

**LICENSING COMMITTEE held at COUNCIL OFFICES GREAT DUNMOW
at 7.30 pm on 27 OCTOBER 2004**

Present:- Councillor M J Savage – Chairman.
Councillors H D Baker, E W Hicks, J I Loughlin, A Marchant,
J P Murphy and A R Row.

Officers in attendance:- M Hardy, C Nicholson, M J Perry, C Roberts
and A Turner.

LC64

QUESTIONS FROM MEMBERS OF THE PUBLIC

Questions were asked by the Secretary of the Dunmow Club about the effect of the new legislation on the Club's regular Saturday night entertainments. The Executive Manager Corporate Governance explained that two days notice of questions should be given so that the answer could be properly researched. A written inquiry would be dealt with. A written reply was also being provided to inquiries by Barnston Football Club.

Another member of the public asked what the position was on expiry of an existing licence in March. The Executive Manager Corporate Governance explained that a further licence must be applied for to continue trading until the second appointed date.

LC65

APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors K R Artus, R F Freeman, V J T Lelliott and D J Morson.

LC66

**CONSULTATION ON DRAFT REGULATIONS UNDER LICENSING ACT
2003**

The Solicitor, Mrs Nicholson, presented a report about public consultation on draft regulations under the Licensing Act 2003. Some aspects, eg fees, had not yet been dealt with, and the draft regulations contained a number of inconsistencies. It appeared, too, that the Criminal Records Bureau would not be able to meet the demands made on their services by the regulations, so verification would be by statutory declaration.

The Executive Manager Corporate Governance added that there was no draft provision for revocation of a personal licence if it transpired that a licensee had lied to obtain the licence.

The Solicitor invited the attention of the meeting to the numbered points raised in the report.

Councillor J P Murphy declared an interest in the paragraph relating to press advertisement in so far as he was a journalist.

RESOLVED that the following observations be made to the Government (references by report paragraph number).

- (i) (paras 4 and 5) that observations be made to the Department of Culture Media and Sport about the lack of Criminal Records Bureau support and the absence of provision for revocation of a personal licence if it transpires that a licensee has lied to obtain a personal licence. Observations should also be made about the need for proof of positive ID, and the money laundering procedures used in this context.
- (ii) (para 6) the timescales are tight and will be difficult to meet.
- (iii) (paras 7 and 8) the regulations conflict with requirements for five days' notice of hearings and so should be objected to.
- (iv) (paras 9 and 10) the regulations conflict with requirements under the Local Government Act 1972 and so should be objected to.
- (v) (paras 11 and 12) licensing tribunals should be given express power to disallow late evidence. Otherwise the procedures seem to mirror current good practice.
- (vi) (para 13) timescales do appear to be tight, but obviously have to fit in with the other regulations on hearing dates. However, the Authority cannot wait for the return of the notice indicating whether a hearing is necessary before arranging the hearing, as it will not have enough time to comply with its Local Government Act 1972 requirements, irrespective of the ability to organise at such short notice.
- (vii) (para 14) no objection should be raised to the 24 hour limit. It would be best to hold hearings at several different times of day.
- (viii) (para 16) decision making should take place without the public present.
- (ix) (paras 17-19) it is important that the hearing is fair to all parties, and may be beneficial if the format is prescribed to ensure consistency and prevent challenge. If the procedure is not prescribed, this Authority will have to draw up and adopt a standard procedure.
- (x) (para 20-21) 5 days is not long enough for determination to be made written up and dispatched – should be amended to allow initial brief notice to be given within the 5 days with a more detailed record of decision to follow within another 5 days
- (xi) (paras 22) clarification of record to be kept as to requirement – verbatim would require stenographer which would be expensive. Also question need to keep for 6 years as only relevant to appeal.

- (xii) (para 25) add local Building Control Authority but delete Crime and Disorder Reduction Partnerships because their members are consulted in other guises and do not meet often enough to make decisions within the timescales.
- (xiii) (paras 26-28) re format of forms, there is also a need for a location plan, to identify the position of the premises in a locality. As the plan forms part of the licence any variation to plans or buildings will require an application for a variation
- (xiv) (para 31) make representations for one press advert only. The notice of application should be visible from outside the premises.
- (xv) (para 32) as the onus is on the applicant, it should be made clear in the application notes that to lie about whether or not advertising has been done is a criminal and a relevant offence. A copy of the advert should be required as well as a statement that the application has been advertised with details of where it has been advertised.
- (xvi) (para 33) notice should be given within 5 working days, not "forthwith"
- (xvii) (para 35) the Summary should be visible inside and on the outside of the premises, but not the address of the designated supervisor.
- (xviii) (paras 36-37) the notice of receipt of an application for review should be put up within the first three working days of receipt of the request and posting on the premises should be enough, there should be no advertising in the press.
- (xix) In general the draft regulations are felt to be overly bureaucratic.

LC67

CONSULTATION ON THE DRAFT LICENSING POLICY

The Committee received the report of the Executive Manager Corporate Governance about responses received following public consultation on the draft licensing policy.

RESOLVED

- 1 that the references in the Policy to "Council" be changed to "Licensing Authority".
- 2 that the references in paragraph 5.6 of the Policy to the wind down period and last admission time be omitted
- 3 that paragraph 6.8 of the Policy be amended to read:-

“In the case of film exhibitions, the Licensing Authority will expect licence and certificate holders and those who have given notice of a temporary event within the terms of the 2003 Act to implement measures that restrict children from viewing age-restricted films classified according to the recommendations of the British Board of Film Classification or the Licensing Authority. In the case of a film exhibition that has not been classified, the Licensing Authority will expect the licensee not to permit children to view the film unless it has been approved by the Licensing Authority applying British Board of Film Classification standards.”

- 4 That the draft licensing policy be submitted to the Council for approval.

The meeting ended at 9.50 pm.