LONDON BOROUGH OF SUTTON

LICENSING SUB-COMMITTEE

THE LICENSING ACT 2003 AND THE GAMBLING ACT 2005

PROCEDURE FOR HEARINGS

The Licensing Committee of the London Borough of Sutton has adopted the procedure set out below, in accordance with the Licensing Act 2003 (Hearings) Regulations 2005 and the Gambling Act 2005 (Proceedings of Licensing Committees and Sub-Committees) (Premises Licences and Provisional Statements) (England and Wales) Regulations 2007 to determine opposed applications received under the provisions of the Licensing Act 2003 and applications received under the provisions of the Gambling Act 2005 where they have received representations, they propose to add or exclude certain conditions or a licence is reviewed. Other applications will be determined by officers under delegated authority, in accordance with statutory guidance.

The Licensing Committee has appointed a Licensing Sub-Committee, comprising any three members of the Committee, to hear and determine opposed applications. No sub-committee member will represent the ward or reside in the ward where premises that are the subject of the application, or the applicant in the case of a personal licence, are situated.

Hearings by the Sub-Committee will normally take place during the day.

The Licensing Act 2003

Applications must promote, and representations should focus on, the four licensing objectives in the Licensing Act 2003. Namely:

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm

In relation to the Licensing Act 2003, the terms 'party' or 'parties' will include the following, as appropriate and defined in Schedule 2 of the Licensing Act 2003 (Hearings) Regulations 2005:

- the person who has made the application
- the holder of the premises licence
- the holder of the premises licence immediately before the application was made
- the club which has made the application or holds the club premises certificate
- the premises user in the case of a temporary event notice
- the person who has given notice under section 47(2) of the Licensing Act 2003
- the holder of the personal licence
- each chief officer of police
- persons who have made relevant representations

The Gambling Act 2005

Applications must promote, and representations should focus on, the three licensing objectives in the Gambling Act 2005. Namely:

- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime
- Ensuring that gambling is conducted in a fair and open way
- Protecting children and other vulnerable persons from being harmed or exploited by gambling

In relation to the Gambling Act 2005, the terms 'party' or 'parties' will include the following, as appropriate and defined in Schedule 1 of the Gambling Act 2005 (Proceedings of Licensing Committees and Sub-Committees) (Premises Licences and Provisional Statements) (England and Wales) Regulations 2007:

- the applicant
- any person who has made (and not withdrawn) representations about the application
- any person who has made (and not withdrawn) representations about the review
- the licensee

General

The parties will be given notice in writing of the time and place of the hearing in accordance with the above Regulations, and will be allowed to be represented and to call witnesses whom the Sub-Committee agrees may appear before the hearing. Copies of any relevant documents will be made available in advance of the hearing in accordance with the above Regulations.

Additional documentary evidence may only be submitted at the hearing with the consent of all parties.

Each party will be given an equal maximum period of time in which to exercise their rights to:

(1) provide further information on, or explanation of, any matter on which the Sub-Committee has indicated that it will want further clarification;
(2) address the Sub-Committee;
(3) call witnesses to give evidence on any matter that is relevant and, if appropriate, question any other party or witness.

PROCEDURE FOR HEARING OPPOSED APPLICATIONS AND REVIEWS

1. The Chair of the Sub-Committee will confirm that the parties who have indicated they will attend and their witnesses, if any, are present. If any party has indicated that they will not attend or fails to indicate whether or not they will attend the Sub-Committee may hold the hearing in that party's absence.

2. The Chair will confirm that each party has a copy of the procedure to be followed and outline that procedure.

3. The Chair will indicate whether or not it is considered that cross-examination of the parties is required, within the time limit allowed to each party, for it to consider the representations, application or notice as the case may require.

4. The Executive Head of Environmental Sustainability, or an officer delegated by him or his legal representative, will explain briefly the application.

5. The Chair will lead a discussion in which:-

(a) They will indicate any points upon which the Authority has given notice to a party that it wants clarification, and the parties will respond in the following order:

- Any person who has made representations about the application
- The applicant or licensee

(b) A representative of a responsible authority, where they are a party, will address the Sub-Committee and call any witnesses agreed by the Sub-Committee. A maximum of 15 minutes will be allowed for their address and any witnesses or questioning of the applicant or licensee under section (j) below.

(c) Members of the Sub-Committee may ask questions of the responsible authority's representative and any witness.

(d) The applicant or licensee may ask questions of the responsible authority's representative.

(e) Persons submitting representations will address the Sub-Committee and call any witnesses agreed by the Sub-Committee. A maximum of 15 minutes will be allowed for their address and any witnesses or questioning of the applicant or licensee under section (j) below. They should co-ordinate their address to make a coherent case to the Sub-Committee within that time limit. If they are unable to co-ordinate their address the Sub-Committee will exercise their discretion to allocate the time available.

(f) Members of the Sub-Committee may ask questions of the persons submitting representations and any witness.

(g) The applicant or licensee may ask questions of the persons submitting representations.

(h) The applicant or licensee will address the Sub-Committee and call any witnesses agreed by the Sub-Committee. A maximum of 15 minutes will be allowed for their address, less any time taken for questioning under sections (d) or (g) above.

(i) Members of the Sub-Committee may ask questions of the applicant or licensee or any witness.

(j) The persons submitting representations may question the applicant or licensee.

(k) The Chair will ask each party to confirm that they do not wish to make any additional points. If either party wishes to make any additional points they will be allowed a reasonable time to do so and the other party will be given a similar amount of time to make any additional points.

7. The members of the Sub-Committee, their clerk and their legal adviser will retire to determine the application and the reasons for their decision.

8. If the legal adviser gives advice to the Sub-Committee in private session that advice will be repeated to the parties to the hearing in open session and they will be given the opportunity to make representations on that advice. The legal adviser will then either confirm or vary the legal advice given to the Sub-Committee.

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