

Licensing Committee

Tuesday, 2nd June, 2009

PRESENT: Councillor D Wilson in the Chair

Councillors J Dunn, T Hanley, G Hyde,
V Morgan, R D Feldman, D Hollingsworth,
L Rhodes-Clayton and C Townsley

1 Chairs Opening Remarks

Councillor Wilson welcomed all present to the first meeting of the new Municipal Year and in particular welcomed Councillor Hanley as a new member of the Committee. The Chair noted the departure of Councillor Dowson and proposed to write to her expressing the thanks of the Committee for her work on the Sub Committees during the last four years

The Chair then noted the following:

2008/09 - a successful year in terms of workload with the exception of traffic problems associated with the Leeds Festival 2008. However Councillor Wilson stated the recent site visit and presentation on the proposed 2009 Festival route had provided Committee with reassurance for the success of the 2009 event

2009/10 – Lap Dancing Clubs – noted the proposed change to legislation which could provide local authorities with greater control than present. The Committee noted a report setting out the proposals was included on the agenda for this meeting although this duty would fall within the remit of the Licensing and Regulatory Panel, not Licensing Committee. Members requested information on the number and location of existing lap dancing clubs be provided to Committee

Large casino – commented that the establishment of the large Casino in Leeds was likely to be delayed due to the current economic downturn

2 Declarations of Interest

There were no declarations of interest.

3 Apologies for Absence

Apologies for absence were received from Councillors Armitage, Castle, Dobson, Grayshon, Selby and Wilkinson

4 Minutes

RESOLVED – That the minutes of the meeting held 23rd April 2009 be agreed as correct record

5 Terms of Reference - The Licensing Committee

The Assistant Chief Executive (Corporate Governance) submitted a report setting out the Terms of Reference and Officer Delegation Scheme for the Licensing Committee previously approved at Annual Council on 21st May

2009. The report also included a copy of the Code of Practice for Determining Licensing Matters, incorporating the site visit protocol.

Members discussed the following matters:

Officer decisions – noted that officers had previously undertaken to notify ward Councillors of applications from within their wards and the outcome of applications. Members commented that outcomes had not been routinely reported as expected. Officers clarified that unless an application received representations from the public or responsible authorities, an application would be granted under the Licensing Act 2003, but that this could not be regarded as an officer decision

LCC Responsible Authorities – Members discussed attendance at hearings and some commented upon the non-attendance of representatives of LCC Environmental Health Services at hearings where a representation had been submitted. The Committee sought to ensure that any written representation was supported by attendance at a hearing to fully understand the reasoning behind proposed conditions

Planning and Licensing – Members revisited the perceived problem of lack of information on a premises permitted hours in planning terms when dealing with applications for Premises Licences under the 2003 Act. Officers explained that applicants served copies of their applications on LCC Planning Services as part of the application process, and Entertainment Licensing followed this up providing planning officers with the deadline for receipt of representations. However the onus was on Planning Services and the other responsible authorities to ensure their representations were made. Furthermore, under the 2003 Act, there was no mechanism for planning matters to be taken into account and the reasons that conditions/restrictions were placed on permissions granted by the planning authority may not be relevant to the licensing objectives.

The Committee was keen to ensure that, particularly in the case of hot food take-aways, information on the permitted planning use hours was included either within the licensing officers' report or provided in the form of a written representation from Planning Services to be attached to the report. Members considered whether a revision to the Terms of Reference would ensure this but were advised the document had already received approval from full Council and was presented for information only. Members expressed concern that hours granted under the 2003 Act could conflict with the permitted planning hours which could in turn impact on the efficiency of any enforcement action.

In response the Chair agreed to meet with the Chief Planning Officer to express the Committees' concerns and to request that greater importance be placed on the licensing applications submitted to Planning Services as part of the licensing application process.

RESOLVED –

- a) To note the Terms of Reference for the Licensing Committee
- b) To note the contents of the current Officer Delegation Scheme

- c) To note the Code of Practice for the Determination of Licensing Matters (including the site visits protocol)
- d) To note the Chair's intention to meet with the Chief Planning Officer to express the Committees wish to encourage closer liaison between Planning Services and Entertainment Licensing in order to ensure that relevant planning information on each application before a Sub Committee for determination is forthcoming
- e) To note the comments regarding the supply of information to Councillors on the outcome of applications within their ward

6 Creation of the Licensing Sub Committees and Terms of Reference

The Assistant Chief Executive (Corporate Governance) submitted a report setting out the Terms of Reference for the Licensing Sub Committees as approved at Annual Council on 21 May 2009 and seeking approval for the appointment of Committee members to the Sub Committees

Appended to the report were documents containing the Terms of Reference and a schedule of the proposed memberships for the Sub Committees

The Committee discussed

Powers at Reviews - In response to Members concerns that recent advice at a Review hearing suggested the Sub Committees no longer had power to suspend a licence, officers confirmed there had been no changes to the Sub Committees Terms of Reference and clarified that a Sub Committee did have the power to suspend a licence in order to achieve the licensing objectives but there was no provision under the 2003 Act to suspend a Licence as a punishment.

Members requested further guidance on this matter

Membership – The Chair commented that the membership of Sub Committee C had previously worked very well together and as such he suggested it should remain unchanged and Councillor Hanley should join Sub Committee B instead. Committee agreed this amendment.

RESOLVED –

- a) That 5 Sub Committees of the Licensing Committee be established and the arrangements for the membership of the Sub Committees as set out in Paragraph 4 of the report be noted
- b) That the Terms of Reference for the Sub Committees as set out in Appendix 1 of the report be noted
- c) That the following memberships of each of the Sub Committees be approved:
 - A Councillors Armitage, Dobson and Castle
 - B Councillors Dunn, RD Feldman and Hanley
 - C Councillors Grayshon, Hollingsworth and Morgan
 - D Councillors Hyde, Rhodes-Clayton and Townsley
 - E Councillors Selby, Wilkinson and Wilson

And to note that the roll out of the new memberships would commence at end of July 09

7 Licensing Procedure Rules

The Committee considered the report of the Assistant Chief Executive (Corporate Governance) which set out the Procedure Rules associated with the work of the Licensing Committee and the Licensing Sub Committees. The report also included copies of relevant information sheets referred to at hearings

RESOLVED – That the Licensing Procedure Rules as set out in Appendix 1 of the report be approved and the contents of the associated information sheets included at Appendix 2 be noted

8 The Policing and Crime Bill

The Assistant Chief Executive (Corporate Governance) submitted a report on the main proposals contained within The Policing and Crime Bill and their relevance to the work of the Licensing Committee. The report also sought Members responses to a consultation currently underway on a proposed statutory Code of Practice on the supply of alcohol contained within the Bill.

The Committee considered the following matters:

- Noted that the regulation of lap dancing establishments was addressed within the Bill and included proposals to classify such establishments as “sex encounter venues”. The proposals included measures to restrict the number of such venues in an area. Members noted that this duty would fall under the remit of the Licensing and Regulatory Panel
- Expressed scepticism over the effectiveness of voluntary codes of practice
- Impact of the Licensing Act 2003 in Leeds and the reported comments of WYP with regards to incidents of crime and disorder. Members also noted the concern of WYP over access to cheap alcohol through supermarket sales
- Noted the suggested “mandatory” and “local” conditions proposed in the Bill and contained in Appendices 3 & 5 respectively of the report.
- Members attention was drawn to Appendix 4 which set out the proposed process for applying “local” conditions to a Premises Licences, which could allow conditions to be attached based on concerns or matters specific to a particular area
- Members considered the proposed “discretionary local conditions” particularly in regard to premises already operating and the process necessary to be able to add these conditions
- Consultation – Members noted the consultation would close on 5th August 2009. A copy of the pro-forma consultation form was attached at Appendix 1 to the report and it was agreed that Members responses should be directed to the Clerk in the first instance by first week in July. The responses will be collated and officers will liaise with Councillor Wilson and Councillor Feldman as the Licensing and Regulatory Panel Chair prior to a formal LCC response being submitted to the Home Office

RESOLVED –

- a) To note the contents of the report and the terms of the Consultation
- b) That individual Committee Members direct any further responses they may wish to make to the Clerk in order that these be collated into a draft formal response to the Consultation for the Licensing Authority.

- c) To note that officers will liaise with Councillors Wilson and Feldman to present the draft response for clearance prior to its submission to the Home Office by the close of consultation

9 Implications of the recent case of R (on the application of Bristol City Council) V Bristol Magistrates Court

The Assistant Executive (Corporate Governance) submitted a report advising the Committee of the implications of the recent case at the High Court of Justice where Bristol City Council applied for Judicial Review of a decision of the Bristol Magistrates Court (the "Sommerfield Case")

Members made the following observations:

- Commented on relevance of the conditions to the Licensing Act 2003 set by Bristol Licensing Authority in the first instance
- Noted all applications which attracted a representation from a Responsible Authority would be required to be listed for hearing – even if the applicant and the Responsible Authority subsequently agreed proposed measures.
- The proposed measures would require individual consideration under the terms of the Licensing Act 2003 and could not be accepted by a Sub Committee "en-bloc"
- Balanced their desire to ensure a representative of the Responsible Authority attended these "uncontested hearings" against their wish to deal with business efficiently

Members expressed concern over the implications for the Sub Committee workload and noted that the fortnightly meeting schedule had recently led to some day-long meetings. The Committee requested that, in view of the likely increase in the number of hearings now required following the "Sommerfield case", the Sub Committees revert to weekly hearings

RESOLVED –

- a) That the contents of the report and the implications for the Licensing Authority be noted
- b) To authorise officers to re-introduce a weekly schedule of Sub Committee meetings to deal with applications and to note that this would commence at the end of July 2009

10 Date and Time of Next Meeting

RESOLVED – To note the date and time of the next Committee meeting as Tuesday 4th August 2009 at 10.00 am