



BROMSGROVE DISTRICT COUNCIL

MEETING OF THE LICENSING COMMITTEE

MONDAY 11TH OCTOBER 2010, AT 6.00 P.M.

COMMITTEE ROOM, THE COUNCIL HOUSE, BURCOT LANE, BROMSGROVE

MEMBERS: Councillors Mrs. R. L. Dent (Chairman), Mrs. C. J. Spencer (Vice-Chairman), Miss D. H. Campbell JP, J. T. Duddy, Mrs. J. M. L. A. Griffiths, D. Hancox, B. Lewis F.CMI, Ms. J. A. Marshall, D. McGrath, S. P. Shannon, Mrs. M. A. Sherrey JP, L. J. Turner and P. J. Whittaker

AGENDA

1. To receive apologies for absence and notification of substitutes
2. Declarations of Interest
3. To confirm the accuracy of the minutes of the meeting of the Licensing Committee held on 26th July 2010 (Pages 1 - 4)
4. Licensing Sub-Committees A & B, 12 Month Review (Pages 5 - 10)
5. Street Trading Consent 6 Month Review - Scrutiny Board (Pages 11 - 16)
6. Taxi Appeal - Verbal feedback on the appeal decision - Mrs V. Brown, Legal, Equalities and Democratic Services
7. To consider any other business, details of which have been notified to the Head of Legal, Equalities and Democratic Services prior to the commencement of the meeting and which the Chairman, by reason of special circumstances, considers to be of so urgent a nature that it cannot wait until the next meeting

K. DICKS
Chief Executive

The Council House
Burcot Lane
BROMSGROVE
Worcestershire
B60 1AA

1st October 2010

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Agenda Item 3

BROMSGROVE DISTRICT COUNCIL

MEETING OF THE LICENSING COMMITTEE

MONDAY, 26TH JULY 2010

AT 6.00 P.M.

PRESENT: Councillors Mrs. R. L. Dent (Chairman), Mrs. C. J. Spencer (Vice-Chairman), J. T. Duddy, Mrs. J. M. L. A. Griffiths, D. Hancox, B. Lewis F.CMI, Ms. J. A. Marshall, D. McGrath, S. P. Shannon and L. J. Turner

Invitees: Councillor M. Webb, Portfolio Holder for Community Services and Ms. E. Humphries, Community Safety Partnership Analyst

Officers: Mrs. A. Heighway, Mrs. S. Sellers, Ms. S. Garratt, Mr. C. Santoriello-Smith and Ms. P. Ross

9/10 APOLOGIES

Apologies for absence were received from Councillors Miss D. H. Campbell JP and Mrs. M. A. Sherrey JP.

10/10 DECLARATIONS OF INTEREST

No declarations of interest were received. It was noted that Councillor S. P. Shannon would withdraw as a Member of the Licensing Committee during consideration of Minute No. 12/10 (Designated Public Places Order, Lyttleton Avenue, Recreation Road, Bromsgrove) as he was acting on behalf on the applicant, Councillor Mrs. C. M. McDonald who had been unable to attend.

11/10 MINUTES

The minutes of the meeting of the Licensing Committee held on 24th May 2010 were submitted.

RESOLVED that the minutes be approved as a correct record.

12/10 DPPO - DESIGNATED PUBLIC PLACES ORDER - LYTTLETON AVENUE, RECREATION GROUND, CHARFORD

The Chairman welcomed new Members to the Licensing Committee and requested brief introductions from the officers present.

Members were asked to consider an application from the Ward Councillor representing the Charford Ward to introduce a Designated Public Places Order (DPPO) which would prevent, when requested, the consumption of alcohol in the area known as Lyttleton Avenue Recreation Ground in Charford,

in an attempt to reduce anti social behaviour and drinking in this public area. On this occasion, West Mercia Police, who are responsible for enforcing any restrictions on public drinking in designated areas, were not willing to support this particular request as they had insufficient evidence of anti-social behaviour caused by alcohol consumption in this area. West Mercia Police had been invited to attend the Licensing Committee meeting, but were unavailable and an apology had been received from Inspector J. Smith, Bromsgrove District Inspector.

The Chairman invited Councillor S. P. Shannon, Ward Councillor for Charford to speak on behalf of the applicant, Councillor Mrs. C. M. McDonald, in her absence. Councillor Shannon spoke in favour of the request to introduce a DPPO in this area. In doing so he referred to complaints from residents regarding anti-social behaviour (ASB), bottles left on the grass and palisade fencing used to cause damage to the bowling club. Councillor Shannon referred to the Research and Intelligence Unit, Worcestershire County Council, Bromsgrove Profile. The report provided a rough indication of the 10 wards with the greatest perceived ASB problem, with Charford being one of the wards listed. Councillor Shannon indicated that these concerns had been raised during Partners and Communities Together (PACT) meetings. Councillor Shannon responded to questions from Members regarding the reporting of ASB, the recent damage to the bowling club and issues raised during PACT meetings.

The Chairman asked Members to note that each DPPO application was taken on its own merit with the supporting evidence from the applicant and the interested parties consulted.

The Senior Community Safety Project Officer introduced the report which also detailed the Home Office Guidance relating to Designated Public Places Orders (DPPOs) for Local Authorities in England and Wales. The Committee was informed that the document set out guidance for local authorities on the issue of evidence required to justify the making of a DPPO as follows:

“The evidence you will require for a DPPO is that there is an alcohol related nuisance or annoyance to the public in the proposed area/s. You should make an assessment as to the likelihood that the problem will continue unless these powers are adopted. In addition, you must have a belief that the problem could be remedied by the use of these powers. Evidence should be based not just on information you have obtained, but also from the police and members of the local community who have reported incidents of alcohol-related anti-social behavior or disorder. Evidence of alcohol-related nuisance could for example include litter related to the consumption of alcohol (e.g. bottles and cans) as well as police information and residents’ complaints.”

The Chairman invited Members to put any relevant questions to the Senior Community Safety Project Officer.

Following further discussion and on the information provided it was

RESOLVED that the request to introduce a Designated Public Places Order on Lyttleton Avenue Recreation Ground, Charford, Bromsgrove be refused.

13/10 **DPPO - DESIGNATED PUBLIC PLACES ORDER - REVIEW AND EVALUATION**

The Committee considered a report that provided a review conducted by Bromsgrove Community Safety Partnership of existing Designated Public Places Orders (DPPOs) within the Bromsgrove District.

The Senior Community Safety Project Officer informed Members that although there was no statutory requirement to review a DPPO, the Home Office guidance recommended they should be evaluated and reviewed as a matter of good practice, ideally at least every two years. In June 2010 the administration of DPPO had transferred from the Licensing Team to the Community Safety Team as an interim responsibility until a formal arrangement was agreed by the local authority. Members were informed that there were a total of 22 DPPOs within the Bromsgrove District. The study carried out by Bromsgrove Community Safety Partnership on the 22 DPPOs was to assess the effectiveness and to establish whether they were still appropriate, necessary and proportionate. 10 DPPOs were found to be inappropriate and a further 6 were proven to be ineffective. The remaining 6 DPPOs were proven to be effective in reducing adult alcohol related disorder.

The Head of Community Services responded to questions from Members regards existing signage and the proposed new signage. Members were also informed that there had been some confusion regarding DPPOs. DPPOs did not provide a blanket ban on alcohol but placed restrictions on the consumption of alcohol in public places and gave Police Officers and accredited persons the power to require a person in a DPPO not to drink alcohol in that area, in order to deal with alcohol related disorder committed by persons over the age of 18 years old (adult).

The Portfolio Holder for Community Services thanked officers for their informative report and responses to Members questions.

RESOLVED:

- (a) that approval be given to officers to review Bromsgrove DPPOs as set out in paragraph 4.1 of the report to enable the Licensing Committee to consider revocation in line with legislative requirement;
- (b) Signage -
 - (i) that any future use of signage conforms with the Home Office guidance for local authorities on DPPOs;
 - (ii) that any future change of signage be subject to the review of the current DPPOs;
- (c) that approval be given for officers to carry out biannual evaluations of existing DPPOs be undertaken to ensure that all active DPPOs in Bromsgrove District continue to be effective, appropriate and proportionate; and

- (d) that authority be delegated to the Head of Community Services in consultation with the Portfolio Holder to decline a DPPO request in the event that:
- (i) analytical work does not warrant further consideration by the Licensing Committee and/or;
 - (ii) the order does not have the support of West Mercia Police Authority.

14/10 **REGULATION OF SEXUAL ENCOUNTER VENUES**

The Committee was asked to consider a report on the Policing and Crime Act 2009 that reclassified lap dancing clubs as Sexual Encounter Venues and gave local authorities in England and Wales the power to regulate them as Sex Establishments under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982. Following discussion on the draft Sexual Encounter Venue Policy Statement and Guidelines as set out at Appendix 2, it was

RESOLVED that the policy statement be amended to include the following -

"On all applications a mandatory condition will be imposed to ensure that no persons under the age 18 or such other age as is stipulated by the relevant legislation may enter or use the premises whilst this type of entertainment takes place."

RECOMMENDED:

- (a) that the Council re-affirm the adoption of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 and adopt Section 27, paragraph 2(2) of Schedule 3 to the Policing and Crime Act 2009 with effect from (no more than 1 month after the day on which the resolution was passed);
- (b) that the Council set a fee for a sex shop and / or Sexual Encounter Venue Licence and include that fee within the Council's Fees and Charges register as follows:-
- Grant £920.00
 - Renewal £890.00
 - Transfer £135.00
- (c) that the Council delegates to the Head of Regulatory Services all powers under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 and Section 27, paragraph 2(2) to the Policing and Crime Act 2009.

The meeting closed at 7.59 p.m.

Chairman

BROMSGROVE DISTRICT COUNCIL

LICENSING COMMITTEE

11th OCTOBER 2010

REVIEW OF THE LICENSING (MISCELLANEOUS) SUB-COMMITTEES A & B

Relevant Portfolio Holder	Councillor Peter Whittaker
Relevant Head of Service	Steve Jorden, Head of Worcestershire Regulatory Services
Key Decision / Non-Key Decision	

1. SUMMARY OF PROPOSALS

- 1.1 The Licensing Committee agreed at its meeting held on 7th September 2009 changes proposed to the sub-committees of the Licensing Committee and that the new sub-committees be trialed for a period of twelve months. This report reviews the last twelve months and suggests proposed changes to the Licensing (Miscellaneous) Sub-Committees A and B structure.

2. RECOMMENDATIONS

It is recommended that:

- 2.1 The Licensing (Miscellaneous) Sub-Committees A and B be restructured as follows -
- (a) That membership for both Sub-Committees consists of three Members to be selected from the Licensing Committee including the Chairman or Vice-Chairman who will chair the Sub-Committee. The Sub-Committee are not required to be politically balanced, but where possible will include one opposition Member.
 - (b) That the quorum for both Sub-Committees be three Members with a fourth substitute Member on standby for each meeting.
- 2.2 That the Sub-Committees continue to be called the Licensing (Miscellaneous) Sub-Committees A and B.
- 2.3 That the Licensing (Miscellaneous) Sub-Committees A and B sit in strict rotation with meetings times as follows:
- Licensing (Miscellaneous) Sub-Committee A meetings to be held during office working hours with the times of hearings being determined in consultation with applicant(s) represented by a legal representative.

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- Licensing (Miscellaneous) Sub-Committee B meetings to be held at 6:00pm for applicant(s) and Licensing Committee Members who are committed during office working hours.

2.4 That substitutes must have met the training requirements determined by the Member Development Steering Group.

BACKGROUND

3.1 At its meeting held on 7th September 2009 the Licensing Committee restructured and renamed the Sub-Committees of the Licensing Committee as the Licensing (Miscellaneous) Sub-Committees A and B. The new Sub-Committees included fixed memberships (6 Members drawn from the Licensing Committee plus either the Chairman or Vice-Chairman of that Committee). It was agreed that the position should be reviewed once the new Sub-Committees had been in operation for a period of 12 months.

3.2 Reviewing the general operation of the Sub-Committees is beneficial as it provides Members and officers with an opportunity to reflect on the work carried out over the last twelve months and to consider whether any changes are required to the practices or procedures currently in place to facilitate that work.

4. KEY ISSUES

4.1 Following the introduction of the Worcestershire Regulatory Shared Services on the 1st June 2010 it was noted that the authorities within the shared services operated sub-committees that consisted of three Members and a substitute Member from the main Licensing Committee.

4.2 It should also be noted that during the recent mandatory Licensing training undertaken by Licensing Committee Members on 28th and 29th July 2010, the external trainer highlighted that it was best practice for Sub-Committees to consist of three Members and a substitute Member from the Licensing Committee, with a required quorum of three.

4.3 On reflection it is now considered that in practice the current Sub-Committee membership of 7 Members is rather unwieldy and unnecessarily daunting for hearings with applicants and that smaller Sub-Committees would be more desirable.

4.4 For the above reasons it is therefore proposed that the Licensing (Miscellaneous) Sub-Committees A and B be restructured to each comprise three Members selected from the main Licensing Committee, including the Chairman or Vice-Chairman of that Committee to chair the Sub-Committee.

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4.5 The proposed changes would not only follow best practice and be consistent with other authorities within the Worcestershire Regulatory Shared Services, but would also be consistent with the current approach used by the Licensing Committee for determining Premises Licenses Hearings.

5. FINANCIAL IMPLICATIONS

5.1 None

6. LEGAL IMPLICATIONS

6.1 Section 102 of the Local Government Act 1972 as amended gives local authorities the power to appoint committees, and to committees to appoint sub-committees.

7. POLICY IMPLICATIONS

7.1 There are no direct policy implications.

8. COUNCIL OBJECTIVES

8.1 CO2 - Improvement.

9. RISK MANAGEMENT INCLUDING HEALTH & SAFETY CONSIDERATIONS

9.1 No significant risk arising from this report have been identified, but any minor risks arising are being managed as follows:

Risk Register: Legal, Equalities and Democratic Services
Key Objective Ref No: 2
Key Objective: Effective ethical governance

10. CUSTOMER IMPLICATIONS

10.1 N/a

11. EQUALITIES AND DIVERSITY IMPLICATIONS

11.1 None

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12. VALUE FOR MONEY IMPLICATIONS, PROCUREMENT AND ASSET MANAGEMENT

12.1 N/a

13. CLIMATE CHANGE, CARBON IMPLICATIONS AND BIODIVERSITY

13.1 N/a

14. HUMAN RESOURCES IMPLICATIONS

14.1 None

15. GOVERNANCE/PERFORMANCE MANAGEMENT IMPLICATIONS

15.1

16. COMMUNITY SAFETY IMPLICATIONS INCLUDING SECTION 17 OF CRIME AND DISORDER ACT 1998

16.1 N/a

17. HEALTH INEQUALITIES IMPLICATIONS

17.1 None

18. LESSONS LEARNT

N/a

19. COMMUNITY AND STAKEHOLDER ENGAGEMENT

19.1 N/a

20. OTHERS CONSULTED ON THE REPORT

Portfolio Holder	Yes
Chief Executive	No
Executive Director (S151 Officer)	No
Executive Director – Leisure, Cultural, Environmental and Community Services	No

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Executive Director – Planning & Regeneration, Regulatory and Housing Services	Yes
Director of Policy, Performance and Partnerships	No
Head of Service	Yes
Head of Resources	No
Head of Legal, Equalities & Democratic Services	Yes
Corporate Procurement Team	No

21. WARDS AFFECTED

All wards

22. APPENDICES

None

23. BACKGROUND PAPERS

None

24. KEY

AUTHOR OF REPORT

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BROMSGROVE DISTRICT COUNCIL

LICENSING COMMITTEE

11th October 2010

STREET TRADING CONSENT POLICY – SCRUTINY BOARD REVIEW

Relevant Portfolio Holder	Councillor P. Whittaker
Relevant Head of Service	Steve Jorden, Head of Worcestershire Regulatory Services
Non-Key Decision	

1. SUMMARY OF PROPOSALS

- 1.1 The Scrutiny Board is due to review the operation of the newly introduced Street Trading Consent Policy. This is included in the Board's work programme for its meeting on 26th October 2010. The purpose of reporting this item to the Licensing Committee is to enable Members of the Committee to contribute to the comments that the Chair of Licensing will present to the Scrutiny Board.

2. RECOMMENDATIONS

- 2.1 That questions regarding the Street Trading Consent Policy put forward by the Scrutiny Board be noted. (An update on the questions will be provided at the meeting).
- 2.2 That the Chair of Licensing report back to the Scrutiny Board the answers to the questions and any additional issues raised by the Licensing Committee as to the operation of the policy.

3. BACKGROUND

- 3.1 At the meeting of the Scrutiny Board held on 27th October 2009 officers were asked to provide further information about the operation of mobile hot food outlets in the District and how these would be affected by the introduction of the new Street Trading Consent Policy. The Street Trading Consent Policy had been approved by Licensing Committee on 7th September 2009.
- 3.2 The policy sets out the areas which will be designated as trading streets and prohibited streets, so in summary, no street trading is permitted in designated areas without specific consent of the Council.
- 3.3 At the meeting of the Council on 20th January 2010 the proposed fee structure for the Street Trading Consent Policy was adopted along with a recommendation from the Chairman of the Licensing Committee that after six months officers reported to the Scrutiny Board on the operation of the Street Trading Consent Policy.

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11th October 2010

3.4 Following the introduction of the Street Trading Consent Policy on 20th January 2010 officers were made aware by Worcestershire County Council, Highways Department of an anomaly within the policy regarding Trading from Lay-bys. Officers reported this anomaly to the Licensing Committee meeting held on 24th May 2010 and recommended a minor amendment to the Street Trading Consent Policy. The Licensing Committee agreed to the minor amendment to the Street Trading Consent Policy and the revised policy was adopted on 24th May 2010.

4. KEY ISSUES

4 Members are referred to the questions from the Scrutiny Board which will need to be considered. Members may also wish to add any of their own observations on how the new policy has been operating from the perspective of their role on the Licensing Committee. Members will recall that under the policy where no objections are received the street trading consent will be issued by the Licensing Officer; where objections are received it is necessary for that decision to be made by the Licensing Committee at a hearing. To date both sub-committee A and Sub-committee B have decided one application each.

5. FINANCIAL IMPLICATIONS

5.1 There are no financial implications directly relating to this report.

6. LEGAL IMPLICATIONS

6.1 The Street Trading Consent Policy is governed by the Local Government (Miscellaneous Provisions) Act 1982.

7. POLICY IMPLICATIONS

7.1 There are no policy implications directly relating to this report.

8. COUNCIL OBJECTIVES

8.1 C02 – Improvement

9. RISK MANAGEMENT INCLUDING HEALTH & SAFETY CONSIDERATIONS

9.1 There are no significant risks associated with the details included in this report.

LICENSING COMMITTEE

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10. CUSTOMER IMPLICATIONS

10.1 N/a

11. EQUALITIES AND DIVERSITY IMPLICATIONS

11.1 None

12. VALUE FOR MONEY IMPLICATIONS, PROCUREMENT AND ASSET MANAGEMENT

12.1 N/a

13. CLIMATE CHANGE, CARBON IMPLICATIONS AND BIODIVERSITY

13.1 N/a.

14. HUMAN RESOURCES IMPLICATIONS

14.1 None

15. GOVERNANCE/PERFORMANCE MANAGEMENT IMPLICATIONS

15.1 N/a.

16. COMMUNITY SAFETY IMPLICATIONS INCLUDING SECTION 17 OF CRIME AND DISORDER ACT 1998

16.1 N/a.

17. HEALTH INEQUALITIES IMPLICATIONS

17.1 None

18. LESSONS LEARNT

18.1 N/a

19. COMMUNITY AND STAKEHOLDER ENGAGEMENT

19.1 N/a

BROMSGROVE DISTRICT COUNCIL

LICENSING COMMITTEE

11th October 2010

20. OTHERS CONSULTED ON THE REPORT

Portfolio Holder	Yes
Chief Executive	No
Executive Director (S151 Officer)	No
Executive Director – Leisure, Cultural, Environmental and Community Services	No
Executive Director – Planning & Regeneration, Regulatory and Housing Services	Yes
Director of Policy, Performance and Partnerships	No
Head of Service	Yes
Head of Resources	No
Head of Legal, Equalities & Democratic Services	Yes
Corporate Procurement Team	No

21. WARDS AFFECTED

All wards

22. APPENDICES

None

23. BACKGROUND PAPERS

None

24. KEY

None

BROMSGROVE DISTRICT COUNCIL

LICENSING COMMITTEE

11th October 2010

AUTHOR OF REPORT

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