

## LICENSING COMMITTEE

MINUTES OF A MEETING of the Licensing Committee held on Friday 17 December 2004 at 9.30am in The Guildhall, Portsmouth.

### Present

Councillors Paula Riches (Chair)  
Geoff Goble (Vice Chair)  
Elaine Baker  
Tom Blair  
Margaret Foster  
Jacqui Hancock  
Lee Mason  
Robin Sparshatt  
Deborah Tomes

**48 Members' Interests in accordance with Standing Order No 14 (AI 1)**

No interests were declared.

**49 Minutes of the Licensing Committee Meeting held on 19 November 2004 (AI 2)**

(TAKE IN MINUTES)

**RESOLVED** that the minutes of the Licensing Committee meeting held on 19 November 2004 be agreed and signed by the Chair as a correct record.

**50 Matters Arising from the Minutes (AI 3)**

There were no matters arising.

**51 Consultation on Draft Statement of Licensing Policy (AI 4)**

The Committee received two deputations.

Mr. Charles Burns

Mr. Burns explained that he had been a retailer for 32 years in Portsmouth and had been a licensee since 1979, although his shop had recently closed. He was also a member of the Association of Convenience Stores and the Association of Small Retailers.

Mr. Burns made a range of comments regarding specific recommendations in the report, including:

- The relationship between planning and licensing functions
- The advice from Portsmouth City Council Trading Standards
- Applications for 24-hour licences
- Litter
- Support/training for applicants in completing licence application forms

### Councillor Lee Hunt

Councillor Lee Hunt explained that he was speaking in his capacity as ward councillor for Central Southsea ward. Councillor Hunt made comments on the draft Statement of Licensing Policy, the key points of which are outlined below:

- Provision of temporary public conveniences
- Policing budget for the area.
- Definition of the phrase 'mainly residential area'
- Sharing of knowledge and expertise between planning and licensing functions
- The enforcement of measures to avoid crime and disorder problems
- Cost of closing down premises at nighttime
- Transport
- The need to encourage people to move into properties above shops and other business premises
- Provision of protection for members of the public.

The Licensing Manager, Nickii Humphreys, responded to some of the points made during the deputations. Her comments are outlined below:

- The Council supports the provision of guidance and support for applicants when completing licensing applications but the volume of applications will be such that a high level of support is not always going to be possible. Working with Pride in Pompey to provide training would be a possibility worthy of further investigation.
- Requiring licensees to pay for extra resources is not a power given to this authority to impose.
- The licensing and planning regimes are separate but there is a need to keep information flowing between them. Her department already works closely with the planning department.
- The Late Night Economy Group will be making strong representations to try and encourage the establishment of voluntary measures to assist with transport, public nuisance, toilet facilities etc

In response to a question regarding the granting of a licence in a residential area, Nickii Humphreys clarified for the Committee that, under the new system, there would be a presumption in favour of granting a licence and the licensing authority can only impose conditions if representations have been

made by specified groups or persons.

Members expressed concern that the Licensing Committee would not be able to impose conditions on licences of its own volition. This fear was shared by the representative from the Police who assured the Committee that the Police would be making sure that local communities are made aware of pending applications and encouraged councillors to do the same.

A discussion ensued regarding whether councillors would be able to make representations under the specified groups set out in the legislation. Nickii Humphreys explained that the hearing procedures have not yet been finalised but it was likely that councillors would be covered under the category of a body representing an interested party. Members expressed a strong wish that the right of councillors to make representations should be embedded in the Statement of Licensing Policy but accepted legal advice that it would not be appropriate to put this forward at this stage. Ward councillors would automatically be notified of applications arising in their wards.

#### Consideration of the draft Statement of Licensing Policy

During consideration of the draft Statement of Licensing Policy, Councillor Blair proposed the addition of the following paragraph:

‘That a strong recommendation be made to the applicant that smoking should be banned in the bar area (meaning within 1 metre of the bar) and in designated eating areas in restaurants and public houses.’

A discussion ensued and Lesley Spencer (Solicitor) and Nickii Humphreys strongly advised members against including this paragraph as the issue of smoking was not included within the four principles of the Licensing Policy and was deliberately not covered by the legislation. If members included this paragraph, the Council would be likely to be subject to judicial review and would be highly likely to be found to be acting outside of its powers under this licensing legislation. Nickii Humphreys explained that there would shortly be other legislation coming forward specifically to deal with the issue of smoking in public houses and restaurants. Lesley Spencer reinforced to the Committee that health issues were not covered by the licensing legislation. There was clear advice both from the Department for Culture, Media and Sport (DCMS) and from an external QC who had been consulted during the process of drafting the Statement of Licensing Policy that the Council has no power under this legislation to impose such a condition.

Councillor Blair felt that this additional paragraph would not cause the Council to be subject to judicial review and reiterated his original proposal. This was seconded by Councillor Baker and approved by the Committee.

Members considered whether it would be possible to achieve the same

result by using other legislation but felt that something should be included under this legislation, at least until additional measures are given to Councils to impose conditions regarding smoking.

Councillor Blair proposed a further addition to the draft Statement of Licensing Policy:

‘That the Licensing Authority will expect applicants for licences to demonstrate that they have ensured that all their frontline staff have received adequate training on the law with regard to age restricted sales and that this has been properly documented and training records kept.’

Nickii Humphreys cautioned that this would have the effect of duplicating, at least in part, statutory measures which are either already in place or covered elsewhere in the licensing legislation. Councillor Blair responded that he felt that this additional paragraph reinforced the importance of the issue.

This proposal was seconded by Councillor Goble and approved by the Committee.

Nickii Humphreys then explained that there were some further suggested amendments to the existing wording as set out in the report. The Committee agreed with the suggested changes in wording.

**RESOLVED that**

**(a) the draft Statement of Licensing Policy be approved subject to the following amendments and additions:**

- **The addition of a paragraph within the Statement of Licensing Policy regarding smoking**

**‘That a strong recommendation be made to the applicant that smoking should be banned in the bar area (meaning within 1 metre of the bar) and in designated eating areas in restaurants and public houses.’**

- **The addition of a paragraph within the Statement of Licensing Policy regarding sales of alcohol to underage children**

**‘That the Licensing Authority will expect applicants for licences to demonstrate that they have ensured that all their frontline staff have received adequate training on the law with regard to age restricted sales and that this has been properly documented and training records kept.’**

- **Planning applications – section 8.0 and 10.8 of the draft Statement of Licensing Policy**

***Section 8.0***

That the words ‘but see further paragraph 10.8’ be added to the end of this section so it reads as follows:

‘It is recommended that applicants obtain planning permission and building regulation approval along with all other necessary permissions and licences for the premises prior to an application being submitted *but see further paragraph 10.8.*’

***Section 10.8***

That the existing paragraph 10.8 be replaced by the following:

‘Whilst the DCMS guidance visualises that all necessary permissions are obtained before a licensing application, an applicant who judges that it is economically advantageous if the licensing application precedes a complicated and costly planning application they are at liberty to submit the licensing application first.’

- **Amendment to Recommendation 47, page 56 of the table showing consultation responses:**

That the word ‘particularly’ be inserted as follows:

‘The Licensing Authority is concerned that licensed premises where musical or other amplified entertainment is provided may give rise to significant levels of noise nuisance *particularly* where they are structurally attached to noise sensitive premises such as residential premises.’

- **Amendment to section 4.4 of the draft Statement of Licensing Policy**

That the words ‘this licensing policy and’ be inserted and related amendments be made to section 4.4 so it reads as follows:

‘The Council, when carrying out its function as the Licensing Authority, shall have regard to *this Licensing Policy and* the guidance issued by the Secretary of State, however *this Policy and* guidance cannot anticipate every set of circumstances which may arise. Accordingly, the Council may depart from *them* if they have reason to do so.’ Etc

- **Amendment to section 5.4 of the draft Statement of Licensing Policy**

That the words 'whilst safeguarding and promoting' be inserted to read as follows:

The Council believes that providing consumers with greater choice and flexibility is an important consideration and that whilst *safeguarding and promoting* the licensing objectives the licensing hours should not inhibit the development of thriving evening and night-time local economies which are important for investment and employment locally and attractive to domestic and international tourists.'

- **Amendment to section 5.5 of the draft Statement of Licensing Policy**

That the word 'notwithstanding' in the first sentence be replaced by '*in addition to*'.

- **Amendment to section 6.3 of the draft Statement of Licensing Policy**

That the word '*the*' be inserted before 'identification' in the first bullet point.

- (b) this Committee recommends that Full Council adopt the amended Statement of Licensing Policy.

The meeting concluded at 10.50am.

Chair