



*Alison Stuart
Head of Legal and
Democratic Services*

MEETING : LICENSING SUB-COMMITTEE
VENUE : COUNCIL CHAMBER, WALLFIELDS, HERTFORD
DATE : MONDAY 4 NOVEMBER 2019
TIME : 2.00 PM

MEMBERS OF THE SUB-COMMITTEE

Councillors D Andrews, M McMullen and T Page

COMMITTEE OFFICER: Peter Mannings
Peter.mannings@eastherts.gov.uk
01279 502174

DISCLOSABLE PECUNIARY INTERESTS

1. A Member, present at a meeting of the Authority, or any committee, sub-committee, joint committee or joint sub-committee of the Authority, with a Disclosable Pecuniary Interest (DPI) in any matter to be considered or being considered at a meeting:
 - must not participate in any discussion of the matter at the meeting;
 - must not participate in any vote taken on the matter at the meeting;
 - must disclose the interest to the meeting, whether registered or not, subject to the provisions of section 32 of the Localism Act 2011;
 - if the interest is not registered and is not the subject of a pending notification, must notify the Monitoring Officer of the interest within 28 days;
 - must leave the room while any discussion or voting takes place.
2. A DPI is an interest of a Member or their partner (which means spouse or civil partner, a person with whom they are living as husband or wife, or a person with whom they are living as if they were civil partners) within the descriptions as defined in the Localism Act 2011.
3. The Authority may grant a Member dispensation, but only in limited circumstances, to enable him/her to participate and vote on a matter in which they have a DPI.
4. It is a criminal offence to:

- fail to disclose a disclosable pecuniary interest at a meeting if it is not on the register;
- fail to notify the Monitoring Officer, within 28 days, of a DPI that is not on the register that a Member disclosed to a meeting;
- participate in any discussion or vote on a matter in which a Member has a DPI;
- knowingly or recklessly provide information that is false or misleading in notifying the Monitoring Officer of a DPI or in disclosing such interest to a meeting.

(Note: The criminal penalties available to a court are to impose a fine not exceeding level 5 on the standard scale and disqualification from being a councillor for up to 5 years.)

Public Attendance

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AGENDA

1. Appointment of Chairman

2. Apologies

To receive apologies for absence.

3. Chairman's Announcements

4. Declarations of Interest

To receive any Members' Declarations of Interest.

5. Minutes - 19 September 2019 (Pages 7 - 12)

To approve the Minutes of Previous Sub-Committee meeting 19 September 2019

6. Summary of Procedure (Pages 13 - 18)

A summary of the procedure to be followed during consideration of item 8 is attached.

7. Exclusion of press and public

To move that under Section 100(A)(4) of the Local Government Act 1972 the press and public be excluded from the meeting during discussion of item 8 on the grounds that it involves the likely disclosure of exempt information as defined in paragraph 1 of Part 1 of Schedule 12A of the said Act of the following description:

1. *" Information relating to an individual".*

8. Temporary Events Notice at Goldings Estate Rare Breeds Farm, Golding Way, Herts (Pages 19 - 40)

Please note that the report and supporting Essential Reference Papers contains exempt information and is not available for publication.

9. Urgent Business

To consider such other business as, in the opinion of the Chairman of the meeting, is of sufficient urgency to warrant consideration and is not likely to involve the disclosure of exempt information.

MINUTES OF A MEETING OF THE
LICENSING SUB-COMMITTEE HELD IN THE
COUNCIL CHAMBER, WALLFIELDS,
HERTFORD ON THURSDAY 19 SEPTEMBER
2019, AT 2.00 PM

PRESENT: Councillor J Jones (Chairman)
Councillors N Symonds and C Wilson

OFFICERS IN ATTENDANCE:

Peter Mannings	- Democratic Services Officer
Brad Wheeler	- Senior Licensing and Enforcement Officer
Victoria Wilders	- Legal Services Manager

22 APPOINTMENT OF CHAIRMAN

It was proposed by Councillor C Wilson and seconded by Councillor N Symonds that Councillor J Jones be appointed Chairman for the meeting. After being put to the meeting and a vote taken, the motion was declared CARRIED.

RESOLVED – that Councillor J Jones be appointed Chairman for the meeting.

23 MINUTES - 28 AUGUST 2019

It was proposed by Councillor N Symonds and seconded by Councillor C Wilson that the Minutes of the meeting held on 28 August 2019 be confirmed as a

correct record and signed by the Chairman. After being put to the meeting and a vote taken, the motion was declared CARRIED.

RESOLVED – that the Minutes of the meeting held on 28 August 2019 be confirmed as a correct record and signed by the Chairman.

24 APPLICATION FOR A NEW PREMISES LICENCE FOR THE BURGER BOX, 23 PARLIAMENT SQUARE, HERTFORD, HERTS, SG14 1EX

The Chairman outlined the procedure to be followed. All those present were introduced. The Senior Licensing and Enforcement Officer summarised the application for a new premises licence that had been submitted to the Licensing Authority by TRS Bars and Restaurants LTD on 27 July 2019.

The Sub-Committee was advised that the premises was called The Burger Box, 23 Parliament Square, Hertford and the application was for the supply of alcohol on and off the premises between the hours of 10:30 am and 9 pm. The opening hours of the premises would be 8 am to 10 pm.

The Senior Licensing and Enforcement Officer summarised the additional steps the applicant intended to take to promote the four licensing objectives. This included the Challenge 25/Think 25 proof of age scheme as well as training for staff regarding the responsible sale of alcohol. Non-alcoholic drinks would be available during the hours applied for the supply of alcohol on and off the premises.

The Sub-Committee was advised that CCTV would cover all entry and exit points enabling front identification of every person entering in any light condition. The applicant had committed to making recordings available immediately upon reasonable enquiries by the police or authorised Officer for the following 31 day period.

The Officer said that a condition could be applied that alcohol would only be served to customers in the premises. The applicant had indicated that alcohol would only be served to customers sitting in the premises or those seated at tables within a designated seating area in Parliament Square.

The Senior Licensing and Enforcement Officer summarised the conditions detailed in Essential Reference Paper 'C' and detailed the 3 representations included in the Agenda at Essential Reference Paper 'D'. Members of the Sub-Committee had conducted a site visit under a strict protocol whereby the applicant remained outside the premises whilst the Members and an Officer had entered the premises.

The Sub-Committee was reminded that the application should be granted if the four licensing objectives would not be undermined. Members could restrict the hours applied or apply conditions and the Sub-Committee could also refuse the application. The decision of the Sub-Committee had to be justified and evidence based.

Councillor J Goodeve raised a number of points on behalf of one of the three objectors. She referred in

particular to sight lines and toilet provision as well as staff being at the premises. She also commented on the use of the Town Council CCTV system. The applicant stated that he would be happy to reinforce CCTV coverage by paying for the crowning of trees in Parliament Square.

The applicant confirmed the location of the toilets and also where the bins would be stored. He also referred to commercial viability and stated that The Burger Box would be unlikely to be operational during the winter.

The applicant said that the business would be a Mediterranean-style Bistro and would not be commercially viable without off trade. He stated that it would be coffee led and not alcohol led and he anticipated that the business would not be commercially viable without the outside seating. The Burger Box would be closed by early evening and would not contribute to the night time economy.

The applicant concluded that he would have very well trained staff and the business would bring good value to the area and would be a very well thought through operation. He reiterated that Challenge 25 procedures would be employed at The Burger Box.

Councillor J Jones questioned the applicant on whether The Burger Box was separate to the Hertford House Hotel. The applicant confirmed that the staff for this premises would be very experienced staff from the Hertford House Hotel.

Councillor N Symonds referred to the Disability Discrimination Act and questioned the lack of provision

of toilet facilities for the disabled. The applicant stated that he had taken health and safety advice but could not change the fabric of the building.

The applicant responded to concerns from Councillor Symonds by stating that the bins would be stored inside and there would be a weekly bin collection from the Hertford House Hotel. The applicant confirmed to Councillor C Wilson that the food and drinks would be transported to customers in specialised caddies so there would no noisy movement of bottles or other products.

In response to comments from Councillor N Symonds regarding the promotion of the four licensing objectives, the applicant referred to the important opinions of the responsible authorities. He said that Hertfordshire Constabulary, Hertfordshire Fire and Rescue and Environmental Health were satisfied that the application promoted the areas covered by those objectives.

At the conclusion of the closing submissions, the Sub Committee, the Legal Services Manager and the Democratic Services Officer withdrew to allow Members to consider the evidence.

Following this, Members, the Legal Services Manager and the Chairman announced that the Sub Committee had listened to the comments of the Licensing Officer, the applicants and the residents and the Sub-Committee had decided to approve the application, subject to the conditions detailed on pages 81 – 83 of the Agenda and the following additional condition:

- Bottles/glass collections will be permitted by the same external company that services the Hertford House Hotel, on the same day and time.

RESOLVED – that the application for a new premises be approved, subject to the conditions detailed on pages 81 – 83 of the Agenda and the following additional condition:

- Bottles/glass collections will be permitted by the same external company that services the Hertford House Hotel, on the same day and time.

Reasons:

1. Members were satisfied that the concerns of residents will be met by the conditions the Sub-Committee have imposed.
2. Members were also satisfied that the hours for Licensable Activity would not undermine the 4 licensing objectives.

The meeting closed at 3.20 pm

Chairman
Date

LICENSING SUB-COMMITTEE

EXTRACT FROM RULES OF PROCEDURE

Note – the full Rules of Procedure can be viewed at:

<http://democracy.eastherts.gov.uk/ieListMeetings.aspx?CId=144&Year=0>

8.0 Procedure at hearing

As a matter of practice, the Sub-Committee shall seek to focus the hearing on the steps needed to promote the particular licensing objective(s) which has given rise to the specific representation(s) and will avoid straying into undisputed areas. The hearing is a discussion lead by the Authority (i.e. the Chairman) with advice from the Legal Adviser.

- 8.1 The order of business shall be at the discretion of the Sub-Committee, but shall normally proceed in accordance with the following paragraphs.
- 8.2 The Chairman shall at the beginning of the hearing, introduce themselves and the Sub-Committee members, ask the Officers present to introduce themselves before inviting the parties to the hearing to identify themselves. The Chairman will then explain to the parties the procedure that the Sub-Committee intends to follow.
- 8.3 The Chairman will ask a representative of the Licensing Authority to introduce the report, and outline the matter before the Sub-Committee.
- 8.5 The Parties to a hearing for an application shall usually be invited to address the Sub-Committee in the following order:
 - (a) Applicant
 - (b) Responsible Authority
 - (c) Other parties

However, this may be varied at the discretion of the Chairman, if in his/her opinion, this would assist the efficient business of the Sub-Committee.

- 8.6 Parties to the hearing shall be entitled to:
- (a) give further information in support of their application, relevant representations or notice (as applicable) in response to a point upon which the Licensing Authority has given notice that it requires clarification;
 - (b) question any other party if given permission by the Chairman of the Sub-Committee; and
 - (c) address the Sub-Committee.
- 8.7 Members of the Sub-Committee may ask any question of any party to the hearing or other person appearing at the hearing.
- 8.8 Where there is more than one relevant representation raising the same or similar grounds, the Sub-Committee shall request that only one party address them on behalf of the parties who have made the representations in question.
- 8.9 Subject to paragraph 8.10 below, in considering any relevant representations or notice made by a party to the hearing, the Sub-Committee may take into account additional documentary or other information produced by such a party in support of their application, relevant representations or notice (as applicable) either submitted at least 24 hours before the hearing commences or, with the consent of *all* the other parties and the Chairman, at the hearing. Where all the other parties consent the Licensing Sub-Committee has discretion as to whether to admit additional documentary evidence or other information at the hearing. If large documents are submitted on the day then the hearing may be adjourned at the Chairman's discretion so that such documents can be fully considered.

Note - As a matter of good practice, any additional documentation or other information produced in advance of the hearing date, should be submitted to the licensing officer no later than two working days before the hearing.

- 8.10 The Sub-Committee shall disregard any information given or evidence produced by a party or any person to whom permission is given to appear at the hearing, which is not relevant to:

- (a) their application, relevant representations or notice (as applicable); or
- (b) the promotion of the licensing objectives.

8.11 Hearsay evidence may be admitted before the Sub-Committee, but consideration shall always be given to the weight, if any, to be attached to such evidence, depending upon the circumstances in which it arises.

8.12 The parties to the hearing shall be entitled to make closing submissions, usually in the following order:

- (a) Responsible Authority
- (b) Other party
- (c) Applicant.

8.13 The Sub-Committee will, after hearing the relevant representations of the parties to the hearing, withdraw from the room to make their deliberations.

8.14 The Legal Adviser and the Democratic Services Officer shall accompany the Sub-Committee when they retire to make their deliberations.

9.0 Determination of applications

9.1 The Sub-Committee shall give appropriate weight to:

- (a) the relevant representations (including supporting information) presented by all the parties;
- (b) national guidance;
- (c) the Licensing Authority's Licensing/Gambling Policy (as applicable); and
- (d) the steps that are necessary to promote the licensing objectives.

9.2 The Sub-Committee shall make its determination:

- (a) at the conclusion of the hearing in accordance with the relevant Regulations; or
- (b) within 5 working days thereafter (all other cases).

9.3 The written notice of determination shall be issued by Head of Housing and Health under delegated authority and will information regarding the appeals process.

10.0 Role of Legal Adviser

10.1 The Sub-Committee may seek advice or clarification of any procedural, technical or legal matter from the Legal Adviser at any time during the course of the hearing.

10.2 The Legal Adviser shall provide the Sub-Committee with any advice it requires to properly perform its functions, on:

- (a) questions of law;
- (b) questions of mixed fact and law;
- (c) matters of practice and procedure;
- (d) the range of options available to the Sub-Committee;
- (e) any relevant decisions of courts;
- (f) relevant national guidance or policy;
- (g) other issues relevant to the matter before the Sub-Committee.

10.4 The Legal Adviser shall play no part in making findings of fact, but may assist the Sub-Committee by reminding it of the evidence taken from his/her own or the Democratic Services Officer's notes.

10.5 The Legal Adviser may ask questions of witnesses and the parties in order to clarify the evidence and any issues in the case. The Legal Adviser is under a duty to ensure that every case is conducted fairly.

11.0 Role of Democratic Services Officer

11.1 The Democratic Services Officer's role is to make a record of the proceedings, summarise and record decisions and to provide help and assistance to parties attending hearings.

12.0 Role of Licensing

12.1 The Licensing Officer will present the pertinent facts of the application and the representations made by parties to the hearing.

- 12.2 The Licensing Officer shall provide the Sub-Committee with any advice it requires to properly perform its functions.
- 12.3 The Licensing Officer may ask questions of witnesses and the parties in order to clarify the evidence and any issues in the case.

13.0 Failure of parties to attend the hearing

- 13.1 If a party to the hearing has informed the Licensing Authority that he/she does not intend to attend or be represented at the hearing, the hearing may proceed in his/her absence and any properly made written submissions will be considered as part of the decision making process.
- 13.2 If a party to the hearing fails to provide notification in accordance with paragraph 13.1 above, and fails to attend or be represented at a hearing, the Sub-Committee may:
- (a) where it considers it to be necessary in the public interest, adjourn the hearing to a specified date; or
 - (b) hold the hearing in the party's absence and shall consider at the hearing, the application, relevant representations or notice made or submitted by that party.

14.0 Adjournments

- 14.1 Subject to the provisions of the Regulations, the Sub-Committee may, where necessary for its consideration of any relevant representations or notice made by a party to the hearing, adjourn the hearing to a specified date.
- 14.2 Where the Sub-Committee adjourns the hearing to a specified date, it shall forthwith notify the parties to the hearing of the date, time and place.

15.0 Right of Appeal

- 15.1 The all parties to a hearing have a right of appeal against a decision to the Magistrates' Court within 21 days (beginning with the day on which the applicant was notified of the decision by the Licensing Authority).

By virtue of paragraph(s) 1 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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