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Licensing Committee

Wednesday, 7 March 2012

7.30pm

Present:

Cllr John Loughlin (Chair)

Cllrs: Valerie Ashenden
Gurdip Ram Bungar
Harold Craske
Jane Cribbon
Colin Dennis
Greta Goatley
Leslie Hills
William Lambert
Lyn Milner
Leslie Pearton
Derek Sales

Sarah Kilkie	Assistant Director (Communities)
Christina Hills	Senior Licensing Officer
Christopher Wakeford	Committee Services Officer (Scrutiny)

26. Apologies

Apologies for absence were received from Cllrs Bryan Sweetland and Makhan Singh.

27. Minutes

The Minutes of the meeting held on 20 September 2011 were signed by the Chair.

28. Declarations of Interest

No declarations of interest were made.

29. Presentation on the proposed changes to the Licensing Act 2003

The Senior Licensing Officer gave a presentation on the forthcoming changes to the Licensing Act 2003 and the implications for Gravesham Borough Council – see attached presentation.

The Committee thanked the Senior Licensing Officer for an interesting and informative presentation.

Resolved that the presentation be noted.

30. Minutes of the Licensing Panel held on 5 December 2011

The Committee received the Minutes of the Licensing Panel held on 5 December 2011.

Resolved that the minutes be noted.

Close of meeting

The meeting ended at 8.40pm.

Proposed changes to the Licensing Act 2003

*Christina Hills
Senior Licensing Officer
March 2012*

Why the changes?

- In May 2010 Coalition Government made a number of commitments relating to crime and policing which included reform of the Licensing Act 2003
- Overall aim was to achieve “a fundamental shift in the licensing regime in this country, with more emphasis on local accountability and less emphasis on central interference”

- The Home Office assumed responsibility for alcohol licensing.
- Entertainment licensing remained with DCMS
- Proposed reforms were included in Police Reform & Social Responsibility Bill which received Royal Assent in September 2011
- Changes will be commenced in stages, most anticipated in April and October 2012

- Before any changes are implemented revised s.182 Guidance under the LA03 will need to be issued
- Some reforms will apply to all authorities once commenced
- Others will require decisions at local level regarding implementation. For these consultation will need to be made

Possible conflict?

- In addition to the provisions contained within the PR&SR Act 2011 further changes are proposed within the Live Music Bill 2010 which is expected to receive shortly
- The desired aims and proposed changes within the Live Music Bill could conflict with what has already been agreed within the PR&SR Act 2011

Changes in detail

- Licensing Authorities will become “Responsible Authorities” i.e. –
 - Licensing Officers will be able to make representations against licence applications
 - Licensing Officers will be able to apply for a licence to be reviewed without having to wait for another Responsible Authority to do so

- Primary Care Trusts and Local Health Boards will become responsible authorities and will be able to make representations to licence applications
- However, representations have to be based on existing objectives – the addition of protection of health as a licensing objective was discussed but not as yet progressed

- Removal of the “vicinity” test – in future anyone can object about a licence application anywhere – they do not have to be physically affected by it
- Similarly anyone can now call for a review without having to live or work within the vicinity of a premises

- Reducing the evidential burden on LA's
 - Currently decisions can be made and conditions attached to a licence only if the steps taken are considered “necessary” to promote the licensing objectives
 - This will now be replaced by steps that are considered “appropriate” thereby lowering the evidential threshold required to justify decisions taken

- Licensing Authorities will be required to advertise all licence applications
 - currently the burden is on the applicant to advertise an application and prove to the LA that this has been done
 - at the moment LA's only advertise review applications

Temporary Events Notices

- Current position is:
 - Required for supply of alcohol, regulated entertainment, late night refreshment
 - 12 notices may be applied for, up to 96 hours in length each
 - Total of 15 working days allowed each calendar year
 - 10 working days notice to be given
 - 2 working days in which to object from time of application – hearing required if objection received
 - 24 hours is required between TEN's
 - For up to 499 persons at any one time

- Only the police can object and only on the grounds of prevention of crime and disorder
- No conditions can be attached to a TEN and any conditions on an existing licence are invalid for an event held using a TEN

Changes to TEN's

- Environmental Health Officers will now be consulted and will be able to object
- Both the police and EHO's can now object on any of the licensing objectives
- Conditions can be attached to a TEN although they should not simply replicate any conditions imposed on a Premises Licence

- A number of 'late' TEN's will be permitted where only 5 working days notice is required
- If an objection to a 'late' TEN is received the notice cannot go to ahead and no hearing will be held
- TEN's will be allowed for up to 168 hours (7 days) at any one time
- A maximum of 21 days per calendar year will be permitted

Fines for selling to children

- The fine for persistently selling alcohol to children will double from £10,000 to £20,000
- The police or Trading Standards will now be able to order alcohol to cease being sold from a maximum of 48 hours to a minimum of 48 hours and a maximum of 336 hours (14 days)

Early Morning Alcohol Restriction Orders

- EMARO's allow a local authority to decide whether to prohibit the sale of alcohol in a particular area covered by the order between midnight and 06:00 on any day it specifies
- No further detail at present but would probably require public consultation and a justifiable reason to do so rather than just aspirational reasons

Suspension of licence for non-payment of annual fees

- Annual retainer fees are required to be paid for all licences
- Currently only recourse for non-payment is through the courts as a civil debt – premises can continue trading as normal
- Change will allow a LA to suspend a licence for non-payment and to only reinstate when payment is made – during the suspension no licensable activities to take place

Local authorities to set their own fees

- Currently fees are set by statute – the amounts based on rateable value of premises
- Does not reflect the actual cost in administering or enforcing the Act
- LA's will in future be able to set their own fees – anticipated that this will be within prescribed maximum bands
- Not likely to be introduced before 2013

Licensing Policy Statements

- Currently have to be reviewed every three years or sooner if there are substantial changes (eg – like the changes being introduced)
- This will be amended to a requisite five year review

Relevant offences on Personal Licence

- Additional relevant offences to be introduced
- Relevant offences last for 5 years in terms of a rehabilitation period

Late Night Levy

- LA's will be able to decide whether to introduce a levy on those premises who operate between midnight and 06:00
- Can choose what times during this period it would apply
- Would apply to the whole borough

- Money raised is to pay for policing and other associated costs in reducing or preventing alcohol related crime and disorder
- Of the revenue not less than 70% must be given to the police

- LA's can decide whether certain types of premises can be exempted from the requirement to pay or whether they can qualify for a reduced payment
- Government is currently considering what premises it thinks should fall into the above categories

Live Music Bill 2010

- When this receives Royal Assent and a commencement order is issued the following will happen:-
- Live music will ease to be classified as ‘regulated entertainment’ in venues licensed for the consumption of alcohol

- For this to happen the live music must be:
 - Unamplified and taking place between 08:00 and 23:00 or;
 - Amplified and taking place with an audience of less than 200 persons and be between 08:00 and 23:00
- The premises must be open for the sale of alcohol during the time the live music is provided

- Any condition attached to a licence which relates to live music during this time frame ceases to have effect
- However if a licence is reviewed a Licensing Panel can impose conditions relating to live music during this time

- On premises which are not authorised for the sale of alcohol live music can take place without an authorisation between 08:00 and 23:00 provided it is unamplified
- If the music is amplified then a TEN would still be required
- Provision of facilities for making music and dancing is also de-regulated

- Questions?