

Scrutiny Task and Finish Panel Agenda



Review of Licensing Services Task and Finish Panel Monday, 17th December, 2012

You are invited to attend the next meeting of **Review of Licensing Services Task and Finish Panel**, which will be held at:

**Committee Room 1, Civic Offices, High Street, Epping
on Monday, 17th December, 2012
at 7.30 pm .**

**Glen Chipp
Chief Executive**

**Democratic Services
Officer**

Adrian Hendry, Office of the Chief Executive
email: ahendry@eppingforestdc.gov.uk Tele: 01992 564246

Members:

Councillors Mrs P Smith (Chairman), K Angold-Stephens, J Hart, R Morgan, J Philip,
Mrs C Pond, D Stallan and Ms S Watson

THE DEADLINE FOR THE SUBMISSION OF SUBSTITUTES TO THIS MEETING IS
18:30 HOURS

1. APOLOGIES FOR ABSENCE

2. SUBSTITUTE MEMBERS (COUNCIL MINUTE 39 - 23.7.02)

(Assistant to the Chief Executive) To report the appointment of any substitute members for the meeting.

3. DECLARATIONS OF INTEREST

(Assistant to the Chief Executive). To declare interests in any items on the agenda.

In considering whether to declare a personal or a prejudicial interest under the Code of Conduct, Overview & Scrutiny members are asked pay particular attention to paragraph 11 of the Code in addition to the more familiar requirements.

This requires the declaration of a personal and prejudicial interest in any matter before an OS Committee which relates to a decision of or action by another Committee or Sub Committee of the Council, a Joint Committee or Joint Sub Committee in which the Council is involved and of which the Councillor is also a member.

Paragraph 11 does not refer to Cabinet decisions or attendance at an OS meeting purely for the purpose of answering questions or providing information on such a matter.

4. NOTES OF THE LAST MEETING (Pages 3 - 8)

To agree the notes of the 23 October 2012 meeting.

5. LICENSING BACKGROUND REPORT (Pages 9 - 20)

To consider the attached report.

6. FUTURE MEETINGS

To consider a date for the next meeting.

Agenda Item 4

EPPING FOREST DISTRICT COUNCIL
NOTES OF A MEETING OF REVIEW OF LICENSING SERVICES TASK AND FINISH
PANEL
HELD ON TUESDAY, 23 OCTOBER 2012
IN COMMITTEE ROOM 2, CIVIC OFFICES, HIGH STREET, EPPING
AT 7.00 - 8.55 PM

Members Present: Mrs P Smith (Chairman), K Angold-Stephens, J Hart, R Morgan (Chairman, Overview and Scrutiny Committee), J Philip, D Stallan (Housing Portfolio Holder) and Ms S Watson

Other members present: C Whitbread

Apologies for Absence:

Officers Present A Hendry (Democratic Services Officer) and A Mitchell (Assistant Director (Legal))

1. DECLARATIONS OF INTEREST

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

2. ADDITION OF MEMBER TO THE PANEL

The Panel noted that Councillor Pond had expressed an interest to become a member of the Panel. The Panel agreed that she be added as a member.

3. SCOPING AND TERMS OF REFERENCE

The Panel considered the report on the Scope and the Terms of Reference for this newly constituted Task and Finish Panel.

The Panel considered what they should be looking at in their meetings and they agreed that they should consider:

- the possibility of moving at least some of the more contentious applications, such as the increase in hours for the selling of alcohol, extended hours for nightclubs or sex shops, to evening meetings;
- the possibility of creating a new Licensing Sub-Committee structure to enable local councillors to have more input;
- how to either extend the people to be consulted on applications or how to better inform consultees that an application has been submitted;
- where does the Town and Parish Councils come into the consultation process;
- to review the number of meetings and type of licences issued;
- form an opinion on what type of applications are more appropriately heard during the daytime meetings and need not be considered for moving to evening meetings;
- there was need to establish best practice and how it applied to EFDC;
- the type of training given to Committee members and non-committee members on Licensing matters;
- possible venues of evening meetings and costs involved;

- potential costs to the applicant;
- how do other Councils conduct their Licensing meetings (daytime or evening);
- arrange for a few panel members to visit other council's evening meeting and report back;
- ask licensing officers from other authorities to attend a Panel meeting for a Q&A session;
- to review the likely extra work to be put on licensing officers;
- what is the legal position regarding the role of Councillors, Ward Councillors, County Councillors and Parish and Town Councillors.

The Panel considered what information they would need researched and brought to their meetings. They agreed that they wanted:

- A statistical review of the Licensing Sub-Committee meetings over the last two years to ascertain how many applications there have been, the length of the meetings, and the types of licence applications considered. This information to be brought to their next meeting;
- How many applicants had made use of legal or other representatives at their hearings;
- Indicative costs for the hire of outside premises, and officer costs for the meeting. This could be based on the costs for Area Plans South meetings, held in Loughton;
- Information on how other Councils conduct their Licensing Committee meetings.

Once enough information had been gathered a consultation exercise should be conducted, canvassing the opinions of applicants, solicitors, residents, officers and local councillors. Councillor Philip stated that before the Panel went out to consult they should work out what they wanted to do first.

Councillor Whitbread said that the budgetary considerations should be put to one side for now and the Panel should concentrate on getting the policy right. A supplementary could always be added to the budget later. This was a project to enhance the way the Council publically handles itself.

Councillor Smith noted that the law around licensing was far more restrictive than that around planning. Councillor Angold-Stephens added that Licensing was very evidence based with solid evidence needing to be supplied by those making representations on the problems they faced.

The Panel noted that a list of any upcoming licensing applications appears in the Council Bulletin for information. However, there are not many renewals or new applications. A lot of renewals are granted by officers; if they do not have any representations made then the licence has to be granted. These applications are also put on our website so that Town and Parish Council clerks could check to see if they were in their area. They have been told to check our website on a regular basis for these applications as they can now make comments on the applications due to a recent change in the law. Councillor Whitbread said that the Town and Parish Council members, as well as our members, needed training in the Licensing Law. Perhaps a joint training exercise could be arranged.

Councillor Philips said that we needed to review the way we publicised applications and put this into our terms of reference, this was agreed.

In order for information to be gathered, it may be appropriate for one or two members to visit another authorities licensing meeting held in the evening and report back to the Panel on their finding. They should make contact with a relevant officer and perhaps the chairman of the Sub-committee so that they could ask appropriate questions and get their views.

The Panel then considered their draft terms of reference and aims and objectives, amended and agreed it (see attached copy).

4. FUTURE MEETINGS

Next Meeting:

1. The Democratic Services Officer to find a suitable date in the first two weeks of December to hold a meeting.
2. To receive a statistical report on the last two years of Licensing Sub-Committee meetings.
3. To arrange for a licensing officer and appropriate Councillor from another authority who have evening meetings to come and talk to the Panel on their experiences.

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Origin:

At the meeting of the Overview and Scrutiny Committee on 4th September 2012, Councillors J Hart and Mrs S Watson submitted a request that the committee set up a task and finish panel to review the Licensing sub-committees.

They expressed concerns that the current system was unsatisfactory given the size and diversity of the district. It was not unusual for Councillors from the rural areas to be called upon to decide upon licensing applications in the urban areas in the south of the district.

Many Councillors have full-time jobs and their working commitments' prevents them from joining day-time committees. This effectively dis-enfranchises working age Councillors from attending these meetings.

They would like Licensing applications to be considered in a similar way to Planning application, running the new system for a year's trial period.

Draft Terms of Reference:

1. To review the operation and effectiveness of the Licensing Sub-Committees structure.
2. To have regard of the Licensing Act 2003 on consultations.
3. To review the feasibility of moving some meetings to the evening.
4. To review the feasibility of creating a new Licensing Sub-Committee structure to enable local councillors and interested persons to have more input.
5. To review the most appropriate methods of informing people of their rights to make representations in respect of Licensing Applications and review hearings.

Aims and Objectives:

- (a) To report findings to the Overview and Scrutiny Committee and to submit any final reports in the proposed Corporate Format for consideration by O & S and Council by April 2013.
- (b) To gather evidence and information in relation to the topic through the receipt of data, presentations and by participation in fact finding visits if necessary;
- (c) To have due regard to the relevant Licensing legislation;
- (d) To establish key issues and future need;
- (e) To have in place a structure for Licensing Sub-Committees in place for the next municipal year.

REVIEW OF LICENSING SERVICES TASK AND FINISH PANEL: TERMS OF REFERENCE

(f) To establish whether there are any resource and calendar implications arising out of the topics under review and advise Cabinet for inclusion in the Budget Process 2013/14.		
TIMESCALE	ESTIMATED	ACTUAL
Commencement: Oct 2012	April 2013	
<u>Finish</u> 1. As a time limited review - to end by April 2013.		Officers to consult Finance to establish if the Panel should put an interim bid for an appropriate budget round.

Report to Licensing Review Task and Finish Panel

Date of meeting: 17 December 2012

Portfolio: Safer Greener and Highways



Officer contact for further information: Alison Mitchell, ext 4017

Committee Secretary: Adrian Hendry, ext.4246

Recommendations:

Background report on Licensing for information. Members are asked to review the information and map out a way forward for this Task and Finish Panel.

Report:

At the last meeting of the Task and Finish Panel officers were asked to provide the following information for the next Panel meeting:

- A statistical review of the Licensing Sub-Committee meetings over the last two years to ascertain how many applications there have been, the length of the meetings, and the types of licence applications considered. This information to be brought to their next meeting;
- How many applicants had made use of legal or other representatives at their hearings;
- Indicative costs for the hire of outside premises, and officer costs for the meeting. This could be based on the costs for Area Plans South meetings, held in Loughton;
- Information on how other Councils conduct their Licensing Committee meetings.

Statistical Review of the Licensing Sub-Committee Meetings

1. A copy of the spreadsheet prepared by the Senior Licensing Officer which sets out the statistical information requested is attached. The Panel is also considering whether the district should be divided into a number of areas so that any hearing should take place in the area in which the premises are located. At present, the Licensing team divides the district into three areas and individual officers in the Licensing service are responsible for one area. I attach a plan showing the three areas. The Senior Licensing Officer has indicated on the spreadsheet in which of these area the premises being considered by the sub-committee concerned was located.

2. The period selected is April 2010 until October 2012 - 31 months

Total Number of meetings held in that period was 32. These were made up of the following types of applications:

- | | |
|---|----|
| • Meetings considering Taxi applications only: | 10 |
| • Meetings relating to Premises in area south only: | 2 |
| • Meetings Taxis and area south | 13 |

- Meetings Taxis, area south and west 3
- Meetings Taxis and area east 2
- Meetings Taxis and areas south and east 1
- Meetings area south and west 1

If the hearings for premises licences were held at a location in the area in which they were situated then the number of premises hearings would be 27. If the taxi hearings were heard separately from the premises applications the total number of meetings where only taxi applications were heard would increase from 10 to 15. The number of meetings for that period would then be 42:

- 20 meetings for area south,
- 4 meetings for area west, and
- 3 meetings for area east
- 15 meetings for taxi applications.

3. The length of the meetings varied during that period.

- 10 meetings took between 1 and 2 hours
- 6 meetings between 2 and 3 hours – solicitors present at 2
- 5 meetings took between 3 and 4 hours – solicitors present at 2
- 4 meetings took between 4 and 5 hours – solicitors present at 3
- 1 meeting took between 5 and 6 hours – solicitors present, and
- 1 meeting took in excess of 6 hours – solicitors present.

The reviews of premises licences take the longest time and in the previous year there were two reviews one taking 8 hours 27 minutes and the second 7 hours 40 minutes.

4. The Licensing Act 2003 (Hearings) Regulations 2005 ('the Regulations') provides that where a hearing is to be held on more than one day, the hearings must be arranged to take place on consecutive working days. If a hearing was likely to take longer than four hours, for example a review, and it was to be held in the evening then a hearing would need to be held on consecutive days.

Legal Representatives

5. Legal representatives were employed by applicants at 9 meetings. In the case of a review objectors are also entitled to employ a legal representative. The police will usually do so if they call for a review of a licence.

Hire Costs of outside Premises and Officer's costs

6. The Plans Sub-Committee use Roding Valley School in the evening to decide planning matters in that area. The hearing takes place in the school dining room and the sub-committee is given the use of a classroom for a pre-meeting briefing. The Licensing sub-committee may require the use of an additional room as there are occasions when the applicant and objectors wish to discuss any proposals separately in private. The school charges the Council for the hire of the premises £104.18p in respect of meetings that last up to 10pm and £138.56 for meetings that continue past that time. It may be that these charges may increase if an additional room is required. The school is only available in the evening for these meetings. No enquiries have been made of the school regarding availability.

7. There were 20 meetings in the period April 2010 until October 2012 which involved premises located in area south. It would not be possible to know at the beginning of each year when booking the premises in which month a hearing involving a property in the south of the district will occur and it may be necessary to cancel bookings at short notice and the

deposit or the whole fee would be lost unless the cancellation is not the Council's fault. There were few hearings in the other areas but if the members decide that meetings should take place in those areas there may be a practical problem of locating satisfactory premises at short notice available within the prescribed statutory time limits.

8. The Council has a duty to provide a safe environment for the applicants, objectors, members and officers. There may be occasions when a security presence on the premises is required but it may not be apparent before the hearing.

9. The Officers who attend are entitled to £58.63 per night up to 10pm and £86.13p after that time plus expenses. It is expected that the following officers will need to attend each meeting

- The appropriate licensing officer (s). It may be necessary for more than one licensing officer to attend if there is more than one application on the agenda.
- The legal officer.
- The committee officer, and
- Depending whether microphones are required, another officer with transport.

On occasions it may be necessary to employ a security presence.

Other Councils

10. Enquiries have been made of other Council's in Essex through the Public Law Partnership, and the SLG (Solicitors in Local Government) website.

11. Generally, meetings begin between 6pm and 7.30pm depending upon the workload. Usually only one or two applications are heard in an evening and the meetings generally ended before 10pm but proceedings do, on occasions continue until 11pm.

12. Applications regarding taxi licences are usually held during the day although one authority had delegated all decisions to a senior officer below director level and another authority heard applications both in the day and the evening.

13. Other authorities had issued guidance to officers as to which types of applications should be held during the day. The types of cases held during the day include reviews of premises licences, applications where there are more than ten objectors, cases where the police were involved or where the senior licensing officer considered that a case could not be heard in one evening because of its complexity.

14. Only one of the Councils consulted regulated the amount of time spent by any party putting forward their case and then only in respect of routine applications. The Licensing Regulations require every party to have the opportunity to speak for an equal length of time. When there are large numbers of objectors the licensing officers encourage them to appoint one or two representatives as each objector is considered to be a party for the purposes of the Act. One of the Council's stated that their deliberations were held in public and would only adjourn if taking advice on a legal point. That is the reverse of the way other Council's make decisions.

15. The regulations made under the Licensing Act 2003 provide that a determination must be made within the statutory time limits specified. These are different depending upon the type of the application. The regulations provide that the applications etc. must start within the time limits specified in the regulations and if the hearing is expected to take more than one day provision must be made for them to take place on consecutive days. A hearing may only be adjourned where it is necessary for the consideration of any representations or notice by a party. Any other adjournment must be with the consent of the other parties.

Notices

16. Members have asked for information as to the consultation requirements in respect of planning applications. There are different requirements for consultation in respect of different types of planning application. If there is a major development (*where site provides 10 or more dwellings or over 0.5 hectares (ha); other development where floor space is over 1000 sq.m. or site area over 1 ha; mineral working or waste development*) planning applications must be publicized by:-

- Local newspaper as appropriate
- Site notices to be displayed in at least one place on or near the application site for not less than 21 days; or
- Notice to be served on any adjoining owner or occupier (neighbour notification). Notice must be given to the immediate owners or occupiers of land to each application site.

17. This Council will post a site notice and serve notice by post on the immediate neighbours who share a boundary with the site. These are identified by the officers looking at the map of the area on Pro-Printer and identifying these premises. The notices are addressed 'To the Occupier'. A check is made by site visits to identify flat conversions etc.

18. Licensing legislation does not require notification of residents. A neighbour took action against Westminster Council because he had not been notified of an application. Westminster habitually sent notices to everyone within a 50 metre radius from the premises concerned using software to identify premises. In this case the software did not identify a block of flats which was partly within the 50 metre radius. The objector appealed on the grounds that he had a legitimate expectation that he should have been informed. The court disagreed and held that Westminster had fulfilled its statutory duty to notify.

19. When an application is made in respect of premises the Council follows the statutory guidance and a notice is displayed outside the building, the application is advertised in a newspaper circulating in the area where the premises are situated and a list of current applications is kept on the Council's website. In addition, details of the application are circulated in the Member's Bulletin.

20. The software currently used by the licensing service does not allow for the identification of premises within a particular area. The Council's GIS Officer has advised that it is possible that the software used in his service would be able to do this but it would involve specialist training of the Licensing staff and would not be an easy search as it would involve not only GIS but exporting information to spreadsheets and data cleansing.

Consultation undertaken:

Special Interest group for Licensing at the Public Law Partnership
Three licensing officers identified after consultation Solicitors in Local Government group employed in Councils where evening meetings were held.
Camden Council Licensing Officers.

Resource implications:

Budget provision: This will depend upon the decision of the Task and Finish Panel.
Personnel: This will depend upon the decision of the Task and Finish Panel.

Land: None

Community Plan/BVPP reference: None

Relevant statutory powers: Licensing Act 2003 as amended, The Licensing Act 2003 (Hearings) Regulations 2005
The Licensing Act 2003 (Summary Review of Premises Licences) Regulations 2007
Gambling Act 2005
The Gambling Act 2005 (Proceedings of Licensing Committees and Sub-committees)(Premises Licences and Provisional Statement)(England and Wales) Regulations 2007.
Town and Police Clauses Act 1847 and 1889
Local Government (Miscellaneous Provisions) Act 1976
Local Government (Miscellaneous Provisions) Act 1982

Background papers:

Statutory Minimum Requirements for Advertising Planning Applications
Epping Forest planning consultations and notifications – procedure
Development Control – Publicity for Planning Applications

Environmental/Human Rights Act/Crime and Disorder Act Implications:
Human Rights Act – Article 6 - right to a fair hearing
Key Decision reference: (if required) none

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Date	Licence Type	Location	Time taken	solicitors present
1st April 2010	2 Hackney carriage driver licence 7 breaches of vehicle interims		48 mins	
10th May 2010	Club premise licence application	South	1:40 mins	
1st June 2010	2 applications for Hackney carriage licences 1 breach of interim		45 mins	
7th July 2010	2 Hackney Carriage licences 5 breaches of interims Variation of a premises licence	South area	1:50 mins	
3rd August 2010	3 breaches of interim 1 premises licence application	South area	30 mins	
7th September 2010	1 driver licence application 2 breaches of interim 1 review of premises licence	South area	1:35 mins	
5th October 2010	1 Hackney carriage drivers licence 6 breaches of interims 1 premises licence application 1 review of a premises licence	South area West area	4:40 mins	Mr R Light solicitor
2nd November 2010	2 Hackney carriage drivers licence 1 new premises licence	South area	5:15 mins	Mr H Akhtar- solicitor
7th December 2010	5 Hackney Drivers applications Variation of premises licence Street trading application	South area South area	6.20 mins	Mr Taylor Solicitor

Date	Licence Type	Location	Time taken	solicitors present
17th January 2011	street trading Review of premises licence	South area	3:20 mins	Mr Sutherland
1st February 2011	3 Hackney carriage applications-driver 7 breaches of interims		1:55 mins	
1st March 2011	2 hackney carriage drivers licence 11 breaches of interims		1:15 mins	
5th April 2011	1 Hackney drivers licence Premises licence Sex shop	South area	4:30 mins	Mr Dadds Solicitor
9th May 2011	1 Hackney Carriage drivers licence Premises licence	South area	2:30 mins	Mr Dadds Solicitor
7th June 2011	3 Hackney carriage drivers 1 premises licence	East area	47 mins	
5th July 2011	3 Hackney carriage drivers applications 1 Premises licence application 1 Sex shop licence	West area South area	2:25 mins	
2nd August 2011	2 Hackney Carriage drivers		3:35 mins	
6th September 2011	2 Breaches of vehicle interims Variation of premises licence	South area	1:35 mins	
4th October 2011	1 Hackney Carriage drivers licence 1 breach of vehicle licence 1 Street Trading application	South area	2.10 mins	

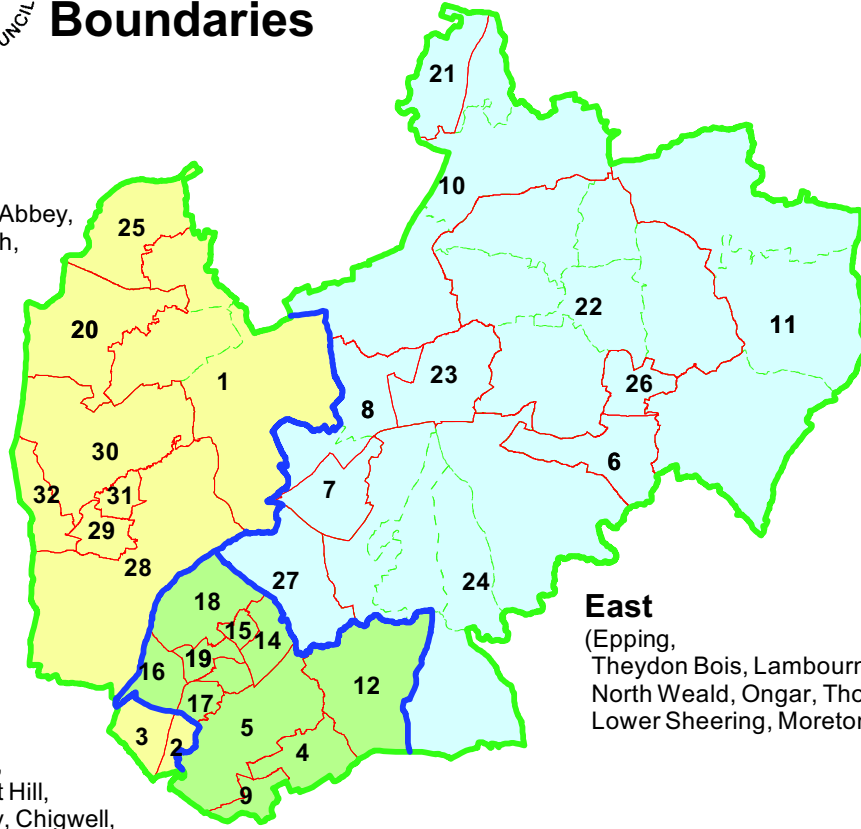
Date	Licence Type	Location	Time taken	solicitors present
8th November 2011	2 Hackney carriage drivers applications 5 breaches of interim		1.30 mins	
6th December 2011	2 drivers licence application 3 breaches of interim		4:20 mins	
10th January 2012	3 driver applications 1 premises licence application 1 premises licence application	East area South area	3:05 mins	
17th January 2012	1 review of premises licence 1 street trading	South area West area	3:20 mins	Mr Sutherland Solicitor
1st February 2012	3 Hackney carriage drivers 7 breaches of interim		1:35 mins	
1st March 2012	2 hackney Carriage drivers licence 11 breaches of interim		1:15 mins	
5th April 2012	1 Hackney driver licence 1 premises application 1 sex shop application	South area South area	04:30	Mr Dadds Solicitor
9th May 2012	1 Hackney driver 1 Premises licence application	South area	02:30	Mr Dadds solicitor
7th June 2012	3 Hackney carriage 1 premises licence application	East area	47 mins	
5th July 2012	2 Hackney Carriage drivers licences 1 premises licence application 1 sex shop	West area South area	2:25 mins	
2nd August 2012	2 Hackney carriage driver		3:35 mins	

Date	Licence Type	Location	Time taken	solicitors present
6th September 2012	2 breaches of interim 1 variation of premises licence	South area	1:05 mins	
4th October 2012	1 hackney carriage driver application 1 street trading	South area	2:10 mins	



District and Parish Boundaries

West
(Waltham Abbey, High Beach, Roydon)



South
(Loughton, Buckhurst Hill, Broadway, Chigwell, Limes)

East
(Epping, Theydon Bois, Lambourne, North Weald, Ongar, Thornwood, Lower Sheering, Moreton, Fyfield)

Licensing		
West	South	East
Sarah Moran - 01992 564270 smoran@eppingforestdc.gov.uk	Kim Tuckey - 01992 564034 ktuckey@eppingforestdc.gov.uk	Nuala Clark - 01992 564340 nclark@eppingforestdc.gov.uk

Key to Wards

- | | | |
|--|--------------------------------|------------------------------|
| 1 Broadley Common, Epping Upland and Nazeing | 12 Lambourne | 23 North Weald Bassett |
| 2 Buckhurst Hill East | 13 Loughton Alderton | 24 Passingford |
| 3 Buckhurst Hill West (Queens Road) | 14 Loughton Broadway | 25 Roydon |
| 4 Chigwell Row | 15 Loughton Fairmead | 26 Shelley |
| 5 Chigwell Village | 16 Loughton Forest (High Road) | 27 Theydon Bois |
| 6 Chipping Ongar, Greensted and Marden Ash | 17 Loughton Roding | 28 Waltham Abbey High Beach |
| 7 Epping Hemnall | 18 Loughton St John's | 29 Waltham Abbey Honey Lane |
| 8 Epping Lyndsey and Thornwood Common | 19 Loughton St Mary's | 30 Waltham Abbey North East |
| 9 Grange Hill (Limes Farm) | 20 Lower Nazeing | 31 Waltham Abbey Paternoster |
| 10 Hastlingwood, Matching and Sheering Village | 21 Lower Sheering | 32 Waltham Abbey South West |
| 11 High Ongar, Willingale and the Rodings | 22 Moreton and Fyfield | |

KEY	
Ward Boundary	
Parish Boundary	
Licensing Area Boundary	

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