

Subject:	Extract from the Proceedings of the Licensing Committee (Licensing Act 203 Functions) Meeting held on the 17th November 2011		
Date of Meeting:	15 December 2011		
Report of:	Strategic Director: Place		
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Wards Affected:	All		

LICENSING COMMITTEE (LICENSING FUNCTIONS 2003 ACT)

**3.00pm 17th November 2011
COUNCIL CHAMBER, HOVE TOWN HALL**

DRAFT MINUTES

Present: Councillors Deane (Chair), Sykes (Deputy Chair), Cobb, Duncan, Gilbey, Hyde, J Kitcat, Lepper, Marsh, Pidgeon, Rufus, Simson, C Theobald and West.

Apologies: Councillor Turton

PART ONE**15 STATEMENT OF LICENSING POLICY CONSULTATION RESPONSE**

- 15.1 The Licensing Manager introduced the report which outlined the findings of a consultation exercise in relation to a review of the Council's Licensing Policy, which included the proposed increase of the Cumulative Impact Area (CIA) and Special Stress Areas (SSA) and the introduction of a 'matrix' approach to licensing decision making. She noted that the review had followed a request from the Council meeting in February and a report to Committee in June. The council's consultation portal had been used and 178 responses had been received along with twelve separate letters. She noted that the majority of respondents were in favour of extending the areas and the matrix approach, although the Brighton and Hove Licensees Association was opposed to it. She also noted that with regard to the matrix approach the reference on page 28 for night clubs in mixed commercial and residential areas should be listed as a 'No' rather than a yes.
- 15.2 The Lawyer to the committee stated that in relation to Licensing Guidance, the requirement in the Licensing Act 2003, Section 4, was for the authority to have regard to guidance issued by the Secretary of State. This did not mean that it must be followed to the letter and it was permissible to depart from the guidance for good reason, in particular if local circumstances and experience warranted this. Brighton and Hove had a complex local picture and the responses had highlighted this, referring to problems for example of pre-loading, street drinking and proxy purchasing.

- 15.3 Members of the Committee welcomed the report but queried whether in view of the level of responses it was felt that any legal challenge to an extended CIA could be withstood. Members also expressed concern over how the consultation responses and findings were being reported as some aspects were confusing.
- 15.4 The Head of Environmental Health and Licensing stated that any change in the policy had to be approved by the Full Council and national guidance provided that a local authority set its CIA as it wishes as long as there is local evidence to support that. The Council had been advised in December 2010 by its Monitoring Officer that any changes required due consideration and consultation to be undertaken beforehand, hence the decision to refer back to the Committee and to have the consultation exercise. He could not guarantee the outcome of a legal challenge but any changes to the policy would have resulted from a fair process. He noted the concern over how the information was produced following the consultation and would raise this with the officers responsible.
- 15.5 Councillors West, Simson and Lepper noted the comments and stated that they would have found it helpful to have had a better explanation of the findings. They felt that there was some confusion even for individual respondents in responding to the various questions and this meant that there was a degree of misunderstanding in that an extended CIA would not necessarily mean no new licences were approved.
- 15.6 Councillor Simson also felt that the response rate was not sufficient to get a full picture of how residents felt and that legal challenge remained a concern.
- 15.7 Councillor Hyde also expressed concern in relation to low number of responses to the consultation exercise and in particular whether residents in the Marina had been aware of the process.
- 15.8 Councillor C. Theobald stated that she felt the process had been well managed and noted that an extended CIA should reduce the number of applications coming forward and that it was supported by the police. She therefore fully supported the recommendations detailed in the report.
- 15.9 Councillor West noted that there was an overwhelming support for the extension of the CIA, and SSA's and the matrix approach. However he was concerned that the matrix was not well defined and therefore could lead to a lack of consistency.
- 15.10 Councillor J. Kitcat stated that he welcomed the proposed changes to the policy and noted that Brighton and Hove was a unique area and in a unique position and therefore believed that the policy could be defended should it be subject to legal challenge. He therefore hoped that the committee would support the recommendations.
- 15.11 Councillor Marsh stated that she felt further clarification was required on how the CIA and SSA's would operate and that the council would need the support of its regulatory partners if it was going to be successful. There were other factors such as on/off premises selling cheap alcohol and the changing ownership of premises that needed to be addressed. The greater availability of alcohol and pricing were two factors that had to be taken into account.

- 15.12 Councillor Lepper stated that as a licensing authority Brighton and Hove had a good reputation, and having taken a brave decision to introduce the CIA, it gained support of all involved. However, she had some misgivings in regard to the proposed extension and felt that further consideration was needed before a recommendation was made to council.
- 15.13 Councillor West stated that he had had similar misgivings but felt that these had been addressed and therefore supported the recommendations.
- 15.14 Councillor Cobb stated that there was a concern about residents' expectations and how these could be addressed, and she was also concerned about the impact an increased CIA would have on council and partner organisations' resources.
- 15.15 The Head of Environmental Health and Licensing stated that the council had met its statutory obligations and it was for elected representatives to determine the policy.
- 15.16 Councillor Kitcat formally moved that the item be put to the vote.
- 15.17 Councillor Duncan seconded the motion.
- 15.18 The Chair noted that the motion had been moved and put it to the vote which was carried. She therefore stated that she would put the recommendations as listed in the report to vote.
- 15.19 **RESOLVED:**
- (1) That the council be recommended to approve the expansion of the Cumulative Impact Area and the Special Stress Area as shown on the map in appendix 3 to the report; and
 - (2) That the council be recommended to implement a 'matrix' approach to licensing decisions as shown in appendix 1 to the report.
- 15.20 The Chair noted that the meeting had been in progress for sometime and decided to hold a short adjournment for Members convenience.
- 15.21 The meeting was adjourned at 4.55pm.
- 15.22 The Chair reconvened the meeting at 5.00pm.

The meeting concluded at 5.30pm

