

Appeals & Licensing Committee - 2 December 2004

Minutes of the meeting of the **Appeals & Licensing Committee** held on **2 December 2004** when there were present:-

Cllr Mrs B J Wilkins (Chairman)
Cllr Mrs G A Mockford (Vice-Chairman)

Cllr K A Gibbs
Cllr K H Hudson

Cllr T Livings
Cllr R A Oatham

OFFICERS PRESENT

K Doyland - Licensing Manager
P Nellies - Licensing Officer
A Bugeja - Head of Legal Services
A Law - Solicitor
J Bostock - Principal Committee Administrator

508 MINUTES

The Minutes of the meeting held on 2 November 2004 were approved as a correct record and signed by the Chairman.

509 CONSULTATION ON DRAFT STATEMENT OF LICENSING POLICY

(Note: Council T Livings declared a personal interest in this item by virtue of being a practicing member of the Salvation Army.)

The Committee considered the report of the Head of Housing, Health and Community Care on the responses to consultation on the Council's draft Statement of Licensing Policy. The Committee also considered some additional amendments (numbers 43-46) tabled by the Licensing Manager.

Responding to questions, officers advised that:-

- There had not been specific consultation with various church groups within the District. In addition to statutory consultees, the draft statement had been advertised in the local press and Rochford District Matters and posted on the Council's website. Copies had also been furnished on request and brought to the attention of identified interest groups.
- Legislation had set the scene for deregulated licensing and the Policy Statement needed to reflect the legislative position.
- Responses to this type of consultation tended to be from individuals/organisations with direct working involvement in the subject area.

- Notwithstanding the submission from the police, the County Council would have to resolve the question of identifying a body with specific responsibility for child protection matters in advance of 7 February 2005. The Chief Executive had already communicated concern about this issue.
- It would be of value for officers to be able to make inconsequential changes to the Statement (such as changes in the address details of specified organisations) at the earliest possible stage.

During debate on the consultation process it was observed that there could have been some difficulty in identifying all church groups within the District and that, depending on definition, the number of these could be quite high. It was also observed that, at a national level, churches were likely to have taken an interest in the associated legislation during its formulation.

On a motion, moved by Councillor K H Hudson and seconded by Councillor K A Gibbs, it was:-

Resolved

That the suggested actions set out in Appendix B of the report and the additional paper be incorporated into the draft statement of licensing policy.

It was further:-

Recommended to Council:-

- (1) That the Statement of Licensing Policy, as revised, be approved.
- (2) That the Head of Housing, Health and Community Care be authorised to incorporate any inconsequential changes on an ongoing basis.
(HHCC)

510 LICENSING ACT 2003 CHANGES REQUIRED TO THE COUNCIL'S CONSTITUTION

The Committee considered the report of the Head of Administrative and Member Services on changes required to the Council's Constitution to facilitate the discharge of the Council's functions under the Licensing Act 2003.

Responding to questions, officers advised that:-

- Where licensed premises subject to an appeal fell within a Member's Ward, that Member could not be appointed to the Licensing Sub-Committee hearing the appeal.

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- Separate consideration would need to be given to the question of whether the role of Licensing Sub-Committee Chairman should attract a specific allowance.
- It would be appropriate to delegate authority to officers, in consultation with the Chairman of the Licensing Committee, to appoint three Members to serve on a Licensing Sub-Committee and a Reserve Member.

During debate it was observed that Members of the proposed Licensing Committee would need to be mindful of declaring an appropriate interest should they be in attendance at a meeting of the Planning Services Committee when it is to consider a planning application relating to licensed premises.

Recommended to Council

- (1) That the current Appeals and Licensing Committee be replaced with two Committees - a Licensing Committee and an Appeals Committee. The terms of reference of these Committees to be included in the Constitution on the basis set out at Appendix 1 of the report and membership for the remainder of the Municipal Year to be as follows:-

Appeals Committee

Chairman:
Councillor Mrs B J Wilkins

Vice-Chairman:
Councillor G A Mockford

Councillors:
K A Gibbs, K H Hudson, T Livings,
R A Oatham

Licensing Committee

Chairman:
Councillor Mrs B J Wilkins

Vice-Chairman:
Councillor G A Mockford

Councillors:
Mrs R Brown, T G Cutmore,
K A Gibbs, Mrs H L A Glynn,
Mrs S A Harper, K H Hudson,
A J Humphries, T Livings,
C J Lumley, R A Oatham,
D G Stansby, Mrs M A Starke,
M G B Starke

- (2) That the words 'and an Appeals and Licensing Committee' in the final line of the third paragraph on page 1.2 of the Constitution be replaced with 'a Licensing Committee and an Appeals Committee' and the words 'Licensing Policy Statement' be included in item (g) on page 3.1 of the Constitution.

- (3) That the timetable of meetings for the period March to April 2005 be adjusted to include provision for daytime licensing hearings on Tuesdays (am and pm). The draft timetable for the 2005/06 Municipal Year to also include such provision. (HAMS)
- (4) That authority be delegated to the Head of Administrative and Members Services, in consultation with the Chairman of the Licensing Committee, to appoint three Members to serve on a Licensing Sub-Committee and a Reserve Member. (HAMS)

511 CONSULTATION ON FEE LEVELS - LICENSING ACT 2003

The Committee considered the report of the Head of Housing, Health and Community Care on a consultation document published by the Department for Culture, Media and Sport (DCMS) relating to the fee structure to be established by regulation under the Licensing Act 2003.

Responding the questions, officers advised that:-

- The Government's proposed fees were based on National Non-Domestic Rateable values and had resulted from a national averaging exercise. Whilst the Government had itself identified a number of possible approaches to identifying fee levels, it had not asked local authorities for ideas on possible fee setting formulas.
- It would be possible to include comment that it is considered essential that fee levels are reviewed in one year's time with a view to ensuring that they are set at a level that fully reflects and recovers the cost incurred by Local Authorities.

Resolved

That, subject to the following additional response relating to fees in general, the suggested responses set out in the report be agreed as this Council's comments on the consultation document:-

It is considered essential that fee levels are reviewed in one year's time with a view to ensuring that they are set at a level that fully reflects and recovers the costs incurred by Local Authorities. (HHHCC)

The meeting commenced at 2.00 pm and closed at 2.54 pm.

Chairman

Date