

## NORTH HERTFORDSHIRE DISTRICT COUNCIL

### LICENSING AND APPEALS COMMITTEE

Minutes of a meeting held in the Council Offices, Gernon Road, Letchworth Garden City  
on Wednesday, 12 April 2006 at 7.30p.m.

#### MINUTES

- PRESENT:** *Councillors: P.C.W. Burt (Chairman), J.M. Cunningham, M.R.M. Muir and M.E. Weeks.*  
*[For Items 1-4 only]: Councillors A. Bardett, Paul Clark, Gary Grindal, Alison Kingman and Joan Kirby.*
- IN ATTENDANCE:** *Senior Committee & Member Services Officer and Environmental Protection Manager.*  
*[For Items 1-4 only]: Head of Housing & Environmental Health, Licensing & Enforcement Manager, Licensing & Enforcement Officer (East), Licensing & Enforcement Officer (West) and Litigation & Licensing Lawyer.*  
*[For Items 5 & 6 only]: Planning Control & Conservation Manager and Area Planning Officer.*
- ALSO PRESENT:** *Councillor Mrs A.G. Ashley – Housing & Environmental Health Portfolio Holder.*  
*[For Items 5 & 6 only]: - Councillor D.J. Barnard, Chairman of Southern Rural Committee representing the Southern Rural Committee.*

**1. APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillors S. Bloxham, Lorna Kercher and L. McNamara.

**2. DECLARATIONS OF INTEREST**

There were no declarations of interest.

**3. ADOPTION OF THE HERTFORDSHIRE LICENSING ENFORCEMENT PROTOCOL (DRAFT V.5)**

The Licensing & Enforcement Manager presented a report recommending adoption of an enforcement protocol that sought to co-ordinate the regulatory activities associated with the Licensing Act 2003 undertaken by a range of enforcement agencies in Hertfordshire. The draft protocol was attached at Appendix A to the report.

The Licensing & Enforcement Manager advised that the draft protocol had been drafted in collaboration with the other Local Authorities and Responsible Authorities in Hertfordshire. The adoption of the protocol would be complementary to the Council's obligations under Section 17 of the Crime and Disorder Act 1998, which placed a duty on the Authority to do its utmost to prevent crime and disorder in the District.

The Licensing & Enforcement Manager confirmed that the protocol would be reviewed on an annual basis, and that the outcome of each review would be reported to Members.

The Licensing & Enforcement Manager, assisted by the other officers present, proceeded to answer a number of questions raised by Members on the protocol.

In respect of the "Spontaneous Response" Section of the protocol, the Committee was disappointed with the lack of any assurance from Hertfordshire Constabulary that they would endeavour to attend all unlawful events, and considered that the words "will seek to attend" were not sufficiently strong. Members suggested alternatives, such as "every

effort will be made”, “will seek, wherever practicable” or “will provide a presence, subject to other operational commitments”, and asked officers to obtain the agreement of Hertfordshire Constabulary to one of these.

**RECOMMENDED TO CABINET:** That, subject to the agreement of Hertfordshire Constabulary to the strengthening of the wording to the “Spontaneous Response” Section of the document, the Hertfordshire Licensing Enforcement Protocol version 5, as attached at Appendix A to the report, be recommended to Council for adoption.

**REASON FOR DECISION:**

- (1) The aforementioned Enforcement Protocol aims to co-ordinate the enforcement activities of a number of relevant regulatory bodies in Hertfordshire. Effective co-ordination will reduce potential enforcement inconsistencies and promote the transparent regulation of licensed premises.
- (2) The publication and adoption of such an enforcement protocol is strongly encouraged by the Department for Culture, Media and Sport.
- (3) The Council’s Statement of Licensing Policy clearly indicates that such an enforcement protocol will be forthcoming.
- (4) To effectively exercise the duties and responsibilities contained within the Licensing Act 2003.

**4. LICENSING ACT 2003 AND GAMBLING ACT 2005**

The Licensing & Enforcement Manager submitted a report updating the Committee on the Licensing Act 2003 and the Gambling Act 2005. The following appendices were attached to the report:-

- (1) Appendix A – Notes of an informal meeting of the Licensing & Appeals Committee – 22 September 2005.
- (2) Appendix B – Update on the Licensing Act 2003.

In respect of the Licensing Act 2003, the following officer responses were made to issues raised by Members:-

- The Statement of Licensing Policy was due for its three yearly review in early 2008, although a number of local authorities had carried out early policy reviews. All stakeholders would be consulted as part of the Council’s three yearly review;
- A High Court appeal by J.D. Wetherspoon Ltd. against Guildford Borough Council, regarding the cumulative impact of variation applications granted, had been lost;
- Every decision of the Licensing Sub-Committee was analysed by officers, in order to monitor consistency of decision-making. The fact that only three decisions had been challenged in the Magistrates’ Court clearly demonstrated consistency of decision-making;
- Although every indication had been given by residents of the likelihood of an appeal to the Magistrates’ Court against the Council’s decision to grant a premises licence for Green Farm, Bendish, the Licensing and Enforcement Team had not yet been notified of such an appeal.

The Committee felt that it would be prudent for an interim review of the Statement of Licensing Policy in Autumn 2006, and that this interim review should include an assessment of the cumulative impact of the variation applications granted, with particular reference to the previous concerns made by the Baldock and District Committee on this matter.

A Member raised a specific issue regarding the equitable appointment of Members to serve on Licensing Sub-Committee meetings. It was acknowledged that due to the high volume of variation applications received in late Summer/early Autumn 2006, a significant number of Sub-Committee meetings had needed to be held during the day or early evening. This had meant that those Members who were unavailable at these times had appeared at less Sub-Committee meetings than those who were available during the day or early evening. As Sub-Committee meetings were now less frequent, and tended to be held in the evening, officers undertook to ensure that each Committee Member was invited to form part of a Sub-Committee based on a rota system.

In respect of the Gambling Act 2005, the Licensing and Enforcement Manager commented that the Government had recently published regulations pertaining to this Act. Local authorities were required to publish a Policy Statement, reviewable every three years. The first appointed day for the Act was 1 January 2007.

The Licensing and Enforcement Manager explained that officers would be attending a two day training seminar in May 2006, following which Members would be fully briefed. Formal training on the Act would be arranged for Members later in 2006. In respect of training, officers were aware of the requirement that this would need to be arranged for any new Members appointed to the Committee before they could serve on a Licensing Sub-Committee meeting.

**RESOLVED:**

- (1) That the report providing updates on the Licensing Act 2003 and Gambling Act 2005 be noted;
- (2) That a meeting of the Committee be arranged to take place in Autumn 2006, in order to undertake an interim review of the Statement of Licensing Policy, and that this interim review should include an assessment of the cumulative impact of the variation applications granted, with particular reference to the previous concerns made by the Baldock and District Committee on this matter.

**REASON FOR DECISION:** To effectively exercise the duties and responsibilities contained within the Licensing Act 2003 and Gambling Act 2005.

**5. PROCEDURE**

The Chairman ascertained that all parties present were satisfied to adhere to the suggested procedure as circulated with the agenda for the meeting.

**6. ITEM REFERRED FROM SOUTHERN RURAL COMMITTEE - PLANNING APPLICATION REF: 05/01879/1 – LAND AT THE SIDE (NORTH WEST) OF GARAGE (GRAHAM HILTON CAR SALES), 1 STEVENAGE ROAD, LITTLE WYMONDLEY, HERTS. SG4**

In accordance with the agreed procedure, the Chairman established that the following people were appearing before the Licensing and Appeals Committee:

Applicant: Mr G. Hilton

Applicant's Agent: Mr M.W. Easton

In support of Application: Councillor D.J. Barnard (Southern Rural Committee representative)

Against the Application:

Officers: Mr J. Chapman, Area Planning Officer

Mrs M. Caldwell, Planning Control & Conservation Manager.

The Licensing and Appeals Committee received a report of the Head of Planning and Building Control which clarified that in accordance with its Terms of Reference, the Southern Rural Area Committee had referred the above application to the Licensing and Appeals Committee for determination. At its meeting held on 16 March 2006 (Minute number 139 refers) the Area Committee had been minded to grant application 05/01879/1 planning permission against the Officer's recommendation for refusal. The Committee had considered that there was sufficient justification in this case for an exception to be made to normal Green Belt Policy, the reasons for which were outlined in the report.

In accordance with the agreed procedure, the Area Planning Officer presented his case. The Area Planning Officer had addressed in the report the reasons advocated by the Southern Rural Committee for a relaxation of normal Green Belt Policy and, whilst sympathetic to the applicant's predicament, did not consider that the "very special circumstances" identified by the Committee justified a grant of planning permission. He maintained his recommendation that application 05/01879/1 should be refused planning permission.

The Chairman and Members of the Committee then put questions to the Area Planning Officer on the points raised in the report.

The Applicant's Agent presented the case on behalf of the applicant. He commented that the application site was enclosed by a green painted steel security fence, with some hedge planting along its boundary (constructed under permitted development rights). The site was bounded by the existing car sales area to the south-east, the main railway to the south-west, Stevenage Road to the north-east and an uncultivated open area to the north-west. He considered that the use of the application site for staff parking, customer vehicles and part-exchange cars would not constitute any significant detriment to the area and would not harm the aims and objectives of Green Belt Policy.

The Chairman and Members of the Committee then put questions to the Applicant's Agent on the points raised in his presentation.

The representative from the Southern Rural Committee then gave the views of the committee on why the application should be granted. He referred to the correspondence and associated photographs sent by the Applicant's Agent to Members of the Committee, and commented that these indicated that the site was in a relatively unobtrusive location. If the application was refused, the fence and hedge planting would remain, but the car parking area would need to be removed. He was of the opinion that the unique position of the application site and its relationship to the adjoining car sales and railway line did not detract from the openness of the Green Belt.

The Chairman and Members of the Committee then put questions to the representative from the Southern Rural Committee on the points raised in his presentation.

The Chairman then gave the Officer, the Applicant's Agent and the Southern Rural Committee representative the opportunity to make a final statement in support of their views.

Members of the Licensing and Appeals Committee gave their views on the application and, upon being put to the vote, it was

**RESOLVED:** That application 05/01879/1 BE GRANTED planning permission, subject to the following conditions:-

(1) Notwithstanding the submitted site plan, details of the car parking layout, together with a substantial landscaping strip to the north western boundary, shall be submitted to and agreed in writing by the Local Planning Authority within the next 56 days.

Reason: To safeguard Green Belt policy objectives.

(2) Within 56 days of the car parking layout being agreed the approved parking spaces shall be marked out and thereafter shall be kept available only for use as staff, part exchange and repair/service customer cars and not by cars for sale.

Reason: To safeguard the visual amenity of the locality.

(3) The proposed landscaping details required by condition (1) shall include a schedule of plants, noting species, plant size and proposed numbers/densities where appropriate and an implementation and maintenance programme. Thereafter, the approved landscaping scheme shall be implemented in the first planting season following the granting of these details.

Reason: To ensure a satisfactory standard of development and enhance the appearance of the locality.

(4) Any tree or plant forming part of the landscaping details, referred to in condition (3), which is removed, severely damaged, diseased or dies within 5 years after being planted shall be replaced with a tree or plant of the same size and species as that originally required to be planted. Such planting shall take place during the first planting season following the removal, damage, infection or death of the tree or plant, unless the Local Planning Authority agrees in writing to vary or dispense with this requirement.

Reason: To ensure a satisfactory standard of development and enhance the appearance of the locality.

(5) Within 56 days of the permission hereby granted a detailed desk study and site investigation shall be carried out to establish whether or not the site is contaminated, to assess the degree and nature of the contamination present, and to determine its potential for pollution of the water environment. Detailed proposals in line with current best practice for the removal, containment or otherwise rendering harmless any contamination that may be found shall then be submitted to and approved in writing by the Local Planning Authority. The development shall then proceed in strict accordance with the measures approved.

Reason: To ensure that the development has and would not cause pollution of the water environment.

The reason for the decision being:

The unique position of the application site and its relationship to the adjoining car sales and railway line does not detract from the openness of the Green Belt.

The meeting closed at 9.52p.m.

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Chairman