking at the adjoining uses and trying to find the right balance. Licensing would be consulted on how specific hours should be set to ascertain reasonable hours of operation.

Councillor Armes mentioned leisure in the countryside and the fact that planning and licensing should work together. Members were informed that Breckland did have examples of such leisure facilities in the countryside that worked well. There were some forms of diversification that were looked upon favourably; however, amenity and highway issues had to be considered in terms of travel and the suitability of buildings to be adapted. In response to the latter, the Licensing & Business Support Manager explained that licensing was restricted based on the licensing objectives. For example, parking and highway issues were nothing to do with the said objectives but agreed that there were many grey areas within the legalisation.

Councillor Sharp asked about the extension of business hours. Members were informed that such information would be reviewed by all responsible authorities and the applicant would have to apply for a variation through Licensing. The Sub-Committee procedure was explained.

The Joint Deputy Planning Manager was thanked for attending the meeting.

A copy of the presentation that was not shown at the meeting and a

Action
By

copy of a Government Notice on Planning and Betting Shops are appended to these Minutes for information.

5/13 GUIDANCE WITH REGARD TO LIVE MUSIC ACT 2012 (AGENDA ITEM 8)

The Licensing & Business Support Manager provided Members with a verbal update on the new guidance with regard to the Live Music Act 2012.

The Live Music Act came into effect on 1 October 2012. What the Act was trying to do was to encourage more live music trade in premises. Copies of PopplestonAllens briefing notes, the leading licensing practice in the UK, were circulated.

It was noted that the Licensing Sub-Committee could apply further conditions on top of the Live Music Act.

6/13 LATE NIGHT LEVY (AGENDA ITEM 9)

The Licensing & Business Support Manager advised the Committee on the power to introduce the Late Night Levy.

The Late Night Levy came into effect on 31 October 2012. The change enabled Licensing Authorities, if they chose to exercise this power, to charge a levy to persons who were licensed to sell alcohol late at night in the authorities' area as a means of raising a contribution towards the costs of policing the late night economy. The monies collected would be split between the Police and the responsible authority. Restrictions as to what these monies could be spent on had not been applied to the Police Authorities' portion; however, the lesser amount payable to the responsible authority had to spend the money to fund the services it provided to tackle late night alcohol related crime.

The regulations prescribed category exemptions from the levy and these were highlighted.

It was noted that a Late Night Levy was not something that Breckland Council was looking to introduce. It was felt that most authorities would not be adopting such an approach.

Councillor Sharp thought it would have been in the best interest for the Police to introduce such a levy. Members were informed that there was not much call for this in our area; however, the Police were pushing for something else.

The Chairman stated that the legalisation had been based on the whole area. In other words an authority could not target a certain blackspot in Thetford for example without covering the remaining towns.

**Action
By**

Members were informed that any legislation changes could be found on the Members' Page which was updated on a daily basis by Helen McAleer.

The report was otherwise noted.

7/13 EARLY MORNING ALCOHOL RESTRICTION ORDERS (AGENDA ITEM 10)

The Licensing & Business Support Manager advised the Committee on the power to introduce an Early Morning Alcohol Restriction Order. This Order could be specified to certain areas unlike the Late Night Levy.

Norwich City Council was considering the implementation of this Order and applying it to significant areas of crime.

Such an Order could be seen as a very powerful tool as it prevented licensed premises from supplying alcohol during the times at which the Order applied. A close eye was being kept on Norwich to see how this turned out and if indeed it worked.

If applied, a full consultation would have to take place. Councillor Armes felt that such an Order would just push the trouble elsewhere and would have a knock-on effect.

Councillor Lamb felt this to be a very belated acknowledgement from the Government that allowing alcohol to be served 24/7 had not been such a good idea and he hoped that this was the start of something more widespread.

The Chairman said that he would be pointing out many weaknesses in these policies to his MP.

The report was otherwise noted.

8/13 SEX ESTABLISHMENTS AND SEXUAL ENTERTAINMENT VENUES POLICY (AGENDA ITEM 11)

The Licensing & Business Support Manager provided the Committee with information on the current consultation for sex establishments and sexual entertainment venues policy.

According to Breckland Council's Constitution, it was noted that these matters would not be brought forward to the Licensing Committee. Sex establishments etc fell within the jurisdiction of the General Purposes Committee. However, an email had been sent to all Members to make comments on this Policy before going to the relevant Committee. Comments had been received.

**Action
By**

It was now a requirement to introduce such a policy since the adoption of the Act. The new powers that had been introduced nationally gave authorities greater scope and discretion as to how such venues were controlled. The Policy Statement sets out how this should be done.

The Chairman was only aware of one such establishment of this nature in Breckland but felt that these establishments could grow in numbers so a closer eye should be kept on them.

Councillor Lamb felt that morality was not the issue it was where these organisations were put. The Licensing & Business Support Manager explained that it was stated in the Policy if the location was not suitable.

The Chairman wished to know how difficult it was going to be, as an authority, if one of these national companies wanted to put such an establishment in Breckland's towns. Members were informed that Breckland's Policy was very detailed, much more than other authorities, so Breckland had a robust starting place.

The report was otherwise noted.

9/13 NEXT MEETING (AGENDA ITEM 12)

Members were reminded and encouraged to attend the multi-agency visits.

On another matter and in response to a question about whether taxis could apply their trade during bank holidays, Members were informed that this was a trade issue, there were no conditions applied to the licence that taxis must be available during a bank holiday period.

The arrangements for the next meeting on **Tuesday**, 16 April 2013 at 10.00am in the Norfolk Room were noted.

**All to
Note**

The meeting closed at 12.30 pm

CHAIRMAN