

Bolsover District Council

Council

7 April 2016

Possible relaxation of the requirements for Late Night Refreshment establishments

Report of the Joint Assistant Director of Planning and Environmental Health

This report is public

Purpose of the Report

- To consider the relaxation of requirements for Licensing Late Night Refreshments.

1 Report Details

- 1.1 When passed, the Licensing Act 2003 required a premises where hot food or hot drink was sold to members of the public, or a section of the public, whether for consumption on or at any time between the hours of 23:00 and 05:00 off the premises to be licensed.
- 1.2 The Act listed a number of supplies which were exempt from the licensing requirements
- (a) The supply of hot drink which consists of or contains alcohol
 - (b) The supply of hot drink by means of a vending machine where the payments for the hot drink is inserted into the machine by a member of the public and the hot drink is supplied by the machine to a member of the public
 - (c) The supply of hot food or hot drink free of charge
 - (d) The supply of hot food or hot drink by a registered charity or a person authorised by a registered charity
 - (e) The supply of hot food or hot drink on a vehicle when the vehicle is not permanently or temporarily parked
 - (f) A person is a member of a recognised club
 - (g) A person is staying at a particular hotel, or at particular premises for the night in question
 - (h) A person is an employee of a particular employer
 - (i) A person is engaged in a particular trade, is a member of a particular profession or follows a particular vocation
 - (j) A person is a guest of
 - (i) A guest house
 - (ii) A caravan site or camping site
 - (iii) Any other premises the main purpose of maintaining which is the provision of facilities for overnight accommodation.

- 1.3 Section 71 of the Deregulation Act 2015 has come into effect permitting Licensing Authorities to relax the requirements for licensing late night refreshment in certain circumstances
- 1.4 On 5 November 2015, the Licensing Act 2003 (Late Night Refreshment) Regulations 2015 came into force. The Regulations provide a list of prescribed premises which a Licensing Authority may exempt from the requirement to be licensed for the provision of late night refreshment
- 1.5 These premises are
- (a) Premises situated on land for the time being used for the provision of facilities to be used in connection with the use of a special road provided for the use of traffic of class 1 (with or without other classes) (motorway service area);
 - (b) Premises used for the retailing of petrol or derv;
 - (c) Premises in which a local authority has a relevant property interest or which are lawfully occupied by that authority, except –
 - (i) Any domestic premises within those premises or;
 - (ii) When an event is taking place at which more than 500 people are present;
 - (d) The premises of a school; except
 - (i) Any domestic premises within the school; or
 - (ii) When an event is taking place at which more than 500 people are present;
 - (e) Premises used as a hospital, except any domestic premises within the hospital;
 - (f) Community premises, except when an event is taking place at which more than 500 people are present;
 - (g) Licensed premises authorised to sell by retail alcohol for consumption on the premises between the hours of 11pm and 5am
- 1.6 The Licensing Authority can also decide to exempt premises within a certain geographical area for the requirement to licence late night refreshment and also change the hours during which premises require a licence so as to relax those hours to a greater extent.
- 1.7 A copy of the guidance issued regarding late night refreshment can be found at: www.gov.uk/government/publications/guidance-on-the-licensing-of-late-night-refreshment
- 1.8 The matter was discussed at Licensing Committee of 28th January 2016 who resolved to recommend to Council that no exemptions are made for the requirements of licensing late night refreshment premises.

2 Conclusions and Reasons for Recommendation

- 2.1 Members are requested to consider if they wish to exempt any of the listed categories from the requirement to be licensed
- 2.2 Members are requested to consider if they wish to exempt premises within a certain geographical area from the requirement to be licensed
- 2.3 Members are requested to consider if they wish to change the hours during which premises will require a licence for late night refreshment

3 Consultation and Equality Impact

3.1 None

4 Alternative Options and Reasons for Rejection

4.1 None

5 Implications

5.1 Finance and Risk Implications

An appeal against this decision would be by means of judicial review and would incur costs in preparing a defence costs and attendance. Costs may be recovered or awarded at discretion. Any exemptions may result in a reduced number of applications which would adversely affect income.

5.2 Legal Implications including Data Protection

The Council has a legal right to exempt premises if they feel it is appropriate

5.3 Human Resources Implications

None

6 Recommendations

6.1 It is recommended that Council resolve not to make any exemptions to the requirements for licensing late night refreshment premises as per the recommendation of Licensing Committee.

7 Decision Information

Is the decision a Key Decision? (A Key Decision is one which results in income or expenditure to the Council of £50,000 or more or which has a significant impact on two or more District wards)	No
District Wards Affected	All
Links to Corporate Plan priorities or Policy Framework	COMMUNITY SAFETY – Ensuring that communities are safe and secure ENVIRONMENT – Promoting and enhancing a clean and sustainable environment

8 **Document Information**

Appendix No	Title
Background Papers	
Report Author	Contact Number
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