

## **Licensing Committee – 12 July 2006**

Present: Councillors Mrs Allgrove, Beaven, Mrs Bradley, Croad, Floyd, Hall, Mrs Hill, Meikle, Phillips, Slattery, Mrs Smith and Stuart-Thorn.

Officers: Mr J Barrah (Chief Environmental Health Officer)  
Mr P Dare (Licensing Officer)  
Mrs D Durham (Review Support Officer)  
Mr J Hunter (Licensing Manager)  
Mrs W Sharland (Member Services Officer)  
Mr I Taylor (Chief Solicitor)

Also Present: Councillor Leighton

(The meeting commenced at 6.15 pm)

### **4. Appointment of Chairman**

RESOLVED that Councillor Mrs Allgrove be elected as Chairman of the Committee for the remainder of the Municipal Year.

### **5. Appointment of Vice-Chairman**

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

### **6. Apologies**

Councillors Hindley and Mrs Lewin-Harris

### **7. Minutes**

The minutes of the meeting held on 16 January 2006 were taken as read and signed.

### **8. Public Question Time**

Mr Parker was concerned that as an objector to the recent sex shop application, he had not been notified of the Licensing Committee meeting.

The Chief Solicitor, Mr Taylor, explained that the agenda was displayed at the front of The Deane House and also on the website. It was not the Council's policy to notify individuals.

Mr Parker also asked if the Committee would set a limit for the whole of Taunton, rather than the two Wards, as detailed in the report.

Mr Taylor stated that the Committee would consider the setting of a limit for sex establishments and would decide the area to be covered by the limit.

Mr Adam asked why he had been unable to access the agenda on the Taunton Deane web site.

Councillor Leighton replied that the agenda was published on the web site and although she had not experienced a problem accessing it, it might have been a temporary problem.

## **9. Gambling Act 2005 – Draft Statement of Principles**

Reference Minute No. 3/2006, reported that the Gambling Act 2005, which had received Royal Assent on 7 April 2005, repealed the Betting, Gaming and Lotteries Act 1963, the Gaming Act 1968 and the Lotteries and Amusements Act 1976.

The Act removed from licensing justices all responsibility for granting gaming and betting permissions, which they currently undertook. The gaming responsibilities undertaken by the licensing justices would pass to Taunton Deane Borough Council (the Licensing Authority).

The Act placed a duty on the Licensing Authority to produce a Statement of Principles (also known as the “Gambling Policy”). Licensing Authorities were required to review the policy document at least every three years. In producing this document, the Licensing Authority was required to take account of the views of those representing the holders of existing licences and certificates, local residents and businesses and the police.

The Statement of Principles had to be adopted by the Council by 31 January 2007, which was the same date that applications for premises licences and permits could be submitted.

The Gambling Act gave Licensing Authorities a number of important functions, including:-

- 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;
- regulating gaming and gaming machines in alcohol licensed premises;

- granting permits to family entertainment centres for the use of certain lower stake gaming machines;
- granting permits for prize gaming;
- considering occasional use notices for betting at tracks; and
- registering small societies' lotteries.

The Act had also created the Gambling Commission to act as a unified regulator for gambling in Britain. Its role included:-

- issuing Operating and Personal Licences to specified organisations and individuals;
- issuing guidance and codes of practice;
- monitoring licence holders and applying penalties when required; and
- advising the Secretary of State on gambling matters.

A draft Statement of Principles had been developed, based on advice received from the Local Authorities Co-ordinators of Regulatory Services (LACORS). A copy of the draft was submitted for consideration by Members.

The Licensing Act 2003 had given Licensing Authorities wider discretion in compiling a licensing policy and was not as prescriptive as the Gambling Act. It was expected that most authorities would adhere to the LACORS template.

Noted that it was possible the currently unpublished Statutory Guidance, Regulations and Codes of Practice that would be issued by the Gambling Commission might affect the policy produced, but these could be incorporated into the policy.

Fees and charges would be set centrally by the Government and there would be limited local discretion in relation to these.

There would be approximately 100 premises needing premises licences and this figure included public houses, betting shops, bingo halls, tracks and amusement arcades.

Reported that it was intended that the draft Statement of Principles would be subject to extensive consultations prior to its adoption by the Council. Twelve weeks would be allowed for responses to be made to the consultation.

The Committee discussed the problem of the timescale for the implementation of the Gambling Act. It was agreed that the Council should lobby the local Member of Parliament and should also write to the Minister responsible, requesting a more realistic timescale.

RESOLVED that:-

- 1) The draft Statement of Principles under the Gambling Act 2005 be agreed;
- 2) Consultation on the draft Statement of Principles be undertaken as required by the Gambling Act 2005 and associated statutory guidance; and
- 3) A final Statement of Principles be submitted to Council for consideration and approval following consultation, later this year.

#### **10. The Licensing of Sex Establishments within the Borough of Taunton Deane**

Considered report previously circulated, concerning two sex shop licences that had been granted for premises in Station Road, Taunton.

There were currently licences for two sex shops in the Station Road area, one granted in November 2003 at 50 Station Road and the other premises due to open shortly at 85 Station Road.

Objectors to the two applications were concerned that the premises were close to schools, churches and the Albemarle Centre. The letters of objection also stated that Station Road was used by children who walked to school and to various amenities in the town.

It was also felt the presence of the sex shops might lead to additional problems including kerb crawling, prostitution, lap dancing premises and more sex shops. The present number did not give cause for concern, but this might not be the case, should the number of these establishments increase.

The Local Government (Miscellaneous Provisions) Act 1982 Part 2, Schedule 3 governed sex establishments. The Act permitted a Council to refuse a licence in circumstances where the number of sex establishments in the relevant locality at the time the application was made was equal to or exceeded the number which was considered appropriate for that locality.

The area designated as the “relevant locality” had to pass the “Wednesbury” principle of reasonableness. Case law suggested that the whole of an administrative area was too large to establish as a “relevant locality”. The Licensing Committee therefore had to decide if

it was appropriate to establish the number of sex establishments for a “relevant locality” and what area that should be.

When determining the extent of a locality, the Licensing Committee had the following options:-

- Using a point in a map as the centre of a circle;
- Using specific points or landmarks in an area as boundary points; or
- Specifying a locality already determined by other means such as areas constituting Council Wards.

To minimise the risk of further applications being made in the Station Road area, a limit could be set on the appropriate number of sex establishments that would be permitted.

All wards within Taunton Deane were predetermined and details of the boundaries were circulated.

Future applications for sex establishments would be considered on their own merits and would take into consideration the location and suitability of the premises.

Additional guidance used when determining any application for a sex establishment was also circulated. The guidance included factors that would be considered, including the proximity to:-

- residential property;
- shops and other business premises that were aimed or catered for the family market especially those that catered for children;
- properties that were sensitive for religious purposes such as, but not exclusively churches; and
- areas that were sensitive, because they were frequented by children or families, including but not limited to educational establishments, leisure facilities, libraries, swimming pools, markets or covered markets.

The following factors would also be taken into account when considering the suitability of the premises:-

- Historical significance and previous use of the building; and
- The design and layout of the building.

The Boundary Commission had announced a change to the Wards in Taunton Deane and although the changes would not take effect until May 2007, it was thought inappropriate to base the limit on individual Wards.

Market forces would determine how many applications were received, however it was felt that an area should be defined in order to offer guidance to any applicants.

It was suggested that a limit should be set for the unparished area of Taunton at two and the parished area of Taunton at zero.

**RESOLVED that:-**

- 1) The Council be recommended to adopt a policy that set the appropriate total number of sex establishments in the unparished area of Taunton as two and the parished area of Taunton as zero; and
- 2) The guidance as detailed in the report be approved as detailed in the report and that it be provided to any future applicants for sex establishments.

## **11. Licensing Progress Report**

Considered report previously circulated, concerning the number of licensed premises within the Council's licensable area and their opening hours. The report showed the current position in order to assess the impact of the Licensing Act 2003.

The Licensing Authority had issued 547 Personal Licenses and there were 425 premises licensed to sell or supply alcohol or provide regulated entertainment or late night refreshment. The types of licensed premises were detailed.

There were a number of applications still being made in relation to the Licensing Act and details of these were circulated.

The Council was one of ten selected in England and Wales by the Department of Culture, Media and Sport, to be a Scrutiny Council. The purpose of Scrutiny Councils was to evaluate the implementation of the new licensing regime, review the guidance issued by the Secretary of State and to make recommendations to improve the guidance. Clarification was needed in a number of areas of the guidance, and a complete revision was expected to be published in November 2006.

Most of the premises licenses issued had conditions attached, to promote the licensing objectives. Officers from the Licensing Unit were working with the Police to ensure compliance with these conditions.

The Licensing Unit had received less than ten complaints in relation to licensed premises and all related to either noise or light pollution. No requests to review licenses had been received from responsible authorities or interested parties. It was agreed that details should be placed in the Weekly Bulletin to highlight the successful implementation of the Licensing Act 2003 and the co-operation that had been received from the landlords.

The publicity of applications for premises licenses or the variation of a premises license had caused certain ongoing problems. The statutory requirement was for a public notice and a notice to be displayed on the premises. The Licensing Unit also detailed these applications in the Weekly Bulletin. However, due to the large number of applications received last year, individual notification to Ward Councillors had not been possible. This situation was now being addressed though.

RESOLVED that:-

- 1) The contents of the report be noted; and
- 2) All new applications and applications to vary a licence be notified to Councillors using the Ward Based Information Service.

(The meeting ended at 8.05pm).