

Licensing Committee held on 19 November 2009 in the John Meikle Room, the Deane House, Belvedere Road, Taunton

- Present: Councillors Mrs Allgrove, Beaven, Coles, Mrs Court Stenning, Critchard, House, McMahon, Meikle, Stuart Thorne and Watson
- Officer Mrs D Durham (Democratic Services Officer), Mrs J Jackson (Legal Services Manager), Mr N Kerr, Operations Manager (Environmental Health), Miss H Mockridge (Administrative Officer – Democratic Services) and Miss O Walton (Licensing Officer), Mr P Dare (Licensing Officer)
- Others: Mr P Hawyes, the Driving Standards Agency

(The meeting commenced at 6.15 pm).

8. Appointment of Chairman

RESOLVED that Councillor Mrs Allgrove be appointed Chairman of the Licensing Committee for the remainder of the Municipal Year.

9. Appointment of Vice-Chairman

RESOLVED that Councillor House be appointed Vice-Chairman of the Licensing Committee for the remainder of the Municipal Year.

10. Apologies/Substitution

Apologies : Councillors Guerrier, Mrs Hill, Mrs Lees, Murphy and Mrs Waymouth
Substitution : Councillor Stuart-Thorne for Councillor Mrs Waymouth

11. Minutes

The minutes of the meeting held on 28 April 2009 were taken as read and were signed.

Mr Kerr updated the Committee on two items which appeared in the April minutes as follows:-

EU Services Directive

The EU Services Directive was due to come into force on 28 December this year and it would replace a number of duties upon Local Authorities.

The two most important new duties were that Applicants for many types of Licences, Consents or Permits were able to make application on line.

The means for payments associated with applications to be made electronically should have been in place.

18 steps were identified that remained to be completed in order to comply with the deadline, 8 were essential.

Good progress was being made to complete tasks that were in the authority's control, but many of the remaining tasks were heavily dependent upon close cooperation between Environmental Health and IT.

A meeting was to be held between the key players in order to draw up an Action Plan to take the project forward to completion.

The Councillors asked whether South West One and SAP were involved and pointed out that there was a diminishing timescale. Mr Kerr thought it was likely they would be involved but details of this would be looked at in the meeting. He acknowledged that timescales were short. The Councillors asked whether the Authority would be subject to penalties should the deadline not be met. Mr Kerr said that 90% of authorities would not be compliant and it would be up to the Authority to notify the Government at each stage.

Policing and Crime Bill

Mr Kerr explained the latest development which could give extended powers to Councillors. He was asked whether this would apply to members of the Licensing Committee. The Chair replied that it would, unless the member was part of the Sub-Committee, in which case they would not have been able to speak.

The Bill received Royal Assent on 12 November and was now law. It was being brought into force in stages and it was not yet clear when those sections that deal with Licensing matters would take effect.

It was hoped statutory guidance would be available before any changes were made to Licensing procedures.

There were two significant changes to the draft legislation. It was proposed that authorities would impose additional Conditions on licences in cases where two or more premises were linked to crime and disorder. This has been dropped from the Act as an addition to the original proposals; the Licensing Act 2003 would be amended to allow individual Councillors to make representations about Applications for premises licences or club certificates in their area. They would also be able to call for a Review of existing premises licences or club certificates.

12. Public Question Time

No members of the public were present at the meeting.

13. Declaration of Interests

Councillor Coles declared an interest as a Director of South West One. Councillor Mrs Allgrove and House declared an interest as a Trustees of Village Hall Halls. Councillor Mrs Court-Stenning declared an interest as an employee of Somerset County Council.

14. Introduction of Drivers Standards Agency Private Hire and Hackney Carriage Driver Assessments

Considered report previously circulated regarding amending the council's previous policy for private hire and hackney carriage driver applications by introducing a requirement for all applicants to obtain a pass certificate from the Driving Standards Agency (DSA) as part of the application process.

The Local Government Miscellaneous Provisions Act 1976 provided that the council mustn't grant a licence to drive a hackney carriage or private hire vehicle unless satisfied that the applicant was a fit and proper person to hold a drivers licence or to any person who had not, for at least twelve months prior to the date of the application, been authorised to drive a motor vehicle or was not so authorised at the date of the application.

The applicant was required by the district council to submit 'such information as they may have reasonably considered necessary' to enable them to determine whether the licence should have been granted and whether any conditions should have been attached to it.

All applicants were subject to a Criminal Records Bureau Check; this was taken into consideration before a licence was granted. No suitable Driving test was considered by the licensing officers at present as they were not qualified or trained to conduct one.

There was a large increase in the number of foreign drivers becoming hackney carriage and private hire drivers who had not passed a test in the UK. The introduction of the DSA driver's test and assessment was seen as a positive step towards addressing concerns raised.

This would not have applied to existing drivers unless sanctions had been imposed following a taxi sub-committee.

Hackney Carriage and Private Hire Drivers were the only group of professional drivers in the country not required to pass a national standard driving test. The DSA Hackney Carriage and Private Hire Assessment Test was designed to test the skills required to drive a taxi safely. Applicants could take the standard test and top it up with the wheelchair assessment at a later date. The Applicant arranged and paid for the test direct with the DSA. There was no cost implication for the authority.

The changes were to ensure the highest standards of safety and efficiency for the travelling public due to increasing traffic volumes and the influx of foreign drivers in the area.

It was proposed that the DSA testing criteria be added from April 2010.

Resolved: that the proposal be accepted and the Licensing Committee agreed to approve in principle the introduction of the Driving Standards Agency Assessment Scheme in respect of new drivers, with effect from 1 April 2010, subject to the results of a full consultation exercise. Further that a final decision should be made by the Chairman and Vice Chairman of the Licensing Committee, having taken account of comments arising from consultation.

That Members approved the Scheme being used as a sanction against existing drivers who may have committed offences that were in themselves, not sufficiently serious to warrant immediate suspension or revocation of Licences. Such a sanction would have required such drivers to pass the DSA Assessment within a specified period of an offence being notified, as an alternative to suspension or revocation.

15. Gambling Act 2005 – Revised Statement of Principles

Considered report previously circulated to agree a draft statement of principles for consultation in accordance with the requirements of the Gambling Act 2005.

The Gambling Act 2005 placed a duty on the Licensing Authority to produce a Statement of Principles (also known as the Gambling Policy).

The Licensing Authority was required to review the policy document at least every three years and take into account the views of those representing the holders of existing licences and certificates, local residents, businesses and the police. The Policy must be written and adopted by the Licensing Authority by 1 January 2010.

The report introduced the draft statement of principles for consultation in accordance with the requirements of the Gambling Act 2005.

The Gambling Act gave Licensing Authorities a number of functions in relation to gambling which included:-

- licensing premises for gambling activities
- considering notices given for the temporary use of premises for gambling
- granting permits for gaming and gaming machines in clubs and miners' welfare institutes
- the regulation of gambling and gaming machines in alcohol licensed premises
- the grant of permits to family entertainment centres for the use of certain lower stake gaming machines
- the grant of permits for prize gaming
- the consideration of occasional use notices for betting at tracks
- the registration of small societies' lotteries

The revised draft statement of principles for re-adoption had been submitted. It was developed around the Statutory Guidance to Licensing Authorities issued by the Gambling Commission.

The Act did not allow gaming machine applications from premises which gave free access to children. Premises from which such applications would not be accepted were listed in the draft statement.

The draft statement could have been adopted within existing resources. The implementation of the Gambling Act and associated legislation etc had added to the Council's workload.

There were approximately 100 premises that required premises licences. These included public houses, betting shops, bingo halls, tracks and amusement arcades.

The revised draft statement of principles was subject to extensive consultations prior to re-adoption by the Council. The consultees were detailed in the draft statement of principles.

The Statutory Guidance to Licensing Authorities advised that the process should have followed best practice as set out by the Cabinet Office. 12 weeks should have been allowed for the responses. The end date for the consultation was Monday 12 October 2009.

Resolved that:

- (1) the revised statement of principles under the Gambling Act 2005 be agreed.
- (2) the agreed draft statement of principles undergoes consultation as required by the Gambling Act 2005 and associated statutory guidance.
- (3) a final statement of principles be submitted to full Council for consideration and approval following consultation.

16. Updated report on the Proposal to Allow the Removal of Requirements for a Designated Premises Supervisor and Personal Licence Holder for Community Premises

Considered report previously circulated regarding the introduction of a new process that allowed operators of community premises including village halls, church halls, chapel halls and similar community buildings, to seek to disapply the mandatory conditions that would otherwise require:

- a designated premises supervisor (DPS) was to be specified for every Premises licence authorising sales of alcohol
- every sale of alcohol at such premises was to be authorised by a Personal licence holder

Under the Licensing Act 2003 sales of alcohol had to be supervised by a personal licence holder and there had to be a DPS, holding a personal licence in respect of the premises.

The sale of alcohol carried with it greater responsibility than other licensable responsibilities. Individuals engaged in selling or authorising the sale of alcohol required a personal licence.

The Government acted to remove barriers regulating community premises seeking a licence for all of their activities, while still having retained an adequate level of public protection in relation to the sale of alcohol. Since August 2009, operators of community premises could have made an application for the usual mandatory conditions set out in the Licensing Act 2003 to be disapplied.

An application could be made if the licence holder was a committee or board of individuals responsible for the management of the premise.

The Licensing Authority had to be satisfied that the arrangements for the management of the premises by the committee or board were sufficient.

The effect would have been that the committee or board would have been responsible for the supervision and authorisation of all alcohol sales under the licence and there would have been no requirement for a DPS or for alcohol sales to be authorised by an individual personal licence holder.

Where a community premises already had a premises licence to sell alcohol but wished to take advantage of the scheme to disapply the usual mandatory conditions, it could submit the new form together with a fee of £23.

The application form required applicants to set out how the premises were managed, its committee structure and how the effective supervision of alcohol sales had to be ensured in different situations.

As the premises licence holder, the management committee would be collectively responsible for ensuring compliance with licence conditions and liable in law. However there would not necessarily have been an individual member always present at the premises during the time it was licensed for alcohol sales.

Where the premises were hired out, the hirer was clearly identified as having responsibility for matters falling within his or her control. In that respect it was similar to the arrangements for a third party holding an event under a Temporary Event Notice.

An additional safeguard was that in exceptional circumstances the Chief Officer of Police for the area in which the community premises was situated could have objected to a request for disapplication on the grounds of crime and disorder, and any responsible authority and/or interested party could have sought reinstatement of the mandatory conditions through a review of the licence.

The Police would have considered any history of incidents at an establishment in light of the actual or proposed management arrangements, which included the use of appropriate hire agreements. If the Chief Officer of Police issued a notice seeking the refusal of disapplication, the licensing authority must have held a hearing to reach a decision on whether to grant the application.

Applicants could appeal the decisions.

Resolved: that the contents of the report be noted.

17. Report Update on the Introduction of a Simplified Process for Minor Variations to Premises Licences and Club Premises Certificates

The Licensing Act 2003 was amended in August to allow a simplified process for minor variations to premises licences and club premises certificates. The report updated Members on the changes made.

The purpose of the minor variation process was to save time, money and regulatory sources. It allowed small variations that would not have adversely affected the promotion of licensing objectives through a simplified and less costly procedure.

Under the new process, the applicant did not need to advertise the variation or copy it to the Authorities. Details were displayed on a white notice at the premises for a period of ten working days.

The Licensing Authority had to consult the responsible authorities when it determined an application. Any relevant representations had to be taken into account. Representations from interested parties had to be made, in writing, within ten working days. The relevant representations should have only been concerned with the likely adverse effect of an application on the promotion of the licensing objectives.

The Licensing Authority could grant an application if it considered none of the variations proposed in the application would have had an adverse effect on the promotion of any of the licensing objectives. The Authority was to reject the application in any other case.

There was no right to a hearing in this process but the Authority was to take representations into account when arriving at a decision.

If an application was granted under the minor variation provision it was to notify the applicant in writing specifying the variations which were to have effect and the time when they were to have effect.

If an application was refused the Authority was to notify the applicant in writing, giving the reasons for refusal. The application was to be determined within fifteen working days of the receipt, otherwise the application was rejected and the authority was to return the application fee.

Minor variations fell into four categories:-

- minor changes to the structure or layout of the premises
- small adjustments to the licensing hours

- the removal of outdated, irrelevant or unenforceable conditions or the addition of volunteered conditions
- the addition of certain licensable activities

Major layout changes required the full variation process as they could have had an adverse impact on the promotion of licensing objectives.

The licensing authority would have considered the following factors when considering the applications:-

- the nature of the activity
- proximity of the premises to residential areas
- any licence conditions volunteered by the applicant to reduce the impact of the activity
- whether alcohol was sold at the premises when the licensable activity was taking place
- whether it would have continued to be sold during any extended period
- the track record of the premises, positive or negative. For example, any complaints or enforcement action related to the licensing objectives or any evidence of good practice in carrying on the licensable activity
- the proximity and density of public houses, nightclubs etc. If customers from the premises were likely to be attracted to the proposed licensable activity in large numbers. For example people visiting a takeaway after leaving a public house

Examples of changes regarded as minor and full variations were reported.

Applications to vary the time during which other licensable activities took place fell into either category and would be considered on a case by case basis.

The licensing authority could not impose its own conditions on the licence through the minor variations process. If the Licensing Officer considered that the proposed variation would have impacted adversely on the licensing objectives unless conditions were imposed, the application would have been refused. Applicants could volunteer conditions as part of the minor variation process.

Licence or club certificate conditions could normally have been volunteered or imposed to mitigate any possible adverse impact on the licensing objectives.

Resolved: that the contents of the report be noted.

The meeting ended at 7.42pm)

