

LICENSING COMMITTEE AGENDA



Thursday 6th November 2014

at 2.00pm

**in Committee Room B,
Civic Centre, Hartlepool**

MEMBERS: LICENSING COMMITTEE:

Councillors Ainslie, Beck, Cook, Dawkins, Fleet, Gibbon, Griffin, Hall, Hind, Jackson, Lilley and Morris

- 1. APOLOGIES FOR ABSENCE**
- 2. TO RECEIVE ANY DECLARATIONS OF INTEREST BY MEMBERS**
- 3. MINUTES**
 - 3.1 To approve the minutes of the Licensing Sub-Committee meeting held on 7th July 2014
 - 3.2 To approve the minutes of the Licensing Committee meeting held on 23rd July 2014
 - 3.3 To approve the minutes of the Licensing Sub-Committee meeting held on 5th August 2014
 - 3.4 To approve the minutes of the Licensing Sub-Committee meeting held on 16th September 2014



4. ITEMS REQUIRING DECISION

4.1 Early Morning Alcohol Restriction Order/Late Night Levy – *Director of Public Health*

4.2 Minimum Unit Price of Alcohol – *Director of Public Health*

5. ITEMS FOR INFORMATION

No items

6. ANY OTHER BUSINESS WHICH THE CHAIR CONSIDERS URGENT



LICENSING SUB COMMITTEE

MINUTES AND DECISION RECORD

7 July 2014

The meeting commenced at 10.30 am in the Civic Centre, Hartlepool

Present:

Councillors: Jim Ainslie and Steve Gibbon.

In accordance with Council Procedure Rule 5.2 (ii), Councillor Mary Fleet was in attendance as substitute for Councillor Peter Jackson.

Officers: Ian Harrison, Principal Trading Standards and Licensing Officer
Tony Macnab, Solicitor
Angela Armstrong, Principal Democratic Services Officer

1. Appointment of Chair

Councillor Steve Gibbon was appointed Chair for the meeting.

2. Apologies for Absence

Apologies for absence were received from Councillor Peter Jackson.

3. Adjournment of Meeting

Due to the unavailability of the Applicant's legal representative, the Applicant had sought an adjournment of the meeting. Members agreed to adjourn the meeting and reconvene on 18 July 2014 at 10.00am.

Decision

That the meeting stand adjourned to be reconvened on 18 July 2014 at 10.00am.

The meeting concluded at 10.40 am

The meeting reconvened on Friday 18 July 2014 at 10.00 am in the Civic Centre, Hartlepool

Present:

Councillor Steve Gibbon (In the Chair)

Councillor Jim Ainslie.

Also Present: Councillor Mary Fleet as substitute for Councillor Peter Jackson in accordance with Council Procedure Rule 5.2.

Officers: Ian Harrison, Principal Trading Standards and Licensing Officer
Tony Macnab, Solicitor
Adrian Hurst, Principal Environmental Health Officer
Jim Ferguson, Planning Team Leader (DC)
David Cosgrove, Democratic Services Team

Also Present: Antony Senior, Counsel for Cleveland Police
PC Yasmin Hussain, Cleveland Police
PC James Johnson, Cleveland Police

4. Apologies for Absence

Councillor Peter Jackson

5. Declarations of interest by Members

None.

6. Application For A New Premises Licence - 115 Raby Road, Hartlepool *(Director of Public Health)*

The Licensing Act Sub-Committee considered an application from Amir Navazani (the applicant) for a premises licence authorising the provision of late night refreshment from 23:00 to 03:00 seven days a week by way of home deliveries undertaken from the rear of the premises at 115 Raby Road.

The Licensing Authority had received relevant representations from Cleveland Police, the Local Authority Environmental Protection, the Local Planning Authority, Dent / Derwent Street Area Residents Association and five local residents. The representations collectively referred to the potential impact of granting the application on the licensing objectives relating to the prevention of crime and disorder and the prevention of public nuisance.

The Principal Trading Standards and Licensing Officer outlined the application in accordance with the Report to the Sub-Committee and

showed a video showing the back alley of the premises. The applicant intended to operate as a delivery only service from the rear of the premises after 11:00 pm. The access to the rear of the premises was by way of an alley-gate which serves a number of premises on Raby Road/Hart Lane to the junction with Murray Street. The alley-gate was locked on an evening and open during the daytime and the objections to the application concern the public nuisance likely to be caused to residents living at the rear of the back alley by the delivery vehicle including the noise caused by the alley-gate having to be opened and closed each time the vehicle needs to enter and leave the back alley. The objections also related to the crime and disorder licensing objective being undermined by the alley-gate being left open.

The applicant outlined his application and answered questions from Members and objectors. The applicant was asked whether he had planning permission however the terms of the planning permission are disputed as to whether it is required for deliveries only. The applicant was asked how many cars or vans he would need for deliveries. He stated that one would be needed during the week and possibly two at the weekends. He was asked about his opening hours as on the menu and on the “JUST EAT” website stated open until 2:30 am. He stated that the menu had been printed sometime ago when his then manager was running the premises. It was accepted that deliveries had been taking place from the back door. He said that if operating the alley-gate was a problem he would have the orders taken to the end of the alley.

Counsel for Cleveland Police raised points with the applicant to which he explained that the manager had been sacked and it was the manager who had been trading beyond the hours allowed. It was put to him that the crime and disorder licensing objective would be undermined as the Police are concerned that people would get into the back alley whilst the premises are trading. The applicant stated that he would be locking the doors and alley-gate. It transpired that an attempted burglary had taken place at the premises but the applicant stated that nothing was stolen. It was pointed out to the applicant that on 5th March at 23:49 the Police had received a report of a racist incident at the premises but that the premises had refused to co-operate.

The Principal Environmental Health Officer asked questions of the applicant in relation to what steps he would put in place to prevent nuisance to residents if the delivery van was left outside the alley-gates on Murray Street. The applicant stated that he doesn't want to disturb the residents as he would try his best to not make any noise.

The Planning Team Leader, pointed out to the applicant that the Local Planning Authority's policies in relation to late night uses is restricted to the Marina and Church Street and that these premises weren't permitted to operate beyond midnight.

Counsel for Cleveland Police outlined the Police's objection to the

application and referred to PC Hussain's statement. Counsel for Cleveland Police stated that the Police's main objection was in respect of the crime and disorder licensing objective. He stated that the reason for the alley-gate was part of the crime reduction programme and that the alley-gate would be left open at different times which would allow people in and that has been raised by residents. Once it was known that the alley-gate is open that will attract people for all the reasons it was installed in the first place. Counsel for Cleveland Police also stated that the police have concerns over noise and nuisance.

The Principal Environmental Health Officer put forward his objections and submitted that the prevention of public nuisance licensing objective would not be promoted if the application were granted. The Principal Environmental Health Officer submitted that the applicant admits that the back street is quiet. There were 18 properties backing on to the street. The delivery driver would have to get out of his vehicle at the gate and open the gate and get in his vehicle and out of his vehicle to close the gate and then back in to his vehicle and then drive to the premises and then go through the doors into the premises. On the way out back the driver would need to turn his vehicle around and the car headlights would shine into the bedroom windows of the properties. The same procedure would be repeated to open and close the alley-gates, which required some force to shut and would make a noise. Mr Hurst suspected that the drivers would leave the alley-gates open and they wouldn't shut them until after the premises closed.

A representative from the Dent / Derwent Area Residents Association stated that the Principal Environmental Health Officer had set out many of local residents concerns. The representative stated that late deliveries were a particular concern. If the orders were taken to the alley-gate for delivery and the food handed to the driver, she submitted that if it was raining that this wouldn't happen and that in the winter it almost certainly wouldn't happen. The representative stated that local residents had no confidence in the applicant and he would resort to the deliveries being collected from the back door as has happened in the past.

The Licensing Act Sub-Committee considered the application and representations put forward by the Applicant and the oral and written objections put forward by the various authorities and those objectors present as well as the written objections.

The Licensing Act Sub-Committee accepted the Police and Environmental Health Objections together with the objections put forward by others present and concluded that the licensing objectives relating to the prevention of crime and disorder and the prevention of public nuisance would not be promoted if the application was granted. The Sub-Committee concluded that the applicant would not be able to promote the licensing objectives and further considered that no conditions would enable the licensing objectives to be promoted.

The Licensing Act Sub-Committee therefore refused the application for a

premises licence.

Decision

That the application for a premises licence authorising the provision of late night refreshment from 23:00 to 03:00 seven days a week by way of home deliveries undertaken from the rear of the premises at 115 Raby Road be refused.

The meeting concluded at 12.05 pm.

CHAIR

LICENSING COMMITTEE

MINUTES AND DECISION RECORD

23rd July 2014

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

Present:

Councillor: Tom Hind (In the Chair)

Councillors: Jim Ainslie, Rob Cook, Keith Dawkins, Mary Fleet, Sheila Griffin, Ged Hall and Geoff Lilley

Officers: Sylvia Pinkney, Public Protection Manager
Ian Harrison, Trading Standards and Licensing Manager
Tony Macnab, Solicitor
Jo Stubbs, Democratic Services Officer

1. Apologies for Absence

Apologies were submitted by Councillors Paul Beck, Peter Jackson and George Morris.

2. Declarations of interest by Members

None

3. Confirmation of the minutes

The following minutes were confirmed:

- Licensing Sub-Committee – 4th April 2014
- Licensing Committee – 23rd April 2014
- Licensing Sub-Committee – 16th May 2014
- Licensing Sub-Committee – 29th May 2014

4. Hackney Carriage Tariffs *(Director of Public Health)*

At the Annual General Meeting for licensed Hackney Carriage owners in February 2014 a proposal was put forward for an increase of 30p on the 'flag fall' for all hackney carriages. This followed an increase from £2 to £2.20 in 2013, the first such increase since 2008. A proposal that the 'soiling charge' be increase by £15 to £35 was also put forward. Members of the Licensing Committee considered the proposals in April 2014 and

agreed to increase the flag fall by 10p and the soiling charge by £5. This proposed increase was advertised and objections received from the Vehicle Owners Working Group. These were appended to the report for members' attention and stated that the increases would be insufficient to cover the costs incurred by the drivers.

Drivers Brian Anderson and Steve Sharpe were present and addressed the Committee. They explained that the cost of cleaning a taxi was usually much more than the proposed £35 as these incidents often happened at unsociable hours and many required specialist cleaning which some valet companies were unwilling to provide. There were also the financial implications of having a vehicle off the road during their most productive time. Such incidents would happen once or twice a year and on very few occasions would those responsible pay the full soiling charge. Following these submissions members felt that it would be appropriate to approve the proposal to increase the soiling charge to £35.

Members also discussed the proposed increase to the flag fall. They noted that taxi fares in Hartlepool were the third cheapest in the country meaning that many drivers were earning the minimum wage. Given increases in the cost of living and the Council's promotion of a living wage for its employees this seemed unjustifiable. The Trading Standards and Licensing Manager confirmed that the flag fall was the maximum that could be charged but drivers could charge less if they wished and had done on previous occasions (shoppers special etc). Members were happy to approve the 30p increase to a maximum flag fall of £2.50

Members asked that when hackney carriage tariffs were being discussed in the future that a representative from the drivers be present to put forward their case as they felt that if this had happened at the April meeting they would have approved the proposals at that time. Mr Sharpe confirmed that the Vehicle Owners Working Group would try to do this in future. He thanked members for their decision.

Decision

That the 'flag fall' charge be increased by 30p to £2.50

That the 'soiling charge' be increased by £15 to £35.

5. Licensing Committee – Sub-Committee Memberships *(Chief Solicitor)*

Following discussions with the Chair, four sub-committees had been created for the consideration of premises licences and three sub-committees had been created for the consideration of hackney carriage and private hire licences. Details of these sub-committees were included in the report.

The Solicitor clarified that substitutes on sub-committees could only come from the parent Licensing Committee

Decision

That the memberships be approved for the Licensing Sub-Committees as follows:

Licensing Sub Committees for premises licences –

- 1) Councillors Hall (Ch), Dawkins and Fleet
- 2) Councillors Cook (Ch), Griffin and Hind
- 3) Councillors Ainslie (Ch), Beck and Lilley
- 4) Councillors Morris (Ch), Gibbon and Jackson

Licensing Sub Committees for hackney carriage and private hire licences –

- 1) Councillors Cook (Ch), Fleet, Griffin and Hind
- 2) Councillors Morris (Ch), Gibbon, Hall and Jackson
- 3) Councillors Ainslie (Ch), Beck, Dawkins and Lilley

6. Notifiable Occupations *(Director of Public Health)*

Members were informed that Hackney Carriage and private hire drivers are classed as having a 'notifiable occupation' by the Home Office. Under this scheme Police would notify appropriate bodies if a person in a notifiable occupation had come to their attention, including arrest, charge, caution, reprimand or warning. However Cleveland Police had now advised that such information would only be disclosed where there was a 'pressing social need' and where the subject of the disclosure presented a potential risk to others. Previously automatic notification had helped to fill the gap between DBS checks on drivers which were only required every three years. The Trading Standards and Licensing Manager indicated that this three year requirement was not statutory but was standard practice. Members were concerned that these changes could result in something significant going unreported however the Trading Standards and Licensing Manager reassured members that the licensing team continued to have a good relationship with the police licensing unit and disclosure team.

Decision

That the report be noted

7. Any Other Items which the Chairman Considers are Urgent

The Chairman ruled that the following items of business should be considered by the Committee as a matter of urgency in accordance with the

provisions of Section 100(B) (4)(b) of the Local Government Act 1972 in order that the matter could be dealt with without delay.

Alcohol free zones – A member informed the committee that he had recently witnessed people drinking alcohol near the Civic Centre during the day. The Solicitor advised that only the police could enforce the legislation. Members asked that the police be made aware of their concerns and urged to be as vociferous during the day as they were on an evening. The Trading Standards and Licensing Manager to write to Chief Inspector Lynn Beeston on behalf of the Committee.

Cabbie of the year – The Trading Standards and Licensing Manager informed members that a Hartlepool driver had been awarded the title of 'Cabbie of the Year' for the third successive year. Members proposed that this year's recipient, John Rogers, be congratulated and given a free renewal on his licence.

Dress code – A member asked that a future meeting look at the current attire of hackney and private hire drivers. The Trading Standards and Licensing Manager to bring a report to the next meeting.

The meeting concluded at 11 am

CHAIR

LICENSING SUB COMMITTEE

MINUTES AND DECISION RECORD

5 August 2014

The meeting commenced at 10.40 am in the Civic Centre, Hartlepool

Present:

Councillor: Jim Ainslie (In the Chair)

Councillors: Paul Beck and Keith Dawkins

Officers: Tony Macnab, Solicitor
Sylvia Pinkney, Public Protection Manager
Denise Wimpenny, Principal Democratic Services Officer

7. Apologies for Absences

None

8. Declarations of interest by Members

None

9. Items for Information

No items.

10. Local Government (Access to Information) (Variation Order) 2006

Under Section 100(A)(4) of the Local Government Act 1972, the press and public were excluded from the meeting for the following items of business on the grounds that they involved the likely disclosure of exempt information as defined in the paragraphs referred to below of Part 1 of Schedule 12A of the Local Government Act 1972 as amended by the Local Government (Access to Information) (Variation) Order 2006.

Minute 11 – (Private Hire Drivers Licence PA) – This item contains exempt information under Schedule 12A Local Government Act 1972 as amended by the Local Government (Access to Information) (Variation) Order 2006 namely (para 1)

11. Private Hire Drivers Licence PA *(Director of Public Health)*

This item contains exempt information under Schedule 12A Local Government Act 1972 as amended by the Local Government (Access to Information) (Variation) Order 2006 namely (para 1)

The Committee was asked to consider what action should be taken, if any, against a licensed private hire driver. The driver was in attendance and addressed the Committee. Details were provided in the exempt section of the minutes.

Decision

The decision was set out in the exempt section of the minutes.

The meeting concluded at 11.35 am.

CHAIR

LICENSING SUB COMMITTEE

MINUTES AND DECISION RECORD

16th September 2014

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

Present:

Councillor: Jim Ainslie (In the Chair)

Councillors: Paul Beck and Geoff Lilley

Officers: Alyson Carman, Legal Services Manager
Sylvia Pinkney, Head of Public Protection
Ian Harrison, Trading Standards and Licensing Manager
Geraint Evans, Senior Environmental Health Officer
Alison Hardy, Senior Environmental Health Officer
Jane Tindall, Planning Officer
Jo Stubbs, Democratic Services Officer

Also present:

Pam Cook, Susan Neesham, Atila Ozcan and Darab Rezai

12. Apologies for Absence

No apologies were submitted

13. Declarations of interest by Members

No declarations were received

14. Application for the Review of Premises Licence – Da Vincis, 180 York Road, Hartlepool *(Director of Public Health)*

The Council's Licensing Authority had requested a review in respect of the premises licence for Da Vincis takeaway. The licence, held by Mr Atila Ozcan, allowed for the sale of late night refreshments between 11pm and midnight and the supply of alcohol between 10am and midnight. However as there was no designated premises supervisor on the licence alcohol could not actually be sold. The Trading Standards and Licensing Manager advised members that in 2012 the owner of the premises, Darab Rezai, had rented them to Mr Ozcan and played no active part in their running. At that time HBC officers became aware that they were operating past their licensable hours. While this had not resulted in any convictions meetings

were held with Mr Ozcan and Mr Rezai and letters sent warning them of the need to abide by the conditions of the premises licence. Copies of these letters were provided for members attention

In May 2014 Mr Ozcan had been convicted for selling hot food after midnight on 2 occasions in June 2013. Despite these convictions in June 2014 Da Vincis had supplied hot food after midnight to plain clothed HBC officers on 8 occasions, supplying alcohol on 2 of these occasions. The Trading Standards and Licensing Manager felt that Mr Ozcan had shown a consistent disregard for the law and limitations of his licence, despite his previous convictions. His deliberate and continual breaches of his licence had rendered Mr Ozcan unsuitable to continue as licence holder. He advised members that revocation of the licence would not lead to the closure of the premises but would prevent sales of hot food past 11pm. The Planning Officer confirmed that there had been no complaints from residents other than those received as part of the planning process.

Mr Ozcan addressed members. He acknowledged that he had previously been unaware that his licence did not allow the sale of alcohol. However since being advised of this fact in 2012 there had been no sale of alcohol from the premises and any supply of alcohol had been done as part of a special offer by the premises. There had been no complaints from residents and no problems with noise or disturbance. He had recently received a £1000 fine and was struggling to make ends meet and provide for his children. Members highlighted the importance of abiding by the licensing laws and the serious nature of the offences he had committed. Mr Ozcan acknowledged this but reaffirmed he had only been trying to make a living. His Partner, Ms Neesham, advised members that he had been under an immense amount of pressure and had recently suffered a heart attack.

Mr Rezai addressed members, indicating that if they were minded to revoke the licence he would be happy to transfer the licence into his name. He would then close the premises until such time as a suitable tenant could be found

Members discussed the issues in closed session.

Decision

On the understanding that the premises licence would be transferred to Mr Rezai the Licensing Sub-Committee determined to suspend the licence for a period not exceeding 3 months until such time as a suitable licence holder is in place

That a condition be added to the licence that Mr Ozcan has no involvement in the operation of the business

The meeting concluded at 11:45am

CHAIR

LICENSING COMMITTEE

6th November 2014



Report of: Director of Public Health

Subject: EARLY MORNING ALCOHOL RESTRICTION
ORDER/LATE NIGHT LEVY

1. PURPOSE OF REPORT

- 1.1 To update Members on issues surrounding the night time economy and to consider whether Hartlepool should further investigate the feasibility of adopting an Early Morning Alcohol Restriction Order or the Late Night Levy.

2. BACKGROUND

- 2.1 Cleveland Police shall be attending the Licensing Committee meeting and will be available to answer questions relating to crime and disorder figures.
- 2.2 In November 2012 the Licensing Committee was advised that new powers had been made available to Licensing Authorities to assist with the management of the Night Time Economy – these being the Early Morning Alcohol Restriction Order (EMRO) and the Late Night Levy.
- 2.3 Committee determined that further investigations should be undertaken concerning the EMRO but that the Late Night Levy should not be progressed at the current time.
- 2.4 Early Morning Alcohol Restriction Order
- 2.5 An EMRO allows a Licensing Authority to set a specific closing time for a designated area where crime and disorder is a serious issue.
- 2.6 Following initial considerations of the issues in November 2012 a further report on EMRO's was presented to the Licensing Committee on 17th December 2012 where Members determined that there was sufficient evidence to justify the commencement of the formal adoption process with a view to premises closing at 2:00 a.m.
- 2.7 Extensive work was undertaken in order to progress an EMRO but following representations from major national alcohol retailers and the local trade

association the Licensing Committee determined at a hearing on 7th May 2013 that local businesses should be given until the end of 2014 to demonstrate that they could 'put their own house in order'.

- 2.8 Since consideration of the EMRO in May 2013, no new late licensed premises have opened in the town centre but one nightclub, Zeus, has closed due to lack of business.
- 2.9 Since the Licensing Act was implemented in 2005 approximately 40% of the late licensed premises in the town centre have closed.
- 2.10 There are currently 14 premises in the town centre area licensed to sell alcohol later than 2:00 a.m. Of these, three have been closed for four years or more, one closed in October 2014 (Zeus), one is a cinema and one is a restaurant. Several other premises with a 4:00 a.m. licence choose to close at 2:00 a.m.
- 2.11 Members will be aware that the current late night culture appears to be one of 'pre-loading' whereby people drink cheap alcohol at home and then travel into the town centre sometime after 11 p.m. – often after midnight.
- 2.12 Anecdotal feedback from the licensed trade and taxi drivers is that business is considerably worse than it was several years ago and that only Saturday night could be classed as a 'busy night'.
- 2.13 The Council and the Police have continued to work closely with the Hartlepool Licensees Association (HLA) with funding and resources being made available to provide free or discounted licensing training for staff, the continued provision of taxi marshals in Church Street, support for the development of an on-line 'Barred From One, Barred From All' scheme operated by the HLA and Town Pastors continue to work voluntarily on Friday and Saturday evenings.
- 2.14 Late Night Levy
- 2.15 The late night levy was introduced alongside the EMRO as a tool available to Licensing Authorities to help tackle alcohol related problems associated with the Night Time Economy.
- 2.16 The late night levy permits a Licensing Authority to make an additional financial charge against all alcohol licensed premises that are open beyond a designated time. The rate of additional charge is prescribed in law and is based on the rateable value of each premises. The additional charge varies from £299 to as much as £4440 per year for the largest premises that are exclusively or primarily used for the consumption of alcohol.
- 2.17 The additional revenue generated by the levy must be divided between the Licensing Authority and the Police.

- 2.18 In 2012, the Licensing Committee determined that it was more appropriate to investigate the implementation of the EMRO rather than the levy – believing it was more important to close premises early than to generate additional income to partly cover the cost of policing.

3. DETAILS

3.1 Early Morning Alcohol Restriction Order

- 3.2 In 2013 the Licensing Committee closely examined the issues surrounding the introduction of an EMRO with a 2:00 a.m. terminal hour and considered the representations made at a licensing hearing.
- 3.3 Cleveland Police highlighted that whilst crime and disorder had reduced since the implementation of the Licensing Act it was still disproportionate for the rest of town and placed a significant demand on Police resources.
- 3.4 Representations received from national retailers, local licensees and Hartlepool Licensees Association stated that the adoption of an EMRO was disproportionate and that jobs would be lost if one was introduced.
- 3.5 Licensing Committee determined that it was not appropriate to implement an EMRO at that time but that the issue should be revisited.
- 3.6 Since then only one other local authority, Blackpool, has progressed as far as Hartlepool did. Following a three day hearing they made the same decision as Hartlepool.
- 3.7 At the time of writing this report there are no EMRO's pending anywhere in the UK.
- 3.8 If Committee was minded to re-consider the introduction of an EMRO it would be necessary to demonstrate that it was appropriate to do so taking into account the trends in crime and disorder, the evidenced benefit that an EMRO would produce and the potential negative impact on the local economy (as previously stated by the licensed trade).
- #### **3.9 Late Night Levy**
- 3.10 A late night levy may be introduced for any time between midnight and 6:00 a.m.
- 3.11 When the late night levy was initially considered by the Licensing Committee in 2012 it was determined that it was more appropriate to try and introduce an EMRO.
- 3.12 A late night levy applies to all premises licensed to sell alcohol beyond a designated hour.

- 3.13 The statutory guidance that accompanies the late night levy legislation states that Licensing Authorities must consider providing exemptions and discounts for those that may not significantly contribute towards the problems associated with the Night Time Economy such as hotels, bingo halls and village pubs and also recommends a system of discounts to encourage premises to be well run.
- 3.14 For example, a discount of up 30% may be allowed to promote and support participation in good practice schemes such as Best Bar None or 'Barred From One, Barred From All'.
- 3.15 It would be for the Licensing Committee to determine what the appropriate time would be for a levy to take effect. If for example, a levy was introduced for premises selling alcohol after 2:00 a.m. there would be 16 premises potentially affected (i.e. 14 town centre premises plus two supermarkets) which it is anticipated would generate a maximum annual income of £10500.
- 3.16 This figure could however be significantly reduced as premises may choose to amend their licensed hours so as to fall outside the scope of the levy whilst others may be eligible for a discount. It is entirely possible that, taking the above into account, total revenue could be as low as £7000 per annum.
- 3.17 In addition to annual administration costs, the Licensing Authority is also able to recover the costs associated with the development and implementation of the levy.
- 3.18 Experience from others authorities that have introduced the levy (approximately 12 nationwide) indicates that these costs are high and will absorb all of the revenue generated in the first year.
- 3.19 It is likely therefore that any practical benefit from revenue raised would not be felt until at least the second year.
- 3.20 If revenue is as low as indicated in para 3.16 above, it is possible that the costs associated with implementing the levy would outweigh the income generated by it.
- 3.21 In subsequent years the licensing authority is able to retain an administration fee to cover costs and the remaining funds must be divided between the Licensing Authority and the Police with the Police receiving a minimum of 70%.
- 3.22 Based on the highest likely revenue figure this would equate to a maximum of approximately £7350 for the Police and £3150 for the Licensing Authority. As licence holders would be entitled to apply for a free variation of their licence to take them outside the scope of the levy, and that others may be eligible for a discount, it is possible that the projected income could be far less than stated.

4. SECTION 17

- 4.1 The Crime and Disorder Act 1998 requires Local Authorities to consider the impact of everything they do in relation to crime and disorder in all their activities. This duty is what is referred to as ‘Section 17’.
- 4.2 It is likely that the adoption of an EMRO, or a late night levy, with a terminal hour of 2:00 a.m. would have a positive impact on crime and disorder.

5. RECOMMENDATIONS

- 5.1 That Members note the contents of this report.
- 5.2 That Members agree that no further investigation into the adoption of an EMRO should be undertaken at this time.
- 5.3 That Members consider whether further investigations should be undertaken into the feasibility of adopting the late night levy.

6. REASONS FOR RECOMMENDATIONS

- 6.1 The process surrounding the adoption of an EMRO and the evidential burden placed on Licensing Authorities has resulted in there being no EMRO’s anywhere in the country and there are none pending.
- 6.2 In view of the fact that crime and disorder is at a significantly lower level than it was when the Licensing Act was first introduced Members may consider it unlikely that the case for adopting an EMRO in Hartlepool could be made to the necessary evidential standard.
- 6.3 With regard to the late night levy, a balance must be struck between raising additional revenue to tackle problems associated with the night time economy whilst recognising that a significant number of licensed premises in the town centre have already closed and that any additional financial burden placed on them may have a further negative impact.

7. BACKGROUND PAPERS

- 7.1 Licensing Committee report and minutes 6th November 2012
Licensing Committee report and minutes 17th December 2012
Licensing Committee report and minutes 7th May 2013

8. CONTACT OFFICER

Louise Wallace
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LICENSING COMMITTEE

6th November 2014



Report of: Director of Public Health

Subject: MINIMUM UNIT PRICE OF ALCOHOL

1. PURPOSE OF REPORT

- 1.1 To update Members on issues surrounding the minimum unit pricing of alcohol and to consider the feasibility of its introduction in Hartlepool.

2. BACKGROUND

- 2.1 The abuse and misuse of alcohol has a significant detrimental impact on public health in Hartlepool and Council has previously expressed its support for various initiatives aimed at reducing alcohol harm.
- 2.2 Establishing a minimum unit price of alcohol is a stated aspiration for Hartlepool Borough Council and at full Council on 7th August 2014 a motion was passed that consideration of the introduction of minimum unit price be referred to the Licensing Committee.
- 2.3 This report considers the most recent developments concerning minimum unit pricing and examines what options are available to Hartlepool Borough Council.

3. DETAILS

- 3.1 For a number of years there has been national and international debate over the merits of introducing a minimum unit price for alcoholic drinks in order to reduce levels of alcohol consumption.
- 3.2 A minimum unit price of alcohol refers to the allocation of a fixed minimum price for each unit of alcohol contained within an alcoholic drink.
- 3.3 In the UK a unit of alcohol is defined as 10ml of pure alcohol.
- 3.4 A 440ml can of 5% strength lager contains 22ml of pure alcohol – equating to 2.2 units.

A 700ml bottle of 37.5% strength vodka contains 262ml of pure alcohol – equating to 26.2 units.

A 175ml glass of 11% strength wine contains 19ml of pure alcohol – equating to 1.9 units.

- 3.5 A minimum unit price of 50p per unit of alcohol would result in a product that contained 2 units of alcohol costing a minimum of £1. A drink containing 10 units of alcohol would cost a least £5 and so on.
- 3.6 Several Countries have already introduced a minimum unit price and, in 2012, the Scottish Government indicated its intention to introduce a 50p unit price but this is being challenged by the Scottish Whisky Federation through the European Courts.
- 3.7 Scotland's intentions are also opposed by the European Commission and a number of Members States whose low-cost wine would be affected by the introduction of a minimum price.
- 3.8 In 2012 the coalition Government published its national alcohol strategy which included a promise to introduce a minimum unit price for alcohol in England and Wales - stating that a minimum price of 40p would mean 50,000 fewer crimes.
- 3.9 During the following months the Government consulted on its proposals and ultimately decided against introducing a minimum price – instead preferring to add an additional mandatory condition onto premises licences which prevents alcohol from being sold below the cost of duty and VAT.
- 3.10 The mandatory condition which is now attached to every premises licence uses the following equation which licensees are expected to understand and follow: -

$$P = D + (D \times V)$$

Where P = Price, D = Duty and V = VAT

- 3.11 Adherence to this formula does not create a minimum unit price for alcohol as the rate of duty varies depending on the type of alcoholic product as well as its alcoholic strength. Members will no doubt recall that on Budget day the Chancellor may announce that the duty on one type of alcohol is to rise whilst for another it is to be cut.
- 3.12 The impact on the price of alcohol through the above method compared to the standard minimum unit price mechanism can be seen in the table below.

Product	% alcohol	VAT & Duty minimum price	50p Minimum Unit Price (£)
4 cans of lager	5.0	2.00	4.00
Bottle of Wine	11.0	2.46	4.50
Bottle of Vodka	37.5	8.89	14.00
Bottle of Whisky	40	9.49	15.00

- 3.13 As the Government has withdrawn from its initial promise to introduce minimum unit pricing, a number of Local Authorities have been exploring how the principle could be introduced another way – focussing specifically on the potential for the adoption of a local by-law.
- 3.14 Legal advice from the Council's solicitor is that there is no legal framework upon which a by-law can be founded and, as such, there is no potential in pursuing such an approach for Hartlepool.
- 3.15 In the absence of a legal framework to introduce a by-law Members may wish to consider whether the merits of including minimum unit pricing in Hartlepool's licensing policy.
- 3.16 Licensing policies are a legal requirement and must be published by Licensing Authorities at least every five years. A policy details how the Licensing Authority will discharge its licensing responsibilities and licence applicants are expected to have regard to the licensing policy when making their application.
- 3.17 References to a minimum unit price in the licensing policy would not create a legally binding obligation on licensees but it would highlight the Council's commitment to reducing alcohol harm and stress to licensees the relationship between price, alcohol consumption and alcohol misuse.
- 3.18 If Members were minded to incorporate unit pricing into the licensing policy, it is proposed that the details, and indeed what level of minimum price was appropriate, should form part of the general discussions and consultation that will take place as the policy is developed prior to its formal publication in January 2016.

4. **SECTION 17**

- 4.1 The Crime and Disorder Act 1998 requires Local Authorities to consider the impact of everything they do in relation to crime and disorder in all their activities. This duty is what is referred to as 'Section 17'.
- 4.2 The inclusion of a minimum unit price of alcohol into Hartlepool's licensing policy may play a positive role in reducing alcohol related harm and the social consequences of alcohol misuse.

5. RECOMMENDATIONS

- 5.1 That Members note the contents of this report.
- 5.2 That Members consider whether it is appropriate to include the principle of a minimum unit price of alcohol in the drafting of Hartlepool's next licensing policy which will be consulted upon during 2015 and published in January 2016.
- 5.3 That the issue of minimum unit pricing for alcohol be referred to the Health and Wellbeing Board as part of the broader public health agenda.

6. REASONS FOR RECOMMENDATIONS

- 6.1 As there is no legal basis upon which minimum unit pricing could be introduced as a local by-law in Hartlepool, it is recommended that the principle be incorporated into the Council's licensing policy as it may have a positive impact on the promotion of responsible alcohol retailing in the town.

7. BACKGROUND PAPERS

- 7.1 There are no background papers to this report.

8. CONTACT OFFICER

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