

Council – 14 September 2009

Notice of motion

Service Areas: Public Protection and Planning Services

Wards: All

1. Summary of report

This report provides background information with regard to the following notice of motion submitted by Councillors I Shires and P Hughes:

- (i) “That government takes the necessary steps to pass a new law to enable community pubs to trade on a level playing field by prohibiting irresponsible promotion of alcohol as a loss leader”.
- (ii) Also, the government take the necessary steps to pass as new law prohibit restrictive covenants that prevent any future use of a property as a “local service” as defined by the Sustainable Communities Act.”

2. Background information

Selling Alcohol Responsibly – Code of Practice

On 13 May 2009 the Home Office published its full plans for mandatory codes for licensed premises in England and Wales (Safe. Sensible. Social. Selling Alcohol Responsibly).

If implemented, mandatory conditions will be added to all on-trade and club premises, which would include a ban on specified irresponsible alcohol promotions, such as drinking games, speed drinking and all inclusive offers. There would also be a ban on any other promotions, which could be interpreted as condoning or glamorising irresponsible drinking or drunkenness, or encouraging anti-social behaviour.

It is also proposed that discretionary powers be made available to licensing authorities to impose further mandatory conditions on two or more premises in alcohol crime hotspots. This may include banning promotions on the discounted sale of alcohol where the discount applies at particular times of the day or week (e.g. happy hours) at key times and a ban on promotions/discounts based on pub crawls during similar periods of time. In addition for the ‘off trade’ only, a condition could be imposed prohibiting discounts based on the volume purchasing of alcohol.

Before imposing further mandatory conditions the licensing authority must believe that there has been nuisance or disorder at the premises.

The consultation in respect of the above proposals ran from 13 May to 5 August 2009. Walsall Council responded to this consultation document and supported a ban on specified irresponsible drink promotions. In respect of locally imposed mandatory conditions it was felt that greater clarification was needed so that

licensing authorities could make a more informed and balanced decision before imposing such conditions.

The results of the consultation exercise are expected to be released in around two months' time.

In respect of the minimum pricing of alcohol the government has decided not to proceed with any national or local measures around minimum unit price.

Competition law does not prevent trade associations from issuing guidance to their members; instead competition law prevents agreements between firms which lead to a restriction on competition.

The Sustainable Communities Act

The reference to "Local Service" refers to the Schedule to the Act which defines the term as including, but is not restricted to, shops, pubs, banks, etc.

The Notice of Motion seeks changes that could affect the property rights of many land owners, large and small. A blanket prohibition on such restrictive covenants might have undesirable side effects on owners who can make a legitimate case for such restrictions. Any such new legislation would therefore need to be drafted to avoid these unintended consequences.

The Sustainable Communities Act aims to promote the sustainability of local communities. The Act begins from the principle that local people know best what needs to be done to promote the sustainability of their area, but that sometimes they need central government to act to enable them to do so. In the spirit of this legislation, if the council wished to support the motion and to lobby government for new laws to prevent restrictive covenants being used in this way it would need to demonstrate local support for this. In addition, the council would need to provide evidence of the ill-effects of such use.

Signed:



Executive Director: Jamie Morris

Date: 4 September