

GATESHEAD METROPOLITAN BOROUGH COUNCIL

LICENSING COMMITTEE MEETING

Tuesday, 12 December 2017

PRESENT: Councillor K Dodds (Chair)

Councillor(s): J Green, W Dick, D Bradford, J Graham,
R Mullen, M Ord and N Weatherley

APOLOGIES: Councillor(s): M Charlton, B Oliphant and A Thompson

LC35 CONSTITUTION

RESOLVED - That the constitution of the Committee for the 2017/18 Municipal Year be noted.

LC36 MINUTES

RESOLVED - That the minutes of the Committee held on 28 February 2017 be approved as a correct record.

LC37 HEARING AND REVIEWS BEFORE SUB-COMMITTEES

The Committee received a report detailing the Hearings and Reviews before sub-Committee between 18 January 2017 and 27 November 2017.

Premises	Applicant	Date	Representations	Decision
The Metropole Public House 262 High Street Gateshead NE8 1AQ	Amber Taverns	8/05/17	Director of Public Health Trading Standards 2 interested parties	Grant provision of late night refreshment subject to amendment to conditions Refuse variation for extended hours for sale of alcohol
The Railway Tavern Public House Abel House 1-2 Station Rd Rowland Gill NE39 1 QD	Mr Stephen Oliver	14/06/17	Planning Department 18 Interested Parties Petition with 94 signatures	Grant sale of alcohol subject to conditions
Whitehall Corner Shop 143 Rawling Rd Gateshead NE8 4QT	Trading Standards	16/08/17	Trading Standards LSCB Director of Public Health Licensing Authority Northumbria Police	Refuse transfer of licence Remove Designated Premises Supervisor Revoke Premises Licence
Sunlea Store	Trading	16/08/17	Trading Standards	Licence to continue in force subject

17 Hookergate Lane High Spen NE39 2BE	Standards		LSCB Director of Public Health Licensing Authority Northumbria Police 1 interested party	to conditions
33 Penshaw View Birtley DH3 2JL	Haseena Mahmood	16/08/17	Licensing Authority 1 interested party	Licence granted subject to conditions
Dunston Social Club Ravensworth Road Dunston NE11 9AF	Dunston Social Club and Institute	3/10/17	1 interested party	Licence granted
Rapid Service Station Durham Road Harlow Green Gateshead NE9 7TD	Penny Petroleum Partnership	31/10/17	Director of Public Health Licensing Authority	Extension of hours for sale of alcohol granted, subject to conditions
Durham Road Service Station Durham Road Birtley DH3 2PF	Penny Petroleum North East Limited	31/10/17	Director of Public Health Licensing Authority	Extension of hours for the sale of alcohol granted, subject to conditions

RESOLVED - That the information contained within the report be noted.

LC38 LICENCES AND CERTIFICATES ISSUES UNDER THE LICENSING ACT 2003

The Committee received a report detailing the number of licences and certificates which have been issued under delegated powers between 1 January 2017 and 31 October 2017.

Premises Licences and Club Premises Certificates	
New Premises Licences	20
Premises Licences Variations	4
New Club Premises Certificates	0
Club Premises Certificates Variations	0
Minor Variations	5
DPS Variations	103
Change of name and address, replacement licence etc	24
TOTAL	155

Personal Licences	
New Personal Licences	136
Personal Licence change of address/name	45
TOTAL	181

RESOLVED - That the information contained within the report be noted.

LC39 OTHER APPLICATIONS AND NOTIFICATIONS PROCESSED UNDER THE LICENSING ACT 2003

The Committee received a report detailing other applications and notifications processed under the Licensing Act 2003 between 1 January 2017 and 31 October 2017.

Type of Application/Notification	
Temporary Event Notices given	245
Premises Licence Holder Transfers	36
Notifications of Interest	1

RESOLVED - That the information contained within the report be noted.

LC40 LICENCES NOTIFICATIONS PERMITS AND REGISTRATIONS ISSUED UNDER THE GAMBLING ACT 2005

The Committee received a report which provided details of licences, notifications, permits and registrations issued under the Gambling Act 2005.

Licence

Type of Licence	
Bingo Premises Licence	0
Betting Premises Licence (Grant)	1
Betting Premises Licence (Transfers)	2
Adult Gaming Centre Premises Licence	0
Family Entertainment Centre Premises Licence	0

Notification

Type of Notification	
Notice of intention of alcohol licensed premises to make gaming machines available for use	9

Permits

Type of Permit	
Unlicensed family entertainment centre gaming machine permits	0
Prize Gaming Permits	0
Alcohol – licensed premises gaming machine permits	0
Club Gaming Permits	0
Club Machine Permits	0

Registrations

Type of Registration	
New Small Society Lotteries	24
Small Society Lottery Renewals	35

RESOLVED - That the information contained in the report be noted.

LC41 APPEALS AND PROSECUTIONS - LICENSING ACT

The Committee were presented with details of appeals and prosecutions between 18 January 2017 and 27 November 2017.

1 Appeal has been submitted following a premises licence revocation. A decision is pending subject to a final hearing on 14 December 2017.

3 prosecutions have been taken to the Magistrates Court in relation to sale of alcohol.

There were no appeals or prosecutions to report in relation to the Gambling Act.

RESOLVED - That the information presented in the report be noted.

LC42 APPEALS AND PROSECUTION - GAMBLING ACT

There were no appeals or prosecutions to report in relation to the Gambling Act.

RESOLVED - That the information be noted.

LC43 CONSULTATION ON PROPOSALS FOR CHANGES TO GAMING MACHINES AND SOCIAL RESPONSIBILITY MEASURES

A report was presented to update the Committee on a consultation announced by Government in October 2016 of a review of gaming machines and social responsibility measures, a 12 week consultation was launched on 31 October 2017.

The main proposals put forward are:

- proposed regulatory changes to the maximum stake for B2 gaming machines, looking at options between £50 and £2, in order to reduce the potential for large session losses and therefore to potentially harmful impacts on players and their wider communities;
- While the industry proposes increases to the remaining stakes and prizes, permitted numbers and allocations across other categories of machine (B1, B3, B3A, B4, C and D gaming machines), the Government believes retention of the current regulatory environment will better protect players from potential harm than industry's proposed increases;
- corresponding social responsibility measures across gaming machines that

enable high rates of loss, on player protections in the online sector, on a package of measures on gambling advertising and on current arrangements for the delivery of research, education and treatment (RET).

The Government are aware of the issues here and the harm the machines do. However, there is also an acknowledgement that these terminals keep the betting shops going.

The Government thinks that the current regulatory environment will be maintained. Members of the Committee were asked to respond to Elaine and Tim with any comments to the response.

RESOLVED - That members submit views on the consultation and that they will be incorporated into the response.

LC44 CASE LAW AND LEGISLATION UPDATE

A report was presented in relation to the Policing and Crime Act 2017 which approved the amendment of the Licensing Act 2003 to place cumulative impact policies on a statutory footing by introducing the concept of “cumulative impact assessments”, which will enable the Council to identify parts of the Borough where it is considered likely that it would be inconsistent with the Authority’s duty to promote the Licensing Objectives to grant any further premises licences or club premises certificates in those places. This new statutory power will supplement the work being undertaken to develop ‘local licensing guidance’ which will help inform applicants, licensees and residents of the issues of particular concern in certain parts of the Borough. The date for the amendment to the Licensing Act to come into force is yet to be appointed.

In regard to the Licensing Act, the Scottish case of *Martin McColl Ltd v West Dunbartonshire Licensing Board* (2017) LLR 551 illustrates the approach that the Courts take to cumulative impact as above. The Scottish legislation is slightly different and refers to ‘overprovision’ in certain areas. In the case in question the Licensing Board had refused to grant a provisional premises licence for a convenience store to begin selling alcohol on the basis that the applicant had not done enough to rebut the presumption to refuse due to existing overprovision in the relevant area. The Sheriff found on appeal that the Licensing Board had acted properly in making its decision, and emphasised the importance of giving full and clear reasons when making such decisions.

RESOLVED - that the information contained within the report be noted.

LC45 THE GOVERNMENT RESPONSE TO THE REPORT FROM THE HOUSE OF LORDS SELECT COMMITTEE ON THE LICENSING ACT 2003

The Committee received a report to update members on the Government response to the report from the House of Lords Select Committee on the Licensing Act 2003.

The Select Committee was set up in May 2016 with the task of conducting post-legislative scrutiny of the Act. The Committee looked at the provision of the Act, in its original form with its subsequent amendments, at its implementation and at related developments.

A public call for written evidence was made on 30 June 2016 from anyone with an interest in the operation of the Licensing Act 2003, Gateshead Council contributed to a regional response through the North East Strategic Licensing Group which then fed into the Local Government Association response.

In particular the Committee were interested in a number of issues including:

- should there be additional objectives eg the protection of health and wellbeing
- does the Licensing Act now achieve the right balance between the rights of those who wish to sell alcohol and provide entertainment and the rights of those who wish to object?
- do local communities engage effectively in the licensing regime, and if not, what could be done?
- how effectively does the regime control supermarkets and large retailers, under-age sales, and delivery services?
- should the Government introduce minimum unit pricing in England?
- do licence fees need to be set at national level?

Some of the issues raised through the region included:

- The lack of a national database of personal licence holders, allowing unsuitable applicants to move between councils as and when their premises get shut down.
- The absence of many Designated Premises Supervisors (DPS) from the premises itself and the general weakness of this role
- Weaknesses in the review/appeals system that allows unscrupulous operators to transfer the licence or delay closure for significant periods of time
- Concerns around enforcing the duty plus VAT mandatory condition
- The fact that a licence cannot be refused where a business owes the council unpaid business rates
- The fact that licences cannot be removed where a premises has ceased trading and, in some cases, where it has been turned into a carpark. This means a council has to carry the debt from unpaid fees in perpetuity, and distorts the national picture of how many licences are in existence.

The report contained over 70 recommendations including a trial merger of Licensing and Planning Committees, an equivalent to a planning inspectorate which hears planning appeals, all councillors sitting on Licensing Committee should undertake compulsory training, if a minimum unit price is brought into force in Scotland, following assessment, it should be introduced in England and Wales.

The select Committee did say that the Act requires overhaul, however, the government has said that there is not going to be an overhaul and they have rejected the Committee's proposals to merge Licensing and Planning Committees. It also is not going to change the requirement to publish in the local newspapers. It is going to consider minimum unit pricing.

RESOLVED - that the information contained within the report be noted.

LC46 THE INTRODUCTION OF A MINIMUM UNIT PRICE IN SCOTLAND.

The Committee received a report to provide an update on the recent ruling by the UK Supreme Court.

The Supreme Court ruling in London on 15 November 2017 was the final stage of a five-year legal battle, with the case having already passed through courts in Edinburgh and Luxembourg.

MSPs at the Scottish Parliament passed The Alcohol (Minimum Pricing) (Scotland) Act 2012 in May 2012, setting a 50p minimum unit price as part of an effort to tackle alcohol issues.

The Scottish Whisky Association (SWA) took action against the proposal, which it said would breach European law and, after an initial challenge at the Court of Session failed in 2013, the SWA appealed to the European Court of Justice (ECJ).

In December 2015 a European court said the legislation might break EU law if other tax options would prove as effective, but said it was “ultimately for the national court to determine” whether they did.

The case then returned to the Scottish courts and in October 2016 the Court of Session in Edinburgh ruled against the challenge by the Scottish Whisky Industry. Scottish judges Lord Carloway, Lord Brodie and Lord Menzies ruled that the plans to introduce a minimum unit price were legally sound. However, in December 2016 the three judges allowed the Scottish Whisky Association to go to the UK Supreme Court after hearing from the organisation’s advocate Aidan O’Neill QC, who argued that the original ruling misunderstood European law.

The two-day hearing in July 2017 in the Supreme Court was the final point of appeal for the case in UK courts. Seven Supreme Court judges considered the arguments and in a unanimous judgement announced on 15 November 2017, said the legislation did not breach European Union law.

RESOLVED – that the information contained within the report be noted.

Chair.....