

Mission Statement

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

5 December 2008

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 15 December 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 Committee held on 1 December 2008 (pages 5 to 6 attached).

4. Licensing Sub-Committee

To receive the minutes of the Licensing Sub-Committee held on 14 November 2008 (pages 7 to 9 attached).

5. Procedure

To outline the procedure to be followed at the meeting (pages 10 to 11 attached).

6. Chair's Address to the Licensing Committee

7. 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.

8. Application for a Private Hire Driver's Licence

Report of the Head of Service – Legal and Democratic Services

M Connor
Chief Executive
5 December 2008

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
12 January 2009	18 December 2008	23 December 2008
9 February 2009	22 January 2009	30 January 2009
9 March 2009	19 February 2009	27 February 2009

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:

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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.

SELBY DISTRICT COUNCIL

Minutes of the proceedings of a meeting of the Licensing Committee held on 1 December 2008, in Committee Room 2, The Civic Centre, Portholme Road, Selby, commencing at 10:00 am.

470	Minutes
471	Procedure
472	Chair's Address to the Licensing Committee
473	Guidelines for Assessing Financial Hardship

Present: Councillor R Sayner in the Chair

Councillors: Mrs D Davies, Mrs J Dyson, Mrs S Duckett, J McCartney, C Pearson, Mrs S Ryder, Mrs A Spetch and Mrs D White.

Officials: Senior Solicitor, Licensing Enforcement Officer and Committee Administrator

Public: 0

Press: 0

468 **Apologies for Absence and Substitution**

Apologies were received from Councillor Mrs K McSherry.

469 **Disclosure of Interest**

None.

470 **Minutes**

Resolved:

That the minutes of the proceedings of the meeting of the Licensing Committee held on 27 October 2008 subject to the substitution of the words "a condition be added" instead of "the Licensing Policy be amended" to part (iii) of the resolution in Minute 397 be approved as a correct record and signed by the Chairman.

471 **Procedure**

The Procedure was noted.

472 **Chair's Address to the Licensing Committee**

The Chair informed councillors that she would be taking up with issue of further Licensing Training for Committee Members with the HR Manager as she had hoped that the training would have taken place in September or October of 2008.

473 **Guidelines for Assessing Financial Hardship**

Councillors received the guidelines for assessing financial hardship from the Head of Service – Legal and Democratic Services in the light of a recent case in York Crown Court where an applicant appealed against this Committee's decision to refuse to licence a vehicle not accessible to the disabled. As part of that appeal, Counsel for the District Council advised that the Council's guidelines be amended as follows:

Point 1:

"The starting point is the full financial position of the applicant. This includes assets held by the applicant and any he may have access to which may be held by another. Documentary evidence of the full financial position is advisable and the burden of proving hardship is on the applicant. The committee expect income and expenditure for at least the last two years preferably produced by the individuals accountant. In looking at an applicants liabilities, expenses and debts those associated with the business will be given priority to other personal debts. Although personal debts might be relevant they should be given much less weight than commitments associated with the business".

Councillors felt that the word "advisable" in the sentence above be changed to "necessary".

Resolved:

That the two additional sentences with the word "advisable" being changed to "necessary" be added to point 1 of the Guidelines for Licensing Committee to consider when assessing financial hardship as agreed with Counsel.

The meeting closed at 10:35 am.

A record of the meeting of the Licensing
Sub-Committee in the Council Chamber,
Selby District Council, Civic Centre,
Portholme Road, Selby on
Friday 14 November 2008 at 10:00 am

PRESENT:

Councillor Debbie White
Councillor Joyce Dyson
Councillor Sue Ryder

OFFICERS:

Jamie Hollis - Solicitor
Tim Grogan - Licensing Officer
Carol Baker - Committee Administrator

APPLICANT:

Mr N Addy – on behalf of Hambleton Village Hall, Station Road, Hambleton

OBJECTOR:

Mr M Witty - 7 Station Road, Hambleton
Written objection received from Mrs R Hollingworth – 27 Station Road,
Hambleton

Also Present:

Mr R Williams – Booking Clerk for Hambleton Village Hall

1. ELECTION OF CHAIRMAN

It was resolved:

**That Councillor D White 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.

3. DISCLOSURE OF INTEREST

None

4. APPLICATION FOR THE VARIATION OF A PREMISES LICENCE
FOR HAMBLETON VILLAGE HALL, STATION ROAD, HAMBLETON

In attendance and entitled to speak on this application were:

Mr N Addy and Mr R Williams as the applicant and supporter, Mr M Witty as objector. The committee agreed to take into consideration correspondence received from Mrs R Hollingworth who was an objector to the application.

The Licensing Officer gave a summary of his report. He advised that the application was for a variation to a Premises Licence as set out in the summary of the report.

The Licensing Officer informed the hearing that there were two alterations to the report and papers – Mr Witty amended plans showing the location of his and Mrs Hollingworth's homes which was circulated to all members and since the submission of the report Mr Addy had agreed that notices would be put up to remind people attending events at the Village Hall to be mindful of residents concerning noise and car parking. The Licensing Officer clarified that advertisements regarding the change of licensing times were displayed in accordance with procedures and no representation were received, except from Environmental Health who had requested a condition regarding reduction of noise after 11pm.

The Licensing Officer outline the reasons of objection received, which were excessive hours, noise issues and parking issue. Mrs Hollingworth had also objected on the grounds of alcohol issue, but the Village Hall had no alcohol licence and this was not part of this application.

The Licensing Officer outlined the decision options for the committee and the options for appeals.

Mr Witty informed the committee of following reasons why he objected to the application

Noise Issues

Parking Issues

Adversely affect his family quality of life

Why need to open on Sunday

Nights in the week the Village Hall not used

Local public house causes noise issues

Children have been woken up

Village hall not in good position – on junction and next to dwellings

In response to a question Mr Witty conformed he had not contacted the police with regards to making any complaints but had tried to contact noise abatement officers but had no response. He had been in correspondence with the Licensing Officer and advice had been given as to what he should do to get issues investigated. However, the

Licensing Officer noted that the issues relating to the local public house had no bearing on this application and must be dealt with as a separate matter. Mr Witty confirmed that there were no parking restrictions outside the hall, but it was near to a junction and he did not wish to see the hall close, just the hours of use reduced.

Mr Addy informed the committee of the following issues

The village hall had held a premises licence for 7 years
Activities carried out are those which it is licenced to carry out
Present licence covers Monday to Saturday
Evidence of need for Sunday activities
Sunday's will be mainly children parties
Local chapel would use for music sessions
Predicated use possible 2 Sundays per month – not weekly events

Mr Addy confirmed that whilst there were not sufficient resources to 'police' activities in the hall it was proposed that notices would be displayed to remind everyone to respect neighbouring properties regarding noise and parking and that these would be part of the letting conditions.

Mr Williams confirmed that most bookings on a Sunday were expected to be for the hours between 9am and 5pm.

After both the applicant and objector had confirmed that they had received a fair hearing the committee adjourned to debate their decision.

The Chair informed all parties that they had the right to request a review if problems occurred once the varied licence was in operation.

It was resolved:

That the variation be granted, with the following additional conditions:

- (1) That notices are displayed in prominent positions on the premises requesting patrons give considerations to neighbours when arriving or departing.**
- (2) That external doors and windows of the venue are to be kept closed after the hours of 23:00.**

The meeting closed at 11:24 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.