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From: Dr Martin Rawlings MBE, Director Pub & Leisure
Direct Line: 020 7627 9141
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6th September, 2007

Licensing Section
Environment & Leisure Department
Bracknell Forest Borough Council
Time Square
Market Street
Bracknell
RG12 1JD

Dear Sirs,

RE: LICENSING ACT 2003 - REVIEW OF LICENSING POLICY

The British Beer & Pub Association (BBPA) represents brewing companies and their pub interests, and pub owning companies, accounting for 98% of beer production and around two thirds of the 60,000 pubs in the UK. Many of our members own and run pubs in the Bracknell Forest area. The Association promotes the responsible sale of alcohol and management of licensed premises. It has a range of good practice information and guidance for member companies, which includes security in design, drugs, drinks promotions, noise control and health and safety.

The BBPA believes that the implementation of the Licensing Act 2003 has been successful to date and is encouraged by reports of decreased levels of disorder associated with licensed premises. We welcome this opportunity to provide comments as part of this licensing policy review. This response is also supported by BII, the professional body for the licensed retail sector. Our main observations are as follows.

General

The Association is disappointed that a number of the comments we submitted as part of the previous consultation on the licensing policy for Bracknell Forest Borough Council were not taken into account. A copy of our 2004 response is attached, and our remaining concerns are highlighted below. Overall, the policy remains over-prescriptive with regard to the information expected to be included in operating schedules, much of which would not easily translate into conditions on a licence.

The draft policy contains some very specific expectations in the section on Premises Licences and Club Premises Certificates Applications which we believe could give rise to the same complaint as was dealt with by the Judicial Review of the Canterbury City Council policy. The judgement in that case clearly stated that licensing authorities should not

mislead applicants into believing that they must meet certain requirements. The expectations listed in the draft policy could be construed as the licensing authority requiring applicants to offer a significant number of restrictions in their operating schedules. While the policy rightly recognises one of the key principles of the Licensing Act, which is that every application must be treated on its own merits, it would be helpful to applicants, responsible authorities and interested parties to make it very clear that the Council cannot attach conditions unless they are either volunteered by the applicant or are determined by the licensing authority following representations being upheld from responsible authorities or interested parties.

Section 1: Introduction to the Policy

Paragraph 1.12 states that the Licensing Authority will consult with interested parties and responsible authorities on all applications. Applicants are obliged to send copies of their application to the responsible authorities and advertise it for the benefit of interested parties. Responsible authorities and interested parties are able to make relevant representations on applications where they have concerns relating to the licensing objectives. There is, however, no basis for the Licensing Authority to consult on each application. In the event that no representations are received on an application, the Licensing Authority must grant the licence.

Section 2: Licensing Objective 1: Prevention of Crime and Disorder

We refer you to our previous comments (enclosed) with regard to paragraph 2.6(d) and (f). The requirement in 2.6(e) for new applications to liaise with the Thames Valley Police Crime Reduction Team in writing in order to satisfy the crime and disorder objective cannot be imposed on applicants, and in the absence of any relevant representations on an application it would be unlawful to refuse to grant it on the grounds that such liaison did not take place. We would request that the policy be amended to "recommend" that where applicants are concerned or unsure about the promotion of this particular licensing objective, they contact the police for advice.

With regard to paragraph 2.11, we would again refer you to our previous comments on the expectation for applicants to be aware of local extremist groups etc. and take into consideration the potential impact on privacy or religious freedom. We respectfully request that this paragraph is deleted from the policy.

Section 3: Licensing Objective 2: Public Safety

The current policy rightly states in paragraph 1.16 that it does not intend to duplicate existing legislation and regulatory regimes. Nevertheless, we remain concerned that paragraph 3.5(a) to (e) and paragraph 3.18 would duplicate the requirements of fire safety legislation. Paragraph 3.18 would also duplicate general health and safety law and the access provisions of the Disability Discrimination Act 1995. We refer you to our previous comments on duplication, and request that these references be deleted from the policy.

The DCMS Guidance issued under Section 182 of the Licensing Act clearly states that licence conditions should not seek to address public health. With regard to paragraph 3.11, there is no legal basis for protecting the hearing of customers and such a requirement goes beyond the scope of the Licensing Act 2003. The Association did comment previously on this point, and we would once again request the deletion of this reference.

Section 4: Licensing Objective 3: The Prevention of Public Nuisance

As a member of the Live Music Forum, the Association takes this opportunity to reiterate its previous comments on paragraph 4.5 with regard to ensuring that live music and other cultural activities are not undermined.

Paragraph 4.7 places an expectation on applicants to demonstrate what measures they will take to prevent customers consuming excess alcohol whilst on the premises, for example training. Since licensees are obliged to comply with the Licensing Act itself with regard to the responsible sale of alcohol and not serving drunks, we would contend that any conditions of this nature are unnecessary.

Section 5: Licensing Objective 4: Protection of Children from Harm

Again, we are concerned about potential duplication of other legal requirements in this section. Paragraph 5.2 requires, where appropriate, measures in the operating schedule to demonstrate the prevention of the sale of alcohol and illegal substances to children. Firstly, since the sale of alcohol to under 18s is already against the law, we do not believe this is necessary. The BBPA is extremely supportive of Challenge 21 and PASS. Indeed, the Association has been very active in promoting its 'Challenge 21' campaign and is gratified at the success that this has had in ensuring compliance with the law. We would not however wish to see this translated into a condition of licence since by its nature it is itself a 'due diligence' approach to securing compliance with the law.

The reference to illegal substances is unnecessary because there is separate law on drugs in licensed premises. The Association made the point in its previous response that not all licensed premises will have problems with drugs. Any premises which does should, in any case, be subject to a review of its licence. Paragraph 5.6 also duplicates a legal requirement under the Licensing Act.

Paragraph 5.7(c) is potentially misleading as there is no legal basis to require separate areas for children under the age of 18.

Paragraph 5.9 should state that licensees will only be expected to consider these issues where necessary, rather than as a matter of course.

While the policy could recommend the Portman Group Code of Practice to licensees, (paragraph 5.14), it should not expect licensees to refer to it in their operating schedules.

Section 6: Premises Licence

Paragraph 6.1 states that the premises licence is valid indefinitely "subject to occasional review". Premises licences are only subject to review in the event of relevant representations being made in relation to the licensing objectives by responsible authorities or interested parties.

We appreciate that the legal period of notice for Temporary Event Notices can be rather short in some cases, and that a longer period would be helpful. The suggestion of "at least three months" seems, however, a little excessive. We would also point out, that such applications cannot be rejected on the basis that they were not submitted at least three months in advance, provided they meet the minimum legal criteria.

Paragraph 6.6 gives particular emphasis to the protection of children from harm, which is contrary to the advice contained in the DCMS Guidance which clearly states that all licensing objectives must be given equal weight.

The paragraphs on Amusement with Prizes and Disability Access are covered by separate regulatory regimes and are therefore outside the scope of the Licensing Act. We request that paragraphs 6.25 to 6.28 are deleted from the policy.

We would suggest the inclusion of a reference in paragraph 6.30 to supporting evidence

being available to support representations for a cumulative impact policy, in order to ensure that the process described reflects that contained in Chapter 13 of the DCMS Guidance.

Section 8: Personal Licences

While the contact details of the DPS should be available at the premises, there is no legal requirement for these to be "displayed" as required in paragraph 8.4. We appreciate that there are some premises where this might be appropriate, such as in the example given. However, it may not be appropriate for some other licensed premises, where the DPS could be targeted, for example by a customer who has been barred. We would request, therefore, that this paragraph is amended to refer to the contact details being available rather than requiring them to be displayed.

Section 12: Enforcement

We welcome the risk based approach to enforcement advocated by the policy and would further recommend the recognition of the Hampton principles of inspection and enforcement in this section, which include the following:

- No inspection should take place without a reason
- Regulators should recognise that a key element of their activity will be to allow or even encourage, economic progress and only to intervene when there is a clear case for protection

The Association assumes that the Council is generally content with the Licensing Policy as it stands, since there is no indication of any changes that the Council is minded to make in the light of its experience of the new licensing regime, or the recently published revised Government Guidance to the Licensing Act 2003. We are concerned, however, that the Council may receive representations for change to which we will be unable to respond until *after* the policy is approved by the Council. We would take this opportunity, therefore, to highlight the following, which we would not support being included in the final policy document as they are beyond the provisions of the Licensing Act.

- applications to be completed in a specific manner, other than that prescribed in regulations
- blanket or standard conditions on licences eg. CCTV, hours, use of polycarbonate/plastic glasses, capacity limits, membership and attendance at Pubwatch meetings, minimum pricing requirements etc.
- the Designated Premises Supervisor to be on the premises at all times, or to have a specific level of experience, training or qualification in addition to the personal licence qualification etc.
- written authorisation for the sale of alcohol
- more than one personal licence holder on the premises
- measures that duplicate existing legislation, eg. health and safety (eg. smoking, fire etc.) or disability provisions

We trust that you will find these comments helpful and look forward to any response you may have. We would also appreciate being listed as a consultee in any further licensing related consultations.

Yours sincerely,

Martin Rawlings

Dr Martin Rawlings

Memorandum



To:	Licensing Panel	Date:	12 June 2007
From:	Environmental, Health and Safety Section	Ext:	2558
CC:		Ref:	
Subject:	Review of Licensing Policy, Dec 2004		

Environmental Protection (Obj 3 - Prevention of Public Nuisance) response

My comments:

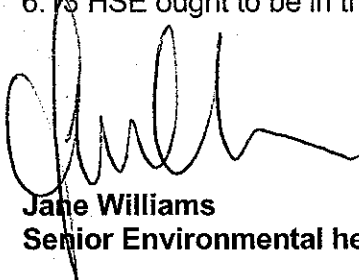
4.3 – additional

(g) measures to ensure litter from smoking and the prevention for the potential for fire are provided for patrons.

(h) Measures to control noise associated with Patrons, particularly ate at night which use outside areas to smoke, whether designated as smoke shelters or otherwise.

6.9 Pool of conditions – many are no longer regarded as valid, perhaps we need to review these too.

6.13 HSE ought to be in the list as premises for Obj 2.



Jane Williams
Senior Environmental health Officer

Jane Williams
Senior Environmental Health Officer

Licensing Section,
Environment and Leisure Department,
Bracknell Forest Borough Council,
Time Square,
Bracknell RG12 1JD

Greene King Brewing and Retailing Ltd.,
Westgate Brewery,
Bury St Edmunds,
Suffolk IP33 1QT,

6th September 2007

Dear Sir/Madam,

Re: Review of Statement of Licensing Policy

We are responding to your consultation process prior to the review of your statement of licensing policy on behalf of Greene King Pub Partners the tenanted/leased division of the company. We hold the premises licence for these outlets and trust you will take account of our submission on the closing date, as we received no notification of the consultation or the deadlines.

We are concerned that your policy is over prescriptive and requiring too much detail within the Operating Schedule which would then become conditions on the licence. This level of detail will not be a requirement for the majority of licensed premises to ensure the promotion of the licensing objectives. It is up to the applicant to demonstrate how they will promote the licensing objectives and run their business and not the remit of the Licensing Authority.

Requirements specified in the policy, which relate to the Operating Schedule amount to a pre-judgement on the premises and this is not in the spirit of the Licensing Act 2003.

Conditions

Blanket or standard conditions cannot be imposed under the Licensing Act 2003 (Section 18). There is not enough recognition within the policy that additional conditions, other than those arising from the applicant's Operating Schedule, can only be imposed following valid objections upheld at a hearing on the grounds of one of the licensing objectives.

There are a number of examples of a blanket approach in Sections 2 – 6 and the policy seems to suggest that the Council and other interested parties should form a view as to what measures may be necessary to meet the licensing objectives (Section 6.1). Section 17 of the Licensing Act confirms that the Operating Schedule should:

- State the relevant licensable activities and when they will take place
- Include the name of the DPS where alcohol is to be sold
- Specify whether sales of alcohol are on or off the premises
- Contain the steps that will be taken to promote the licensing objectives

It is for applicants to demonstrate how they will promote the licensing objectives and in the absence of representations in respect of the application the Licensing Authority must grant it. It would be helpful for clarity and balance if the quotes from Government Guidance Section 9.2 and 10.11 were included:

“A hearing is not required where an application has been lawfully made and no responsible authority or interested party has made a representation. In these cases, the licensing authority must grant the application in the terms sought, subject only to conditions which are consistent with the operating schedule and relevant mandatory conditions in the Act.”

“The licensing authority may not impose any conditions unless its discretion has been engaged following receipt of relevant representations and it has been satisfied at a hearing of the need to impose conditions.”

Duplication of Existing Legislation

Although your Section 1.16 states that you do not intend to duplicate existing legislation this is at odds with later statements in the policy and some examples may be seen in Section 3.5 – 3.6, Section 3.11

and Section 6.27 – 6.28. The Licensing Act should not be seen as a mechanism for the enforcement of other legislation.

Prevention of Crime and Disorder

In respect of Section 2.11 we agree that licensees should be aware of local issues that may affect their businesses but believe it is unreasonable to expect any more than awareness of local extremist groups. Taking into consideration the potential impact on privacy or religious freedom goes beyond the remit of the Licensing Act and we suggest this section be removed.

We hope that you will find these comments both helpful and constructive and will be taken into account when revising your licensing policy. We would also ask to be a part of any further consultation should there be consideration of any significant change to your existing policy.

Yours Faithfully,

Jeremy Veitch
Licensing Manager



Bracknell Town Council

Town Clerk Mary Harris

Rob Sexton
Head of Trading Standards and Services
Bracknell Forest Borough Council
Time Square
Market Street
Bracknell
RG12 1JD

ENVIRONMENT AND LEISURE
DEPARTMENT
RECEIVED
- 6 SEP 2007

BRACKNELL FOREST BOROUGH COUNCIL
Passed To:

5th September 2007

Dear Rob,

Re: Review of Licensing Policy

Further to your request for comments on the current Licensing Policy the Town Council finds the current system is working effectively and has no comments to make on the Licensing Policy.

The Town Council would be pleased to be further informed of any proposed changes to the Licensing Policy.

Yours sincerely,

PP
Councillor Chas Baily
Chair of Recreation and Environment Committee

Brooke House, High Street, Bracknell, Berkshire RG12 1LL

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ENVIRONMENT AND LEISURE
DEPARTMENT
BRACKNELL LAWN TENNIS CLUB

RECEIVED

13 AUG 2007



BRACKNELL FOREST BOROUGH COUNCIL

Passed To:

**Lily Hill Road
Bracknell
Berkshire
RG12 2SJ**

01344 420981

**Licensing Section
Bracknell Forest Borough Council
Time Square
Market Street
Bracknell
RG12 1JD**

10 August 2007

Dear Sir

LICENSING POLICY

I refer to your letter of 2 July, asking for comments on the current Licensing Policy.

Since this Club is run only by volunteers, and its need is for an alcohol licence only, the operation of the Licensing Policy is relatively simple for us, and has been seen to run effectively.

I would like to make one suggestion. We operate with a basic Licence, allowing us to open the Bar for set hours. In addition we apply for an extension of opening hours, perhaps 3 or 4 times per year. In order to apply for such an extension, I have to fill out a complicated set of forms, supplying a great deal of information which you surely have already. Could this procedure be simplified?

Yours sincerely

A handwritten signature in black ink, appearing to read "David Passby", written over a large, stylized flourish.

**David PASSBY
Secretary**

Robert Sexton - Review of Licensing Policy

From: "Clerk" <binfieldparish.council@btinternet.com>
To: <robert.sexton@bracknell-forest.gov.uk>
Date: 01 August 2007 15:13
Subject: Review of Licensing Policy

With reference to your recent consultation, at a recent Council meeting the Binfield Parish Council made the following comments:

1. Neighbours of premises requesting to extend or vary their licences should be directly consulted, with a requirement for the applicant to advertise more widely the proposed changes.
2. The Licensing Authority should not be required to grant a licence if no objections are made. The Licensing Authority should be able to refuse to grant a licence if it is considered inappropriate with reasonable grounds for doing so.

Many thanks
Amanda Sculley
Clerk
Binfield Parish Council

From: Licence All
To: Robert Sexton
Date: 19 July 2007 14:41
Subject: Fwd: Licensing Policy

>>> "Administration, Crowthorne Parish Council" <admin@crowthorneparishcouncil.wanadoo.co.uk> 19/07/07 >>>
In response to letter from Robert Sexton of 3 July 2007, re: Licensing Policy - Licensing Act 2003, I would like to confirm that Crowthorne Parish Council's halls for hire do not sell any alcohol. Our hirers predominantly bring their own alcohol to give away. Very occasionally a hirer obtains a license to sell alcohol, but within the last year this has happened only once. So therefore Crowthorne Parish Council has not been affected by the Licensing Policy and feels unable to comment.

Regards

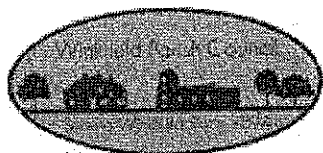
Joanna Robertson
Admin Assistant
Crowthorne Parish Council

Robert Sexton - Licensing Policy - Licensing Act 2003

From: "Annemarie Edwards" <a.edwards@winkfieldparishcouncil.gov.uk>
To: <robert.sexton@bracknell-forest.gov.uk>
Date: 19 July 2007 10:56
Subject: Licensing Policy - Licensing Act 2003

Dear Robert
Everything fine with Winkfield Parish (Carnation Hall) – to be perfectly frank we have not experienced any difficulties (fingers crossed!!).
Regards.

Annemarie Edwards
Clerk
Winkfield Parish Council
Council Offices, Fernbank Road, Ascot, Berkshire SL5 8JW
Tel: 01344 885110 Fax 01344 885113



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