



Select Committee on the Licensing Act 2003

Oral evidence: The Licensing Act 2003

Tuesday 18 October 2016

10.45 am

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Members present: Baroness McIntosh of Pickering (The Chairman); Lord Blair of Boughton; Lord Brooke of Alverthorpe; Lord Davies of Stamford; Baroness Eaton; Lord Foster of Bath; Baroness Goudie; Baroness Grender; Baroness Henig; Lord Mancroft; Lord Smith of Hindhead; and Baroness Watkins of Tavistock.

Evidence Session No. 8

Heard in Public

Questions 78 - 89

Witnesses

I: Tim Page, Chief Executive, Campaign for Real Ale (CAMRA); Stuart Gallyot, Company Secretary and Director of Legal & Estates, Punch Taverns; Robert Humphreys, non-executive Director, Society of Independent Brewers (SIBA).

Examination of witnesses

Tim Page, Stuart Gallyot and Robert Humphreys.

Q78 The Chairman: Good morning, and a warm welcome to our panel of witnesses. Thank you for being here today to give evidence to our inquiry. This session is open to the public. It is broadcast live and is subsequently accessible via the Parliament website. A verbatim transcript will be taken of the evidence and will be put on the Parliament website. A few days after this session, you will receive a copy of the transcript and we ask you to check it for accuracy as soon as you can and let us have your corrections as quickly as possible. If after this evidence session there is anything you wish to clarify or amplify with supplementary points, please let us know as quickly as possible.

I will declare my interests. I seem to know a number of you alarmingly well. I have a shareholding in Diageo. I am honorary president of the Pickering & District Conservative Club. I am a member of the APPG on beer and the APPG on wines and spirits.

From the evidence that we have heard, and looking at the remit of the Committee, it is clear that there have been a number of changes to the Act since 2003. Has there been a change in drinking habits and practices among the public? What is your experience, as licensed industry stakeholders, of participating in the licensing system since 2003?

Tim Page: My Lord Chairman, I am Tim Page. I am chief executive of the Campaign for Real Ale. We represent 183,000 consumers. In answer to your question, it is very noticeable to us that over the past 12 years alcohol consumption has fallen considerably—by 19% or so—and that instances of drunkenness associated with the excessive use of alcohol have also fallen dramatically in that time. We therefore believe that the Licensing Act, in supporting responsible, moderate drinking in supervised environments such as traditional British pubs, has been effective.

Stuart Gallyot: We have 3,300 pubs, the majority of which are community pubs. Post the 2003 Act, none of those pubs has looked to go for 24-hour licensing. We have had the odd 11-12 or 11-1 on a Thursday, Friday and Saturday, but generally speaking, I do not think that pubs in their current guise have changed significantly since 2003. The market has moved more towards food, and community pubs generally have moved towards food. I do not think that the Licensing Act in its own right has had a significant impact. We have done about 20,000 applications since the introduction of the Licensing Act. Our general view is that it works well.

Robert Humphreys: Lord Chairman, my perspective is a little longer. I am so old that I started work in the hotel industry before the 1964 Act came into force and saw the evolution of the debate about its weaknesses through the Erroll committee and running up to the 2003 Act. I acted at that time as secretary to the All-Party Parliamentary Beer Group, from which I retired a couple of years ago, as you know. We undertook an investigation of the issues that were being debated about the weaknesses

of the 1964 Act and held a series of hearings and looked at evidence. To refresh my memory before appearing today, I reread our 1999 report to the Home Office, which is quite telling. Several of the issues that we raised—for example, the problems around the so-called flashpoint at 11pm closing—clearly have been resolved and have significantly reduced. However, some of the concerns that were raised by the group at that time clearly have not been dealt with. Some of the imbalances have perhaps swung a little the other way. One issue that we looked at was the concern that local residents did not get a proper hearing in relation to complaints about licensed premises. My impression is that today local residents are given more respect in the process than local customers of the premises. In that case, the pendulum may have swung a little too far.

- Q79 The Chairman:** I will ask a further question which perhaps you can deal with in reverse order. What particular problems have you encountered in the processes? We heard very clearly in the evidence from residents that if it is a planning application, they are more aware. They feel that they are not necessarily made aware at the time of the process when they can actually intervene. From your point of view, where are we with placing adverts and letting residents know of a licence application? Do you encounter any problems with the variation of licences? What are your thoughts on the setting of licence fees, the fact they have not been increased and the fact that there is this debate about whether they should be set locally or nationally?

Robert Humphreys: There are several questions there, Lord Chairman. My point about local residents being heard and their voices being taken into account by licensing committees relates to the question of how a licensing committee should reach a fair balance in its assessment of the competing views of people concerned with licensed premises. I have heard anecdotally of many cases where a committee has set a very short timetable for hearing a review and then declined to hear from customers of the premises, even when a very large number have turned up to make representations. You may say that it is quite difficult to make a sensible judgment about whose voice should ultimately carry the most weight, but it seems proper that customers of premises and local residents should all at least be heard and their views be taken into account.

The Chairman: Do you have anything to say about the advertising and the variation of licences?

Robert Humphreys: With the current process, there seems to be the risk of a double-jeopardy issue with planning.

The Chairman: Planning or licensing?

Robert Humphreys: In a sense, the planning process does its business and then the licensing process almost asks the same questions a second time. This seems inappropriate. A clearer separation of roles between the two processes would be really helpful. Second-guessing planning through the licensing process does not seem appropriate or necessary.

Stuart Gallyot: From a residents' point of view, there are a couple of points to make. Sometimes the Licensing Act is seen as an opportunity to deal with private nuisances rather than necessarily licensing issues. There is another issue from our point of view: when we have reviews, residents put in objections but do not even turn up. We have had situations where the licence has been amended following residents' objections even though they have not turned up. There needs to be some consistency. If residents put in objections but do not turn up to hearings, there should be some sort of sanction in that regard.

The Chairman: Do you think that happens a lot?

Stuart Gallyot: It does not happen a lot but it does happen on occasion. This comes to the inconsistency point, really. Local licensing authorities need to try to find some consistency. Guidance from central government on that basis would be good for licensing authorities. In terms of minor variations, again, it comes down to the point about consistency; for example, if fixed seating in a pub is removed, some local authorities see that as a minor variation, some see it as a major variation. There is a difference in time, costs and overall bureaucracy in terms of its positioning. Again, we need some consistency across licensing authorities to allow for fixed seating to be allowed or not allowed. You are absolutely right that there is an issue with fees for TENS. It is £21. There may be an issue about the fact that that has not gone up at all in the past 10 years. We accept it may well have to rise. It would be better to have a national consistency of fees.

Tim Page: My Lord Chairman, I echo what Mr Gallyot has said about consistency. For that reason, I would advocate that fees be set at a national level rather than devolved to local authorities to decide. I would make a point about the lack of consistency of approach with regard to the annual licensing fee paid by pubs—particularly the large pubs, which are subject to a multiplier fee—and off-sale establishments that are now selling a greater volume of beer than the on-trade and the fact that they are not subject to that type of fee. We would like to see a balancing, with those pubs with very low rateable value that have received a concession on the payment of rates receiving a similar kind of concession for the payment of an annual licensing fee. Some 16,500 pubs fall into that category of having a rateable value lower than £12,000 a year. Something in the region of 4,500 supermarkets paying a multiplier fee would easily cover the cost of waiving the charge on those small pubs.

Q80 **Baroness Grender:** First, I declare my interest: I was recently the holder of a temporary event notice for a school summer fair. It is with that issue in mind that I want to ask you about something that is emerging from the evidence that we have been taking. There is a stark difference, as I am sure you accept, between the original intention for temporary event notices, such as my use, and the regular use by some of the people you represent for commercial purposes. Is there any merit in having two different types of temporary event notices: one that reflects the more commercial fee and one that reflects the more community

activity?

Stuart Gallyot: Clearly, there is a difference when an existing licence holder applies for a temporary event notice compared with a school.

Baroness Grender: Which they do regularly now, sometimes for a maximum of a year.

Stuart Gallyot: The other thing to mention, to give some context, is that we are talking about individual small businesses. We are not talking about large corporate organisations. We are talking about your local publican trying to put on a wedding or a beer festival. That is the context, and everybody thinks that if you pay £100 for a TEN instead of £21, that £100 is not just £100 of beer but £100 of profit. They have to be commercially viable and there should be some commercial reality around the level of fees. I accept that a school could be different from a pub. There is also the position, for example, where a temporary event notice can be put in the middle of a field and 2,000 people turn up; that could have the same effect as a school. We have to have some balance to ensure consistency of approach. That would cause us concern.

The Chairman: Does anyone want to add to that?

Tim Page: I represent a not-for-profit organisation. We run beer festivals across the length and breadth of the UK every year. All the events we run are community events, introducing people to real ale. We believe that there is scope to increase the number of occasions that can be covered by a temporary event licence to make it, frankly, easier to run those kinds of events and those to which you refer.

Q81 **Baroness Henig:** I start by declaring my relevant interests. I chair a security company which employs door supervisors, among other staff. I am president of the Security Institute and an active member of the APPGs on beer and on wine and spirits. I want to focus my question on the licensing sub-committees. Mindful of what has just been said about consistency, or perhaps the lack of it, do you feel that licensing sub-committees constitute fair and effective tribunals? Are they impartial? Do they put political considerations to one side in their decision-making? What are their strengths and weaknesses and what could be done to improve them? Clearly, they are at the heart of a lot of the decision-making.

Stuart Gallyot: On the whole, they work well. We have no experience of any political interference or bias in any of the licensing committees. Coming back to the consistency point, there are some issues around that. We could be investing £500,000 in a pub but be restricted to a five or 10-minute hearing. We could do with some consistency in that regard. Also, without a longer period of time there is a sense of injustice in some respects. You do not feel you have had the ability to put your point across.

There is also a point to be made about how committees deliberate. It is not about the decision—clearly, there needs to be a clear and

unambiguous decision—but deliberating needs to be in private so that councillors can feel that they can have their say without fear of the people applying for the licence—and, indeed, residents or whoever—having some understanding of how the deliberations were made. Overall, however, they work well. I come back to what I said at the outset: overall, the 2003 Act has matured into a place where it is working reasonably well.

Robert Humphreys: Lord Chairman, an area of some concern is the proliferation of standard conditions and their use by local committees. The Home Office guidance could be strengthened usefully. Greater clarity about what is permissible in terms of the application of conditions beyond the standard conditions would be of great benefit to committees. Essentially, you are considering, among other things, the purpose of licensing, and it seems to me that it is an administrative function to enable a process to be carried out effectively in order to protect the public, particularly children, from harm; for example, not to second-guess planning or to impose generalised conditions on people's liberty in an area, which can be quite convenient from the point of view of the police, say, in a certain area because it narrows the area of concern that they have to address from day to day. Conditions seem to be more widely adopted in licensing policy, straying towards and over the line that is set by Home Office guidance. This area could be tightened.

Tim Page: The only thing I would add is that tribunals are dependent to a degree on the effectiveness of the officials who support them. I believe that we are going to be questioned about the co-ordination between the planning and licensing departments in a moment, but in our opinion, there is a lack of consistency across the country in the support provided to the tribunals.

The Chairman: Is there a case for more training for councillors who sit on licensing committees?

Stuart Gallyot: There is a balance here between cost and efficiency—training cost versus guidance from central government. It would be better to have stronger and clearer guidance rather than doing too much in the training arena. Without doubt, individual licensing officers should be trained but it would be wrong to overegg the training position.

The Chairman: You nodded but we cannot record a nod, Mr Humphreys.

Robert Humphreys: It seems to me, Lord Chairman, that any amount of training is a good thing in this regard. It is very important to understand the nature of the role and the reality of the world that they are controlling.

Stuart Gallyot: Just one last point: overall, where offices are consistent and the operators are consistent, it works very well. That is the thing, more than anything else, where good relationships are fostered. Overall, that is the critical different thing that we would encourage.

Q82 Baroness Goudie: I declare my interests as in the register. I have no interests in the alcohol world, or the catering world, for that matter—lots of others but not this. What experiences have you had with responsible authorities, particularly the police, and what are the key problems in these relationships? Are those responsible authorities effective in fulfilling their roles? That is quite a long question but you may want to break it up in your replies.

Tim Page: I have little direct experience, but speaking on behalf of our members—the consumers and those who enjoy the licensed premises—the main difficulty with the police revolves around where something such as a late-night levy is imposed upon a licensee. As a result, that describes an imperfect relationship that in our opinion would be better if it were a partnership between the licensing authority, the licensee and the police. We note that a number of local authorities are turning away from late-night levies and other cumulative impact policy set-ups to voluntary partnership arrangements such as business improvement districts. We think this is a very good development, which should be reflected in the Licensing Act if it is amended.

Robert Humphreys: Lord Chairman, I have for many years been involved with the Best Bar None scheme, which is one such partnership body. I also chaired, pro bono, the Proof of Age Standards Scheme, which is the licensing authority for proof-of-age card issuers, for over a decade, until standing down in the summer. In those roles, particularly with Best Bar None, which I am currently chairing, we have had a huge variation of experience, particularly with the police. In many areas where these schemes operate really effectively in raising standards in public houses, bars and clubs within their designated area, the police are crucial partners who are really engaged and supportive right up to a senior level—which usually makes the difference, of course, between one that is engaged and one that is not so engaged. But we have had other examples of where what you might call a much more traditional approach of being rather dismissive, resorting to enforcement as a matter of disposition rather than partnership, has been the norm. Those areas have been much more difficult to engage.

By the way, the Best Bar None scheme is also pro bono—I am not paid for doing it. We are absolutely committed to making these projects work locally and where they have worked well they have been absolutely outstanding, not only in raising standards in the premises that engage with them but in reducing the number of outliers, if you like—the maverick premises—which enables police and other authorities to concentrate their resources in a more targeted way. There are cases—and I have been an expert witness once or twice at a licensing hearing—where the police have slightly blindly walked into seeking conditions without really thinking through the implications of them, perhaps for personal data storage and suchlike, and the licensing committee has rather allowed itself to be persuaded without testing the questions as thoroughly as it might have done. The picture is not perfect and uniform

by any means, but the best examples are really good and well worth looking at.

Stuart Gallyot: It is a two-sided coin. We change operators and move some of our operations teams around, so it is about the relationship between those parties. It is making sure we have early engagement with the local licensing authority, the police and the EHO. Those are the main responsible authorities we deal with in any licensing application. Other responsible authorities are sometimes put into that, but very rarely.

Lord Mancroft: Mr Humphreys, in your last answer you used a phrase that fascinated me. You mentioned “maverick premises”. What do you mean by that?

Robert Humphreys: I mean those that are not compliant with the law.

Lord Mancroft: In what way?

Robert Humphreys: Perhaps they are serving after time; perhaps they are serving the underage; perhaps they are serving palpably drunk people; or they may be engaged in other activities such as turning a blind eye to drug use on the premises. These are the premises that clearly the police have to address and intervene with, and they do. I was suggesting that such premises appear to be in a minority and they should be reduced in number, and those that are wavering about engaging with a local partnership scheme devoted to voluntarily promoting better standards should be persuaded to come off the fence in that direction, leaving a smaller problem for the authorities to enforce.

Lord Mancroft: Very quickly, in your view, does the present regime allow for that to happen? Are the authorities dealing with maverick premises or does the current system not work?

Robert Humphreys: The system does work, absolutely.

Baroness Henig: In a way, my question follows on from that. I have been discussing with some quite senior police officers in London and the City of London force the public protection angle of these clubs and pubs, in particular target hardening in the wake of the atrocities last year in Paris. The anecdotal evidence from the police was that while many pubs, clubs and brewery chains are very good in co-operating with the police, there are some that will not engage at all—these may fall into your maverick category, I do not know. My question therefore is: does anything need to change in the wording of the Act to force some of these pubs and clubs that are not co-operating to do something? In our present climate, where there are great security concerns, it is a bit of a worry if some pubs and clubs are resisting and not doing very much.

Stuart Gallyot: The current licensing regime deals with it through the four licensing objectives. The police have the ability to go in under a licensing objective to deal with those pubs and clubs, but I would suggest that the police have other powers beyond licensing that would deal with those issues. I do not think it needs to be any greater than that. There is

the crime and disorder issue in the licensing objectives which can be dealt with quite quickly, I think.

- Q83 **Baroness Watkins of Tavistock:** What are the issues in accessing the licensing appeals system? Is there anything that could make it fairer and more effective for everyone? Are there lessons that we could apply from the taxi licensing and planning appeals systems? Supplementary to that, given the number of appeals that are settled informally, should there be a more formal mediation system?

Stuart Gallyot: The position with mediation is a very positive one and we ought to look at that. My only concern would be, if we ended up in a mediation situation, that there would be a time delay with that. But there is an opportunity for a pre-trial review to make sure that we have narrowed down the issues and perhaps there should be a narrowing of issues at a pre-trial review for any appeal. We do not end up at the magistrates' court very often. If you look at the Licensing Act since 2003, initially, as common practice started to kick in, we had roughly 50 a year going to magistrates; now we have only one. The issues around prosecution are not significant. There is a view among some of the responsible authorities that a licensing review is seen as a sort of punishment, when actually they should be looking at the review of the licence rather than the prosecution as punishment. There is an issue around the understanding of that. There is an issue around whether the Crown Court could become involved. This touches on a question you are going to ask later. There is a difference between going to the magistrates' court and then going for judicial review at the High Court. There needs to be a safety valve between those two systems. The Crown Court could offer that opportunity. But overall it works well.

Baroness Watkins of Tavistock: If the Crown Court got involved, how often do you think that would be necessary?

Stuart Gallyot: It comes back to my earlier answer: we have one going to the magistrates' court out of 3,300 pubs. Our estate has become smaller over the years. We were at 6,000 pubs and had 50 go to the magistrates' court. The Licensing Act has become common and settled practice and we understand how that works. In reality, all it would do is create a bit of a release valve once or twice a year.

- Q84 **Baroness Eaton:** I have no relevant interests to declare. Earlier you mentioned the Police and Crime Bill, which is going through the Lords, which would facilitate the use of cumulative impact policies to limit the granting of licences. Under the present Licensing Act, they are only in guidance. The Home Office recently proposed a new group review intervention power, which would allow licensing committees to apply licensing conditions to all premises in a particular area. Do you agree that such powers are needed to protect local communities? Will these versions actually be effective?

Tim Page: No, we do not agree with the introduction of cumulative impact policies and the group review intervention power. We believe that

both are blunt instruments and inappropriate in areas where there are still too many pubs closing every week. But there are also new pubs opening—micropubs and other types of public houses. If an individual looking to open an orderly establishment where consumers can drink in moderation and in a regulated environment is unable to open because of the existence in that area of other establishments and his cumulative impact is considered to be disadvantageous to the local community, we think that in principle that is wrong and there should be a more particular and specific approach to individual applications rather than having them ruled inadmissible by the application of such a blanket policy. Again, partnership and co-operation between specific individuals looking to open licensed establishments, and the local authority and the police, is the most appropriate way forward.

Stuart Gallyot: I absolutely echo the partnership point. We could not agree more with that. There are overarching principles here around process and policy which need to be set at a national level, and a local-level position which deals with individual pubs rather than looking at that area as a whole. I am sure we can all think of our high street and where the pubs are: there is an Italian restaurant, a tenanted pub, a managed pub and a local supermarket. Those should not all be wrapped into the same licensing position as the one individual pub which would be targeted by the cumulative impact position. We need to make sure that if we have overarching principles, we do not just target whole areas with one specific licensing objective. That is the issue.

Baroness Eaton: Thank you. Earlier you mentioned relationships rather than blanket arrangements, and late-night levies. In areas which the public might perceive as an issue, they might think those are successful. Only seven local authorities actually use them; 13 have consulted on them but subsequently decided not to adopt them, on the basis that they do not work. Can you clarify how that sits with this idea of a whole area being lumped together for the purposes of licensing decisions and whether this plays into that at all?

Stuart Gallyot: Late-night levies are a double-edged sword. From our point of view, late-night levies have not been successful. You have already mentioned the numbers. Therefore, if we reduced them in size—for example, to a high street or an area—we would probably see more of them, which could be a negative but in lots of ways it would be a positive, dealing with issues along a section of a street. That could work quite well. I do not see late-night levies as an issue but overall it would be better if they were smaller and narrower. It needs to be a small area within the area.

Q85 **Lord Blair of Boughton:** I have no interests to declare. It is fascinating listening to you versus our previous set of witnesses, who were from the residents' side of things. Is there almost a need to think again about the concept of national guidance and whether it should be divided into two parts? Clearly, an utterly different system is needed in small villages and county towns from that which is needed in our major cities, where

residents were saying that late-night levies, impact assessments and all the rest of it were needed. It is as if one group is talking about the bucolic country pub and one is talking about a large nightclub. Do you as professionals think that the guidance that may emerge out of this review needs to take account of the very different circumstances?

Tim Page: What you said, Lord Blair, makes a huge amount of sense. There is indeed a huge difference. But surely the provision exists within the Licensing Act for the local authority to deal with those large establishments that produce anti-social behaviour which irritates local residents. In many places, the residents are the very consumers who support pubs. But is provision not in place to deal with those establishments?

Baroness Greender: I will come in here if I may. In the area surrounding Camden market, which we heard evidence about last week, you have a multitude of establishments, and one of those will have a temporary event notice that goes into the early hours of the morning—we are talking 5 am or 6 am—and then another one will have one the following weekend, and another one the weekend after that. This is a group of residents for whom the market has moved towards them—they did not move in to vibrant clubland; the vibrant clubland has moved out towards them—and by the use of temporary licences and, by the way, personal licences as well, which is another issue, they get disruptive noise all the time. How do you deal with that issue?

Stuart Gallyot: You need to deal with it almost in a two-tier system. Ultimately, we own 3,300 pubs which are mainly community-led, suburban, village or outer-edge-of-town pubs which sell real ale. From memory, we do not have any licensing in Camden. The reality is that we need to get those sorts of operators into this room to give them some thought, rather than the panel you have in front of you.

Robert Humphreys: Might I add an interesting point about rural versus urban and so on? As you know, there has been much debate lately about the rights of residents in relation to noise and nuisance, especially where blocks of flats are being built near existing businesses. It seems to me that there are three other areas of control over this issue. One is noise nuisance regulation, which is dealt with by environmental health teams. The second is the planning process, which determines the mix of businesses that is appropriate in an area, and has been used in the process that you are describing. The third is the market which, to some extent, determines whether a business succeeds or fails. On top of that, you then have the Licensing Act and the way in which that can affect behaviour. The temporary event notice and personal licence issue is certainly worth your Lordships' consideration.

Q86 **Lord Foster of Bath:** What you are talking about, and Mr Page has already raised it, is better integration of the various regimes. In particular, if we take licensing and planning, the Section 182 guidance seems to imply that the two should be kept separate. However, we know that, for instance, in paragraph 9.44 it says that the two should talk to

each other, so there is confusion there. As you have already mentioned, the new agents of change principle has just been introduced and, of course, we have got cumulative impact. However, with the exception of that, there seems to be a total separation of the two. We would be interested in your views as to whether they work together or not and, if they should do more to be integrated, what should they do?

Tim Page: This is, we believe, the greatest area of deficiency that exists in many local authorities across the country, where the licensing and planning departments do not speak to each other and, representing the local authority, adopt inconsistent approaches. Most obviously, if there is a long-established licensed premises, a local pub, which has a housing development located next to it, the residents who occupy that development will inevitably complain about the noise from the pub garden. We think that that illustrates the short-sighted, uncoordinated approach that exists in many local authorities.

Lord Foster of Bath: Is that not covered by the new agents of change principle introduced in April?

Stuart Gallyot: I think that is right—it is. New developments should actually put the right soundproofing in place to make sure that happens. Our view is that they should be separate, but still talk to each other. There are very clear principles in planning which work and very clear principles in licensing that work. There is not necessarily the need for them to talk to each other directly, but they work in their own right. The agent of change principle works in its own right.

Lord Foster of Bath: To be absolutely clear, you are saying that currently you are satisfied with the separation of the two, but you just want them to talk to each other a bit more.

Stuart Gallyot: Absolutely.

Robert Humphreys: A factor in relation to noise nuisance is the banning of smoking in licensed premises and elsewhere in public places. This displaced customers who smoke into the gardens and that caused nuisance. Then the local authority often found itself fining the licensee as a result of the noise disturbance caused to the neighbours, whereas the agent of change was, of course, the Government.

Lord Foster of Bath: Very good line.

Lord Davies of Stamford: This matter of the relationship between the licensing authority and the planning authority has come up on several occasions in the evidence we have had. We have heard before this morning and now, quite forcefully from you, that this is a real problem. My question is: what in practical terms can one do about it? Simply expressing the hope that these two aspects of the same local authority will talk to each other is not necessarily going to solve the problem. Do you have in mind or can you conceive of any structural changes that might be introduced, by legislation or otherwise? For example, before issuing planning consent involving a pub, the planning authority must

seek the views of the licensing authority, even if the licensing authority has not yet been approached to issue a licence in that area. Would some rule like that help, or is there some other concrete, specific measure you could suggest that we might consider as an improvement to the 2003 Act if there is an opportunity to achieve that?

Tim Page: A clear definition of the relative responsibilities of each of those two bodies and their accountabilities in each other's processes would, we think, improve the current situation. There would be a requirement for the licensing authority to consult and expect to receive information from the planning authority prior to the granting or the consideration of a licence application, and vice versa. There needs to be a formalisation within local authorities of that relationship with regard to licensing applications and planning applications.

Robert Humphreys: The two bodies should not be asked to make the same decision. If one body makes the decision, the other should not be asked to second-guess it.

Lord Davies of Stamford: If someone has planning consent they do not need a licence. Is that what you are suggesting?

Robert Humphreys: In so far as the provision of a facility is dictated by the planning process, that should not be considered by the licensing committee.

The Chairman: Lady Grender hinted that situations change. One of you spoke about the smoking ban displacing customers. What you are really putting your finger on is that there is a lack of clarity about what their respective roles are and there should, perhaps, be greater understanding and guidance as to what those roles should be. Would you welcome that?

Tim Page: Yes

The Chairman: I am not putting words into your mouth, of course, I just wanted to clarify what you were saying.

Q87 **Lord Brooke of Alverthorpe:** Morning, gentlemen. I am Lord Brooke, vice-chair of the all-party group on alcohol harm. I am patron of the British Liver Trust and patron of a rehab in Kenwood House. You started by mentioning that since the Act came into play the volume of alcohol consumed has gone down; crime and disorder is less, in your opinion, than it was; and youths are drinking less. But there have been problems with health. There has been a debate running about minimum unit price. Can you give us your views on whether you feel that a minimum unit price can influence the extent of the consumption of alcohol, or whether other duties or financial approaches might be used which would be helpful in trying to improve health?

Stuart Gallyot: I think there already are some positions in place, in terms of not selling at less than tax and duty in supermarkets. From our point of view, we commit to having no irresponsible drinks promotions. There is an element of people having to take responsibility for their own

actions. A pub environment is a controlled environment so there is a limit to what people can drink within a pub because the Licensing Act deals with that.

In terms of off-trade sales and alcohol consumption, there is an issue. Tim has a view on that.

Tim Page: With reference to the detrimental effects on health of alcohol, there is rightful concern about the abuse of alcohol by some and the effect that has on their health. CAMRA's position is that that is balanced by the welfare benefits of people drinking in moderation socially and in well-run establishments.

We are opposed to the notion of a licensing objective specifically about the detrimental effects to health of drinking alcohol and more inclined to favour one that recognises the benefits to individuals, local communities and society as a whole of having—I quote from our submission to the Committee—"access to and responsible enjoyment of licensable activities by the public which enhance community life".

If there were a licensing objective along those lines it would make a nice change from number 4, where there are negative effects against which an application is judged. This would be a positive objective, recognising that in the vast majority of cases the addition of a licensed premises in an area acts as a hub for community social activity.

With regard to minimum unit pricing and whether the consumption of alcohol should be regulated by taxation, we would say no to that. But I again repeat that there is an imbalance between the fees paid by those premises that now sell more alcohol than the on-sale establishments of which we have been speaking—public houses, bars and clubs and the like—and the fact that those premises—supermarkets and off-trade outlets—pay less fees and really should be paying the kind of multiplier fees—

Lord Brooke of Alverthorpe: I am sorry but I may have misunderstood you. I thought you said earlier that on consistency grounds you did not want a variation in licensing fees; you wanted a common one. You were opposed to any changes there.

Tim Page: I am advocating recognition of the fact that those establishments that regulate the sale of alcohol but play no part in the regulation of how it is consumed are differentiated against compared to on-sale establishments, where not only the sale of alcohol but how it is consumed on the premises is monitored and regulated, with the licensee having a responsibility in law.

Stuart Gallyot: We are looking for a level playing field so we end up in the same position. Again, if you look at alcohol sales generally, in the on-trade they are very clearly attributable to those premises whereas in the off-trade they are not. You can take it and drink it anywhere and you do not know where it has been consumed. It is a very clear distinction of

where that alcohol has come from. I agree completely with Tim about one of the licensing objectives being the promotion of community cohesion and well-being. It is about a social hub and making sure that people drink responsibly in well-controlled environments.

Robert Humphreys: I echo much of what my two colleagues have said. Speaking as a representative of 850 of Britain's smaller brewers, the consumption of beer relative to other alcoholic drinks has declined very sharply over the last 20 years and it would be very nice to see that balance restored. I take the point about taxation intervention. The tax system intervenes very significantly in alcohol consumption.

The Chairman: But because beer duty has reduced, so the price of beer has come down, and yet you are telling the Committee that consumption has fallen.

Robert Humphreys: Over the past 20 years the taxation of beer relative to the taxation of spirits has risen significantly. The proportion has changed massively from about 4:1 to something like 2:1 now. The long drink that is beer is the healthy alternative and I commend it to all. In so far as the on and off-trade are concerned, it strikes me that because the on-trade is visible and a place not only of sale but of consumption, it has attracted much more rigorous attention from the enforcement authorities than the off-trade, where most consumption is in a private place, at home or in a park or wherever.

The Chairman: This is a slightly different point.

Lord Brooke of Alverthorpe: It is whether in fact you support MUP or taxation. I take it that all of you have a common approach.

Stuart Gallyot: Minimum unit pricing will not affect much of the on-trade.

Lord Brooke of Alverthorpe: I cannot understand why the on-trade has been so opposed to minimum unit pricing when they are all selling at much higher levels. It is the retailers down the road, the supermarkets, which are undercutting it.

Tim Page: But, my Lord, it could also be seen as the thin end of the wedge. If through government intervention the minimum price is set for any commodity—correct me if I am wrong but I think that would be the first occasion that that principle has been applied—one has to ask how long it would be before a minimum unit price was set in another area. In principle, as an organisation we disagree with the notion of minimum unit pricing.

Lord Brooke of Alverthorpe: Do you charge different rates for a pint of beer in different locations around the country, and what determines that if you do?

Tim Page: We have 3,200 pubs, from Stornoway to the Isles of Scilly, and they are tenanted by individual publicans and they choose to price within their marketplace.

Lord Brooke of Alverthorpe: Pricing does work, then.

Stuart Gallyot: I think it does but as the premises licence holder we take our responsibilities very seriously. As part of our local support with our area managers, we help our publicans with their pricing.

The Chairman: You are arguing that prices reflect the marketplace and what customers can afford. I think Lord Brooke might be arguing a different point.

Lord Brooke of Alverthorpe: Can you read my mind?

Lord Mancroft: Surely you accept that the price of alcohol or anything else makes a difference to its consumption. If you were to lower the price of Rolls-Royces to £5,000 rather than £100,000, they would sell rather more.

The Chairman: What is the Rolls-Royce of beer?

Lord Mancroft: If you price alcohol or any product cheaply enough—

The Chairman: I am conscious that we have another panel and have not finished this one, and half the panellists are going to disappear.

Robert Humphreys: Lord Chairman, the answer to the question is yes.

Q88 **Lord Smith of Hindhead:** I am Lord Smith of Hindhead. I am the chief executive of the Association of Conservative Clubs. We run about 900 private members' clubs across the UK. I am also the chairman of CORCA, a group that encompasses all the club organisations in the UK. I am on the APPG beer group. I am on the APPG non-profit making clubs group. I am the trustee of over 200 clubs. I am also an honorary member of the Carlton Club and several other Conservative clubs as well.

Mr Page, you mentioned that alcohol consumption was down about 19% and that pubs were closing down but premises licences are actually up by about 1% overall and the number of premises licences specifically for off-sales has increased by 17% in that time. Last year the sale of alcohol for consumption off the premises exceeded that for on the premises for the first time.

We have heard from a lot of witnesses already about the off-trade and preloading in particular. Some of our witnesses concluded that the concept that people had a drink before they went out did not exist. We know from other witnesses that it is a major concern, and a recent survey reported that 83% of young people aged 18 to 24 admit to preloading before they go out, up from 53% in 2009. How do you think the on-trade perceives that it is affected by the off-trade, and what positive interventions—you have mentioned the multiplier already, which you might want to expand on so the Committee understands that—could

legislation or guidance achieve?

Tim Page: There is no doubt that the on-trade is very concerned about the prevalence of low-priced alcohol in supermarkets and the inclination of an increasing number of people to buy their alcohol from there, take it home and socialise at home rather than in a community social setting.

CAMRA campaigns for the consumption of real ale and the availability of community pubs in every setting. We have campaigned for that for 45 years. Therefore, we believe very strongly that there needs to be something that redresses the balance between the on-trade and the off-trade, for reasons other than just the retail of real ale—draft beer—which you can drink only in a pub or another licensed social premises. Pubs serve a social purpose. They are part of the fabric of our society. When a public house closes in a village or a suburb of a town, part of that local community dies.

We do not agree with minimum unit pricing but we would like to see the price of drinks in the off-trade increase. We recognise that many supermarkets sell drinks as loss leaders and therefore at no profit to themselves. We believe that that is wrong. We think that the supermarkets enjoy considerable advantages in taxation, VAT and the rateable value they pay on their sites. In respect of the annual licensing fee, we think it iniquitous that large pubs, which fall into either band D or band E, are subject to considerable multipliers, but that multiplier is not applied to supermarkets, irrespective of the volume of their alcohol sales. Together with an adjustment of the VAT relationship between supermarkets and public houses and other licensed establishments—in due course, when the Government are able to—that is one way in which the balance can be addressed.

Lord Foster of Bath: One very small point: when we talk about the off-trade, no one has mentioned online sales. Are changes needed to address that?

Tim Page: I have no comment on that.

Stuart Gallyot: Similarly.

Lord Smith of Hindhead: You have no comment about Lord Foster's question or mine?

Tim Page: Lord Foster's question about online sales of alcohol.

Lord Foster of Bath: You talk about the multiplier effect. Does that apply to the premises that are licensed for online sales?

The Chairman: Thank you, Lord Foster. We will move on to Lord Davies.

Q89 **Lord Davies of Stamford:** Mr Page, you have already told the Committee that you are opposed to adding public health to the criteria on which licenses are issued. Do you or your colleagues have any views on the other suggestions that have been made—and the public debate, to

some extent—about potential new criteria for licences? The one I am particularly conscious of, apart from the public health one, is the suggestion that the Equality Act should be looked at by licensing authorities specifically. Of course, it is a matter of general law and applies to everybody already. In granting a licence, the local authority would have to be satisfied that the Equality Act is being observed. Do you have any views on that? Is that problematic or would it be advantageous in some way?

Robert Humphreys: I have no view on that. SIBA is opposed to the idea of the imposition of a duty to have regard to population and health effects. We think that the present obligation not to serve people who are drunk and to take proper care of their customers is sufficient for the individual licensed premises.

Lord Smith of Hindhead: Excuse me, could I just—

The Chairman: We really are going to have to move on—unless you all want to stay until 12.45 pm. Lord Smith, do you want to put your question—briefly?

Lord Smith of Hindhead: I did put my question. I do not think the other two witnesses answered at that point. We have a representative of the largest pub operator in the UK. I asked how off-sales were affecting the on-trade and we did not have an answer.

Stuart Gallyot: It cannibalises leisure spend. If you go out and you are preloaded, you are not going to spend as much in pubs. Pubs want to be a healthy, controlled environment to spend your leisure pound in. It does cause behavioural problems, absolutely, if you are going out drunk. We stop people coming into our pubs. It creates behavioural problems on the street. What we are trying to do is create a controlled environment for people to drink in. Ultimately, yes, preloading is a problem.

The Chairman: On behalf of the Committee, I thank you for being so generous with your time in answering all our questions. Please could you vacate your places reasonably quickly so that we can get the next panel in? Thank you very much.