
MEETING	GAMBLING & LICENSING ACTS COMMITTEE
DATE	5 OCTOBER 2007
PRESENT	COUNCILLORS CREGAN (CHAIR), SUE GALLOWAY, MERRETT, MOORE, HORTON, WISEMAN (VICE-CHAIR), B WATSON, SUNDERLAND, REID AND AYRE
APOLOGIES	COUNCILLORS D'AGORNE, FUNNELL, HYMAN, TAYLOR AND RUNCIMAN

PART A - MATTERS DEALT WITH UNDER DELEGATED POWERS

6. DECLARATIONS OF INTEREST

At this point, Members are asked to declare any personal or prejudicial interests they may have in the business on the agenda.

Councillor Moore declared a personal non-prejudicial interest in Agenda Item 6 (Review of Licensing Policy – Licensing Act 2003) as he had taken part in discussions with Rawcliffe Parish Council who had made representations.

7. MINUTES

RESOLVED: That the minutes of the meeting held on 8th June 2007 be approved and signed as a correct record.

8. PUBLIC PARTICIPATION

It was reported that there were no registrations to speak under the Council's Public Participation Scheme.

9. TOURISM PROGRESS REPORT AND UPDATE

Members considered a report that informed them of the current issues affecting the tourism/visitor economy. It outlined the key points in the Tourism Strategy and Action Plan, adopted in 2007, and the key findings of an Evening Economy report which was endorsed by the Council's Executive in July 2007. It emphasised the desire for a high quality and varied visitor offer in order to maximise the economic benefits arising from tourism.

Officers reported that there had been a drive to improve York's evening economy and a report had been produced by York Tourism Partnership, based on research with a variety of stakeholders, which highlighted the social, economic and environmental benefits to the residents of York of the managed development of a healthy evening economy. The recently adopted York Tourism Strategy and action Plan emphasised the

importance of the tourism industry to York and sought to create a successful and sustainable visitor economy for the benefit of visitors, residents, businesses and employees.

Members had the following observations on the paper:

- Some Members felt that the city lacked a major concert venue and were disappointed that there was no reference to this in the documentation
- Some Members felt that people would prefer more 'performance space' to be available within the City Centre proper
- It was noted that the 'Horrible Histories' series of books now referred to York as the 'City of Floods' – Officers agreed to respond to this
- Members queried the kind of performances that were referred to in Paragraph 9 of the report and Officers confirmed that these were lighting displays. Officers confirmed that they would circulate the programme of events to Members
- Some Members felt that the change in evening parking charges would encourage more visitors to stay in York during the evening period
- It was generally acknowledged that some visitors were put off visiting York in the evening due to the rise in alcohol related activities and problems that occurred from these

RESOLVED: That the Committee's comments on the paper were welcomed and noted to ensure future papers cover key tourism issues of interest.

REASON: To help share the effectiveness of future action.

10. REVISION OF STATUTORY GUIDANCE TO LICENSING ACT 2003

Members considered a report that advised them of changes to the guidance accompanying the Licensing Act 2003 to which they are required to have regard to in making related licensing decisions.

The Head of Licensing and Bereavement Services reported that the majority of the text in the guidance was the same but the document had been entirely reformatted making it much easier to use. He brought the following important changes to the attention of the Committee:

- There had been a shift in emphasis within the document and words such as '...promotion of the licensing objectives is paramount...' now appears several times within the guidance.
- The revised guidance gave more 'room for manoeuvre' in terms of dealing with public nuisance.

- Paragraphs 1.23 – 1.27 of the revised guidance related to integrated strategies and referred to the powers of the licence holders. They stress that the Act is part of the Government’s strategy to tackle crime, disorder, antisocial behaviour and alcohol harm. Effective targeted enforcement is encouraged ... Paragraph 1.26 states that licence holders cannot be responsible for the control of individuals when away from their premises but states that they should take reasonable steps to prevent crime and disorder and public nuisance immediately outside their premises, for example on the pavement, in a beer garden or smoking shelter to the extent where these matters are within their control. Paragraph 1.27 states that licensing authorities may consider imposing conditions as appropriate when considering applications for new licences or following a review in respect of these areas. The Officer’s opinion was that given the new guidance the licensing sub-committee could use conditions to control activities in a smoking shelter, designated smoking area or beer garden where the issues are in the control of the licence holder.
- Paragraph 9.8 relates to relevant, vexatious and frivolous representations and contains an important addition to the previous guidance. The addition read as follows ‘...There is no requirement for an interested party or responsible authority to produce a recorded history of problems at a premise to support their representations, and in fact this would not be possible for new premises...’ The Officer stated that this addition, accompanied by the emphasis on prevention in paragraph 2.35, will enable interested parties and responsible authorities such as environmental protection to make representations on the likelihood of problems occurring rather than having to rely on a history of previous incidents.

Members were unclear as to the changes set out in paragraphs 2.19 –2.29 of the guidance; specifically those relating to the implementation of the Regulatory Reform (Fire Safety) Order 2005 which replaced previous fire safety legislation. They sought clarity on whether they would still know the maximum occupancy figure of a premises when considering a licensing application. The Council’s legal advisor confirmed that the Licensing Officer would be able to seek the capacity figure from the Fire Authority and this could be included in any report sent to the sub-committee in relation to specific licensing hearings.

The Committee generally felt that there was a lack of provision within the revised guidance to allow for Members to make general representations regarding licensing applications within their wards. They felt that this

needed to be brought to the attention of the relevant Government departments.

Members generally felt that they wanted to encourage the promotion of responsible drinking within the City and the Head of Licensing and Bereavement Services confirmed that this was something he would be working on in the near future. Members also requested that the Officer write to the appropriate Government departments and all local Members of Parliament to express their concerns regarding the lack of reference to 'the promotion of responsible drinking' within the revised guidance document and the lack of provision for Members to make general representations on licensing applications within their own wards.

Members felt that licensing related material should not be looked at in isolation and it was important to look at things as a whole. They requested that the Officer bring an update on alcohol reduction schemes to the Committee for information.

RESOLVED:

1. Members noted the content of the new guidance and will have regard to it when coming to any licensing decisions under the Licensing Act 2003.
2. That the Head of Licensing and Bereavement Services write to the appropriate Government departments and all local Members of Parliament to express Members' concerns regarding the lack of reference to 'the promotion of responsible drinking' within the revised guidance document and the lack of provision for Members to make general representations on licensing applications within their own wards.
3. That the Head of Licensing and Bereavement Services bring an update to the Committee regarding alcohol reduction schemes.

REASON: To comply with statutory requirements.

11. MEMBERS INVOLVEMENT IN LICENSING APPEALS AND THE INTRODUCTION OF THE SUMMARY REVIEW PROCESS

Members considered a report that examined the process involved in appeals made to the magistrates court against decisions of the Gambling and Licensing Acts Sub-Committees. It looked at the options for Member involvement in the process and sought to determinate a future policy. The report also advised Members of the impact of the Violent Crime Reduction Act 2006 on the hearing process.

The Officer presented the following options relating to Member involvement in appeals made to the magistrates court:

- Option 1** That all Members of the sub-committee who determined the application attend all meetings and the full appeal hearing.
- Option 2** That the Chair of the sub-committee who determined the application attend all meetings and the full appeal hearing.
- Option 3** That all Members of the sub-committee who determined the application be advised of the dates of all meetings and the full appeal hearing and decide if and when they are available and wish to attend.
- Option 4** That the Chair of the sub-committee who determined the application be advised of the dates of all meetings and the full appeal hearing and decide if s/he are available and wish to attend.
- Option 5** That Officers keep the Chair of the sub-committee advised of the outcome of all meetings and seek guidance where the situation and timescales permit.

Members chose to amend option 3 of the report to include a delegated power to Officers to enable them to agree an amendment to an original application submitted in an appeal court. They also amended the option to include other sub-committee Members if the Chair were to be unavailable. The exact wording of the amended option is set out in the resolution below.

The Officer reported that on 1st October 2007 section 21 of the Violent Crime Reduction Act 2006 became operational. This section allows for a senior police officer to apply to the licensing authority for a review of premises which retail alcohol and are associated with serious crime or disorder. On receipt of an application under this section the licensing authority must, within 48 hours, consider whether it is necessary to take interim steps pending the determination of the review. A review must be held within 28 days. The holder of the premises licence may make representations with regard to the interim steps proposed. If such a representation is received then the licensing authority must hold a hearing within 48 hours. The Officer asked Members to note the tight timescales involved and confirmed that these arrangements must be dealt with by the Gambling and Licensing Acts Committee or Sub-Committee and could not be dealt with by Officers under delegated powers. The 48 hours did not include Saturday, Sunday or Bank holidays.

RESOLVED:

1. (i) In respect of Member involvement in the appeal process Members approved the adoption of option 3 in the report with amendments.

‘That all Members of the sub-committee who determined the application be advised of the dates of all meetings and the full appeal hearing and that the Chair decide if he/she is available and if not another Member of the sub-committee to attend in

their absence to represent the sub-committee in the decision it took’.

(ii) The committee also agreed to delegate to Officers their agreement for the Officer and/or a member of the decision making sub-committee attending to authorise an amendment to the original application submitted to an appeal court.

2. in respect of the summary reviews Members noted the process and recognised that sub-committees may need to be convened at very short notice.

REASON: To adopt the most efficient method of involving Members in the appeal process and in the case of summary reviews, to comply with legislation.

PART B - MATTERS REFERRED TO COUNCIL

12. REVIEW OF LICENSING POLICY (LICENSING ACT 2003)

Members considered a report which advised them of the review of the council’s licensing policy, of the consultation undertaken and of the changes made as a result of the revised guidance and legislative changes. The report seeks a recommendation to full council that the revised policy be approved.

The Officer updated that the Club and Institute Union (CIU) had no comments to make on the revisions. The Officer brought to the attention of the committee the change made under Section 5.5 (Entertainments of a Sexual Nature) which had been modified to read *‘Where representations are received to an application, the Licensing Authority will impose conditions designed to ensure that children are not admitted to and cannot witness these activities, and to control crime and disorder problems, particularly if the premises are located in the vicinity of schools, churches, hospitals, youth clubs or other premises where significant numbers of children are likely to attend.’* The Officer also reported that the Police were happy to retain the Cumulative Impact Zone (CIZ) with its present boundaries.

Members raised the following queries:

- In paragraph 3.1 of the Statement of Licensing Policy, under the section heading POLICY, text had been removed and then replaced with exactly the same text. The Officer clarified that this was an administrative error and would not show in the final version of the document.
- The list of consultees in Annex 2 did not mention the Clifton Moor Business Association (CMBA). It was noted that the CMBA should replace Harrowell Shaftoe solicitors on this list.

- Members requested that the wording in 3.4 be retained but changed to read *'The Council will be working in partnership with local transport providers to facilitate improved transport to disperse people quickly away from licensed venues.'*
- Section 5.1 – under the sub section 'Excessive Alcohol Consumption' - Members asked the Officer to insert some suitable wording to promote the principle of training staff to reduce excessive consumption of alcohol.
- Section 5.1 – under the sub-section 'Dispersal' – Members asked the Officer to insert a sentence regarding people leaving the premises in a quiet and orderly manner and the use of quiet zones and departure lounges as an aid to orderly dispersal of persons from a premises.
- Section 5.3 – under the sub-section 'Customer Management' - Members requested some additional wording concerning the use of external smoking areas and beer gardens.
- Members requested that Officers look into the possibility of linking CCTV in individual licensed premises into the City of York Council CCTV system and delegated the powers for them to do this.

RECOMMENDED: The draft statement of licensing policy, subject to the amendments listed above, be approved by full council

REASON: To reflect the results of consultation and meet legislative requirements.

Councillor R Cregan, Chair
 [The meeting started at 2.00 pm and finished at 3.45 pm].