

MINUTES of the meeting of Extraordinary Licensing Committee held on Tuesday 17 November 2009 at 7.00 pm.

Present: Councillors John Purkiss (Vice- Chair), Charles Curtis, Sue Gray, Cathy Kent (substitute for Councillor Harris), Barry Johnson, Barrie Lawrence, Tunde Ojetola and Phil Smith.

Apologies: Councillors Robert Gledhill and Peter Harris.

In attendance: R Galliers, Senior Licensing Officer
V. Freeman, Senior Democratic Services Officer
S. Jones, Democratic Services Manager
M. Ogbu, Litigation Lawyer, Legal Services

As the Chair of the Licensing Committee, Councillor Gledhill, had submitted his apologies for the meeting, Councillor Purkiss, Vice-Chair of the Committee, took the Chair for the duration of the meeting.

5. MINUTES

The Minutes of the Licensing Committee, held on 6 October 2009, were approved as a correct record.

6. ITEMS OF URGENT BUSINESS

The Chair informed Members that there were no items of urgent business.

7. DECLARATIONS OF INTEREST

Councillor Lawrence declared a personal interest in respect of Agenda Item 6, "The Licensing Act 2003 – Supervision of Alcohol Sales in Community Premises", as he was the Chair of a Village Hall Committee.

8. THE LICENSING ACT 2003 – NEW PROCEDURE FOR MINOR VARIATIONS

The Senior Licensing Officer introduced a report, which informed the Committee of changes to the Licensing Act 2003 that had been introduced through the Legislative Reform (Minor Variations to Premises Licences and Club Premises Certificates) Order 2009.

A copy of the Legislative Reform (Minor Variations to Premises Licences and Club Premises Certificates) Order 2009 was attached to the report for Members' information.

In considering the report, Members expressed concern in respect of the potential for applications to be received that sought the removal of

any conditions that had been attached to a licence by a Licensing Sub-Committee, who felt these to be necessary and proportionate to address the licensing objectives.

Members were advised that some applications may be in relation to the removal of out of date conditions that were transferred to a Premises Licence using "Grandfather Rights" from the previous licensing regime.

In addition, the Senior Licensing Officer informed the Committee that he was of the view that if a Sub-Committee had attached conditions to a licence, it would not be appropriate for an officer to determine an application for a minor variation that sought to remove some of the conditions that had been attached by a Sub-Committee, as these had been considered to be necessary and proportionate to address the licensing objectives.

The Committee expressed further concern as to whether Members were to be advised of any applications under the Minor Variations Procedure and whether they would receive information in respect of applications that had been determined by officers.

Members sought clarification in terms of representations to be made by Councillors before an application for minor variation was considered by officers. The Committee were informed that the Order intended for an application for minor variation to be considered solely at the discretion of officers, without any particular input by Councillors, otherwise this would be akin to having a formal hearing.

The Senior Licensing Officer advised Members that Councillors could make representations, but only if they fell within the definition of an 'interested party' under Licensing Act 2003.

Members then queried what would be classed as a small adjustment to licensing hours and felt that some of the terms used in paragraph 3.2 of the report were somewhat vague and that further information was required.

The Senior Licensing Officer advised the Committee that the Order was not specific in this respect, although it was reported that paragraph 3.2 of the report had been extracted from guidance issued by the Secretary of State.

Members suggested that a definition of small adjustment to hours could be included within the Licensing Policy Statement, whereupon the Senior Licensing Officer advised the Committee that the Policy Statement would be reviewed next year and that the issue of minor variation applications would be addressed within this review.

In considering the recommendations contained within the report, Members felt that they could not support the recommendation, as worded, for the Constitution to be amended to reflect the delegation for the Head of Public Protection to determine applications for minor variations.

The Committee sought assurances that Members would be advised of applications received under the minor variations procedure and that they would be informed once the Head of Public Protection had determined any such application, with a request being made for the Constitution to be amended to this effect.

A Member then suggested that the item could be deferred to allow for a review to be undertaken as to what would be within the parameters of the Act and what would be within the parameters of the guidance, with a revised report being brought back to the Committee for consideration.

At this point, the Democratic Services Manager advised the Committee of the procedure used by the Council to inform Members of Planning Applications that had been received, through the production and electronic distribution of a "weekly list".

It was suggested that that the Committee may wish to proceed with the recommendations contained within the report and also consider adding two additional recommendations to request that a similar approach be adopted in this case, namely:-

"That the Head of Public Protection be requested to notify all Members of the Council as and when an application is received under the Minor Variation Procedure, with such notification to include details of the application submitted; and

That the Head of Public Protection be requested to arrange for the publication of all decisions taken under the Minor Variations Procedure, with these being published to the Council's Committee Management System, and that all Members receive an electronic notification of the publication of the decision."

The Committee indicated that they were satisfied with the suggestion made. Accordingly, it was proposed by Councillor Lawrence (seconded by Councillor Ojetola):-

"That the recommendations contained within the report, together with the additional proposals made at the meeting, be agreed."

Members unanimously indicated their agreement to the proposal, whereupon the Chair declared this to be carried.

RESOLVED:

- 1. That the amendments to the Licensing Act 2003 in relation to minor variations be noted.**
- 2. That the Head of Public Protection be delegated the power to grant or refuse applications for minor variations; and**
- 3. That the Council's Constitution be amended to reflect the delegation to the Head of Public Protection to grant or refuse applications for minor variations.**

4. **That the Head of Public Protection be requested to notify all Members of the Council as and when an application is received under the Minor Variation Procedure, with such notification to include details of the application submitted.**
 5. **That the Head of Public Protection be requested to arrange for the publication of all decisions taken under the Minor Variations Procedure, with these being published to the Council's Committee Management System, and that all Members receive an electronic notification of the publication of the decision.**
9. **THE LICENSING ACT 2003 – SUPERVISION OF ALCOHOL SALES IN COMMUNITY PREMISES**

The Senior Licensing Officer introduced a report, which informed the Committee of changes to the Licensing Act 2003 whereby church halls and community premises no longer required a designated premises supervisor for the sale or supply of alcohol.

A copy of the Legislative Reform (Supervision of Alcohol Sales in Church and Village Halls & c.) Order 2009 was attached to the report for Members' information.

It was reported that at present, each premises licence issued under the Licensing Act 2003 had a mandatory condition that the premises must have a designated premises supervisor (DPS) and that every sale of alcohol must be authorised by a personal licence holder.

Members were informed that the Legislative Reform (Supervision of Alcohol Sales in Church and Village Halls & c.) Order 2009 enabled church and village halls and similar community premises to have that condition removed when they applied for a premises licence.

It was noted that Church halls, community and similar premises that currently hold a premises licence with the mandatory condition attached could apply to have this removed, however, this could only be done by means of the full variation procedure.

RESOLVED:

That the changes to the Licensing Act 2003 in respect of church halls and community premises be noted.

The meeting finished at 8.10 p.m.

Approved as a true and correct record

CHAIRMAN

DATE

**Any queries regarding these Minutes, please contact
Steve Jones, telephone (01375) 652107,
or alternatively e-mail sjones@thurrock.gov.uk**