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Meeting	<b>Licensing Committee</b>
Date	<b>14 September 2005</b>
<b>Subject</b>	<b>Licensing Act 2003 - Position statement on applications received</b>
Report of	<b>Acting Head of Environmental Services</b>
Summary	The report sets out the position on the number of applications to convert and vary licences and the progress in the processing of applications. Details are given of those premises where extended alcohol licences have been applied for, and the actual hours granted following hearings.

Officer Contributors	Ray Philips, Acting Head of Environmental Services
Status (public or exempt)	Public
Wards affected	All
Enclosures	Appendix 1 – Details of premises seeking extended hours for the sale of alcohol
For decision by	The Committee
Function of	Council
Reason for urgency / exemption from call-in (if appropriate)	N/A

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**1. RECOMMENDATIONS**

- 1.1** That Members note the information provided in this report and reflect on the operational arrangements made by the council to deal with this new legislation.

## **2. RELEVANT PREVIOUS DECISIONS**

- 2.1 Council Meeting 14 December 2004 - The Council's Statement of Licensing Policy was agreed and adopted.

## **3. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS**

- 3.1 The new licensing regime is the result of a Government policy decision that local authorities are obliged to implement. There are four statutory objectives to be met through licensing. These are;

- Public safety
- The prevention of crime and disorder
- The prevention of nuisance
- The protection of children from harm

Achievement of these objectives is dependant on the Council's adopted Statement of Licensing Policy, and the application and enforcement of appropriate conditions attached to individual licences.

## **4. RISK MANAGEMENT ISSUES**

- 4.1 Failure to process applications could result in appeals, which could involve significant costs.

## **5. FINANCIAL, STAFFING, ICT AND PROPERTY IMPLICATIONS**

- 5.1 Budget monitoring indicates that a significant overspend on licensing in 2005/06 is likely as a result of the need for additional staffing and lower than anticipated income. In addition to two new licensing officer posts, temporary administrative support has been essential to process applications and assist with preparation for hearings. Additional legal support has also been found necessary.
- 5.2 The net licensing budget is -£108,000 and comprises expenditure of £195,000 (primarily on staff resources and excluding SLA's) and income of £303,000. The need for additional staff, and income levels being well below those predicted, results in a budget deficit at month 4 of £46k and a projected full year outturn deficit of around £195,000.
- 5.3 The fee income from the new licences between 7 February 2005 and 6 August 2005 was £184,048. There were fewer applications than expected, as not all had met the 6 August deadline. In addition, there have been fewer variation applications than industry surveys predicted. Many of those that missed the deadline are likely to apply later. However it is difficult to project the extent to which these will make up the shortfall in income originally predicted.

- 5.4 These budgetary issues will be reported to and reviewed by Cabinet Resources Committee when the next monitoring report is considered. Environmental Services is seeking to offset the increased costs within the overall budget for the service, so that a comprehensive budget position can be reported to CRC.

## **6. LEGAL ISSUES**

- 6.1 None.

## **7. CONSTITUTIONAL POWERS**

- 7.1 The terms of reference of the Licensing Committee are to deal with all functions under the Licensing Act 2003 and associated regulations, not otherwise delegated to the Licensing Sub – Committee.

## **8 BACKGROUND INFORMATION**

### **Position statement**

- 8.1 The transitional period during which existing liquor, entertainment and night café licences could be converted to premises licences under the new regime of the Licensing Act 2003 began on 7 February 2005 and ended on 6 August 2005. The anticipated rush of applications was very slow to start with. The situation was reflected nationally and is largely thought to be due to the fact that statutory guidance and application forms were not published by the Government until the week prior to the commencement of the transitional period.
- 8.2 The council's Licensing Officers did inform all existing licence holders of the requirements and timescales by which they could apply to convert and vary their licences under the new regime. A licensing seminar for local businesses was held in November 2003 and, following publication of regulations and guidance, a mail out was sent to relevant businesses, supported by a series of free application workshops. Statistics collected by the Association of London Government showed Barnet achieving the highest proportion of premises licence applications, and by the end of the transition period 91% of the expected total had been received. We had by then also received 1040 personal licence applications.
- 8.3 Planning for the implementation of the new licensing regime was made difficult by a range of uncertainties, in particular relating to the likely proportion of applicants seeking variations to their existing licences and the number of persons residing in the borough who would require personal licences. These difficulties were compounded by the late publication of regulations and statutory guidance.

- 8.4 Budget monitoring indicates that a significant overspend on licensing is likely as a result of reduced income levels. This is because fewer applications have been received than expected and a lower than anticipated proportion of variation applications than industry surveys predicted. The lower than anticipated level of income in Barnet is reflected nationally. Notwithstanding the lower number of variation applications, a large percentage have required a full hearing with significant cost implications. Some of those that missed the deadline to submit applications to convert licences are still likely to apply (but without the protection of 'grandfather rights'). Also, we do expect to continue to receive applications for variations for some time to come. Some applications from larger businesses were withdrawn in the face of opposition. They may re-apply later. There may be further variation applications as a national picture emerges of what has been granted elsewhere. Variation applications may be submitted at any time and we have already received some from premises that converted without variation before the August deadline.
- 8.5 Approximately 230 businesses that failed to meet the August deadline, or that are carrying out activities that will become licensable for the first time after 24 November, must apply for new licences in order to continue trading. It is not known how many of these will apply, but those that do will generate fee income. Any that do not have a premises licence by 24 November 2005 will have to cease licensable activities (they will be able to continue a little longer if they serve a Temporary Event Notice). It is not known how many premises will continue trading without a licence, but it is expected that appropriate enforcement action will be necessary in some cases.
- 8.6 We expect that applications for personal licences will continue for the foreseeable future. It is too early to predict the rate of these applications.

### **Temporary Event Notices**

- 8.7 These can be served on the Council by any person to give notice of a planned temporary event taking place after 24 November 2005. Permission for the event cannot be refused unless there is a counter-notice from the police, in which case a sub-committee hearing will be necessary. The likely number of these is not yet known.

### **Applications**

- 8.8 Of the 773 premises licence applications received by 6 August, 24% were for a variation. These are listed in Appendix 1, with details in each case of the standard hours requested for the sale of alcohol. Where there have been representations, the date of the hearing and the hours granted are included. An update on these details will be given at the meeting of the Committee.
- 8.9 Despite substantial efforts to encourage the early submission of applications, of the 773 applications for premises and club licences submitted during the six

month transition window 167 were submitted within the last two weeks. This last minute rush was repeated nationally. The late surge in applications causes considerable logistical problems in administering the determination process. Applications must be determined within two months. If not, then simple applications to convert are deemed granted and applications for variations are deemed refused. An appeal may then be made to the Magistrates Court.

- 8.10 Every effort is being made to enable opposed variation applications to be heard by a Licensing Sub-Committee within time, in order that Members do not lose the opportunity to determine applications that are clearly of concern to interested parties. If substantial numbers of these late applications are opposed it may prove impossible to schedule sufficient numbers of Sub-Committee meetings to hear all of these. It may then be necessary to review outstanding applications and determine priorities to ensure the opportunity to hear those that are most sensitive and complex is not lost.
- 8.11 Where unresolved objections to a variation application remain, the application is referred to a Licensing Sub-Committee for decision. To date a total of 217 variation applications have been received and 136 (63%) of these have needed to go to a Licensing Sub-Committee hearing. Of those applications needing to be referred to a Licensing Sub-Committee hearing 122 (90%) included objections made by the Police.

### **Outcome of hearings**

- 8.12 Up to 1 September, seven hearing decisions have led to appeals to the Magistrates Court. They are:
- Railway Bell (New Barnet)
  - Jolly Badger (Hale Lane)
  - White Bear (Hendon)
  - Rising Sun (Oakleigh Road North)
  - Arkley Hotel Public house (Arkley)
  - Railway Tavern (New Barnet)
  - Prince of Wales (East Barnet)
- 8.13. To date only one appeal, concerning The Railway Bell, has been heard. In this case there were objections from responsible authorities including the police. The Licensing Sub-Committee granted the main points of the application, resulting in an appeal by the police. Agreement was subsequently reached between the applicant and the police. The magistrates reduced the terminal hour for alcohol sales and placed other restrictions on the licence. No order for costs was made.
- 8.14 In the light of the above information and statistics the Committee is requested to note the initial results from the implementation of the Licensing Act 2003 in Barnet and to reflect on the operational arrangements made by the council to deal with this new legislation.

## **9 LIST OF BACKGROUND PAPERS**

- 9.1 Licensing Policy file held by the Licensing Team within Environmental Services. Anyone wishing to inspect the papers should contact Terry Vaughan, Group Manager, tel: 020 8359 7455

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