

Appeals & Licensing Committee – 2 November 2004

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

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

Cllr K A Gibbs
Cllr K H Hudson

Cllr T Livings
Cllr R A Oatham

VISITING MEMBERS

Cllrs Mrs R Brown and D G Stansby.

APOLOGIES

Apologies for absence were received from Councillors Mrs S A Harper, Mrs M A Starke and M G B Starke.

OFFICERS PRESENT

K Doyland - Licensing Manager
P Nellies - Licensing Officer
J Bostock - Principal Committee Administrator

462 MINUTES

The Minutes of the Meeting held on 17 September 2004 were proved as a correct record and signed by the Chairman.

463 LICENSING ACT 2003 – CONSULTATION ON DRAFT REGULATIONS

The Committee considered the report of the Head of Housing, Health and Community Care on a consultative document published by the Department of Culture, Media and Sport.

The Committee reviewed each of the suggested responses set out in the report.

Period of Time within which Hearing to be held

Responding to questions, the Licensing Manager advised that:-

- Generally speaking, it was likely that the Authority would have more than ten working days notice to prepare for a Hearing. It was possible

that, for temporary event notices, some applicants may attempt to minimise the time available for the police to make an objection.

- There is no direct way of influencing or prescribing when persons will make applications during the transitional period set out in the Licensing Act. Officers would be consulting the trade with a view to achieving zoning where possible. Notwithstanding that workload levels would vary, there should be no issues associated with application processing.
- If the Hearing for a temporary event notice had to be held within ten working days of the day following the day that the Authority received a notice of objection from the police, there would be insufficient time to have a Hearing before the event. No liability could be associated with temporary event notices in that the Licensing Authority had no discretion.
- Applicants will need to serve applications on the Licensing Authority and provide copies to other statutory bodies at the same time. Applications will also have to be posted on the property in question and advertised in a local newspaper.
- Whilst not a legislative requirement, Licensing Officers would automatically communicate with the police in cases where a police response could be expected. There would also be ongoing dialogue with all statutory partners, particularly for cases where there may be issues.
- In the case of the police, applications are likely to be addressed to 'the Officer in Charge'. In the case of the Licensing Authority, it is likely to be 'the Proper Officer'.
- The right of appeal with regard to the review of premises licences following closure orders issued by the police and the exercise of powers by a Magistrates Court is to the Magistrates Court.

The Committee agreed that it would be appropriate to remove the term "which effectively amount to the same period" from the suggested response.

Action following receipt of a Notice of Hearing

It was noted that the Licensing Act provided that, where a Hearing should continue but parties are not present, the Authority should proceed on the basis of available written representations.

Procedure at Hearing

Procedures would include provision for addressing the submission of evidence that could be considered vexatious, frivolous or fraudulent. Detail on this would be included in the next paper to the Committee.

Determination of Applications

It was noted that there could be situations where a Hearing would be adjourned for the purpose of obtaining further information.

Notices

Members recognised that a number of advantages could be associated with the electronic submission of applications, such as being able to instantly copy to all interested parties, achieve receipts and maintain security.

It was agreed that the word “and” in the fourth line of the proposed response should be replaced with “or”.

Advertisement by the Licensing Authority

The Committee agreed that, should the requirement to place an advertisement in a local newspaper be removed from the regulations, it would be appropriate to introduce a mechanism for supplying persons that neighbour an applicant’s premises with written details of the application (along the lines used in the case of planning applications).

The Licensing Manager advised that he intended to produce an aide memoir to Members that could assist understanding of the main points and time lines associated with the appeals process.

Resolved

That the suggested response to the draft regulations, as set out in the report, be forwarded to the Department of Culture, Media and Sport subject to:-

- (1) Removal of the term “which effectively amount to the same period” from the suggested response for the period of time within which Hearings are to be held.
- (2) Replacement of the word “and” in the fourth line of the proposed response relating to notices with the word “or”.
- (3) The introduction of a mechanism for supplying persons neighbouring an applicant’s premises with written details of the application should the requirement to place an advertisement in a local newspaper be removed from the regulations. (HHHCC)

464 DATE OF NEXT MEETING

It was agreed that a meeting of the Committee should be scheduled for 2.00pm on 2 December 2004 to enable further consideration of the draft licensing policy and constitutional changes associated with the Licensing Act.

The Meeting commenced at 2.00pm and closed at 4.25pm.

Chairman

Date