

Report to the Cabinet



**Epping Forest
District Council**

Report reference: C-074-2012/13

Date of meeting: 15 April 2013

Portfolio: Safer Greener and Highways

Subject: Report of the Licensing Services Task and Finish Panel

Responsible Officer: Alison Mitchell (01992 564017).

Democratic Services: Gary Woodhall (01992 564470).

Decisions Required:

- (1) To note the attached report of the Licensing Services Task and Finish Panel;**
- (2) To consider the recommendations of the Overview and Scrutiny Committee to the Council; and**
- (3) That, if recommended by the Overview and Scrutiny Committee, a District Development Fund supplementary estimate in the sum of £63,770.72 for 2013/14 be recommended to the Council for approval.**

Executive Summary:

The Licensing Services Task and Finish Panel was established by the Overview and Scrutiny Committee in September 2012. Its primary objective was to undertake a review of the proposal that licence applications in respect of premises were considered in a similar way to planning applications.

The recommendations of the Panel are the subject of a report to the Overview and Scrutiny Committee on 9 April 2013. If the recommendations are approved the report identifies the additional resources required to implement the changes that the Panel wish to introduce.

Reasons for Proposed Decision:

The Task and Finish Panel reviewed the operation of the Licensing Sub-Committees and the way in which notification of applications were advertised. The intention was to involve local people in the decision making process.

Other Options for Action:

Not to implement the decisions of the Panel and continue to advertise applications and to manage the Licensing Sub-Committees in the same way

The licensing staff ensures that the applications received are advertised as required by legislation or the Council's own rules. This involves posting the notice on the premises,

advertising in the local paper and on the Council's website. .

The applications for premises licences are at present heard during the day by the Licensing Sub-Committee and this could continue.

Report:

1. The Licensing Task and Finish Panel submitted its recommendations to the Overview and Scrutiny Committee on 9 April 2013 and their decision will be reported to the Cabinet at its meeting.

2. The recommendations of the Task & Finish Panel were as follows:

Composition of Licensing Committees and Sub-Committees

(1) *That a Licensing Committee of 15 members continues as it is currently set up at present;*

(2) *That one calendared meeting be included in a time table to be held during the day per month to consider applications relating to taxi licences;*

(3) *That one calendared meeting be included in a time table to be held per month, with a 6.30pm start (with a 3pm early start for exceptional meetings) to consider all other applications regarding licences;*

(4) *If there were more than one application relating to a premises licence a month additional meetings be organised for each application;*

(5) *That these new procedures be reviewed after 12 months of operation; and*

(6) *That the Constitution and Member Services Standing Panel be asked to carry out the review;*

Notification of Premises Applications

(7) *That notification of an application should be sent to the occupiers of neighbouring properties within a radius of 150 metres of the application premises;*

(8) *The envelopes should state that "Important – Notice of Licensing Consultation";*

(9) *That the draft sample letter informing the occupiers of the application which was considered by the Panel and as annexed be used when notifying residents provided that it is updated when required (similar letters will be prepared for other types of licences); and*

(10) *An interim 6 month report is submitted to the full Licensing Sub Committee; and*

Financial Implications

(11) *That Cabinet agree a bid for a supplementary estimate in the sum of £58,770.72 annually together with a single payment of £5,000 as detailed in the Resource Requirements on page 13 of the report.*

3. The Cabinet is requested to consider the Report and the Overview and Scrutiny Committee's decision and, if required, agree to the supplementary estimate being included in the budget for 2013/ 2014.

Resource Implications:

The resource implications are set out on page 11 of the Report and the supplementary estimate is required for that purpose.

Legal and Governance Implications:

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.
Local Government (Miscellaneous Provisions) Act 1982
Local Government and Housing Act 1989
Town and Police Clauses Act 1847 and 1889
Local Government (Miscellaneous Provisions) Act 1976
Human Rights Act – Article 6 - right to a fair hearing

Safer, Cleaner and Greener Implications:

The purpose of the recommendations is to involve the public in the decision making process for licensed premises. The grounds upon which the Council can refuse an application or specify conditions are limited to those mentioned in the appropriate legislation.

Consultation Undertaken:

- Members of the Public Law Partnership's Licensing Special Interest Group;
- Members of the Solicitors in Local Government Group;
- Local Government Association; and
- Licensing Manager from Westminster City Council.

Officers are required to consult with those attending the Licensing Sub-Committees to establish whether the public prefer evening meetings during the first year and then the Panel's recommendations will be reviewed.

Background Papers:

Request by member for Scrutiny Review 2012/2013 Work Programme;
Agendas and Minutes of the Licensing Task and Finish Panel; and
Report and Minutes of the Overview and Scrutiny Panel.

Impact Assessments:

Risk Management

- The Licensing Act 2003 specifies the way in which consultation should be carried out when the Authority receives an application in respect of a premises licence. If the Council notifies the occupiers of neighbouring properties of an application this will be in

addition to the consultation specified by the Act and in any appeal against a decision it could be alleged that this additional notification has led to objections being made by people who would not have objected otherwise. The Task and Finish Panel took the view that this risk should be balanced against the risk that the occupiers of neighbouring properties may not otherwise become aware of an application.

- The Panel considered holding meetings in venues which were more local to the premises which are the subject of the application but potential security risks were identified and it was decided that the meetings should be held at the Civic Offices.

- Consultations indicated that if notifications were sent out to neighbouring properties there is a likelihood that representations will be received in respect of all applications and an increased number than previously received. This will lead to an increase in work in licensing which cannot be accommodated in current staffing levels. A number of the licences applied for are deemed granted unless a refusal is issued within time limits. There was concern that a time limit could be missed and a licence granted where it would otherwise have been refused or that the licensing staff would not be able to undertake their mediation roles or carry out inspections of existing licensed premises. Part of the additional funding requested is to fund a member of staff for the trial one year period.

- It is recommended that only one premises application takes place in any one evening and that the taxi licences are heard during the day. Last year April 2012/13 there were 14 sub-committees. There were 19 premises licences heard and at 10 of the sub-committees taxi licence applications were also heard. Using the same numbers for this year, if there is no increase in representations because of the recommended changes, the number of sub-committees would be raised to 29 but if representations are increased and sent for each application then the number of sub-committees would be 51. This cannot be managed by existing committee staff and additional funding is required for a new member of staff for a one year period during the trial.

Equality and Diversity

Did the initial assessment of the proposals contained in this report for relevance to the Council's general equality duties, reveal any potentially adverse equality implications? No

Where equality implications were identified through the initial assessment process, has a formal Equality Impact Assessment been undertaken? N/A

What equality implications were identified through the Equality Impact Assessment process?

Older persons or people with disabilities may not wish to attend evening meetings.

How have the equality implications identified through the Equality Impact Assessment been addressed in this report in order to avoid discrimination against any particular group?

The process is to be monitored during the first year.