



Licensing Committee

Date: Thursday, 2nd June, 2011
Time: 7.00 pm
Venue: Council Chamber
District Council Offices, Queen Victoria Road, High Wycombe Bucks

Membership

Chairman: Cllr A E Hill
Vice Chairman: Cllr A R Green

Councillors: D G H Barnes, W J Bendyshe-Brown, R Gaffney, S Graham, C B Harriss, M Knight, Ms R Knight, S Lacey, Ms P L Lee, J Richards OBE, J A Savage, R J Scott, D A C Shakespeare OBE

Standing Deputies

Councillors: Z Ahmed, D J Carroll, J A Malliff, T Snaith, 1 vacancy

Agenda

Item		Page
1.	APOLOGIES FOR ABSENCE To receive apologies for absence.	
2.	DECLARATIONS OF INTEREST To receive any declaration of personal or personal and prejudicial interest by Members relating to items on the agenda. If any Member is uncertain as to whether an interest should be disclosed, he or she is asked if possible to contact the District Solicitor prior to the meeting. Members are reminded that if they are declaring an interest, whether personal or personal and prejudicial, then (subject to paragraph 14 of the Code of Conduct) they should state the nature of that interest whether or not they leave the meeting.	
3.	MINUTES OF THE PREVIOUS MEETING To confirm the minutes of the meeting held on 20 January 2011 (attached).	1 - 4
4.	LICENSING ACT 2003 - ROLES AND FUNCTIONS OF THE COMMITTEE As an aide for new members to the Committee, Brian Whittall, Licensing	5 - 14

Officer and Mrs Kiran Khanna (Principal Solicitor), will give an introduction to the Licensing Act 2003 and briefly cover the function and roles of the Licensing Committee.

Licensing Panel Hearings

One of the main functions of the Committee is to hold Licensing Panel Hearings. Panel membership comprises 3 Members of the Committee and Hearings are convened on an ad hoc basis, as and when required, to determine applications for new or variations of existing licences where objections have been received. The Licensing Officer and Principal Solicitor will explain the process and procedure for Licensing Panels.

Attachments:

- Appendix A Schedule of Hearings since the previous meeting
- Appendix B Licensing Act 2003 – Members' Guide
- Appendix C Procedure at Oral Hearings under the Licensing Act 2003
- Appendix D Information Sheet – Role of Members in Relation to Licensing Panels

5. TRAINING - NEW AND EXISTING MEMBERS

To discuss training needs and consider options for a forward training programme.

6. QUESTIONS

An open session for any further questions.

7. SUPPLEMENTARY ITEMS, IF ANY

8. URGENT ITEMS, IF ANY

For further information, please contact Diana Davis, Democratic Services 01494 421635, diana_davis@wycombe.gov.uk



Licensing Committee

Date: Thursday 20 January 2011

Time: 7:00pm – 9.05 pm

PRESENT: Councillor A Hussain JP (in the Chair)

Councillors D Barnes, J M Blanksby, R H A Gaffney, A R Green, D A B Green, A E Hill, D P Lambourne and Ms J Mann

Apologies for absence were received from Councillors D A C Cox, S Fowke*, I L McEnnis and R Wilson*)

IN ATTENDANCE: Mr M Bruver, Thames Valley Police Licensing Officer (High Wycombe) and Ms E Herkes, Thames Valley Police Licensing Officer (Milton Keynes)

11. MINUTES OF THE PREVIOUS MEETING

RESOLVED: That the Minutes of the meeting of the Committee held on 4 November 2010 be approved as a correct record and signed by the Chairman.

12. DECLARATIONS OF INTEREST

None.

13. LICENSING TRAINING

A programme of training had been prepared for the Committee, aiming to bring as many Members as possible up to date with training needs and to offer a refresher of the processes involved in Licensing Panel hearings.

A presentation covering legal and procedural aspects began the programme and this was followed by a mock hearing, at which Members and Officers played the roles of individuals and representatives typically present at a hearing. Whilst the scenario of the mock hearing offered a light hearted and often humorous approach, it enabled key issues to be highlighted and discussed and for questions to be addressed in an informal training environment.

At the end of the mock hearing, there was an open discussion of the points raised and the implications of the evidence heard, leading to an opportunity for Members to assess whether or on what basis a fictional licence should be granted.

The Licensing Manager praised the record of Members' decisions at Licensing Panel hearings, informing Members that, since the introduction of the current Panel processes in 2005, the Council had achieved one of the lowest appeal rates in the country and no decision had been successfully challenged at appeal at the Magistrates Court.

Drawing the programme to a close, the Chairman said it had offered a very helpful opportunity for Members to express views and make observations and he thanked Officers, including the guests from Thames Valley Police, for their participation and hard work in preparing the evening's proceedings.

RESOLVED: That Officers and guests be thanked for preparing and presenting the evening's training programme.

14. LICENSING PANEL HEARINGS

The Committee received the schedule of Licensing Panel Hearings held since the previous meeting.

RESOLVED: That the Schedule of Panel Hearings held since the previous meeting, as detailed in Appendix 5 to the agenda, be received.

Chairman

The following officers were in attendance of the meeting:

Mrs K Khanna -	Principal Solicitor (Litigation & Contracts)
Mrs C Steven -	Licensing Manager
Mr B Whittall	Licensing Officer
Mrs D Davis -	Democratic Services

LICENSING COMMITTEE
Thursday 20 January 2011

Schedule of Panel Hearings + Determinations since the previous meeting (4 November 2010)

Date	Type	Panel	Application	Decision
18 November 2010	Hearing	Cllr J M Blanksby (Chairman) Cllr A R Green Cllr D A E Cox	Variation of existing licence held by: The Red Lion, 41 The Green, Wooburn Green (applicant: Greene King Brewing and Retailing Ltd)	Application agreed with modifications.
6 December 2010	Hearing	Cllr J M Blanksby (Chairman) Cllr D A E Cox Cllr D A B Green	Application for a new licence by: The Three Horseshoes, Horseshoe Road, Radnage (applicant: Crawshaws Ltd)	Application agreed with modifications.
6 December 2010	Determination ('virtual' Panel)	Cllr J M Blanksby Cllr D A E Cox Cllr D A B Green	Application for a new premises licence by: Globe Wines Ltd in respect of a proposed retail off licence unit in Stokenchurch, Bucks	Agreed
6 December 2010	Determination ('virtual' Panel)	Cllr I L McEnnis Cllr A R Green Cllr P Rogerson	Application for a new premises licence by: Bell Service Station, Princes Risborough (applicant: ROC Ltd)	Agreed

Further details of each are available on request.

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LICENSING COMMITTEE

Thursday 2 June 2011

Schedule of Panel Hearings + Determinations since the previous meeting (20 January 2011)

Date	Type	Panel	Application	Decision
21 April 2011	Hearing	Cllr D A E Cox (Chairman) Cllr A E Hill Cllr I L McEnnis	New premises licence, Wycombe Community Arts Centre	Agreed with modifications

Further details are available on request.

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LICENSING ACT 2003

MEMBERS' GUIDE

The Legal Situation

- Applications are made to the Licensing Authority (WDC) for licences to cover licensable activities provided to the public as defined by the Act:
 - Sale or supply of alcohol
 - Music and dancing
 - Exhibition of films
 - Public performance of plays
 - Indoor sporting events
 - The provision of late night refreshment
- A premises licence will be required for any place where regulated entertainment and/or the sale or supply of alcohol will take place. Any sale of alcohol will need to be authorised by a personal licence holder.
- Applicants must serve all **variation** and **new** applications on 7 Responsible Authorities (police, fire, planning, control of pollution, health and safety, child protection and weights and measures) as well as advertising the details of the application both on the premises and in a local newspaper.

How it affects Members

- Any Responsible Authority, Interested Party (any person living or business trading in the vicinity of the premises) or their representative can make a representation in relation to the application within 28 days of the application being submitted.
- A Parish Council acting as a body is considered to be an interested party and as such can make a representation in their own right where there is evidence to suggest that any application may adversely affect local residents. The same situation applies to other bodies which represent interested parties.
- Members of WDC are interested parties and may make representations and apply for a review of a licence in their own right if they believe the licensing objectives are affected.
- Parish Councillors and County Councillors, who are not also Members of WDC are entitled to represent any interested party (who has made a valid representation) at any stage of the process should they be requested to do so by that person (written evidence should be provided to this effect) and so long as they do not have a prejudicial interest.
- Members and Parish Councillors may also make representations if they are personally affected by any application.
- Any Member who has made a representation or applied for a review will almost certainly have a prejudicial interest and they should declare their interest. Under the new Code of Conduct, the Member will be able to attend that part of the Panel hearing in which members of the public have a right to attend and speak. Alternatively, they may appoint a representative to attend on their behalf.

- If a Member has made a representation in relation to an application for a licence, they may still have a prejudicial interest in any subsequent review or variation application.
- Members who have a prejudicial interest may not sit on a Licensing Panel to consider the application in which they have that interest.
- The Monitoring Officer will be able to assist with any queries in relation to prejudicial interests.
- Members who do not sit on the Licensing Panel should be careful about lobbying members of the Panel, to avoid the Panel Member being accused of bias. All written representations should be submitted to the Licensing Officer, instead of direct to a Panel member and Members are advised not to discuss individual cases with a Panel member outside the remit of a Panel hearing. A Member making a representation as an interested party has the same rights as any other interested party and must not seek to improperly influence any other Member or officer making a decision on a licensing matter.
- In addition, Members should not pressurise Licensing Officers to make any particular recommendation as regards applications or representations.
 - All ward Members and parish / town councils are notified of relevant new and variation applications.
- As an interested party, a Member may appeal against the decision of a Licensing Panel. However, the Member should seek advice on whether they are indemnified by the Council for any legal costs incurred in such an appeal.
- Full applications can be viewed or further details sought on any aspect of the application process by contacting the Licensing Unit on 01494 421222 or 421346.
- Any representation must be concerned with one or more of the licensing objectives:
 - **The Prevention of Crime and Disorder**
 - **Public Safety**
 - **The Prevention of Public Nuisance**
 - **The Protection of Children from Harm**
- Mediation is made available where appropriate, to allow relevant parties to attempt to resolve areas of conflict.
- Where mediation is not appropriate or is unsuccessful a hearing is convened for the Licensing Panel (sub-committee of the Licensing Committee) to hear all relevant parties and determine the application.

Should you require further information about the licensing regime please do not hesitate to contact:

Caroline Steven
 Licensing Team Leader
 DDI 01494 421222
 Internal ext 3222
caroline_steven@wycombe.gov.uk

or

Brian Whittall
 Licensing Officer
 DDI 01494 421346
 Internal ext 3346
brian_whittall@wycombe.gov.uk

June 2010

WYCOMBE DISTRICT COUNCIL

PROCEDURE AT ORAL HEARINGS BEFORE THE COUNCIL'S LICENSING PANEL UNDER THE LICENSING ACT 2003

1. The Panel will be assisted on matters of law and procedure by their Legal Advisor ("the Legal Advisor") who will be one of the Council's Solicitors.
2. The Panel will be sent the report and associated papers in advance of the hearing and will come to the panel meeting having read the papers and familiarised themselves with the application.
3. The hearing will be in public, unless the Panel decide that it is in the public interest to exclude the public from all or part of a hearing. The Licensing Authority has determined that it is in the public interest to exclude the public, including all parties, from that part of the hearing when the Panel are deliberating in order to reach their decision.
4. The Chairman (or if he or she wishes, the Legal Advisor) will briefly explain the procedure to all parties and will introduce the Members of the Panel and other persons present. He or she will explain the role of the Panel and the Legal Advisor.
5. Any party may attend the hearing and may be assisted or represented by any person, whether or not that person is legally qualified.
6. If a party is unrepresented, the Legal Advisor to the Panel may assist them in presenting their case and this assistance may include asking them Questions for the purpose of clarifying their representation.
7. Any party wishing to call another person (other than a person representing them) to make oral representations must provide details of this in advance of the hearing. At the beginning of the hearing, the Panel will consider any such requests and confirm whether permission is granted for that person to speak.
8. The purpose of an oral presentation is for a party to amplify their written application or representation and no new representations should be made at the hearing. In order to ensure fairness, all parties will be given a reasonable period for their oral presentation (including presentations made by another person on their behalf). The Chairman will determine what constitutes a reasonable period. In the case of interested parties, where the representations relate to the same or similar issues, a spokesperson should be appointed where possible to speak on their behalf. The Panel's decision on the length of oral presentations is final.
9. The Panel will generally allow parties to ask questions of other parties and the procedure outlined below allows for this. However, the Panel may stop a party asking questions if they feel the questions are unnecessary. Parties are reminded to treat other parties with respect and any form of harassing or excessive questioning will not be tolerated. In such a case, the Chairman will ask the party to discontinue that type of questioning and may ask the party to leave if they are disrupting the proceedings.
10. Any person disrupting the proceedings, whether a party or not, may be asked to leave the hearing and will only be permitted to return on such conditions as the Panel shall specify.

11. At the commencement of the hearing the applicant will be given the opportunity to suggest any amendments they may wish to make to their application with a view to addressing issues raised within any representation.
12. If the Panel believe that a condition may be appropriate to deal with a particular representation, they may put this matter to the applicant. The condition may be subsequently imposed upon the licence, if granted, should the Panel consider it to be necessary.
13. ORDER OF ORAL PRESENTATIONS
 - a. The Licensing Officer will present the report on the application and outline any objections received. He or she will refer in particular to objections and representations where a party has chosen not to attend the hearing.
 - b. Any party may question the Licensing Officer.
 - c. The Panel may question the Licensing Officer.
 - d. Any responsible body having made a written representation may present their case.
 - e. Any other party may question a responsible body.
 - f. The Panel may question a responsible body.
 - g. An interested party, having made a written representation, may present their case.
 - h. Any other party may question an interested party.
 - i. The Panel may question an interested party.
 - j. The Applicant may present their case.
 - k. Any other party may question the Applicant.
 - l. The Panel may question the Applicant.
14. The Legal Advisor will raise any relevant legal points and if any are raised, the parties will have an opportunity to respond to any legal advice given.
15. The Panel, their Legal Advisor and any person present solely for the purpose of taking notes of the meeting will then withdraw or will require other persons, including all parties, to leave the room in order for the Panel to determine the application.
16. The Panel will come to a decision.
17. The Legal Advisor will by letter inform the Applicant, the Licensing Officer and any person who has made a representation (whether or not they were present at the meeting) of the Panel's decision within the time limits as set out in Regulations.



INFORMATION SHEET

Licensing Committee

Issue No: 2/2006

Date Issued: 23 March 2006

ROLE OF MEMBERS IN RELATION TO LICENSING PANEL

Officer contact: Kiran Khanna DDI: HW 421264 Email: Kiran_khanna@wycombe.gov.uk

This note is for guidance only. Members must make their own decisions on what if any interest they have and if they are unsure, they should seek advice from the Monitoring Officer or the Legal Clerk to the Panel.

Members must comply with the obligations set out in the Members' Code of Conduct. The issues concerning personal and prejudicial interests and common law bias are discussed in more detail below.

Personal Interest

A member must regard him/herself as having a personal interest if the matter relates to an interest which the Member has given notice of in the statutory register OR if a decision upon the matter might reasonably be regarded as affecting his/her wellbeing or financial position (or that of relative or friend) to a greater extent than other inhabitants of the area.

If a Member has a personal interest, regardless of whether he/she sits on the Licensing Panel or is there in a representative capacity, he/she must declare it at the Panel hearing. So long as the interest is not prejudicial, the Member may still take part in the hearing (either as Panel member or in representative capacity).

Prejudicial Interest

A member must regard themselves as having a prejudicial interest if the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice the member's judgement of the public interest.

If a Member has a prejudicial interest, they must declare it and must withdraw from the hearing. This rule applies equally to members of the Panel and to Members appearing in a representative capacity.

A Contact Name is shown above and Members are asked to contact that person if they have any queries etc.

The Press is reminded that the Council's procedure is for ALL Press enquiries to be routed via the External Relations Press Office on High Wycombe 421215/421207.

Examples of prejudicial interests might include the following:

- living very close to the application premises;
- being a “friend” of the applicant (please see the Appendix for guidance on this)
- being a frequent visitor to the application premises;
- belonging to a lobbying/campaign group which may have views on a particular application or which may be directly impacted by the outcome of a particular hearing;
- representing an applicant/interested party in a professional capacity for which the Member will receive some financial gain, examples may include where the Member appears in his/her capacity as a solicitor or surveyor.

The effect of this does mean that a Member who is an interested party will not be permitted to attend a Panel hearing in person. This does not however affect their ability to make written representations and to send a representative along to the meeting to put their case across.

There are exceptions to the rules on prejudicial interests in cases referred to in paragraph 10 (2) of the Code of Conduct, eg, where the interest relates to him/herself being a member of another local authority. In this situation, a Member must disclose the interest, but may participate. However, the Standards Board for England advise that Members should consider the specific facts in each individual case, as this is not an automatic exemption. Therefore, having regard to the quasi judicial nature of the Appeals Panel and to avoid a perception of bias, it may be advisable for a Member in this situation to excuse him/herself from taking part in the Panel hearing.

Common Law Bias

Bias has been defined as “an attitude of mind which prevents the [decision maker] from making an objective determination of the issues that he has to resolve”. The key issue is the public perception of a probability of unconscious bias.

Panel Members

Panel Members should excuse themselves from sitting on a Panel hearing if they believe there will be a perception of bias, examples include:-

- where they are representing an applicant or interested party;
- where they have been approached in advance by an applicant or interested party and have discussed the case in any detail. If a Panel Member is approached in advance, they are advised to refer the person to the Licensing Officer or a ward councillor who is not sitting on the Panel in question;
- where they are involved in a campaign/lobbying group with a view on an application or which may be directly impacted by the outcome of a particular hearing;

- where a Member has publicly expressed an opinion about an application in advance of a hearing [NB In this and the previous case the Council may be vulnerable to challenge on the ground that the matter has been pre-determined and it is for this reason that it is not advisable for Members to meet the Licensing Officer in advance to discuss an individual application;
- where they are a ward councillor, a Panel Member should consider carefully whether there is a perception of bias, in particular in cases where there is strong opposition from local residents.

Other Members

Members who do not sit on the Licensing Panel may appear as a representative of an interested party, so long as they do not have a prejudicial interest (eg. they cannot attend if they are also an interested party in their own right). However, they must consider carefully, whether their presence at the meeting will give rise to any perception of bias for Panel members. If the Member believes that the mere fact that they are a councillor may influence the decision of any Panel member, in that greater weight will be given to their representations, then they should decline to appear.

If a Member does act in a representative capacity, they are advised to approach the matter with caution, for example:

- Members should not submit written representations direct to a Panel member
- All papers should be sent to the Licensing Officer;
- Members should not speak directly to a Panel member about a particular case outside the remit of the Panel hearing;
- Members should not be overly familiar with Panel members during the course of a Panel hearing eg. it is inadvisable to start discussing other Council business with Panel members in the view of other parties.

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