

CANNOCK CHASE COUNCIL
LICENSING & PUBLIC PROTECTION COMMITTEE
7 OCTOBER 2010
REPORT OF DIRECTOR OF SERVICE IMPROVEMENT
LICENSING ACT 2003: PROTOCOL FOR SITE VISITS

1. Purpose of Report

- 1.1 To seek approval for a Protocol for Site Visits in respect of the Licensing Act 2003.

2. Recommendation

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| 2.1 That the proposed protocol for site visits in respect of the Licensing Act 2003, attached to this report at Annex 1, be approved and implemented as required. |
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3. Conclusions and Reasons for the Recommendation

- 3.1 A site visit was required to a premises in respect of an application under the Licensing Act 2003 and this highlighted the lack of a Protocol for such circumstances.
- 3.2 A draft Protocol has been prepared and is given as Annex 1 to this report which is considered fair to all parties and avoids the potential for bias.
- 3.3 If approved, it will be used as the Protocol for all future site visits, thus giving a consistency of approach.

4. Key issues and Implications

- 4.1 Hearings under the provisions of the Licensing Act 2003 are held in public and presided over by 3 Members of the Licensing and Public Protection Committee. There is a prescribed format for Hearings but no Protocol to follow should it be deemed appropriate to undertake a site visit.
- 4.2 The proposed Protocol allows Members to familiarise themselves with the layout of the premises and location and takes account of the need not to introduce bias at a site visit.

SCHEDULE OF ADDITIONAL INFORMATION

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Section 1

Background

In April 2010, it was considered appropriate to undertake a site visit to premises which were the subject of an application for a Premises Licence under the provisions of the Licensing Act 2003.

No Protocol was available and officers were obliged to prepare a procedure at short notice with a view to ensuring that the visit was undertaken in a fair way without bias.

Section 2

Details of Matters to be Considered

Hearings in respect of the Licensing Act 2003 are undertaken with the public present. However, it is considered inappropriate for the public to attend a site visit as this is not part of the Hearing, merely a familiarisation exercise for Members as to the layout of the premises and its location in respect to other premises and to clarify facts.

It is considered appropriate for the representative of the Licensing Authority to escort Members, representatives for the applicant and responsible authorities on a tour of the premises as one group if at all possible after advising that the meeting is for the benefit of Members and no questions should be asked.

Only matters relating to the Licensing Objectives can be raised as specific issues by the officer representing the Licensing Authority.

Section 3

Contribution to CHASE

The Licensing function is one of public protection and therefore contributes to the Safer and Stronger Communities.

The four Licensing Objectives in respect of the Licensing Act 2003 are;

- Public safety
- Prevention of public nuisance
- Prevention of crime and disorder
- Protection of children from harm

and these link into Culture, Children and Young People, Healthier Communities, Safer and Stronger Communities and Environment.

Section 4

Financial Implications

There are no direct financial implications arising from this report.

Section 5

Human Resource Implications

Site visits can be accommodated within existing staffing resources.

Section 6

Legal Implications

There are no direct legal implications arising from this report.

Section 7

Section 17 (Crime Prevention) Implications

Site visits are not routinely required but may assist Members in respect of certain applications under the Licensing Act 2003. One of the Licensing Objectives is the Prevention of Crime and Disorder. Staffordshire Police is a Responsible Authority for the purposes of the Licensing Act 2003.

Section 8

Human Rights Act Implications

The Protocol has been written to ensure that a site visit is conducted in an open and fair way. The public are excluded from the site visit but are able to attend the Hearing. This is considered to be appropriate as the site visit is for Members to familiarise themselves with the layout etc. of the premises and not to have matters raised which are to be properly considered at the Hearing.

Section 9

Data Protection Act Implications

There are none identified as a result of this report.

Section 10

Risk Management Implications

A site visit, where necessary, will allow Members to make a more informed decision about applications under the Licensing Act 2003 and therefore will reduce the potential for appeals against their decisions.

Section 11

Equality & Diversity Implications

There are none identified in this report.

Section 12

Other Options Considered

Consideration has been given to allowing the public attendance at the site visits but this has been discounted on the basis that the purpose of the visit is for familiarisation and clarification of facts only and should not be for questioning of Members.

List of Background Papers

None.

Annexes to Report

Annex1 – Proposed Protocol for Site Visits in Respect of the Licensing Act 2003.

Report Author Details

Karen Sulway, Environmental Protection Manager.

ANNEX 1

CANNOCK CHASE DISTRICT COUNCIL

LICENSING ACT 2003

SITE VISIT PROTOCOL AND PROCEDURE

- All parties present must sign an attendance list.
- Introduction of Elected Members.
- All attendees to identify themselves.
- Officer representing the Licensing Authority to confirm that the meeting is not open to the public, and ask the Committee to confirm that in their opinion there is no one present at the meeting whose presence is likely to compromise the proper conduct of the visit.
- Officer representing the Licensing Authority to outline the reason for the visit to the premises and advise all that the visit must be conducted in a fair and open way.
- Officer representing the Licensing Authority to highlight that any specific issues raised must relate to one or more of the licensing objectives.
- Officer representing the Licensing Authority to agree with the Committee what time limit is required for the site visit.
- Officer representing the Licensing Authority to agree with all that photographs may be taken in order to assist at the later meeting if necessary.
- Officer representing the Licensing Authority to advise all present that the meeting is for the benefit of the Members and that no representations should be made to them or questions asked of them at this visit.
- Officer representing the Licensing Authority to advise all present that nothing should be said which might give rise to the appearance of bias or unfairness. Any comments made would give rise to the right of reply.
- Members should not ask questions at the visit unless it is specifically for the purposes of clarification of facts or layout of the building.
- Officer representing the Licensing Authority to escort Members and representatives for the applicant and responsible authorities on a tour of the premises. Separation of attendees into small groups should be avoided wherever possible.