

Gravesham Borough Council

Report to: Licensing Committee
Date: 21 September 2010
Reporting officer: Assistant Director (Communities)
Subject: Possible changes to the Licensing Act 2003

Purpose and summary of report:

To apprise Members of possible changes to the Licensing Act contained within a consultation document issued by the Home Office "Rebalancing the Licensing Act – a consultation on empowering individuals, families and local communities to shape and determine local licensing

Recommendations:

Member to note the contents of the report.

1. Background

1.1 The Licensing Act 2003 became law on 24 November 2005, and regulates licensable activities and qualifying club activities. These activities include:

- The sale by retail of alcohol
- Provision of regulated entertainment
- The provisions of late night refreshment

An authorisation is required for any licensable activity and will comprise of a premises licence, a club premises certificate or a temporary events notice. An individual supplying alcohol for retail sale may also require a personal licence.

1.2 The Act introduced a single licence scheme for licensing premises and gave licensing authorities (in the form of a committee of not less than ten nor more than 15 members of the local authority which has the responsibility for both personal licences to sell alcohol and premises licences) four licensing objectives, to ensure that licensable activities are carried out in the public interest.

1.3 The four licensing objectives are:

- The prevention of crime and disorder;
- Public safety;

- The prevention of public nuisance; and
 - The protection of children from harm
- 1.4 The licensing authority must carry out its functions under the Act with a view to:
- Promoting the licensing objectives; and
 - Having regard to the statement of licensing policy and licensing guidance issued by the Secretary of State.
- 1.5 The Act enabled flexible opening hours for premises whilst giving consideration to the impact of opening hours on local residents and businesses, and gave local residents and businesses the right to make representations about applications. These representations must be based on the fact that one or more of the licensing objectives is being undermined.
- 1.6 A “responsible authority” (Police, Fire, Health & Safety, Planning, Environment Health, Child Protection or Trading Standards) or an “interested party” (a person living or involved in business in the vicinity of the premises or a representative body of either) may make representations against an application or apply for a review of a licensed premises providing these objections pertain to the licensing objective as listed above. A 28 day period is allowed for responsible authorities or interested parties to make representations. If so, a hearing is held and those who expressed concerns are given the opportunity to present the issues in front of the licensing committee members. As a result of the hearing for either a licence application or review, the committee will make a decision; this may include refusing or revoking a licence or placing additional conditions on the licence

2. The current consultation

- 2.1 Since the introduction of the Licensing Act there has been growing concern that there has been growing concern that the original vision of a vibrant “café culture” has failed to materialise and that instead there has been a growth in anti-social behaviour and violence due largely to binge drinking brought about by the relaxed licensing hours and the availability of cheap alcohol.
- 2.2 On 28 July the Home Office published a consultation document entitled “Rebalancing the Licensing Act - – a consultation on empowering individuals, families and local communities to shape and determine local licensing”.
- 2.3 It is important to note that the consultation is only to seek views on the implications of implementing the changes, rather than seeking views on the changes themselves. This is because the proposed changes are commitments published in the coalition agreement.
- 2.4 To rebalance the licensing regime the Government is proposing the following measures:
- a. Give licensing authorities the power to refuse licence application or call for a licence review without requiring representations from a responsible authority
 - b. Remove the need for licensing authorities to demonstrate their decisions on licences ‘are necessary’ for (rather than of benefit to) the promotion of licensing objectives

- c. Reduce the evidential burden of proof required by licensing authorities in making decisions on licence applications and licence reviews
 - d. Increase the weight licensing authorities will have to give to relevant representations and objection notices from the police
 - e. Simplify Cumulative Impact Policies to allow licensing authorities to have more control over outlet density
 - f. Increase the opportunities for local residents or their representative groups to be involved in licensing decisions, without regard to their immediate proximity to premises
 - g. Enable more involvement in local health bodies in licensing decisions by designating health bodies as a responsible authority and seeking views on making health a licensing objective
 - h. Amend the process of appeal to avoid the costly practice of rehearing licensing decisions
 - i. Enable licensing authorities to have flexibility in restricting or extending opening hours to reflect community concerns or preferences
 - j. Repeal the unpopular Alcohol Disorder Zones and allow licensing authorities to use a simple adjustment to the existing fee system to pay for any additional policing needed during late-night opening
 - k. Substantial overhaul of the system of Temporary Event Notices to give the police more time to object, increase the notification period and reduce the number that can be applied for by personal licence holders
 - l. Introduce tougher sentences for persistent underage sales
 - m. Trigger automatic licence reviews following persistent underage sales
 - n. Ban the sale of alcohol below cost price
 - o. Enable local authorities to increase licensing fees so that they are based on full cost recovery
 - p. Enable local authorities to revoke licences due to non-payment of fees
 - q. Consult on the impact of the Mandatory Licensing Conditions Order and whether the current conditions should be removed
- 2.5 It is intended that the eventual changes will be introduced via the Police Reform and Social Responsibility Bill as announced in the Queen's Speech on 25 May 2010. Although the Home Office have indicated that any changes are not likely to be implemented before 2012.
- 2.6 The consultation period began on 28 July and ended on 8 September 2010. The Kent & Medway Regulatory Licensing Steering Group consisting of local authority licensing officers and police licensing officers prepared their own response to this consultation which is included as Appendix A to this report.

2.7 A further report to this Committee will be submitted when the outcomes of the consultation are known.