

MINUTES OF A MEETING OF THE LICENSING COMMITTEE HELD IN COMMITTEE ROOM
2/3, CIVIC OFFICES, ANGEL STREET, BRIDGEND ON WEDNESDAY, 19 JANUARY 2011
AT 2.00PM

Present:

Councillor D K Edwards - Chairperson

Councillors

Councillors

R D L Burns
M W Butcher
D Buttle
E M Dodd
C E Hughes

R D Jenkins
D A Unwin
C Westwood
R Williams

Officers:

Y Witchell - Licensing and Registration Officer
H Picton - Service Manager Trading Standards
K Rogers - Senior Solicitor
M A Galvin - Senior Democratic Services Officer - Committees

67 APOLOGIES FOR ABSENCE

Apologies for absence were received from the following Members:

Councillor C J James - Holiday
Councillor M C Wilkins - No reason given

68 DECLARATIONS OF INTEREST

Councillor Edwards and Councillor Buttle declared a prejudicial interest in Agenda item 4(i) as they were on the Board of Governors at Maesteg Comprehensive School who were mentioned in the report. They both left the meeting whilst this item was being considered.

69 MINUTES OF PREVIOUS MEETING

RESOLVED: That the minutes of a meeting of the Licensing Committee dated 27 October 2010, be approved as a true and accurate record.

A Member of the Committee enquired as to why minutes of the Licensing Sub-Committee 'A' and 'B', were not submitted to meetings of the Licensing Committee for approval or information purposes.

The Senior Democratic Services Officer - Committees advised that he would look into this issue and write to Members accordingly.

70 LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982 - CONTROL OF STREET TRADING

Due to the declaration of interest made earlier by Councillors Edwards and Buttle, Councillor Dodd deputised for Councillor Edwards in the Chair for consideration of this item only.

The Licensing and Registration Officer presented a report, which outlined proposals to review the current Street Trading Orders of Control, and revise the policy in respect of the grant of street trading consents.

She gave some background to the report, and explained that street trading control at present was achieved through the designations of streets as consent and prohibited trading streets.

A request however had been made from the Board of Governors at Maesteg Comprehensive School, for street trading controls in the vicinity of the school, which prompted a County Borough wide review, in order to take account of the need to avoid displacement of the problems associated with street trading to other areas.

Following research being undertaken, it was revealed that certain problems did exist in relation to street trading, varying from nuisance to illegal street trading activities.

It was therefore proposed that the Council adopted a County Borough wide approach to street trading, by designating all streets and areas to which the public access without payment, as consent streets for the purposes of the Local Government (Miscellaneous Provisions) Act 1982, which would mean that street trading would be illegal throughout the County Borough, unless a trader held a consent that was issued by the Council, and that they adopted a Policy for such purpose.

The report then went on to explain the statutory processes that would require to be followed if the above was adopted.

Paragraph 4.5 of the report then explained that a zoned based approach could be used, whereby there would be a policy for the grant of consents in town centres, i.e. Porthcawl, Bridgend and Maesteg, for themed events, festivals and the like, with the remaining areas of the County Borough being designated as an outer zone, where policy would be to determine each case on its merits, but with a presumption of refusal for applications to trade in close proximity to schools and for trading in certain goods.

Further consideration of exact areas of the zones in terms of where they would extend to, would take place following a consultation period.

Paragraph 4.6 then outlined the type of application for consent of street trading that was likely to be refused, as to grant these would in all probability result in a public nuisance or compromise consumer protection.

The Licensing and Registration Officer explained that in an attempt not to disadvantage effective street traders who had in the past traded legally, "grandfather rights" would apply to them as explained in Paragraph 4.12 of the report.

There would also be a proposal to exclude schools and school playing fields from the Street Trading licensing regime, and that a favourable approach be adopted to the grant of consents in relation to non-commercial events, with fees being waived together with the need to submit a PNC check or Criminal Record Disclosure, if a member of the organising committee had already undergone the appropriate checks.

The report then explained the likely effect the new policy would have on traders who have up until now, been trading lawfully in areas where no street trading controls exist, as well as detailing an example of case law and a previous judgement made in 2009 in West Berkshire.

The Licensing and Registration Officer also explained that there would be an exemption to the general principle of the new street trading provisions, namely that no application for street trading would be required to be made at any event where an admission fee was charged.

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Paragraph 4.14 then outlined the current fees for street trading consents which would be amended at the next fee review should the review be proceeded with.

Attached at Appendix 'A' to the report, was a copy of the proposed Street Trading Policy.

Members had a number of concerns regarding the report proposals, that are summarised as follows:-

- (1) Safety issues regarding street trading near the location of schools during school hours.
- (2) How would the criteria be established and defined for trading of charitable and community type events in terms of charging.
- (3) The consultation process should also involve the Highways Department the Planning Department, the local Member(s) and appropriate Town or Community Councils.
- (4) The public consultation process should be extended over and above the Council's website, as this was deemed too restrictive.
- (5) That the adoption of a County Borough wide approach to street trading by designating all streets and areas to which the public had access without payment, as consent streets for the purposes of the Act was deemed to be expansive and too much of a "blanket approach" to all. Therefore, consideration should be given to certain types of street traders not being charged in places where the public had access to without paying.

The Licensing and Registration Officer explained, that Committee were at this stage only being asked to give approval to initiate a recommended consultation process to be followed, rather than approving the proposed policy, and that concerns expressed by Members along the lines of the above, would be given further consideration to as part of the consultation process, together with any other representations that may be received from the public and/or other stakeholders.

Members agreed to vote by way of a show of hands on the recommendations of the report, whereby by a majority vote, it was

RESOLVED: (1) That the Committee agrees to declare its intention to resolve to adopt a new designation of streets for the purpose of street trading as follows:

"Pursuant to Paragraph 2 of Schedule 4 to the Local Government (Miscellaneous Provisions) Act 1982 the following designations of streets shall apply: All streets shall be designated as consent streets with the exception of any school or school playing field designated on the public list of schools published by the authority. A street shall be defined as any road, footway, beach or other area to which the public have access without payment; and a service area as defined in section 329 of the Highways Act 1980; and includes any part of a street.

Any resolutions made by the Bridgend County Borough Council, the former Ogwr Borough Council, and their predecessor authorities specifying certain streets as being prohibited streets and consent streets, shall be rescinded"

- (2) That Committee approves the publication of a Public Notice and consultation inviting representations on the proposed change to street trading control, policy and guidelines relating to the grant of consents attached at Appendix A to the report.
- (3) That at the end of the consultation period, the Committee will receive a further report outlining the responses received which they are required to consider before passing any final resolution to adopt the new designations.

71 LICENSING ACT 2003
UPDATE ON THE WORK OF THE RESPONSIBLE AUTHORITIES FORUM

The Service Manager Trading Standards submitted a report, which advised the Committee on the work of the Responsible Authorities Forum since its creation two years ago.

In support of the report she presented a PowerPoint presentation.

The Service Manager Trading Standards explained that the Forum was made up of organisations seen as key to fulfil certain obligations of the Licensing Act 2003, and these were outlined in Paragraph 3.1 of the report.

She explained that the Forum met more frequently now than when it was first established, to be increasingly responsive to fast changing environments and problems brought about under the licensing regime. The Forum identified and examined 'problem' premises, by tackling areas of concern collaboratively through sharing respective areas of expertise and undertaking any premises reviews, if considered necessary.

A trade guidance and information pack was tabled at the meeting for the benefit of Members.

There was a problem being targeted nationwide the Service Manager Trading Standards advised, of underage alcohol sales, with over 20% of 13 year olds of both sexes consuming alcohol at least once weekly, with this also involving 13% of successful purchases of alcohol from retail premises by those who were underage, on an all Wales basis in 2009/10.

In Bridgend however, the last mentioned statistic immediately above was considerably lower.

To detect the sale of alcohol to underage persons in retail outlets and pubs and clubs, the Police and Trading Standards had been involved in placing underage volunteers in premises, as a form of 'test' purchasing to see if they would be served.

There were sanctions that had also now been introduced, whereby designated Public Protection staff could issue fixed penalties to individuals selling alcohol to underage persons, as the Police are able to.

- 4.1 The Forum has also sought to address the significant problem of proxy sales whereby adults, often complete strangers, see fit to purchase alcohol on behalf of children. A hard poster and leaflet campaign has been piloted in one area of the county borough targeting retailers and members of the public to raise awareness of the problem and the fact that a person caught purchasing alcohol on behalf of a minor can face a fine of up to £5000. It is hoped that the campaign can be rolled out county borough-wide in the new financial year.

The Service Manager Trading Standards advised that the intention of the Forum was to implement a Traffic Light Scheme for Bridgend (currently being piloted), whereby points would be imposed on premises for unacceptable behaviour, with conversely, points being deducted for good practices identified.

This would be separate from the existing monitoring processes of premises undertaken by partners of the Forum.

The scheme would operate under a Red, Amber and Green system, with the highest points being given a red light and the lowest a green.

This had been brought in as it was acknowledged that the County Borough has an alcohol related violent crime problem, particularly in the Bridgend town centre, where violent crime is disproportionate when compared to the size of the town, particularly in 'hot spot' areas such as Wyndham Street.

This was giving out negative public perceptions of the town and an associated fear of socialising due to anti-social problems such as these.

The Service Manager Trading Standards explained that a similar scheme exists in Cardiff City Centre, the results of which had revealed that in a three year period between 2006 and 2009, there had been a 36% reduction in alcohol related crime and disorder in pubs and clubs within the city centre, for which the Council had received an Award.

The main difference between the scheme proposed for Bridgend and Cardiff, would be that it would need also to better reflect the needs of the licensed trade locally, as well as just in the city/town centres.

The Bridgend Scheme would look to:-

- Reflect the four licensing objectives;
- Have an input from all Responsible Authorities to achieve the utmost effectiveness;
- Recognise all relevant trade sectors;
- Be applied County Borough wide for maximum effect;
- Follow a traffic light principle, yet have its own structure and a clean identity.

The Scheme would affect pubs and clubs, retail outlets and late night takeaways, with the overriding objective being to endeavour to prevent and counteract crime and disorder, and prevent the sale of alcohol to minors.

The Service Manager Trading Standards added that whilst action would be taken against premises offending, good practice would also be recognised by the issuing of awards to premises who remain in the green zone.

The scheme would work by points being added weekly and deducted weekly/monthly.

If premises went from green to amber, then the premises user would be notified and the issues of concern be discussed with them.

If this then turned to red, a formal meeting would take place and an action plan would be put in place to secure improvement, so as to put the premises back into the amber and green zones.

A copy of the action plan would be retained at the premises affected.

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Scores would be calculated on a rolling programme using previous six months data, i.e. January - July, then February and August, etc.

Premises would incur (or have deducted) points by a banding method, dependent upon the size of the premises and the total number of patrons it holds.

The next steps explained the Service Manager Trading Standards would be to engage with the trade operators, in order to fine tune the scheme proposals, and to try and establish the creation of a Licensees Forum for the County Borough, so as to ensure that meetings can take place with representatives from the Responsible Authorities Forum, to engage in positive dialogue and for regular meetings to take place to educate premises holders in the smooth running of their premises, in accordance with the provisions of the Act.

This concluded the Presentation, and following the Service Manager Trading Standards responding to questions from Members, the Chairperson thanked her for providing such a detailed and interesting submission on an extremely important and worthwhile topic.

RESOLVED: That the Committee agreed to note both the contents of the report and accompanying Presentation.

The meeting closed at 3.25pm.