

North Tyneside Council Report to Council 16 March 2023

Title: Motions

Notice has been received of the following motions from Members of the Council to be put to the Council meeting.

Motion 1 signed by Councillors R O'Keefe, M Fox and C Johnson

North Tyneside council notes:

That shift work is becoming increasingly common in many industries and often includes late night working, often working after most public transport has finished for the evening.

Many shift workers are increasingly worried about their safety travelling to and from work at night.

The work our Police and Crime Commissioner has done into trying to address residents' concerns with safety. Including the safer transport app, attracting funding from the Government and investment into the multi-agency security team.

North Tyneside council believes:

Unite the unions Get Me Home Safely campaign, which calls on employers to take all reasonable steps to ensure workers can get home safely from work at night, is greatly needed and should be supported.

The weakness of enforcement of the law against sexual assault, including up-skirting on public transport is appalling and only 2% of victims go on to report sexual harassment on public transport.

North Tyneside council:

Asks the Licensing committee to explore the possibility of putting a condition in place on licensed premises which requires them when opening late to provide free and safe transport home for their staff.

Calls upon the Mayor to write to NEXUS and the private bus operators to introduce more late night services to get shift workers to and from work.

Write to the Government to ask them to extend the £2 fare offer for buses beyond the end of June and to also provide funding to allow metro to continue the £2 offer which Tyne and Wear councils funded for the first 3 months of the year.

Legal Implications

The Authority, acting as a Licensing Authority under the Licensing Act 2003 (“the Act”) must discharge its functions under the Act with a view to promoting the licensing objectives which are: -

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

In discharging its licensing functions, the Authority must have regard to its Statement of Licensing Policy and the guidance issued by the Secretary of State under section 182 of the Act (“the section 182 guidance”).

The activities that are licensable under the Act are the sale by retail of alcohol, the supply of alcohol by or on behalf of a club, the provision of regulated entertainment (e.g., live or recorded music or the performance of dance in some instances) and the provision of late night refreshment (hot food or drink provided between 23.00 hours and 05.00 hours).

Under the provisions of the Act the Authority must establish a Licensing Committee of between 10-15 members of the Authority. All matters relating to the discharge of the Authority’s licensing functions that cannot be discharged by officers are referred to the Licensing Committee or one of its Sub-Committees. There is an exception to that rule in relation to the Statement of Licensing Policy which is a matter that must be dealt with by full Council and not the Licensing Committee.

The Act makes it clear that officers cannot deal with individual applications for a licence/certificate that attract representations from a Responsible Authority (e.g., police, trading standards, fire authority). Such applications must be dealt with by Members, and this is done through Licensing Sub-Committees called on an ad hoc basis when an application needs to be determined by Members.

An application for a licence/certificate that is lawfully made and advertised for 28 days in accordance with the provisions of the Act and subordinate legislation which attracts no representations within that 28-day period must be granted in the terms applied for. Any licence conditions that are attached to the licence/certificate can only be those offered by the Applicant in their application, other than the mandatory conditions prescribed by the law that must attach to all licences/certificates. No other conditions can be added to the licence by the Authority.

If during the 28-day period representations are received from a Responsible Authority or a member of the public there will (nearly always) be a requirement for a Licensing Sub-Committee to be called to determine the application. The Applicant and those Authorities/individuals who have made representations are permitted to attend before the Sub-Committee and speak to their application or representation. If the Sub-Committee grants a licence/certificate such a licence/certificate may have conditions attached to it that can be a combination of those offered by the Applicant, amended by the Sub-Committee, or conditions imposed by the Sub-Committee.

In determining the application, including the imposition of conditions, the Sub-Committee should: -

- Make a decision based on the merits of the application,

- Make a decision that is evidence based,
- Make a decision that is appropriate and proportionate for the promotion of the licensing objectives,
- Have regard to the Authority's Statement of Licensing Policy and the section 182 guidance.

Authority's Statement of Licensing Policy

Chapter 8 of the Statement deals with 'Conditions'. Amongst other things it states: -

"After relevant representations have been received, the Authority will only attach conditions to premises licences and club premises certificates which it considers appropriate for the promotion of the licensing objectives. This Policy refers to pools of standard conditions that can be used when considering Applications. The Authority will take note of these conditions but will only attach conditions to licences and certificates that are appropriate, proportionate and tailored to the individual circumstances of the premises and events concerned."

A pool of model conditions is attached in the Statement to assist Applicants in preparing their application for a licence/certificate.

Section 182 Guidance

The guidance re-affirms that if an application for a premises licence or club premises certificate has been made lawfully and there have been no representations from responsible authorities or other persons, the Authority must grant the application, "subject only to conditions that are consistent with the operating schedule and relevant mandatory conditions."

The guidance also lists the principles that should be applied when imposing conditions on a licence/certificate. Included in the list are the following principles: -

- must be appropriate for the promotion of the licensing objectives,
- should not duplicate other statutory requirements or other duties or responsibilities placed on the employer by other legislation,
- must be tailored to the individual type, location and characteristics of the premises and events concerned,
- should not be standardised and may be unlawful when it cannot be demonstrated that they are appropriate for the promotion of the licensing objectives in an individual case,
- should be proportionate, justifiable and be capable of being met.

The guidance also states that each application should be determined on its own merits.

It is an offence under section 136 of the Act to breach a licence condition. A person guilty of an offence under this section is liable to a term of imprisonment of not more than 6 months and/or an unlimited fine.

The breach of a licence/certificate condition could also result in a review of the licence/certificate with the potential for a licence to be suspended for up to 3 months or revoked.

Any exploration by the Licensing Committee of the possibility of attaching a condition to a licence/certificate requiring licence/certificate holders to take all reasonable

steps to ensure workers can get home safely from work at night will need to be considered have regard to the legislation, the Authority's Statement of Licensing Policy and the section 182 guidance.

Financial Implications

This motion may have financial implications for the Authority should the Licencing Committee put in place a condition of providing free and safe transport home for staff. An example of this would be staff who are working on one off events such as the Mouth of the Tyne Festival.

Motion 2 signed by Councillors W Samuel, C Burdis and C Johnson

North Tyneside Council notes

Despite the fact that wholesale gas prices are falling on international markets, the Conservative Government seems intent on allowing the energy price cap to be increased by £500 in April.

North Tyneside Council believes

This will cause further hardship for families in North Tyneside who have been impacted by the cost-of-living crisis, higher mortgages, and other costs.

North Tyneside Council calls upon the Mayor to

write to the Chancellor of the Exchequer asking him to freeze the price cap at its current level for at least a further six months.

Legal Implications

There are no legal implications for the Authority.

Financial Implications

There are no direct financial implications for the Authority arising from this motion.

Motion 3 signed by Councillors L Bartoli, C Johnston and L Bones

During the Authority's recent budget setting process there was a commitment to have 100 new litter bins across the Borough which should be welcomed because keeping the area clean should always be a top priority for the Authority.

Unfortunately, the extra bins will only help solve the problem of litter if they are regularly emptied, maintained and the area around the bin cleared. Bins can fill up quickly, particularly in the popular tourist locations and can be damaged for a variety of reasons. Providing a simple system for allowing the public to report bins being full or damaged will help the Authority respond quickly and effectively.

Council requests the Mayor to consider introducing a scheme similar to that used by Glasgow City Council and Cheshire West and Chester Council by using existing technology to assist with this reporting process. The scheme would: -

- Attach unique QR code stickers to the bins which can be scanned with a smartphone and will identify the exact location of the bin.
- Link this to the Authority's "Report It" section on its website and if possible, provide information on when the bin is next due to be emptied – this will avoid the need to report a bin that is due to be emptied the same or next day.

Residents can then report bins that are damaged, need emptying or the area around them cleaned.

Legal Implications

There are no legal implications for the Authority.

Financial Implications

Cost of QR code stickers for bins will be managed from within existing budgets.

Motion 4 signed by Councillors L Bones, O Scargill and C Johnston

NHS healthcare is at the top of residents' priorities and the Government are committed to reducing NHS waiting lists, with over £3 billion extra per year to help tackle the backlog caused by the Covid-19 pandemic. However locally residents are still forced to travel out of North Tyneside to access 24-hour emergency care, which is particularly difficult for residents that do not drive.

North Tyneside Council believes that our residents would receive better healthcare provision within the borough if 24-hour accident and emergency care was re-instated at Rake Lane and the walk-in centre at Battle Hill reopened.

North Tyneside Council notes that it was a conscious decision taken by the NHS trust to relocate these services out of the Borough.

North Tyneside Council asks the Mayor to :

- Write to the NHS Trust asking them to set up a taskforce, with local authority involvement, to improve access to emergency care in North Tyneside, with a particular focus on restoring 24-hour accident and emergency at Rake Lane and walk-in services at Battle Hill

- Write to the Secretary of State for Health to commend the additional investment that has been given to clear the NHS waiting lists, and outline our priorities for returning these two care services to North Tyneside.

Legal Implications

There are no legal implications for the Authority.

Financial implications

There are no direct financial implications for the Authority arising from this motion.

Motion 5 signed by Councillors O Scargill, L Bones and L Bartoli

Local Plan Motion

As reported in the Guardian earlier this year, many local authorities across the country have paused their housebuilding plans following the government's decision to drop mandatory targets. Like Dorset Council, who announced they would be delaying the implementation of their Local Plan last year.

North Tyneside Labour's plan to build 3,000 houses at Rake Lane is incredibly unpopular with local residents, with many raising serious concerns about the impact on traffic congestion (especially in such close proximity to the Dutch-style roundabout), local healthcare services and school places – as well as the environmental impact on the loss of our green space.

Council notes that several local authorities across the country have paused their housebuilding plans.

Council believes the Local Plan is unpopular with local residents, and new homes should be built in appropriate locations, protecting green space at the Murton Gap.

Council agrees to undertake the preparation of a new Local Plan once a revised NPPF has been published. Council requests the revised local plan explores the possibility to remove the Murton Gap strategic site from the Local Plan, protecting our green space and aligning with residents views.

Legal Implications

The National Planning Policy Framework (NPPF) 2021 states that the planning system should be genuinely plan-led. Succinct and up-to-date plans should provide a positive vision for the future of each area and a framework for addressing housing needs and other economic, social and environmental priorities. Such plan would include the Authority's Local Plan.

Following consultation on its Local Plan, the Authority submitted the finalised Plan to the Secretary of State who appointed an Inspector to carry out an independent examination of the Plan. That examination assessed whether the Plan had been prepared in accordance with legal and procedural requirements and ensured that it was sound. The four tests of soundness are set out in the National Planning Policy Framework (NPPF) and each of those tests had clearly been met.

The Authority's Local Plan 2017-2032 was adopted by full Council in July 2017.

Section 26 of the Planning and Compulsory Purchase Act 2004 permits the Authority to prepare a revision of its Local Plan at any time.

The NPPF (2021) states as follows-

"Policies in local plans and spatial development strategies should be reviewed to assess whether they need updating at least once every five years and should then be updated as necessary. Reviews should be completed no later than five years from the adoption date of a plan and should take into account changing circumstances affecting the area, or any relevant changes in national policy.

Relevant strategic policies will need updating at least once every five years if their applicable local housing need figure has changed significantly; and they are likely to require earlier review if local housing need is expected to change significantly in the near future” (para 33).

The Authority’s Local Plan, which as stated was approved by the Planning Inspectorate and approved by full Council, states that most housing development will be located at the strategic allocations of Murton and Killingworth Moor. The Plan remains effective and planning applications, and the determination of such applications are made and determined by due regard having been given to the Local Plan, the NPPF and other relevant planning considerations. This means that the planning application that has been submitted for the remainder of the Murton site has to be determined in accordance with the legislation, the Local Plan and the NPPF that apply at the time of the determination of the application. Disregarding the Local Plan or parts of the Plan in determining that application could leave the Authority open to legal challenge on several grounds, particularly as the Inspector noted the allocation of Murton for housing and commented on the suitability of that site for such an allocation during his consideration of the suitability of the Plan.

If there are planning authorities who are in the process of developing their Local Plans and which have yet to be implemented, it may be possible for them to suspend the implementation of their Local Plan, but, for those planning authorities, such as North Tyneside, who have a Local Plan in place they cannot adopt that stance, particularly when such Plans have been approved by the Planning Inspectorate and adopted following due process, including having regard to the NPPF that applied at that time.

The Authority is free to revise its Local Plan and of course in doing so should have regard to the most up to date NPPF as part of that review process and of course will amongst other things reflect the development needs of the Borough at that time.

The revision of the Local Plan will require it to be fully consulted on and will require the approval of full Council.

Financial implications

There will be direct financial implications for the Authority arising from this motion. The cost of preparing a new local plan will need to be factored into the Authority’s Budget and financial monitoring. In addition, the impact of the new plan will need to be factored into the Authority’s Medium-Term Financial Plan and any affect considered as part of the Authority’s Budget-setting process.