

Report to Licensing Review Task and Finish Panel

Date of meeting: 17 December 2012

Portfolio: Safer Greener and Highways



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Recommendations:

Background report on Licensing for information. Members are asked to review the information and map out a way forward for this Task and Finish Panel.

Report:

At the last meeting of the Task and Finish Panel officers were asked to provide the following information for the next Panel meeting:

- A statistical review of the Licensing Sub-Committee meetings over the last two years to ascertain how many applications there have been, the length of the meetings, and the types of licence applications considered. This information to be brought to their next meeting;
- How many applicants had made use of legal or other representatives at their hearings;
- Indicative costs for the hire of outside premises, and officer costs for the meeting. This could be based on the costs for Area Plans South meetings, held in Loughton;
- Information on how other Councils conduct their Licensing Committee meetings.

Statistical Review of the Licensing Sub-Committee Meetings

1. A copy of the spreadsheet prepared by the Senior Licensing Officer which sets out the statistical information requested is attached. The Panel is also considering whether the district should be divided into a number of areas so that any hearing should take place in the area in which the premises are located. At present, the Licensing team divides the district into three areas and individual officers in the Licensing service are responsible for one area. I attach a plan showing the three areas. The Senior Licensing Officer has indicated on the spreadsheet in which of these area the premises being considered by the sub-committee concerned was located.

2. The period selected is April 2010 until October 2012 - 31 months

Total Number of meetings held in that period was 32. These were made up of the following types of applications:

- | | |
|---|----|
| • Meetings considering Taxi applications only: | 10 |
| • Meetings relating to Premises in area south only: | 2 |
| • Meetings Taxis and area south | 13 |

- Meetings Taxis, area south and west 3
- Meetings Taxis and area east 2
- Meetings Taxis and areas south and east 1
- Meetings area south and west 1

If the hearings for premises licences were held at a location in the area in which they were situated then the number of premises hearings would be 27. If the taxi hearings were heard separately from the premises applications the total number of meetings where only taxi applications were heard would increase from 10 to 15. The number of meetings for that period would then be 42:

- 20 meetings for area south,
- 4 meetings for area west, and
- 3 meetings for area east
- 15 meetings for taxi applications.

3. The length of the meetings varied during that period.

- 10 meetings took between 1 and 2 hours
- 6 meetings between 2 and 3 hours – solicitors present at 2
- 5 meetings took between 3 and 4 hours – solicitors present at 2
- 4 meetings took between 4 and 5 hours – solicitors present at 3
- 1 meeting took between 5 and 6 hours – solicitors present, and
- 1 meeting took in excess of 6 hours – solicitors present.

The reviews of premises licences take the longest time and in the previous year there were two reviews one taking 8 hours 27 minutes and the second 7 hours 40 minutes.

4. The Licensing Act 2003 (Hearings) Regulations 2005 ('the Regulations') provides that where a hearing is to be held on more than one day, the hearings must be arranged to take place on consecutive working days. If a hearing was likely to take longer than four hours, for example a review, and it was to be held in the evening then a hearing would need to be held on consecutive days.

Legal Representatives

5. Legal representatives were employed by applicants at 9 meetings. In the case of a review objectors are also entitled to employ a legal representative. The police will usually do so if they call for a review of a licence.

Hire Costs of outside Premises and Officer's costs

6. The Plans Sub-Committee use Roding Valley School in the evening to decide planning matters in that area. The hearing takes place in the school dining room and the sub-committee is given the use of a classroom for a pre-meeting briefing. The Licensing sub-committee may require the use of an additional room as there are occasions when the applicant and objectors wish to discuss any proposals separately in private. The school charges the Council for the hire of the premises £104.18p in respect of meetings that last up to 10pm and £138.56 for meetings that continue past that time. It may be that these charges may increase if an additional room is required. The school is only available in the evening for these meetings. No enquiries have been made of the school regarding availability.

7. There were 20 meetings in the period April 2010 until October 2012 which involved premises located in area south. It would not be possible to know at the beginning of each year when booking the premises in which month a hearing involving a property in the south of the district will occur and it may be necessary to cancel bookings at short notice and the

deposit or the whole fee would be lost unless the cancellation is not the Council's fault. There were few hearings in the other areas but if the members decide that meetings should take place in those areas there may be a practical problem of locating satisfactory premises at short notice available within the prescribed statutory time limits.

8. The Council has a duty to provide a safe environment for the applicants, objectors, members and officers. There may be occasions when a security presence on the premises is required but it may not be apparent before the hearing.

9. The Officers who attend are entitled to £58.63 per night up to 10pm and £86.13p after that time plus expenses. It is expected that the following officers will need to attend each meeting

- The appropriate licensing officer (s). It may be necessary for more than one licensing officer to attend if there is more than one application on the agenda.
- The legal officer.
- The committee officer, and
- Depending whether microphones are required, another officer with transport.

On occasions it may be necessary to employ a security presence.

Other Councils

10. Enquiries have been made of other Council's in Essex through the Public Law Partnership, and the SLG (Solicitors in Local Government) website.

11. Generally, meetings begin between 6pm and 7.30pm depending upon the workload. Usually only one or two applications are heard in an evening and the meetings generally ended before 10pm but proceedings do, on occasions continue until 11pm.

12. Applications regarding taxi licences are usually held during the day although one authority had delegated all decisions to a senior officer below director level and another authority heard applications both in the day and the evening.

13. Other authorities had issued guidance to officers as to which types of applications should be held during the day. The types of cases held during the day include reviews of premises licences, applications where there are more than ten objectors, cases where the police were involved or where the senior licensing officer considered that a case could not be heard in one evening because of its complexity.

14. Only one of the Councils consulted regulated the amount of time spent by any party putting forward their case and then only in respect of routine applications. The Licensing Regulations require every party to have the opportunity to speak for an equal length of time. When there are large numbers of objectors the licensing officers encourage them to appoint one or two representatives as each objector is considered to be a party for the purposes of the Act. One of the Council's stated that their deliberations were held in public and would only adjourn if taking advice on a legal point. That is the reverse of the way other Council's make decisions.

15. The regulations made under the Licensing Act 2003 provide that a determination must be made within the statutory time limits specified. These are different depending upon the type of the application. The regulations provide that the applications etc. must start within the time limits specified in the regulations and if the hearing is expected to take more than one day provision must be made for them to take place on consecutive days. A hearing may only be adjourned where it is necessary for the consideration of any representations or notice by a party. Any other adjournment must be with the consent of the other parties.

Notices

16. Members have asked for information as to the consultation requirements in respect of planning applications. There are different requirements for consultation in respect of different types of planning application. If there is a major development (*where site provides 10 or more dwellings or over 0.5 hectares (ha); other development where floor space is over 1000 sq.m. or site area over 1 ha; mineral working or waste development*) planning applications must be publicized by:-

- Local newspaper as appropriate
- Site notices to be displayed in at least one place on or near the application site for not less than 21 days; or
- Notice to be served on any adjoining owner or occupier (neighbour notification). Notice must be given to the immediate owners or occupiers of land to each application site.

17. This Council will post a site notice and serve notice by post on the immediate neighbours who share a boundary with the site. These are identified by the officers looking at the map of the area on Pro-Printer and identifying these premises. The notices are addressed 'To the Occupier'. A check is made by site visits to identify flat conversions etc.

18. Licensing legislation does not require notification of residents. A neighbour took action against Westminster Council because he had not been notified of an application. Westminster habitually sent notices to everyone within a 50 metre radius from the premises concerned using software to identify premises. In this case the software did not identify a block of flats which was partly within the 50 metre radius. The objector appealed on the grounds that he had a legitimate expectation that he should have been informed. The court disagreed and held that Westminster had fulfilled its statutory duty to notify.

19. When an application is made in respect of premises the Council follows the statutory guidance and a notice is displayed outside the building, the application is advertised in a newspaper circulating in the area where the premises are situated and a list of current applications is kept on the Council's website. In addition, details of the application are circulated in the Member's Bulletin.

20. The software currently used by the licensing service does not allow for the identification of premises within a particular area. The Council's GIS Officer has advised that it is possible that the software used in his service would be able to do this but it would involve specialist training of the Licensing staff and would not be an easy search as it would involve not only GIS but exporting information to spreadsheets and data cleansing.

Consultation undertaken:

Special Interest group for Licensing at the Public Law Partnership
Three licensing officers identified after consultation Solicitors in Local Government group employed in Councils where evening meetings were held.
Camden Council Licensing Officers.

Resource implications:

Budget provision: This will depend upon the decision of the Task and Finish Panel.

Personnel: This will depend upon the decision of the Task and Finish Panel.

Land: None

Community Plan/BVPP reference: None

Relevant statutory powers: Licensing Act 2003 as amended, The Licensing Act 2003 (Hearings) Regulations 2005
The Licensing Act 2003 (Summary Review of Premises Licences) Regulations 2007
Gambling Act 2005
The Gambling Act 2005 (Proceedings of Licensing Committees and Sub-committees)(Premises Licences and Provisional Statement)(England and Wales) Regulations 2007.
Town and Police Clauses Act 1847 and 1889
Local Government (Miscellaneous Provisions) Act 1976
Local Government (Miscellaneous Provisions) Act 1982

Background papers:

Statutory Minimum Requirements for Advertising Planning Applications
Epping Forest planning consultations and notifications – procedure
Development Control – Publicity for Planning Applications

Environmental/Human Rights Act/Crime and Disorder Act Implications:

Human Rights Act – Article 6 - right to a fair hearing
Key Decision reference: (if required) none