

Mission Statement

To Improve the Quality of Life
For Those Who Live and Work in The District

18 December 2007

Dear Councillor

You are hereby invited to a meeting of the **Licensing Committee** to be held in **Committee Room 2**, Civic Centre, Portholme Road, Selby on **Monday 7 January 2008** commencing at **10:00 am**.

The agenda is set out below.

1. Apologies for Absence and Notice of Substitution

To receive apologies for absence and notification of substitution.

2. Disclosure of Interest

To receive any disclosures of interest in matters to be considered at the meeting in accordance with the provisions of Section 117 of the Local Government Act 1972, and Sections 50, 52 and 81 of the Local Government Act 2000 and the Members' Code of Conduct adopted by the Council.

3. Minutes

To confirm as a correct record the minutes of the proceedings of the meeting of the Licensing Sub-Committee held on 26 November 2007 (pages 4 to 6 attached)

4. Procedure

To outline the procedure to be followed at the meeting (pages 7 to 8 attached).

5. Chair's Address to the Licensing Committee

6. Private Session

That in accordance with Section 100(A)(4) of the Local Government Act 1972 in view of the nature of the business to be transacted, the meeting be not open to the Press and public during discussion of the following items as there will be disclosure of exempt information as defined in Section 100(1) of the Act as described in paragraph 3 of Part 1 of Schedule 12(A) of the Act.

7. Complaint about behaviour of Hackney Carriage Driver

Report of the Head of Service – Legal and Democratic Services (pages 9 to 12).

8. Application for a Hackney Carriage Licence

Report of the Head of Service – Legal and Democratic Services (pages 13 to 27).

9. Application for a Private Hire Driver's Licence

Report of the Head of Service – Legal and Democratic Services (pages 28 to 32).



M Connor
Chief Executive
18 December 2007

Disclosure of Interest – Guidance Notes:

- (a) Councillors are reminded of the need to consider whether they have any personal or prejudicial interests to declare on any item on this agenda, and, if so, of the need to explain the reason(s) why they have any personal or prejudicial interests when making a declaration.
- (b) The Democratic Services Officer or relevant Committee Administrator will be pleased to advise you on interest issues. Ideally their views should be sought as soon as possible and preferably prior to the day of the meeting, so that time is available to explore adequately any issues that might arise.

[Please note that the papers relating to the applications have been circulated to councillors of the Licensing Committee only, who should return the agenda to Democratic Services at the conclusion of the meeting to enable the papers to be destroyed confidentially].

Dates of Future Meetings of the Licensing Committee

Date of Meeting	Deadline Date	Distribution Date
18 February 2008	31 January 2008	8 February 2008
17 March 2008	28 February 2008	7 March 2008
14 April 2008	27 March 2008	4 April 2008

Membership of the Licensing Committee 10 Members

Conservative	Labour	Independent
J Dyson	D Davies	J McCartney
K McSherry	S Duckett	
C Pearson (Vice-Chair)		
S Ryder		
R Sayner (Chair)		
A Spetch		
D White		

Enquiries relating to this agenda, please contact Tracey Peam on:

Tel: 01757 292022

Fax: 01757 292020

Email: tpeam@selby.gov.uk

Descriptions of Exempt Information

1. Information relating to any individual.
2. Information which is likely to reveal the identity of an individual.
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
6. Information which reveals that the authority proposes –
 - (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
 - (b) to make an order or direction under any enactment.
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.
8. Qualifications for Exempt Information:

Information falling within paragraph 3 is not exempt information by virtue of that paragraph if it is required to be registered under -

- (a) the Companies Act 1985;
 - (b) the Friendly Societies Act 1974;
 - (c) the Friendly Societies Act 1992;
 - (d) the Industrial and Provident Societies Acts 1965 to 1978;
 - (e) the Building Societies Act 1986; or
 - (f) the Charities Act 1993.
9. Information falling within any of the 7 categories listed above is not exempt if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.
 10. Information which;
 - (a) falls within any of paragraphs 1 to 7 above; and
 - (b) is not prevented from being exempt by virtue of paragraph 8 or 9 above,

is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

A record of the meeting of the Licensing
Sub-Committee in the Council Chamber,
Selby District Council, Civic Centre,
Portholme Road, Selby on
Monday 26 November 2007 at 10:00 am

PRESENT:

Councillor Ruth Sayner
Councillor John McCartney
Councillor Stephanie Duckett

OFFICERS:

Wahid Khan - Solicitor
Tim Grogan - Licensing Officer
Tracey Peam - Committee Administrator

OBJECTOR:

Councillor Mrs Nichols representing 5 constituents within Selby South Ward.

1. ELECTION OF CHAIRMAN

It was resolved:

That Councillor R Sayner be elected as Chairman for the duration of this Licensing Sub-Committee.

2. INTRODUCTIONS

The Chairman introduced herself and the other Members of the Licensing Sub-Committee.

For the benefit of all present, the Clerk summarised the Hearings Procedure, as appended to the agenda, and said that each category of participant was entitled to 5 minutes in which to explain their case. He concluded by highlighting the right to appeal.

3. LICENSING ACT 2003 – APPLICATION FOR A VARIATION TO A PREMISES LICENCE IN RESPECT OF THE CAPRI RESTAURANT

In attendance and entitled to speak on this application were:

Mr P Bouvet, Solicitor for the applicant and Mrs W Nichols who was representing the objectors to the application.

Agenda Item No: 3

The Licensing Officer gave a summary of his report. He advised that the application was for a variation of the existing licence as set out in the operating schedule included in the report.

The Licensing Officer informed the hearing that there was an error on page 3 of the application to vary the premises licence under Part 4 – Operating Schedule. It was agreed that (g) performance of dance should be struck out as this had not been formally applied for.

Mr Bouvet, Solicitor for the applicants produced a written submission to the members of the Sub Committee. He then outlined a verbal submission suggesting that the application should be granted because customers frequenting the premises had never given any cause for concern. He confirmed that the Police had made no representations and that the application was simply an effort by the owners to enjoy the hours and activities of their competitors.

He respected the views and concerns of the objectors, but felt that these were generalised and not specific to the Capri. He maintained the restaurant was very well run.

Mr Bouvet concluded by saying that the applicants always intended that the premises should be a high class restaurant and that they were restricted as to the manner in which they operated by a lease attached to the property.

Councillor McCartney on behalf of the Licensing Sub Committee raised the issue of the precise terms of the application. Mr Bouvet confirmed that the application was to extend the hours and to include the provision of live music but to exclude facilities for dancing. At this stage, Mr Puliga revealed that the live music was intended to be incidental to the provision of food and would be used mainly on “theme nights” and never involve more than one instrument.

Councillor Nichols, representing the four representors, outlined the problems faced by local residents on a weekly basis and considered that the granting of extended hours would impact upon their quality of life. In particular, Councillor Nichols revealed that the extra hour whereby hot snacks would be supplied would increase the risk of customers loitering outside their addresses consuming this food.

At this point the Licensing Officer confirmed that a late night licence was required for all hot food served between 11.00 pm and 5.00 am and that the application in question was for food supplied for consumption on the premises only.

Councillor Nichols then summed up the case for the residents outlining that it was their desire that the application be refused and the original hours be retained.

Mr Bouvet summed up by revealing that the premises was a well run establishment seeking to obtain the same benefits enjoyed by his competitors.

It was resolved:

That the variation be granted, subject to the following amendments:

- (1) That noise from amplified and non amplified music, singing and speech from regulated entertainment at the premises (between the hours of 23:00 to 00:30) shall not be audible inside habitable rooms of noise sensitive properties in the vicinity;**
- (2) That any live music will consist of one performer using an instrument not powered by electricity;**
- (3) That all external areas of the premises should not be used by customers after 23:00 and 00:30;**
- (4) All external doors and windows to the room(s) where regulated entertainment is being provided shall remain closed between 23:00 and 00:30.**

The meeting closed at 11:05 am.

LICENSING COMMITTEE

PROCEDURES TO BE FOLLOWED

The Licensing Committee acts in a quasi judicial capacity to give a fair hearing to an applicant where a hearing is required by law or equity. When considering the case the only evidence the Councillors of the Committee can take into account is evidence previously submitted to form the agenda and any verbal evidence given at the actual meeting by Officers representing the Council and by the applicant or his/her representative, and their witnesses. The following procedures must be followed.

1. Procedures to be followed when submitting an application to the Licensing Committee for consideration;
 - i) The Council's Officers will liaise with the Committee Section to arrange a suitable date for the meeting. The applicant and Members of the Committee will be informed of this date in writing and a copy of the procedure note will be included for the applicant.
 - ii) The applicant and Council's Officers will submit any written evidence to the Committee Section for inclusion in the agenda by a given date. If the evidence is to be verbal, this should be stated.
 - iii) If witnesses are to be called the Committee Section must be notified prior to the hearing.
 - iv) Any application for adjournment because of late submission of papers, will in principle be considered sympathetically by the Committee.
2. The procedure to be followed by the Licensing Committee:
 - i) For each individual case the applicant and any representatives will be shown into the Committee Room at the same time as the appropriate Council's Officers. Witnesses will enter the room at the same time unless there are any objections.
 - ii) The Head of Service – Legal and Democratic Service will introduce the applicant, any representatives, witnesses and the Council's Officers to the Members of the Committee.
 - iii) The Chair will introduce Councillors of the Committee.
 - iv) The Chair will then go through the procedure as follows:

- a) Officers representing the Council will present the case for the Council. They may present such witnesses as they believe are appropriate.
- b) Officers representing the Council, and any witnesses, will then answer questions from the applicant or his/her representative, and from Members of the Committee.
- c) The applicant or his/her representative will then present the applicant's case. They may present such witnesses as they believe are appropriate.
- d) The applicant or his/her representative, and any witnesses, will then answer questions from the Committee and the Council's Officers.
- e) The Council's Officers will then sum up on behalf of the Council.
- f) The applicant or his/her representative will then sum up.
- g) The applicant and his/her representative will then be asked whether they consider they have had a fair hearing and the Committee will take into account any comments, which are then made. The Chair of the Committee will then ask the Council's Officers presenting the case the same question and will again take account of any comments made.
- h) The Council's Officers, the applicant and his/her representative, all witnesses, will then withdraw from the meeting whilst the Committee makes their decision on the evidence presented.
- i) The applicant and his/her representative, the Council's Officers, all witnesses, will be invited back into the meeting to be informed of the Committee's decision.

Following the Committee meeting the Head of Service – Legal and Democratic Services will write to the applicant informing them of the decision of the Licensing Committee.