



## LICENSING COMMITTEE

YOU ARE REQUESTED TO ATTEND A MEETING OF THE LICENSING COMMITTEE TO BE HELD IN THE PRINCIPAL COMMITTEE ROOM, THE DEANE HOUSE, BELVEDERE ROAD, TAUNTON ON MONDAY 16TH JANUARY 2006 AT 18:15.

---

### **AGENDA**

1. Apologies
2. Minutes of the Licensing Committee held on 28 February 2005 (attached)
3. Public Question Time
4. Review of Licensing Act 2003 Implementation - review of the implementation of the Licensing Act 2003 by Taunton Deane Borough Council and to raise lessons learnt from the events of 2005, with a view to further improving the administration of the Licensing Act 2003 by the Council (attached) James Barrah/Jim Hunter/Ian Taylor
5. The Gambling Act 2005 - the report is to inform the Committee of the passing of the Act and its implications for the Council (attached) Ian Taylor

G P DYKE  
Member Services Manager

The Deane House  
Belvedere Road  
TAUNTON  
Somerset

TA1 1HE

06 January 2006

LICENSING COMMITTEE Members:-

Councillor Mrs Allgrove (Chairman)

Councillor House (Vice-Chairman)

Councillor Beaven

Councillor Mrs Bradley

Councillor Croad

Councillor Floyd

Councillor Hall

Councillor Mrs Marcia Hill

Councillor Hindley

Councillor Mrs Lewin-Harris

Councillor Meikle

Councillor Phillips

Councillor Slattery

Councillor Smith

Councillor Stuart-Thorn



Members of the public are welcome to attend the meeting and listen to the discussion. Lift access to the main committee room on the first floor of the building is available from the main ground floor entrance. Toilet facilities, with wheelchair access, are also available. There is a time set aside at the beginning of the meeting to allow the public to ask questions



An induction loop operates to enhance sound for anyone wearing a hearing aid or using a transmitter. If you require any further information, please contact Greg Dyke on:



Tel: 01823 356410  
Fax: 01823 356329  
E-Mail: [g.dyke@tauntondeane.gov.uk](mailto:g.dyke@tauntondeane.gov.uk)

Website: [www.tauntondeane.gov.uk](http://www.tauntondeane.gov.uk) (Council, Executive, Review Board & Review Panel Agenda, Reports and Minutes are available on the Website)

## Licensing Committee – 28 February 2005

Present: Councillor Mrs Allgrove (Chairman)

Councillors Croad, Floyd, Mrs Hill, Hindley, House, Phillips and Stuart-Thorn.

Officers: Mr I Taylor (Chief Solicitor)  
Mr J Hunter (Licensing Manager)  
Mrs D Durham (Member Services Officer)

(The meeting commenced at 6.15 pm)

### 5. Apologies

Councillors Beaven, Mrs Bradley, Hall, Mrs Lewin-Harris, Meikle, Slattery and Mrs Smith.

### 6. Minutes

The minutes of the meeting held on 24 January 2005 were taken as read and signed.

### 7. Procedure to be followed at Licensing Sub-Committee Hearings

Considered report previously circulated, concerning the proposed procedure to be followed at Licensing Sub-Committee Hearings.

The Licensing Act 2003 (Hearings) Regulations 2005 and the Licensing Act 2003 (Hearings) (Amendment) Regulations 2005 came into force on 7 February this year.

The main Regulations detailed the period of time within which a hearing was to be held, the Form of Notice of the Hearing and the information to accompany that Notice. The Regulations also contained a provision that would enable the Hearing to be dispensed with if all parties agreed. If a Hearing was required, the Regulations specified that it should take place in public, except in certain circumstances, and who might attend and be assisted or represented.

Under the Regulations, the Authority was required to determine the procedure to be followed at a Hearing, and then explain this to the parties involved.

Submitted for consideration a draft pro forma, which set out the suggested procedure to be followed to conduct a Licensing Sub-Committee Hearing.

The procedure document would need to offer a degree of flexibility and it was therefore suggested that the Licensing Sub-Committee should be given freedom to adapt the procedures as it saw fit.

It had been the practice of the Council's Licensing Board to issue its procedure document prior to Hearings taking place and it was intended to use the same system for Licensing Sub-Committee Hearings.

Consideration was given to repetitious representations and the length of time that people should be allowed to speak at the hearings and whether they should be given some guidance prior to the hearings. The Chief Solicitor indicated that no time limits should be imposed and although everyone should be given the opportunity to speak, they could be reminded to support a view rather than repeat the representation. The Licensing Manager indicated that the Objection Form that was available on the website clearly explained that no additional criteria could be introduced at the hearing and that any representations must be linked to the four licensing objectives.

Fast food outlets that were open after 11pm would require a licence for the first time and concern was expressed over the language barrier that may cause problems to these proprietors. The Licensing Manager had been researching the availability of licensing applications in other languages which could be helpful to him.

RESOLVED that the procedure to be followed at Licensing Sub-Committee Hearings as set out in the procedure document be agreed.

(Councillor Mrs Hill arrived at the meeting at 6.20pm during the discussion of Minute No.7)

#### 8. Enforcement Protocol

Considered report previously circulated, which provided information to enable the Committee to assess the impact of the Licensing Act 2003 and to make recommendations to adopt a joint enforcement protocol with the Responsible Authorities.

The report detailed the current number of licensed premises in Taunton Deane Borough Council's licensable area, of which approximately five hundred premises were likely to require a licence or Club Premises Certificate.

The Licensing Act set out the number of bodies that had become Responsible Authorities (RAs) and, as such, had now become Statutory Consultees, with the power to seek a review of a licence.

In order to provide some guidance as to which body should be the lead agency in relation to enforcement, an Enforcement Protocol had been drafted and circulated to all RAs and their views/comments had been sought.

It was thought that premises should be inspected in accordance with the

likelihood of the premises to cause problems. A calculation sheet had been devised to assess which premises were most likely to create problems. The risk assessment score would be available to owners and operators of businesses, which might encourage them to aim to reduce a high score.

There appeared to be a great deal of confusion over the statutory dates of the new licences but it was thought that clarification of this was the Government's responsibility. However, the Licensing Manager had highlighted the significant dates at recent interviews with the media and would continue to do so.

RESOLVED that the contents of the report be noted and the use of the enforcement protocol and risk rating calculation sheet be endorsed.

(The meeting ended at 7.04pm).

# TAUNTON DEANE BOROUGH COUNCIL

## LICENSING COMMITTEE

16<sup>th</sup> January 2006

### REVIEW OF LICENSING ACT 2003 IMPLEMENTATION.

(This matter is the responsibility of Executive Councillor Edwards)

### JOINT REPORT OF CHIEF ENVIRONMENTAL HEALTH OFFICER, LICENSING MANAGER and CHIEF SOLICITOR

#### 1. PURPOSE

- 1.1 The purpose of this report is to review the implementation of the Licensing Act 2003 by Taunton Deane Borough Council, and to raise lessons learnt from the events of 2005 with a view to further improving the administration of the Licensing Act 2003 by the Council.

#### 2. EXECUTIVE SUMMARY

The implementation of the Licensing Act 2003 by Taunton Deane Borough Council over the last year has generally been successful. The Council has performed well in many areas of the transitional activities receiving national recognition and praise for some aspects of this work. However some issues have been identified where the service can continue to improve. With the transitional work completed there are a range of tasks and responsibilities that arise from the Licensing Act 2003 that will continue to engage officers and members alike.

#### 3. BACKGROUND

- 3.1 The Licensing Act 2003 introduced a fundamental change in the way premises and activities are regulated. The Act transferred the responsibility for alcohol related licensing from the local justices to the local authority. The Act is deregulatory in nature and seeks to implement a new alcohol and entertainment culture by relaxing previous restrictions on these activities. Protection of local communities is afforded by pursuance of the four licensing objectives, which underpin local authority considerations in implementing the new regime.
- 3.2 The Council published a Licensing Policy following an extensive consultation process, on 14<sup>th</sup> December 2004. The policy outlines the Council's position on how it will determine all applications to supply alcohol, provide regulated entertainment and operate late night refreshment. It seeks to provide assistance and clarity to applicants, interested parties and responsible authorities at a local level, incorporating the fundamental principles of the Act and associated guidance.
- 3.3 Since the creation of the Licensing policy in late 2004, the transitional period from the old to new arrangements has taken place. In addition, the second appointed day in November 2005 has now passed, which resulted in all new licenses going live and the new legislation coming fully into force.

- 3.4 During 2005 the Council has undertaken a massive task in implementing the Licensing Act 2003. The activity has primarily fallen to the Licensing Unit within Environmental Health, but with significant support from Legal Services and Member Services and of course significant contributions from members. Most of this transitional work is now completed, so it is appropriate to review this activity, take stock and consider issues that might arise in the future from these new responsibilities.

#### **4. LOCAL PUBLICITY**

- 4.1 Following the issue of the licensing policy there was a need to publicise the change in the legislation to local traders. The transitional period started with the first Appointed Day in February 2005. All applications to convert existing licences to the new regime needed to be submitted by the 6<sup>th</sup> August 2005.
- 4.2 It was important to ensure that the highest possible level of conversion applications were received before the deadline. This was to avoid the potential for many premises to have to cease trading if conversions were not made correctly, resulting in a significant enforcement issue for the Council and local Police. In addition it was desirable to encourage a reasonable spread of conversion applications through the six-month period to avoid a significant peak in administration, if all applicants left making their applications until the last minute.
- 4.3 Extensive efforts were made to communicate with the local trade. Information was available on the Council's website, letters were sent to known premises, workshops were undertaken in the Council offices on the new arrangements including surgeries where applicants could talk through their specific application with a licensing officer. Visits were also undertaken to premises where requested to discuss applications, and visits were also undertaken proactively to some types of premises, for example takeaway food outlets, that had not been subject to licensing previously and may therefore have been unaware of the changes.
- 4.4 In addition, the local media was used extensively with the assistance of the Council's Public Relations Officer to regularly raise the issue on local TV, radio and especially local newspapers.
- 4.5 This approach was very successful, at the end of the transitional period the Council had received 95% of the premises licence applications that it was anticipating. This figure was later confirmed by the Department for Culture, Media and Sport as the highest level of applications in the country.
- 4.6 Throughout the transitional period the Council's website was continually refined and utilised by applicants. In particular the addition of sample completed application forms was particularly well received. This work culminated in Taunton Deane Borough Council being specifically praised for its website by the Department for Culture, Media and Sport, who in turn signposted other local authorities to the Council's website as an example of best practice.



## 5. PREMISES LICENSES

- 5.1 To date 406 premises licences have been issued. This number is made up from the following types of business.

Premises Type	Number
Village/Church Halls	37
Schools/Colleges	9
Pubs/Clubs	128
Hotels	14
Off-licences	58
Takeaways/Restaurants/Cafes	77
Sports Venues	26
Club Premises Certificates	19
Other	38
<b>Total</b>	<b>406</b>

- 5.2 Many premises have taken advantage of the opportunity to maximise their trading potential in the new regime by, for example, extending their trading hours. However only 18 premises have been granted 24 hour licences. These 18 premises include 5 off-licences (4 supermarkets and 1 garage), 1 pub and 12 hotels (where trade relates to hotel residents only).
- 5.3 Many premises' applications resulted in concerns being raised in the form of representations either from Interested Parties (usually local residents) or Responsible Authorities. Where these concerns, or in the case of Responsible Authorities suggested conditions, could be resolved by discussion with the applicant, then this route was pursued. If all parties were in agreement the issue could then be included as a condition on the licence, and the licence issued. However, where issues could not be resolved by informal discussion a Licensing Sub Committee was required to determine the application.
- 5.4 To date a Licensing Sub Committee has been convened on 22 occasions to determine premises licence applications. This process has generally worked effectively and has been well received by all participants. Both applicants and interested parties have welcomed the opportunity to voice their respective positions. This in turn has allowed the Sub Committee to make a balanced decision on the basis of presentations made.
- 5.6 The Sub Committee hearings have also demonstrated that three separate Council departments, i.e. Licensing, Legal Services and Member Services can work closely and effectively together and with members to deliver a specific goal.

## 6. LICENSING SUB COMMITTEE DECISION APPEALS.

- 6.1 Following Sub Committee decisions on premises licence applications, six appeal notifications were lodged at Taunton Magistrates Court. Subsequently two of these appeals were withdrawn, two were resolved by reaching a compromise agreement and two cases went to a full hearing in front of the Magistrates.
- 6.2 The Council instructed external solicitors to represent it in connection with these appeals and a Barrister with specific expertise was subsequently appointed. The hearings proceeded with the Council's evidence consisting of submissions from officers of Licensing, Environmental Protection and from the Avon and Somerset Police.

- 6.3 Both cases mostly considered the specific matter of the Councils' decision to impose a last time of entry and/or re-entry of 00.30 hours. Each case was considered in some detail and both resulted in the Council's original decisions being upheld by the court. During one of the hearings the Council was praised for the way it had worked effectively in partnership with Avon and Somerset Police and how it had considered local issues and specific local circumstances when making licensing decisions.

## **7. PERSONAL LICENCES**

- 7.1 The Council has currently issued 493 Personal Licences, which allow persons to sell alcohol in licensed premises.

## **8. LESSONS LEARNT**

- 8.1 The process of implementing the Licensing Act 2003 has been a major challenge for Taunton Deane Borough Council and has on the whole been very successful. However, there are some matters that with hindsight may have been done differently. Some of these matters are worthy of consideration now because even though the vast majority of premises are now licensed, some issues may necessitate amendment of the licensing policy that will impact on any future new premises applications and guide the ongoing reviews of existing licences. Three such issues are described below:

### **1. Noise Conditions**

The Environmental Protection Team within Environmental Health as a Responsible Authority frequently raised concerns in relation to noise arising from a premises. This resulted in officers recommending a suitable condition to limit the potential impact of this noise. Depending on the specific circumstances, one of three different conditions may have been proposed, some incorporating a drawn circle on a plan and some not.

Whilst the reasons for choice of noise condition may have been technically sound, feedback from discussions with applicants and interested parties suggested that this approach was confusing, hard to understand and appeared inconsistent. The Secretary of State's guidance on the Licensing Act 2003 does not recommend the use of standard conditions and encourages licensing authorities to judge each case on its own merits. Therefore it would not be desirable to create a "standard" noise condition. However, where noise conditions are recommended as part of future applications, they should be accompanied by a suitable explanation as to why that specific condition has been used.

### **2. Last Time of Entry/Re-entry**

For many town centre, high volume, alcohol led venues, a condition was imposed that resulted in no entry or re-entry to the premises after 00.30 hours. This condition was imposed following representations from the Police as a part of their approach to reducing crime and disorder. This is achieved by this condition reducing the movement of large numbers of people from venue to venue late at night, having potentially consumed large volumes of alcohol and therefore leading to disorder.

This specific issue resulted in the main concern in the two Magistrates Court Appeal hearings described above. This issue is not specifically dealt with in the Council's Licensing Policy, however on review it may be worthy of inclusion.

### 3. Extending Opening Hours

Paragraph 4.2.5 of the Council's Licensing Policy states:-

*"So as to avoid the need for repeated service of temporary event notices, the Council encourages applicants for premises licences/club premises certificates to include in their operating schedules provision for the following:*

*(1) Extending their operating hours by up to three hours beyond the normal terminal hour on 24 occasions per calendar year.*

*(2) Early opening on special occasions such as sporting events being played outside normal operating hours to a maximum of 12 occasions in a calendar year, with opening to be no more than 30 minutes prior to the start of such an event."*

Some applications not only took advantage of standard extended hours for late operation to, for example, 3am but then also took advantage of point (1) above and applied for operation extended by a further 3 hours on 24 occasions.

It was not the intention that this provision be used in this way but that this provision would be used by premises that were operating traditional pub hours and could open until 2am, for example, on a limited number of occasions as they were previously able to do by applying for a licence extensions. Again this section of the policy may require review.

## 9. FUTURE ISSUES

9.1 There are a number of issues that are currently being addressed by the Licensing Unit now that the transitional work is completed.

### 1. Enforcement

The Council was previously responsible for around 100 licensed premises comprised of public entertainment, theatres, cinemas and late night refreshment, it is now responsible for over 400 premises, all featuring bespoke conditions. This will require an effective enforcement approach to operating premises. The Licensing Unit has a good record of enforcement, and incorporates a contractual out of office hours commitment from key officers. This capacity is particularly useful to monitor late night venues during their operating times. Visits are already being made to monitor compliance with new conditions, with many visits being undertaken jointly with the Police.

However the primary avenue for concerns from interested parties or responsible authorities to be raised is by one of these parties seeking a review of a licence. Where a review is requested a report will be presented to a specifically convened Licensing Sub Committee on the subsequent investigation undertaken by the Licensing Unit. The Sub Committee is able to amend the licence and associated conditions or

withdraw the licence completely if appropriate. To date there have not been any requests for reviews of licences.

## **2. Public Register**

The Licensing Act 2003 and subordinate Regulations contain extensive requirements for public registers of relevant information. Officers are currently working to provide the information prescribed, that will be available mostly through the Council's website.

## **3. Collection Of Annual Charge For Premises Licences**

A premises licence can be granted for unspecified time frame, that is to say the licence may remain in force without the need for it to be renewed. There is however an annual charge, which is meant to cover the costs of the licensing process. The only method of collecting the annual charge if payment is not forthcoming is by way of a Sundry Debt. The Licence continues to remain in force even if the annual charge is not paid.

## **10. GOVERNMENT SCRUTINY PANEL**

- 10.1 Taunton Deane Borough Council has been asked to be one of only ten local authorities in England and Wales, that will act as Scrutiny Councils to the Government on the progression and effectiveness of the licensing reforms. This initiative will run for the first six months of 2006 and is being led by the Department for Culture, Media and Sport, but will also include the Home Office and Office of the Deputy Prime Minister (ODPM).
- 10.2 The nominated officers for Taunton Deane Borough Council are James Barrah and Jim Hunter who will be working with a policy officer from DCMS to provide a view from local government and seek to make suggestions for amendment of the Licensing Act Guidance and implementation.

The full list of participating council's is a follows:-

- |              |                 |
|--------------|-----------------|
| - Birmingham | - Havering      |
| - Blackpool  | - Manchester    |
| - Brighton   | - Newcastle     |
| - Bristol    | - Nottingham    |
| - Cardiff    | - Taunton Deane |

- 10.3 This initiative is a unique opportunity for a small borough council to influence national policy. It also allows views from all levels of the organisation to be fed back to Government.

## **11 ONGOING ACTIVITY**

- 11.1 The Licensing Committee and more especially its Sub Committees can expect to be involved in deciding any new applications for a premises licences, (where relevant representations are received), along with contentious temporary event notices and in carrying out reviews of premises licences where relevant representations have been received. There will also be the need to determine other licensing matters, such as taxi fares and other contentious licensing matters. We will review the Members training requirements in connection with all these matters

## **12. RECOMMENDATIONS**

- It is recommended that the Committee notes the report and progress made to date with implementation of the Licensing Act 2003 and the licensing reforms.
- The Committee may wish to consider and debate the areas for future work and review identified in the report, and raise any issues that they have experienced during the process so far. It is considered particularly important to raise issues that may warrant an amendment to the Council's Licensing Policy.

### Contact Officers:-

- James Barra, Chief environmental Health Officer. Extension 2460
- Jim Hunter, Licensing Manager. Extension 2462
- Ian Taylor, Chief Solicitor. Extension 2303

## **TAUNTON DEANE BOROUGH COUNCIL**

### Report of the Chief Solicitor to the Licensing Committee Meeting on the 16 January 2006

#### The Gambling Act 2005

##### 1. Purpose

- 1.1 This report is to inform the Committee of the passing of the above Act and its implications for the Council.

##### 2. Background

- 2.1 Since at least 1976 Local Authorities have had responsibility for registering society or Local Authority lotteries and since 1968 they have been responsible for issuing permits for amusement machines with prizes.
- 2.2 Under the Licensing Act 2003 Local Authorities are now responsible for issuing permits for amusement with prizes machines in licensed premises.
- 2.3 Shortly after expressing its intention to revise the Alcohol Licensing Legislation, the Government expressed its intention to revise the Gambling Legislation along similar lines and this has resulted in the Gambling Act 2005.

##### 3. Present Position

- 3.1 The Gambling Act 2005 was passed on the 7 April last and comprises 362 sections and 18 schedules, some of which are divided up into various parts. The Act is to come into force in accordance with provisions made by the Secretary of State. Thus far one Commencement Order had been made which provided the Secretary of State with power to make Regulations, Orders and rules under the Act. This came into force on the 27 August last.
- 3.2 The Act establishes the Gambling Commission which will largely take over the functions of the Gaming Board established under the Gaming Act 1968 but it also establishes that a District Council is to be a Licensing Authority under the provisions of Section 2 of the Act.
- 3.3 The Act introduces a regime of operating licences, premises licences and personal licences similar to that obtaining under the Licensing Act 2003. There will also be an ability to provide premises for gambling under a Temporary Use Notice system, very similar to the Temporary Event Notices arrangement, again under the Licensing Act 2003.
- 3.4 Local Authorities will be responsible for issuing premises licences, family entertainment centre licences and for issuing club gaming permits. In addition we will be responsible for dealing with Temporary Use Notices.

##### 4. Other Issues

- 4.1 The Act establishes the gambling licensing objectives as:-
- (a) preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime;

- (b) ensuring that gambling is conducted in a fair and open way and
  - (c) protecting children and other vulnerable persons from being harmed or exploited by gambling.
- 4.2 By virtue of Section 154 of the Act the functions of a Licensing Authority are delegated to the Licensing Committee of the authority, established under Section 6 of the Licensing Act 2003. There are some exceptions to this provision but there is also the power to sub-delegate certain functions to officers.
- 4.3 Section 349 of the Act requires the Licensing Authority to prepare a Licensing Policy and to renew it every three years. The Policy is to be kept under review. In preparing a Policy Statement or a revision there is to be consultation with the Chief Officer of Police, persons who represent the interests of those carrying on gambling businesses and persons who represent the interests of those likely to be affected by the exercise of the Council's functions under the Act. The Policy cannot be formulated by the Licensing Committee.
- 4.4 As stated above it remains for the various sections of the Act to be implemented and as and when the picture becomes clearer, further reports will come before this Committee and the Council's Executive in connection with the required Policy Statement.
5. Conclusions and Recommendation
- 5.1 This new Act will place further responsibilities and duties on the Council but it is understood that its implementation is not likely to be brought about until 2007 albeit that the Policy Statement referred to above might need to be prepared this year.
- 5.2 Your officers will be undergoing training on the Act in the course of the year and as and when relevant sections are brought into force arrangements will be made to afford training to the members of this committee and your colleagues should they require it.
- 5.3 At this stage you are RECOMMENDED to note the report.

R I Taylor  
Chief Solicitor  
Direct dial No 356408 or ext 2303