

Committee: **LICENSING COMMITTEE**  
Date: **8<sup>TH</sup> JUNE 2011**  
Agenda item: 4  
Subject: Licensing Section Progress Report  
Lead officer: Marc Dubet, EH Licensing & Pollution Manager  
Lead member: Cllr Martin Whelton, Cabinet Member for Community & Culture  
Forward Plan reference number: n/a  
Contact officer: Marc Dubet, EH Licensing & Pollution Manager

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**RECOMMENDATIONS:**

- A. The Licensing Committee to note the Licensing Section's progress to date.
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**1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY**

- 1.1 The report provides information for Members regarding the Licensing Section's structure and staffing levels; working arrangements: achievements and enforcement in respect of the Licensing Act 2003.

**2 BACKGROUND**

- 2.1 The licensing team has been reorganised since 1<sup>st</sup> April 2011 with the deletion of the Principal Licensing Officer post, leaving two licensing officers in the team, with the Environmental Health Manager managing the Pollution and licensing teams.
- 2.2 In addition to the functions under the Licensing Act 2003 and Gambling Act 2005, the team continues to undertake all the traditional licensing public controls such as Special treatments, Poisons, Animal Boarding Establishments, Pet Shop licences, Lotteries, Scrap Metal Dealers and Motor Salvage Operators, etc.
- 2.3 The licensing team are responsible for over 600 licensed premises. There are 571 Premises Licences for Pubs, "Off licences" and Clubs. 80 Special Treatment Premises, 5 Pet Shops, 4 Riding Establishments, 2 Animal Boarding Establishments and 35 Bookmakers
- 2.4 The licensing team is responsible for checking all relevant documents for correctness relating to applications, including the determination of representations. The officers also deal with all matters relating to licensing sub-committee hearings, which they attend to offer technical advice, if required. Another important aspect of officers' work is dealing with enquiries that involve a detailed knowledge of the law.
- 2.5 The licensing team is also responsible for dealing with complaints about the premises it licenses and related enforcement issues. The team with the assistance of EH.TS & L Admin is developing the M3 database system for all Licences with a view of providing on line applications and payments.

- 2.6 The licensing team is working hard to enhance and improve working relationships with key Responsible Authorities. The aim is to establish a stronger partnership approach in dealing with licensing applications and improved co ordination in dealing with licensing complaints and enquiries.
- 2.7 Since the deletion of the Principal Officer's post, greater emphasis has been placed on partnership working, notably with the police. Regular meetings are now held with the licensing sergeant at Wimbledon Police Station to discuss problem premises and strategies on how they can best be dealt with. This approach is already proving effective.
- 2.8 Despite these resource pressures the procedures and processes with dealing with applications have been improved and a number of complex and high profile applications have been dealt with, a good example being the recent application relating to the 2012 Olympics at the AELTC, which required officers to liaise with solicitors to determine the matter satisfactorily.

### **WORK IN 2010/2011**

- 2.9 The following provides an overview of the team's progress in respect of the Licensing Act 2003 from 1<sup>st</sup> April 2010 to 31<sup>st</sup> March 2011:

11 Reviews of premises licences.

28 New premises applications of which 8 went to sub committee hearings.

11 Premises variations, of which 4 went to sub committee hearings.

199 Personal Licence applications, 1 of which went to sub committee hearing.

Applicant subsequently appealed decision at Wimbledon Magistrates Court but withdrew at latter stage.

485 Temporary Event Notices.

### **SUB COMMITTEE HEARING DECISIONS SINCE MARCH 2011**

- 2.10 8<sup>th</sup> March 2011 - Expedited Review of Bar Sia The Broadway. SW19.  
Decision: The licence of Bar Sia was suspended with immediate effect, pending the full review.
- 2.11 9 March 2011 - Review of Beverley Public House. Lower Morden Lane, Morden  
Decision: The following conditions were attached to the licence –  
No glasses or glass bottles to be taken to the outside areas after 8pm each night;  
That the Licence Holder is encouraged to continue to regularly liaise with the police over their drug awareness policies and procedures and for the Designated Premises Supervisor to continue to highlight such policies with staff; and  
That the Licence Holder is recommended to take steps to maintain the perimeter fence with neighbours to an acceptable standard to deter intrusion onto neighbours' land.
- 2.12 1<sup>st</sup> April 2011 - Full Review Bar Sia, The Broadway SW19

Decision: A number of conditions were attached to the premises licence, which included:

The Designated Premises Supervisor to be replaced by a DPS approved in advance by the police-licensing officer.

One of the managers ceased to be employed at the premises

On Friday and Saturday nights the premises shall close to the public at 02:30hrs. All licensable activities, with the exception of late night refreshment, shall end by 02:00hrs. There shall be no entry or re-entry (save for smokers) after 00:30hrs.

Doors supervisors and toilet attendants must be employed.

Implement a customer search policy.

Implement a smoking Policy to control the number of smokers permitted in the designated smoking area.

In consultation with the police-licensing officer the premises must draw up and implement an "Anti-Drug Policy". This policy must include procedures and steps to minimise the risk of illegal drugs being brought into, used, or sold at the premises. This policy must include steps to prevent admission to persons who appear to be drunk or under the influence of illegal drugs

Prominent signage is to be put up in the premises advising customers of (i) the zero drugs policy and (ii) the need to be quiet upon leaving the premises to avoid disturbing residents.

The noise limiter to be recalibrated and its settings approved by EHO

No music to be played in the from bar area after 23:00

All staff at the premises are to be trained in drink and drug awareness. This must include recognizing the signs of drunkenness and drug intoxication and use. Refresher training must be provided at least once a year. A written log of all training is to be kept at the premises and made available to police and local authority officers upon request

A locked drugs box must be installed to deposit any confiscated drugs.

#### 2.13 4<sup>th</sup> April 2011 - Review Premises Licence Morden Park

Decision: That no action taken by the Licensing Sub-Committee

The sub-committee welcomed the commitment made by the licensee to ensure that proper monitoring of sound levels takes place in future, where the size of the event makes this appropriate, such as the event that has prompted today's review.

As described by the licensee, the monitoring will be as follows:

- An officer will be at the event on each day and will specifically be charged with monitoring noise levels on the site and in the surrounding areas at the perimeter of the park and specifically in Rougemont Avenue.
- The Noise Pollution Team will either also be in attendance to carry out noise assessments and set acceptable sound levels for this and future events in Morden Park or the Noise Pollution Team will train Greenspaces staff to do this and supply the specialist equipment.

- Public notices will be erected near the stage/public area with contact details for both the event organisers and the council's officer mobile phone number.
- The dedicated mobile phone will be carried by the event officer throughout the weekend event and they should be contacted should the event organisers fail to respond.
- The event organisers will be required to 'leaflet/letter drop' houses that surround The event organisers will be required to 'leaflet/letter drop' houses that surround the park with information about the event and include the contact numbers for themselves should there be any complaints or concerns as well as the council officers mobile number for the event, so that should a member of the public fail to contact the event organiser they can contact the councils responsible officer on site. This leaflet/letter will also be distributed to households in Rougemont Avenue.

A report on noise monitoring of this year's Filipino Festival shall be brought to the Licensing Committee of Merton Council at their meeting on 19 October 2011.

2.14 18<sup>th</sup> April 2011 - Review of Premises Licence Sainsbury 's Worple Road SW19

Decision: That the following conditions are attached to the licence –

The licence holder shall ensure that all cashiers are trained to ask any customer attempting to purchase alcohol, who appears to be under the age of 25 years (or older of the licence holder so elects) for evidence of age. This evidence shall be photographic, such as passport or photographic driving licence until other effective identification technology (for example thumb print or pupil recognition) is introduced. All cashiers will be instructed, through training, that a sale shall not be made unless this evidence is produced.

All staff engaged or to be engaged in the sale of alcohol on the premises shall receive the following training in age restricted sales:

Induction training, which must be completed and documented prior to the sale of alcohol by the staff member.

Refresher/reinforcement training at intervals of no more than 6 months.

Training records will be available for inspection by a police officer or a trading standards officer on request.

#### Refusals

(a) All cashiers shall be trained to record refusals of sales of alcohol in a refusals register. The register will contain :

- (i) details of the time and date the refusal was made;
- (ii) the name of the staff member refusing the sale;
- (iii) description of the person attempted to purchase;
- (iv) details of the alcohol the person attempted to purchase.

(b) This register will be available for inspection by a police officer or training standards officer on request.

(4) Till prompts

## Reasons

The conditions are attached to promote the following licensing objective: the protection of children from harm.

The Sub Committee did not consider a condition requiring the use of stickers bearing a unique code identifiable under ultra violet light to be proportionate in this case.

The Sub Committee decided not to suspend the licence in this instance but any further breach of the licensing objective of the protection of children from harm will be viewed extremely seriously by the Licensing Authority.

### 2.15 18<sup>th</sup> April 2011 - Review of Premises Licence Spiceway Supermarket, Kingston Rd

Decision: That the following condition is attached to the licence –

Minimum of 2 staff to be employed in the store at all times.

The licence to sell alcohol to be suspended for a period of 48 hours.

#### Reason

To assist in the identification of persons not entitled to purchase age related items and also in confronting and refusing sale where necessary.

To promote the licensing objective to protect children from harm.

It was not considered there was enough evidence available to support the need for the imposition of a condition requiring the use of stickers on alcoholic products, which would be identifiable under ultra violet light.

## **ENFORCEMENT ACTIVITIES**

### 2.16 The Licensing team since the reorganisation 1<sup>st</sup> April 2011 has been joint working with the Licensing Sergeant at Wimbledon Police Station. A number of visits have been carried out to Licensed Premises:

Burn Bullock. London Road Mitcham. Officers from the Licensing and the Police visited the premises on Friday the 8th April and it was discovered that the Designated Premises Supervisor (DPS) at the premises had no personal licence, meaning that she could not legally be the DPS and that any sale of alcohol would therefore constitute an offence. The practical effect of the action taken was to close the premises until a new DPS is appointed.

Korean Food Store, New Malden. Officers enforced the Sunday trading laws and ensured that the shop did not trade on Easter Sunday, which would have been against the law.

Fish & Chip Shop, Raynes Park. Officers visited the premises and found that there was an illegal gambling machine at the premises. Enforcement action was taken and the machine was removed from the premises.

Slug Hartfield Road. A joint visit with the police was made regarding information received that the premises had traded beyond permitted hours. Given the nature of the information and the provisions of the council's enforcement policy, a formal warning was given.

18 Commonsides East. An on-going investigation into an allegation of unlicensed activities.

Club Premises Hartfield Road. Licensing Officers attended regarding a noise complaint. Whereas no specific breach of conditions was apparent, issues of how to prevent public nuisance were discussed and general advice given.

### **MERTON'S LICENSING POLICY**

- 2.17 The review of the Licensing Policy was adopted by the council on 6 April 2011 which extended the Cumulative Impact Zone to increase the existing cumulative impact zones to include the following areas: The Ridgway Wimbledon Village from Sunnyside to Hillside. The forecourt and platforms of Wimbledon station, Hartfield Crescent to 31 –commercial premises.

### **UPDATE ON POLICE REFORM & SOCIAL RESPONSIBILITIES BILL 2010**

- 2.18 The Police Reform and Social Responsibility Bill was placed before Parliament on 30th November 2010.

The first sitting in the House of Lords took place on the 5<sup>th</sup> May 2011, the it will go to committee stages of the House of Lords 18th, 24th May and the 6<sup>th</sup> & 9<sup>th</sup> June.2011

The third reading has yet to be announced – however it is unlikely that the final Bill will become law in whatever amended form is decided until later on this year.

- 2.19 Part 2 of the Bill deals with the reform of the Licensing Act and includes proposed amendments to the Licensing Act 2003 as follows:

- **RESPONSIBLE AUTHORITIES**

Licensing authorities and Primary Care Trusts (and Local Health Boards in Wales) to be responsible authorities under the Act.

- **REPRESENTATIONS / REQUESTS FOR REVIEW**

Representations and requests for review will not be restricted to interested parties and responsible authorities, as is currently the case. The vicinity requirement will be removed, and representations will be allowed by responsible authorities or other persons.

- **ADVERTISING**

Applications will have to be advertised in a manner, which is prescribed and is likely to bring the application to the attention of the persons who are likely to be affected by it.

- **PROMOTION OF THE LICENSING OBJECTIVES**

The necessary test in relation to the licensing objectives will now refer to the licensing authority taking such steps as are appropriate to promote the licensing objectives.

- **TEMPORARY EVENT NOTICES**

Gives local authorities exercising environmental health functions the ability to object to a temporary event notice. All objections (police and local authority) will be able to be made on the basis of all the licensing

objectives in the Licensing Act 2003. Licensing authorities will be able to impose conditions on a temporary event notice in limited circumstances.

Provisions will also enable premises users, in any calendar year, to hold a single event under a temporary event notice for up to seven days (currently 3 days), use a single premises for up to 21 days (currently 12 Notices to an aggregate of 15 days) and to give a limited number of temporary event notices later than the existing process permits.

- **UNDERAGE SALES**

Provision for doubling the maximum fine for premises, which persistently sell alcohol to those under 18, and increasing the period of suspensions which can be imposed on such premises.

- **EARLY MORNING RESTRICTION ORDERS**

Gives licensing authorities greater flexibility in making early morning restriction orders; they will be able to make such orders for the whole, or part, of their areas for a period of any duration between midnight and 6am, and will be able to impose different restrictions on different days.

- **NON-PAYMENT OF ANNUAL FEE**

Gives licensing authorities power to suspend a premises licence or club premises certificate for non-payment of an annual fee (currently there is no sanction other than non payment becoming a civil debt).

- **LATE NIGHT LEVY**

Licensing authorities will be able to introduce a levy in their areas which will be payable by premises which supply alcohol as a part of the late night economy. Licensing authorities will be able to impose the levy on such premises for a period of any duration between midnight and 6am, although some premises may benefit from an exemption or discount. At least 70% of the funds generated by the levy will be paid to the police and crime commissioner and it is intended to also pay such funds to bodies which operate measures to address the effect of alcohol related crime and disorder.

- **LICENSING POLICY STATEMENTS**

Policies will have to be reviewed every 5 years rather than every 3 years (currently).

- **PERSONAL LICENCES RELEVANT OFFENCES**

New offences now included: Road Traffic Act 1988, Section 6(6) (Failing to co-operate with a preliminary test)

An offence under section 1 of the Criminal Attempts Act 1981 of attempting to commit an offence that is a relevant offence

An offence under section 1 of the Criminal Law Act 1977 of conspiracy to commit an offence that is a relevant offence

The offence at common law of conspiracy to defraud

- **5-YEAR REVIEW OF AMENDMENTS**

Provisions also impose a requirement on the Secretary of State to review the impact of all the amendments introduced by Part 2 into the regulatory regime under the Licensing Act 2003 after a period of five years following their coming into force.

**3 Alternative Options**

None for the purpose of this report

**4 Consultation undertaken or proposed**

None for the purpose of this report

**5 Financial, resource and property implications**

None for the purpose of this report

**6 Legal and statutory implications**

None for the purpose of this report

**7 Human rights, equalities and community cohesion implications**

These are statutory functions and are applied globally. An equalities impact assessment of the attached policy and other related functions of the Service are undertaken on a regular basis.

**8 Crime and Disorder implications**

The Service has a statutory duty to contribute to the reduction of crime and disorder in Merton under section 17 of the Crime and Disorder Act 1988. Furthermore the prevention of crime and disorder is also one of the objectives of the Council's statement of Licensing policy. In determining applications it will be the policy of the Service to consider the adequacy of measures proposed to deal with related crime and where appropriate it will attach conditions to permissions and licences to deter and prevent crime and disorder both inside and within the vicinity of the premises.

**9 Risk management and health and safety implications**

All risk and health and safety implications have been considered in arriving at the final package of Service Plan measures. Risk ratings are determined for specific activities, including the delivery of outcomes, measures and targets in the Plan, and are included within the Council's corporate risk management strategy. Identified risks and actions to minimise them are assessed on an annual basis.

Appendices – the following documents are to be published with this report and form part of the report

**Appendix 1** - Crime Statistics Wimbledon Town Centre from Safer Merton. (to follow).

Background papers

The following documents have been relied upon in compiling this report and the policy but do not form part of this report

The Licensing Act 2003 (As amended)

The DCMS Guidance to Licensing Authorities issued under S182 (October 2010)