

LICENSING COMMITTEE

Minutes of a meeting of the Licensing Committee held on Wednesday 16th January 2013 at 6.05 pm in the Wrekin Room, The Business Development Centre, Stafford Park 4, Telford

PRESENT

Councillors: C Mason (Chair), R Picken, A Mackenzie, L Murray, R Scammell, J Seymour and J Thompson.

Officers in attendance: Jonathan Eatough – Assistant Director: Law, Democracy & Public Protection, Jo Revell – Health, Safety & Resilience Manager, Ian Mercer – Public Protection Service Delivery Manager, Suzanne Fisher – Public Protection Team Leader, Ian Ross – Team Leader Places, Legal Services, Tina Street – Solicitor, Taranjit Sahota – Trainee Solicitor and Wendy Buckley - Democratic Services Support Officer.

The Chair introduced two officers from Telford & Wrekin to the Licensing Committee. Jo Revell – Health, Safety & Resilience Manager who would be taking over from Ian Mercer from the end of February and Taranjit Sahota – Trainee Solicitor.

A minutes silence was held for Councillor Duce, a Member of the Licensing Committee, who had passed away on 24th December 2012.

LC- 20 MINUTES

RESOLVED – that the minutes of the meetings of the Licensing Committee held on the 2nd October and 20th November 2012 be confirmed and signed by the Chair.

LC- 21 APOLOGIES FOR ABSENCE

Councillors T Hope and K Tomlinson.

LC- 22 DECLARATIONS OF INTEREST

None.

LC- 23 DETERMINATION OF APPLICATION FOR LAND OFF SUTTON HILL WAY, SUTTON HILL, TELFORD TO BE REGISTERED AS A VILLAGE GREEN

Councillor Mackenzie left the meeting at this point as he declared that he had attended two public meetings regarding the application for the village green in his role as ward member for Cuckoo Oak.

The Team Leader Places, Legal Services presented a summary of the report of the Assistant Director – Law, Democracy and Public Protection advising Members that an application had been received on 30th April 2009 by Mr Hoyle to register land to

the south of Sutton Hill Way, Telford as a village green. The evidence had been submitted to Members to determine whether or not the case had been proved to register the land as a village green.

Members were referred to the process which had been followed to give publicity to the application: interested parties were notified and notices had been published in the Shropshire Star on 23rd December 2010 and put up on site from 29th November 2010.

Objections were received by Telford Golf and Country Club Hotel, Homes and Communities Agency and Telford & Wrekin Council. The area of the village green was then revised by the applicant and the landowning parties withdrew their objections. Two local residents also placed objections but these too had been withdrawn so therefore the application and the evidence in support of the application was uncontested.

It was explained to Members that the authority may register land as a village green if it is satisfied, on the balance of probabilities, that a significant number of inhabitants of any locality, or of any neighbourhood within a locality, have indulged as of right in lawful sports and pastimes on the land for a period of at least 20 years and they continue to do so at the time of the application. It was also explained to Members that they should only consider the relevant evidence before making their determination. It was pointed out that a considerable amount of relevant evidence had been submitted, which had not been disputed and which related to the matters which needed to be proved before the application could be granted.

RESOLVED - that the land off Sutton Hill Way, Sutton Hill, Telford as shown on the revised plan dated 27th January 2011 attached to the report, be registered as a Village Green.

Councillor Mackenzie returned to the meeting room for the remaining agenda items.

LC – 24 CONSIDERATION TO LICENCE A PEUGEOT E7 AS A HACKNEY CARRIAGE VEHICLE

The Chair advised that some Members had received a letter by e-mail, concerning consideration to licence a Peugeot E7, from the Hackney Carriage Association. The letter was addressed to Kuldip Sahota, Leader of Telford & Wrekin Council and would be responded to by the Leader.

The Public Protection Team Leader summarised the report of the Service Delivery Manager Public Protection for Members to consider whether to licence a Peugeot E7 as a hackney carriage vehicle by adding it to the list of the Council's approved hackney carriage vehicles.

Members were advised that an application had been made in November 2012 from Allied Vehicles to request the vehicle be licensed as a hackney carriage. Following the procedure agreed by this Committee at the previous meeting (Minute number LC 14) Members of the 'working panel' had examined the vehicle by way of a tick box form, a copy of which was attached to the report. Later inspection visits were

carried out by a representative from Listen Not Label and Brian McMillan, Public Protection Compliance Officer, and were tabled at the meeting.

After an initial debate about the evidence, the Chair moved, in accordance with Council Procedure Rule 13.11, that the meeting be adjourned in order to allow Members to inspect an E7 vehicle which was parked outside the building. The adjournment was approved, and the meeting was duly adjourned at 7pm.

The meeting reconvened at 7.10pm.

The debate about the application continued and there was some concern voiced by Members about the interior handles for passengers to exit the vehicle in the event of the driver not being able to open the doors, step height and the incline of the ramp for wheelchair access. Members debated the importance of having an under floor ramp to enter the vehicle as standard, swivel seat and hearing loop. (A release button for the doors was also suggested as a recommendation to feedback to the manufacturer for passengers to exit the vehicle). Members confirmed that the specific requirements of the under floor ramp, swivel seat and hearing loop to the E7 vehicle be included by the Public Protection Team Leader to the appropriate model before placing on the approved list of hackney carriage vehicles.

RESOLVED - that the appropriate model(s) of the Peugeot E7 vehicle be added to the approved list of licensed hackney carriage vehicles.

LC – 25 VERBAL REPORT ON A TRAINING EVENT ATTENDED BY THE CHAIR OF THE LICENSING COMMITTEE AND THE PUBLIC PROTECTION TEAM LEADER

The Public Protection Team Leader, the Licensing Committee Chair and the Licensing Technical Officer had attended a training event in Birmingham in November 2012. The Public Protection Team Leader advised that the training event provided a 'mix and match' programme to attend different training opportunities.

Members asked if there were any items of training from the event which the Licensing Committee Members would find useful. The Public Protection Team Leader advised that changes brought in by the Live Music and Police Reforms and Social Responsibility Acts and the response to the taxi reform from the Law Commission would be reported to Members during the Licensing Committee meeting to be held in March 2013.

LC – 26 VERBAL REPORT ON TAXIS LICENSED BY SHROPSHIRE COUNCIL

The Public Protection Team Leader advised Members that Shropshire Council last year refused to renew some hackney carriage proprietor's licences which were licensed as hackney carriage vehicles by Shropshire Council but which were operating as private hire vehicles in Telford & Wrekin. The proprietors appealed to Shrewsbury Magistrates Court. One proprietor took one test application to the magistrates court with the other proprietors handing in letters to abide by the one test appeal. In October 2012 the Judge concluded that Shropshire Council had

taken the correct action and the appeal was dismissed. Shropshire Council agreed to grant temporary licences to 31st March 2013 for any that were affected by the appeal so that drivers were allowed to continue working while applying to Telford & Wrekin to be licensed. The temporary licences would be hackney carriage licences In Shropshire operating as private hire in Telford & Wrekin.

RESOLVED – that the position be noted.

Meeting closed at 7.45 pm.

Chairman:

Date:

LICENSING COMMITTEE

Minutes of a meeting of the Licensing Committee held on Wednesday 23rd January 2013 at 6.10 pm in Meeting Room 5/6, AFC Telford United Learning Centre, Wellington, Telford

PRESENT

Councillors: C Mason (Chair), R Picken, A Mackenzie, L Murray, J Seymour, J Thompson, K Tomlinson and C Turley.

Officers in attendance: Jonathan Eatough – Assistant Director: Law, Democracy and Public Protection, Ian Ross – Team Leader Places, Legal Services and Wendy Buckley - Democratic Services Support Officer.

LC- 27 APOLOGIES FOR ABSENCE

Councillors T Hope and R Scammell.

LC- 28 DECLARATIONS OF INTEREST

None.

LC – 29 REVIEW OF LICENCE FEES

This matter was deferred to a further meeting.

LC- 30 DETERMINATION OF APPLICATION FOR LAND OFF STATION ROAD, NEWPORT TO BE REGISTERED AS A VILLAGE GREEN

The Team Leader Places, Legal Services presented a summary of the report of the Assistant Director – Law, Democracy and Public Protection advising Members that an application had been made to register land at Station Road, Newport as a village green under the Commons Act 2006.

Telford & Wrekin Council were the freehold owner of the site and an objection had been made by them as land-owner. It was emphasised to Members that the Licensing Committee was exercising the Council's functions as Registration Authority with reference only to relevant considerations. A significant number of representations in support of the application were received from local residents. A non-statutory public inquiry into the application took place in October 2012. Counsel, was appointed to act as inspector by the Council, as registration authority, to receive and consider evidence and submissions from local residents regarding the application and prepare a report and recommendation for the Council.

Members were reminded of Section 15(2) of the Commons Act 2006 in that the authority may register land as a village green if it is satisfied, on the balance of probabilities, that a significant number of the inhabitants of any locality, or of any neighbourhood within a locality, have indulged as of right in lawful sports and

pastimes on the land for a period of at least 20 years and they continue to do so at the time of the application.

Members were referred to the legal position and an outline of the Inspector's approach as set out in her report. The overall conclusion of the inspector on the totality of the evidence presented at the inquiry was that the Applicant had failed to prove his case and that none of the application land qualified for registration as a town or village green under section 15(2) of the Commons Act 2006. It was also not shown, in the inspector's opinion, that a significant number of inhabitants of the locality had indulged in lawful sports and pastimes as of right on the application land for at least 20 years. The inspectors recommendation was that the Registration Authority should reject the application for the reasons set out in her report, which was attached as an appendix to the main report.

Some Members mentioned that following a site visit earlier in the day and reading the inspectors report it was clear that a fair process had been followed but that the evidence in support of the application did not meet the criteria for registration of the land as a village green. Concern was shown by a Member regarding the Council's role in this application for a village green as it was thought that Telford & Wrekin Council had been extremely heavy handed with high costs involved. The Team Leader Places advised Members that they should confine their consideration to what was relevant to the determination of the village green application.

RESOLVED - that

- (a) the Inspector's report and recommendations dated 18th January 2013 were accepted.**
- (b) the land at Station Road, Newport as shown edged red on the plan, attached to the application for registration as a village green received on 15th December 2011 should not be registered as a village green for the reasons set out in the Inspector's report dated 18th January 2013.**

Meeting closed at 6.35 pm.

Chairman:

Date:

Telford & Wrekin Council

Licensing Committee 13th March 2013

Police Reform and Social Responsibility Act 2011

Report of the Service Delivery Manager – Public Protection

1. Purpose

1.1 To inform Members of the Licensing Committee of the implications of the Police Reform and Social Responsibility Act 2011 with regard to the Late Night Levy and Early Morning Restriction Order.

2. Recommendations

2.1 It is recommended that Members note the contents of the report and recommend to Full Council that, at the present time, this Authority does not implement the use of Late Night Levy (LNL) or Early Morning Restriction Orders (EMROs) within the Borough.

3. Summary

3.1 The report is to inform Members of the Licensing Committee about the new licensing powers including the possible options to use Late Night Levy (LNL) and Early Morning Restriction Orders (EMROs).

4. Previous Minutes

4.1 Minutes from Licensing Committee 27th June 2012 LC-05.

5. Information

5.1 Background

5.1.1 The majority of the measures brought in by The Police Reform and Social Responsibility Act 2011 (PRSRA 2011) came into force on 25 April 2012 and were considered by the Licensing Committee on 27th June 2012.

5.1.2 Some of the alcohol provisions introduced in the Act required substantive changes to secondary legislation prior to commencement. Early Morning Restriction Orders and Late Night Levy's were enacted on 31st October 2012.

5.1.3 The Changes which came into effect on 31st October 2012 are as follows :

Early Morning Restriction Orders

What an Early Morning Restriction Order (EMRO) is.

An EMRO restricts the sale or supply of alcohol in a licensing authority area between the hours of midnight and 6am for premises licences, club premises certificates and temporary event notices (TENs).

The purpose of the EMRO

An EMRO is designed to address recurring problems of high levels of alcohol related crime and disorder in an area which cannot be attributed to one specific premises and so cannot be dealt with by way of the review of a premises.

The procedure for adopting an EMRO

The decision to introduce, vary or revoke an EMRO must be made by Full Council.

A licensing authority can have two or more EMRO's covering different areas of the authority.

If a licensing authority decides to introduce an EMRO, its decision must be supported by evidence.

There is no evidence in the Borough of Telford and Wrekin to support the introduction of an EMRO.

Where there is supporting evidence Guidance issued by the Home Office under section 182 of the Licensing Act 2003, paragraph 16.8 indicates that 'The licensing authority should consider whether other measures may address the problems that they have identified as the basis for introducing an EMRO first.

Unintended consequences of an EMRO

There is concern nationally amongst licensing practitioners and the licensed trade that an EMRO which reduces the licensing hours in a particular area of an authority would mean that there would be displacement with people going to a different area with later hours, effectively reducing or even destroying the night time economy in areas covered by an EMRO.

When an EMRO can apply

An EMRO can apply to any or all days of the week, the same time for each specified day, or different times for different days, and for an open-ended or time-limited period, and can apply to the whole of a local authority area, or just a part of it. It cannot apply on New Years Eve, to the supply of alcohol to residents of accommodation as long as the alcohol is sold through mini-bars and/or room service, or to a relaxation of licensing hours made by the Secretary of State.

Exemption of premises from an EMRO

It is possible that premises within the proposed area of the EMRO could state a case as to why they should be exempt from the effects of the EMRO, if for example they can demonstrate that they do not contribute to the problems that have resulted in the EMRO.

Late Night Levy's

What a Late Night Levy is

A late Night levy is an annual charge made by the Licensing authority on premises which are licensed to sell alcohol between midnight and 6am in their area

The amount of the Levy

The levy charges are an annual charge and have been set by the Government, based on the non-domestic rateable value of the premises. These charges range from £299 per annum to £4440 per annum for band B to E premises.

The purpose of the Levy

The levy is intended to raise a contribution towards the cost of policing the late-night economy, After deducting administrative expenses the remaining net Levy will be divided between the Police and the local authority. The Police must receive at least 70% of the proceeds, and the local authority would receive up to 30% of the proceeds. There are no restrictions within the legislation on what the Police may spend their portion of the money on. The licensing authority must spend the income apportioned to them form a Late Night Levy on policing the night-time economy.

Superficially it appears that the introduction of a Late Night Levy would generate income for a licensing authority. The costs of the consultation process and the free variations to licences before the introduction of the Levy fall to the licensing authority and would be deducted from the total Levy income before it is divided with 70% of the remainder going to the Police and 30% to the licensing authority. This reduction will impact on the amount of any financial gain.

Who the Levy is payable by

If a levy is introduced, it will be payable by all premises and club premises in the Borough who are licensed for the supply of alcohol during the levy hours, regardless of whether they are actually operating, or whether they contribute to problems in the late night economy. Prior to the Levy being introduced, premises may apply, free of

charge, for a minor variation to change their licensable hours so that they do not fall within the late-night supply period.

The procedure for the Levy

The Home Office Guidance recommends that the decision to introduce, vary or end a Late Night Levy is made by Full Council and that other decisions relating to the introduction and administration of the Late Night Levy can be delegated as the licensing authority sees fit.

The licensing authority can specify any time between midnight and 6am that it wants the Levy to be in place, and the same time will apply every day of the year.

If a Levy fee remains unpaid, then the procedure is the same as that for an unpaid annual fee and may result in suspension of the licence.

The premises that can be exempted from the Levy

The licensing authority can also exempt certain premises from the Levy. These exemptions must be taken from a designated list. These are:

1. Premises with overnight accommodation.
2. Theatres and cinemas.
3. Bingo Halls.
4. Community Amateur Sports Clubs (“CASCs”)
5. Community Premises.
6. Country Village Pubs.
7. New Year’s Eve.
8. Business Improvement Districts (“BIDs”)

The Levy will not apply to Temporary Event Notices.

The licensing authority can also approve a reduction of up to 30% in the amount paid for the Levy by certain businesses involved in best led business schemes, for example Best Bar None or Pubwatch.

5.1.4 Likely impact on Borough businesses

It is likely, in the current economic climate, that the important night time economy of the Borough may be affected. by the introduction of such large extra fees. Additionally, operators considering investing in the Borough might be deterred by any additional restrictions and may be inclined to go to other areas who have not adopted the provisions.

5.1.5 Police views

West Mercia Police have agreed to look at what happens nationally with EMROs before making a final decision. For the time being, Licensing Officers feel that this Authority

should not rush any decision and Telford & Wrekin Council should await possible developments from the police and also note the approach that is generally adopted across the country in this matter.

West Mercia Police and also West Mercia licensing authorities have informed Telford & Wrekin Council Licensing Officers that they would not support the introduction of a Late Night Levy.

- 5.1.6 The Statement of Licensing Policy will need to be amended to incorporate these changes.

5.2 **Equal Opportunities**

- 5.2.1 None – statutory provisions being implemented only.

5.3 **Environmental Impact**

- 5.3.1 Not applicable for the purposes of this report.

5.4 **Legal Comment**

- 5.4.1 Section 119 of the Police Reform and Social Responsibility Act 2011 amends the Licensing Act 2003 to include Early Morning Restriction Orders. It sets out the power to make early morning alcohol restriction orders, the procedural requirements, the making of an order, variation and revocation, and exceptions.

- 5.4.2 Chapter 2 of the Police Reform and Social Responsibility Act 2011 sets out the provisions for the Late Night Levy requirement.

5.5 **Links with Corporate Priorities**

- 5.5.1 This report has links to the following priorities :

- To Protect and Support our Vulnerable Children and Adults
- Protect and create jobs as a “Business Supporting, Business Winning Council”

5.6 **Financial Comment**

- 5.6.1 The current licensing budget does not include income in respect of the EMRO or LNL. If the Late Night Levy were to be imposed it would generate additional income of approximately £139k. Of this £97k (70%) would be payable to the Police with £42k being retained by the Council. This does not account for any additional administrative costs as a

result of implementing the Late Night Levy which would need to be deducted before splitting the net income between the two bodies.

- 5.6.2 There are no direct financial implications of implementing EMRO's as this would be administered within existing resources.
MLB 01.03.13

5.7 Risks and Opportunities

5.7.1 In proposing this action the Corporate Risk Management Methodology has been complied with. This approach is not intended to eliminate risks but to identify the risks and manage them. However not all risks can be managed all of the time and some risks may not have been identified.

5.7.2 The following key risks and opportunities associated with this action have been identified and assessed and arrangements will be put in place to manage them.

- (i) A legal challenge by way of Judicial Review should the Council not consider the changes brought about by the PRSRA 2011.
- (ii) A legal challenge by way of Judicial Review should the Council introduce a Late Night Levy or EMRO.

6. Ward Implications

6.1 This report has Borough wide Implications.

7. Background Papers

- 7.1 Police Reform and Social Responsibility Act 2011
- 7.2 Licensing Act 2003
- 7.3 Home Office Amended Guidance Issued Under Section 182 of The Licensing Act 2003
- 7.4 Home Office guidance on the Late Night Levy.

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