

To the Chair and Members
of the
LICENSING SUB-COMMITTEE

Julia Cleary
742227

28 September 2011

Dear Sir/Madam

A meeting of the **LICENSING SUB-COMMITTEE** will be held in **COMMITTEE ROOM 1, CIVIC OFFICES, MERRIAL STREET, NEWCASTLE** on **WEDNESDAY 3 DECEMBER 2008** at **10.00am**.

A G E N D A

Details of the procedure to be followed by the Sub-Committee together with Guidance Notes relating to Human Rights Act 1988 are attached.

1. To consider the report of your Officers on items requiring decisions. (white paper)

Yours faithfully

P W CLISBY

Head of Central Services

GUIDANCE NOTES

HUMAN RIGHTS ACT 1998

In considering allegations against Members you should have regard to the provisions of the Human Rights Act 1998 which embody the rules of natural justice.

Rights and Freedoms to be considered when determining matters

ARTICLE 6: RIGHT TO A FAIR TRIAL

1. In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Judgement shall be pronounced publicly, but the press and public may be excluded from all or part of the trial in the interest of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice.
2. Everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law.
3. Everyone charged with a criminal offence has the following minimum rights:
 - (a) to be informed promptly, in a language which he understands and in detail, of the nature and cause of the accusation against him;
 - (b) to have adequate time and facilities for the preparation of his defence;
 - (c) to defend himself in person or through legal assistance of his own choosing or, if he has not sufficient means, to pay for legal assistance, to be given it free when the interests of justice so require;
 - (d) to examine or have examined witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;
 - (e) to have the free assistance of an interpreter if he cannot understand or speak the language used in court.

ARTICLE 8: RIGHT TO RESPECT FOR PRIVATE AND FAMILY LIFE

1. Everyone has the right to respect for his private and family life, his home and his correspondence.
2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

ARTICLE 10: FREEDOM OF EXPRESSION

1. Everyone has the right to freedom of expression. These rights shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.
2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of

health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

ARTICLE 14: PROHIBITION OF DISCRIMINATION

The enjoyment of the rights and freedoms set fourth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

NB This is not a substantive right, but comes into play if other rights are likely to have been infringed. The prohibition is wide, but not exhaustive

ARTICLE 1: OF THE FIRST PROTOCOL PROTECTION OF PROPERTY

Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.

NB Possessions, in this context, includes the right to apply for a licence, the right to hold and retain a licence and the goodwill of a business.

NOTE In this context it is also particularly important for members to observe the rule against bias.

**PROCEDURE TO BE FOLLOWED BY
THE LICENSING SUB-COMMITTEE**

NOTE:

All hearings will normally be held in public. However, the Licensing Sub-Committee may exclude the public from all or part of a hearing where it considers that the public interest in so doing outweighs the public interest in the hearing or that part of the hearing taking place in public. A party or that party's representatives may be treated as a member of the public and therefore excluded from the meeting for all or part of the hearing, and all parties have the right to be represented and to call witnesses.

The Clerk to the Committee will have the right to ask questions on behalf of the Committee of any party to the proceedings.

PROCEDURE:

1. The Chair of the Sub-Committee will open the meeting and introduce the members of the committee and call upon the parties to identify themselves and their representatives and to identify any witnesses they intend to call.
2. The Chair of the Sub-Committee will call upon the Clerk to the Committee to explain to the parties the procedures which will be followed at the hearing. Unless the Chair directs otherwise, each party will normally have a maximum period of one hour in which to give further information and call any witnesses in support of their case. In every case, all parties will have an equal maximum period.
3. The Chair of the Sub-Committee will then normally call upon the interested party or the responsible authority which has made a relevant representation against the grant of an application to provide evidence in support of their representation.
4. The applicant will then have an opportunity to question that person
5. Members of the Sub-Committee will then have the opportunity to question that party or responsible authority.
6. Any person who has made relevant representations will then call any witness in support.
7. The applicant will then have an opportunity to question that witness.
8. Members of the Sub-Committee will then have the opportunity to question that person.
9. Stages 6 to 8 will then be repeated for each person making relevant representations.
10. The applicant will then have the opportunity to give evidence in response to the application and in response to the relevant representations which have been made.
11. The interested party or responsible authority will then have an opportunity to question the applicant.
12. Members of the Sub-Committee will then have the opportunity to question the applicant.

13. Stages 10 to 12 will be repeated for any witnesses on behalf of the holder of the applicant.
14. The interested party or responsible authority will have the right to address the sub committee.
15. The applicant will have the right to address the Sub-Committee in summing up his case.
16. All parties will then leave the room while the Sub-Committee consider their decision.
17. The Sub-Committee will normally make their determination at the conclusion of the hearing, but when this is not possible, will make its determination within the period of five working days beginning with the day on which the hearing was held.

NEWCASTLE-UNDER-LYME BOROUGH COUNCIL

**REPORT OF THE EXECUTIVE MANAGEMENT TEAM TO THE
LICENSING SUB-COMMITTEE**

3 December 2008

1. **APPLICATION FOR A VARIATION TO A PREMISES LICENCE IN RESPECT OF THE
VUE CINEMA, MARKET ARCADE, HIGH STREET**

1. **Details of Application**

- (a) Applicant: Vue Entertainment Limited.
- (b) Premises: Vue Cinema, Market Arcade, High Street.
- (c) Application for: Variation to a Premises licence
- (d) Proposed Variation (**Appendix A: Summary of current licence – yellow paper**)
 - 1. Refurbishment of the foyer area.
 - 2. To allow the sale of alcohol in the foyer area and in the screens from 09:00 to 02:30 (or 30 minutes before the end of the last film, whichever is the earliest).
 - 3. To remove the embedded restrictions contained in Annex 2 of the existing licence.

The current Premises Licence contains in Annex 2 embedded restrictions which were carried forward from the old cinema licence at the time of conversion.

These premises operate as an eight screen multiplex cinema. The applicant operates in excess of 60 cinemas throughout England, Wales and Scotland, a substantial number of which are licensed for the sale of alcohol (including sale in the auditoria).

Alcoholic products will be kept in fridges behind the concessions counter and will be sold to customers over the counter. It is intended as a facility for those persons who are attending the cinema to watch films and the sale of alcohol will be restricted to those who have purchased a ticket or had tickets purchased on their behalf. Alcohol will be sold at a premium price and in practice it will be limited to wines and beers. Customers may consume their drinks in the foyer area or may take them into the auditorium.

Alcohol will also be on sale within each auditoria. In practice it will not be on sale for all screenings. Management will decide based upon the film being shown, the time of day and various other factors that will enable a good idea of the audience profile. Alcohol will only be sold where the likely profile of the audience is predominantly adult. Where this is the case, alcohol will be sold from a portable tray or trolley. Alcohol will only be on sale prior to the start of a film or programme or during an interval when the house lights are illuminated.

From time to time the applicant may hire out an auditorium for a private showing or presentation. This is usually to a company who wish to hold a seminar presentation, promotional film or special film showing ('A Private Event'). At Private Events alcohol may be provided from a tray, trolley or small table erected within the auditorium.

Except at Private Events (where the organiser may request glasses) alcohol will only be dispensed in plastic bottles or plastic glasses.

The applicant's company operates a proof of age scheme and a 'Challenge 21' policy and all staff engaged in the sale of alcohol will be properly trained particularly with regards to avoiding underage sales. Staff are also trained to complete a refusals log book which is monitored by management on a regular basis.

Each auditorium is visited by a member of staff during film showings at least once every 30 minutes to monitor screens and the behaviour of customers. These staff are issued with night vision goggles or equivalent.

(e) Proposed Hours of Licensable Activities

Supply of alcohol on the premises

Monday	0900 - 0230
Tuesday	0900 - 0230
Wednesday	0900 - 0230
Thursday	0900 - 0230
Friday	0900 - 0230
Saturday	0900 - 0230
Sunday	0900 - 0230

2. Steps proposed by applicant to promote the licensing objectives in respect of the application

General

The premises operate as an eight screen multiplex cinema. The applicants have carried out an assessment of their operation in the light of the proposed variation and have determined that no further steps are required to promote the licensing objectives other than those set out below.

Crime and disorder

A digital colour CCTV system will be installed and maintained at the premises. Images will be recorded and retained for a minimum of 28 days and copies made available to the police and the licensing authority upon request.

Sales of alcohol will cease at 0230 or 30 minutes before the end of the last film showing at the premises, whichever is the earlier.

Public Safety

Premises without a staff alerting system

Where the premises are not equipped with a staff alerting system the number of attendants present should be set out as follows:

Number of members of the audience present on the premises = 1 to 250

Minimum number of attendants required to be on duty = 2

There will be one additional attendant for each additional 250 members of the audience present (or part thereof).

Premises with a staff alerting system

1. Where premises are equipped with a staff alerting system the number of attendants present should be as set out below:

Number of members of the audience present on the premises = 1 to 500

Minimum number of attendants required to be on duty = 2

Minimum number of other staff on the premises who are available to assist in the event of an emergency = 1

Number of members of the audience present on the premises = 501 to 1000

Minimum number of attendants required to be on duty = 3

Minimum number of other staff on the premises who are available to assist in the event of an emergency = 2

Number of members of the audience present on the premises = 1001 to 1500

Minimum number of attendants required to be on duty = 4

Minimum number of other staff on the premises who are available to assist in the event of an emergency = 4

Number of members of the audience present on the premises = 1501 or more

Minimum number of attendants required to be on duty = 5 plus one for every 500 (or part thereof) persons over 2000 on the premises.

Minimum number of other staff on the premises who are available to assist in the event of an emergency = 5 plus one for every 500 (or part thereof) persons over 2000 on the premises.

2. Staff shall not be considered as being available to assist in the event of an emergency if they are:
 - a. The holder of the premises licence or the manager on duty at the premises
 - b. A member of staff whose normal duties or responsibilities are likely to significantly affect or delay his response in an emergency situation

- c. A member of staff whose usual location when on duty is more than 60 metres from the location to which he is required to go on being alerted to an emergency situation
3. Attendants will be as far as reasonably practicable evenly distributed throughout all parts of the premises to which the public have access and keep under observation all parts of the premises to which the audience have access.
4. The staff alerting system will be maintained in working order

Except in the auditoria when a private event to which the public is not admitted is taking place alcohol shall only be sold or supplied in plastic bottles or plastic glasses.

The prevention of public nuisance

Notices shall be displayed at the main exit to the premises reminding customers to leave quietly.

The protection of children from harm

The premises shall operate a recognised proof of age scheme and a 'challenge 21' policy. Notices setting out this policy will be displayed within the premises. All staff involved in the sale of alcohol will be properly trained.

3. Consultation

(a) Responsible Authorities

There have been representations from the following responsible authorities:

- Staffordshire Police

4. Policy Considerations

(a) Licensing Objectives

The Licensing Act 2003 requires the Council to carry out its various licensing functions so as to promote the following four licensing objectives:-

- (i) the prevention of crime and disorder
- (ii) public safety
- (iii) the prevention of public nuisance
- (iv) the protection of children from harm

(b) Policy Statement

The Licensing Act 2003 required the Council to publish a "Statement of Licensing Policy" that set out the policies the Council will generally apply to promote the licensing objectives when making decisions on applications made under the Act.

The Council made a number of policy decisions in its Statement of Licensing Policy. The following policy decisions are relevant to this application:-

- I. Paragraph 2.9 Trading hours;
- II. Paragraph 4.4 Prevention of Crime and Disorder
- III. Paragraph 2.15 and 4.1 Public Safety
- IV. Paragraph 4.2 Prevention of Public Nuisance

(c) Statutory Guidance

- (i) National guidance regarding the control of areas outside the premises is laid down in paragraph 2.4 and 13.17; and
- (ii) National guidance regarding licensing hours is laid out in paragraphs 13.40 and 13.41.

Copies of the Council's Statement of Licensing Policy and the Government's Statutory Guidance will be available at the Sub-Committee meeting.

5. Comments

In making their decision on the application, the Sub-Committee are also obliged to have regard to Statutory Guidance and the Council's own Statement of Licensing Policy. The Sub-Committee must also have regard to all the representations made and the evidence they hear. However, the Sub-Committee must disregard any objections that do not relate to the promotion of the four licensing objectives.

The Sub-Committee must take such of the following steps as they consider necessary for the promotion of the licensing objectives as set out in paragraph 4(a) above:-

- (a) Grant the application as requested
- (b) to reject or amend the application

The Sub-Committee are asked to note that they may not reject the application merely because they consider it desirable to do so. It must actually be necessary in order to promote the licensing objectives.