



Licensing Committee Thursday, 30th August, 2012

You are invited to attend the next meeting of **Licensing Committee**, which will be held at:

**Council Chamber, Civic Offices, High Street, Epping
on Thursday, 30th August, 2012
at 2.30 pm .**

**Derek Macnab
Acting Chief Executive**

**Democratic Services
Officer**

Adrian Hendry (The Office of the Chief Executive)
Tel: 01992 564246 Email:
democraticservices@eppingforestdc.gov.uk

Members:

Councillors K Angold-Stephens (Chairman), A Lion (Vice-Chairman), A Boyce, K Chana, Mrs R Gadsby, L Leonard, A Mitchell MBE, R Morgan, Mrs M Sartin, Ms G Shiell, Mrs P Smith, P Spencer, Mrs T Thomas, D Wixley and N Wright

PLEASE NOTE THE START TIME OF THE MEETING

- 1. APOLOGIES FOR ABSENCE**
- 2. DECLARATIONS OF INTEREST**
(Assistant to the Chief Executive) To declare interests in any item on this agenda.
- 3. MINUTES OF THE LICENSING COMMITTEE (Pages 3 - 10)**
To confirm the minutes of the Licensing Committee meeting held on 11 April 2012.
- 4. TAXI RANKS (Pages 11 - 18)**
(Director of Corporate Support Services) To consider the attached report.
- 5. ANNUAL FEES - SUSPENSION OF PREMISES LICENCE AND CLUB PREMISES CERTIFICATE (Pages 19 - 22)**

(Director of Corporate Support Services) To consider the attached report.

This is a short update on the provisions of the Police Reform and Social Responsibility Act. A more detailed report on other aspects will be provided for the October meeting.

6. ANY OTHER BUSINESS

Section 100B(4)(b) of the Local Government Act 1972, together with paragraphs (6) and (24) of the Council Procedure Rules contained in the Constitution require that the permission of the Chairman be obtained, after prior notice to the Chief Executive, before urgent business not specified in the agenda (including a supplementary agenda of which the statutory period of notice has been given) may be transacted.

In accordance with Operational Standing Order (6) (non-executive bodies), any item raised by a non-member shall require the support of a member of the Committee concerned and the Chairman of that Committee. Two weeks notice of non-urgent items is required.

7. DATE OF NEXT MEETING

The next meeting of the Licensing Committee has been scheduled for 10 October 2012 at 2.00pm in the Council Chamber.

EPPING FOREST DISTRICT COUNCIL COMMITTEE MINUTES

Committee: Licensing Committee **Date:** Wednesday, 11 April 2012

Place: Council Chamber, Civic Offices, High Street, Epping **Time:** 2.00 - 3.40 pm

Members Present: Councillors R Morgan (Chairman), K Angold-Stephens, A Boyce, K Chana, D Dodeja, Mrs R Gadsby, L Leonard, Mrs M McEwen, Mrs M Sartin, Mrs P Smith, D Wixley and G Waller

Other Councillors:

Apologies: A Lion and Mrs J Sutcliffe

Officers Present: A Hendry (Democratic Services Officer), K Tuckey (Senior Licensing Officer) and A Mitchell (Assistant Director (Legal))

13. Declarations of Interest

There were no declarations of interest pursuant to the Council's Code of Member Conduct.

14. Any Other Business

It was noted that there was no urgent business for consideration by the Committee.

15. Minutes of the Licensing Committee

Resolved:

That the minutes of the meeting held on 12 October 2011 be taken as read and signed by the Chairman as a correct record.

16. Minutes of the Licensing Sub-Committees

Resolved:

That the minutes of the following meetings of the Licensing Sub-Committee be taken as read and signed by their Chairmen as a correct record:

- (a) 4 October 2011;
- (b) 8 November 2011;
- (c) 6 December 2011;
- (d) 10 January 2012;
- (e) 7 February 2012; and
- (f) 6 March 2012.

17. Applications Received under the Licensing Act 2003 and Gambling Act

The Assistant Director (Legal Services) reported that in respect of Premises License Applications or Variations, there had been 4 new applications, 313 renewals, 41 Change of Designated Premises Supervisor applications, and variation received. Of these, 4 had been considered by the Sub-Committee and granted subject to conditions. No application had been revoked, 191 Temporary Event Notices had also been granted, and 62 Personal Licence applications had been received and granted under delegated authority. There had been no appeals to the Magistrates Court during the period.

In respect of the Gambling Act 2005, 2 club gaming permits had been granted, whilst 9 notifications had been received for two gaming machines.

RESOLVED:

That the report to the Licensing Committee regarding the applications received under both the Licensing Act 2003 and the Gambling Act 2005, from the period from 27 September 2011 to 12 March 2012, be noted.

18. Installation of Meters in Hackney carriages and the Setting of Fares

The Committee received a report for considering fixing fare tariffs and requiring all hackney carriages to have a taximeter installed. This had resulted from a request by the Epping Forest Taxi Association representing some independent taxi drivers in the district. The Committee noted that a consultation had been carried out on the setting of a tariff and 131 respondents agreed that the Authority should set the fares; 51 were against the proposition.

Officers tabled a full report detailing the survey and the results achieved.

It was noted that a tariff fixed by an Authority may permit different rates to be charged at different times of the day and on Bank Holidays or other specified days. Notice of the fares must be published in a local newspaper and deposited at the Council's Offices for inspection. Any objections must be considered and the original or amended fare tariff would then come into effect. Charges would only apply to journeys that take place within the District.

The Committee noted that taximeters could be fitted through a garage or an independent dealer. However, the Council was looking to go out to tender for the fixing and calibrating of meters and find the best deal available. The cost and work on individual vehicles would be paid for by the vehicle proprietors.

Councillor Angold-Stephens noted that the taxi drivers wanted to see the meters installed. Councillor Boyce commented that it was a good idea for both the Authority and the drivers. Councillor Smith wanted to know what the cost would be to the drivers and any additional costs involved. The Assistant Director (Legal Services), Alison Mitchell, replied that the Council did not have the expertise to install and calibrate the meters and intended to put this out to contract. Therefore, officers could only know the full costs after the tendering process had been gone through. She was expecting the basic costs to be around £200 to £245 to purchase and have a meter fitted. The meter will then have to be calibrated on a regular basis. The successful

bidder would be the sole supplier with a contract period of about three years when it would be re- tendered to test the market.

Councillor Startin what the time frame would be for this. She was told that a report would be going to the next Licensing Committee along with one about progress made on taxi ranks. Tariff prices had not yet been considered.

Councillor Dodeja asked if mileage could be displayed on the meters. He was informed that it would depend on the sophistication of the meter installed; however, the price per mile would be set and the meters calibrated regularly.

Councillor McEwen asked how the council could enforce this if some taxis did not install a meter. Ms Mitchell said that all taxis were inspected half yearly, and that there would be a grace period given to install the meters.

Councillor Waller said there was an argument that introducing fixed prices reduces competition, especially with private hire vehicles. However, it was pointed out that the advantage of Hackney Carriages was that they could be hailed on the street, although private hire vehicle rates could be negotiated over the phone.

Referring to recommendation one of the report, Councillor Smith asked if taxis outside the district would have to have meters. She was told that only cabs licensed by EFDC would have to have them. Councillor Smith asked that this be made clearer in that recommendation as it was ambiguously worded at present. This was agreed.

Councillor Smith went on to say that we should be very clear about the timetable we should be working to for this. It should include the timescale for the tender period and allow for the statutory advertising period and the installation period. In order to spread out the time scale for installation, she suggested that it be implemented on the date of each taxi renewal of their licence. Officers agreed it should be a rolling process.

Councillor Angold-Stephen asked that the tender document should ask for a range of prices for different types of meters; giving us a range of options.

RESOLVED:

- (1) That the Senior Licensing Officer carries out a consultation with a view to recommending a fare tariff for journeys within the district for EFDC licensed Hackney Carriages;
- (2) That meters are fixed to Hackney Carriages licensed in this area and that they are inspected on a regular basis;
- (3) That a company is appointed through the Council's tendering process to carry out this work; and
- (4) That a further report be brought back to the next Licensing Committee reporting on progress made.

19. Change to Order of the Agenda

With the Committee's approval the meeting considered agenda item 10 'proposal for taxi ranks within Epping Forest District' next.

20. Proposal for Taxi Ranks within Epping Forest District

Along with the consultation for the installation of taxi meters the public were also consulted on the need for taxi ranks in any particular area of the District. The detailed

results of which were tabled in a separate report. The Committee noted that the majority of respondents (68%) were happy to see taxi ranks established in the district.

The Committee noted that in order to create a taxi rank on private land it must first obtain consent of the land owner. The main areas of private land identified were the areas outside stations or supermarkets. Where it would be on the public highway the consent of Essex County Council would be needed. Once agreement had been obtained it would need to be advertised in the local press.

Councillor Wixley asked if the area outside Sainsbury's at Loughton Station was public highway or did it belong to London Underground Limited. Officers confirmed that it had been adopted by the Highways Authority.

It was noted that only Hackney Carriages could use the taxi ranks and not Private Hire vehicles.

Councillor Wixley pointed out that the report stated that the taxi stands would have to be reviewed from time to time, but what exactly did 'time to time' mean? Officers said that the Committee could agree a policy.

The four or five most popular, viable, proposed locations would be investigated for availability, ownership and suitability for a taxi stand and reported back as soon as possible.

Councillor Gadsby said that the ward councillors would need to be consulted; also the amount of information in the tabled document was too much for the Committee to take in at this meeting and that time should be allowed for the members to consider the information.

Councillor Morgan summed up by saying that the Committee needed more time to consider the tabled consultation results report and officers needed to produce a more detailed report listing a few proposed sites with background information. This should be brought to a specially convened meeting, probably in August, where it could be considered in more detail. This report should also be circulated to the relevant ward councillors for their input.

RESOLVED:

- (1) That a special meeting be convened in the summer to consider a more detailed report on proposals for taxi ranks within Epping Forest District;
- (2) That, once sites had been identified, the local ward councillors be notified and their views sought; and
- (3) That the Senior Licensing Officer, or an officer acting on her behalf, to seek consent of the landowner if on private land or the Highways Agency if on Highways Land.

21. Honey Lane Street Trading

The Committee noted that in October 2009 the whole of Honey Lane was made a Prohibited Street. Since then a public house had allowed a burger van to trade from its car park, which constituted street trading and enforcement action was being considered. As Honey Lane was not a consent street the Council cannot give consent for it being placed there. There may be similar businesses which are being prevented from trading in this way. This was reported to the last Licensing Committee

and it was agreed that the matter go out to consultation to allow street trading other than between the two motorway accesses.

The consultation had now been carried out and the objections were mostly on road safety. However, Waltham Abbey Town Council agreed that a stretch of roadway from the cemetery to past the Woodbine would be acceptable for street trading. If that part of Honey Lane was re-designated it would not mean that anyone could start trading there. It would be necessary for a consent to be applied for, and if granted conditions could be placed on the consent. The consent would also have to be renewed each year.

On consideration of the application to re-designate Honey Lane as a consent street and the replies to the consultation carried out, the Committee decided that the plan put forward by Waltham Abbey Town Council should be adopted and that any application for a consent on adopted highway be referred to the Licensing Sub-committee.

RESOLVED:

- (1) That that part of Honey Lane shown on the plan submitted by the Waltham Abbey Town Council be re-designated as a Consent Street for the purposes of street trading;
- (2) That the Council adopts a policy on the grounds of road safety against issuing a street trading consent on any of that part of Honey Lane which is adopted public highway; and
- (3) That the Council agree that only the Licensing Sub-Committee should have the delegated authority to issue a consent for street trading on any of that part of Honey Lane which is adopted public highway.

22. Police Reform and Social Responsibility Act 2011

The Committee noted that the Police Reform and Social Responsibility Act 2011 had received royal assent. The act amended and made changes to the Licensing Act 2003, with part of the act relating to licensing recently being brought into force and the remainder expected in about October 2012.

The main changes are that:

- The Licensing Authority would become a responsible authority in its own right in relation to premises and club applications without having to wait for a request for a review;
- Primary Care Trusts and Local Health Boards also join the list of Responsible Authorities who will be able to object on the basis of the four licensing objectives;
- And “Any other person” has replaced “interested parties”;
- The Licensing department must advertise applications in a way that comes to the attention of all persons it may affect (the Council’s website would satisfy this requirement);
- The vicinity test had been removed;
- Members would now have to consider if any conditions attached to a licence was “appropriate” rather than “necessary”. This is intended to reduce the evidential burden on Local Authorities;
- Environmental Health Officers could now object to an application for a Temporary Event Notice (TEN);
- Conditions could be applied to a TEN if considered appropriate;
- Provision has been made for late TEN’s applications – between 5 – 9 working days before the proposed event;

- TENs would be extended, allowing them to last up to 168 hours as opposed to the previous 98 hours; and
- There was also an increase in the number of days in a calendar year a single premises could be used for licensable activities from 15 days to 21 days (the number of applications that can be made by a premises remains 12 per year).

Other effects of the new Act would be to increase the fine for persistently selling alcohol to children and the closure notice had also been increased from 'up to 48 hours' to 336 hours.

The Licensing Authority may make an order prohibiting the supply of alcohol from premises in all or part of their area for any duration beginning at midnight and ending before 6am. This can only be made by full Council.

Alcohol Disorder Zones have been abolished.

A "late night levy" may be made to cover the cost of policing and other arrangements between midnight and 6am. At least 70% of the fees collected must be paid to the Police.

The Licensing Policy Statement would now be renewable every five years rather than the current three years. Ours would have to be renewed next year.

Further changes would not come in until next April and a further report will have to be submitted then.

As for calling a review for a premises, it would be that a lot of reviews would be triggered by complaints received. These would be assessed by Enforcement Officers and appropriate action taken.

Councillor Smith requested that a third recommendation be added to require a further report to be submitted to the Committee once details were known.

RESOLVED:

- (1) That the changes to the Licensing Act 2003 to be brought in by the Police Reform and Social Responsibility Act 2011 be noted;
- (2) To recommend to Council that the role of the Council as a Responsible Authority is delegated to the Director of Corporate Support Services and the Senior Licensing Officer; and
- (3) That a further report be submitted to the next Licensing Committee once further details were known.

23. Gambling Act 2005 - Statement of Principles

It was noted that the Gambling Act 2005 required all licensing authorities to prepare and publish a Statement of Principles that they propose to apply in exercising their functions under the Act during the three year period to which the policy applies.

The Committee considered the Council's amended statement and made the following comments:

- That it was difficult to define 'premises' under the act, as only one licence could be issued for any place;
- They noted that licensing objectives had been increased and enlarged;
- That the table of delegation was noted; and
- That two of the consultees listed in Appendix B had changed names.

RESOLVED:

- (1) That the amendments to the Statement of Principles were commented on and noted; and
- (2) That a consultation be undertaken with a view to a report being made to the next Licensing Committee.

24. Review of Licensing Sub-Committee Procedures

The Committee had nothing to raise about its current procedures.

25. Review of Current and Future Training Needs for the Committee

It was noted that new members would be trained in the new year.

26. Matters Arising

There were no further matters arising for the Committee to consider in respect of the Council's Licensing function.

27. Date of Next Meeting

It was noted that a special meeting would be convened in the summer to consider a more detailed report on proposals for taxi ranks within Epping Forest District.

CHAIRMAN

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Report to Licensing Committee

Date of meeting: 30 August 2012



**Epping Forest
District Council**

Subject: Taxi Ranks

Officer contact for further information: Alison Mitchell

Committee Secretary: Adrian Hendry

Recommendations/Decisions Required:

That the Committee:

- (1) notes the progress made in the consultations;**
- (2) instructs the Senior Licensing Officer to proceed with negotiating the placing of ranks in the supermarket areas which the Committee considers should be progressed;**
- (3) indicates which of the possible areas identified by the North Essex Parking Partnership which it would support going forward to the next Partnership meeting; and**
- (4) Whether there are any other areas which the Committee would wish to have considered as a taxi rank.**

Report:

1. At its meeting on 12th October 2011, the Licensing Committee decided that a public consultation exercise should be undertaken to determine the need for a taxi rank in any particular area of the District.
2. The results of that consultation were considered at the meeting of the Licensing Committee on the 11 April 2012. However, there were a large number of sites identified and members resolved as follows:
 - (a) That a special meeting be convened in the summer to consider a more detailed report on proposals for taxi ranks within Epping Forest District;
 - (b) That, once sites had been identified, the local ward councilors be notified and their views sought; and
 - (c) That the Senior Licensing Officer or an officer acting on her behalf seeks consent if on private land or the Highways Agency if on Highways Land.

Consultations

3. A copy of the result of the previous consultation is attached. After the April Committee meeting, Licensing Officers contacted the owners of any private land that was identified as a taxi rank and the highways authority in respect of any areas which are public highway.

Supermarkets

4. The parking areas next to supermarkets are usually owned by the supermarkets concerned. As they are private land the consent of the land owner must be obtained prior to the land being used as a taxi rank. The Licensing Officers sent letters and subsequently made telephone calls to those supermarkets which were identified in the consultation.

The following supermarkets have agreed to enter into further discussions with the Authority prior to the land being used as a taxi rank.

Supermarket Identified	Respondents In favour	Respondents against
Tesco's Stores, Epping	12	1
Marks & Spencer's, Loughton	15	2
Sainsbury's, Loughton	23	3
Waitrose, Buckhurst Hill	16	2
Sainsbury's, Ongar	0	0

Stations

5. The consultations identified all stations in the district as potential places for placing taxi ranks.

6. Loughton Station adjoins the public highway and it is therefore necessary to obtain agreement from the highways authority as it will be necessary for a traffic order to be made as well as an order by this authority. A meeting was held with representatives of the North East Parking Partnership and the Authority's Parking Manager who have agreed that this is a possible site for a taxi rank.

7. The forecourts of the remaining stations in the District are privately owned. The managers of the individual stations as well as London Underground Limited were included in the original consultation. The Authority received a reply on behalf of Ongar Station which rejected the proposal. Transport for London and the managers of the other stations did not reply.

8. Following the April Committee meeting further letters were sent and follow up calls were made but no interest was expressed in dedicating the land outside the remaining stations.

Public Highways

9. Officers met with a representative from the North Essex Parking Partnership (NEPP) to discuss whether Essex County Council would agree to permit taxi ranks to be constructed on the highway and what would be NEPP's requirements. A list of the highway sites which had been identified by the consultation was supplied to NEPP and a subsequent survey of those sites was carried out by an officer from NEPP and the Authority's Parking Manager.

10. NEPP has identified the following possible rank locations:

Highway Sites Identified	Respondents In favour	Respondents against
Epping High Street outside Barclays Bank	6	0
Loughton Station	69	2
Loughton High Street – no area yet identified	76	21
Debden near the Churchill Public House	1	0
Waltham Abbey on the service road at the rear of the Co-operative.	0	0

11. The exact position in Loughton High Street is not yet known. Although the service road in Waltham Abbey has not been specifically identified it is in near to some other areas mentioned in the consultation.

12. NEPP has indicated that draft a report with their recommendations will be prepared by the end of August so that a consultation process can take place prior to its meeting in October. The partnership meeting will consider all reports for the partnership area and, those approved, will each be given a priority. This means that although a proposal is agreed there may be considerable delays in implementation.

13. NEPP has indicated that the installation cost of installing a taxi rank is approximately £3,000 for four bays. It will be necessary for the Traffic Order to be advertised and the cost will depend upon the wording and whether they can be combined. For each area identified a public notice will have to be placed in the local press which will cost in the region of £1,065.00 for each notice. NEPP will not charge for this or officer's time.

14. If NEPP refuse any location because of lack of priority or the delay is unacceptable NEPP has stated that it will consider a proposal for the Authority to fund the work itself. If the Committee decides that is an option it would wish to consider the cost to the Authority of the highway surveys, works and advertising will be identified.

The Procedure and Costs of Creating a Taxi Rank under the Local Government (Miscellaneous Provisions) Act 1976

15. The District Council's responsibility when making a taxi rank is the same whether the land is adopted highways or private. The Licensing Authority must place public notice in a local newspaper. Any objections received within 28 days of the advertisement to the proposed site or sites must be taken into account together with any comments from the police.

16. If any objections or representations are made as a result of the consultation a report would be put before the next Licensing Committee to take account of.

17. If there are no objections or representations the Authority may proceed, and the rank could be constructed immediately if the land concerned is privately owned e.g. the Supermarkets.

18. If the bays are to be sited on the public highways then the District's consultation and report would be timed to fit in with NEPP's timetable for works.

Consultations

20. If the Committee decides that it would consider it desirable for a taxi rank to be installed at any of the supermarkets, the Senior Licensing Officer will contact the supermarket to discuss terms and a consultation carried out with the appropriate town and parish councils. An update will be given to the next licensing committee meeting in October.

21. The Committee is asked to specify which of the sites identified by NEPP should be made into ranks and officers will then inform NEPP. It is unlikely that NEPP will have made a decision as to the suitability of any of the identified areas before the Licensing Committee in October. If the decision is favourable in respect of any of the proposed sites then a consultation exercise will be carried out with the Town and Parish Councils concerned and the occupiers of the neighbouring properties. A report will then be prepared for the April 2013 meeting.

22. If members decide that another rank is required on a highway area not identified by NEPP then NEPP could be asked to agree to this Authority paying the full cost. This is unlikely to meet the deadline for the NEPP October meeting because of their procedures but an update will be provided the next Licensing Committee meeting. If NEPP agrees to this proposal a consultation in respect of that area and costs of consultants and works reported to the next appropriate meeting.

23. When the potential costs are known a report will be made to the Cabinet asking for DDF funding.

Resource Implications:

If the taxi rank is being installed by NEPP the Authority will have to pay the cost of an advertisement for each site adopted in the local press in the region of £1,100 each

If the Committee decides to pay its own costs for installing a rank on the public highway additional costs of consultants to advise on road safety, advertising costs of road traffic orders and installation costs. This would be reported to the next meeting.

If it is agreed to install ranks at supermarkets the cost of the marking out in the region of £3,000 per rank, the advertisement and any other requirements of the supermarket. Terms and costs would be reported to the next meeting.

There is no money in the current budget for this work and an application would be made to the Cabinet for DDF funding.

Legal and Governance Implications:

Local Government (Miscellaneous Provisions) Act 1976

Safer, Cleaner and Greener Implications:

The provision of taxi ranks will assist travelling members of the public to access a taxi quickly which may be a priority at night.

Consultation Undertaken:

Public Consultation which was reported to the Licensing Committee in April
North Essex Parking Partnership

Background Papers:

The result of the consultation - attached
Committee reports and minutes of the Licensing Committee in October 2011 and April 2012

Impact Assessments:

Risk Management

There is a requirement that all necessary procedures are followed.

Equality and Diversity

This policy will be of advantage to all groups. However, it was identified that older people, people with disabilities and vulnerable people will especially benefit.

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TAXI RANK AND TAXI METER SURVEY RESULTS

STATIONS	YES	NO	HIGH STREETS	YES	NO	SUPERMARKETS	YES	NO	HOSPITALS	YES	NO
LOUGHTON											
Loughton Station	69	2	High Street	57	7	Sainsburys	23	3			
Station Approach	9		Outside Luxe	3	1	Morrisons	26	3			
			Loughton BBQ	2		M&S	15	2			
			Brooklyn Parade	3	1						
			Nu Bar	4	9						
			Minx	1							
			Hollybush	1	1						
			Loch Fyne		1						
			Pizza Express	4	1						
			268-284 High Rd	1							
			Royal Oak		1						
			Rectory Lane	1							
			Traps Hill	2							
DEBDEN											
Debden Station	32	2	Broadway	36	5						
Station Approach	8		Oakwood Hill	1							
			Langston Rd	2							
			Burton Rd	1							
			By Winston Churchill Pub	1							
			Torrington Drive	1							
EPPING											
Epping Station	46	2	High Street	38	5	Tesco	12	1	St Margaret's	12	
Station Approach	9		195 Club	7	3						
			Barclays Bank	6							
			BY HSBC	1							
			Cottis Lane	1							
			Golf Club Car Park		1						
BUCKHURST HILL											
Buckhurst Hill Station	47	2	High Street	24	4	Waitrose	16	2			
Station Approach	8		Queens Rd	5							
			Victoria Rd	4							
CHIGWELL											
Chigwell Station	35	2	High Street	25	4						
Grange Hill	23	2	Brook Parade	1							
Station Approach	8										

Page 17

WALTHAM ABBEY										
			High Street	23	4					
			Town Centre	1						
			Quaker Lane	3						
			Sun Street	1						
ONGAR										
Ongar Station	24	2	High Street	25	4					
Station Approach	8									
HIGH BEECH										
			High Road	23	4					
			High Road Junction with High Beech Rd	2						
			High Beech Rd - Luxe	1						
			Mott Street	1						
THEYDON BOIS										
Theydon Bois Station	25	2	High Road	25	4					
Station Approach	8									

Report to Licensing Committee

Date of meeting: 30 August 2012

Subject: Annual Fees – Suspension of Premises Licence and Club Premises Certificate



**Epping Forest
District Council**

Officer contact for further information: Alison Mitchell, ext 4017

Committee Secretary: Adrian Hendry

Recommendations/Decisions Required:

To note the procedures for collecting fees and suspension of Premises Licences and Club Premises Certificates introduced by the Police Reform & Social Responsibility Act 2011.

Report:

1. Prior to the 25th April 2012, the Licensing Act 2003 set down a statutory annual fee due by all Licence Holders. If the licence holder failed to pay the fee it became a debt due to the Council but the licence/certificate continued. The collection of this debt is through the County Court and recovery is time consuming and expensive.
2. The Police Reform & Social Responsibility Act 2011 ('the 2011 Act') introduced changes to the Licensing Act 2003, to make provision for licensing authorities to suspend licences due to non-payment of fees. The Government felt this amendment would provide a much stronger incentive for businesses to pay their fee in a timely manner and save licensing authorities the time and cost of pursuing non-payment. This provision came into effect on 25th April 2012.
3. The 2011 Act allows for a "grace period" period of 21 days for licence/club certificate holders to pay their fees. If the fee remains unpaid then the licensing authority must give the licence/club certificate holder a minimum of two days notification that the licence/club certificate will be suspended. If it is suspended the licence/club certificate must be reinstated as soon as the fee is paid and the authority must notify the licence/certificate holder when their licence/club certificate has been reinstated.
4. There is provision within the 2011 Act, that if an administrative error has occurred or there is a dispute about liability to pay a fee, the licence/club certificate cannot be suspended.
5. Under section 182 of the 2003 Act, a Local Authority in carrying out its functions must have regard to any guidance issued by the Secretary of State. The amended guidance relating to the new legislation in respect of the suspension of licences for non-payment of the annual fee is detailed in Section 14 which is attached to this report.
6. The annual fees for a number of club premises certificates and premises licences are now becoming due for payment. In June of this year, there were ten outstanding licence fees on the AIMS system and this represented a very small increase over the last years. This is a new procedure and members will be kept undated as to its effect.

Resource Implications:

- No financial risk identified in respect of staffing costs
- Payment received by cheque and subsequently returned by bankers. There is often a time delay when receiving notification of cheques being returned by banks, this will result in a delay with the suspension of the licence.

Legal and Governance Implications:

Licensing Act 2003
Police and Social Responsibility Act 2011

Safer, Cleaner and Greener Implications:

None

Consultation Undertaken:

None

Background Papers:

Guidance issued under S182 of the Licensing Act 2003

Impact Assessments:Risk Management

There is a requirement that all necessary procedures are followed..

Equality and Diversity

None

AMENDED GUIDANCE ISSUED UNDER SECTION 182 OF THE LICENSING ACT

2003

14. Suspension for non-payment of fees

14.1 The 2003 Act requires a licensing authority to suspend a premises licence or club premises certificate if the annual fee is not paid when it is due. However, this does not apply immediately if the payment was not made before or at the time of the due date because of an administrative error, or because the holder disputed liability for the fee before or at the time of the due date. In either of these cases, there is a grace period of 21 days. This period is intended to allow the licensing authority and the licence or certificate holder an opportunity to resolve the dispute or error. If the dispute or error is not resolved during this 21- day period, the licence will be suspended.

DISPUTE

14.2 The 2003 Act describes a dispute as one relating to liability to pay the fee at all or relating to its amount. In either case, the licence or certificate holder must notify the licensing authority of the dispute on or before the date on which the fee to which it relates becomes due.

ADMINISTRATIVE ERROR

14.3 There is no definition of “administrative error” in the 2003 Act, but it can include an error on the part of the licensing authority, the licence or certificate holder, or any other person. Therefore, “administrative error” will be given its plain, ordinary meaning. An example might be where post has been misdirected.

SUSPENSION

14.4 If a licensing authority suspends a licence or certificate, it must notify the holder in writing and specify the date on which the suspension takes effect; this date must be at least two working days after the day the authority gives the notice. It should be noted that this is the minimum period only, and licensing authorities should consider applying longer periods. The authority may wish to inform the police and other responsible authorities that the licence or certificate has been suspended.

14.5 A suspension ceases to have effect on the day on which the licensing authority receives payment of the outstanding fee from the licence or certificate holder. To enable the licence holder to demonstrate that the licence has been reinstated, the licensing authority is required to give the holder written acknowledgment of receipt as soon as practicable following receipt, and:

- a) If payment was received on a working day, no later than the end of the next working day, or;
- b) If payment was received on a day when the authority is not working, no later than the end of the second working day after the day on which the fee was received.

14.6 Licensing authorities may wish to consider requesting, in the notice of suspension mentioned above, that subsequent payment of the outstanding fee may be made in such manner as would most expeditiously bring it to the attention of the authority. The licensing authority may also wish to inform the police and other responsible authorities that the licence or certificate has been reinstated.

EFFECTS OF SUSPENSION

14.7 A premises licence or certificate that has been suspended does not have effect to authorise licensable activities. However, it can for example be subject to a hearing or, in the case of a premises licence, an application for transfer. The licence will nevertheless only be reinstated when the outstanding fee has been paid. Formally, the debt is owed by the holder who held the licence at the time it was suspended. However, it may be more likely in practice that the new holder will actually make the payment. In the case of a licence or certificate where more than one payment year has been missed (since the coming into force of sections 55A and 92A of the 2003 Act) payment of the outstanding fee in relation to each year will be required to reinstate the licence.