

At a meeting of the LICENSING COMMITTEE held in the CIVIC CENTRE on MONDAY, 26th MARCH, 2012 at 2.00 p.m.

Present:-

Councillor MacKnight in the Chair

Councillors Bell, Emerson, Francis, P. Gibson, D. Richardson, D. Smith, Thompson, Wilson and Wiper

Declarations of Interest

There were no declarations of interest.

Apologies for Absence

Apologies for absence were submitted to the meeting on behalf of Councillors Bonallie, Errington, Maddison, F. Miller and Waller.

Minutes of the Last Meeting of the Committee held on 27th February, 2012

1.RESOLVED that the minutes of the last meeting of the Committee held on 27th February, 2012 be confirmed and signed as a correct record.

Licensing Act 2003 – Dealing With The Problems Of Late Night Drinking – A Consultation on Secondary Legislation For The Late Night Levy And Early Morning Restriction Orders

The Executive Director of City Services submitted a report (copy circulated) which briefed the Committee on a consultation document issued by the Home Office with regard to the proposed secondary legislation on the subject of a late night levy and early morning restriction orders under the Licensing Act 2003.

(For copy report – see original minutes)

Tom Terrett, Trading Standards and Licensing Manager, presented the report drawing members attention to Appendix 2 of the report which highlighted the Council's draft response to the questions contained in the consultation document.

Consideration having been given to the report it was :-

2. RESOLVED that the content of the report be noted and approval be given to the draft response to the consultation for submission to the Home Office by the 10th April, 2012 deadline.

Licensing Act 2003 – Decisions of Licensing Sub Committee Hearings held in February 2012

The Executive Director of City Services submitted a report (copy circulated) which informed Members of the outcomes of Licensing Sub Committee hearings held during February 2012.

(For copy report – see original minutes)

Tom Terrett, Trading Standards and Licensing Manager, presented the report and advised the Committee of the hearings which had taken place. Members having noted that Councillor D. Richardson was present at the Licensing Sub Committee held on 15th February rather than D. Bell as stated in paragraph 4.1 of the report it was :-

3. RESOLVED that the report be received and noted.

(Signed) D. MACKNIGHT,
Chairman.

REPORT OF THE EXECUTIVE DIRECTOR OF CITY SERVICES

LICENSING COMMITTEE–28 MAY 2012

AMENDMENTS TO THE LICENSING ACT 2003

1.0 PURPOSE OF REPORT

- 1.1 To advise the Committee of amendments to the Licensing Act 2003 made by the Police Reform and Social Responsibility Act 2011 on 25 April 2012.

2.0 DESCRIPTION OF DECISION

- 2.1 The Committee is requested to note the contents of this report.

3.0 INTRODUCTION/BACKGROUND

- 3.1 On 15 September 2011 the Police Reform and Social Responsibility Act 2011 ('the Act') received Royal Assent. Part 2 of the Act causes amendments to the Licensing Act 2003. On 25 April 2012 the Government issued a commencement order which brought the majority of changes into effect on that date. It is anticipated that the Government will bring the final amendments, which are concerned with Early Morning Restriction Orders, Late Night Levies and the ability for licensing authorities to determine their own licence fees, into effect in October 2012.

4.0 CURRENT POSITION

- 4.1 A summary of the amendments to the Licensing Act is set out below.

4.2 RESPONSIBLE AUTHORITIES

The Council, as the Licensing Authority, has become a 'responsible authority' so enabling it to make relevant representations and refer a licence application to a Licensing Sub-Committee, as opposed to granting it automatically, without the need to receive any other representations. The local Primary Care Trust has also become a 'responsible authority'.

4.3 REMOVING THE VICINITY TEST

Prior to the amendments, the opportunity to make representations about prospective licences and requests for reviews of existing licences was restricted to 'responsible authorities' and 'interested parties'. Interested parties were required to live or conduct business 'in the vicinity' of the premises in question. The amendments remove the vicinity requirement, and representations are now allowed to be made by any person, irrespective of their location. The amendments also require licensing authorities to advertise applications, including reviews.

4.4 REDUCING THE EVIDENTIAL BURDEN ON LICENSING AUTHORITIES

Prior to the amendments, a Licensing Sub Committee of the Council could refuse an application for a licence where it considered it **'necessary'** for the promotion of the licensing objectives. These are:

- the prevention of crime and disorder;
- public safety;
- the prevention of public nuisance; and
- the protection of children from harm.

An amendment to the Act now allows licensing authorities to refuse an application where they consider it **'appropriate'** for the promotion of the licensing objectives.

The Government have issued amended Guidance on the Act. This gives the following advice to assist licensing authorities in determining whether their actions are appropriate for the promotion of the licensing objectives:

'Determination of whether an action or step is appropriate for the promotion of the licensing objectives requires an assessment of what action or step would be suitable to achieve that end. Whilst this does not therefore require a licensing authority to decide that no lesser step will achieve the aim, the authority should aim to consider the potential burden that the condition would impose on the premises licence holder (such as the financial burden due to restrictions on licensable activities) as well as the potential benefit in terms of the promotion of the licensing objectives. However, it is imperative that the authority ensures that the factors which form the basis of its determination are limited to consideration of the promotion of the objectives and nothing outside those parameters. As with the consideration of licence variations, the licensing authority should consider wider issues such as other conditions already in place to mitigate potential negative impact on the promotion of the licensing objectives and the track record of the business. Further advice on determining what is appropriate when imposing conditions on a licence or certificate is provided in Chapter 10. The licensing authority is expected to come to its determination based on an assessment of the evidence on both the risks and benefits either for or against making the determination.'

4.5 TEMPORARY EVENT NOTICES

The ability to object to temporary event notices (which allow the temporary use of premises for licensed purposes) has been extended to include local authority Environmental Health Officers. The possible reasons for such objections have been extended to encompass all of the licensing objectives (therefore allowing potential noise nuisance to be considered) as opposed, merely as it was previously, to the prevention of crime and disorder. Licensing authorities are also now allowed to impose conditions on temporary event notices in the following specified circumstances:

- they consider it appropriate to do so;

- the proposed conditions are already imposed on a premises licence or club premises certificate that has effect at the same premises, or any part of the same premises, as the temporary event notice; and
- the conditions would not be inconsistent with the carrying out of the licensable activities under the temporary event notice.

Also, temporary event notices may now authorise licensable activities such as the sale of alcohol for up to seven days as opposed to the previous four day limit. Another amendment allows a limited number of temporary event notices to be given no later than five working days before an event.

4.6 UNDERAGE SALES

The maximum fine for premises which persistently sell alcohol to persons under eighteen years of age has been increased from £10,000 to £20,000. The maximum period of any suspension imposed on such premises by means of a closure notice has been extended from two days to fourteen days.

4.7 SUSPENSION OF LICENCES FOR FAILURE TO PAY ANNUAL FEES

Licensing authorities are now able to suspend a premises licence or club premises certificate for non-payment of an annual fee until such time as the annual fee is paid.

4.8 LICENSING POLICY STATEMENTS

Licensing authorities are now required to review their Statements of Licensing Policy every five years rather than every three years as previously.

5.0 REASONS FOR THE DECISION

- 5.1 To advise the Committee of the amendments to the Licensing Act 2003 which came into effect on 25 April 2012.

6.0 ALTERNATIVE OPTIONS

- 6.1 None.

7.0 RELEVANT CONSIDERATIONS

- 7.1 None.

8.0 GLOSSARY

- 8.1 None.

9.0 LIST OF APPENDICIES

- 9.1 None.

10.0 BACKGROUND PAPERS

10.1 Police Reform and Social Responsibility Act 2011.

10.2 Licensing Act 2003

REPORT OF THE EXECUTIVE DIRECTOR OF CITY SERVICES

LICENSING COMMITTEE – 28 MARCH 2012

LICENSING ACT 2003 – DECISIONS OF LICENSING SUB-COMMITTEE HEARINGS HELD IN MARCH, APRIL AND MAY 2012

1.0 PURPOSE OF REPORT

- 1.1 To advise the Committee of the outcomes of Licensing Sub-Committee hearings held in March, April and May 2012.

2.0 DESCRIPTION OF DECISION

- 2.1 The Committee is requested to note the contents of the report.

3.0 INTRODUCTION/BACKGROUND

- 3.1 Under the Licensing Act 2003, Sunderland City Council has responsibility for licensing the sale of alcohol, regulated entertainment and late night refreshment within its area. This encompasses the determination, grant, administration and enforcement of premises licences, club premises certificates, personal licences and temporary event notices.
- 3.2 In March 2012 Licensing Sub-Committees considered an application for a summary review of a premises licence and its subsequent full review. They also considered an application for the grant of a premises licence.
- 3.3 In April 2012 a Licensing Sub-Committee considered an application to vary a premises licence.
- 3.4 In May 2012 a Licensing Sub-Committee considered an application to vary a premises licence.

4.0 CURRENT POSITION

- 4.1 On 7 March 2012, a Licensing Sub-Committee consisting of Councillors D. Richardson, P Gibson and S. Bonallie considered an application for a summary review of the premises licence in respect of Ttonic, Green Terrace, Sunderland. Northumbria Police applied for the summary review as in their opinion, the premises were associated with serious crime or serious disorder (or both).
- 4.2 After hearing representations from both the licensee and Northumbria Police, the decision of the Sub-Committee was to introduce the following interim steps until a full review of the licence could take place:

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- The licence holder to ensure that measures are in place to change the drinking vessels used from glassware to polycarbonate glasses between 21.00 and 23.00; and
 - An improved incident recording system to be implemented at the premises.
- 4.4 On 27 March 2012, a Licensing Sub-Committee consisting of Councillors A. Wilson, P. Gibson and J.S. Wiper considered the subsequent full review of the premises licence in respect of Ttonic.
- 4.5 After hearing representations from both the licensee and Northumbria Police, the decision of the Sub-Committee was:
- All beverages (except bottled beverages that are not available in polycarbonate bottles) must be served in polycarbonate vessels or bottles after 22.00 hours and no drinking vessels or bottles other than those made of polycarbonate (except bottles used for the sale of wine and champagne before 00.00 hours) may be in use or awaiting collection after 00.00 hours; This condition is not applicable in relation to the sale of wine and champagne in bottles before 00.00 hours;
 - An incident reporting system must be put in place at the premises. Such a system will record all incidents that happen at the premises relating to the public and all staff members. The documentation for such incidents must be retained for a minimum of one calendar year and must be available on request to the Police and the Local Authority; and
 - A CCTV system must be designed, installed and maintained in proper working order, to the satisfaction of the licensing authority and Northumbria Police. Such a system must:
 - Ensure coverage of all entrances and exits to the licensed premises both internally and externally
 - Ensure coverage of such areas as may be required by the licensing authority and Northumbria Police.
 - Provide continuous recording for each camera to the Home Office Scientific Development Branch (HOSDB) standard for identification (CCTV Operational Requirements Manual 2009 No. 28/09). Such recording must be retained for 14 days and must be supplied to an Officer of the Council or a Police Officer on request.
 - Be in operation at all times the premises are in use.
- 4.6 On 23 March 2012, a Licensing Sub-Committee consisting of Councillors D. Richardson, D. MacKnight and G. Thompson considered an application for the grant of a premises licence in respect of Plough Food and Drink (formerly Newslin), 2, Victoria Place, St. Marks Road,

Sunderland. The application was for the sale of alcohol for consumption off the premises between the hours of 10.00 and 22.00 seven days a week.

- 4.7 Objections to the application were received from Northumbria Police, the Council's Trading Standards Section and an interested party, Cllr I. Kay. The applicant was the father of the holder of the previous licence for these premises. This licence had recently revoked by a Licensing Sub-Committee following a review.
- 4.8 After hearing all representations the Sub-Committee granted the application subject to the following conditions:
1. A CCTV system must be designed, installed and maintained in proper working order, to the satisfaction of the Council and Northumbria Police, such a system must:
 - Ensure coverage of all entrances and exits to the premises;
 - Ensure coverage of such other areas as may be reasonably required by the Council or Northumbria Police;
 - Provide continuous recording facilities for each camera to a good standard of clarity. Such recordings must be retained for a minimum period of 28 days, and must be supplied to an Officer of the Council or Northumbria Police Staff/Officer on request;
 - Must be in operation at all times the premises are in use.
 2. All members of staff at the premises shall seek credible photographic proof of age evidence from any person who appears to be under the age of 25 years and who is seeking to purchase alcohol. Such credible evidence must include a photograph of the customer, will either be a passport, driving licence or a proof of age card carrying a 'PASS' logo.
 3. A staff training record shall be maintained at the premises:
 - All members of staff shall receive training on their responsibilities, with particular focus on issues surrounding age restricted products. Training will be given to all new members of staff before they are permitted to serve alcohol.
 - Staff shall be trained at least every 6 months.
 - A record of training shall be kept at the premises and be available on request to an Officer of the Council or Police Staff.
 4. A refusals register shall be maintained at the premises. The register shall contain details of all age restricted products that

have been refused to customers by staff, and the reasons for the refusal. This record shall be kept at the premises and be available on request to an Officer of the Council or Police Staff.

5. The following named individuals:-

- Petrit Muca
- Juliette Muca
- Elspeth Lockley

shall have no involvement in the operation or management of or at the premises, 2 Victoria Place, St Mark's Road, Sunderland. This includes being employed or working there in any capacity including as an unpaid volunteer.

6. The Designated Premises Supervisor must be resident in the City of Sunderland.

4.9 On 5 April 2012, a Licensing Sub-Committee consisting of Councillors R. Bell, D. Smith and D. Waller considered an application to vary the premises licence in respect of The New Derby, Roker Baths Road, Roker. The application was to extend the licensable hours for the provision of performances of live music, playing of recorded music, provision of facilities for dancing, sale by retail of alcohol and the provision of late night refreshment as well as to vary the licence plan to include a section marked on the proposed plan as an 'outside drinking area' for non – licensable activities.

4.10 Objections to the application were received from Northumbria Police, on the grounds of crime and disorder, and from 20 interested parties who feared that granting later hours would increase the current problems of noise, disorder and anti-social behaviour in a residential area. They were also concerned that the change of car park to an outside drinking area would increase problems.

4.11 After hearing all the representations the Sub-Committee granted the variation in respect of the extension to the licensable activities on Fridays and Saturdays, an extension to the starting times of the licensable activities on Sundays and the addition of the outside drinking area to the premises licence plan; subject to the following conditions:

1. A CCTV system must be designed, installed and maintained in proper working order, to the satisfaction of the Council and Northumbria Police. Such a system must:
 - Ensure coverage of all entrances and exits to the premises and the outside drinking area;
 - Ensure coverage of such other areas as may be reasonably required by the Council or Northumbria Police;

- Provide continuous recording facilities for each camera to a good standard of clarity. Such recordings must be retained for a minimum period of 28 days, and must be supplied to an Officer of the Council or Northumbria Police Staff/Officer on request; and
 - Must be in operation at all times the premises are in use.
2. All members of staff at the premises shall seek credible photographic proof of age evidence from any person who appears to be under the age of 25 years and who is seeking to purchase alcohol on the premises. Such credible evidence, which shall include a photograph of the customer, will either be a passport, photographic driving licence, or a Proof of Age card carrying a 'PASS' logo.
 3. When informed by Northumbria Police of a high risk football game, plastic or polycarbonate drinkware is to be used, with no glass bottle sales over the counter.
 4. All drinks glasses and bottles to be cleared from the outside drinking area by 21.30.
 5. After the premises have closed to the public all staff and customers must leave via the front door.
 6. No licensable activities may take place in the outside drinking area.
- 4.12 On 2 May 2012, a Licensing Sub-Committee consisting of Councillors P. Gibson, D. Richardson and A. Emerson considered an application to vary the premises licence in respect of The Black Bush Inn, Village Lane, Washington. The application was to extend the terminal hour for the sale by retail of alcohol (Thursday to Sunday), to amend the opening hours (every day of the week) and include the provision of late night refreshment (Thursday to Sunday).
- 4.13 Objections were received from the Council's Environmental Health Section on the grounds of Public Nuisance, from four interested parties, including the three Ward Councillors, and by means of a petition signed by 134 interested parties. All of the interested parties' representations expressed concerns about the proximity of the premises to residential properties, the noise nuisance and criminal and disorderly behaviour which has occurred under the previous tenants with the earlier closing time, and the use of an outside area. They feared that, by allowing longer hours than those pertaining to other public houses in the area, the premises would attract customers from these premises at the end of the night so creating problems into the early hours of the morning.

4.14 After hearing representations, the Sub-Committee granted the application in part only. The licence will now allow the sale of alcohol on Fridays and Saturdays 10.00 to 00.00 with late night refreshment on these days from 23.00 to 00.00. The premises will be permitted to open at 08.00 until 23.30 Sunday to Thursday and until 00.30 on Fridays and Saturdays subject to the following conditions:

1. No customers to be permitted to enter the premises after 23.00.
2. No drinks in open vessels or bottles to be taken outside of the premises after 21.00 and all drinks outside at that time to be brought inside the premises.

5.0 REASONS FOR THE DECISION

5.1 To advise the Committee of the outcomes of Licensing Sub-Committee hearings held in March, April and May 2012.

6.0 ALTERNATIVE OPTIONS

6.1 None.

7.0 RELEVANT CONSIDERATIONS

7.1 None.

8.0 GLOSSARY

8.1 None.

9.0 LIST OF APPENDICIES

9.1 None.

10.0 BACKGROUND PAPERS

10.1 None.