

LICENSING COMMITTEE

MINUTES AND DECISION RECORD

7th May 2013

The meeting commenced at 10.00am in the Civic Centre, Hartlepool

Present:

Councillor: Ray Wells (In the Chair)

Councillors: Paul Beck, Rob Cook, Keith Dawkins, Mary Fleet, Steve Gibbon, Gerard Hall, George Morris and Sylvia Tempest

Officers: Louise Wallace, Director of Public Health
Chris Hart, Drug and Alcohol Manager
Sylvia Pinkney, Public Protection Manager
Ian Harrison, Principal Trading Standards and Licensing Officer
Lisa Oldroyd, Community Safety Research and Development Officer
Rachel Parker, Community Safety Research Officer
Tony MacNab, Solicitor
Jo Stubbs, Democratic Services Officer

Also Present:

Cleveland Police Representatives

Temporary Chief Inspector Lee Rukin
Sergeant Jonathan Wrigley
PC Andrew Thorpe

National Licensees Representatives

Jim Cathcart, British Beer and Pub Association
John Coen, Ford and Warren
Nigel Connor and Mark Frankland, J D Wetherspoons
John Gaunt and Tim Shield, John Gaunt and Partners
Jonathan Smith, Poppleston Allen
Rob Summers, Punch Taverns

Local Publicans

S Allan, Anthony Andrews, Linda Baker, Richard Coates, Kevin Reid, Darab Rezai, J Smith, Kevin Walker, Michael Walker, Trevor and Debra Wilding

Leanne Davis, Durham County Council

Pam Rose, Darlington Borough Council

T Gilbert and Mark Scott

1. Apologies for Absence

Apologies were submitted by Councillors Jim Ainslie, Sheila Griffin and Peter Jackson

2. Declarations of interest by Members

None

3. Confirmation of the minutes of the meeting held on 24 April 2013.

Deferred

4. Early Morning Alcohol Restriction Order *(Assistant Director, Regeneration and Planning)*

The Public Protection Manager gave details of the results of the recent public consultation into the making of an Early Morning Alcohol Restriction Order (EMRO) for the town centre area between 2am and 6am. On 17th December 2012, following a request from Cleveland Police and the Director of Public Health the Licensing Committee had approved the commencement of a formal 6-week consultation process into an EMRO in the town centre area, defined in the Council's licensing policy as the Cumulative Impact Area (CIA). 13 premises serving alcohol would be affected by this EMRO. 35 representations were received, all of which were appended to the report. Details were given of the statutory guidance surrounding EMROs and various issues for consideration by members. Members were informed of the options available to them following consideration of the evidence.

At the commencement of the meeting the Chair read a brief statement as follows:

“The purpose of today's meeting is to hear representations concerning the likely effect of making an Early Morning Alcohol Restriction Order on the promotion of the licensing objectives.

I would remind everyone that these are: -

Prevention of crime and disorder
Prevention of public nuisance
Public safety
Protection of children from harm

I am informed that those who submitted representations concerning the process surrounding the initial proposal of the Order were written to and advised that any further submissions concerning the process should be made in writing as they would not be permitted at today's hearing.

That is not to say that such submissions will not be considered but rather they will be considered under legal advice at a later stage in this process.

In order to ensure that all parties have an opportunity to speak I will be very firm on this point.

Today's hearing is regulated by the Licensing Act 2003 (Hearings) Regulations 2005 (as amended).

I understand that some parties have indicated that they intend to introduce witnesses to explain certain points so I would ask that you introduce yourself, and your witness, when you are asked to present your representation.

I am mindful that the regulations state that this should take the form of a discussion, led by the authority, and that cross-examination shall not be permitted unless the authority considers that it is required.

If anyone wishes to clarify any points raised by a person who has made representations I ask that they raise their hand and address issues directly to myself as Chair. This may or may not lead to cross examination"

Cleveland Police

Temporary Chief Inspector Lee Rukin presented the Police case in support of an EMRO which would in his opinion help to combat crime and disorder and promote policing objectives namely to keep people safe, reduce crime and anti-social behaviour and secure financial stability and value for money. Statistical information on crimes in the CIA was given by the Community Safety Research Officer showing that although crime as a whole had fallen since 2005/6 there had been a 12% increase in violent crimes in the CIA between 3am and 6am since 2005, the year in which the Licensing Act and late-night opening came into force. Over a third of crime taking place across Hartlepool between 3am and 6am was happening in the CIA.

Sergeant Wrigley and PC Thorpe went on to give their personal experiences of policing the night-time economy. A number of initiatives had been tried to combat crime and anti-social behaviour in the CIA. These included Direction to Leave notices, drink banning orders, Barred from one, Barred from all, the closure of parts of Church Street to traffic, taxi marshalling and Hartlepool Town Pastors. Temporary Chief Inspector Rukin advised that some of these initiatives had been funded by external sources such as the Safer Hartlepool Partnership and were quite resource intensive in terms of police time and money. Relations between Cleveland

Police and the Hartlepool Licensees Association (HLA) were good but not all premises were part of the HLA. In order for police initiatives to work everybody needed to be involved and pushing in the right direction. Temporary Chief Inspector Rukin also explained that the night-time economy was a huge draw on police resources. Although he accepted that this was not part of the licensing objectives it did affect them as without adequate resources on the ground police were unable to promote the licensing objectives as effectively as they might otherwise do. There could also be a knock-on effect on other areas of the town if resources were concentrated on the CIA to the detriment of outlying areas.

The following issues were raised by members:

- Best Bar None – this was a voluntary quality improvement scheme used successfully in Durham. However despite attempts by Licensing officers to introduce the scheme to Hartlepool there had been virtually no interest from licensees in Hartlepool. Temporary Chief Inspector Rukin explained that while the police would support such an initiative Durham already had 2am closing so the areas were not comparable in terms of night-time economy. He also highlighted that Best Bar None was run by the industry rather than the police and had considerable administrative costs attached to it.
- What evidence was there that crime and anti-social behaviour would have occurred had Direction to Leave notices not been issued? Temporary Chief Inspector Rukin indicated that Direction to Leave notices were issued as the result of an incident inside a licensed premises at which the police were not present. Door staff would hand the individual involved over to the police who would secure them and issue a Direction to Leave notice to cover the rest of that weekend. If the individual's behaviour was more extreme they would be arrested but this was seen as a more severe course of action to take.
- How often did police meet with licensees and were there regular meetings? How were the licensing objectives promoted in conjunction with licensees? Sergeant Wrigley reported that officers would visit licensed premises on Friday and Saturday nights. They would then contact individual premises during the first half of the following week to ascertain any problems or concerns. If incidents were found to be ongoing police would arrange a meeting with representatives of the premises in question and an action plan formulated. Only if this had not worked would a review of the conditions on the licence be sought via Licensing Sub-Committee. Temporary Chief Inspector Rukin was of the opinion that granting the EMRO would not damage the licensing industry in Hartlepool. He felt that the drinking culture had changed in recent years with people tending to come out after midnight. Early closing might encourage people to come out earlier and finish at a more sensible time thereby easing the burden on police resources in the early hours.

- If an EMRO was introduced would the number of officers on duty reduce? Temporary Chief Inspector Rukin advised that the same number of officers would be on duty across the town but could be better utilised if they did not have to concentrate on the night-time economy.
- Do the police close establishments following a major incident? A forced closure was only undertaken in extreme circumstances due to the impact on business and the livelihood of the owner and workers. However voluntary closures had happened in the past. Temporary Chief Inspector Rukin was nevertheless satisfied with the powers available to police to close premises should that be deemed necessary.
- Would there be enough officers available to deal with a mass of drinkers in the Church Street area at 2am? Temporary Chief Inspector Rukin indicated that the police could cope but he was unable to speak for the taxi trade.
- If people were coming out earlier but drinking for the same amount of time would there really be a reduction in anti-social behaviour? Would the problems between 3am and 6am not just be moved to earlier in the night? Temporary Chief Inspector Rukin felt that an EMRO would not fix the problem but was an additional tool. Early closing would encourage people to start drinking in town rather than preloading on cheap alcohol at home and arrive in town already under the influence. Also the police would be better able to protect the public and promote the licensing objectives before 2am
- Was this a problem with police resources rather than promotion of the licensing objectives? Temporary Chief Inspector Rukin reported that police had the maximum amount of resources available to them til 3am. After this they moved onto the nightshift and concentration on the night-time economy meant they could not engage in proactive work elsewhere. He felt this was no longer sustainable

Director of Public Health

The Director of Public Health reported an increase in alcohol-related injuries and illnesses over the last 10 years. She acknowledged that health was not a licensing objective but felt that the introduction of an EMRO would help alleviate these problems. Later opening hours meant a longer time period to consume alcohol which could lead to a reduction in public safety and a possible increase in harm to the public. Information supplied by the minor injuries unit showed incidents of assault tended to coincide with the night-time economy and a quarter of these incidents could be linked to licensed premises in Hartlepool.

Local Licensees

Mr Walker, proprietor of the Little Black Book, confirmed that he was against the introduction of an EMRO due to the effect it might have on his business and others. The Police had acknowledged that crime had reduced significantly so this was not an issue in terms of the licensing objectives. He also noted that there had been no study on any specific premises. He asked whether a reduction in hours might not lead to incidents in crime and anti-social behaviour increasing to what they had been 10 years ago before the Licensing Act 2003 had come into force. Temporary Chief Inspector Rukin acknowledged that crime had dropped in the last 10 years but a third of all crime between 3am and 6am was taking place in the CIA. Mr Walker commented that although this was still a smaller number of crimes overall when compared to 10 years ago but Temporary Chief Inspector Rukin commented that one crime was still too many.

Linda Baker, local proprietor of a licensed premises, felt that reducing hours for the sale of alcohol could lead to threats and abuse to bar staff if premises were open but unable to sell alcohol. This could lead to an increase in police call-outs between 2am and 4am. It could also unfairly affect many of her customers who would come for a drink at the end of a nightshift. She advised that there had been no incidents in her establishment over the previous 18 months. Temporary Chief Inspector Rukin felt that it would not make economic sense for licensed establishments to open until 4am if their licence to sell alcohol had run out at 2am, although this would be a decision for the proprietors to make. Ms Baker commented that the introduction of an EMRO would probably lead to the closure of her premises altogether as approximately 80% of her trade would be lost.

Darab Rezai, Chair of the Hartlepool Licensees Association (HLA), spoke against the introduction of an EMRO. He noted that the average age of drinkers in Hartlepool was 18-25 so they did not know any different than late night closing. Members of the HLA worked hard to follow the law and support legislation. By reducing licensing hours to 2am people would be tempted to hold parties at private premises such as garages or warehouses using alcohol cheaply bought at supermarkets. Such gatherings would not be controlled in terms of fire safety, noise pollution and CCTV. Mr Rezai also felt that an increase in parties in houses could lead to health and safety problems and that by drinking in front of young children a generation of binge drinkers could be encouraged. He also referred to the comments by Ms Baker regarding staying open past 2am saying that this could lead to drinkers moving from alcohol to legal highs thereby shifting the problem onto another cause. The HLA were fully supportive of the police's efforts to combat crime and anti-social behaviour in the CIA but felt that an EMRO in that area would just push the problems associated with alcohol away from the centre. He would be minded to support a restriction to 3am but felt 2am was a step too far. The HLA would also be happy to implement Best Bar None.

The following issues were raised by members:

- Would earlier opening hours not lead to people coming out earlier thereby spending more money in licensed premises? Mr Rezai advised that people would be more inclined to go to places with later opening hours such as Sunderland. The HLA's attempts to make drinking a more social activity were being stymied by the availability of cheap supermarket alcohol. This combined with a change in hours could encourage the better element to go elsewhere leaving the troublemakers in Hartlepool
- Concerns had been raised about people turning to drugs and children drinking after seeing their parents do so. Both of these were unfair inaccurate statements. Licensees tended to overcharge for soft drinks thereby encouraging people to drink alcohol. Mr Rezai indicated that soft drinks were charged at the same level as alcohol. He also noted that he had been referring to excessive drinking in front of children and commented that the culture of going for a meal with the family no longer existed.
- Were there any particular issues at Mr Rezai's premises? They operated a rigorous dress code and would bar people where necessary.
- What evidence was there that people would go home at 2am and have parties and that this would be detrimental? If such parties were already being held what harm would an EMRO do? Mr Rezai indicated it would lead to an increase in private parties and the associated problems
- What help would the HLA need to introduce Best Bar None? Mr Rezai would take this proposal to his members in order to ascertain whether they would support it.
- Could Mr Rezai suggest any other initiatives the police and licensing department could use? Premises tended to use their own individual initiatives such as barring, dress codes and being anti-drugs and anti-binge drinking.
- If an EMRO was introduced to Hartlepool where would drinkers go as an alternative? Middlesbrough, Newcastle and Sunderland were all open late. An EMRO would encourage more people to travel further afield and adversely affecting Hartlepool's night-time economy. A taxi for a large number of people to go out of town did not cost a lot
- What assurances did members have that the HLA would work to reduce crime and disorder? Mr Rezai had been Chair of the organisation for 2 months and had met with Police and Licensing

Department Officers. He assured members he was serious about controlling crime and operating venues properly.

- 40% of licensed premises had closed since the introduction of late opening. Why was this? Mr Rezai believed this was a consequence of supermarkets selling alcohol at prices with which licensees could not compete. Members commented that an EMRO would not affect the price of supermarket alcohol but Mr Rezai indicated that it would put more strain on licensed premises as people would not come out any earlier than they do now.
- Was Hartlepool's reputation in terms of alcohol-related crime and anti-social behaviour justified? Mr Rezai recalled how bad things had been when he had first come to Hartlepool in 1986. Since then there had been improvements but the HLA were keen to make the situation even better. He also noted that when crime and anti-social behaviour had been worse there had been no late opening.
- Was every licensee in Hartlepool opposed to an EMRO? Only 2 of the 50 licensees present at a recent HLA meeting had supported an EMRO and Mr Rezai believed that they were now against it.

Members briefly adjourned the meeting. Upon returning the Chair informed those present that based on the evidence provided thus far they were minded not to approve the introduction of an EMRO

National Licensees

Jonathan Smith from Poppleston Allen spoke on behalf of the Association of Licensed Multiple Retailers and Stonegate. He reminded members that just as when considering whether to grant individual premises a licence there needed to be compelling evidence that an EMRO was appropriate. He referred to the statistical information provided by the police which he felt was incomplete in terms of information on times and days of incidents. However these figures did show a 45% reduction in crime in the CIA between 9pm and 6am since 2004/5. This compared to a 43% fall in crime in areas outside the CIA at those times. Therefore there had been more incidents of crime and anti-social behaviour before the introduction of the Licensing Act suggesting that crime had reduced with the longer opening hours. The Police had asserted that this was not a resources issue but he felt that it was. They had also been unable to confirm whether taxis would be able to cope with a mass exodus at 2am. Mr Smith advised on behalf of his clients that they would be happy to work with the police and council on initiatives such as Best Bar None but felt that an EMRO would be unnecessary and inappropriate based on the statistics provided by the police.

Tim Shield from John Gaunt and Partners spoke on behalf of Marstons. Although his company's premises in Hartlepool would not be directly

affected by an EMRO they felt it would bring no benefit to Hartlepool. In difficult economic times it would have a detrimental impact on licensed premises, taxis and takeaways. Crime in Hartlepool's CIA had dropped by 55% compared to a 28% reduction nationally. He acknowledged resourcing difficulties being experienced by the police but this was not something members could take into consideration when making their decision. It was the police's job to protect law abiding citizens. Mr Shield's clients would be happy to support any proposed initiatives including Best Bar None.

Nigel Conner spoke on behalf of the J D Wetherspoons legal department. He felt that there was a significant economic risk to Hartlepool's licensed premises should an EMRO be adopted. Police had previously said they were reluctant to close premises for one evening but were asking for permission to close all licensed premises every evening after 2am. This would displace any current problems outside the CIA and lead to a concentrated closing time. Without a gradual dispersion a flashpoint could be created which might lead to problems. The Chair of the HLA was committed and Mr Conner's clients would be happy to support him. An EMRO was a powerful tool which should only be used as a last resort.

Rob Summers spoke on behalf of Punch Taverns. Their only affected premises was the Jacksons Arms which had never been the subject of a review and never had any issues with the police, residents or responsible authorities. An EMRO was a blunt instrument which would affect good and bad premises alike. Five premises had been reviewed over the last 20 months and no reductions in hours had been made but now members were suggesting reducing trading hours for all premises. This was disproportionate and inappropriate. The Jacksons Arms was a well run establishment and it would be unfair to reduce their hours. The police would need to juggle their resources better in the future.

Members retired to deliberate their decision. Upon returning the Chair read the following statement:

"Hartlepool Borough Council does not believe that any level of violence or anti social behaviour should be regarded as an acceptable or inevitable consequence of a vibrant night time economy.

The Licensing Committee recognises the significant improvements that have been made to the town centre in terms of reducing violence but will consider the use of every tool made available to it to make Hartlepool's town centre a safer place to live, work and visit.

The Licensing Committee has considered the representations made by all parties and is satisfied that an Early Morning Alcohol Restriction Order could play a role in reducing violence still further but is mindful of the concerns raised by local licensees that a reduction in opening hours, in the current economic climate, could have serious consequences for the viability of their businesses.

The Licensing Committee has determined NOT to recommend the introduction of an Early Morning Alcohol Restriction Order at the current time but intends to revisit the issue next year to establish whether local licensees, and in particular the Hartlepool Licensees Association, have taken responsibility for continuing the previous improvements including an in-depth look at the Best Bar None scheme.

Decision

That the introduction of an Early Morning Alcohol Restriction Order in the Hartlepool's Cumulative Impact area not be recommended at the current time but that the issue be revisited next year

The meeting concluded at 1:50pm

CHAIR