

## **GENERAL PURPOSES AND LICENSING COMMITTEE**

Minutes of the meeting held at 7.30 pm on 27 July 2011

### **Present:**

Councillor Tony Owen (Chairman)  
Councillor Russell Mellor (Vice-Chairman)  
Councillors Nicholas Bennett J.P., John Canvin,  
John Getgood, Will Harmer, Gordon Norrie, Ian F. Payne,  
Charles Rideout, Diane Smith, Harry Stranger and  
Stephen Wells

### **135 APOLOGIES FOR ABSENCE AND NOTIFICATION OF ALTERNATE MEMBERS**

Apologies for absence were received from Councillor Roxy Fawthrop and Councillor Roger Charsley.

### **136 DECLARATIONS OF INTEREST**

There were no declarations of interest.

### **137 CONFIRMATION OF MINUTES OF THE MEETINGS HELD ON 18TH AND 24TH MAY 2011 (EXCLUDING EXEMPT MINUTES)**

**RESOLVED that:**

- (a) the minutes of the meeting held on 18<sup>th</sup> May 2011 be confirmed; and**
- (b) the minutes of the meeting held on 24<sup>th</sup> May 2011 (excluding exempt information) be confirmed.**

### **138 MATTERS OUTSTANDING FROM PREVIOUS MEETINGS**

Minute 128 – Licensing Work Plan 2011 – Review of 2010

Further to the meeting of the Committee on 24<sup>th</sup> May 2011, the Head of Food Safety, Occupational Safety and Licensing advised that he had referred the underage sales question to the Head of Trading Standards. A number of test purchases had been undertaken on 2<sup>nd</sup> July 2011. In total Sixteen visits had been done and seven sales achieved including two of alcohol in Biggin Hill and these were currently under investigation along with some other sales made in other areas

Minute 130 – Appointment of Council Representatives to Serve on Outside Bodies and Partnership Bodies

Further to the meeting of the Committee held on 24<sup>th</sup> May 2011, in relation to the vacancy for the Cray Valley Library and War Memorial Institute (to 8<sup>th</sup> June 2014), Councillor Roxy Fawthrop had been emailed and invited to fill the vacancy. Councillor Fawthrop was considering the invitation but had not yet responded.

**RESOLVED that Mr. Graham Collins, a Cray Forum representative and member of the local safer neighbourhood panel, be asked to be the Council's representative on the Cray Valley Library and War Memorial Institute until June 2014.**

The Renewal and Recreation Policy Development and Scrutiny Committee at its meeting on 5<sup>th</sup> July 2011, considered the ending of the need to appoint Councillors to the Beckenham and Bromley Town Centre Steering Groups. An extract of the minutes from this meeting was tabled for Members' consideration.

Councillors were advised that although the Town Centre Steering Groups were now defunct, both Beckenham and Bromley town centres had external business-based groups which included developers amongst other business interests. The Chairman stated that whilst it was not for the Council to impose its representatives it would be a good idea to encourage Councillors to become involved in these external groups.

**RESOLVED that the Assistant Director for Culture (responsible for the town centre management team) be advised that the Committee considers that local Councillors should be encouraged to be involved in the external management groups for Bromley and Beckenham town centres.**

**139           QUESTIONS FROM MEMBERS OF THE PUBLIC ATTENDING THE MEETING**

There were no questions from members of the public,

**140           UPDATE ON LICENSING ASPECTS OF POLICE REFORM AND SOCIAL RESPONSIBILITY BILL**

The Head of Food Safety, Occupational Safety and Licensing briefed Members on the latest position of the Police Reform and Social responsibility Bill. The briefing note is attached at Appendix A to these minutes. The Officer invited Members to consider the briefing note and to highlight anything that was felt to have been overlooked.

The Officer also brought to Councillors' attention the case of Brighton and Hove City Council versus Sainsbury's PLC where Sainsbury's had failed to

prove that the new store would not have a negative impact on the Cumulative Impact Area. This was unusual as the proposed store was a brand new development and not an existing business. A summary in relation to this case is attached at Appendix B.

The Chairman noted that both Beckenham and Bromley had cumulative impact areas. Another Councillor noted that there was a lesson to learn as when Beckenham Night Club went to the Magistrates' Court it fell to the Council to prove a detrimental impact and as a result the Council's decision to revoke the licence had been overturned.

It was also felt that the Council's Licensing Policy should be compared with that of Brighton to see if there were any differences that could be incorporated. The Officer confirmed that it had been for Sainsbury's to prove that its alcohol sales would not have a detrimental impact and he also drew Members' attention to the Hope and Glory case. It was also confirmed that Brighton's policy referred specifically to off sales which the Council's policy did not. Another Member noted that only Court of Appeal cases were relevant in matters such as this.

**RESOLVED that a report on possible amendments to the Council's Licensing Policy in light of the Brighton and Hove City Council versus Sainsbury's PLC outcome be submitted to the next meeting of the Committee.**

**141 REVISED PROCEDURE FOR REVIEW HEARINGS - LICENSING ACT 2003**

The Committee considered a report on the improvements made to the 'Review' procedure following comments expressed by Councillor Nicholas Bennett after the hearing of an application for the review of the licence at The Golden Lion Public House, Maple Road, Penge SE20 held on 31<sup>st</sup> May 2011.

The Chairman thanked the Head of Food Safety, Occupational Safety and Licensing for his open and honest report and he hoped that this approach would be taken up by other services within the Council.

**RESOLVED that the procedural changes made to the review procedure subsequent to the receipt of Councillor Nicholas Bennett's comments be noted.**

**142 REPRESENTATIONS ON HOME OFFICE APPEALS FOLLOWING DECISIONS TO REVOKE A LICENCE**

Members' approval was sought to write to the Home Office to express concerns about the sale of a licensed business whilst that business was subject to an appeal at the Magistrates Court following the Council's decision to revoke the Licence after a 'Review'.

The Head of Food Safety, Occupational Safety and Licensing advised that Councillor Wells had bought the matter in question to review due to concerns regarding after hours sales. After test purchases had proved this was so, the premises' licence had been suspended for two months. The owner of the business had appealed against this decision. During the appeal process the premises had been test purchased again and it failed so the Council made a decision to revoke the licence. This decision was then appeal against by the owner. There were therefore two outstanding appeals when the owner sold the business to a new owner.

The Premise Licence was held by the owner and had been subject to two Reviews for selling alcohol after the hours permitted under the Licence. At the first Review in October 2010 brought by Councillor Wells, the Sub Committee decided to impose conditions and suspend the licence for 2 months. This decision was the appealed against by the owner. While that Appeal was in the system with the Court further test purchases had been undertaken in December 2010 and January 2011. On both occasions sales had been made. This resulted in the Police bringing a second Review which had been heard in March 2011. At that Review hearing the decision had been made to revoke the licence, this decision inevitably was subject to a further appeal. In the meantime the owner sold the business and the licence was transferred to the new owner. This complicated the legal position with regard to the decisions of the Licensing Sub-Committee. After consulting with appropriate Councillors it was decided to continue with the appeal and allow the Court to decide how the matter should be taken forward.

Both the Appeals were taken together and heard by a Deputy District Judge. She decided that both the original decisions by the Council's Licensing Sub-Committee were correct (proportional and necessary). She acknowledged that the sale of the business did represent a change of circumstances and that the new operator should be given a chance to operate the business in compliance with the Licensing Act and to promote the licensing objectives but felt that there should be a clear demarcation between the two operators and that further training was needed for the staff. She therefore suspended the Licence for 1 month – to achieve this. If the training was not undertaken the licence would remain suspended until training had been completed

The Chairman noted that the letter to the Home Office would need to be reworded in light of the judgement.

Many Councillors agreed that a new owner should not be penalised for the actions of the previous owner even if it was suspected that the new owner was simply a "smoke screen".

The Chairman suggested that this case should be drawn to the attention of James Brokenshire, MP and then left to his consideration. This was agreed.

**RESOLVED that the draft letter to the Home Office drawing attention to the Council's concerns, as amended by the comments above, be endorsed.**

**143 APPOINTMENTS OF COUNCIL REPRESENTATIVES TO  
OUTSIDE AND PARTNERSHIP BODIES 2011/12**

On 24<sup>th</sup> May 2011, the Committee considered a report that requested the agreement of the appointment of Council representatives to serve on Outside Bodies and Partnership Bodies in respect of annual appointments, three year term appointments and four year term appointments co-terminus with the period of the Council. Further to the above meeting of the Committee, Councillors were asked to consider a small number of issues that had arisen since.

**RESOLVED that:**

- (a) there is no longer a need for the Council to appoint a representative to the Kent Association for the Blind;**
- (b) that Councillor Robert Evans (representative) and Councillor Diane Smith (deputy) be appointed as the Council's representatives to the Mental Health Joint Board; and**
- (c) the latest position with regard to Council appointments to the Cray Valley Library and War Memorial Institute be noted.**

**144 REFERENCE FROM THE PENSIONS INVESTMENT SUB-COMMITTEE**

A report had been referred from the Pensions Investment Sub-Committee held on 10<sup>th</sup> May 2011 on changes that would have an impact on the pension fund and requested that the General Purposes and Licensing Committee or the Executive and Resources Policy Development Scrutiny Committee, as appropriate, consider the overall impact on the pension scheme of any high earning staff wishing to take early retirement.

The Chairman welcomed the Chief Accountant to the meeting and advised Members that he felt that it was too early to make a definitive decision as there was not enough information available as yet.

The Chief Accountant informed the Committee that the Council's actuaries were preparing a model on the impact of opt out rates on various contribution models. Barnett Waddingham, the actuary, acted for a number of clients and consideration could be given to commissioning them to do some modelling and prepare a report for Bromley, subject to the level of fee being levied being value for money.

**RESOLVED that this matter be listed under the "Matters Outstanding from Previous Meetings" item on future agendas until it was considered that there was sufficient information for the matter to be determined.**

**145 PENSIONS INVESTMENT SUB-COMMITTEE: MINUTES OF THE MEETING HELD ON 10TH MAY 2011(EXCLUDING EXEMPT MINUTES)**

**RESOLVED** that the minutes of the meeting of the Pensions Investment Sub-Committee held on 10<sup>th</sup> May 2011 (excluding exempt information) be noted.

**146 AUDIT SUB-COMMITTEE: MINUTES OF THE MEETING HELD ON 7TH JUNE 2011, EXCLUDING EXEMPT INFORMATION**

**RESOLVED** that the minutes of the meeting of the Audit Sub-Committee Sub-Committee held on 7<sup>th</sup> June 2011 (excluding exempt information) be noted.

**147 LOCAL GOVERNMENT ACT 1972 AS AMENDED BY THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) (VARIATION) ORDER 2006 AND THE FREEDOM OF INFORMATION ACT 2000**

**148 CONFIRMATION OF EXEMPT MINUTES OF THE MEETING HELD ON 24TH MAY 2011**

**RESOLVED** that, subject to the changes set out above, the exempt minutes of the General Purposes and Licensing Committee held on 24<sup>th</sup> May 2011 be confirmed.

**149 PENSIONS INVESTMENT SUB-COMMITTEE: EXEMPT MINUTES - 10TH MAY 2011**

**RESOLVED** that the exempt minutes of the meeting of the Pensions Investment Sub-Committee held on 10<sup>th</sup> May 2011 be noted.

**150 AUDIT SUB-COMMITTEE: EXEMPT MINUTES - 7TH JUNE 2011**

**RESOLVED** that the exempt minutes of the meeting of the Audit Sub-Committee held on 7<sup>th</sup> June 2011 be noted.

The Meeting ended at 7.56 pm

Chairman