



Licensing Committee Agenda

Date: Thursday, 21st June, 2012
Time: 7.00 pm
Venue: Council Chamber
District Council Offices, Queen Victoria Road, High Wycombe Bucks

Membership

Chairman: Cllr Alan Hill
Vice Chairman: Cllr Richard Scott

Councillors: D H G Barnes, W J Bendyshe-Brown, S Graham, A R Green, C B Harriss, Ms R Knight, Ms P L Lee, J A Malliff, S F Parker, J L Richards OBE, J A Savage, D A C Shakespeare OBE and A Turner

Standing Deputies

Councillors Z Ahmed, I Bates, D J Carroll, G C Hall, S P Lacey and A Slater

Agenda

Item	Page
1. APOLOGIES FOR ABSENCE To receive apologies for absence.	
2. MINUTES OF THE PREVIOUS MEETING To confirm the minutes of the meeting held on 15 March 2012 (previously circulated).	
3. 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.	

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4.	REVIEW OF LICENSING ACT 2003 POLICY - OUTCOME OF CONSULTATION PROCESS	1 - 10
5.	SCHEDULE OF LICENSING PANELS HELD SINCE THE PREVIOUS MEETING	11 - 12
6.	SUPPLEMENTARY ITEMS (IF ANY)	
7.	URGENT ITEMS (IF ANY)	

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

Agenda Item 4.

REVIEW OF LICENSING ACT 2003 POLICY – OUTCOME OF CONSULTATION PROCESS

Officer Contact: Mrs Caroline Steven, Tel: 01494 421222
Email: caroline_steven@wycombe.gov.uk

Wards Affected: All

PROPOSED DECISIONS

That:

- i) the Committee recommend to the Regulatory and Appeals Committee that the minor amendments to the Constitution relating to delegated powers, as set out at Appendix A, be recommended to Council for adoption;
- ii) subject any comments of the Committee, the amended Panel guidance documents, as set out at Appendix B, be approved; and
- iii) the Committee note the update and amendments to relevant laws as presented at the training session taking place during the meeting.

Executive Summary

There have recently been some amendments to the Licensing Act by virtue of the Police and Social Responsibility Act 2011. One of these amendments is the addition of the Licensing Authority as a responsible authority, thereby empowering officers within the Licensing Unit to make representations on licence applications and call reviews where appropriate. As a result of these changes, it is considered necessary to amend the Head of Environment's scheme of delegation to reflect these changes. These proposed amendments are set out in Appendix A.

Corporate Plan / Sustainable Community Strategy Implications

The revisions will contribute to all priorities of the Corporate Plan (People, Place and Pounds) and contribute to the Sustainable Community Strategy themes in respect of Safe Communities, Health and Wellbeing, Thriving Economy and Sustainable Environment.

Corporate Implications

The amendments to the Licensing Act confer additional powers and responsibilities on officers within the Licensing Unit to take appropriate action in relation to applications for licences and existing licensed premises. It is necessary for the Council's Constitution to clearly reflect these powers to prevent any subsequent challenges to any action taken.

Detailed Report

1. When the Licensing Act 2003 was originally enacted in 2005, seven responsible authorities were specified to consider any application for sale of alcohol or regulated entertainment or call for a review of a licence where concerns are raised. These authorities were:

- the police
 - the departments responsible for health and safety and noise nuisance
 - the planning authority
 - the fire authority
 - the authority responsible for child protection
 - trading standards.
2. Amongst other amendments, the Police and Social Responsibility Act 2011 created two additional responsible authorities:
- the Health Authority, and
 - the Licensing Authority itself

This means that officers from the Licensing Unit are now able, where appropriate, to make representations in relation to licence applications or to call for licence reviews.

3. The Council's Constitution relating to the Head of Environment's scheme of delegation currently makes no reference either to the amendments to the Licensing Act 2003 generally or to the new powers conferred on officers.
4. As a result it is considered necessary to amend the relevant sections of the Constitution as set out at Appendix A to reflect these changes for clarification and to prevent any subsequent legal challenges.

Panel Procedure and Training

5. As a result of recent changes to legislation, the opportunity has been taken to review and update documentation currently in use in respect of Licensing Panels. Attached at Appendix B are updated guides with proposed changes underlined. No changes are being proposed for the Determination procedure guide. Subject to any comments of the Committee, the revised documentation will be brought into effect immediately.
6. In addition, the meeting will be used to provide further training and information for Members on the recent legislative changes, supported by handouts circulated at the meeting.

Next Steps

Subject to the views of the Committee:

- i) the recommendation to update the Constitution will pass to the Regulatory and Appeals Committee and full Council for approval prior to implementation; and
- ii) the updated Panel documentation will be introduced.

Background Papers

Licensing Act 2003
Police and Social Responsibility Act 2011
The Licensing Act 2003 where acting as responsible authority

Agenda Item 4. Appendix A

Scheme of Delegation for Officers - Head of Environment (Non-Executive Functions):

Current wording

Point 10 (2A-39) To determine applications under the Licensing Act 2003 and Gambling Act 2005 in accordance with the scheme of delegation for the Licensing Committee

Point 32 (2A-43) To make representations to applications for premises licences made under the Licensing Act 2003, where acting as responsible authority as opposed to licensing authority

Proposed Amended Wording -

Point 10 To determine applications under the Licensing Act 2003 and Gambling Act 2005 (***and any subsequent amendments to either Act***) in accordance with the scheme of delegation for the Licensing Committee

Point 32 To make representations to applications for premises licences made under the Licensing Act 2003 where acting as responsible authority

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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 person who has made written representations may attend the hearing and may be assisted or represented by any person, whether or not that person is legally qualified.
6. If a person 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. Where the representations made relate to the same or similar issues, a spokesperson should be appointed where possible to speak on behalf of any person who has made a written representation. The Chairman'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 harassment 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 appropriate.
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 person may question a Responsible Body.
 - f. The Panel may question a Responsible Body.
 - g. Any other person, having made a written representation, may present their case.
 - h. Any other party may question a person who has made a written representation.
 - i. The Panel may question the person who has made a written representation.
 - j. The Applicant may present their case.
 - k. Any other person 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.

Agenda Item 4. Appendix B (ii)

LICENSING PANEL HEARING – CHAIRMAN’S NOTES

INTRODUCTION

Good (*morning/afternoon*) ladies and gentlemen and welcome to Wycombe District Council

I just want to introduce myself and the rest of the panel and explain briefly the procedure for today’s hearing.

But before I do so can I ask you all to switch off your mobile phones. Also, in the event of the alarm going off please evacuate the room in an orderly manner, follow me and assemble in the front of the Council offices.

I am the Chairman of the panel today and my name is Cllr.....

I am accompanied by Cllr..... and Cllr

You should all have a copy of the Council’s Procedure to be followed today and we have spare copies should anyone need one. I would like to draw your attention particularly to point 13, which deals with the order of oral presentations. This is the order that will be followed today:

Order of Oral Presentations

- a. The Licensing Officer will present the report on the application and outline any objections received. He/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 person may question a Responsible Body.
- f. The Panel may question a Responsible Body.
- g. Any other person, having made a written representation, may present their case.
- h. Any other party may question a person who has made a written representation.
- i. The Panel may question the person who has made a written representation.
- j. The Applicant may present their case.
- k. Any other person may question the Applicant.
- l. The Panel may question the Applicant.

I would remind those making representations and any person speaking on their behalf that the purpose of this hearing is to amplify and expand upon written representations which have been made as part of the application process. Speakers

must therefore stick to these issues, as new evidence or information cannot be heard at this stage. Oral presentations should be to the point and should not be used as a means to make long speeches. I would remind all parties that the Chair shall retain the right to conclude oral presentations that drift onto those matters not applicable to the Licensing Act, or that include matters not relevant to this hearing and its jurisdiction.

If any parties want to appoint a spokesperson, please let me know now before we commence the hearing.

Noting particular points – Changes following the Police Reform & Social Responsibility Act 2011

Part 2 of the Police Reform & Social Responsibility Act 2011 makes changes to the Licensing Act 2003. The term interested party has been deleted throughout the Act and replaced by “any other person”. This means that any person including resident, business, Parish Council, a Councillor or an MP can make representation regardless of where they reside and in their own right. There is no vicinity requirement any more.

Parish Councillors and Ward Members can also speak if requested to do so by any other person who may appoint them.

Additional points

You should also have been provided with the Council’s statement of licensing policy and a plan of the relevant area.

- At this stage before the hearing begins, as part of procedural matters, may I ask the Applicant if there are any amendments or changes to be considered by the Panel or if the Application is to stand as submitted to the Council?
- Are there any other procedural matters that we need to resolve before we begin the hearing?

I would like to start by going around the room so that everybody can introduce themselves and the capacity in which they are here.

Unless there are any urgent questions we will now proceed with the hearing.

We will start by formally opening the Panel with the Agenda in front of you:

- Apologies for Absence
- Declarations of Interest
- Introductory Remarks

Will the Licensing Officer now please present her/his report on behalf of the licensing authority.

CLOSING

We have now heard all of the representations and unless anyone has anything further to add, we will now go into private session so that the panel may consider the

application in light of what we have heard and read. The legal advisor and clerk will accompany us whilst a decision is reached.

The Legal Advisor will endeavour to notify you of our decision in writing within seven days, if there is to be a delay the Licensing Officer will inform you of this.

Thank you all for attending.

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LICENSING COMMITTEE

Thursday 21 June 2012

Schedule of Panel Hearings + Determinations since the previous meeting (15 March 2012)

Date	Type	Panel	Application / Premises	Decision
12 Apr 12	Variation of existing licence	Cllrs Green, Ms Lee and Scott	The Gate, Bryants Bottom	Approved with modifications
7 June 2012	New premises licence	Cllrs Bendyshe-Brown, Barnes and A Turner	4 – 5 Thame House, Castle Street, High Wycombe	Approved with modifications

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Further details of any hearing are available on request.

All agendas, reports, notes of meetings and decision notices are available to view on the intranet – follow this link:

<http://wdc-vm-mgapp01:9070/ieListMeetings.aspx?Committeeld=303>

Agenda Item 5.

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