



LICENSING COMMITTEE

4.30 p.m. - 5.10 p.m.

17 September 2009

Present: Councillors Driver (Chair), Ramsay (Vice-Chair following appointment), Blower, Banham, Cannell, Divers, Hooke, A. Little, Stephenson

Apologies: Councillors Dylan and Jago

Also Present: Yvonne Blake, Legal Advisor to the Committee

1. APPOINTMENT OF VICE-CHAIR

RESOLVED to re-appoint Councillor Ramsay as Vice Chair for the remainder of the Civic Year.

2. MINUTES

RESOLVED to agree the accuracy of the minutes of the meeting held on 4 December 2008.

3. LICENSING ACT 2003 - MINOR VARIATIONS TO PREMISES LICENSES AND CLUB PREMISES CERTIFICATES AND THE SUPERVISION OF ALCOHOL SALES IN COMMUNITY PREMISES

Ian Streeter, Senior Licensing Officer presented the report, advised members of the changes to the Licensing Act 2003 with regard to minor variations and the supervision of alcohol sales in community premises.

The Senior Licensing Officer explained each section of the changes to the legislation and together with Yvonne Blake, Legal Advisor to the Committee answered member's questions and addressed any concerns which were raised.

The Senior Licensing Officer said that under the new legislation, an applicant could not apply to add the licensable activity of the sale by retail or supply of alcohol or increase their hours to supply alcohol to a premises by way of a minor variation application. The minor variation applications would be considered for other licensable activities such as live music, recorded music, showing films etc.

If a premises had not notified the Council of a slight variation, i.e. a change in the floor plan, then this would be picked up on by checks on premises by Council enforcement officers and if, for any reason, the Senior Licensing Officer was away

from the office then any new minor variation applications would be delegated to the other Licensing Officers in the department.

Members were informed that the proposed amendments contained in applications for minor variations had to be displayed at the application premises, but were not required to be advertised in the local press. A member commented that this could have a large impact on the area as not everybody would be aware of the notification in the premises and 10 working days was a short timescale for interested parties to be able to challenge an application. The Legal Advisor to the Committee stated that if a member of public was not aware of a minor variation until after the deadline, they would not be able to appeal the decision nor have any recourse to claim insufficient advertising. They could however, ask for a review of the premises licence if they felt that it was unreasonable and thought the existing licensing objectives were not being upheld.

The Legal Advisor to the Committee stated the Council was not compelled to follow the revised guidance issued by the government in respect of minor variations, but would have to justify the reasons for any departure. She also advised that until we received any minor application variations it would be difficult to ascertain from case law what problems would arise as for example, certain parts of the city would suffer more from the effects from a minor variation than others. The Committee could however agree a list of what they deemed to be necessary for the sub committee to hear.

The Senior Licensing Officer said that in the vast majority of cases he did not consider a minor variation application to be the correct procedure to remove or override any conditions placed upon a premises licence by a Licensing Sub Committee. A member suggested that it would be useful for members of the Licensing Sub Committee to be informed of any minor amendments applications received.

In response to a question as to whether a premises going from having no live music to applying for it was classified as a minor variation, the Senior Licensing Officer said that this had not been specified. In regards to a premises making a minor variation application to vary its existing hours of live music, he said they would seek advice from other responsible authorities and take experience from other similar applications. If issues arose then they would consult the Police for any crime and disorder reports and the Environmental Health Officers for details of any noise pollution cases. If they found instances of these then they would go through the 'full variation' application process.

RESOLVED to:-

- (1) delegate the authority to the Senior Licensing Officer to grant or refuse minor variation applications submitted in accordance with the Licensing Act 2003 on the provision that the following amendments are made within Section 2.7 of the report:-
 - (a) the second bullet point be amended to read 'that any changes applied for after 11:00 p.m will be brought before the Licensing Sub Committee. Changes applied for up until 11:00 p.m for the maximum of one hour can be delegated to the Licensing Officer';

- (b) the fourth bullet point be amended to read 'that the addition of any new licensable activities will be brought before the Licensing Sub Committee'.
- (2) agree that subject to the amendments being made as noted above in Resolution 1, applications for minor variations will not be subject to a policy of notification to local residents and businesses which currently applies in respect of applications for the grant or 'full' variation of a premises licence under the Licensing Act 2003.
- (3) agree that subject to the amendments being made as noted above in Resolution 1, that the schedule of delegations of licensing functions is amended to give delegated authority to:
 - (a) the Senior Licensing Officer to grant or refuse minor variation applications submitted in accordance with the Licensing Act 2003;
 - (b) the Licensing Sub-Committee to determine an application to include the alternative licence condition in sections 25A(2) and 41D(3) of the Licensing Act 2003 where the Chief Officer of Police issues a notice seeking the refusal of the application.
- (4) ask the Senior Licensing Officer to notify the Committee Officer of any applications for minor variations to be provided to members by advertising them on the e-Councillor site.

4. DATE OF NEXT MEETING

In the event that the Licensing Committee is merged with the Regulatory Committee, the Chair wished thanked members of the Licensing Committee, past and present for their contributions.

RESOLVED to ask the Committee Officer to notify members of the date of the next meeting once the outcome of the possible merging of the two committees was known.

CHAIR