

## **EPPING FOREST DISTRICT COUNCIL COMMITTEE MINUTES**

**Committee:** Licensing Committee **Date:** Thursday, 20 April 2006

**Place:** Council Chamber, Civic Offices, High Street, Epping **Time:** 2.00 - 3.00 pm

**Members Present:** M Cohen (Chairman), Mrs M Sartin (Vice-Chairman), Mrs J Davis, R D'Souza, P McMillan, R Morgan, T Richardson, Mrs P K Rush, Ms S Stavrou and K Wright

**Other Councillors:**

**Apologies:** Mrs R Gadsby, F Maclaine and Mrs M McEwen

**Officers Present:** A Mitchell (Assistant Head of Legal, Administration and Estates (Legal)), J Nolan (Environmental Health Manager), K Tuckey (Environmental Services) and G J Woodhall (Democratic Services Officer)

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### **12. DECLARATIONS OF INTEREST**

There were no declarations of interest pursuant to the Council's Code of Member Conduct.

### **13. ANY OTHER BUSINESS**

It was noted that there was no other urgent business for consideration by the Committee.

### **14. TO SIGN OFF THE MINUTES OF THE LICENSING SUB-COMMITTEES**

The Chairman commented that the minutes for the Sub-Committee meetings should be produced faster than they currently were. The Democratic Services Officer responded that minutes for all but three of the Sub-Committee meetings held this year were available for signing and that the situation in 2006/07 should improve when the meetings of the Sub-Committee reverted to a monthly rather than weekly schedule.

#### **RESOLVED:**

That the minutes of the following meetings of the Sub-Committee be taken as read and signed by the relevant Chairmen as a correct record:

- 8 September 2005;
- 15 September 2005;
- 22 September 2005;
- 29 September 2005;
- 12 January 2006;
- 26 January 2006;
- 23 February 2006; and
- 6 April 2006.

**15. REPORT TO THE COMMITTEE ON THE CURRENT SITUATION WITH REGARD TO APPLICATIONS UNDER THE LICENSING ACT 2003**

The Environmental Health Manager presented a report to the Committee that detailed the number of applications received and the determination of those applications, as required by the Licensing Act 2003, since the previous meeting of the Licensing Committee on 19 October 2005. There had been 84 Personal Licence applications received by the Council, which had all been dealt with under delegated authority by officers. None of these applications had been refused and consequently there had been no appeals to the Magistrates Court. There had also been 47 Premises Licence applications or variations received by the Council, of which 38 had been dealt with under delegated powers by officers. The Sub-Committees had considered the remaining 9 applications, all of which were granted. However there had been 2 further appeals to the Magistrates Court following the decision of the Sub-Committee: for Ye Olde Kings Head in Chigwell, the decision of the Sub-Committee had been upheld; but for the Last Post in Loughton, the Court had granted the hours requested by the premises. No costs had been requested or awarded as the Sub-Committee were exercising its powers as a Local Authority.

The Chairman commented that it reflected well on the work of the Sub-Committees that the Council had lost only one case on appeal. The Chairman reminded the Committee that when this case was originally heard there had been no formal objections, but that residents had complained after the case had been heard. There were also planning restrictions which had prevented the applicant from utilising the opening hours granted by the Court; a planning application had been lodged but this had been refused. It had not gone unnoticed that the obligatory public notice had been placed in editions of the local newspaper that were not distributed in the Loughton area. It was commented that a similar situation had arisen with the application lodged by the Chicken and Pizza take-away in Borders Lane, Loughton, which perhaps necessitated better consultation with the Planning Authority, and that The King's Oak Hotel had also advertised in periodicals that were not available in High Beach, which had resulted in residents being unaware of the public notification.

The Environmental Health Manager responded that the Licensing Act 2003 specifically stated that an application for a licence could not be refused on the grounds that planning permission was also required; one should not influence the other. The Committee were reminded that the Planning Authority automatically received copies of each application, but that Planning Officers could only comment on planning issues, and not whether planning consent would be granted. The Chairman added that, in respect of public notification, the Council could not insist upon any additional requirements to the statutory notification procedures, although a system more akin to that currently utilised by planning applications would be preferable. The Environmental Health Manager stated that a consultation exercise would be conducted over the new arrangements, and that this issue could be raised then, however, if the Council did not follow the procedure set out in the Licensing Act 2003 then the applicant could instantly appeal to the Magistrates Court. The Chairman requested that the Licensing Committee be involved in the response to the consultation.

**RESOLVED:**

That the report to the Licensing Committee on the current situation in respect of applications under the Licensing Act 2003 be noted.

**16. TO REVIEW THE ORGANISATION AND OPERATION OF THE LICENSING SUB-COMMITTEES AND IDENTIFY ANY MATTERS OF CONCERN ARISING**

The Environmental Health Manager circulated a Licensing Sub-Committee Procedure 'Crib Sheet' that had been drawn up by Councillor Mrs P Smith, which the Chairman commented would prove useful in the future. It was felt that perhaps a wider percentage of the available members should take the chairman's role for the Sub-Committee meetings. The Democratic Services Officer added that the rota had been drawn up in order to ensure that there was always one experienced member available to chair the Sub-Committee meeting, and reminded the Committee that the rota had been distributed to all members via email as well as placed in the Members' Bulletin.

The Chairman raised the issue of a member of the Sub-Committee being unavailable after the agenda had been published. The Democratic Services Officer stated that the agenda was, in effect, a summons, and as such it currently was not possible to replace members on Sub-Committee when the agenda had been published. The Chairman requested that the Head of Research and Democratic Services examine this issue and amend the Constitution such that non-party substitute arrangements could be put in place to cover any late absences.

The Chairman commented that members of the Licensing Committee should have been told earlier, following the suspension of a Licensing Officer who had allegedly defrauded applicants. The Environmental Health Manager responded that the function of the Committee was to determine applications and set policies, and that the Joint Chief Executive (Resources) had direct responsibility for staff. However, the Environmental Health Manager concurred that a courtesy call on the matter should have been made to the Chairman of the Licensing Committee. The Chairman also requested that consideration be given to members of staff leaving details of applications unattended on their desks for any length of time.

**RESOLVED:**

- (1) That the Head of Research and Democratic Services be requested to consider the issue of covering late absences at Licensing Sub-Committee meetings with another member of the Licensing Committee; and
- (2) That the Constitution be amended accordingly.

**17. SCHEME OF DELEGATION - EXEMPTION FROM DISPLAYING A LICENCE PLATE ON A PRIVATE HIRE VEHICLE**

The Chairman presented a report regarding a Scheme of Delegation for an Exemption from Displaying a Licence Plate on a Private Hire Vehicle, which included the draft Scheme, an Application Form and a draft Certificate. The Committee were reminded that at the last meeting of the Licensing Committee held on 13 October 2005, it had been requested that a scheme of delegation in respect of Exemptions from Displaying a Licence Plate on a Private Hire Vehicle be developed and submitted to the Committee for consideration.

The Environmental Health Manager explained that the rationale behind the display of a small self-adhesive identity badge in the rear window of the vehicle was to identify vehicles in a non-obtrusive manner. The Chairman agreed that this would be more discreet than a plate, as clients would not notice it and it would provide an identity for the relevant authorities. The Scheme referred to "owners" as it was felt that "operators" would be too confusing. The Environmental Health Manager added that

the Scheme also included a list of possible vehicles that could be classed as high range prestige vehicles as Officers had felt that some guidance was required in order to prevent numerous appeals to the Sub-Committee. The Chairman highlighted that vintage vehicles had not been included in the list. It was felt that the Scheme should just make reference to "high value prestige vehicles" and that the list in the draft Scheme should be removed.

The Chairman queried why applicants only had to submit letters of support from agencies willing to employ them, rather than offering employment. In addition, the Committee felt that applicants who were not employed by agencies would not be covered by the scheme. The Chairman suggested that such applicants would require letters of support from their customers otherwise the application should be referred to the Sub-Committee for adjudication.

Finally, the Committee considered whether applicants should pay an annual fee for the renewal of their Plate Exemption, or whether there should be an initial fee and free renewal. The Environmental Health Manager favoured applicants reapplying each year if they wished to continue their Plate Exemption, which the Committee agreed with. The Assistant Head of Legal, Administration and Estates advised the Committee that the Council was not to make a profit from processing Licensing applications, and the cost implication of handling such applications needed to be calculated. The Committee agreed that the fee set should cover the cost of processing such applications, including the cost of the self-adhesive identity badges.

**RESOLVED:**

(1) That the Scheme of Officer Delegation for Exemption from Displaying a Licence Plate on a Private Hire Vehicle be agreed, subject to the following amendments:

(a) The Scheme to refer to "high value prestige vehicles" and the list of examples be removed;

(b) The Scheme to request non-agency drivers to submit two letters of support from their customers otherwise the application be referred to the Sub-Committee for adjudication;

(c) an annual fee to be charged for the initial application and each annual renewal thereafter; and

(d) the annual fee set to cover the cost of processing the application, including the cost of the self-adhesive identity badge;

(2) That, based upon the Scheme, authority to issue Private Hire Vehicle Plate Exemptions be delegated to the:

(a) Head of Environmental Services; and

(b) Environmental Health Manager; and

(3) That the appropriate amendments be made to the Schedule of Delegation to Officers in the Council's Constitution.

**18. TO REVIEW THE CURRENT AND FUTURE TRAINING NEEDS OF THE COMMITTEE**

The Environmental Health Manager reported that although guidance on the Gambling Act 2005 had yet to be issued, R Butterfield had been contacted with a view to providing training for members and officers nearer the implementation date of the legislation. The Chairman reminded the Committee that training would be held for the new members of the Licensing Committee in the summer and encouraged all members to attend all of the training sessions available.

**19. TO REVIEW THE DRAFT LICENSING ENFORCEMENT PROTOCOL FOR ESSEX**

The Environmental Health Manager presented a report regarding the draft Licensing Enforcement Protocol for Essex produced by the Essex Licensing Officers Group. The Committee was asked to consider the Protocol and inform officers of any issues to be considered as part of the consultation exercise. The Environmental Health Manager added that it was preferable to have one protocol for the whole of Essex due to the common Police force, but that scenario would necessitate some compromise. The draft Protocol was in line with Government guidance and the Council had already signed up to the concordat. It was reported that officers were generally happy with the draft Protocol, although there were concerns over the enforcement of liquor licensing by the Police, as they appeared to still be following the old procedures.

**RESOLVED:**

That the draft Licensing Enforcement Protocol for Essex be endorsed.

**20. DATE OF NEXT MEETING**

The Democratic Services Officer reported that in the provisional Calendar of Meetings for 2006/07, due to be considered by the Council on 24 April 2006, the next meeting of the Licensing Committee had been scheduled for 12 October 2006.

The Chairman thanked the Members and Officers for their hard work in the Sub-Committees throughout the course of the year, and commented that his year as Chairman had been enjoyable.

**RESOLVED:**

That the provisional date of 12 October 2006 for the next meeting of the Licensing Committee be noted.

**CHAIRMAN**