

WYRE FOREST DISTRICT COUNCIL

CABINET
19TH February 2009

Annual Report on Licences Issued Under Licensing Act 2003

OPEN	
SUSTAINABLE COMMUNITY STRATEGY THEME:	Communities that are safe and feel safe
CORPORATE PLAN AIM:	A Better Quality of Life
CABINET MEMBER:	Councillor Anne Hingley
HEAD OF SERVICE:	Head of Planning, Health and Environment
CONTACT OFFICER:	Brian Kent – Ext. 2593 Brian.Kent @wyreforestdc.gov.uk
APPENDICES:	None

1. PURPOSE OF REPORT

- 1.1 To consider an annual report required by the Statement of Licensing Policy for the District.

2. RECOMMENDATION

Cabinet is asked to RECOMMEND to Council:

- 2.1 That the Statement of Licensing Policy should remain unchanged for the next 12 months.**

3. BACKGROUND

- 3.1 The Council is responsible for carrying out the licensing function under the Licensing Act 2003. The Act regulates the sale of alcohol, the provision of entertainment, and late night refreshment.

- 3.2 The Council must promote the four licensing objectives which are:

- Prevention of crime and disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm

Fundamental principles

- 3.3 The Statement of Licensing Policy was prepared in accordance with the provisions of the Licensing Act 2003 and the Guidance issued by the Secretary of State under section 182 of the Act. The Council's Policy was adopted on the 7th February 2008.
- 3.4 The Statement of the Licensing Policy is a live document, subject to continuous review to meet the changing needs of the community, business circumstances and legislation.
- 3.5 A formal review of the policy and further consultation will be carried out by February 2011.

The Council's Licensing Function and the Licensing Objectives

- 3.6 The Council's aim is to facilitate well run and managed premises with licence holders displaying sensitivity to the impact on local residents.
- 3.7 The Council has delegated its licensing function to its Licensing Committee, Sub Committees and Licensing Officers referred collectively to as the "Licensing Authority".

Types of Licence

- 3.8 The Licensing Authority is responsible under the Act for granting licences for any licensable activity, namely:
 - The sale by retail of alcohol
 - The supply of alcohol by or on behalf of a club or, to the order of a member of the club.
 - The provision of regulated entertainment.
 - The provision of late night refreshment.
 - Regulated Entertainment.
- 3.9 Regulated entertainment provided in the presence of an audience for the purpose of entertaining that audience, which consists of:
 - The performance of a play.
 - The exhibition of a film.
 - An indoor sporting event.
 - Outdoor boxing or wrestling.
 - A performance of live or recorded Music.
 - A performance of Dance.

Late Night Refreshment

- 3.10 Late night refreshment means the sale of hot food or drink to members of the public between the hours of 11pm and 5am.

The Prevention of Crime and Disorder

- 3.11 The Licensing Authority has a duty under section 17 of the Crime and Disorder Act 1988 to do all it can to prevent crime and disorder in the district.

Local Economy and Culture

- 3.12 The Licensing Authority is aware of the importance of the licensed trade to the local economy and its culture and leisure aspirations. The Licensing Authority has worked together with all interested parties, statutory agencies and licensed business to ensure a mutual co-existence. An example of this is the promotion of pavement cafes in the district operating within the terms of the proposed *Public Realm and Street-scene Policy (2009)*.

Nuisance / anti social behaviour

- 3.13 The Licensing Authority has taken an objective view following relevant representations as to the potential for nuisance and anti social behaviour and has attached appropriate and proportionate conditions to the licences and certificates where necessary in order to prevent it.
- 3.14 There have been 44 complaints of noise from licensed premises this year. Some have been resolved very quickly through mediation, letter or advice, whilst others have been prolonged, requiring the gathering of evidence.

Loud music	39
Humming Noise – machinery	1
DIY	1
People noise	1
Bouncy castle	1
Generator	1

Smoking Legislation

- 3.15 On 1st July 2007 legislation became affective to control all smoking in enclosed public spaces, and workplaces, including shops, pubs and restaurants. The main purpose is to protect employees and the public from the effects of second hand smoke.
- 3.16 128 visits were made to premises during the year. It is evident that:
- the trade may have been reduced through the no smoking policy
 - smoking issues have been self policing
 - no fixed penalties have been required issued to Licensees

The Protection of Children from Harm

- 3.17 The Licensing Authority recognises that there are a range of activities for which licences may be sought, meaning that children can be expected to visit many of these premises, sometimes on their own, for food and/or other entertainment.
- 3.18 The Licensing Act 2003 allows access by children to licensed premises subject to certain statutory restrictions. For example, children are allowed to be on premises, or part of premises, where the primary function is other than the retail sale of alcohol.
- Licensing Officers have worked together with the Police at Stourport on Severn to investigate a complaint that young persons were purchasing alcohol from an off licence in Minster Road
 - Officers of the Worcestershire Trading Standards have conducted a programme of test purchases to Shops and off licences in Wyre Forest to assess breaches of selling alcohol to young persons. One formal Caution was issued.
 - One Licensee has been formally cautioned by the Police for conducting an “irresponsible drinks promotion”

Temporary Event Notices

- 3.19 No permission is required from the Licensing Authority in relation to Temporary Event Notices. Premises may have up to 12 events in any one year.
- 213 Notices were served on the Council
 - Wolverley Memorial Hall was the only premises which took up its full quota of temporary events and will make application for a Premises licence for 2009.

Integrating Strategies

- 3.20 The Licensing Authority has secured the proper integration of its Licensing Policy with other strategies adopted by the Council
- 3.21 Where relevant representations have been made, any Conditions attached to premises licences have reflected so far as possible local crime prevention strategies.
- The Licensing Authority has taken account of the local Crime and Disorder Reduction Partnership.

- The Licensing Authority has made comment on various transport strategies, which touch on the provision of night-time and evening services.
- It has been a consultee on the plans submitted for the new Kidderminster Railway Station and the Transport Contracts granted by the County Education Transport Department.
- The Licensing Authority has ensured that planning, building control and licensing functions have been properly separated to avoid duplication and inefficiency. Fourteen new Applications have been made to Vary Premises Licences.
- The Licensing Authority has conducted itself in a way that has promoted good race relations with due regard to the need to eliminate unlawful discrimination.

Kidderminster / Stourport on Severn / Bewdley Licensees Association

- 3.22 The Licensing Authority has consulted with the representatives from licensed premises, and other appropriate bodies, and will continue to meet as and when required to discuss and keep under review matters relating to licensing.

Enforcement

- 3.23 The Licensing Authority has established protocols with local police and other relevant authorities. The protocols provide for the targeting of agreed problem and high risk premises which require greater attention while providing a lighter touch in respect of low risk premises which are well run.

Out of Hours Inspections

- 3.24 Premises in the district are inspected late at night and at weekends by a Part-time Officer with shared responsibilities for noise and licensing. He acts in an advisory role to Licensees to ensure that premises are run in accordance with the operating schedule of the premises, and gathers intelligence on any change in status which may give rise for concern to the Licensing Authority.
- 3.25 Each of the 340 premises has been rated according to risk.

Early Intervention

- 3.26 Where complaints are made against premises, or where there is a concern by Officers that there is a failure of general management, an early intervention programme is commenced. It may be that this

Agenda Item No. 8.3.

information comes via the Police Licensing Officer prompting a joint visit to engage with the Licensee and the Brewery Area Manager.

- 3.27 Officers will work with the representatives to achieve a resolution to the problems.
- 3.28 This action accords with the Licensing Enforcement Policy and National Guidance to follow three distinct stages, (Traffic light warnings)

Advice	(green)
Written warning	(amber)
Licence Review / Court Action for Breach of Statute / Licence Condition	(red)

Complaints by the Public

- 3.29 The following complaints have been investigated by the Pollution Control Team:

Noise from Licensed Premises	44
Smoking on Licensed Premises	9
Breach of Licensing Conditions	3
Irresponsible drinks promotions	1

County Licensing Officers Working Group

- 3.30 The responsibility of the Licensing Authority is created by statute and is administered by the district Licensing Officers operating within the county of Worcestershire. To prevent legal challenge, it is an important that the Licensing function is operated in consistent way, both through local offices and the Worcestershire Hub. To achieve this aim, Officers meet on a regular basis to share information on services and to engage in the drafting of Licensing Policies. This has been a successful formula over the past three years to provide common Licence Application Forms and Guidance Notes throughout the County.

The Institute of Licensing

- 3.31 The Institute of Licensing is a National organisation of England and Wales and is divided into regions. It offers direction to local authorities on new legislation and training. This Council is a major contributor to the Institute and your Principal Licensing Officer is currently the Vice-Chair of the West Midland region.

University of Warwick

- 3.32 Professor Colin Manchester of the Faculty of Law, University of Warwick has undertaken research of the Licensing Act 2003 and for

the past 12 months has engaged with this Council (as a small authority) to study its administration of the Licensing Act. In 2009, research will also extend to Solihull Metropolitan Council, (a medium sized authority) and to the Birmingham City Council, (as a large authority). The Councils administration of Licensing has been under scrutiny, and Members and Officers of the Licensing Committee have given a verbal commentary on the Transition of Licensing, on Hearings, Reviews and Appeals to the Magistrates Court.

Member Training

- 3.33 It is paramount that Members receive regular and modern training in the matters of Hearings and Reviews (Licensing Act 2003) and that every opportunity is shared to reduce cost.
- 3.34 Officers are working with Redditch Borough Council Licensing Officers to provide training at Redditch on 12th February 2009

4. KEY ISSUES

4.1 Number of Licences at December 2008

Personal Licences	594
Premises Licences	340
Club Premises Certificates	38

4.2 Number of Licence Applications Received for the Year 2008

Personal Licences	100
New Applications for Premises Licences	14
Applications to Vary Premises Licences	16
Applications to Vary the Designated Premises Supervisor	62
Application to Transfer Premises Licences	30
Temporary Event Notices	213

4.3 Number of Licences which have required Hearings / Review / Appeals

Hearings	1
Reviews	0
Appeals to Magistrates Court	2

4.4 Number of Licences that have ceased to trade / lapsed licences

Ceased to trade / lapsed licences (last 3 years)	33
--	----

4.5 **Number of Complaints made against Licensed premises**

Complaints Total	57
-------------------------	----

5. **FINANCIAL IMPLICATIONS**

5.1 There are no financial implications arising from this report.

6. **LEGAL AND POLICY IMPLICATIONS**

6.1 The Council is responsible for carrying out the licensing function under the Licensing Act 2003 and creates its Licensing Policy Statement which is a 'live' document and is reviewed every three years.

7. **RISK MANAGEMENT**

7.1 There are no risk management implications arising from this report.

8. **CONCLUSION**

8.1 The Licensing Policy Statement is consistent with that of the other districts operating within the county of Worcestershire.

8.2 The Licensing Authority has worked together with all interested parties, statutory agencies and licensed business to ensure a mutual co-existence.

8.2 The Council has achieved its aim to facilitate well run and managed premises that display sensitivity to the impact on local residents.

9. **CONSULTEES**

- Head of Planning Health and Environment
- Head of Legal and Democratic Services
- Head of Community and Partnership Services
- Regeneration and Economic Prosperity Manager
- West Mercia Constabulary Licensing

10. **BACKGROUND PAPERS**

10.1 Statement of Licensing Policy – Wyre Forest District Council

10.2 Protocol between West Mercia Police and Wyre Forest District Council