

EPHING FOREST DISTRICT COUNCIL COMMITTEE MINUTES

Committee: Licensing Committee **Date:** 13 October 2010

Place: Council Chamber, Civic Offices, High Street, Epping **Time:** 2.00 - 3.45 pm

Members Present: Mrs P Brooks (Chairman), K Angold-Stephens, K Chana, D Dodeja, Mrs R Gadsby, Ms J Hedges, L Leonard, Mrs M McEwen, R Morgan, Mrs M Sartin, Mrs P Smith and D Wixley

Other Councillors: -

Apologies: A Lion, J Knapman and B Rolfe

Officers Present: A Mitchell (Assistant Director (Legal)), K Tuckey (Senior Licensing Officer) and G J Woodhall (Democratic Services Officer)

1. ELECTION OF VICE-CHAIRMAN

RESOLVED:

(1) That, following receipt of apologies for absence from the Vice-Chairman, Councillor Mrs M McEwen be elected Vice-Chairman for the duration of the meeting.

2. DECLARATIONS OF INTEREST

(a) Pursuant to the Council's Code of Member Conduct, Councillors K Angold-Stephens and D Wixley declared a personal interest in agenda item 8, Statement of Licensing Policy, as both were members of the Loughton Residents' Association and Loughton Town Council who had responded to the consultation. The Councillors had determined that their interest was not prejudicial and would remain in the meeting for the consideration of the issue.

3. MINUTES OF THE LICENSING COMMITTEE

RESOLVED:

(1) That the minutes of the meeting held on 14 April 2010 be taken as read and signed by the Chairman as a correct record.

4. MINUTES OF THE LICENSING SUB-COMMITTEES

RESOLVED:

(1) That the minutes of the following meetings of the Licensing Sub-Committee be taken as read and signed by their Chairmen as a correct record:

(a) 4 February 2010;

- (b) 10 May 2010;
- (c) 1 June 2010;
- (d) 7 July 2010;
- (e) 3 August 2010; and
- (f) 7 September 2010.

5. LICENSING APPLICATIONS - LICENSING ACT 2003 & GAMBLING ACT 2005

The Assistant Director (Legal Services) reported that in respect of Premises License Applications or Variations, there had been 10 new applications, 60 renewals, 3 Change of Designated Premises Supervisor applications, and 45 applications for variation received. Of these, 7 applications had been granted under delegated authority, whilst 3 had been considered by the Sub-Committee and granted subject to conditions. One application had been revoked, 172 Temporary Event Notices had also been granted, and 145 Personal Licence applications had been received and granted under delegated authority. There had been no appeals to the Magistrates Court during the period.

In respect of the Gambling Act 2005, 4 club gaming permits had been granted, whilst 10 notifications had been received for two gaming machines. Of these applications, 4 of the Temporary Events Notice applications had been received on-line, along with one application for a Riding School.

RESOLVED:

- (1) That the report to the Licensing Committee regarding the applications received under both the Licensing Act 2003 and the Gambling Act 2005 be noted.

6. LICENSING OF SEX ENTERTAINMENT VENUES

The Assistant Director (Legal Services) presented a report regarding the adoption of a draft policy for the regulation of sex cinemas, sex shops and sexual entertainment venues.

The Assistant Director reported that the Council had adopted the Local Government (Miscellaneous Provisions) Act 1982 so that sex cinemas and sex shops had to be licensed. The Policing and Crime Act 2010 had amended the Local Government (Miscellaneous Provisions) 1982 Act to allow the Authority to license sexual entertainment venues where relevant entertainment was provided before a live audience for financial gain of the organiser or entertainer. This matter had been reported to the previous meeting of the Licensing Committee but the adoption of the powers needed to be made by full Council. The Council had not adopted a formal policy or standard conditions for the regulation of sex establishments within the District and the new draft policy would regulate sex cinemas, sex shops and sexual entertainment venues. It was highlighted to the Committee that cases would be referred to the Sub-Committee if Officers felt that it was necessary, even if no objections had been received for the application.

In response to questions from the Committee, the Assistant Director added that the conditions within the draft policy were standard but also very comprehensive. Teaching trade unions would be added to the list of consultees in Appendix 3 of the

draft policy. There were no applications for these types of establishments currently in progress.

The Committee was concerned about further protection for rural areas. The Committee was informed that Parish and Town Councils would be notified of any such applications and thus would be able to comment during the consultation period. However, the Committee requested that a comment be added to the draft policy regarding the protection of rural areas. The Committee also suggested that any CCTV installed by such establishments should comply with the Council's newly adopted CCTV Code of Practice. It was also felt that the amendment to the Local Government Act 1982, allowing the Council to license sexual entertainment venues, should come into force on 14 December 2010 after its adoption by the Council, and that the consultation period on the draft policy and standard conditions should last for a period of three months with a report at the next meeting of the Committee in April 2011.

The Assistant Director was asked if the level of fees stipulated within the report, i.e. £1,500 for the licence application and £750 per renewal, could be set at a higher level. The Committee was informed that the fees could only be set at a level to process the application and undertake inspections. The Assistant Director acknowledged that the cost of undertaking possible undercover inspections had not been considered and undertook to have further discussions with the Environmental Health Inspection Team, before recommending the appropriate level to the Council.

RESOLVED:

- (1) That the amendment to the Local Government (Miscellaneous Provisions) Act 1982 Schedule 3 made by Section 27 of the Policing and Crime Act 2009 to licence sexual entertainment venues be adopted and come into force on 14 December 2010;
- (2) That the following amendments be made to the draft policy and conditions for the regulation of sex shops, sex cinemas and sexual entertainment venues:
 - (a) the concern of the Council to provide further protection for rural areas when considering applications for such establishments; and
 - (b) all CCTV systems installed by such establishments to comply with the Council's adopted CCTV Code of Practice;
- (3) That the draft policy and standard conditions to regulate sex shops, sex cinemas and sexual entertainment venues be consulted upon for a period of three months with a further report submitted to the Licensing Committee at its next meeting on 13 April 2011 to consider any representations prior to adoption by the Council;
- (4) That the schedule of delegations attached to the draft policy be adopted by the Council in a timely manner; and
- (5) That the fees in respect of the issue of a Sexual Entertainment Venue licence be recommended to the Council for adoption pending further discussions with the Environmental Health Inspection Team.

7. TEMPORARY ROAD CLOSURE ORDERS

The Assistant Director (Legal Services) introduced a report upon the adoption of the schedule of delegation and fees for the Council's powers to make Temporary Road Closure Orders.

The Committee was informed that the provisions of the Town Police Clauses Act 1847 was used by District Councils to make temporary road closures for street parties, fetes, processions and the such like. The Secretary of State for Communities and Local Government had recently issued guidance to make it easier for communities to hold street parties and fetes. The guidance directed members of the public to the District Council to make this application. The Council had not had occasion to make road closures before but it was considered that the new guidance would make applications more likely. The Committee was requested to put in place the necessary delegations and other matters required to permit the Licensing Section to undertake this type of licensing work for road closures to place within the District.

The Assistant Director added that advertising such orders in a suitable local newspaper had been suggested by the County Council, which would be expensive; Officers felt that this was probably unnecessary for a street party in a cul-de-sac for example, but would be required for larger events that possibly involved the temporary closure of more than one street. The Committee was reminded that the County Council could insist on public notices and consultation for road signage changes before assenting to any such application. The Guidance included as part of the report would be published on the Council's website along with the required notice period, most likely three months. The Council would insist on public indemnity insurance being taken out by the organisers of all such events.

RESOLVED:

- (1) That the Council's powers under Section 21 of the Town Police Clauses Act 1847 to make temporary road closure orders be noted;
- (2) That the schedule of delegation, whereby applications for road closure orders would be determined by the Licensing Sub-Committee if an objection was received but otherwise delegated to Officers, be recommended to the Council for adoption; and
- (3) That the level of fees, £150 for each event but increased to £400 plus the costs of advertising the order in a local newspaper for larger events, be recommended to the Council for adoption.

8. STATEMENT OF LICENSING POLICY

The Assistant Director (Legal Services) presented a report upon the public consultation undertaken in respect of the Council's Statement of Licensing Policy.

The Committee were reminded that at its previous meeting, it agreed that the draft Statement of Licensing Policy should go out to consultation and the responses be reported back. Four replies to the consultation had been received from Loughton Town Council, Loughton Residents Association, Epping Golf Club, and Epping Foresters Cricket Club. The Committee was requested to consider the responses received and whether any amendments should be made to the draft Statement before its adoption by the Council. The Assistant Director added that Officers were inclined to agree with one of the comments from the Loughton Residents' Association regarding paragraph 1.16 of the Draft Policy, in that each case should be judged on its own merits. The Statement of Licensing Policy had to be adopted by 7 January 2011.

RESOLVED:

- (1) That the representations made by Loughton Town Council, Loughton Residents Association, Epping Golf Club and Epping Foresters Cricket Club be noted; and
- (2) That the draft Statement of Licensing Policy be recommended to the Council for adoption without amendment.

9. PAVEMENT LICENCES

The Senior Licensing Officer presented a report upon pavement licences.

The Committee was informed that there had been an increase in the number of tables and chairs being placed on pavements within the District. The Highways Act 1980 gave the District Council the power to grant consents for objects and obstructions to be placed on the public highway. It was highlighted that consent would be only be required for items placed on the public highway; if the street furniture was kept within the premises' curtilage then consent would not be required. Display boards would also require consent if placed upon the public highway. The Assistant Director (Legal Services) added that Essex Police had requested an extra condition stating that any glasses taken out to furniture on the public highway should be made of toughened glass. The Committee was requested to recommend that the Council adopted the scheme of delegations whereby Officers could grant permission if no objections were received for the application, the standard conditions to be imposed on consents and the fees to be charged when issuing a consent - £125 per annum for five or more tables and associated chairs; £75 for less than five.

The Assistant Director (Legal Services) added that the County Council had requested the District Council to issue such licences so that enforcement action could be taken against obstructions on the public highway. The District Council was the licensing authority, but enforcement action could be taken by either Council, as the County Council was the Highways Authority. The local Town Centre Officers had also requested that the District Council take on this function, although it was highlighted that the Council had never received a complaint in relation to a Pavement Licence.

The Committee was informed that there was currently no plan to do formal periodic inspections of premises, but to rely upon reports from the public and Neighbourhood Officers. Although a licence would not be required for tables within a Premises' curtilage, planning consent could be required; if both a licence and planning consent was required then it would be a valid reason to refuse the licence until planning consent had been granted. It was intended to perform an initial inspection of all establishments within the District by the summer of 2011.

The Committee agreed the additional condition requested by Essex Police, and queried the level of fees being recommended by the report. It was felt that this should be reconsidered and the fees for such licences should be double the amount recommended by the Officers.

RESOLVED:

- (1) That the issue of Pavement Licences by the Council under Section 115E of the Highways Act 1980 be noted;

(2) That the schedule of delegation, whereby applications for Pavement Licences would be determined by the Licensing Sub-Committee if an objection was received but otherwise delegated to Officers, be recommended to the Council for adoption;

(3) That the standard conditions to be attached to the Pavement Licences issued, with the additional condition from Essex Police for glasses taken out on to the Pavement to be made of toughened glass, be recommended to the Council for approval; and

(4) That the level of fees, £250 per annum for premises with five or more tables on the pavement and £150 per annum for premises with less than five tables, be recommended to the Council for adoption.

10. REVIEW OF LICENSING SUB-COMMITTEE PROCEDURES

The Committee reviewed the proceedings of the Licensing Sub-Committees held during the preceding six-month period and considered whether the procedure, policy and organisation of the Licensing Sub-Committees required review. The Vice-Chairman commented that the issuing of guidance sheets before the meeting was helpful. The Committee was informed that the feedback from applicants was usually supportive, and that there was a low proportion of appeals against the Sub-Committee's decision. There were no problems of policy, procedure or organisation identified by the Committee that had adversely affected the running of the Sub-Committee meetings.

11. REVIEW OF CURRENT AND FUTURE TRAINING NEEDS FOR THE COMMITTEE

The Committee considered whether any further training was necessary for those members tasked with discharging the Council's Licensing function. The Assistant Director (Legal Services) confirmed that further training would be organised for the Committee if any of the current regulations were amended. Some of the Members present felt that the training sessions from Officers would be better organised as workshops rather than more formal lecture style events.

12. MATTERS ARISING

There were no further matters arising for the Committee to consider in respect of the Council's Licensing function.

13. ANY OTHER URGENT BUSINESS

In accordance with Section 100B(4)(b) of the Local Government Act 1972, together with paragraphs (6) and (24) of the Council Procedure Rules, the Chairman had permitted the following item of urgent business to be considered following the publication of the agenda:

(i) Quality Taxi Partnership Meeting – 2 September 2010.

14. QUALITY TAXI PARTNERSHIP - 2 SEPTEMBER 2010

The Senior Licensing Officer presented a report concerning the meeting of the Quality Taxi Partnership held on 2 September 2010. The Council had entered into the partnership with various different agencies, including the County Council, Essex Fire Service, Essex Police and the Licensed Taxi Trade. It was confirmed that anyone with a Hackney Carriage Driver's Licence issued by the Council, could operate as a Private Hire Driver outside of the District.

The Committee was disappointed that Essex Police had given its apologies and not attended the meeting. It was felt that the Chairman of the Licensing Committee, along with the Safer & Greener Portfolio Holder, should be invited to the next meeting of the Partnership.

RESOLVED:

(1) That the minutes of the meeting of the Quality Taxi Partnership, held on 2 September 2010, be noted.

15. DATE OF NEXT MEETING

The Committee noted that the next meeting had been scheduled for 13 April 2011 at 2.00pm in the Council Chamber.

The Committee requested that the Divisional Licensing Officer from Essex Police be invited to the next meeting to comment upon Licensing issues within the District.

CHAIRMAN