

**To: The Members of the Licensing Committee
(Councillors M Moss, Butcher, Davis, Freer,
Humphreys, Lewis, Morson, Payne, Pickard,
Sherratt, A Stanley, Y Stanley, Sweet, Watkins
and Wykes)**

For the information of other Members of the Council

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For enquiries about specific reports please contact the officer named in the reports.

LICENSING COMMITTEE AGENDA

23 NOVEMBER 2011

The Licensing Committee will meet in the Council Chamber, Council House, South Street, Atherstone on Wednesday 23 November 2011 at **5.00 pm**.

AGENDA

PART I - PUBLIC BUSINESS

- 1 Evacuation Procedure**
- 2 Apologies for Absence**
- 3 Declarations of Personal or Prejudicial Interests.** (Any personal interests arising from the membership of Warwickshire County Council of Councillor Sweet and any personal interests arising from the membership of the various Town/Parish Councils of Councillors Butcher (Polesworth), Davis (Atherstone), Freer (Atherstone), Lewis (Kingsbury), Morson (Dordon), M Moss (Kingsbury), Pickard (Atherstone) and Y

Stanley (Polesworth) are deemed to be declared at this meeting.

- 4 **Minutes of the meeting of the Committee held on 6 June 2011** – copy herewith to be approved as a correct record and signed by the Chairman.

**PART A
ITEMS FOR DISCUSSION AND DECISION
(WHITE PAPER)**

- 5 **Budgetary Control Report 2011/12 Period Ended 31 October 2011-** Report of the Assistant Director (Finance and Human Resources)

Summary

The report covers revenue expenditure and income for the period from 1 April 2011 to 31 October 2011. The 2011/2012 budget and the actual position for the period, compared with the estimate at that date, are given, together with an estimate of the out-turn position for services reporting to this Board.

The Contact Officer for this report is Nigel Lane (719371)

- 6 **Police Reform And Social Responsibility Act 2011** – Report of the Assistant Chief Executive and Solicitor to the Council

Summary

The report is to inform Members about the considerable amendments made to the Licensing Act 2003 by the Police Reform and Social Responsibility Act 2011. These changes have a number of implications for the Council which are detailed in the report. No commencement date has yet been announced, but there is speculation that the amendments concerning Temporary Event Notices will be commenced before the London 2012 Olympics with the remaining provisions being commenced after.

The Contact Officer for this report is Stephen Whiles (719326).

- 7 **Licensing Act 2003 – Consultation On Proposals To Deregulate Schedule One** – Report of the Assistant Chief Executive and Solicitor to the Council

Summary

The report is to seek member's views on the Government proposal to examine the deregulation of Schedule One of the Licensing Act 2003,

which deals with the provision of regulated entertainment, to inform a response from the Council to the consultation.

The Contact Officer for this report is Stephen Whiles (719326).

- 8 **Licensing Act 2003 – Consultation On Relaxation Of Licensing Hours For The Queen’s Diamond Jubilee** – Report of the Assistant Chief Executive and Solicitor to the Council

Summary

This consultation seeks views on the proposals to make a licensing hours order under section 172 of the Licensing Act 2003 to mark the occasion of the Queen's Diamond Jubilee in June 2012.

The Contact Officer for this report is Stephen Whiles (719326).

- 9 **Local Government (Miscellaneous Provisions) Act 1982 Street Trading Consent Policy** – Report of the Assistant Chief Executive and Solicitor to the Council

Summary

The report asks the Committee to consider adopting a policy in respect of granting street trading consents.

The Contact Officer for this report is Stephen Whiles (719326).

JERRY HUTCHINSON
Chief Executive

NORTH WARWICKSHIRE BOROUGH COUNCIL

MINUTES OF THE LICENSING COMMITTEE

6 June 2011

Present: Councillor Morson in the Chair

Councillors Butcher, Davis, Humphreys, Lewis, M Moss, Pickard, Sherratt, A Stanley, Y Stanley, Sweet and Watkins

Apologies for absence were received from Councillors Freer, Payne and Wykes.

1 **Declarations of Personal or Prejudicial Interests**

Any personal interests arising from the membership of Warwickshire County Council of Councillor Sweet and any personal interests arising from membership of the various Town or Parish Councils of Councillors Butcher (Polesworth), Davis (Atherstone), Lewis (Kingsbury), Morson (Dordon), M Moss (Kingsbury), Pickard (Atherstone) and Y Stanley (Polesworth) were deemed to be declared at this meeting.

2 **Minutes**

The minutes of the meeting of the Committee held on 31 January 2011, copies having been previously circulated, were approved as a correct record and signed by the Chairman.

3 **Local Government (Miscellaneous Provisions) Act 1982 – Policy in respect of licensing sex establishments and sexual entertainment venues**

The Committee was invited to consider the adoption of a policy in respect of the licensing of sex shops and sex cinemas and also for 'sexual entertainment venues' such as lap dancing clubs. The Committee was also asked to agree a scale of charges for the licences.

Recommended:

- a **That the policy relating to the licensing of sex establishments set out in Appendix A to the report of the Assistant Chief Executive and Solicitor to the Council be adopted;**
- b **That the proposed scale of charges set out in the said report in respect of the licensing sex establishments be agreed; and**

c That the following be added as item (e) to Section 3.2 of the Policy:

(e) Places of particular public interest in particular historic buildings, conservation and heritage sites.

4 Taxi Licensing – Increase In Fees For Enhanced CRB Checks

The Committee was asked to note action taken by the Chief Executive under his emergency powers, following consultation with the Chairman and the Opposition Spokesperson, to approve an increase in the cost of an Enhanced CRB for taxi drivers check due to an increase in the fee charged by the Criminal Records Bureau.

Resolved:

a That the action taken by the Chief Executive under his emergency powers, following consultation with the Chairman and the Opposition Spokesperson, to approve an increase in the cost of an Enhanced CRB check by £8.00 with effect from 6 April 2011 be noted; and

b That the change in policy and requirement for the Council to now only request a standard CRB check for taxi drivers be noted.

5 Licensing Work Programme 2010/11

The Committee was invited to note the achievements of the Licensing section against the work programme for 2010/11.

Resolved:

That the achievements of the Licensing section against the work programme for 2010/11 be noted.

P Morson
Chairman

Agenda Item No 5

Licensing Committee

23 November 2011

Report of the Assistant Director (Finance and Human Resources)

Budgetary Control Report 2011/12 Period Ended 31 October 2011

1 Summary

- 1.1 The report covers revenue expenditure and income for the period from 1 April 2011 to 31 October 2011. The 2011/2012 budget and the actual position for the period, compared with the estimate at that date, are given, together with an estimate of the out-turn position for services reporting to this Board.

Recommendation to Committee

That the report be noted.

2 Consultation

2.1 Portfolio Holder, Shadow Portfolio Holder and Ward Members

- 2.1.1 Both Councillors' Forwood and Lea have been consulted regarding this report. Any comments received will be reported verbally to the Board.

3 Report

3.1 Introduction

- 3.1.1 Under the Best Value Accounting Code of Practice (BVACOP), services should be charged with the total cost of providing the service, which not only includes costs and income directly incurred, but also support costs relating to such areas as finance, office accommodation, telephone costs and IT services.

4 Overall Position

- 4.1 Net controllable expenditure for those services that report to the Licensing Board as at 31 October 2011 is (£772) compared with a profiled budgetary position of £2,352; an under spend of £3,124. Appendix A to this report provides details of the profiled and actual position for each service reporting to this Board, together with the variance for the period.

- 4.2 Where possible, the budget to date figure has been calculated with some allowance for seasonal variations, in order to give a better comparison with actual figures. Reasons for the variations are given, where appropriate, in more detail below.

4.3 Licensing Authority

4.3.1 Currently premises renewal income is higher than profiled, partly due to a higher turnover in ownership of premises.

4.4 Hackney Carriages

4.4.1 Currently income from Vehicle and Drivers' Licences is lower than profiled. The lower level of income is expected to continue as the number of taxi's and drivers has reduced, so there will be a shortfall in the full year income of £3,500.

5 Risks to the Budget

5.1 The key risks to the budgetary position of the Council from services under the control of this Board are:

- Fee income – The levels of some licenses, especially those related to alcohol licensing, street trading, pet shops and other commercial enterprises are at risk from a continuing and prolonged downturn in the economy.
- Changes in the number of taxi firms in the Borough, which would impact on the income received for Vehicle and Drivers' Licences.

6 Estimated Out-turn

6.1 Members have requested that Budgetary Control Reports provide details on the likely out-turn position for each of the services reporting to this Board. There is insufficient information at this point to warrant any change in the original estimate of £28,010.

6.2 The figures provided above are based on information available at this time of the year and are the best available estimates for this board, and may change as the financial year progresses. Members will be updated in future reports of any changes to the forecast out turn.

7 Report Implications

7.1 Finance and Value for Money Implications

7.1.1 The Council's budgeted contribution from General Fund balances for the 2011/12 financial year is £419,380. Income and Expenditure will continue to be closely managed and any issues that arise will be reported to this Board for comment.

7.2 Environment and Sustainability Implications

7.2.1 The Council has to ensure that it adopts and implements robust and comprehensive budgetary monitoring and control, to ensure not only the availability of services within the current financial year, but in future years.

The Contact Officer for this report is Nigel Lane (719371).

Agenda Item No 6

Licensing Committee

23 November 2011

**Report of the
Assistant Chief Executive and Solicitor to
The Council**

**Police Reform And Social
Responsibility Act 2011**

1 Summary

- 1.1 The report is to inform Members about the considerable amendments made to the Licensing Act 2003 by the Police Reform and Social Responsibility Act 2011. These changes have a number of implications for the Council which are detailed in the report. No commencement date has yet been announced, but there is speculation that the amendments concerning Temporary Event Notices will be commenced before the London 2012 Olympics with the remaining provisions being commenced after.

Recommendation to Committee

- a That the changes to the Licensing Act 2003 be noted; and**
- b That further reports be brought before the Committee as and when the various provisions requiring a decision from the Committee are implemented; and**

Recommendation to the Executive Board

- c That the Constitution of the Council be changed to reflect the delegated powers detailed in paragraphs 3.3 and 3.6 of the report.**

2 Consultation

2.1 Portfolio Holder, Shadow Portfolio Holder and Ward Members

- 2.1.1 The Chairman of the Licensing Committee and the Opposition Spokesperson have been consulted.

3 Report

- 3.1 This Act arose from the Government Consultation paper 'Rebalancing The Licensing Act'. Members will recall that they responded to the consultation at their meeting of 31 January 2011. The consultation arose because of the perception that the 2003 Act had led to an increase in crime and anti-social behaviour and that local people did not have enough power to influence

licensing decisions. The underlying philosophy is re-balancing, localism and empowering.

3.2 As a result of the consultation the Government has, as part of the Police Reform and Social responsibility Act 2011, made a number of changes to the 2003 Act making considerable differences including:

3.3 **Responsible Authorities / Interested Parties**

- *The Licensing Authority will be a Responsible Authority for premises and club premises applications*
- *Primary Care Trusts and Local Health Boards also join the list of Responsible Authorities*
- *The term 'interested parties' has been replaced by 'any other person'*

3.3.1 This means that the Licensing Authority itself will be able to make representations about licensing applications and reviews called by other responsible authorities and also call a review of a premises licence itself when it discovers offences, breaches of conditions or threats to the licensing objectives. The term 'any other person' means that people wishing to object to a licence application or call a review will no longer have to live in the vicinity of the premises.

3.3.2 The ability of the Council, as Licensing Authority, to call a review of a licence or object to an application raises the issue of how that power will be used. Members will be aware that it is not possible to delegate powers to individual Councillors. The power could be delegated to this Committee as a whole, however there is a concern that the Licensing panel that then hears the review or considers the application which of course is made up of members of the Committee, will have a prejudicial interest as it will already have considered details of the case. It is suggested therefore that the powers are delegated to the Assistant Chief Executive and Solicitor to the Council, to be used after consultation with the Ward Members in which the premises are situated.

3.4 **Advertising**

- *The Secretary of State will be required to make regulations requiring the licensing authority to advertise applications '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'*

3.4.1 At present the application only has to be advertised on A4 signs outside the premises and in the public notices section of a local newspaper. As a result many people have not been aware that an application has been made that may affect them until it is too late. It is not clear yet what further steps will need to be taken to advertise applications.

3.5 Determination of applications

- *'Necessary' has been replaced with 'appropriate' in relation to the steps a licensing authority may take when determining applications / requests for review*

3.5.1 This requirement appears less onerous for the licensing authority and the Government has talked about 'reducing the evidential burden' but guidance is awaited before the full implications can be judged.

3.6 Temporary Event Notices (TENS)

- *Police and Environmental Health will be able to object to TENS where they consider that the proposed activities are likely to undermine a licensing objective*
- *Conditions may be applied to TENS if the authority considers it appropriate for the promotion of the licensing objectives to do so, providing the conditions are also imposed on a premises licence or club premises certificate that has effect in respect of the same premises, or any part of the same premises, as the temporary event notice, and the conditions would not be inconsistent with the carrying out of the licensable activities under the temporary event notice.*
- *Provision has been made for 'Late TENS' which can be submitted up to 5 days in advance of the proposed event.*
- *Where a TEN is served electronically on the licensing authority, they will be required to forward to the Police and Environmental Health by no later than the end of the first working day after the day on which the original notice was given to the authority.*
- *Time limits relating to TENS have been relaxed, including the duration of activities which will increase from 96 hours to 168 hours.*

3.6.1 At present only the Police can object to TENS on the grounds of crime and disorder. In the future the police and Environmental Health will be able to object under any of the licensing objectives. The provisions regarding late TENS and the increase in the time limits for TENS are surprising given the purpose of the original consultation.

3.6.2 It is suggested that the Constitution be amended to include a power to reply to TENS consultation for the Senior Environmental Health Officer and Senior Pollution Control Officer

3.7 Sanctions

- *The fine for persistently selling alcohol to children will be doubled from £10,000 to £20,000.*
- *The effect of a closure notice for persistently selling alcohol to children will have effect for 'at least 48 hours but not more than 336 hours' (previously not exceeding 48 hours)*

3.7.1 These provisions are to be welcomed as a means of combating under age sales.

3.8 Early morning alcohol restriction order

- *Early morning alcohol restriction orders will be a new facility for licensing authorities, and may be applied to different types of premises, between the hours of midnight and 6am.*

3.8.1 EMROs allow the licensing authority to select any period between midnight and 6am when the sale of alcohol is prohibited. These may be applied to particular areas and for limited periods (e.g. every bank holiday weekend)

3.9 Licence Fee

- *Premises licences and club premises certificates will be suspended on failure to pay the annual licence fee, although exceptions are built in to allow for administrative error, disputes and a 'grace period'.*
- *Subject to ministerial approval, the licensing authority will have the **power to set certain fees** on a cost-recovery basis. The costs may also include the costs of acting as other responsible authorities under the Act, e.g. planning authority*

3.9.1 At present failure to pay the annual licence fee means that the licence continues in force and the Council has to recover the fee as a debt. The fees for licensing are set by regulations and have not increased since the 2003 Act came into force and do not reflect the true costs of the licensing function.

These changes are therefore to be welcomed.

3.10 Licensing Policy Statements

- *Will be reviewable every 5 years*

3.10.1 Currently the policy statement has to be reviewed every three years.

3.11 Late Night Levy

- *Provisions have been added to introduce a 'late night levy' which would be intended to cover the costs of policing and other arrangements for the reduction or prevention of crime and disorder, in connection with the supply of alcohol between midnight and 6 am. A licensing authority **may not** decide that 'the late night levy requirement is to apply in part only of its area.'*

3.11.1 If they decide to impose a levy the licensing authority must take into account the costs of policing and other arrangements for the reduction or prevention of crime and disorder in connection with the supply of alcohol between midnight and 6am. The authority must pay at least 70% of the net levy to the Police but nothing in the Act requires the Police to use the levy money to police the late night economy.

3.12 Alcohol Disorder Zones

- *Alcohol Disorder Zones will be repealed.*

3.13 Review of provisions and effect

- *The effect of these amendments will be reviewed 5 years after the provisions come into effect with a view to assessing the effect of the amendments on the scheme established by the Licensing Act 2003.*

4 Report Implications

4.1 Finance and Value for Money Implications

- 4.1.1 Venues are currently licensed under the Licensing Act 2003 and these fees are set by statute. If the new provisions are adopted then reasonable fees will be set by the Council, having regard to the cost of implementation, administration and enforcement of the legal requirements.

4.2 Safer Communities Implications

- 4.2.1 The proposals would give the Council to greater powers to regulate licensed premises and impose conditions thereby helping to reduce crime and the fear of crime around these activities.

4.3 Legal and Human Rights Implications

- 4.3.1 There are no material legal implications arising from the new provisions provided the relevant statutory procedures are followed.

4.4 Environment and Sustainability Implications

- 4.4.1 There are no adverse environmental implications in the report.

4.5 Human Resources Implications

- 4.5.1 The proposals may have resource implications as a result of the Council becoming a responsible authority and the additional provisions around TENS which will mean a greater role for the Council's Licensing Enforcement Officer and the Environmental Health staff.

4.6 Equalities Implications

- 4.6.1 There are no negative impacts of opportunity for any known group.
- 4.6.2 Decisions will be made in accordance with legislative requirements and Council policy and each case will be judged on its merits. Therefore there are no equality impact issues in respect to the issuing of licences.

The Contact Officer for this report is Stephen Whiles (719326).

Background Papers

Local Government Act 1972 Section 100D, as substituted by the Local Government Act, 2000 Section 97

Background Paper No	Author	Nature of Background Paper	Date

Agenda Item No 7

Licensing Committee

23 November 2011

**Report of the
Assistant Chief Executive and Solicitor to
The Council**

**Licensing Act 2003 – Consultation
On Proposals To Deregulate
Schedule One**

1 Summary

- 1.1 The report is to seek member's views on the Government proposal to examine the deregulation of Schedule One of the Licensing Act 2003, which deals with the provision of regulated entertainment, to inform a response from the Council to the consultation.

Recommendation to Committee

- a That the consultation papers be noted; and**
- b That the views of the Committee on the proposals be forwarded to the Department For Culture, Media and Sport.**

2 Consultation

2.1 Portfolio Holder, Shadow Portfolio Holder and Ward Members

- 2.1.1 The Chairman of the Licensing Committee and the Opposition Spokesperson have been consulted.

3 Report

- 3.1 The Government is concerned that the law around licensing of entertainment is confusing, inconsistent and in many cases disproportionate.

- 3.2 The Licensing Act 2003 classifies the following activities as 'regulated entertainment' and therefore licensable:

- A performance of a play
- An exhibition of a film
- An indoor sporting event
- Boxing and wrestling (both indoors and outdoors)
- A performance of live music
- Any playing of recorded music
- A performance of dance

- Provision of entertainment facilities which enable members of the public to make music or dance.
- 3.3 Licensable activities can only be carried out under the permission of a licence or a temporary event notice (TEN) from a local licensing authority
 - 3.4 The Licensing Act 2003 has four underlying licensing objectives; Prevention of crime and disorder; Prevention of public nuisance; Protection of children from harm; and Public safety. Licensing authorities must exercise their functions and make their decisions with a view to promoting these objectives.
 - 3.5 Many types of entertainment are not subject to any kind of licensing e.g. stock car racing, live T.V. broadcasts of major events and outdoor sports events. There are numerous examples where types of entertainment are treated differently, apparently for no good reason.
 - 3.6 The starting point for this consultation is to examine the need for a licensing regime for each of the activities classed as 'regulated entertainment'. Where it is considered there is no such need the proposal is to remove the licensing requirement, subject to the views and evidence generated through this consultation. Where there is a genuine need to licence a type of entertainment then it is proposed that the licensing requirement would remain, either in full or in part if more appropriate. However the Government intends to retain the licensing requirement for any performance of live music, theatre, dance, recorded music indoor sport or exhibition of a film where the audience is of 5000 people or more, boxing and wrestling and any performance of dance that may be classed as sexual entertainment, but is exempt from separate sexual entertainment venue Regulations.
 - 3.7 The full consultation document can be viewed by going to the following link http://www.culture.gov.uk/images/consultations/consultation_deregulation-scheduleone_2011_vs2.pdf
 - 3.8 The consultation includes a summary list of questions and these are reproduced at Appendix A. members may choose to answer some or all of these questions as a response to the consultation.
 - 3.9 Whilst it has to be recognised that the current system is unsatisfactory certain of the proposals do give rise to concern. The Multi Agency Licensing Enforcement Group has never discussed any problems relating to the performance of a play, exhibition of a film, indoor sporting events or a performance of dance and it is suggested that deregulation of these activities would not pose any problems that could not be dealt with by use of other legislation. However the proposal to deregulate any performance of live music, recorded music and provision of facilities for making music is of concern.
 - 3.10 In 2010 the Environmental Health Division received 50 complaints relating to noise in the form of amplified music from commercial premises, mainly licensed premises. The consultation paper makes the point that the Police

Reform and Social Responsibility Act 2011 will give licensing authorities greater powers to call reviews on premises licences and also that the Environmental Health Officer and Police will be able to object to TENs on any of the licensing objectives. Both of these new provisions are an improvement regarding the problem of dealing with noisy licensed premises. In terms of premises licences however it is considered that although there are powers to deal with problems as they arise, the ability to prevent problems occurring through the imposition of conditions relating to regulated entertainment will be lost.

3.11 Also of concern is that premises that do not sell alcohol, such as many village halls, would not need any sort of licence when providing entertainment for up to 5000 people. This raises concerns about potential noise issues which would have to be dealt with by way of statutory nuisance procedure under the Environmental Protection Act 1990. This is a much more time consuming and difficult process than calling a review of a premises licence. Recent case law relating to odour nuisance stated that the problem would have to occur at least once a week for it to be considered a statutory nuisance and if this standard was also applied to noise a village hall could potentially have a disco or live band every week that disturbed nearby residents about which the Council would be powerless to act.

3.12 Members views are sought on the proposals.

4 Report Implications

4.1 Finance and Value for Money Implications

4.1.1 There are no financial implications to the proposed changes, venues such as village halls that provide entertainment but do not sell alcohol currently pay no fee for their licence.

4.2 Safer Communities Implications

4.2.1 The changes may give rise to more noise complaints and cause problems between members of the community.

4.3 Legal and Human Rights Implications

4.3.1 There are no material legal implications arising from the proposals provided the relevant statutory procedures are followed.

4.4 Environment and Sustainability Implications

4.4.1 There is a potential for greater noise pollution in the Borough.

4.5 Human Resources Implications

4.5.1 The proposals may have resource implications as more noise complaints will mean a greater role for the Council's Environmental Health staff.

4.6 Equalities Implications

4.6.1 There are no known negative impacts of opportunity for any known group.

4.6.2 Decisions will be made in accordance with legislative requirements and Council policy and each case will be judged on its merits.

The Contact Officer for this report is Stephen Whiles (719326).

Background Papers

Local Government Act 1972 Section 100D, as substituted by the Local Government Act, 2000 Section 97

Background Paper No	Author	Nature of Background Paper	Date

Annex A: Summary list of questions

Proposal Impacts: Questions

Q1: Do you agree that the proposals outlined in this consultation will lead to more performances, and would benefit community and voluntary organisations? If yes, please can you estimate the amount of extra events that you or your organisation or that you think others would put on?

Q2: If you are replying as an individual, do you think this proposal would help you participate in, or attend, extra community or voluntary performance?

Q3: Do you agree with our estimates of savings to businesses, charitable and voluntary organisations as outlined in the impact assessment? If you do not, please outline the areas of difference and any figures that you think need to be taken into account (see paragraph 57 of the Impact Assessment).

Q4: Do you agree with our estimates of potential savings and costs to local authorities, police and others as outlined in the impact assessment? If you do not, please outline the areas of difference and any figures you think need to be taken into account.

Q5: Would you expect any change in the number of noise complaints as a result of these proposals? If you do, please provide a rationale and evidence, taking into account the continuation of licensing authority controls on alcohol licensed premises and for late night refreshment

Q6: The Impact Assessment for these proposals makes a number of assumptions around the number of extra events, and likely attendance that would arise, if the deregulation proposals are implemented. If you disagree with the assumptions, as per paragraphs 79 and 80 of the Impact Assessment, please provide estimates of what you think the correct ranges should be and explain how those figures have been estimated.

Q7: Can you provide any additional evidence to inform the Impact Assessment, in particular in respect of the impacts that have not been monetised?

Q8: Are there any impacts that have not been identified in the Impact Assessment?

Q9: Would any of the different options explored in this consultation have noticeable implications for costs, burdens and savings set out in the impact assessment? If so, please give figures and details of evidence behind your assumptions.

Q10: Do you agree that premises that continue to hold a licence after the reforms would be able to host entertainment activities that were formerly regulated without the need to go through a Minor or Full Variation process?

The Role of Licensing Controls: Questions

Q11: Do you agree that events for under 5,000 people should be deregulated across all of the activities listed in Schedule One of the Licensing Act 2003?

Q12: If you believe there should be a different limit – either under or over 5,000, what do you think the limit should be? Please explain why you feel a different limit should apply and what evidence supports your view.

Q13: Do you think there should there be different audience limits for different activities listed in Schedule One? If so, please could you outline why you think this is the case. Please could you also suggest the limits you feel should apply to the specific activity in question.

Q14: Do you believe that premises that would no longer have a licence, due to the entertainment deregulation, would pose a significant risk to any of the four original licensing objectives? If so please provide details of the scenario in question.

Q15: Do you think that outdoor events should be treated differently to those held indoors with regard to audience sizes? If so, please could you explain why, and what would this mean in practice.

Q16: Do you think that events held after a certain time should not be deregulated? If so, please could you explain what time you think would be an appropriate cut-off point, and why this should apply.

Q17: Should there be a different cut off time for different types of entertainment and/or for outdoor and indoor events? If so please explain why.

Q18: Are there alternative approaches to a licensing regime that could help tackle any potential risks around the timing of events?

Q19: Do you think that a code of practice would be a good way to mitigate potential risks from noise? If so, what do think such a code should contain and how should it operate?

Q20: Do you agree that laws covering issues such as noise, public safety, fire safety and disorder, can deal with potential risks at deregulated entertainment events? If not, how can those risks be managed in the absence of a licensing regime?

Q21: How do you think the timing / duration of events might change as a result of these proposals? Please provide reasoning and evidence for any your view. Department for Culture, Media and Sport **Regulated Entertainment**

Q22: Are there any other aspects that need to be taken into account when considering the deregulation of Schedule One in respect of the four licensing objectives of the Licensing Act 2003?

Performance of Live Music: Questions

Q23: Are there any public protection issues specific to the deregulation of the performance of live music that are not covered in chapter 3 of this consultation? If so, how could they be addressed in a proportionate and targeted way?

Q24: Do you think that unamplified music should be fully deregulated with no limits on numbers and time of day/night? If not, please explain why and any evidence of harm.

Q25: Any there any other benefits or problems associated specifically with the proposal to deregulate live music?

Performance of Plays: Questions

Q26: Are there any public protection issues specific to the deregulation of the performance of plays that are not covered in chapter 3 of this consultation? If so, how could they be addressed in a proportionate and targeted way?

Q27: Are there any health and safety considerations that are unique to outdoor or site specific theatre that are different to indoor theatre that need to be taken into account?

Q28: Licensing authorities often include conditions regarding pyrotechnics and similar HAZMAT handling conditions in their licences. Can this type of restriction only be handled through the licensing regime?

Q29: Any there any other benefits or problems associated specifically with the proposal to deregulate theatre?

Performance of Dance: Questions

Q30: Are there any public protection issues specific to the deregulation of the performance of dance that are not covered in chapter 3 of this consultation? If so, how could they be addressed in a proportionate and targeted way?

Q31: Any there any other benefits or problems associated the proposal to deregulate the performance of dance?

Exhibition of Film: Questions

Q32: Do you agree with the Government's position that it should only remove film exhibition from the list of regulated activities if an appropriate age classification system remains in place?

Q33: Do you have any views on how a classification system might work in the absence of a mandatory licence condition?

Q34: If the Government were unable to create the situation outlined in the proposal and above (for example, due to the availability of Parliamentary time) are there any changes to the definition of film that could be helpful to remove unintended consequences, as outlined earlier in this document - such as showing children's DVDs to pre-school nurseries, or to ensure more parity with live broadcasts?

Q35: Are there any other issues that should be considered in relation to deregulating the exhibition of film from licensing requirements?

Indoor Sport: Questions

Q36: Are there any public protection issues specific to the deregulation of the indoor sport that are not covered in chapter 3 of this consultation? If yes, please outline the specific nature of the sport and the risk involved and the extent to which other interventions can address those risks.

Q37: Are there any other issues that should be considered in relation to deregulating the indoor sport from licensing requirements?

Boxing and Wrestling, and Events of a Similar Nature: Questions

Q38: Do you agree with our proposal that boxing and wrestling should continue to be regarded as "regulated entertainment", requiring a licence from a local licensing authority, as now?

Q39: Do you think there is a case for deregulating boxing matches or wrestling entertainments that are governed by a recognised sport governing body? If so please list the instances that you suggest should be considered.

Q40. Do you think that licensing requirements should be specifically extended to ensure that it covers public performance or exhibition of any other events of a similar nature, such as martial arts and cage fighting? If so, please outline the risks that are associated with these events, and explain why these cannot be dealt with via other interventions.

Recorded Music and Entertainment Facilities: Questions

Q41: Do you think that, using the protections outlined in Chapter 3, recorded music should be deregulated for audiences of fewer than 5,000 people? If not, please state reasons and evidence of harm.

Q42: If you feel that a different audience limit should apply, please state the limit that you think suitable and the reasons why this limit is the right one.

Q43: Are there circumstances where you think recorded music should continue to require a licence? If so, please could you give specific details and the harm that could be caused by removing the requirement?

Q44: Any there any other benefits or problems associated specifically with the proposal to deregulate recorded music?

Q45: Are there any specific instances where Entertainment Facilities need to be regulated by the Licensing Act, as in the current licensing regime? If so, please provide details.

Unintended consequences: Questions

Q46: Are there any definitions within Schedule One to the Act that are particularly difficult to interpret, or that are otherwise unclear, that you would like to see changed or clarified?

Q47: Paragraph 1.5 outlines some of the representations that DCMS has received over problems with the regulated entertainment aspects of the Licensing Act 2003. Are you aware of any other issues that we need to take into account?

Adult Entertainment: Question

Q48: Do you agree with our proposal that deregulation of dance should not extend to sex entertainment? Please provide details.

Agenda Item No 8

Licensing Committee

23 November 2011

**Report of the
Assistant Chief Executive and Solicitor to
The Council**

**Licensing Act 2003 – Consultation
On Relaxation Of Licensing Hours
For The Queen’s Diamond Jubilee**

1 Summary

- 1.1 This consultation seeks views on the proposals to make a licensing hours order under section 172 of the Licensing Act 2003 to mark the occasion of the Queen's Diamond Jubilee in June 2012.

Recommendation to Committee

- a That the consultation be noted and;**
- b The views of the Committee on the proposals be forwarded to the Home Office.**

2 Consultation

2.1 Portfolio Holder, Shadow Portfolio Holder and Ward Members

- 2.1.1 The Chairman of the Licensing Committee and the Opposition Spokesperson have been consulted.

3 Report

- 3.1 Plans have been announced for a special four-day Jubilee weekend to allow communities the time to come together to celebrate and commemorate the events of the last 60 years. The late May Bank Holiday has been put back to Monday, 4 June and there will be an additional Jubilee Bank Holiday on Tuesday, 5 June.
- 3.2 The proposed order will extend licensed hours on Friday, 1 June to 1am on Saturday, 2 June 2012 and on Saturday, 2 June to 1am on Sunday, 3 June 2012 for the sale of alcohol for consumption on the premises and the provision of regulated entertainment and late night refreshment in licensed premises in England and Wales.
- 3.3 Similar relaxations were put in place for last years Royal Wedding and prior to that for the football world cup. No problems were reported on either of these occasions.

3.4 Licensed premises will still need to act responsibly and comply with all those conditions on their licences that are not affected by the relaxation.

3.5 Members view are sought.

4 **Report Implications**

4.1 **Finance and Value for Money Implications**

4.1.1 There are no financial implications to the proposals except that some income may be lost from premises that would have applied for temporary event notices that will not need to do so.

4.2 **Safer Communities Implications**

4.2.1 There is a risk of disorder from an extension of drinking hours but this has not occurred on previous occasions.

4.3 **Legal and Human Rights Implications**

4.3.1 There are no material legal implications arising from the proposals provided the relevant statutory procedures are followed.

4.4 **Environment and Sustainability Implications**

4.4.1 There is a potential for greater noise pollution in the Borough.

4.5 **Human Resources Implications**

4.5.1 The proposals should have no resource implications.

4.6 **Equalities Implications**

4.6.1 There are no known negative impacts of opportunity for any known group.

The Contact Officer for this report is Stephen Whiles (719326).

Background Papers

Local Government Act 1972 Section 100D, as substituted by the Local Government Act, 2000 Section 97

Background Paper No	Author	Nature of Background Paper	Date

Agenda Item No 9

Licensing Committee

23 November 2011

**Report of the
Assistant Chief Executive and Solicitor to
The Council**

**Local Government (Miscellaneous
Provisions) Act 1982 Street
Trading Consent Policy**

1 Summary

- 1.1 The report asks the Committee to consider adopting a policy in respect of granting street trading consents.

Recommendation to Council

The policy relating to the granting of street trading consent (Appendix A) be adopted as Council policy

2 Consultation

2.1 Portfolio Holder, Shadow Portfolio Holder and Ward Members

- 2.1.1 The Chairman of the Licensing Committee and the Opposition Spokesperson have been consulted.

3 Report

- 3.1 The Council has previously adopted the provisions contained in section 3 and schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 to make all streets in the Borough 'consent streets'. The effect of this is that any street trading is prohibited without the consent of the Council.
- 3.2 The Council charges a fee for granting consents which last for one year after which time they must be renewed. The fees are currently £1352.70 for consent to sell food and £669.60 for non food.
- 3.3 There has never been a very high demand for street trading consents but that has recently begun to change. The economic climate means that there are people looking for a way to make a living and interest in obtaining street trading consents is increasing.
- 3.4 It is suggested that some increase in street trading is to be welcomed. It will provide work for people who may otherwise be unemployed and provide a valuable service, especially on some of the large industrial estates where there is little or no provision made for the many lorry drivers that visit.

3.5 However, the situation at present is that there is a lot of demand to obtain consent in particular areas. There must be a limit on the number of consents granted if danger to road users and pedestrians as well as more general nuisance arising from an over proliferation of traders is to be avoided in these hot spots. It is also desirable to ensure that the Council has the ability to revoke consents either because of a change in circumstances in the area or because of the behaviour of the consent holder.

3.6 The Council has never had a formal policy in place dealing with the granting, refusal or revocation of consents, the matter having been left to the discretion of the Licensing Enforcement Officer. It is felt that greater transparency and a clear policy is required to assist applicants and also Council Officers and Members in reaching fair and consistent decisions.

... 3.7 A draft policy is attached (Appendix A) and Members are asked to consider adopting this as Council policy.

4 Report Implications

4.1 Finance and Value for Money Implications

4.1.1 The granting of additional street trading consents will provide some additional income to the Council

4.2 Safer Communities Implications

4.2.1 The powers would enable the Council to regulate the location and impose conditions on the operation of street traders reducing the risk from road traffic and public nuisance.

4.3 Legal and Human Rights Implications

4.3.1 There are no material legal implications arising from the adoption of the new provisions provided the relevant statutory procedures are followed.

4.4 Environment and Sustainability Implications

4.4.1 There are no adverse environmental implications in the report. The proposals will help to maintain the quality of the environment and provide work locally for local people.

4.5 Human Resources Implications

4.5.1 Any applications that are received can be dealt with within existing resources.

4.6 Risk Management Implications

4.6.1 There is a risk that if the Council does not adopt this policy it is more likely that it could face legal challenges over its decisions.

4.7 Equalities Implications

4.7.1 There are no negative impacts of opportunity for any known group.

4.7.2 Applications will be considered in accordance with legislative requirements and Council policy and each case will be judged on its merits. Therefore there are no equality impact issues in respect to the granting of consents.

The Contact Officer for this report is Stephen Whiles (719326).

Background Papers

Local Government Act 1972 Section 100D, as substituted by the Local Government Act, 2000 Section 97

Background Paper No	Author	Nature of Background Paper	Date

NORTH WARWICKSHIRE BOROUGH COUNCIL

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982 STREET TRADING CONSENT POLICY

This policy will be applied to street trading activities in the North Warwickshire Borough Council (The Council) area to ensure consistency and transparency in decision making. Each application will be considered on its own merits so that individual circumstances, where appropriate, are taken into consideration.

1. Definitions of terms used in these guidelines

Within the terms of the Council's Street Trading Consent Scheme the following definitions apply:

- The Council – North Warwickshire Borough Council.
- Street Trading – The selling or exposing or offering for sale of any article in any street.
- Street – Any road, footway, or other area to which the public have access without payment.
- Consent Street – Means a street in which street trading is prohibited without the consent of the Council.
- Consent – a Consent to trade on a street granted by the Council, pursuant to Paragraph 7, Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982.
- Consent Holder – The person or company to whom the consent to trade has been granted by the Council.
- Authorised Officer – An officer of the Council, authorised by it to act in accordance with the provisions of the Local Government (Miscellaneous Provisions) Act 1982.

2. Submission of the Application

An application for the Street Trading Consent must be made to the Council in writing. The Application Form is included in this policy document at Appendix 1.

The following will be required to be submitted with the application:

- (a) A completed and signed Street Trading Consent Application Form.
- (b) The full fee as appropriate.
- (c) Where the proposed street activity is from a fixed position, a copy of a map of at least 1:1250 scale. The map should be clearly identify the proposed site position by marking the site boundary with a red line.
- (d) A colour photograph of the stall, van, barrow, cart etc that will be used for the street trading activity.
- (e) An original copy of the certificate of insurance that covers the street trading activity for third party and public liability risks.

3. Consultation on Application Made

Before a Street Trading Consent is granted or renewed, the Council will carry out a consultation process with various persons and groups. In particular the following organisations or persons are consulted:

- Warwickshire County Council Highways
- Warwickshire Constabulary
- Local Councillor(s)
- The appropriate Parish or Town Council
- The Council's Environmental Health Department
- The Council's Planning Department
- Local Residents and/or businesses as appropriate

Written observations from the above will be sought and taken into consideration when determining an application.

4. Site Assessment

Street Trading Consents from static locations will not normally be granted where:

- A significant effect on road safety would arise either from the siting of the trading activity itself, or from customers visiting or leaving the site, or
- Where there are concerns over the recorded level or personal injury accidents in the locality where the street trading activity will be sited, or
- There would be a significant loss or amenity caused by traffic, noise, rubbish, potential for the harbourage of vermin, odour or fumes or
- There is a conflict with Traffic Orders such as waiting restrictions, or
- The site or pitch obstructs either pedestrian or vehicular access, or traffic flows, or
- The trading unit obstructs the safe passage of users of the footway or carriageway, or
- The pitch interferes with sight lines for any road users such as at road junctions, or pedestrian crossing facilities, or
- The site does not allow the Consent Holder, staff and customers to park in a safe manner.
- The proposed site is a busy dual carriageway and/or a designated clearway.

5. Compliance of the Street Trading Unit

The vehicle, van, trailer or stall or other device to be used for the proposed street trading activity must comply, in all respects with the legal requirements relating to the type of street trading activity proposed. In particular the unit to be used shall comply with the following legislation as appropriate:

- Food Hygiene Laws (European Communities Act 1972/Food Safety Act 1990 and Regulations made there under).
- Health and Safety at Work etc Act 1974 and any Regulations made under this Act.
- Environmental Protection Act 1990.

6. Determination of the Application

The Environmental Health Manager, acting on delegated powers will grant the consent in the absence of representations. When there are representations, the application will be referred to the Council's Licensing Committee who will use the criteria listed below to make their determination of the application, with equal weight applied to the criteria listed. Each case will be assessed on its merits and individual circumstances, where appropriate, may be taken into consideration.

- a) Public Safety: The location of the proposed street trading activity should not present a substantial risk to the public in terms of road safety and obstruction. The term "public" refers to both customers requesting the street trading activity, and other members of the public using the street.
- b) Public Order: The street trading activity should not present a risk to good public order in the locality in which it is situated.
- c) Avoidance of Nuisance: The street trading activity should not present a substantial risk of nuisance from noise, rubbish, potential for the harbourage of vermin, smells or fumes to households and businesses in the vicinity of the proposed street trading site.
- d) Needs of the Area: The Council may refuse an application on any of the following grounds:
 1. That there is not enough space in the street for the applicant to engage in the trading in which he desires to engage without causing undue interference to persons using the street.
 2. That further traders in an area would prejudice road safety and the general amenity of the area.
- e) Compliance with Legal Requirements: The council may refuse an application on any of the following grounds:
 1. The proposed street trading activity would be carried out from a trading unit that does not comply with the relevant legislation (see 5 above).
 2. The applicant is unsuitable to hold the consent by reason of having been convicted of an offence or for any other reason.
 3. The applicant has at any time been granted a street trading consent by the Council and has persistently refused or neglected to pay fees due to them for it.

4. That the applicant has without reasonable excuse failed to avail himself to a reasonable extent of a previous street trading consent.
- f) Consultee's Observations: In relation to points a) – d) above, consideration will also be given to written observations from consultees. Any objections made to the proposed street trading activity will be considered in terms of relevancy and appropriateness to the application that has been made.
- g) Permitted Trading Hours: The Council generally will only permit street trading between 07:00 and 18:00. Any trading outside the guideline hours will be assessed in terms of the criteria detailed above. The Council however retains the right to specify permitted hours of trading that are less than those specified above if local circumstances dictate.

7. Approval Applications

On approval of the application the Council will issue a Street Trading Consent to which conditions will be attached. The consent will also contain specific terms such as days and hours when street trading is permitted, the goods that may be sold. A copy of the Council's standard conditions, which are attached to Street Trading consents, are shown at 14. Additional conditions may be attached if special circumstances apply to the Consent being granted by the Council. The conditions attached to the Consent form part of the approval to carry out street trading in the Council's controlled area. They MUST be complied with at all times and failure to do so could lead to the Consent being either revoked, or not renewed. Consent Holders are therefore required to familiarise themselves with the terms and conditions attached to the Street Trading Consent and comply with the requirements.

8. Issue of Street Trading Consents

A Street Trading Consent for any particular site will be issued for a maximum period of 12 months.

In all cases when a Consent has expired, and an application has not been submitted to the Council for renewal within 14 days, a new application will have to be made. If the renewal is made after the expiry date, but before the end of 14 days thereafter, a 10% administration fee will be added. After the expiry of the 14 days, the application will be required to go through the full consideration process outlined in these guidelines.

If a cheque is dishonoured by a bank this will result in the revocation of the Street Trading Consent issued by the Council unless payment of the outstanding fees is made in cash within 5 working days. In such cases an administration charge will also be imposed on the Consent Holder. If an application is refused then a full refund will be made, less an appropriate administration charge.

9. Decision to Refuse or Revoke and Surrender of Consent

- a) If the Council is unable to grant a Street Trading Consent the applicant will be notified in writing.
- b) The Council may at any time revoke a Street Trading Consent and in particular but not exclusively if they consider:
 - i. that, owing to circumstances which have arisen since the grant of the consent there is not enough space in the street for the licence holder to engage in the trading permitted by the consent without causing undue interference or inconvenience to persons using the street;

- ii. that the consent holder is unsuitable to hold the consent by reason of having been convicted of an offence or for any other reason;
 - iii. that, since the grant of the consent, the consent holder has persistently refused or neglected to pay fees due to the Council for it.
 - iv. that, since the grant of the consent, the consent holder has without reasonable excuse failed to avail himself of the licence to a reasonable extent.
- c) The holder of a Street Trading Consent may at any time surrender his consent to the Council and it shall then cease to be valid.
 - d) Where a consent is surrendered or revoked, the Council shall remit or refund, as they consider appropriate, the whole or part of the fee paid for the grant of the consent.

10. Refusal of Applications

The Local Government (Miscellaneous Provisions) Act 1982 does not allow any legal appeals against the decision of the Council in relation to the refusal of Street Trading Consents. A person aggrieved by a decision of the Licensing Committee may seek a Judicial Review of the decision, should it be felt necessary. If the applicant wishes to do this, they should seek their own independent legal advice.

11. General Information on Street Trading Consents

- Persons under the age of 17 years: The Council will not grant a Street Trading Consent to persons under the age of 17 years.
- Access by Council and Police Officers: Consent Holders should allow access to Authorised Officers of the Council and Police Officers at all reasonable times.
- Street Trading Consents: The consent is granted specifically to the person to whom it is issued and is non transferable and there can be no sub letting;
- Variance of Conditions: The Council may at any time vary the conditions of a Street Trading Consent.

12. Enforcement of Street Trading

The Council will actively enforce the provisions of the Street Trading legislation within its area in a fair and consistent manner. All enforcement activities will comply with the Council's Enforcement Policies. In respect of street trading activities the most relevant policies are licensing, food safety, health and safety at work and environmental protection.

13. Complaints Against the Service

The Council has a Corporate Complaints Procedure copies of which are available from the Council Offices or on the Council's website www.northwarks.gov.uk

14. Standard Conditions

- (a) The subletting or transfer of consents is prohibited.

- (b) Any stall, barrow or vehicle used in connection with a street trading consent shall be kept in good condition and so presented as not to detract from the appearance of the street.
- (c) The consent holder shall be responsible for the temporary storage of refuse, liquid and other deleterious material accumulated or created whilst trading and its proper disposal.
- (d) The consent holder shall be responsible for collecting, removing all litter within 50 metres in any direction of the stall or vehicle and disposing of it in a proper manner.
- (e) No waste water from the washing of food equipment or hand washing shall be allowed to discharge to ground and the consent holder shall satisfy the Council regarding its proper disposal.
- (f) The consent holder if intending to sell food from a mobile vehicle or stall must operate from a vehicle/stall constructed and managed so as to comply with the relevant hygiene regulations made under the European Communities Act 1972/Food Safety Act 1990 (and regulations made there under). If you are unsure regarding your responsibilities under this legislation, please contact Food Safety on 01827 715341 or email on foodsafety@northwarks.gov.uk
- (g) The consent holder shall not obstruct the street or cause danger to persons using the street.
- (h) The consent holder shall not cause any nuisance or annoyance (whether to persons using the street or otherwise).
- (i) Consents will be issued for the period of one year and application to renew will have to be made at the end of this period.
- (j) The Council generally will only normally permit street trading between 07:00 and 18:00.
- (k) A street trading consent is required to trade in all the streets covered by the Council. A street includes any road, footway, or other area to which the public have access without payment and any part thereof. All forecourts, footways or other areas adjacent to any consent street shall be deemed to be part of the street. This means that anyone trading on such areas next to a consent street must hold a consent and comply with the conditions of the consent.