

Licensing Act 2003 – Elmbridge Borough Council

Procedure to be adopted at hearings for representations against an application

Licensing Hearing Principles

The hearing will consist of a dialogue led by the Sub-Committee. Cross examination will not normally be allowed.

Applicants or representors may attend the hearing and may be assisted or represented by any person whether or not that person is legally qualified.

Members of the Authority may ask any question of any party or other person appearing at the hearing.

The Sub-Committee will usually notify the parties to the hearing of their determination of the application immediately after their deliberations and this determination will be confirmed in writing to all parties.

The Sub-Committee may take into account documentary or other information produced by a party in support of their application or representation, either before the hearing or, with the consent of all the other parties, at the hearing.

The Sub-Committee will disregard any evidence or discussion at the hearing which is not relevant to the application or representations or the licensing objectives.

It should be noted that the Licensing Authority has no power to award costs to any party to the hearing.

The Authority may require any person attending the hearing who in their opinion is behaving in a disruptive manner to leave the hearing and may –

- a) refuse to permit that person to return, or
- b) permit him to return only on such conditions as the Authority may specify.

A Sub-Committee agenda will have been prepared for the meeting and will be made available at the meeting.

No person, apart from members or officers of the Authority where appropriate, shall be permitted to use audio or video equipment to record any part of the hearing.

At the discretion of the Chairman, the Sub-Committee may place a time limit on all parties, provided that all parties are allowed an equal maximum period of time in which to exercise their rights to be heard.

Procedure to be adopted at the hearing

1. The Chairman of the Sub-Committee will
 - introduce the members of the Sub-Committee and the officers present
 - explain the purpose of the hearing
 - request those present who are involved in the hearing, as opposed to members of the public, to introduce themselves and to give the reason for their presence

2. The Licensing Officer will then introduce the application.
3. The applicant will then present their application. This may include any submission by the applicant regarding the terms of the application e.g. reduction of hours applied for, offers for conditions to be imposed by the Sub-Committee etc.
4. Representors will then present the grounds for their representations and at the same time may seek clarification on any points relating to the application. Responsible Authorities will be heard before Interested Parties. Should a representor have already sought written permission to allow other persons to appear at the hearing, they may ask permission from the Sub-Committee for that person to speak as part of their submission. Where the information given by such persons, or representors, is repetitive or similar, the Sub-Committee may decide not to hear evidence from all of those persons.
5. Where there are a number of representors they shall be encouraged to appoint one representor who will speak on behalf of them all to avoid repetition.
6. The Sub-Committee may then seek clarification regarding the application as outlined and the representations made thereto.
7. The applicant will then be invited to respond to the representations made including the submission of any amendments to the application that the applicant may wish to make.
8. Sub-Committee may then seek further clarification regarding any matters raised by either the applicant or representor or persons who have spoken as part of a representor's submission.
9. The applicant may then make a short closing address should they so wish
10. A representor may then make a short closing address should they wish to do so.
11. The Sub-Committee will usually then withdraw to consider their decision with the Legal Representative.
12. If during its deliberations the Sub-Committee considers that it requires further information or clarification of a particular point the hearing will be reconvened to obtain that information.
13. The Chairman of the Sub-Committee will then notify the parties present of their decision.
14. **Please note:** Where more than one application is to be considered within the same curtilage, to facilitate the running of the hearing, the licensing authority reserves the right to run the applications concurrently as some issues will likely be universal considerations to all items.