

OVERVIEW AND SCRUTINY BOARD

A meeting of the Overview and Scrutiny Board was held on 26 November 2004.

PRESENT: Councillor Carr (Chair), Councillors Booth, Ferrier and Robson.

OFFICIALS: J Bennington, E Chicken, P Clark, J Hedgely, J Ord, J Richardson, E Vickers, T White and E Williamson.

**** PRESENT BY INVITATION:**

Members of the Economic Regeneration and Transport Scrutiny Panel not already Members of the Board: Councillor Biswas.

Chair of Licensing Committee: Councillor B Taylor.

Chief Inspector Colin White (Cleveland Police)

L Southerton (Middlesbrough Town Centre Company).

**** PRESENT AS AN OBSERVER:** Councillor Coppinger.

****APOLOGIES FOR ABSENCE** were submitted on behalf of Councillors Cole, Dryden, Ismail, Mawston, Porley, Rogers, Sanderson, Ward, Williams and Wilson.

**** DECLARATIONS OF INTEREST**

No declarations of interest were made at this point of the meeting.

COUNCIL'S DRAFT LICENSING POLICY - INTRODUCTION

The Chair welcomed all in attendance at the meeting which had been arranged within a short timescale following a decision by the Board (16 November 2004) to consider the Council's Draft Licensing Policy prior to consideration by the Executive at its meeting to be held on 14 December 2004 and subsequently the Council.

In order to provide a range of information and evidence the Board received a series of presentations from the undermentioned all of whom participated in the subsequent deliberations.

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COUNCIL'S COMMUNITY PROTECTION SERVICE

The Head of Community Protection submitted a report, which focussed on:

- Purpose of a licensing policy
- Constraints of the new licensing regime
- Process including consultation taken to devise the draft policy
- Issues with potential for challenge.

The Licensing Act enacted in 2003 transferred the responsibility of liquor licensing, provision of entertainment and the provision of late night refreshments from magistrates to local authorities in the context of a wholesale review of licensing arrangements. It was noted that underpinning this was a desire to reduce restrictions and enable 24-hour opening.

Following Government guidance published in July 2004 a revised draft Council policy had been formulated which had been the subject of widespread consultation as outlined in Appendix 1 of the report submitted. The consultation period had been between 7 September and 29 October 2004 and had included both external and internal consultees such as the licensed trade and the leisure industry.

It was confirmed that the Local Authority must take over responsibility for licensing from 7 February 2004 and a finalised policy, agreed by the Council must be published one month in advance of this.

The draft policy a copy of which had been circulated made clear to applicants the standards that the Council would expect of them in the context of the four licensing objectives of:

- the prevention of crime and disorder
- public safety
- the prevention of public nuisance
- the protection of children from harm.

It was noted that the policy could not deviate from such objectives, and must be evidence based, with any conditions capable of being defended if challenged. The primary vehicle for influencing the development of a night time/town centre economy was not the licensing but the planning regime. It was pointed out, however that the policy did attempt to incorporate many of the issues that had had an adverse influence such as littering and under age sales.

The Policy could be reviewed at any time but there was a statutory requirement for this to be undertaken at least every three years following a full consultation process and subsequently republished.

In the main, the Policy was well received but specific reference as made to two significant areas of contention in respect of the following:

a) Cumulative impact (saturation policy)

The assumption of the legislation was that applications for licences would be granted unless representations were received that indicated one of the four licensing objectives would be affected adversely.

It was noted however that a partial caveat was permitted which allowed a Licensing Authority to consider the cumulative impact of licensed premises in a defined area. In such an area, the applicant was required to show how their premises would not add to any problems that currently existed. Nevertheless the Authority must still grant a licence unless it received relevant representations.

Such a policy could not include sales of alcohol for consumption off the premises. The Policy could not be used to revoke or refuse to vary a licence except insofar as the variation would impact on the cumulative effect for example, increase in capacity. In the consultation, such an area was suggested centred on Albert Road and Exchange Square.

No support had been expressed for such a proposal following the consultation with the exception of the Police who had suggested extending the zone to encompass the entire Town Centre.

Although the additional powers that arose from declaring an area 'saturated' were extremely limited it was considered that an indication was given to prospective applicants and potential objectors how the Council viewed an area. In such circumstances it was felt that an application perhaps for a large capacity pub may be unwelcome whereas a wine bar would be looked at more favourably and granted on the basis that it would not add significantly to the cumulative effect.

b) Pricing Policy

It was reported that there was currently a voluntary agreement which was supported by most licensees not to reduce the price of alcohol drinks below £1.50. Whilst there had been concerns voiced over the legality of such a stance in terms of its anti competitive nature no challenge had been received to date.

It was recognised however that there was no evidence available which demonstrated that this reduced binge drinking.

Subsequent discussion focussed on:

- the extent of available evidence which demonstrated that a 24 hour night time economy reduced crime and disorder;
- Police believed that it would not alone improve the 'job culture' and there was evidence from other countries to support such a claim;
- clarification sought on the difficulties where evidence was required to justify a rejection and in particular differences between a personal licence which would be subject to the required qualifications and premises where it had to be demonstrated that problems had arisen because of the behaviour within certain premises;
- whilst there was a vast amount of straight forward transfers/renewals from previous experience some new applications following objections have taken up to two years to be resolved.

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CLEVELAND POLICE

By way of introduction Chief Inspector Colin White showed extracts from a video which demonstrated common incidences of disturbance in the area of Exchange Square on Friday and Saturdays during the early hours of the morning.

Statistical information was provided on the overall number of incidents (75,540), the categories of licensed premises in the Town Centre and a breakdown of the type of incidents. Of particular concern was the increasing number of grievous bodily harm/wounding cases and the wider implications of this in terms of primary health care.

Cumulative impact had been discussed at length and whilst there was support for the Council's vision of the Town Centre and changed culture it nevertheless had suggested an extension to the proposed saturation policy area of Corporation Road, Albert Road, Exchange Square/Place and Zetland Road to encompass the entire Town Centre area as shown on the plan displayed at the meeting.

The following key points were emphasised:-

- measures to be introduced to support the vision of a changed culture
- a clear message had to be promoted which suggested that such behaviour would not be tolerated;
- a saturation policy would still provide the opportunity of granting new applications;
- in terms of the pricing policy and following legal advice from an independent source it was suggested that applicants could be advised that applications would be looked at more favourably if they subscribed to such an arrangement but the Local Authority could not regulate it;
- the pricing policy was regarded as good practice but not all licensed premises had subscribed to it.

The main points arising from the ensuing discussion were as follows:-

- although the ability of the Licensing Committee would be limited in rejecting new applications the view was expressed that the inclusion of a saturation policy may marginally deter some applicants;

- reference was made to the planning application process and measures such as traffic controls, restrictions on the use of glasses and bottles, promotion of polycarbonate material and more uniformed presence in the early hours of the morning which had been pursued elsewhere to alleviate some of the problems;
- although aware of the statutory deadlines regarding a published Licensing Policy Members suggested that it would have been preferable for the Town Centre Strategy to have been in place and a licensing policy formulated thereafter and integrated with such a strategy.

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COUNCIL'S REGENERATION SERVICE

The Assistant Chief Executive, Regeneration gave an indication of the perspective of the Licensing Policy from a regeneration point of view emphasising the following:

- the Licensing Policy was part of a wider agenda;
- prime importance was the formulation of a Town Centre Strategy which was in its early stages of development which would address a night time economy;
- supportive of the Licensing Policy;
- recognition of the constraints of the legislation in terms of the Licensing Policy;
- the ability of being able to review the Licensing Policy at any time was regarded as a useful safeguard to ensure the proper operation and effectiveness of such a policy;
- recognition that the Licensing Policy alone could not address the crime and disorder issues;
- given the long term regeneration objectives it was important to ensure that businesses were attracted to the Town Centre which required a broader range of approaches for this to be achieved;
- it was acknowledged that it was a fine balance but from the point of view of sending positive signals to potential investors there was a preference not to have a saturation policy;
- the continuation of the current arrangements for a pricing policy was supported;
- information was provided on the legislative background to the development control process in terms of planning applications to ensure appropriate land uses in accordance with the Local Plan.

The key issues raised during the subsequent discussions were as follows:

- although Members suggested that it could be useful to have the inclusion of the saturation policy to offer some element of control and encourage appropriate investors there was recognition that it was a fine balance and that it may provide a sufficient signal to deter potential businesses and for them to be attracted elsewhere;
- it was noted that the wider policy of the Town Centre Strategy would include a range of measures required to promote a changed culture as experienced elsewhere such as Manchester.

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MIDDLESBROUGH TOWN CENTRE COMPANY

Les Southerton, Chief Executive Middlesbrough Town Centre focussed on the following: -

- two key issues namely; crime and disorder issues and; aspirations which would enable the diversification of the economy in the Town Centre;
- Licensing Policy was parallel to planning policies;
- the Middlesbrough Town Centre Company Board at its meeting held on 25 November 2004 had in the main been supportive of the Licensing Policy and in particular endorsed the measures of alleviating the problems associated with the distribution of leaflets, litter nuisance for instance;
- concerns were expressed however regarding the saturation policy a term which in itself was considered to be emotive and should be renamed;
- a view had been expressed that if a type of establishment was congregated into one area then the problems may be easier to deal with;
- support was expressed for being more proactive in terms of operating schedules;
- reservations were expressed that the inclusion of a saturation policy may result in potential investors going elsewhere where it was deemed easier to obtain a licence;
- a different café/restaurant culture needed to be developed in support of the current culture initiatives such as the Art Gallery, Theatre/concert venues;
- support was expressed for a uniformed regime to manage outdoor drinking places so as to deter anti-social behaviour.

The Executive Director, Environment and Neighbourhood Services reported upon resource issues, which were currently being addressed to deal with the transfer of work to the Local Authority. It was emphasised that the work was not simply administration but the enforcement and advisory role was seen as crucial to using the licensing regime in support of a well managed and development of the night time economy.

In terms of the Town Centre regeneration reference was made to possible measures in support of this and the importance of ensuring a proactive approach in attracting appropriate investors and ensuring that proper guidance was available for the different types of operation.

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CONCLUDING REMARKS

The Chair thanked all for the information provided and contribution to the deliberations. It was confirmed that further consideration would be given to the outcome of the presentations and discussion at the next meeting of the Overview and Scrutiny Board at its meeting to be held on 30 November 2004.

The subsequent response would be submitted to the Executive for its meeting scheduled on 14 December 2004 prior to the formal approval of the Licensing Policy by the Council.

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