

## Minutes

Licensing Committee

2 JULY 2009

Meeting held at High Street, Uxbridge, UB8 1UW



HILLINGDON  
LONDON

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### **Members Present:**

Councillors Josephine Barrett (Chairman), Michael Bull (Vice-Chairman), David Allam, Lynne Allen, Janet Gardner, Carol Melvin, Andrew Retter, Judy Kelly, Elizabeth Kemp and Peter Kemp.

### **LBH Officers Present:**

Natasha Dogra, Nav Johal, Ed Shaylor, Norman Stanley, Beejal Soni, Stephanie Waterford and Nadia Williams.

**Public Present:** 0

### **1. APOLOGIES FOR ABSENCE**

None.

### **2. DECLARATIONS OF INTEREST IN MATTER COMING BEFORE THIS MEETING**

None.

### **3. TO CONFIRM THAT ALL ITEMS MARKED PART 1 WILL BE CONSIDERED IN PUBLIC AND ALL THOSE MARKED IN PART 2 WILL BE CONSIDERED IN PRIVATE**

All items were Part 1 and were considered in public.

### **4. TO RECEIVE AND AGREE THE MINUTES OF 23<sup>RD</sup> APRIL 2009**

The Committee raised concerns over the following item in the minutes: *MOTION TO LOBBY PARLIAMENT FOR A REVIEW IN LICENSING LAW TO ALLOW THE QUESTION OF NEED TO BE TAKEN INTO ACCOUNT WHEN CONSIDERING LICENSING APPLICATIONS.*

Officers advised the Committee that the *Need for Licensed Premises* was addressed in clause 13.23 of the Guidance issued under section 182 of the Licensing Act 2003 viz:- "there could be confusion about the difference between *need* and the *cumulative impact* of premises on the Licensing objectives for example, on crime and disorder. *Need* concerned the commercial demand for another pub, restaurant or hotel. This was not a matter for a licensing authority in discharging its licensing functions or for its Statement of Licensing Policy. *Need* is a matter for planning committees and for the market."

The Committee commented on information sent to them by Licensing Committee trainer James Anderson, Poppleston Training (*this training took place on 29<sup>th</sup> June 2009 and some*

*Members of the Licensing Committee attended*). The Committee requested that Legal officers liaised with the trainer to gain the correct information regarding the introduction of saturation policy in the London Borough of Hillingdon.

Officers informed the Committee that the trainer may have been referring to the *cumulative impact of a concentration* of licensed premises. Officers referred the Committee to clauses 13.24 to 13.39 of the Guidance issued under section 182 of the Licensing Act 2003 and suggested that such Special Policies were applicable to areas like Watford town centre and Camden Lock, where there are a significant number of licensed areas like pubs and clubs concentrated in one particular area.

The Committee requested that Legal Officers contact the Poppleston Allen trainer to seek clarification and then to prepare a report for the next Licensing Committee meeting.

**Agreed:**

- **The minutes of 23 April 2009 were agreed.**
- **It was agreed that Legal Officers would liaise with Licensing Trainer *James Anderson (Poppleston Training)* to gain further information on saturation policies.**
- **The Committee agreed to receive an update on this matter delivered by Legal Officers at their meeting scheduled for 1<sup>st</sup> October 2009.**

**HOME OFFICE CONSULTATION PAPER ON THE NEW CODE OF PRACTICE FOR ALCOHOL RETAILERS**

Action By:

The Chairman asked Ed Shaylor (Head of Community Safety) and Norman Stanley (Licensing Service Manager) to present this item to the Committee.

Officers said the Planning & Community Services, the Licensing Service and the Metropolitan Police would appreciate some guidance from the Committee in regards to taking part in the consultation on the Home Officer Consultation Paper on the new Code of Practice for Alcohol Retailers. This consultation would end on 5 August 2009. Officers said the document suggests mandatory conditions on all premises selling alcohol and local conditions for two or more premises, where all or some discretionary conditions could be imposed on licenses.

Officers informed the Committee that in respect of *mandatory condition*, if enacted, this would require the Licensing Service to re-issue approximately 900 premises licenses and summaries. Premises licenses and summaries are produced on good quality paper and the summaries are laminated, consequently this proposal would result in considerable costs to the Licensing Service in respect of materials and officer time.

If *discretionary conditions* are enacted the powers used by the Licensing Committee could subject their decision (s) being subject to a legal challenge at the magistrates' court, thereby incurring significant costs to the Council.

Members asked the Officers if they thought it would be worthwhile responding to the consultation. Officers said that they thought it would be a worthwhile

exercise, as some proposed conditions appeared to be reasonable in respect of some specific areas and premises.

Officers said that as Hillingdon did not have a huge night-time economy the conditions imposed on licenses may not directly affect antisocial behaviour and crime in the borough. The imposing of conditions may also have an adverse affect on businesses and the local economy. Residents may also be affected by imposed conditions; one example may be that alcohol should not be served in glasses. Residents may not enjoy drinking out of plastic cups in restaurants and pubs and this may cause a number of complaints.

Legal Officers said that the consultation has various levels of impact and different programmes, and the Council can choose which levels they wish to be a part of.

Officers explained that under the new Code of Practice, certain areas can be blanketed by conditions or discretionary conditions can be imposed on some premises. However, this may lead to several appeals if some premises are targeted and not others. Officers said that nine conditions can be chosen from the Code of Practice's points labelled A to P. These conditions will then have to be imposed on licenses in certain areas. However, if there is pressure to impose the conditions on a wider scale then there may be uproar from those opposing it.

The Committee noted that most license holders in the borough are responsible and successful businesses. By imposing these conditions on them, the businesses may become less successful and reduce their customer satisfaction levels and indeed the number of customers. Members also raised concerns of the Code of Practice being over-prohibiting and causing damage to businesses and life styles of those living in the borough.

Officers said there are other options to consider which are not covered by the consultation, such as price according to strength, mandatory displaying of units in an alcoholic beverage and ensuring that the license holder is on the premises when it is in use. The Committee agreed that mandatory displaying of units in an alcoholic beverage was fair and reasonable; however the other two conditions were not reasonable. The price according to strength system may result in irresponsible selling of weaker alcoholic beverages to underage customers.

The Committee expressed their reservation over the discretionary conditions and the question of human rights in accordance with the consultation. Legal Officers said that as it stands, the Code of Practice is a suggestion. When it becomes an active piece of legislation the author will take human rights into account.

The Committee agreed that conditions should not be forced on licensees, as many are responsible people. Members also agreed that over-prohibition will result in a 'nanny-state' and that is not what they are trying to achieve.

<p><b>Agreed:</b>  <b>The Committee unanimously voted for agreement that Officers would convey their concerns regarding in a reply to the consultation on the Code of Practice by 5 August 2009.</b></p>	<p>Ed Shaylor / Norman Stanley</p>
<p><b>UPDATES FROM LICENSING SERVICE ON LICENSING APPLICATIONS GRANTED</b></p> <p>The Chairman requested Stephanie Waterford (Licensing Officer) to present updates from the Licensing service on Licensing Applications granted.</p> <p>Licensing Officers said nine applications had been determined by Officers between April 2009 and June 2009. There were a total of nine new applications during this time, and five new variations. Over the last year the running total of applications was 22, a majority of which were off-licenses.</p>	<p>Action By:</p>
<p><b>INFORMATION ITEM ATTACHED:</b></p> <p>In regards to the information item titled "<i>Rumpus over drinks deliveries</i>" in the Uxbridge Gazette, Members requested Licensing Service Manager Norman Stanley, in consultation with Cllr Andrew Retter, to correspond with Sergeant Ian Meens regarding his comments to the media and his non-attendance at the Licensing Sub-Committee meeting.</p> <p><b>Agreed:</b>  <b>It was agreed that Licensing Officers would raise this matter directly with Sgt Ian Meens at the Licensing Service/Metropolitan Police liaison meeting, which is scheduled for 14 July 2009.</b></p>	<p>Action By:</p> <p>Norman Stanley</p>
<p><b>ANY OTHER BUSINESS</b></p> <p>The Chairman invited the Licensing Officer to give the Committee an update in respect of the review of the Gambling Act 2005 Statement of Licensing Principles.</p> <p><b><i>The Licensing Officer explained to the Committee that this is the first review of the document since the Gambling Act 2005 came into force in 2007. The legislation requires a review every three years.</i></b></p> <p>A working party has been convened to carry out the review and consists of the Licensing Manager, Licensing Officers, Deputy Consumer Protection Manager, Licensing Lawyer, Democratic Services Officer, Police etc.</p> <p>The working party are of the opinion that the current policy has served the Council well and only a couple of minor amendments are proposed.</p> <p>The consultation on the draft policy will run from 17<sup>th</sup> July to 28<sup>th</sup> August 2009 and <u>all</u> members will be consulted. The final draft policy will be presented to the next full committee on 1<sup>st</sup> October 2009 for approval.</p>	<p>Action By:</p>

<p><b>The Chairman asked the Committee to raise any other items of business.</b></p> <p>Members raised their concerns in respect of the Planning Service’s lack of input in respect of applications that are submitted for new premises licenses, or variations to existing licensed premises.</p> <p>Officers informed the Committee that “Planning” is deemed to be a “responsible authority” under the Licensing Act 2003 and as such they can make a representation to an application, providing that such a representation is based on one or more of the four prime licensing objectives.</p> <p><b>Agreed:</b>  <b>That Cllr Josephine Barrett, in her role as Licensing Committee Chairman, would write a letter directly to Jean Palmer, Director of Planning and Community Services to make her aware of the above issue.</b></p>	<p>Norman Stanley/  Natasha Dogra</p>
<p>The meeting closed at 11.00 a.m.</p>	