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GATESHEAD METROPOLITAN BOROUGH COUNCIL

LICENSING COMMITTEE MEETING

Friday, 12 February 2016

PRESENT: Councillor W Dick (Vice Chair)

Councillors: C Bradley, M Brain, M Charlton, D Davidson,
B Oliphant, M Ord and N Weatherley

LC1 **APOLOGIES FOR ABSENCE**

Apologies for Absence were received from Councillor K Dodds, Councillor N Weatherley, Councillor P Ronan and Councillor B Goldsworthy

LC2 **MINUTES**

The minutes of the last meeting held on 14 September were agreed subject to it being noted that Councillor M Charlton submitted her apologies.

LC3 **NORTH EAST STRATEGIC LICENSING GROUP UPDATE**

An update report was presented to the Committee on the work of the North East Strategic Licensing Group.

The group had held a training event at Gateshead in October 2015 and Tim Briton gave a presentation on examples of good practice from various authorities across the North East. Presentations were also delivered by John Coen of Weightmans LLP and Charles Holland of Trinity Chambers. Approximately 60 people attended the event.

Also officers from Gateshead had input to the Local Government Associations Fee Setting guidance which was issued on 15 December 2015. If the Government fulfils its aim of transferring fee setting responsibility under the Act to local authorities this will be relevant, however, recently the government have taken a step back and are talking about imposing nationally.

Gateshead and Durham are to be pilots for Public Health to be able to make use of the data available to them, if public health were able to use this information it is likely we will see more sub-committee hearing taking place.

The Council are also increasing the charges for Temporary Event Notices (TENS).

RESOLVED - That the information in the report be noted.

LC4

LICENCES AND CERTIFICATES ISSUED UNDER THE LICENSING ACT

The Committee received a report on the Licences and Certificates issued under the Licensing Act as follows:

Premises Licences and Club Premises Certificates

New Premises Licences	8
Premises Licence Variations	29
Premises Licence Transfers	10
New Club Premises Certificates	0
Club Premises Certificate Variations	0
TOTAL	47

Personal Licences

New Personal Licences	38
Personal Licence changes of address	16
TOTAL	54

Temporary Event Notices

Temporary Event Notices given	72
Counter Notices served	1
TOTAL	73

RESOLVED -

That the information contained in the report be noted.

LC5

HEARINGS AND REVIEWS BEFORE SUB COMMITTEES

The Committee received a report on the number of hearings and reviews on the period between 2 September and 31 December 2015 as follows.

Premises	Applicant	Date	Representation	Decision
Grey Nags Head, 219 High Street	Admiral Taverns Piccadilly Ltd	21/09/15	A Local Resident	Mediated day of committee (conditions agreed)
Unit 5, Derwent Court, Earlsway	Amazon EU SARL	29/10/15	Northumbria Police	Mediated day before committee (conditions agreed)
Sahashay Stores Ltd	Trading Standards Review	5/11/15	LSCB Northumbria Police	To impose a condition that the designated premises supervisor complete a Level 2 Award for a Personal Licence Holder
Ravensworth Food Market, 3 Ravensworth Road, Birtley	Trading Standards Review	23/11/15	LSCB Director of Public Health	Mediated Day of Committee (Conditions Agreed)

			Trading Standards Health and Safety Northumbria Police	
Vino 4 U Ltd Unit 3, Earls Park North	Vino 4 U Ltd – Application for a New Premises Licence	23/11/15	LSCB Director of Public Health Trading Standards Health and Safety Northumbria Police	Mediated day of committee (Conditions Agreed)
Bridle Path, 101 Front Street, Whickham	A local Resident – Review	8/12/15	Local Residents Licensing Northumbria Police	To impose conditions on the Licence.

RESOLVED - That the information in the report be noted.

LC6

APPEALS AND PROSECUTION - LICENSING ACT

A report was presented to the Committee to inform them of Appeals and Prosecutions received.

An appeal has been submitted on behalf of Stonegate Pub Company who own The Bridle Path. The pub is very close to residential properties and it was very difficult for the Committee to marshal what was being said and relate it to what could be dealt with under the Licensing Act 2003. The decision was made in regard to noise emanating from the beer garden, however, the main concern of residents appeared to be noise at the front emanating from people leaving the pub at the end of the night.

The difficulty is also taxis parking at the front which is something which can't be dealt with under the Licensing Act. The pub felt that the residents had not made a strong case and have appealed. There is to be a directions hearing next month with a 3 day hearing at the end of July.

There has been 1 prosecution which resulted in a £400 fine and a review of the licence. It was noted that the review was not submitted until the license holder pleaded guilty, however, discussions have taken place with Trading Standards to make them aware that they can request a review of a license before the prosecution has been to court.

Resolved - That the information presented be noted.

LC7 **APPEALS AND PROSECUTIONS - GAMBLING ACT**

There are no appeals to report under the Gambling Act. There has been one prosecution to report which was a case of a group of people at a pub football club who were running a lottery, however, they had not completed the correct forms and the amounts involved were in the region of £200,000. Funds to the value of £50,000 were confiscated under the proceeds of crime act.

Resolved - That the information be noted.

LC8 **OTHER APPLICATIONS PROCESSED 02.09.2015 TO 31.12.2015**

Details of other applications processed under the Licensing Act 2003 were as follows:

TYPE OF APPLICATION/NOTIFICATION	
Temporary Event Notices given	72
Designated Premises Supervisor Variations	22
Premises Licence Holder Transfers	10
Amendment applications (eg change of name, change of address etc)	8
Notifications of Interest	0

Resolved - That the information be noted.

LC9 **LICENCES, NOTIFICATIONS, REGISTRATIONS AND PERMITS PROCESSED UNDER THE GAMBLING ACT 2005**

There have been no licences, notifications, registrations or permits processed under the Gambling Act.

Resolved - That the information be noted.

LC10 **HEARINGS AND REVIEWS UNDER THE GAMBLING ACT 2005**

There are no hearings or reviews to report under the Gambling Act 2005.

Resolved - That the information presented be noted.

LC11 **APPEALS AVOIDANCE TRAINING**

The Committee received a presentation from Tim Briton on the role of the Committee, Officers and responsible authorities.

The Committee heard that in the first instance, officers need to make sure the procedure is correct and fair and that Councillors have regard to all relevant evidence presented to them and be sure of what weight is attached to the evidence presented. Councillors also need to be clear in terms of the reasons for the decision.

Decisions usually are appealed when one of the parties to the hearing feels aggrieved. It could be the license holder, a responsible authority or an interested party. On occasion the licence holder may not feel that they have done anything wrong, or they don't feel that what they have done merits the sanctions imposed. The aggrieved party may feel that what they had to say was not properly considered or they don't understand why the decision was reached or they may think that the Council got the law wrong.

It is important to avoid perceptions of impartiality or bias. The most obvious is for Councillors not to represent a party at a hearing and then also take part in the decision making, this is not something which happens at Gateshead. Any Councillor who has a conflict of interest should not be in the room when a hearing is taking place. Councillors should also avoid expressing personal opinions prior to a decision being reached. Councillors should not be bound by a party whip to vote one way or the other.

It is important when making a decision at the Sub Committee that the following is taken into account.

- Legislation
- Case Law
- Home Office guidance
- The Council's own Policy
- The individual facts.

The Council's policy is where Council's can set out a strategic approach and gives Councillors a starting point which should only be deviated from if the individual circumstances justify it. At appeal the Magistrate must stand in the Council's shoes and apply the policy (unless the individual circumstances justify deviation).

The primary approach from the appellant on appeal will be to attack the Council rather than defend the appellant's conduct. The council will need to show that procedure has been followed, the facts have been evaluated and only attach weight to the material particulars. Consideration should be given to what is likely to happen in the future if you allow the licensable activities to proceed or continue.

A case study of a recent sub-committee was shared with the Committee for illustration purposes.

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