



# **BROMSGROVE DISTRICT COUNCIL**

## **LICENSING COMMITTEE**

MONDAY, 18<sup>TH</sup> APRIL 2005  
AT 6.00 P.M.

COUNCIL CHAMBER, THE COUNCIL HOUSE, BURCOT LANE, BROMSGROVE

MEMBERS: Councillors A. J. Dent (Chairman), D. Hancox (Vice-Chairman), Miss D. H. Campbell J.P., Mrs. R. L. Dent, Mrs. K. M. Gall, J. H. Gardener, M. H. Gill, Mrs. J. M. L. A. Griffiths, G. H. R. Hulett, W. R. Newnes, N. Psirides J.P., S. P. Shannon and E. C. Tibby.

### **A G E N D A**

Council Agendas and Minutes are available on our web-site at [www.bromsgrove.gov.uk/meetings](http://www.bromsgrove.gov.uk/meetings)

1. To receive apologies for absence and notification of substitutes
2. To receive the Minutes of the last Meeting
3. To consider the Report of the Head of Administrative Services relating to non-confidential and non-exempt items
4. To consider any other business, details of which have been notified to the Head of Administrative Services prior to the commencement of the Meeting and which the Chairman by reason of special circumstances considers to be of so urgent a nature that it cannot wait until the next Meeting
5. To consider, and if considered appropriate, to pass the following resolution to exclude the public from the Meeting during the consideration of items of business containing "Exempt Information":-

"RESOLVED: that under Section 100A (4) of the Local Government Act 1972, the public be excluded from the Meeting during the consideration of the following items of business on the grounds that they involve the likely disclosure of "Exempt Information" as defined in Part I of Schedule 12A to the Act, the relevant paragraphs of that part, in each case, being as set out below:-

<u>Item No.</u>	<u>Paragraphs</u>
6(1)	4 & 12
6(2)	4 & 12

6. To consider the Report of the Head of Administrative Services containing confidential or exempt items

The Council House,  
Burcot Lane,  
BROMSGROVE,  
Worcs.,  
B60 1AA.

S.NIXON  
Chief Executive

7th April 2005

# **BROMSGROVE DISTRICT COUNCIL**

## **MEETING OF THE LICENSING COMMITTEE**

Monday 21st March 2005, at 6.00 p.m.

PRESENT: Councillors A. J. Dent (Chairman), D. Hancox (Vice-Chairman), Miss D. H. Campbell J.P. Mrs. R. L. Dent, Mrs. A. N. Doyle (substituting for N. Psirides J.P.), Mrs. K. M. Gall, J. H. Gardener, M. H. Gill, Mrs. J. M. L. A. Griffiths, G. H. R. Hulett, W. R. Newnes and S. P. Shannon.

48/04 **APOLOGIES**

An apology for absence was received from Councillor N. Psirides J.P.

49/04 **MINUTES**

The Minutes of the Meeting of the Committee held on 21st February 2005 were submitted.

**RESOLVED:** that the Minutes be approved and confirmed as a correct record.

50/04 **REPORT OF THE HEAD OF ADMINISTRATIVE SERVICES RELATING TO NON-CONFIDENTIAL AND NON-EXEMPT ITEMS**

The Report of the Head of Administrative Services relating to non-confidential and non-exempt items was submitted.

Arising therefrom:

(1) **APPLICATION TO GRANT AN ANNUAL PUBLIC ENTERTAINMENTS LICENCE – ARTRIX, SCHOOL DRIVE, BROMSGROVE**

**RESOLVED:**

- (a) that the application made by Mr. A. Woods for the granting of the Public Entertainments Licence in respect of The Artrix be approved, subject to the Council's standard conditions and any recommendations outlined in the Fire Authority's report;
- (b) that the request to waiver the licence fee be approved.

(NOTE: Cllr. Mrs. J. M. L. A. Griffiths declared a prejudicial interest in this item as she is a Trustee of Bromsgrove Arts Centre Operating Trust).

(NOTE: Cllr. W. R. Newnes declared a prejudicial interest in this item as he is the Chairman of Bromsgrove Arts Centre Operating Trust).

(NOTE: Cllr. J. H. Gardener declared a personal interest in this item as he is the Chairman of the Bromsgrove Arts Centre Holding Trust).

(2) **APPLICATION TO GRANT A CINEMA LICENCE – ARTRIX, SCHOOL DRIVE, BROMSGROVE**

**RESOLVED:**

- (a) that the application made by Mr. A. Woods for the granting of a Cinema Licence in respect of The Artrix be approved, subject to the Council's standard conditions and any recommendations outlined in the Fire Authority's report;
- (b) that the request to waiver the licence fee be approved.

(NOTE: Cllr. Mrs. J. M. L. A. Griffiths declared a prejudicial interest in this item as she is a Trustee of Bromsgrove Arts Centre Operating Trust).

(NOTE: Cllr. W. R. Newnes declared a prejudicial interest in this item as he is the Chairman of Bromsgrove Arts Centre Operating Trust).

(NOTE: Cllr. J. H. Gardener declared a personal interest in this item as he is the Chairman of the Bromsgrove Arts Centre Holding Trust).

**(3) RENEWAL OF ANNUAL PUBLIC ENTERTAINMENT LICENCES**

The Principal Licensing Officer informed the Committee that a letter of objection had been received in respect of the renewal of the Public Entertainment Licence in respect of the Spadesbourne Suite, Burcot Lane, Bromsgrove. The letter of objection related to the loudness of music being played at the events held in the Spadesbourne Suite and that the patrons attending the events left in a noisy fashion.

**RESOLVED:**

- (a) that the applications for the renewal of the Annual Public Entertainment Licences, as set out in the attached Schedule, be approved;
- (b) as a consequence of the letter of objection received in respect of the Spadesbourne Suite, Burcot Lane, Bromsgrove, that an additional condition be placed on the Public Entertainments Licence, requesting that all windows and fire exits on the side facing Brook Court remain closed during all public entertainment events.

(NOTE: Cllr Mrs. J. M. L. A. Griffiths declared a personal interest in this item relating to Alvechurch Village Hall and Beoley Village Hall, as a frequent user of the premises).

(NOTE: Councillor W. R. Newnes declared a personal interest in this item relating to Bromsgrove Methodist Centre, as the applicant was known to him).

(NOTE: Councillor G. H. R. Hulett declared a personal interest in this item relating to Catshill Village Hall, as a frequent user of the premises).

(NOTE: Councillor Mrs. K. M. Gall declared a personal interest in this item relating to Hagley Community Centre, as she is a Committee Member for the Community Centre).

(NOTE: Councillor S. P. Shannon declared a personal interest in this item relating to the Hop Pole Inn and The Ladybird Inn, as a frequent user of the premises).

(NOTE: Councillor W. R. Newnes declared a personal interest in this item relating to the Hop Pole Inn, as a frequent user of the premises).

(NOTE: Councillor W. R. Newnes declared a personal interest in this item relating to North Bromsgrove High School, as his daughters attend the school).

(NOTE: Councillor W. R. Newnes declared a personal interest in this item relating to Parkside Middle School, as he is the Chair of Governors at the school).

(NOTE: Councillor Mrs. J. M. L. A. Griffiths declared a personal interest in this item relating to the Recreation Ground, Sanders Park and the Spadesbourne Suite, as she is the Portfolio holder for Leisure Services).

(NOTE: Councillor S. P. Shannon declared a personal interest in this item relating to the Recreation Ground, as he carries out performances in the Park).

(NOTE: Councillor G. H. R. Hulett declared a personal interest in this item relating to Rubery and Rednal Royal British Legion, as he is a Member of the Royal British Legion).

(NOTE: Councillor D. Hancox declared a personal interest in this item relating to Rubery and Rednal Royal British Legion, as he is a Member of the Royal British Legion).

(NOTE: Councillor Mrs. K. M. Gall declared a personal interest in this item relating to St. Saviours Church Hall as the applicant is known to her).

(NOTE: Councillor J. H. Gardener declared a personal interest in this item relating to Wythall Park Hall, as he is Member of the Wythall Community Association).

(4) **APPLICATION TO VARY AN ANNUAL PUBLIC ENTERTAINMENTS LICENCE – RUBERY AND REDNAL ROYAL BRITISH LEGION, NEW ROAD, RUBERY**

**RESOLVED:** that the application made by Mrs. T. Hemming on behalf of Rubery and Rednal Royal British Legion, to allow public entertainment to continue till 12.30 a.m. on Thursdays, Fridays and Saturdays be approved, subject to the variation being in force for a trial period of six months, whereafter a further review will be undertaken.

(NOTE: Cllr. G. H. R. Hulett declared a prejudicial interest in this item as he is a member of the Royal British Legion).

(NOTE: Cllr. D. Hancox declared a prejudicial interest in this item as he is a member of the Royal British Legion).

(5) **APPLICATION TO RENEW A LATE NIGHT REFRESHMENT LICENCE – WELCOME BREAK SERVICE STATION, HOPWOOD PARK, ALVECHURCH**

**RESOLVED:** that the application made by Welcome Break Group Ltd for the renewal of a Late Night Refreshment House Licence, in respect of the Welcome Break Service Station, Hopwood Park, Alvechurch, be approved.

(6) **STREET TRADING CONSENT APPLICATION – BROMSGROVE HOSPITAL CARNIVAL COMMITTEE**

The Committee considered an application for a Street Trading Consent on behalf of the Bromsgrove Hospital Carnival Committee in conjunction with the annual Elizabethan Street Market on Saturday 25th June 2005. It was

**RESOLVED:** that the application made by Mr. J. Evans on behalf of the Bromsgrove Hospital Carnival Committee for the granting of a Street Trading Consent for the annual Elizabethan Street Market to be held on 25th June 2005 between the hours of 9.00 a.m. and 5.00 p.m. in Bromsgrove High Street be approved, subject to the following conditions:

- (i) no interference shall be caused to vehicles servicing the shops in the High Street, Bromsgrove;
- (ii) the stalls shall be erected in such positions so that no obstruction is caused to nearby shop entrances to the satisfaction of the Council's Head of Community Safety and Engineering;
- (iii) no vehicle shall be in attendance for the purpose of delivering or collecting stalls, goods, etc., between the hours of 10.30 a.m. and 4.00 p.m.;
- (iv) the applicant shall be responsible for all and any claims for damage or injury which may arise from their use of the High Street; and
- (v) a passage shall be kept open at all times for the access of emergency vehicles and at the prescribed times, viz., 10.30 a.m. and after 4.00 p.m. for the access of any vehicles.

**(7) STREET COLLECTION APPLICATION – BROMSGROVE CARNIVAL COMMITTEE**

The Committee considered an application for a Street Collection Permit on behalf of the Bromsgrove Hospital Carnival Committee for a collection to take place in Bromsgrove High Street on 2nd July 2005. It was

**RESOLVED:** that a Street Collection Permit be issued to Mr. J. Evans on behalf of the Bromsgrove Hospital Carnival Committee for a collection to take place in Bromsgrove High Street on Saturday 2nd July 2005.

**(8) HOUSE TO HOUSE COLLECTION APPLICATION – CLOTHESAID**

The Committee considered an application for a House to House Collection Permit on behalf of ClothesAid for a collection to take place throughout the District of Bromsgrove for a twelve month period. It was

**RESOLVED:** that a House to House Collection Permit be issued to Ms. S. Grace on behalf of ClothesAid for a collection to take place throughout the District of Bromsgrove for a twelve month period, subject to the receipt of a satisfactory criminal conviction certificate.

**(9) STREET COLLECTION CALENDAR 2004/05 AND RETURNS**

**RESOLVED:** that this item be noted.

**(10) HOUSE TO HOUSE COLLECTION CALENDAR 2004/05 AND RETURNS**

**RESOLVED:** that this item be noted.

51/04

**LOCAL GOVERNMENT ACT 1972**

**RESOLVED:** that, under Section 100A(4) of the Local Government Act 1972, the public be excluded from the Meeting during the consideration of the following items of business on the grounds that they involve the likely disclosure of "Exempt Information" as defined in Part I of Schedule 12A to the Act, the relevant paragraphs of that part being as set out below:-

<u>Minute No.</u>	<u>Paragraphs</u>
52/04 (1)	4
52/04 (2)	4 and 12
52/04 (3)	4 and 12

52/04

**REPORT OF THE HEAD OF ADMINISTRATIVE SERVICES CONTAINING  
CONFIDENTIAL OR EXEMPT ITEMS**

The Report of the Head of Administrative Services containing confidential or exempt items was submitted.

Arising therefrom:

(1) **HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE DRIVER'S  
LICENCE – REFERENCE D. 990**

The Principal Licensing Officer reported that Driver reference D.990 had failed to attend the Meeting to make appropriate representations in connection with his driving offences. In absence of Driver reference D.990, the Committee considered the Report and it was

**RESOLVED:** that the Hackney Carriage and Private Hire Vehicle Driver's Licence D.990 be suspended till midnight on 18th April 2005, and that the licence holder be invited to attend the next Meeting of the Committee so that a further review of this licence can be undertaken.

(2) **HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE DRIVER'S  
LICENCE – REFERENCE D. 1094**

**RESOLVED:**

- (a) that Driver reference D.1094 be prosecuted under Section 73(1) of the Local Government (Miscellaneous Provisions) Act 1976 for obstructing the Licensing Officer in the execution of his duty;
- (b) that Driver reference D.1094 be prosecuted under Section 222 of the Local Government Act 1972 and Section 40(a) of the Road Traffic Act 1988 for carrying a passenger in a dangerous position;
- (c) that Driver reference D.1094 be prosecuted for the breach of Hackney Carriage Byelaw No. 7 for carrying more passengers than shown on the Hackney Carriage Licence.

(3) **HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE DRIVER'S  
LICENCE – REFERENCE D. 990**

**RESOLVED:**

- (a) that Driver reference D.990 be prosecuted under Section 222 of the Local Government Act 1972 for aiding and abetting offences by Driver reference D.1094 under Section 40(a) of the Road Traffic Act 1988 for carrying a passenger in a dangerous position;
- (b) that Driver reference D.990 be prosecuted under Section 222 of the Local Government Act 1972 for aiding and abetting offences by Driver reference D.1094 for the breach of Hackney Carriage Byelaw No. 7 for carrying more passengers than shown on the Hackney Carriage Licence.

The Meeting closed at 7.15 p.m.

Chairman

# **BROMSGROVE DISTRICT COUNCIL**

## **LICENSING COMMITTEE**

18<sup>TH</sup> APRIL 2005

### **REPORT OF THE HEAD OF ADMINISTRATIVE SERVICES RELATING TO NON-CONFIDENTIAL AND NON-EXEMPT ITEMS**

1. **APPLICATION TO GRANT AN ANNUAL PUBLIC ENTERTAINMENTS LICENCE –  
RYLAND CENTRE, NEW ROAD, BROMSGROVE**

An application has been received for the granting of an Annual Public Entertainments Licence on behalf of Ms. A. Heath in respect of the Ryland Centre, New Road, Bromsgrove.

The Director of Environmental Services and the Police Authority have no objections to the granting of the Licence. Comments are awaited from the Fire Authority.

The application has been advertised, and no responses have been received.

The applicant is also seeking approval for the licence fee of £423 to be waived, on the following grounds:

The activities that take place at the Ryland Centre are funded by the Worcestershire Youth Service. The Centre provides facilities for young people to learn to play musical instruments and compose music and songs. Throughout the year the young people intend to put on a number of 'showcases' to friends and family to show what they have achieved during their time spent at the Centre. Any funds received from the 'showcases' are split between a charitable cause, such as Leukaemia Research, and to help finance other activities undertaken at the Centre, such as the 'Swedish Exchange'.

If Members are minded to grant the application, then it would be subject to the Council's standard conditions, and any conditions recommended by the Fire Authority.

Members' views are requested.

#### **Background Papers:**

- (1) Application Form received 4<sup>th</sup> March 2005.
- (2) Memorandum received from the Director of Environmental Services dated 30th March 2005.
- (3) Email received from the Police Authority dated 16th March 2005.
- (4) Public Notice.

2. **APPLICATION TO GRANT AN ANNUAL PUBLIC ENTERTAINMENTS LICENCE –  
PRIMROSE HOSPICE AND CANCER HELP CENTRE, ST. GODWALDS ROAD,  
BROMSGROVE**

An application has been received for the granting of an Annual Public Entertainments Licence on behalf of Ms. L. Hart in respect of the Primrose Hospice, St. Godwalds Road, Bromsgrove.

The Police Authority have no objections to the granting of the Licence. The Director of Environmental Services also has no objections to the granting of the Licence, subject to the following additional conditions being placed on the Licence:

- That all external public entertainment events must finish by 9.00 p.m.;
- No amplification of music or speech to be permitted outside the premises after 9.00 p.m.;
- That external public entertainment events must be limited to five events per year;

- That all doors and windows must remain closed when public entertainment events continue to take place inside the premises after 9.00 p.m.

The Fire Authority have no objections to the granting of the Licence, providing that all fire exits are openable from within the premises without the use of a key, and that a risk assessment is undertaken for each outside event.

The application has been advertised, and no responses have been received.

The applicant is also seeking approval for the licence fee of £265 to be waived, as the Primrose Hospice is a local registered charity. The granting of the licence would enable the Hospice to hold fundraising events within the grounds of the Hospice to help fund the Day Centre, at home support services and to contribute to the care costs of the palliative care unit based at the Princess of Wales Community Hospital.

If Members are minded to grant the application, then it would be subject to the Council's standard conditions, and the additional conditions recommended by the Fire Authority and the Director of Environmental Services.

Members' views are requested.

#### Background Papers:

- (1) Application Form received 7<sup>th</sup> March 2005.
- (2) Memorandum received from the Director of Environmental Services dated 30<sup>th</sup> March 2005.
- (3) Email received from the Police Authority dated 16<sup>th</sup> March 2005.
- (4) Report received from the Fire Authority dated 4<sup>th</sup> April 2005.
- (5) Public Notice.

### **3. RENEWAL OF ANNUAL PUBLIC ENTERTAINMENT LICENCES**

As Members are aware, most of the Annual Public Entertainments Licences issued by this Council were due for renewal on 31<sup>st</sup> March 2005. Attached at Appendix 'A' is a schedule of renewal applications, which have been received to date. The schedule will be updated verbally at the Meeting if necessary. If the schedule is approved then each Licence will be renewed based on the standard conditions approved by the Committee, subject to any additional conditions stipulated within the existing Licence.

#### Background Papers:

- (1) Application Forms.
- (2) Letters received from the Police Authority.
- (3) Memoranda received from the Director of Environmental Services.
- (4) Fire Safety Certificates.
- (5) Public Notice

### **4. APPLICATION TO GRANT A LATE NIGHT REFRESHMENT LICENCE – CALERDON DINER, 1 CHAPEL STREET, BROMSGROVE**

An application has been received for the granting of a Late Night Refreshment Licence in respect of the Calderon Diner, 1 Chapel Street, Bromsgrove. The applicant, Mr. Arnold, is seeking to extend the current opening hours of the diner from of 8.00 a.m. to 3.30 p.m. Monday to Saturday to 8.00 a.m. to 12.30 a.m.

The Police Authority wish to object to the granting of the Licence, as the Police fear that the extension in hours will encourage youngsters to congregate in and around that area, leading to public nuisance and disorder during the evenings. The Police feel that the area is already well served by Late Night Refreshment Houses.

In view of the concerns expressed by the Police Authority, Members may wish to consider deferring consideration of the application to a special hearing of this Committee where all interested parties will be invited to attend.



Members' views are requested.

Background Papers:

- (1) Application Form received 23rd March 2005.
- (2) Email received from the Police Authority dated 5<sup>th</sup> April 2005.

5. **LICENSING ACT 2003 – LICENSING CODE OF PRACTICE**

A draft Code of Practice in relation to Licensing matters is attached at Appendix 'B' for the Committee's consideration. The Code is based on guidance issued by LACORS (Local Authorities' Co-ordinators of Regulatory Services – a local government central body created by the UK local authority associations, which provides advice and guidance to help support local authority regulatory and related services). The Code's main purpose is to provide a form of separation between those members who will determine a particular application and those members who either have some form of vested interest in an application or who may wish to make representations about an application (e.g. to support their constituents).

If the Committee approves the content of the draft Code, it would be appropriate to recommend its adoption by the Council. A copy of the draft document has also been submitted to the Council's Standards Committee for their comments and any observations will be reported to Members at the Meeting.

Background Papers:

Lacors' Guidance: The Role of Elected Members in relation to Licensing Committee Hearings under the Licensing Act 2003.

6. **APPLICATION FOR A STREET TRADING CONSENT – HOT FOOD UNIT IN BROMSGROVE HIGH STREET**

An application has been received for a Street Trading Consent from Wilson's Amusements (Redditch) Limited to site a hot food unit selling hot dogs and burgers, in Bromsgrove High Street on Saturday 19<sup>th</sup> November 2005 between the hours of 9.00 a.m. and 6.00 p.m. in connection with the ceremony to switch on the Christmas Lights.

The applicant is also seeking permission to site a children's ride in the High Street in conjunction with the Hot Food Unit; however, this aspect will be dealt with under Officers delegated powers.

The Head of Community Safety and Engineering has no objections to the stationing of the hot food unit in the High Street, subject to the conditions outlined below.

If the street trading consent is refused, then the children ride aspect will take place on its own, subject to approval by Officers. If it is granted then it should be subject to the following conditions:-

- (a) The food vending unit shall be sited in a position to the prior written approval of the Head of Community Safety and Engineering;
- (b) The permitted hours of trading shall be 9.00 a.m. to 5.00 p.m. on Saturday 19<sup>th</sup> November 2005;
- (c) A passage shall be kept open at all times for the access of emergency vehicles and at the prescribed times, viz., 10.30 a.m. and after 4.00 p.m. for the access of any vehicles;
- (d) The food vending unit may be inspected by a member of the Directorate of Environmental Services;
- (e) The food vending unit shall comply with the provisions of the Food Safety (General Food Hygiene) Regulations 1995 and the Food Safety (Temperature Control) Regulations 1995;
- (f) As adequate means of refuse disposal shall be provided at the food vending unit to the satisfaction of the Director of Environmental Services for the disposal of wrappers and litter;
- (g) The applicant being responsible for all and any claims for damage or injury which may arise from his use of the land;

- (h) A copy of the Operator's Health and Safety Risk Assessment shall be made available to the Director of Environmental Services as soon as possible, and in any event, at least 14 days prior to the commencement of trading;
- (i) Connection to the electrical supply shall be the applicant's responsibility and shall be made in accordance with current good electrical practice by a competent person. The unit should not be connected to the Council's Christmas display circuit.

Members' views are requested.

Background papers:

- (1) Application Form received 4<sup>th</sup> March 2005.
- (2) Memorandum received from the Head of Community Safety and Engineering dated 9<sup>th</sup> March 2005.

**7. APPLICATION FOR A STREET COLLECTION PERMIT – ROTARY CLUB OF HAGLEY**

An application to promote a Street Collection has been received from Mr. David Santus on behalf of the Rotary Club of Hagley for a collection to take place in Hagley on 10<sup>th</sup> and 17<sup>th</sup> December 2005.

A satisfactory reference has been received from the organisation confirming that Mr. Santus has authority to collect on their behalf, and a criminal conviction certificate has also been received.

The organisation is registered with the Charity Commission and they have received a recent set of accounts. The proceeds from the collection will be for the benefit of local charities.

In view that application does meet with the Council's Policy, Members may wish to consider granting the application.

Background Papers:

- (1) Application Form received 15<sup>th</sup> March 2005
- (2) Criminal Conviction Certificate.
- (3) Reference received 21<sup>st</sup> March 2005.

**8. STREET COLLECTION CALENDAR 2004/05 AND RETURNS**

The following Collection Permits have been granted by this Committee: -

<u>Date</u>	<u>Organisation</u>	<u>Location</u>	<u>Amount Collected</u>
17/10/04	Macmillan Cancer Relief	Clent	£29.00
23/04/05	Save the Children	Town Centre	
07/05/05	Chernobyl 2000 Ltd	Town Centre*	
14/05/05	St. John Ambulance	Town Centre	
21/5/05	RNLI	Town Centre	
04/06/05	Arthritis Research	Town Centre	
02/07/05	Bromsgrove Carnival	Town Centre	
06/08/05	RSPCA	Town Centre	
03/09/05	County Air Ambulance	Town Centre	
01/10/05	Greyhound Compassion	Town Centre	
11-12/11/05	Royal British Legion	Town Centre	

(NOTE: An asterisk (\*) denotes that a reference and/or a Criminal Conviction Certificate is still awaited from the applicant. No permits will be issued until all documentation has been received.)

Background Papers:

- (1) Application Forms received.
- (2) References.
- (3) Criminal Conviction Certificates.

9. **HOUSE-TO-HOUSE COLLECTION CALENDAR 2004/05 AND RETURNS**

The following Collection Permits have been granted by this Committee:-

<u>Date</u>	<u>Organisation</u>	<u>Location</u>	<u>Amount Collected</u>
24/07/04	NSPCC	Rubery	
1/12/04-17/12/04	Kidderminster &	Hagley	
19/12/04 – 22/12/04	Hagley Round Table		
1/04/05 – 31/03/06	ClothesAid	District-wide*	

(NOTE: An asterisk (\*) denotes that a reference and/or a Criminal Conviction Certificate is still awaited from the applicant. No permits will be issued until all documentation has been received.)

The following collections are being promoted under a Home Office Exemption Order:-

<u>Date</u>	<u>Organisation</u>	<u>Location</u>
04/04/05 – 21/04/05	SCOPE	District-wide
09/04/05 – 23/04/05	The Children's Society	District-wide
08/05/05 – 14/04/05	British Red Cross	District-wide
15/05/05 – 21/05/05	Christian Aid	District-wide

Background Papers:

- (1) Application received from Kidderminster & Hagley Round Table.
- (2) Application received from ClothesAid.
- (3) Letters of notification received from those organisations which hold a Home Office Exemption Order.

10. **HOUSE-TO-HOUSE COLLECTION - NSPCC**

Members may wish to note that several attempts have been made to gain information as to how much money was raised for the benefit of the NSPCC during a House to House Collection that was carried out in Rubery on 27<sup>th</sup> July 2004. It would appear that the applicant has moved away from the contact address supplied on the application form.

Officers have also contacted the NSPCC to see if a return had been made to them. It would appear that the charity concerned is also having difficulty in making contact with the applicant.

Background Papers:

- (1) Application received from Ms. T. Mooney dated 18<sup>th</sup> June 2004
- (2) Reference received dated 14<sup>th</sup> June 2004
- (3) Letter received from the Police dated 9<sup>th</sup> July 2004
- (4) Letters sent from the Council to Ms. Mooney dated 22<sup>nd</sup> September, 17<sup>th</sup> November 2004 and 20<sup>th</sup> January 2005.

V. HARRISON  
Head of Administrative Services

The Council House  
Burcot Lane  
BROMSGROVE  
Worcestershire  
B60 1AA

7<sup>th</sup> April 2005.

## Schedule of Renewal Applications for 2005/06

## Appendix 'A'

PREMISES	APPLICANT	COMMENTS	ADDITIONAL CONDITIONS	RECOMMENDED
All Saints Church Hall Burcot Lane Bromsgrove	Anthony Turpin	Fire Certificate Yes Police No objection EHO No objection Advert No response		Grant.
Clent Parish Hall Church Avenue Clent	Margaret Symonds	Fire Certificate Yes Police No objection EHO No objection Advert No response		Grant.
Corres Hotel (formally the Westmead) Hopwood	Barry Clark	Fire Certificate Yes Police No objection EHO No objection Advert No response	The existing licence allows entertainment up to 12midnight and an additional condition relating to the provision of relaxed door supervisors.	Grant.
The Drawbridge 5 Drawbridge Road Majors Green	Karen Ayres	Fire Certificate Yes Police No objection EHO No objection Advert No response		Grant
Hopwood Village Hall Birmingham Road Hopwood	Zoe Taylor	Fire Certificate No Police No objection EHO No objection Advert No response		Grant, subject to the receipt of a satisfactory fire safety audit
The Hill Tavern Adams Hill Clent	Graham Bennett	Fire Certificate Yes Police No objection EHO No objection Advert No response		Grant
St. Peters Community Centre Charford Road Bromsgrove	Patrick Branagan	Fire Certificate Yes Police No objection EHO No objection Advert No response		Grant.

## **BROMSGROVE DISTRICT COUNCIL**

### **CODE OF PRACTICE IN RELATION TO LICENSING MATTERS**

#### **Introduction**

The Licensing Act 2003 will put local authorities firmly in the centre of decision making upon licences for regulated entertainment and the provision of alcohol, as well as late night refreshment. Concerns regarding this shift in responsibility have centred around doubts surrounding the impartiality of Councillors - especially as regards those who will make up the Licensing Committee or Licensing Sub-Committee that will decide upon applications. This concern arises from a view that Councillors are subject to local political pressures and a belief that they will regard the views of local residents as taking precedence over the other interests of their communities.

As regards the Licensing Committee or Sub-Committee, the role of the Elected Member as part of that Committee will involve balancing the multiple needs and interests of the local community, whilst prioritising the four Licensing Objectives of the Licensing Act 2003. In doing so the Elected Member must maintain his/her impartiality and, as public perception of probity is critical, his/her appearance of impartiality too, during the decision making process.

This guidance therefore aims at enabling local Councillors to represent their constituents, whether they be residents, local businesses etc. should they wish to, by acting as an 'interested parties' at licence hearings, without

- (a) opening up the local authority to accusations of pre-determination, bias or maladministration; or
- (b) leaving themselves open to allegations under the Members' Code of Conduct.

The guidance applies to *all* the Council's Elected Members, whether they sit on a Licensing Committee/Sub-Committee or not.

#### **Personal and Prejudicial Interests in relation to Licensing Applications**

Members are reminded of their responsibilities under the Council's Code of Conduct to declare a Personal Interest, and possibly also a prejudicial interest, in relation to matters which affect their well being, or the well being of their friends or relatives or employer, to a greater extent than other council tax payers, ratepayers or residents. Personal, and possibly also prejudicial interests are therefore likely to arise in relation to a licence application where the Member (or their relatives, friends or employer):

- lives very near to the premises in question;
- is a frequent visitor to the premises in a personal capacity;
- belongs to a lobby or campaign group which may be directly impacted by the decision on the licence

or where the member is a relative or close friend of the applicant for a personal licence.

A situation also may occur where the Member carries out a function for another public authority or another local authority which is making an application for a licence, or which is making a representation, for example, if the local hospital or school is applying for a premises licence and the Member is on the Board of Governors of the school or involved in the management of the hospital. It may also occur where the Member is a 'dual-hatted' Member and is part of the District Council's Licensing Committee but also a Member of the County Council which is applying for a premises licence for its land.

Although the Code of Conduct states that a member may regard himself as not having a prejudicial interest in a matter which relates to another public authority of which he is a member, availing oneself of this exemption may put the Council at risk of being accused of bias and of leading a member of the public to think the member's judgement is likely to be prejudiced. Members of the Licensing Committee or Sub-Committee should therefore regard themselves as having a prejudicial interest in any application made by another local authority or public authority with which they are connected.

### **Improper Influence**

Members are also reminded of their obligation under the Code of Conduct not to use their positions as members to confer on or secure for themselves any advantage or disadvantage. This means that members should not use anything which is available to them as members (but which is not available to members of the public), e.g. access to officers or other Council members, or access to papers, to influence the outcome of a licensing application.

### **Bias and Predetermination**

Bias has been defined as "an attitude of mind which prevents the [decision-maker] from making an objective determination of the issues that he has to resolve". In a quasi-judicial situation, such as a hearing by the Licensing Committee or Sub-Committee, there is no need for proof of actual or potential bias for there to be 'procedural impropriety' shown. It is sufficient that there is an appearance of bias. Accordingly, the test for bias is 'whether a fair-minded and informed observer, having considered the facts would conclude that there was a real possibility of bias'.

Bias at common law and personal and prejudicial interests under the National Model Code of Conduct are related but do differ as concepts and in their effect. Although the wording and apparent objectives are similar, the test for common law bias has a lower threshold. Bias at common law includes those areas where the potential Licensing Sub-Committee Member has created a real danger of a perception that he/she has prevented him or herself from being able to make an impartial determination of the issues. This is also known as fettering one's discretion.

Members should therefore avoid participating as a member of a Licensing Sub-Committee where previous voting or statements of belief may give rise to a public perception that they have pre-determined the application based upon their own prejudices. Members should also be careful to ensure that they only come to a final conclusion on an application when they have given fair consideration to all the evidence and arguments which are presented and it is time to make the decision.

However, a member who has avoided participating as a member of the Committee because there might be a perception that he/she is biased, may still attend the meeting and make representations either in favour or against the application,

provided that he/she does not have a prejudicial interest in the application (which would require complete withdrawal from the meeting) and provided that he/she plays no part in the decision-making process.

To help to avoid accusations of pre-determination and ensure that Ward Members are free to represent their constituents as 'interested parties,' Ward Members should not sit on Licensing Sub-Committees where the Sub-Committee is considering an application in that Member's Ward.

A further potential issue concerning bias or pre-determination is where a Member sitting on the Licensing Sub-Committee is a Member for another authority function such as economic development/regeneration, where that function's policy/decisions either impliedly or explicitly support (or oppose) the application. This might, for example, include the scenario where an 'Open Spaces' plan has been agreed and indicates that some areas of the local authority land will be licensed for entertainment purposes under the Licensing Act 2003 (explicit support); or where an economic regeneration plan includes the provision to encourage more theatres and restaurants to an area (implicit support).

In such a situation, the Member concerned should make a disclosure of his/her position, in advance, to the Monitoring Officer who will decide if the Member can take part in the decision-making. Where there is doubt, the Monitoring Officer will make a presumption in favour of excluding the Member from the meeting concerned.

There will also be occasions on which the Licensing Committee or Sub-Committee considers an application made by the Council itself, in respect of one of its buildings or a piece of its land. In such a situation, Members would not normally be excluded from the Licensing Committee or Sub-Committee in these circumstances as it would make the decision-making process unworkable, but any member who has been a leading advocate for or against the application, or who is the Cabinet Member responsible for the building or land concerned should not sit on the Licensing Committee or Sub-Committee when such an application is considered. Applications made by the Council itself will always be referred to the Licensing Committee or Sub-Committee even where there are no representations, to minimise any potential appearance of bias.

### **Lobbying of or by Councillors**

The Licensing Act 2003 sets out the grounds for making representations on licence applications and limits the parties which may make such representations. It should be borne in mind that one of the key aims of the Licensing Act 2003 is to localise decision-making or 'democratise' the process and Members are therefore legitimately concerned with their locality and the needs/wishes of its constituents, including both the needs for entertainment and employment, as well as the undesirability of crime and public nuisance.

Whilst lobbying of Members is legitimate and certain Members may make representations to the Licensing Committee on behalf of 'interested parties', it is crucial for the Licensing Authority and its Committee to ensure that there is neither actual nor an appearance of bias in its decision-making. It should also be remembered that concerns about political lobbying were the basis of the concerns which lead to the first Nolan Committee on Standards in Public Life.

To avoid an appearance of bias the following rules should be adhered to:

- No Member sitting on the Licensing Sub-Committee can represent one of the interested parties or the applicant. If s/he wishes to do so s/he must excuse him/herself from membership of the Sub-Committee which is considering the application and address the Sub-Committee as an 'interested party'.
- If a Member who sits on the Licensing Sub-Committee is approached by persons wishing to lobby him/her as regards the licence application then that Member must politely explain that they cannot discuss the matter and refer the lobbyist to his/her Ward Member or the Licensing Officer who can explain the process of decision making. If the Member who sits on the Licensing Sub-Committee wishes to represent them then s/he will need to excuse him/herself from the Licensing Sub-Committee.
- Members who are part of the Licensing Sub-Committee must avoid expressing personal opinions prior to Licensing Sub-Committee decision. To do so will indicate that the Member has made up his/her mind before hearing all the evidence and that their decision may not be based upon the Licensing Objectives nor the Licensing Authority's Statement of Licensing Policy.
- Political group meetings should never be used to decide how any Members on the Licensing Sub-Committee should vote. The view of the Ombudsman is that using political whips in this manner may well amount to findings of maladministration.
- Councillors must not be members of the Licensing Sub-Committee if they are involved in campaigning on the particular application.
- Other Members (i.e. those which do not sit on the Licensing Sub-Committee) need to be careful when discussing issues relating to matters which may come before the Licensing Sub-Committee Members as this can easily be viewed as bias or pressure and may well open that Sub-Committee Member to accusations of such. There is no prohibition on discussing such issues with Committee Members but members should avoid taking measures which might be viewed as excessive e.g. attempting to obtain a commitment as to how the Member might vote.
- Members must not pressurise Licensing Officers to make any particular decisions or recommendations as regards applications (such as a decision on whether an application is frivolous or vexatious as per Section 18(7)(c)).

### **Pre-application / pre-decision discussions**

Discussions between the licence applicant and Council officers prior to the submission of an application (or prior to a decision being made) are often helpful to both parties. For example, a premises licence applicant may ask for advice on how to complete an 'operating schedule'. However, these discussions can often be viewed by objectors as a form of 'lobbying' and the Council's officers must ensure that they are not open to accusations or appearance of bias, and must therefore ensure that such advice and assistance is clearly identified as being such and is not any type of 'predetermination'.

Although all applicants will be advised that all pre-decision discussions should be addressed to the officers in the Council's Licensing Section, Members of the Licensing Committee or Sub-Committee may also be approached by applicants



before the meeting at which the application is to be decided. In such circumstances, a member should inform the person making the approach that they are unable to discuss the matter with him/her prior to the meeting at which the application will be decided and that he/she should address any enquiries to the relevant officer.

Where the officers in the Licensing Section do enter into verbal pre-decision discussions with applicants, a record of any advice will be taken and the applicant will be asked to confirm details of that advice in accordance with the form attached as Appendix "A". Details of discussions which take place by telephone will be retained in the form of file notes and copies of correspondence and emails (which will also make it clear that their contents do not bind the Council to a final decision) will be retained on the appropriate file(s).

### **Role of the Licensing Officer**

Licensing Officers have no ability under the Licensing Act 2003 to make representations or to be a party to the hearing of an application by the Licensing Committee or Sub-Committee. There is no legal provision for Licensing Officers to make recommendations to the Sub-Committee in terms of the outcome of the application hearing as is seen in planning cases. However, in presenting applications to the Licensing Committee or Sub-Committee, the Licensing Officer will provide a summary report of the application, the representations, and his/her comments as to how these relate to the Licensing Act 2003, the Guidance and the local Licensing Policy Statement.

Decisions taken by the Licensing Officer, e.g. as to whether an application is vexatious or frivolous, will be fully recorded, together with the reasons for them.

### **Decision making**

Reasons for decisions made by the Licensing Committee or Sub-Committee will be clearly documented so that any subsequent accusations of bias etc. can be defended. It is critical that it is clear that decisions are made according to the Licensing Objectives of the Licensing Act 2003 as well as the Licensing Authority's Licensing Policy Statement. Whilst the Government's Guidance accompanying the Licensing Act 2003 indicates some other factors may influence decisions (e.g. live music/cultural considerations) these will always be subservient to the Licensing Objectives and the Licensing Policy Statement.

### **Site visits**

Site visits by Licensing Sub-Committee members are generally unnecessary and can put the Members and the Licensing Authority at risk of accusations of bias. However, if it is considered necessary to conduct a site visit, the reasons for doing so will be clearly documented and the visit will be carried out either as an unannounced visit to the interior of the premises at a time when it is normally open, or as an unannounced visit to the exterior of the premises only. In either case, members who are involved in the site visit will approach the site visit in the context of "seeing what there is to be seen" and will not, during the site visit, enter into any discussions with either the applicant, his/her agent, or any other person having an interest in the application, e.g. an objector.



## LICENSING ACT 2003 Record of Advice

In order to provide a clear record of what has been discussed, it is necessary for the District Council to request that members of the public and/or agents sign the following disclaimer when speaking to Officers of the Council with regard to general licensing enquires.

V. Harrison  
Head of Administrative Services

Proposal	
Address	
Agreed conclusion	

Signed	
Printed Name	
Date	
Officer seen	

I accept that the advice that I have received regarding my licensing enquiry was given by the Officer in the spirit of helpfulness and without prejudice to the Council's eventual decision, which can only be taken following statutory consultations and completion of formal processes.