

Runnymede Borough CouncilLICENSING COMMITTEE23 June 2005 at 7.30 p.m.

Members of the Committee present: Councillors A.J. Davis (Chairman), Mrs P.I. Broadhead (Vice-Chairman), Mrs F.M. Angell, Mrs E. Gill, Ms. R.E. Haylor, Mrs C.Y. Jones, C. Knight, Mrs Y.P. Lay, Mrs J. Norman, D.W. Parr, R. Pate, B.J. Relph, Mrs M. Roberts and J.R. Whiteley.

Members of the Committee absent: Councillor P.A. Greenwood

121. CHAIRMAN'S ANNOUNCEMENT

The Chairman introduced the new Assistant Solicitor and the Senior Licensing Officer to the Committee.

122. MINUTES

The Minutes of the meetings of the Committee held on 27 January and 12 May 2005 were confirmed and signed as a correct record.

123. APOLOGIES FOR ABSENCE

Apologies were received from Councillor P.A. Greenwood.

124. LICENSING CODE OF CONDUCT FOR MEMBERS AND RULES OF PROCEDURE

The Committee considered in detail the proposed Licensing Code of Conduct applying to Members of the Licensing Committee and other Members, and the proposed Rules of Procedure for the conduct of meetings of the Licensing Sub-Committee.

Members focussed on areas of the Code under their individual headings and related these to their role on the Licensing Committee and as Members of the Council, and the implications for those Members not serving on the Licensing Committee.

Members noted that the draft Code and Procedures would be considered by full Council at its meeting in July 2005.

**Guiding principles for Licensing Committee Members**

Within this section of the Code, Members drew attention to the duality of their role as representatives of their individual Wards balanced with that of serving on the Licensing Committee.

The Committee was advised that no Member of the Council could represent one of the interested parties or applicant as this would give rise to a personal and prejudicial interest under the Council's Code of Conduct for Members.

It was agreed that a Member must make an honest appraisal of each application and its circumstances, not represent an individual's concerns but instead report general comments without attributing them to any one person or particular group.

**Natural Justice**

Members were keen to afford equal terms to both the applicant(s) and Objector(s) and other interested parties who might be present at a meeting of the Licensing Sub-Committee. This matter was discussed in more detail when the Rules of Procedure were debated.

### **Members' Interests and Licensing Applications.**

Members had a lively discussion in respect of personal and prejudicial interests and where the former became the latter. Members agreed that it was easier to define the more obviously prejudicial situations, for example; where a Member was on the management committee of a social club or other establishment, or was socially acquainted with the members thereof, but that issues arose where the connection was more informal. However, it was agreed that as a general rule if a Member was on first name terms with the staff and/or management of any local licensable premises or clientele thereof then the interest should be defined as prejudicial.

Similarly, if a political group held their meetings at one venue on a regular basis, and were known to do so in the local community, or frequented a particular restaurant in the Borough, that too was best regarded as prejudicial.

Where a Member was a representative on a local consortium such as 'Pub Watch' which performed a public service of general interest to the community it was advisable to declare such a membership and for the Chairman to ask those present at the Sub-Committee hearing whether they had any objections to that Member taking part.

It was agreed that the provision for four Members to be called for each Sub-Committee meeting was useful in order to avoid delay in a hearing taking place if it transpired that one of those called was unable to participate or an objection raised.

### **Gifts and Hospitality**

It was agreed that extreme caution should be exercised in respect of all situations in which gifts or hospitality might be involved, regardless of monetary value.

### **Applications submitted by the Local Authority**

It was agreed that any Member who had been involved in an application made by the local authority for a premises licence for one of its open spaces should be precluded from consideration of the matter.

### **Lobbying**

Members discussed the difficulty of avoiding those who wished to engage in lobbying, primarily because such motives would only be revealed after a conversation had begun. Members were advised of the requirement to come to a hearing with a clear mind, not having discussed the matter with any of the interested parties. If a Member was lobbied they should report the incident to relevant Officers.

Therefore, a ward Member would need to decide whether they wished to serve on a panel in hearing a particular application from their ward without prior involvement or attend that meeting as a ward representative, giving collective views of one's constituents as it was not possible to do both.

It was confirmed that the Code of Conduct for Licensing had been drafted to complement that of Planning within the context of the Licensing Act 2003 (the Act) for the avoidance of doubt.

### **Recording of Reasons**

The Committee noted the requirement to record reasons for decisions made by the Licensing Sub-Committee.

### **Site Visits**

Members discussed the benefits of making site visits to an applicant's premises and the overarching need to avoid the appearance of bias. The Committee was advised that visits should only be undertaken by a Member as part of an official party, accompanied by the Senior Licensing Officer.

The Committee noted that it was acceptable practice to adjourn a hearing for the purpose of visiting the premises and requested Officers to set out a procedure accordingly.

### **Conduct at Hearings**

Members noted the provisions made for the conduct of hearings.

The Committee then considered the draft Rules of Procedure for the meetings of the Licensing Sub-Committee. This was a self contained document which concerned itself with instructions and practicalities.

It was agreed that once approved by full Council, the Rules of Procedure should be parcelled separately and circulated to Members for their use at hearings and also available for reference at each meeting.

As with the Code of Conduct, Members discussed in detail different sections of the document as set out below.

### **Composition of the Sub-Committee**

The Committee noted that for each hearing, four Members would be requested to attend in case one of the three required was unable to participate. Other Members of the Council, including the Licensing Committee, would be allowed to attend as observers, with the permission of the Chairman, and in accordance with the provisions of the Council's Constitution and Licensing Code of Conduct.

### **Notice of Hearing**

Members noted the statutory notice periods for each type of application as set out in the Regulations under the Act, and that from the date on which an application was received it was likely to be seven weeks until a hearing was held, unless mediation took place which would obviate the need to consider the application at Committee level.

### **Hearing to be in Public**

Officers agreed to reconsider clarifying the wording in respect of 'public interest' in the context of defining those circumstances in which meetings or parts thereof may be held in public or private.

### **Report**

Members approved the model report which set out in broad terms what information would be presented for each hearing. It was agreed to clarify the position in respect of the disclosure or otherwise of names and addresses of those making representations on an application.

### **Procedure at Hearing**

The Committee approved the procedural arrangements and were pleased to note that provision to vary them were in place should it be appropriate to do so; for example if an applicant had no legal representation the order of speakers could be re-arranged, or if numbers justified it, the Sub-Committee could withdraw to consider the application rather than requesting the other parties to do so which might prove impractical.

Members were surprised that 'hearsay' evidence would be accepted, noting however that consideration would always be given to the weight, if any, that should be attached to such evidence on a case by case basis.

In respect of time limits for the applicant and objectors to state their case it was agreed that each should be allowed an equal maximum amount of time but that the actual time allowed need not be rigidly set but could be varied either up or down by agreement of all parties as long as each party received the same amount overall.

Subject to minor typographical alterations the Committee approved the Licensing Code of Conduct for Members and Rules of Procedure for recommendation to full Council accordingly.

**RECOMMEND that –**

- i) the Licensing Code of Conduct for Members as attached at Appendix 'A' and the Rules of Procedure as attached at Appendix 'B' be approved with immediate effect; and**
- ii) the Director of Administration and Leisure in conjunction with the Director of Technical Services be authorised to make minor editorial corrections to the Code of Conduct as necessary.**

125. LICENSING ACT 2003 – UPDATE

The Committee received for information an update report on the Licensing Act 2003 and progress with its local arrangements since the first implementation date on 7 February 2005.

Members noted that 76 applications for Personal Licences and 27 for Premises Licences had been received, and that the deadline for all applications was 6 August 2005. Reminders had been despatched recently and therefore, it was anticipated that a rush of applications would arrive within the next few weeks. It was also noted that 13 applications had been returned to their respective applicants on the grounds of being incomplete.

The Committee was advised that a total of 540 applications for personal licences and 500 for premises licences was likely and those persons who did not meet the deadline of 6 August 2005 for transitional licences would have to apply for a new licence, to be in place by 24 November 2005, the second appointed day at which time all existing licences under the old regime would expire.

The general trend was that most off-licences had applied for a straight transition to a like for like licence, but that the majority of public houses and clubs had sought a variation to their current conditions.

It was agreed that the Sub-Committees would be very busy during the August – October period to ensure that all applications were dealt with in a timely fashion and to comply with legislative requirements.

It was agreed that in order for the memberships of individual hearings to be determined, and to factor out any issues over Members' interests, the Committee be provided with a list of provisional hearing dates and that their dates of availability be ascertained as a matter of urgency.

The Committee was advised that applications received were available to view on the Council's website. However, consideration would be given to producing a paper copy of the Register as well, giving the date of application, location of premises and/or identity of those who had applied for personal licences.

In respect of the Council's Licensing Policy, Officers confirmed that it was likely to be reviewed before its 3 year life had expired.

Chairman

(The meeting ended at 8.35 p.m.)