

Report to Licensing Committee

Date of meeting: 3rd December 2013



**Epping Forest
District Council**

Subject: Licensing Update Report

Officer contact for further information: Alison Mitchell

Committee Secretary: Adrian Hendry

Recommendations/Decisions Required:

Recommendations:

- (1) That the Committee reviews the recommendations numbered 7 – 10 of the Licensing Services Task and Finish Panel as amended by the Council.**
- (2) That the Committee recommends to the Council that any applications regarding Scrap Metal Dealers Licences and any other licence to which members of the public do not have the right to make a representation are heard at a day time meeting.**
- (3) That the Cabinet be informed of the views of this Committee and if appropriate recommends that the necessary funding required to continue with the consultations and resulting increase in sub-committee meetings be included in the budget.**

Report:

BACKGROUND

1. Until the decision of the Council on 23rd April 2013, the Licensing Sub-Committees met during the day and heard all types of licensing applications. There was usually one meeting a month but, because of statutory time limits, there were occasions when two meetings were held. For the period April 2012 until March 2013 there were fourteen meetings.
2. The Authority followed the statutory procedure for undertaking consultations which prescribes that a notice is placed in a local paper and displayed on the premises.
3. Concerns had been raised that the public and Councillors who are employed during the daytime were not able to attend the sub-committee meetings and that there was not sufficient advertising of the premises applications to bring the application to the attention of members of the public.
4. The Licensing Services Task and Finish Panel was established in September 2012 under the Chairmanship of Cllr. Mrs. P Smith:
 - a. To review the operation and effectiveness of the Licensing Sub-Committees structure.
 - b. To have regard of the Licensing Act 2003 on consultations.
 - c. To review the feasibility of moving some meetings to the evening.
 - d. To review the feasibility of creating a new Licensing Sub-Committee structure to

enable local councillors and interested persons to have more input.

e. To review the most appropriate methods of informing people of their rights to make representations in respect of Licensing Applications and review hearings.

2. The Panel's final recommendations were reported to the Overview and Scrutiny Committee as follows:

"Composition of Licensing Committees and sub-committees

- 1) That a Licensing Committee of 15 members continues as it is currently set up at present.
- 2) That one calendared meeting be included in a time table to be held during the day per month to consider applications relating to taxi licences.
- 3) That one calendared meeting be included in a time table to be held per month, with a 6.30pm start (with a 3pm early start for exceptional meetings) to consider all other applications regarding licences;
- 4) If there were more than one application relating to a premises licence a month additional meetings be organised for each application;
- 5) That these new procedures be reviewed after 12 months of operation;
- 6) That the Licensing Committee be asked to carry out the review;

Notification of Premises Applications

- 7) That notification of an application should be sent to the occupiers of neighbouring properties within a radius of 150 metres of the application premises;
- 8) The envelopes should state that "Important – Notice of Licensing Consultation"
- 9) That the draft sample letter informing the occupiers of the application which was considered by the Panel and as annexed be used when notifying residents provided that it is updated when required (similar letters will be prepared for other types of licences); and
- 10) An interim 6 month report be submitted to the full Licensing Committee.

Financial Implications

- 11) That Cabinet agree a bid for a supplementary estimate in the sum of £58,770.72 annually together with a single payment of £5,000 as detailed in the Resource Requirements on page 13 "

3. The report was the considered by full Council on 23rd April 2013. It was decided as follows:

Report as first moved ADOPTED

RESOLVED:

(1) That, having considered the comments of the Overview and Scrutiny Committee, the Licensing Committee and the Cabinet, the recommendations set out in the report of the Licensing Services Task and Finish Panel be adopted subject to (2) below;

(2) That recommendation (5) in the report of the Panel be amended to reflect the view of the Overview and Scrutiny Committee that a review of operation of the new scheme be commenced at nine months rather than one year; and

(3) That a District Development Fund supplementary estimate in the sum of £63,770.72 for 2013/14 be approved.

REVIEW

4. This Committee is asked to carry out the review of the licensing committee and sub-committee meeting arrangements set out in numbers 7-10 of the Licensing Services Task and Finish Panel. The new procedure for consultations started after 23rd April 2013 and the first application to come before the evening meeting of the Licensing Sub-committee after the implementation of the new procedure was on 6th June 2013.

5. The new procedures have led to an increase in the number of sub-committee meetings. For a comparable period from 1st June to 31st October in 2012 and in 2013 members are referred to the table attached. :

5 meetings were held in 2012, and

20 meetings were held in 2013.

2 meetings of the Full Licensing Committee were held in each period.

The reasons for the increase in meetings arose because:

- The taxi licensing meetings are now held separately during the daytime from other licensing applications held at night.
- Only one premises licence application is held in an evening whereas in the daytime meetings two could be heard as well as taxi applications.
- In 2012 there were 7 premises applications which went to the sub-committee whilst in 2013 there were 15.

6. The Council's decision required that the review of the consultation procedure should take after six months of their introduction. The budget for the continuation of the consultation requirements and the increased number of meetings resulting wider consultation and evening meetings ends in March 2014 and it will be necessary to put money into the next year's budget if members decide to continue with the consultation requirements and evening sub-committee meetings. A report will be made to Cabinet requesting finance which will be dependent upon the decision of Overview and Scrutiny Committee and the Licensing Committee.

7. The applications are not received in a regular manner and the numbers of meetings held in each month was as follows:

| Month | Day time | Evening | Licensing Committee (day) |
|-----------|----------|---------|---------------------------|
| June | 1 | 2 | |
| July | 1 | 2 | |
| August | 1 | 0 | |
| September | 1 | 5 | 1 |
| October | 1 | 6 | 1 |

8. If the same level of meetings is held over the latter part of the year it is estimated that approximately 48 sub-committee meetings would be held before April 2014. There are likely to be at least 4 committee meetings in financial year. Into this mix the licensing of Scrap Metal dealers and sites has now been added by government, the likelihood of temporary road closures and these are likely necessitate additional meetings.

9. As a consequence of the review last year, members approved a temporary post of Democratic Services Assistant to help deal with the increase in meetings and administration and a temporary post in Licensing to undertake work arising because of the additional work arising because of the 150 metre radius consultation and the increased numbers of meetings. This provision ceases in May 2014.

10. If members are to continue the current processes, the permanent retention of these posts is necessary. This is against the background of steadily increasing levels of meetings supported by Democratic Services which, with internal meetings and webcasting of meetings, has risen to 390 supported meetings and events in the last year. New licensing requirements of scrap metal dealer's means that the Licensing service has had increasing levels of work.

COSTS

11. For the period 1st May 2013 until 31st October 2013 the costs are as follows

CONSULTATION

| | |
|---|------------|
| GIS. time in identifying properties within 150 metres | £ 300.00 |
| Printing/envelopes | £ 645.00 |
| Temporary officer appointed to support the new consultation procedure (assuming that a temp had been employed from 1 st May to 31 st Oct) | £10,958.00 |

EVENING COMMITTEES

| | |
|--|-------------|
| Legal officer | £ 769.86 |
| Committee Officer salary (£21,000 pa pro rata) | £10,500.00 |
| Committee officer (evening meeting allowance) | £ 769.86 |
| 1 or 2 licensing officers | £ 1,184.52 |
| Total to date | £ 25,127.24 |

If these figures are projected forward pro rata for the whole year the costs will be £50,254.48

CONSULTATION

12. Forms were handed out to those who attended the meetings and those returned are attached. The comments are mostly positive and adverse comments relate to the facilities not the timing. These forms are attached.

13. Members were asked to comment and emails received are attached.

SCRAP METAL

14. The licensing authority has recently taken on the responsibility for licensing Scrap Metal Dealers. Prior to the change in regulations dealers were required to register. Limited information was obtained and entered onto a public register. The Council had 10 applications on the register and officers were uncertain as to numbers of applications for licences that would be received. There are currently 10 applications but more are expected as dealers become aware of the legislation. In addition, the Licensing Committee has required officers to carry out compliance visits for each of the premises twice yearly. This is a continuing addition to the Licensing services workload

15. No applications have yet lead to a reference to the Licensing sub-committee. However, more applications are expected and this will increase the sub-committee workload. The

decision of the Council required that only taxi licence hearings should take place during the day. However, only the police and other regulatory bodies may object to an application for a scrap metal dealer's licence. Members may consider that any hearings for Scrap Metal Licences and any other licence where members of the public cannot object should take place during a daytime meeting.

ROAD CLOSURES

16. Essex County Council has until recently undertaken temporary road closures to allow street parties etc. to take place. The County Council has decided that it will no longer make these road closures and are referring applicants to the District Council's Licensing Service. This was reported to the last meeting of the Licensing Committee who decided that: they could not make a decision as to whether to recommend that the District exercise those powers until it had more information. However not to do so could put other authorities and individuals at a disadvantage e.g. Waltham Abbey Festival of Lights and could lead to a judicial review if both council's refuse to undertake this work.

17. This Authority has the power to make road closures and courts are likely to require the Council to have considered an individual application prior to refusal. Whilst the County Council was making road closures orders for these purposes it would have been an adequate defence that this work was being undertaken by the Highways Authority. However, if challenged now there would be no such defence.

18. Consultations with other Districts, who undertake this work, indicated the numbers of road closures are likely to be about 22 annually but also more applications will be received when events such as Golden Jubilees occur. The Authority needs adequate staffing level and supporting resources to be able to cover the usual expected annual workload.

19. Having reviewed the procedure from a neighbouring authority, if this work is to be undertaken, and there seems little option but to do so at present, then it is estimated that additional staff time equal approximately 9 hours per month would be required. Although there is no formal appeal permitted under the Act, if a party disputed a decision the matter would be referred to the sub-committee. Under the current rules this hearing would take place in an evening.

CONCLUSION

20. The consultation process means that there is an increased workload in the licensing service arising from increasing contact with members of the public and greater requirements to mediate. The increase in the numbers of meetings adds to workload for Democratic Services and Licensing and adds to the numbers of sub-committee meetings that members will be required to attend. Changes in legislation mentioned above may increase the numbers of meetings but it is expected that this will be to a small extent.

21. The evening meetings and the additional time spent in discussions with those making representations and applicants' means that Licensing officers are delaying other areas of work such as compliance visits.

22. The workload in the Democratic Services has increased in arranging additional sub-committee meetings from the 24 set at the beginning of the year. This is against the background of steadily increasing levels of meetings supported by Democratic Services which, with internal meetings and webcasting of meetings, has risen to 390 supported meetings and events in the last year.

23. The introduction of evening meetings and the increase in representations because of the consultation with the occupiers of properties within 150 meters has doubled the number of meetings of the sub-committee. Members are asked to review the recommendations regarding the consultation procedure and consider:

- whether the requirement for the consultation with occupiers of properties within 150

meters of the application premises should continue.

- whether those applications for which the members of the public have no right to object should be heard during the daytime meeting and, if so, recommend to the Council that the policy should be altered.,
- That they inform the cabinet that it is their view that the recommendations should be fully funded as set out in this report.

Resource implications:

Budget provision: There is none in the budget. Depending upon the decision of this Committee a report will be made to the Cabinet asking for resources to be renewed for the future funding of this initiative.

Personnel: 2 additional members of staff required.

Land: None

Community Plan/BVPP reference:

Relevant statutory powers:

Dangerous Wild Animals Act 1976

Gambling Act 2005

Guard Dogs Act 1975

House to House Collections Act 1939

Licensing Act 2003

Local Government (Miscellaneous Provisions) Act 1976

Local Government (Miscellaneous Provisions) Act 1982

Pet Animals Acts 1951 & Pet Animals Act 1951 (Amendment Act) 1983

Riding Establishments Acts 1964 & 1970

Scrap Metal Dealers Act 1964

The Game Act 1831

Town Police Clauses Act 1847

Town Police Clauses Act 1889

Zoo Licensing Act 1981

Scrap Metal Dealers Act 2013

Any Regulations, Orders, Byelaws or other subsidiary legislation made under the above Acts.

Background papers:

Reports and decisions of the Licensing Services Task and Finish Panel, Overview and Scrutiny, Licensing Committee, Council

Environmental/Human Rights Act/Crime and Disorder Act Implications:

Key Decision reference: (if required)