

## Licensing Committee

A meeting of Licensing Committee was held on Thursday, 29th October, 2009.

**Present:** Cllr Bill Woodhead (Chairman); Cllr Jim Beall, Cllr Dick Cains, Cllr Mrs Eileen Craggs, Cllr Jean Kirby, Cllr Miss Tina Large, Cllr Colin Leckonby, Cllr Alan Lewis, Cllr Maurice Perry, Cllr Roy Rix and Cllr Fred Salt.

**Officers:** M Vaines (DNS); J Nertney, P K Bell (LD).

**Also in attendance:** No other person was in attendance.

**Apologies:** Cllr Ken Dixon, Cllr Paul Kirton and Cllr Kath Nelson.

### **L       Declarations of Interest**

**50/09**

Councillor Leckonby declared a personal non prejudicial interest in respect of agenda item 4 - Changes to Licensing Act 2003 in Respect of Minor Variations to Existing Premise Licences and Club Premise Certificates.

### **L       THE GAMBLING ACT 2005 – CONSULTATION ON THE DRAFT REVIEW OF 51/09   STATEMENT OF LICENSING PRINCIPLES**

Consideration was given to a report on the Gambling Act 2005 - Consultation on the Draft Review of Statement of Licensing Principals.

The report was for Members to consider and comment on the responses received from the consultations carried out on the draft review of the Statement of Licensing Principles that the Council, as the Licensing Authority, would apply in exercising its functions under The Gambling Act 2005.

At the meeting held on Tuesday 18th August 2009 Members gave consideration to a report, which detailed the draft review of the Statement of Licensing Principles which the Council, as the Licensing Authority, would apply in exercising its functions under The Gambling Act 2005 (Minute 33/09 referred).

At that time Members were advised that the draft review would be subject to full consultation with interested parties prior to being approved by Council later in the year. This consultation had been carried out and a list of parties consulted was attached to the report. Only one letter with comments had been received during this period from the British Beer and Pub Association and a copy was attached to the report.

Officers believed that the comments in the letter in respect of the grant of additional permits in alcohol licensed premises were adequately addressed in the Statement of Principles at paragraphs 23.2 – 23.6 and would not recommend any further amendments which could fetter the Councils discretion in being able to consider each application on its merits.

A copy of the draft revised Statement of Licensing Principles was attached to the report.

Members discussed the letter that had been received from the British Beer and Pub Association and felt that grant of additional permits in alcohol licensed

premises were adequately addressed in the Statement of Principles at paragraphs 23.2 – 23.6 and did not recommend any further amendments.

RESOLVED that the comments in response to the consultation exercise be received.

**L  
52/09**      **CHANGES TO THE LICENSING ACT 2003 IN RESPECT OF MINOR VARIATIONS TO EXISTING PREMISE LICENCES AND CLUB PREMISES CERTIFICATES**

Consideration was given to a report on the changes to the Licensing Act 2003 in respect of minor variations to existing premise licences and club premises certificates.

The report informed Members of recent changes to the Licensing Act 2003 which had introduced a new application process to deal with what were considered to be minor variations to existing Premise Licences and Club Premises Certificates. Members views were sought on the decision making process and the need for changes to the current scheme of delegation in respect of minor variation applications.

The Licensing Act 2003 had been amended to introduce a new minor variations process which came into force at the end of July 2009. The purpose of the process was to enable premises licences and club premises certificates to be varied by means of a less costly and less time-consuming procedure where the variations proposed could not have an adverse effect upon the promotion of the four licensing objectives set out in the 2003 Act (the prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm).

The supplementary guidance to licensing authorities issued by the Department for Culture Media and Sport, a copy of which was attached to the report, envisaged 4 main types of minor variation application:-

- Minor changes to the structure or layout of a premises
- Small adjustments to licensing hours
- Conditions: removal of out of date, irrelevant or unenforceable conditions
- Licensable activities: adding certain licensable activities, including live music

However an application may not be made using this process to vary a premise licence so as to:-

- Extend the period for which it has effect
- Vary substantially the premises to which it relates
- Specify an individual as the premises supervisor
- Add the supply of alcohol as an authorised activity
- Authorise:-
  - (i) the supply of alcohol at any time between 11pm and 7am
  - (ii) an increase in the amount of time on any day during which alcohol may be sold by retail or supplied

Such variations would be required to be made using the full variation application process.

The minor variation application procedure was different to the full application procedure. Applications were to be made to the licensing authority (LA) on a prescribed form. The fee per application was £89 and there were no exemptions to this fee. The application must be advertised at the premises but there was no requirement for the application to be advertised in a local newspaper.

There was also no requirement for applicants to notify responsible authorities of their application. Instead responsible authorities were only involved at the request of the licensing officer. The Guidance suggested that licensing officers "must consult relevant responsible authorities if there is any doubt about the impact of the variation on the licensing objectives and they need specialist advice, and take their views into account in reaching a decision". The Guidance envisaged that "in many cases the LA may be able to make a decision without consultation".

Interested Parties i.e. local residents/businesses may make representations based on the licensing objectives. However such representations do not trigger a hearing under the minor variations process, but the Guidance stated that LAs must take any representations into account in arriving at a decision.

The timescale for dealing with applications which set out in the regulations was 15 working days. Day one was the "initial day", i.e. the first working day after the day the LA receives the application. The LA must then process the application, and determine it within 15 working days of the initial day. If the authority fails to determine the application within the 15 days, the application would be deemed refused and the fee must be returned to the applicant.

The first 10 working days of the 15 day period constitute a consultation period in which Interested Parties may make representations to the LA. Guidance stated that a determination cannot be made during this 10 working day period, leaving LAs with the remaining 5 working days to determine the application.

The key test in determining the application "is whether the proposed variation could impact adversely on any of the four licensing objectives". There was no power to impose conditions; only conditions volunteered by the applicant could be added to the licence under the minor variations procedure. The determination was therefore either to grant or to refuse the application.

Applications that had been rejected under the minor variations process could then be the subject of a full variation application or of a revised minor variation application, and the minor variations refusal does not affect any subsequent variation application in respect of the same premises.

There was no right of appeal against the refusal of a minor variation.

Under the current scheme of delegations in respect of the Licensing Act 2003 officers had no authority to refuse an application and when representations had been received applications were determined by the Licensing Sub Committee. Government recommended that decisions on minor variations should be delegated to licensing officers and a copy of a letter from the Head of Leisure Regulation to LACORS in respect of this matter was attached to the report for Members information. Members were requested therefore to consider

delegating powers to determine such applications to the Director of Development and Neighbourhood services.

RESOLVED that:-

1. Delegated powers be given to Director of Development and Neighbourhood Services to determine minor variation applications under The Licensing Act 2003.
2. A report on the delegated decisions that had been taken to determine minor variations under the Licensing Act 2003 by the Director of Development and Neighbourhood Services be brought to the Licensing Committee after 6 months.