

Appendix D

Dear Members,

You will be aware that under the Licensing Act elected members have had no special status in making representations on applications or calling for formal action by way of reviews of licensed premises. I know that at times this has caused some of you frustration and can confuse residents in your wards.

However the legislation has recently changed, giving you all enhanced roles and any member is now able to both make representations and potentially call for reviews of licences. As ever there are some caveats, the foremost being evidence to support your case.

In summary, this is a significant change from the previous situation, where individual Members could only make such representations if they lived in or had a business in the vicinity of the premises, or had been specifically asked to represent a constituent at a hearing.

However, the statutory constraints on the reasons for representations or reviews still apply – they may only be made on the grounds of one or more of the licensing objectives, which are:

- the prevention of crime & disorder;
- the prevention of public nuisance;
- public safety;
- the protection of children from harm.

Representations or applications for review on other grounds cannot be considered. For instance, public health is not a statutory objective and cannot be considered.

Given the quasi-judicial nature of the proceedings, all representations or review applications:

- must be in writing, showing the name and address of the writer (the representation/review application must be published as part of the process) – there is a prescribed form for reviews on the Licensing WebPages as well a form for make representations;
- must clearly set out the likely effects the grant of the licence would have on the promotion of at least one of the licensing objectives;
- should present evidence in support of the representation or review – evidence based representations will carry more weight than those with little or no evidence provided;
- must clearly relate to the premises for which application is being made.

For example, representations on the basis of general noise and disturbance, without evidence of a causal link to specific premises, will carry little or no weight with the Sub-Committee.

There are particular rules in respect of petitions which are unlikely to carry as much weight with the Sub-Committee as letters from individuals. Individually produced representations will inevitably carry more weight than "form" letters where an individual's details have been added.

The Act also requires the Licensing Authority to disregard representations that are considered to be frivolous or vexatious.

Further information about representations to licensing applications and licence reviews is available from within the Licensing pages on the Council's website on the following links:

- ❑ List of all new applications together with guidance on how to make representations:

http://www.eastdevon.gov.uk/applications_received

- ❑ Guidance for Interested Parties applying for a Review:

http://www.eastdevon.gov.uk/premises_review

Naturally if there are any issues arising from this letter do not hesitate to contact myself, my deputy Ian Carter or Neil McDonald.

Yours faithfully

John Tippin
Licensing Manger
Legal, Licensing and Democratic Services