

Licensing Committee

Tuesday, 13th September, 2011

PRESENT: Councillor S Armitage in the Chair

Councillors R Downes, J Dunn,
R D Feldman, B Gettings, G Hussain,
G Hyde, A Khan, P Latty, B Selby,
C Townsley, D Wilson and G Wilkinson

28 Exempt Information - Possible Exclusion of the Press and Public

No formal agenda items were identified as containing exempt information however West Yorkshire Police (WYP) indicated their intention to request that those documents supplied in support of the WYP presentation be treated as exempt should members of the public attend the meeting (minute 33 refers)

29 Late Items

No formal late items of business were added to the agenda however Members were in receipt of additional documents submitted by West Yorkshire Police in support of the WYP presentation (minute 33 refers)

30 Declarations of Interest

There were no declarations of interest, however during discussions on the Cumulative Impact Area (city centre) Councillor Selby stated that as Chair of City Centre Plans Panel, he wished to make it clear that he would treat individual planning applications on their own merits and within the remit of the Plans Panel and similarly, he would consider any licensing applications in accordance with the Licensing Act 2003, the Guidance and the LCC Statement of Licensing Policy and would not pre-determine any matter before him (minute 33 refers)

31 Apologies for Absence

Apologies were received from Councillors Bruce and Hanley

32 Minutes

RESOLVED –That the minutes of the meeting held 16th August 2011 be agreed as a correct record

33 Presentation - West Yorkshire Police

The Committee welcomed Chief Inspector V Francis, PC C Arkle and Mr B Patterson of West Yorkshire Police to the meeting. Ch.Ins. Francis led the Committee in discussions on the following matters:

Gatecrasher Review

- Issues relating to the volume of paperwork associated with the applications before Sub Committees, the procedure followed at the Magistrates Court, the strength and presentation of the representations made by WYP and the approach of the Judge were raised.
- WYP stated their intention to re-assess and condense wherever possible the paperwork associated with an application. Careful consideration would also

be given to the choice of legal representative and the order of business and procedure likely to be adopted by the Magistrates Court.

(Councillor A Khan withdrew from the meeting for a short while at this point)

- Members recalled the circumstances of the case and considered whether the presence of a Sub Committee Member at the Magistrates court hearing would assist
- Overall both WYP and the Licensing Authority agreed it would be beneficial if both parties assessed the strength of their case and sought the best possible representation at hearings, in terms of paperwork, support and legal representation in order to present a robust approach to the Court

(Councillor R Downes withdrew from the meeting at this point)

Cumulative Impact Policy (CIP)

Ch.Ins Vernon referred to the documents tabled showing the number of Licensing Act 2003 applications made for premises within the city centre (CIP Area 1) since January 2011, the type of representation made by WYP and the outcome of subsequent hearings.

(Councillor Downes rejoined the meeting)

- Members noted the amended Statement of Licensing Policy had come into force in January 2011 and CIP Area 1 stated a presumption against the grant of any new licence with that area. WYP asserted that an applicant should therefore be required to prove the exceptional reasons to grant their application rather than the onus being on WYP to make the case to uphold the CIP
- Ch.Ins Francis highlighted the outcomes of the applications considered by a sub committee since January 2011 with particular reference to those which lay within the three hotspots for incidents of crime and disorder identified by WYP. He stated WYP would encourage new premises coming forward with measures and styles of operation which would have a positive impact on a hotspot area and reduce the number of incidents. New premises or variations which did not appear to assist a locality already regarded as a hotspot would attract a strong objection from WYP

The Committee considered the outcomes and what additional information could be required by a sub committee in order to support the CIP. Members noted that receipt of a WYP representation should act as a trigger for them to consider the CIP and identify what evidence was submitted to convince them that an application was exceptional. Members acknowledged that there may appear to be inconsistencies in the approach of the Sub Committees and identified the following issues:

- That a strong barrister/applicant could divert consideration of the presumption against granting applications stated in the CIP
- That Members may benefit from monthly/quarterly updates on the outcomes of CIP area applications and sharing “best practice” on dealing with CIP applications

- That the Licensing Authority could benefit from establishing a sub committee to deal purely with CIP applications as and when required
- The different approaches demonstrated by WYP with regards to representations made to applications for premises within CIP Area 1 and applications for premises within hotspot areas in CIP Area 1. Members noted that WYP intended to reassess the style of representations
- The benefits of the CIP as a deterrent to prospective applicants seeking long hours and large capacity venues
- The need for the Entertainment Licensing Section to liaise closely with the Department of Development over the possible impact of CIP Area 1 on future developments in the city centre – such as the Eastgate and Harewood Quarter. Members noted the Arena development lay just outside CIP Area 1 and that in developing the current policy consultation had been held with the Development Department. Furthermore a report from the Development Department was scheduled for the October Committee meeting
- PC Arkle briefly outlined the Matrix points system used to identify city premises which needed support from WYP. Ch.Ins. Francis explained his decision making process in seeking to review a premises licence had regard to the type of venue, capacity, nature of entertainment offer, clientele and whether that venue consistently worked with WYP.

The Committee thanked the officers of WYP for their presentation and welcomed the discussions it had generated

RESOLVED –

- a) To note the contents of the presentation and discussions
- b) To request officers report back following further consideration of
 - i) the benefit of monthly/quarterly updates on the outcomes of CIP area applications and sharing “best practice” on dealing with CIP applications and
 - ii) the benefits of establishing a sub committee to deal purely with CIP applications as and when required

34 Leeds City Centre Evening and Night Time Economy Strategy and Action Plan

The Committee received a report from the Chief Officer, Community Safety, on the Leeds City Centre Evening and Night Time Economy Strategy and Action Plan. Ms C McCall, City Centre Community Safety Co-ordinator attended the meeting and highlighted the partnership working established in the city with WYP, operators, agencies, Business Against Crime in Leeds (BACIL), pub watch, Operation Capitol and taxi marshals to ensure a healthy economy.

Members had regard to the discussions on the previous item and commented on the following:

Taxi marshals – noted the success of the scheme and that funding for the Christmas 2011 period had yet to found. Members queried whether private finance could support the project

Street marshals – Ch.Ins. Francis reported that this scheme provided 19 street marshals funded by city centre premises and there had been a 40%

reduction in violent crime in the hotspots on Friday and Saturday nights since the scheme began

Street Chaplains – noted the Leeds and Ripon Dioceses had recently appointed a night time economy minister, who was tasked with revitalising the volunteer street chaplains scheme to provide support to vulnerable persons in the city centre on Friday and Saturday nights

RESOLVED – To note the contents of the report

(Councillor Dunn withdrew from the meeting at this point)

35 Responses to Central Government Consultations on the Primary Authority Scheme and Age Restricted Products

The Head of Licensing and Registration submitted a report outlining proposed responses to two central Government consultations on issues falling within the remit of the Licensing Committee. Copies of the relevant documents were included within the report. Members considered each consultation and proposed response in turn and made the following comments:

The Future of the Better Regulation Office and extending the benefits of the Primary Authority Scheme – which included proposals to include “age restricted” products within the Primary Authority Scheme (PAS)

- Identified the impact this could have on local decision making, particularly in terms of the Licensing Act 2003 which empowered local authorities to regulate relevant products in their area

(Councillor Dunn re-joined the meeting)

- Concern that one PAS could be swamped with regulatory duties by being designated by several operators
- No clear indication of how a local authority will identify and recover “reasonable costs”
- Identified an anomaly that although West Yorkshire Trading Standards were identified as a Primary Authority, West Yorkshire Police were not and this could impact on collaborative working and enforcement outcomes resulting in a two-tier approach by both agencies
- noted the practical example of the impact the scheme could have on measures often conditioned by sub committees based on local considerations specific to individual premises - such as seeking to impose Check 25 when an operator had signed up a PAS with Check 21 age verification. Also, consideration to closed-circuit television measures specific to a premises.
- The Coalition Agreement makes it clear to bring an end to ‘tick-box regulation’.

(Councillors Khan, Townsley and Selby left the meeting at this point)

The Committee broadly supported the proposed response set out in appendix B of the report

(Councillor Selby resumed his seat in the meeting)

Local Better Regulation Office: Age Restricted Products and Services

Consultation – on how to encourage a code of practice/engage with operators

- highlighted the responsibility to educate young people on under age sales

- highlighted concern that test purchase volunteers could be allowed to conceal their true age when challenged by an operator. Concerns were expressed about asking young persons to lie about their true age which was morally wrong. Also, if a person were to lie about their true age this could possibly provide a defence against criminal liability on the grounds of entrapment/agent provocateur as it could be argued that the young person incited or lured a person (the operator) to commit a crime they would not otherwise have committed.

(Councillors Downes and Dunn left the meeting at this point)

- Discussed whether a single sale or test purchase would provide sufficient evidence to warrant enforcement action
- Noted the comments that two sales would provide the Authority with a stronger enforcement case

(Councillor Khan withdrew from the meeting for a short time at this point)

- Noted the suggestion that operators could be offered a formal simple caution as an alternative, an operator could avoid court action if they accepted this. If the caution was not accepted, the Authority could then advise that formal court action would follow. Members supported this course of action being included in the response to the consultation

RESOLVED – To note the contents of the report and to endorse the submission of the proposed consultation responses (as attached as Appendix B and D of the report) subject to the inclusion of comments made by the Committee

36 Licensing Work Programme

RESOLVED – To note the contents of the Work Programme

37 Date and time of the Next Meeting

RESOLVED – To note the date and time of the next meeting as Tuesday 18th October 2011 at 10.00 am