



Epping Forest District Council

LICENSING COMMITTEE **Wednesday, 13th October, 2010**

Place: Civic Offices, High Street, Epping

Room: Council Chamber

Time: 2.00 pm

Democratic Services Officer Gary Woodhall (The Office of the Chief Executive)
Tel: 01992 564470
Email: gwoodhall@eppingforestdc.gov.uk

Members:

Councillors Mrs P Brooks (Chairman), A Lion (Vice-Chairman), K Angold-Stephens, K Chana, D Dodeja, Mrs R Gadsby, Ms J Hedges, J Knapman, L Leonard, Mrs M McEwen, R Morgan, B Rolfe, Mrs M Sartin, Mrs P Smith and D Wixley

1. APOLOGIES FOR ABSENCE

2. DECLARATIONS OF INTEREST

(Assistant to the Chief Executive) To declare interests in any item on this agenda.

3. MINUTES OF THE LICENSING COMMITTEE (Pages 5 - 10)

To confirm the minutes of the Licensing Committee meeting held on 14 April 2010.

4. MINUTES OF THE LICENSING SUB-COMMITTEES

Copies of the minutes from the following Sub-Committee meetings will be available for the relevant Chairmen to sign off:

- (i) 4 February 2010;
- (ii) 10 May 2010;
- (iii) 1 June 2010;
- (iv) 7 July 2010;
- (v) 3 August 2010; and
- (vi) 7 September 2010.

5. LICENSING APPLICATIONS - LICENSING ACT 2003 & GAMBLING ACT 2005 (Pages 11 - 12)

(Director of Corporate Support Services) To consider the attached report (LSC-001-2010/11).

6. LICENSING OF SEX ENTERTAINMENT VENUES (Pages 13 - 34)

(Director of Corporate Support Services) To consider the attached report (LSC-002-2010/11).

7. TEMPORARY ROAD CLOSURE ORDERS (Pages 35 - 42)

(Director of Corporate Support Services) To consider the attached report (LSC-003-2010/11).

8. STATEMENT OF LICENSING POLICY (Pages 43 - 62)

(Director of Corporate Support Services) To consider the attached report (LSC-004-2010/11).

9. PAVEMENT LICENCES (Pages 63 - 68)

(Director of Corporate Support Services) To consider the attached report (LSC-005-2010/11).

10. REVIEW OF LICENSING SUB-COMMITTEE PROCEDURES

To review the proceedings of the Licensing Sub-Committee held during the preceding period and identify any problems of procedure, policy and organisation that have adversely affected the running of the meetings.

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

To highlight any further training considered necessary for the members tasked with discharging the Council's Licensing function.

12. MATTERS ARISING

To consider any further matters arising in respect of the Council's Licensing function, not covered elsewhere on the agenda.

13. ANY OTHER URGENT BUSINESS

Section 100B(4)(b) of the Local Government Act 1972, together with paragraphs (6) and (24) of the Council Procedure Rules contained in the Constitution require that the permission of the Chairman be obtained, after prior notice to the Chief Executive, before urgent business not specified in the agenda (including a supplementary agenda of which the statutory period of notice has been given) may be transacted.

In accordance with Operational Standing Order (6) (non-executive bodies), any item raised by a non-member shall require the support of a member of the Committee

concerned and the Chairman of that Committee. Two weeks notice of non-urgent items is required.

14. DATE OF NEXT MEETING

The next meeting of the Licensing Committee has been scheduled for 13 April 2011 at 2.00pm in the Council Chamber.

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EPPING FOREST DISTRICT COUNCIL COMMITTEE MINUTES

Committee: Licensing Committee **Date:** Wednesday, 14 April 2010

Place: Council Chamber, Civic Offices, High Street, Epping **Time:** 2.00 - 3.40 pm

Members Present: Mrs P Brooks (Chairman), Mrs P Richardson (Vice-Chairman), K Angold-Stephens, M Cohen, D Dodeja, Mrs R Gadsby, Ms J Hedges, A Lion, R Morgan, Mrs P Smith and J Wyatt

Other Councillors:

Apologies: A Boyce, K Chana, Mrs S Clapp and Mrs M McEwen

Officers Present: A Mitchell (Assistant Director (Legal)), K Tuckey (Senior Licensing Officer), R Ferriera (Assistant Solicitor) and A Hendry (Democratic Services Officer)

14. Declarations of Interest

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

15. Any Other Business

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

16. Minutes of the Licensing Committee

RESOLVED:

That the minutes of the meeting held on 14 October 2009 be taken as read and signed by the Chairman as a correct record.

17. Minutes of the Licensing Sub-Committees

RESOLVED:

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

- (i) 07 October 2009;
- (ii) 21 October 2009;
- (iii) 05 November 2009;
- (iv) 09 November 2009;
- (v) 03 December 2009;
- (vi) 09 December 2009;
- (vii) 18 February 2010;
- (viii) 04 March 2010; and
- (ix) 01 April 2010.

18. Applications Received under the Licensing Act 2003

The Committee noted the numbers of applications received and the determinations of those applications from 23 September 2009 to 01 March 2010.

19. Applications Received under the Gambling Act 2005

The Committee noted the number of applications received under the Gambling Act 2005 from 23 September 2009 to 01 March 2010.

20. Miscellaneous Licensing Applications Received

The Committee noted the number of miscellaneous licensing applications received to date.

21. Licensing of Sex Entertainment Venues

The Assistant Director (Legal), Alison Mitchell introduced the report on the licensing of sex entertainment venues. The meeting noted that the Policing and Crime Act 2010 had amended the 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. The adoption of this amendment would enable the Council to impose conditions on the licensing of venues providing sexual entertainment in the District. The Act sets out mandatory reasons to object to a Licence. There are:

- The applicant is under eighteen years old;
- The applicant has previously had a Licence revoked;
- The applicant is not resident in the UK; or
- Has previously been refused a Licence at those premises.

At present the Council does not have a policy in relation to the licensing of sex shops and cinemas and so it was proposed to prepare a draft policy which would cover sex shops, cinemas and sex establishments, carry out consultations and would ask for approval by this Committee at its next meeting.

Councillor Mrs Richardson asked if it covered kiss-o-grams on commercial premises and was told that it did not.

Councillor Mrs Gadsby asked if this policy would help the Sub-committees if they wanted to refuse an application. Alison Mitchell said yes, as they could then take locality into consideration.

Councillor Cohen commented that it would seem if we waited for a draft policy document there would be a gap between now and the next meeting; what if there was an application in the mean time. He proposed that the Committee adopted this now on the provision that the policy would come back to this Committee at its next meeting. Councillor Mrs Gadsby seconded this proposal. Mrs Mitchell said that officers needed time to set up the policy as required by law. Councillor Cohen then proposed that the starting date be set as 1st July 2010, giving time for the officers to carry out any preliminary work that they needed to do. Councillor Mrs Gadsby again seconded this proposal. This was put to the meeting and agreed.

RESOLVED:

(1) That the Committee adopts 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 as from 1st July 2010.

(2) That officers prepare a draft policy for consultation regarding the regulation of such establishments and report back to the next committee meeting.

22. Taxi Knowledge Test

The Licensing Committee were updated on the introduction of a taxi knowledge test for new applicants for a Hackney carriage and Public Hire Drivers Licence. The software package had been purchased with funding from Essex County Council through the Taxi Quality Partnership and a number of questions had been prepared by the Senior Licensing Officer and a temporary member of staff will be employed to administer the tests until the Cabinet decides whether to approve the employment of a part time member of staff to undertake this work.

Councillor Angold-Stephens asked if there was a pass or fail mark. He was told that the test was broken down into categories such as knowledge of area, council conditions, the Highway Code, motorway rules and bye laws. They have to get a certain pass mark in each section. Officers still had to test the system using 'guinea pigs' and amend where necessary.

Councillor Cohen asked if they used the same questions every time; was there some variety; and would they take the knowledge test before or after they saw the Licensing Sub-committee. He was told that it was the same procedure as before, if they have to go to the sub-committee they would go there first. It could be arranged that they see the Sub-committee after they have taken the test. This was agreed by the Committee.

AGREED: that any applicant would take the 'Taxi Knowledge Test' before they were referred to the Licensing Sub-Committee (if necessary).

Councillor Mrs Smith said she would like to volunteer to do the test, so did Councillors Cohen and Gadsby.

Councillor Cohen said it was worthwhile to have Councillors from each of the main geographical areas test it. Mrs Tuckey said she would send the Councillors a pack so that they could see and comment on the test.

Councillor Mrs Smith asked if the applicant would sit the test in this building. Also would an applicant be allowed an interpreter if needed. She was told that they would take the test in the IT suite. They are asked if they have any special needs, such as if they are dyslexic and arrange for a member of staff to sit with them.

Mrs Tuckey said the questions were multiple choice, with no two sets of questions being the same. Mobile phones had to be handed in before the test. The system would give you the pass mark and let them know where they went wrong.

Councillor Mrs Richardson asked if they needed an interpreter for the test would they need an interpreter for their daily work. Mrs Tuckey responded that the Act stated that they must have a reasonable grasp of the English language. They were only planning to have someone to read questions but not an interpreter.

Councillor Mrs Gadsby asked if this would give the sub-committee more leverage to reject an applicant or would it help them. Councillor Cohen said this was the right way round to do this as it needed serious reasons to reject them.

Councillor Mrs Smith remarked that a lot of work had gone into putting this system together. The report mentioned resourcing this and rolling out the programme. How much was dependent on how much officers were asking Cabinet for. Alison Mitchell agreed that a lot of work had gone into it; the intention was for this to be self-financing eventually. Officers would monitor the costs, but it would need a dedicated officer to look after the programme. At present they are working out how much it would cost and are in discussions with Finance. At present there is an agency member of staff, who is more expensive than a recruited staff member.

They were also looking to install a DVD on disability for applicants and looking to increase taxi driver's knowledge skills.

RESOLVED:

That the progress made on the knowledge test for taxi drivers be noted.

23. Statement of Licensing Policy

The Assistant Director (Legal), Alison Mitchell introduced the updated licensing policy as required to do so by the Licensing Act 2003 every three years. The updated statement of licensing policy was attached to the agenda. This was amended to include new headings, the paragraphs numbered and references to policies updated along with other minor changes as required by guidance.

DCMS guidance requires that the Licensing Policy must describe how the Local Authority would promote the four licensing objectives; the policy must also describe the consultation undertaken and the various strategies and policies the Council would have regard to when deciding on policies and any decisions relating to licensing. The Council must also include mention of its policy relating to music and entertainment, which has not altered from the previous policy.

The Committee noted that until recently, the persons who were entitled to make representations when a licence was applied for were either the Responsible Authorities or local residents or businesses. This was recently changed to allow members to have this right in respect of the ward of the Council for which they had been elected. The Policy had been amended to reflect this.

Councillor Mrs Smith said it was good to include guidance to the public. Should not a "Frequently Asked Questions" section be added as well. Alison Mitchell said that there may be more information that could be put up on our website, there was also a guidance note that could be put up. Officers could also place an item in 'The Forester' telling residents how they could make a representation to the Council.

Councillor Mrs Smith asked as we were consulting with outside organisations could the results of this consultation be reported back to the next meeting of this Committee.

AGREED: the results of the consultation be reported back to the next meeting of the full Licensing Committee.

Councillor Mrs Brooks commented that now that Councillors have the right to make representations, could this be clarified as to what a Councillors role was and the rights they have.

AGREED: that Councillors are made aware of and have the rules clarified as to what role and rights they have in respect to the new rights of Councillor representation at Licensing Sub-committee meetings.

RESOLVED:

- (1) That the statutory requirement for the Licensing Authority to review its licensing policy be noted; and
- (2) The undertaking of a consultation on the draft policy be agreed.

24. EU Services Directive

Alison Mitchell updated the Committee on the work done on the EU Services Directive by making it easier to offer services anywhere in the EU. Authorities are therefore required to permit electronic/on-line applications and payment of associated fees and licences or permits within the scope of the Directives. The implementation of this initiative involved officers from IT, Finance, the Website Officer, the Performance Improvement officer, the Senior Licensing Officer and the Assistant Head (Legal) working closely to achieve this. It was noted that no electronic applications have yet been received and that no other Council has gone as far as we have.

Councillor Mrs Smith noted that very few authorities were on target to go online. She had tried to find the forms online, but it did take a long time to find on EFDC's website. This was not good enough, the public needed to know that Licensing sat in the Directorate of Environmental Services. There was need to tidy up how the Licensing Forms appears on the website. The website does have a list of forms that it contains; however, licensing forms were not on this list. Customers get a good personal service at the Civic Offices but the Council has a bad web presence. Licensing was very important to the Public. Alison Mitchell said she would push to have this improved.

RESOLVED:

The Committee noted that the Licensing permits, other than those associated with taxis, were now available online.

25. Review of Licensing Sub-Committee Procedures

Councillor Wyatt asked that some papers for taxi drivers, such as a copy of their driving licence, are distributed to the members of the sub-committee in a timely fashion and not at the meeting itself.

Councillor Mrs Smith said it was not best practice to distribute these papers outside the meeting and suggested that extra time was built in to enable the sub-committee to study the papers. Councillor Cohen said he would like to see these papers before the meeting starts in the member's room so that they can be studied before the meeting and would not need to leave the building. Councillor Mrs Smith said this was an excellent suggestion and suggested that a formal briefing could be arranged between 10 and 10.30am, with the Sub-committee starting at 10.30am.

RESOLVED:

That all Sub-Committee meetings are to start at 10.30am with a formal briefing starting at 10am for members so that they could review the paperwork.

26. Review of Current and Future Training Needs for the Committee

No new training needs were identified, except for any training for new Licensing Committee members appointed in the new municipal year.

27. Matters Arising

Councillor Mrs Smith noted that in a report to the Council, the Remuneration Panel expressed disappointment regarding the chairmanship of the Licensing Sub-committees. They acknowledged the way chairmen were elected for the Sub-committee meetings, but if the chairmen were agreed at full Council, they would get some form of remuneration.

Councillor Cohen suggested that at the beginning of the year Annual Council could appoint 5 or 6 members to act as chairmen at the Sub-committee meetings.

Councillor Mrs Brooks pointed out that that if a there was a difficult case, an experienced member of the Licensing Committee should Chair that meeting. Councillor Lion sad that there also needed to be a facility for non chairman to have a go at chairing a meeting; also, at times, there may be a need to be a change chairman half way through a meeting.

Councillor Mrs Smith asked if there was facility for this committee to appoint the Sub-committee chairmen. However, it was pointed out, that the next meeting of the Full Licensing Committee was not until October when it would be too late. Councillor Mrs Smith asked if would be possible rearrange the meetings to take place in May and November.

After further debate, the Committee agreed that the annual Full Council meeting be asked to appoint six licensing Committee members to act as Chairmen of the Sub-committee meetings.

RESOLVED:

That the Annual Council meeting be asked to appoint six members of the Licensing Committee to act as chairmen on the sub-committee meetings.

28. Date of Next Meeting

The Committee noted that the next meeting had been scheduled for 13 October 2010 at 2.00pm in the Council Chamber.

CHAIRMAN

Report to the Licensing Committee

Report reference: LSC-001-2010/11.

Date of meeting: 13 October 2010.



**Epping Forest
District Council**

Portfolio: Safer & Greener.

Subject: Licensing Applications – Licensing Act 2003 & Gambling Act 2005.

Responsible Officer: Kim Tuckey (01992 564034).

Democratic Services: Gary Woodhall (01992 564470).

Recommendation:

(1) That applications received by the licensing section are noted by members.

Applications received

Under the Licensing Act 2003 and Gambling Act 2005, Officers are required to report on the numbers of applications received and the determinations of those applications. The following table outlines the applications received from 1/3/2010 for the period up to the 31/08/2010.

Applications received under the Licensing Act 2003

Premises licence applications/variations

| | |
|----------------------------------------------------------|----|
| Number of new applications | 10 |
| Number of renewals | 60 |
| Change of designated premises supervisor | 3 |
| Number of applications for variation | 45 |
| Number of applications granted under delegated authority | 7 |
| Number of applications considered by the sub-committee | 3 |
| Number of applications granted subject to conditions | 3 |
| Number of applications refused | 0 |
| Number of appeals to magistrates | 0 |
| Number of revocations | 1 |

Temporary event notices 172

| | |
|-----------------|---|
| Reviews | 0 |
| Reviews refused | 0 |

Personal licence applications

| | |
|----------------------------------------------------------|-----|
| Number if applications received | 145 |
| Number of applications granted under delegated authority | 145 |
| Number of applications refused | 0 |
| Number of appeals to Magistrates | 0 |

Gambling Act 2005

| | |
|-------------------------------------|----|
| Betting office applications granted | 0 |
| Club gaming permit granted | 4 |
| Notifications for 2 gaming machines | 10 |

Application received online- EU Directive

| | |
|-------------------------------------------|---|
| Application received for Temporary Events | 4 |
| Application for a riding school | 1 |

Report to the Licensing Committee

Report Reference: LSC-002-2010/11.

Date of meeting: 13 October 2010



**Epping Forest
District Council**

Portfolio: Safer & Greener.

Subject: Licensing of Sex Entertainment Venues.

Responsible Officer: Alison Mitchell (01992 564017).

Democratic Services: Gary Woodhall (01992 564470).

Recommendations:

That the Committee recommends to Council:

(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;

(2) That consultation proceed on the draft policy and standard conditions which will regulate sex shops, sex cinemas and sexual entertainment venues with a view to report backing to committee to consider any representations prior to adoption by the Council;

(3) That the Council should immediately adopt the schedule of delegations that are attached to the draft policy; and

(4) That the fees in respect of the issue of a Sexual Entertainment Venue licence be set at £1,500 and £750 on renewal.

Executive Summary:

The Council has adopted the Local Government (Miscellaneous Provisions) Act 1982 so that sex cinemas and sex shops must be licensed. The Policing and Crime Act 2010 has amended the Local Government (Miscellaneous Provisions) 1982 Act to allow the Authority to licensing of sexual entertainment venues where relevant entertainment is provided before a live audience for financial gain of the organiser or entertainer.

This matter was 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 in its District and the new draft policy will regulate sex cinemas, sex shops and sexual entertainment venues.

Reasons for Proposed Decision:

To recommend the adoption of the licensing provisions for sexual entertainment venues.

To allow the consultation to be carried out on the draft policy and conditions as this will relate to all sex establishments in the District.

Other Options for Action:

- If the Authority decides not to adopt this legislation then it must within twelve months carry out a full public consultation before finally making that decision.

- The Authority could decide that it would not wish to have a Policy. The advantage of having a policy is that it guides both applicants and objectors as to the types of application that the Authority is likely to grant.
- Not to adopt any standard conditions and impose conditions as each case is decided, if necessary.
- To recommend that the Licensing Sub-committee decides all applications for this type of licence.
- To agree a different licence fee for sexual entertainments venues.

Report:

1. There has been an increase in the number of lap dancing and similar types of entertainment nationally. At present this type of entertainment is regulated under the Licensing Act 2003 and objections can only be based on the four licensing objectives:

- (i) The Prevention of Crime and Disorder;
- (ii) Public Safety;
- (iii) The Prevention of Public Nuisance; and
- (iv) The Protection of Children from Harm.

2. This means that the Authority cannot consider objections of local people or businesses that are based on matters outside those objectives, such as whether a lap dancing club is appropriate in a particular neighbourhood.

New Powers to regulate Sex Establishments

3. Section 27 of the Policing and Crime Act 2009 amends Section 3 of the Miscellaneous Provisions Act 1982 to allow the licensing of Sexual Entertainment Venues, where 'relevant entertainment' is provided before a live audience for the financial gain of the entertainer or organiser. 'Relevant entertainment' means 'any live display or entertainment of nudity', i.e. striptease, lap dancing etc. There is an exemption from the requirement to register if there will be less than eleven events held each year at a venue.

4. The Act sets out mandatory reasons to object to a Licence. These are:

- (a) the applicant is under eighteen years of age;
- (b) the applicant has previously had a Licence revoked;
- (c) the applicant is not resident in the UK; or
- (d) the applicant has previously been refused a Licence at those premises.

5. The Act allows the Authority greater powers to refuse a Licence or impose conditions than it would be permitted under the Licensing Act 2003, for example:

- (a) the business would be managed for the benefit of a third party who would be refused a licence;
- (b) the number of sex establishments in the locality equals or exceeds the number considered appropriate; and
- (c) whether it would be inappropriate to grant a Licence having regard to:

- (i) the character of the locality;
- (ii) the use of other premises in the locality; and
- (iii) the layout, character, condition or location of the premises.

6. In order to implement these provisions, the Council will need to adopt the relevant provisions which have been inserted into the 1982 Act.

7. At present the Council does not have a policy in relation to the licensing of Sex Shops and cinemas and so it is proposed to prepare a draft policy which will cover sex shops, cinemas and sex establishments, carry out consultations and ask for approval by the Committee at its next meeting.

Implementation

8. Any operator who wishes to provide 'relevant entertainment' at the end of the transitional period set out below will have to apply for a Licence.

9. Existing operators will be permitted to continue to provide 'relevant entertainment' under their existing permission during the transitional period or until their application for a Sex Establishment Licence has been determined whichever is the later.

10. The transitional period will start on the date when Schedule 3 of the 1982 Act comes into force in the area (First Appointed Date) and will last for twelve months.

11. Applications made in the six months following the after the First Appointed Date will be considered together at the end of that period.

12. Applications made after the first six month period (the Second Appointed Date) cannot be considered until all applications made before the First Appointed Date have been determined.

13. Licences granted for sex encounter venues will not take effect until the conclusion of the twelve month transitional period (the Third Appointed Date).

14. Any pre-existing operator who has failed to submit a licence before the Third Appointed Date will not be permitted to provide relevant entertainment.

Fees

15. The fees are not prescribed by statute but the 1982 Act allows the Council to set a reasonable fee. This has been set to cover the costs of issue and regulation but will be kept under review.

Licensing Policy and Conditions

16. A draft policy and conditions have been attached to cover all Sex Establishments. These will be sent out to consultation to those persons and bodies listed in the policy as consultees. Members are invited to suggest any other person or body who should be consulted.

Resource Implications:

Within existing budgets.

Legal and Governance Implications:

Local Government (Miscellaneous Provisions) Act 1982 Schedule 3 Section 27 of the Policing and Crime Act 2009.

Safer, Cleaner and Greener Implications:

To create safe communities in Epping Forest District.

Consultation Undertaken:

None but consultation on the draft policy and conditions recommended.

Background Papers:

Local Government (Miscellaneous Provisions) Act 1982 Schedule 3 Section 27 of the Policing and Crime Act 2009.

Impact Assessments:

Risk Management

N/A.

Equality and Diversity:

Did the initial assessment of the proposals contained in this report for relevance to the Council's general equality duties, reveal any potentially adverse equality implications? No

Where equality implications were identified through the initial assessment process, has a formal Equality Impact Assessment been undertaken? No

What equality implications were identified through the Equality Impact Assessment process?
No.

How have the equality implications identified through the Equality Impact Assessment been addressed in this report in order to avoid discrimination against any particular group?
None.

Proposed

**SEXUAL ENTERTAINMENT
VENUE AND SEX
ESTABLISHMENT
LICENSING POLICY**

This policy shall come into force on

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Appendix 1

Standard Licence Conditions for Sex Shops and Sexual Encounter Venues.....

Appendix 2

Delegation of Functions.....

Appendix 3

Consultation

1. Introduction

- 1.1 Epping Forest District Council ('the Council') has adopted Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 (as amended by section 27 of the Policing and Crime Act 2009) ('the 1982 Act') so that we can licence sex shops, sex cinemas, and sexual entertainment venues in the Borough. In this policy, we refer to these as "sex establishments" unless we say otherwise.
- 1.2 It is our role as licensing authority to administer the licensing regime in accordance with the law. The 1982 Act and the 2009 Act can be viewed at "<http://www.opsi.gov.uk>".
- 1.3 We consulted on this policy between [redacted] and it was approved by our Licensing Committee on [redacted].
- 1.3.1 This Statement of licensing policy has been produced in consultation with the Chief Police Officer for Essex, the Fire Authority and bodies representing local holders of premises licenses, the holders of premises, businesses and residents of the area. A list of those consulted is attached as Appendix 3.
- 1.3.2 When preparing this policy the Authority will take account the legal requirements of the 1982 Act as amended and our duties under:
- Section 17 of the Crime and Disorder Act 1998 to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area.
 - The Regulators' Compliance Code (set out under the Legislative and Regulatory Reform Act 2006) not to impede economic progress by the regulations we set out and to particularly consider the impact of regulations on small businesses; and
 - the Provision of Services Regulations 2009 to ensure requirements are:
 - (i) non-discriminatory;
 - (ii) justified by an overriding reason relating to the public interest;
 - (iii) proportionate to that public interest objective;
 - (iv) clear and unambiguous;
 - (v) objective;
 - (vi) made public in advance, and
 - (vii) transparent and accessible.

The Council's policies

- Environmental Health Enforcement Policy
- Enforcement Concordat

Guidance Documents

- Home Office – Sexual Entertainment Venues – Guidance for England and Wales

2. Epping Forest District

- 2.1 Epping Forest is a contrasting mixture of urban and rural life, covering 34,500 hectares. The district has six main centres of population (Buckhurst Hill, Chigwell, Epping, Loughton, Chipping Ongar and Waltham Abbey) and numerous picturesque villages and hamlets, but no natural centre. The majority of the district lies within the Metropolitan Green Belt, designed to restrict the spread of London into the Home Counties.
- 2.2 In the Council Plan 2006 -2010 states that the Council's vision and overall aim is that we want the Epping Forest District to be a safe, healthy and attractive place in which to live and work. We have identified the following themes where we have specific responsibilities:
- **Green and Unique** – Ensuring the protection of the unique, green and sustainable environment of the district;
 - **Homes and Neighbourhoods** - Ensuring that the district has decent housing and clean and attractive neighbourhoods;
 - **A Safe Community** - Ensuring that residents of the district can enjoy local amenities with little fear of being a victim of crime;
 - **Fit for Life** - Ensuring that residents of the district lead a healthy lifestyle by having access to effective, high quality leisure and cultural services;
 - **Economic Prosperity** - Ensuring that the district has a thriving and sustainable economy.

The District currently has two licensed sex shops but no other premises licensed as sex establishments

3. Definition of Sex Establishments

This Policy applies to sex shops, sex cinemas and sexual entertainment venues

Sex Shop

- 3.1 Sex shops are premises whose business consists of, to a significant degree, the selling, hiring, exchanging, lending, displaying or demonstrating of sex articles or other things intended for the use in connection with, or for the purpose of stimulating or encouraging sexual activity or acts of force or restraint associated with sexual activity.

Sex Cinema

- 3.2 Sex cinemas are premises (except dwelling houses) which, to a significant degree are used for the exhibition of moving pictures concerned primarily with:
- (a) the portrayal of/primarily deal with/relate to/intend to stimulate or encourage sexual activity or acts of force or restraint associated with sexual activity; or

- (b) the portrayal of/primarily deal with/relate to genital organs or urinary or excretory functions.

A premises shall not be treated as a sex cinema if the premises are used for the exhibition of films under the use and authorization of the Licensing Act 2003.

Sexual Entertainment Venue

- 3.3 A Sexual Entertainment Venue (SEV) is defined as “any premises at which relevant entertainment is provided before a live audience for the financial gain of the organizer or the entertainer”.
- 3.4 Relevant entertainment is “any live performance or live display of nudity which is of such nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purposes of sexually stimulating any member of an audience (whether by verbal or other means)”. An audience can consist of just one person (e.g. where the entertainment takes place in private booths).
- 3.5 The authority considers that the definition of relevant entertainment applies to, although not exclusively, the following forms of entertainment:
- Lap dancing
 - Pole dancing
 - Table dancing
 - Strip shows
 - Peep shows
 - Live sex shows

Premises that are not Sexual Entertainment Venues

- 3.6 Paragraph 2A(3) of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 sets out those premises that are not sexual entertainment venues. These are:
- Sex shops and sex cinemas
 - Premises which provide relevant entertainment on an infrequent basis

These are defined as premises where –

- (a) no relevant entertainment has been provided on more than 11 occasions within a 12 month period;
- (b) no such occasion has begun within a period of one month beginning with the end of the previous occasions; and
- (c) no such occasion has lasted longer than 24 hours
- Other premises or types of performances or displays exempted by an order of the Secretary of State.

Waiver of the need for a Sexual Entertainment Licence

- 3.7 The Authority can grant a waiver for the requirement to hold a sexual entertainment licence if it considers that to require a licence would be unreasonable or inappropriate. Where a waiver is granted, this may last for such a period the Authority thinks fit, but can be terminated by the Authority at any time with 28 days notice.

4. Application Process

- 4.1 Applicants for the grant, renewal or transfer of a Sex Establishment Licence must complete the prescribed form, giving the full address of the premises, the name, permanent address and age of the Applicant or, where the Applicant is a business, the name and registered or principal office address of the company and the names and private addresses of its directors or others responsible for the management of the company;
- 4.2 In addition to completing the prescribed form, Applicants for a licence must also give public notice of the application by publishing an advertisement in a local newspaper that is circulated within the locality of the premises to be licensed no later than 7 days after the application is made, together with displaying a notice on the premises where it can be conveniently read by members of the public. The notice shall be displayed for a period of must give public notice by 21 days beginning with the date the application was made. The Authority will prescribe the Notice, which will be size A3.
- 4.3 Where an application is submitted electronically, the Authority will serve the Chief Officer of Police a copy of the application within 7 days of the application being submitted, where the application is not submitted electronically, the Applicant must serve notice on the Police no later than 7 days after the date of application.

5. Representations

- 5.1 Objections can be made, in writing, within 28 days from the date of the application. Any person is entitled to object. The objection should be relevant to the grounds set out in paragraph 8.2 below for refusing a licence. Moral grounds or values will not be considered relevant as the Authority does not have the right to refuse on those grounds.
- 5.2 The Authority shall notify the Applicant in writing of the general terms of the objections received within 28 days, though shall not, without the express consent of the objector make public the personal details of the objector
- 5.3 No objection will be considered if they are frivolous or vexatious. Where objections are rejected the objector will be notified of the reasons in writing.

6. Hearings

- 6.1 Where objections are received, the application shall be referred to the Licensing Sub-Committee for determination, except where the objections received are frivolous or vexatious. However, officers may decide to refer an application to the Sub-Committee even if no objections are received. Each application will be determined on its individual merit.
- 6.2 Where the Sub-Committee decides to refuse an application, the Applicant will be provided with reasons for the decision in writing.
- 6.3 The Sub Committee has the power to attach conditions to any grant which it deems necessary, non-discriminatory and proportionate.

7. Refusal of a Licence

7.1 A licence **must not** be granted:

- (a) To a person under the age of 18;
- (b) To a person who is for the time being disqualified due to the person having had a previous licence revoked in the area of the appropriate authority within the last 12 months;
- (c) To a person, other than a body corporate, who is not resident in an EEA State or was not so resident throughout the period of six months immediately preceding the date when the application was made; or
- (d) To a body corporate which is not incorporated in an EEA State; or
- (e) To a person who has, within a period of 12 months immediately preceding the date when the application was made, been refused the grant or renewal of a licence for the premises, vehicle, vessel or stall in respect of which the application is made, unless the refusal has been reversed on appeal.

7.2 A licence **may be** refused on one or more of the following grounds:

- (a) The applicant is unsuitable to hold a licence by reason of having been convicted of an offence or for any other reason;
- (b) If the licence were to be granted, renewed or transferred the business to which it relates would be managed or carried on for the benefit of a person, other than the applicant, who would be refused the grant, renewal or transfer of such a licence if he made the application himself;
- (c) The number of sex establishments, or sex establishments of a particular kind, in the relevant locality at the time of application is determined is equal to, or exceeds the number which the authority consider is appropriate for that locality;
- (d) That the grant or renewal of the licence would be inappropriate, having regard:
 - (i) To the character of the relevant locality; or
 - (ii) To the use to which any premises in the vicinity are put; or
 - (iii) To the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.

8. Relevant Locality

8.1 The Authority acknowledge that the character of a locality is not something that remains static, but which can alter at any time or over a period of time. When determining an application, the Authority will have regard to the character of the relevant locality at the time the application is determined, the use of the premises in the vicinity and the layout, character, condition or location of premises.

8.2 The Authority shall have a general policy presumption against the granting of licences which are;

- (a) Adjacent to, or in the vicinity of places of worship; or
- (b) Adjacent to, or in the vicinity of schools, nurseries or other educational establishments; or
- (c) Adjacent to, or in the vicinity of public buildings or community facilities; or
- (d) Adjacent to, or in the vicinity of family residential areas; or
- (e) Adjacent to, or in the vicinity of a family leisure or shopping areas
- (f) Adjacent to, or in the vicinity of public buildings or community facilities; or
- (g) In an area earmarked for regeneration of a particular kind;

and access routes to and from the same.

8.3 In considering applications for the grant or renewal of a licence, the Authority will also take account of the potential impact of the licensed activity on crime and disorder, and where there are already one or more sex establishments in the locality, the cumulative impact of an additional sex establishment premises.

8.4 Each application will be considered on its own merit taking into consideration the above as the Authority consider there may be some suitable locations for sex establishment licences within the District.

9. Licence Conditions

9.1 Should the Authority decide to grant an application, conditions will be imposed on the licence, such conditions may seek to restrict:

- The hours of opening and closing
- Displays and advertisements on or in sex establishments
- The visibility of the interior of a sex establishment to passers-by
- Any change of use from one kind of sex establishment to another

9.2 The Authority has adopted standard conditions for sex shops and sexual entertainment venues and these are set out as Appendix 1.

10. Duration of Licences

10.1 Licences for sex establishments can be granted for up to one year.

11. Appeals

11.1 In the event that the Authority refuses an application for the grant, renewal or transfer of sex establishment licence, the Applicant may appeal the decision to the magistrate's court, unless the application was refused under either of the reasons as paragraph 8.2 c) or d) above, in which case the Applicant can only challenge the refusal by way of judicial review. An Appeal can also be made against the imposition of conditions.

11.2 Appeals must be made within 21 days from the date of written notification of the decision.

12. Enforcement

- 12.1 The Authority delivers a wide range of enforcement services, aimed at safeguarding the environment and the community and at providing a consistent licensing regime so that businesses can fairly trade. The Authority has adopted the Environmental Health Enforcement Policy to ensure consistency transparency and proportionality. The policy is available on request.

Contact Details

Further information concerning all aspects of licensing can be obtained from our website:

<http://www.eppingforestdc.gov.uk>

or

The Licensing Team
Corporate Support Services
Epping Forest DC
Civic Offices
High St
Epping
Essex CM16 4BZ

Tel: 01992 564034

Fax: 01992 561016

Email: licensing@eppingforestdc.gov.uk

General Enquiry Line: 01992 564000

**APPENDIX 1
LICENSING CONDITIONS**

**LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982 AS AMENDED BY
THE POLICE AND CRIME ACT 2009**

PART 1

Standard Conditions for all Sex Establishments

Management of the Premises

1. The Licensee or some responsible person nominated by him over the age of 18 and approved in writing by the Council for the purpose of managing the sex establishment ("the manager") shall have personal responsibility for and be present on the Premises at all times when the Premises are open to the public.
2. Where the Licensee is a body corporate or an incorporated body, any change of director, company secretary or other person responsible for the management of the body shall be notified in writing to the Council within 14 days of such change and such written details as the licensing authority may require in respect of the change of personnel shall be furnished within 14 days of a request in writing from the Council.
3. The name of the person responsible for the management of the Premises, whether the Licensee or the manager, shall be displayed in a conspicuous position within the Premises throughout the period during which he is responsible for the conduct of the Premises.
4. The Licensee shall retain control over all parts of the Premises and shall not let, licence or part with possession of any part. The Council must be immediately notified in the event that any part of the Premises is affected by the termination of a lease or other event affecting the Licensee's control of the Premises.
5. The Licensee shall ensure that the public is not admitted to any part of the Premises that has not been licensed.
6. Neither the Licensee nor any employee or agent shall personally solicit custom for the sex establishment outside or in the vicinity of the Premises.
7. The Licensee shall ensure that during the hours that the Premises are open for business every employee wears a badge of a type approved by the Council indicating his name and that he is an employee. This shall not apply to any Performers.

Display of Licence

8. A copy of the Sex Establishment Licence and the Conditions of the Licence made by the authority must be kept exhibited in the public area of the premises.

Age Policy

9. No person under 18 years of age to enter the premises.
10. All customers appearing to be under the age of 25 to be required to provide photographic proof of their age before being allowed access to the shop.

11. No person under 18 years of age is to be employed in the business of the establishment.
12. At all entrances there shall be prominently displayed so as to be visible at all times to persons approaching the premises a notice prohibiting entry to all persons under 18 years of age.
13. The Licensee of the premises shall ensure that all persons employed on the premises are aware of the age restriction on clients and that they exclude or remove from the premises any person attempting to evade the restriction.

Change of use

14. No change from a sex cinema to a sex shop or a sex shop to a sex cinema shall be made without the written consent of the Council.

Breach of Licensing Conditions

15. Any breach of legislation or failure to comply with the conditions attached to the Licence may result in prosecution or in the revocation of the Licence.

General

16. The Council may substitute, delete, vary or amend these conditions at any time.

PART 2

STANDARD CONDITIONS FOR SEX SHOPS

Opening of the Premises

1. The Premises shall not, without the written consent of the Council, be opened and used for the purposes for which the licence is granted except during the following hours unless the Council agree otherwise:

Monday – Saturday 9 am – 6 pm
Sunday - Closed

2. The Premises shall not, without the written consent of the Council, be opened and used for the purposes for which the licence is granted on Christmas Day or Good Friday.

External Appearance

3. Except for the sign specified in condition 12 – Part 1 Standard Conditions for all Sex Establishments (Age Policy) no other information, display, advertisement or notice shall be exhibited in any position visible to passers by without the written approval of the Council
4. No external loudspeakers may be installed.
5. The windows, doors and openings of the Premises shall be of a material or covered with a material, which will render the interior of the Premises invisible to passers-by.

State, Condition and Layout of the Premises

6. External doors shall be closed at all times other than when persons are entering or leaving the Premises. The external doors shall be fitted with a device for their automatic closure and such devices shall be maintained in good working order.
7. The Premises shall be fitted with an inner entrance door or screen so that no part of the interior of the Premises or any of the contents of the Premises shall be visible when persons are entering or leaving the Premises.
8. No access shall be permitted through the Premises to any other Premises adjoining or adjacent except in the case of emergency.
9. Lighting shall be in operation continuously during the whole of the time that the Sex Establishment is open to the public.
10. Any facilities for previewing films, video recordings or other similar material shall be physically separated from the display area of the shop in such a manner that no material being displayed by way of preview shall be visible or audible outside the preview area.
11. No locks or fastenings of any description shall be fitted upon any booth or cubicle within the Sex Establishment nor shall more than one person (including any employee be present in any such booth or cubicle at any time.

Safety and Security

12. The Licensee shall ensure a suitable closed-circuit television system is installed and maintained to the satisfaction of the Council and police complaint with the codes of practices issued under the Data Protection Act 1998.

Goods Available in Sex Establishments

13. All Sex Articles as defined in Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 and other things displayed for sale, hire, exchange or loan within a Sex Establishment shall be clearly marked to show to persons who are inside the Sex Shop the respective prices being charged.
14. All printed matter, films and video films offered for sale, hire, exchange or loan shall be openly displayed and available for inspection prior to purchase and a notice to this effect is to be prominently displayed inside the Sex Establishment. (This regulation does not require that films or video films be exhibited (played) to customers).
15. No film, video, CD or DVD shall be exhibited, sold or supplied unless it has been passed by the British Board of Film Classification or such other authority performing a similar scrutinizing function as may be notified to the licensee by the Council, and bears a certificate to that effect and is a reproduction by the owner of the copyright of the film, video, DC or DVD so certified

PART 3
STANDARD CONDITIONS FOR SEXUAL ENTERTAINMENT VENUES

1. Any individual employed on the Premises to conduct a security activity (within the meaning of section paragraph 2(1)(a) of schedule 2 to the Private Security Industry Act 2001) must be licensed by the Security Industry Authority.
2. The Licensee must ensure that a suitable number of trained staff are employed to supervise the interior of the Premises ("floor supervisors") whilst performances are being given under this licence.
3. Performers shall be aged not less than 18 years. The Licensee must maintain adequate records of the names, addresses and dates of birth of performers including adequate identity checks, and checks to ensure that they are legally entitled to work and make these available on request to the authorised officers of the Council and the police.
4. (a) The Licensee shall ensure that neither they nor any person promoting or providing entertainment on the Premises (nor any person acting on behalf of any such person) shall display advertisements promoting the entertainment or the Premises in any unlawful manner.

(b) Where the Council have given notice in writing to the Licensee objecting to an advertisement on the grounds that, if displayed, it would offend against good taste or decency or be likely to encourage or incite to crime or to lead to disorder or to be offensive to public feeling, that advertisement shall not be displayed.

(c) The Licensee shall not permit the display outside of the Premises of photographs or other images which indicate or suggest that striptease or similar entertainment takes place on the Premises and which may be offensive.

(d) The Licensee shall ensure to the Council's satisfaction (including, where required, necessary planning or building control consents) that the interior of the Premises is not visible from the outside of the Premises, and that the exterior is maintained to a satisfactory level of decorum. At no point may dancers be visible from outside of the Premises.
5. The Licensee shall ensure that the number of persons on the premises shall not exceed that as stated by the Fire Officer or where the Council has specified a number in writing on the grounds of public safety, public nuisance or crime and disorder. Such a figure will include staff and performers.
6. Performers shall only perform on the stage area, to seated customers or in such other areas of the licensed Premises as may be agreed in writing with the Council.
7. The Licensee is to implement a policy to ensure the safety of the Performers when they leave the Premises after a period of work.
8. Performers must remain clothed in public areas and all other areas except while performing in areas specified by the Council as where sexual entertainment may be provided.
9. Performers must dress fully at the end of each performance.

10. Performers may not accept any telephone number, email address, address or contact information from any customer, except in the form of a business card which must be surrendered to the Licensee or their representative before leaving the Premises.
11. Performers must never be alone in the company of a customer except in an area in open view of the public within the Premises.
12. The Licensee is to ensure a sufficient number of floor supervisors are employed inside the Premises whilst sexual entertainment is provided to supervise the Performers and Customers.
13. Performers must not perform a nude table dance unless in a supervised area or within five metres of a floor supervisor.
134. The Licensee must ensure that during the performance of a table dance:
 - (1) Customers must be seated in an upright position against the back of the booth or seat with their hands by their sides before a dancer can start a table dance;
 - (2) Customers must remain seated during the entire performance of the dance;
 - (3) For the purpose of restraint only, Performers may only touch a customer above the customer's chest with their hands only;
 - (4) Performers must not sit or straddle the customer;
 - (5) Performers must not place their feet on the seats.
15. The Licensee must ensure that during performances to which this Licence relates:
 - (1) Performers may not perform any act that clearly simulates any sexual act;
 - (2) Performers may not intentionally touch a customer any time during the performance unless absolutely accidentally or due to a third party;
 - (3) Performers may not use inappropriate, suggestive or sexually graphic language at any time;
 - (4) Performers must never intentionally touch the genitals or breasts of another dancer or to knowingly permit another dancer to intentionally touch their genitals or breasts;
 - (5) Performers must not engage in communications that could be deemed as acts of prostitution or solicitation, even if the Performer has no intention of carrying out the act;
 - (6) Performers only perform nude or semi-nude dancing (of any description) within areas specified by the Council.
16. The Licensee must ensure that during performances to which this Licence relates:
 - (1) Customers may not dance at any time except in areas specifically designated by the Council as being separate from areas for sexual entertainment.
 - (2) Customers must remain appropriately clothed at all times.

17. The Licensee shall ensure that CCTV is installed and maintained to the satisfaction of Essex Police, and that any images are (a) retained for a period of at least 31 days and (b) made available on request to a police officer or authorised officer of the Council.
18. The Licensee shall provide in a timely fashion copies of any documents reasonably required by an authorised officer of the Council in relation to compliance with this Licence.

**APPENDIX 2
DELEGATION OF FUNCTIONS**

| Matter to be dealt with | Full Committee | Sub Committee | Officers |
|-----------------------------------------------------------------------|-----------------------|----------------------|----------------------|
| Application for Licence | | If an objection | If no objection made |
| Application for Variation of a Licence | | If an objection | All other cases |
| Application for renewal of a Licence | | If an objection | All other cases |
| Application to revoke a Licence | | All cases | |
| Decision on whether a complaint is irrelevant frivolous vexatious etc | | | All cases |
| All policy matters except the formulation of the licensing policy | All cases | | |

CONSULTATION

Consultation will be undertaken with those listed below. The majority of those being contacted via e-mail and the rest by post. A copy of the draft policy will be available on the EFDC website. All comments received will be considered and the results of the consultation published on the EFDC website. The consultation period will be three months.

| | |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>Association of Licensed Retailers Attwater & Liell Solicitors Berwin Leighton Paisner Solicitors Bill Rammell MP Butler & Mitchells Brewers Citizens Advice Bureau Consumers Association Cooley Partnership Campaign for the Protection of Rural England Curwens Solicitors Council for Voluntary Services Crime and Disorder Strategy Panel East Herts DC EFDC Councillors EFDC Senior Officers Eleanor Laing MP Environment agency Epping Forest Conservators Epping Forest PCT Epping Magistrates Equity Eric Pickles MP Essex Ambulance NHS Trust Essex County Council Essex Fire and Rescue Essex Police Essex Probation Service Essex Tourist Bodies Faith Groups Foskett Marr Gadsby and Head</p> | <p>General Municipal and Boilermakers Union Hammonds Solicitors Health and Safety Executive Essex Jarmans Solicitors Laurel Pub Co Lea Valley Park Authority Local Chambers of Commerce Local Council Liaison Committee Local Round Tables Local Taxi Operators McMullens Brewery Musicians Union Parish and Town Councils Police and Community Consultative Group Princess Alexandra NHS Trust Ridleys Breweries Rural Community Council of Essex Scottish and Newcastle Retail Somerville Supermarkets Spirit Group Brewery Transport and General Workers Union Town Centre Manager Town Centre Partnerships Union of Shop, Distributive and Allied Workers Unison Licensed Victuallers' Association Whiskers and Co Solicitors Whipps Cross NHS Trust</p> <p>All current holders of sex establishment licences, liquor, public entertainment, private places of entertainment, cinemas, theatre and late night refreshment houses licences within the district.</p> |
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Report to the Licensing Committee

Report reference: **LSC-003-2010/11**

Date of meeting: **13 October 2010**



**Epping Forest
District Council**

Portfolio: **Safer & Greener.**

Subject: **Temporary Road Closure Orders**

Responsible Officer: **Alison Mitchell (01992 564017).**

Democratic Services Officer: **Gary Woodhall (01992 564470).**

Recommendations/Decisions Required:

- (1) To note the Authority's powers under S21 of the Town Police Clauses Act 1847 to make temporary road closure orders; and**
- (2) To recommend to the Council that the schedule of delegation and fees be adopted.**

Executive Summary:

The provisions of the Town Police Clauses Act 1847 are used by District Councils to make temporary road closures for street parties, fetes, processions etc. The report seeks to put in place the necessary delegated authorities and other requirements to permit these road closures to take place.

Reasons for Proposed Decision:

The Secretary of State for Communities and Local Government has recently issued the guidance that is attached to this report to make it easier for communities to hold street parties and fetes. The guidance directs members of the public to the District Council to make this application. The Authority has not had occasion to make road closures but it is considered that the new guidance will make applications more likely. The report seeks to put in place the necessary delegations and other matters required to permit the Licensing Section to undertake this type of licensing work

Other Options for Action:

There is no legal option other than to process the licence application when requested.

Report:

1. The guide issued by the Secretary of State sets out the background in respect of the requirements for making a road closure where small events such as street parties and fetes are to be held. However, for larger public events the Council's own form will be required and a similar but more detailed process followed.
2. The fees being set is £150.00 and where a larger event takes place the cost should be increased to £400 and the cost of advertising the event in the local newspaper will also be charged.
3. The Essex County Council's Highways Department have been consulted. Applications for road closures are usually authorised by the County under Highways legislation and the County have concerns that the information required by the guide issued by the Secretary of State may not be

sufficient to allow the County Council to agree to a road closure and they will be looking into this further. Further information as to their requirements will be sought and included in any application process used.

DELEGATION OF FUNCTIONS

| Matter to be dealt with | Full Committee | Sub Committee | Officers |
|-------------------------------------------------------------------|-----------------------|----------------------|----------------------|
| Application for a Road Closure Order | | If an objection | If no objection made |
| All policy matters except the formulation of the licensing policy | All cases | | |

Resource Implications:

None.

Legal and Governance Implications:

S21 of the Town Police Clauses Act 1847.

Safer, Cleaner and Greener Implications:

The Council Plan 2006 – 2010 – A Safe Community.

Consultation Undertaken:

Essex County Council.

Background Papers:

None.

Impact Assessments:

Risk Management

N/A

Equality and Diversity:

Did the initial assessment of the proposals contained in this report for relevance to the Council's general equality duties, reveal any potentially adverse equality implications?

No

Where equality implications were identified through the initial assessment process, has a formal Equality Impact Assessment been undertaken?

No

What equality implications were identified through the Equality Impact Assessment process?
No.

How have the equality implications identified through the Equality Impact Assessment been addressed in this report in order to avoid discrimination against any particular group?
None.

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Your guide to organising a street party or fete

Foreword by Eric Pickles

Secretary of State for Communities and Local Government

Street parties and fetes are a traditional part of community life; they are a simple way for us to get to know our neighbours and meet members of our community. We want to make it easier for you to hold these sorts of local events, without having to plough through mountains of forms and red tape. So we have produced this simple step by step guide to how to hold a community event in your local area. It includes one simple form for you to use to let your local authority know about your plans, so you can get on with the real work of organising a fun event.

Good luck.



What sort of events does this apply to?

This is about the sort of street parties and fetes that groups of residents get together to arrange for their neighbours. The main differences between a small street party and fetes and larger public events are listed below:

Street parties and fetes:

- For residents/neighbours only
- Publicity only to residents
- No licences normally necessary if music incidental and no selling is involved
- No formal risk assessment needed
- Self-organised

Larger public events:

- Anyone can attend
- External publicity (such as in newspapers)
- Licence usually needed
- Insurance needed
- Risk assessment common
- Professional/skilled organisers

Organising small, private street parties and fetes is very simple and generally does not include activities that need a licence, such as selling alcohol or providing certain types of entertainment. If you want to have a pay bar or intend to provide entertainment to the wider public, or charge to raise money for your event, you will need a Temporary Event Notice which is a type of temporary licence and costs £21. Similarly, larger public events attracting more people will require a different process. If you need a Temporary Events Notice or would like to hold a larger public event, please contact your council for further information and advice.

It's that simple

If you would like to hold a street party or fete, you can use the form below to let your council know about your plans. Alternatively you could go to your council's website to see if they have their own form.

The number one tip for holding a party is to plan early, think about what you want to achieve and get in touch with your council at least 4-6 weeks in advance. A good first point of contact will be your council's events or communities team.

More helpful tips, advice and support for organising a successful event can be found on the Streets Alive website www.streetparty.org.uk and The Big Lunch website www.thebiglunch.com. Do check them out, they're great.





Celebrating your community



Application form for a street party or a small community event

Road closure for residential or neighbourhood street parties

Name of person:

Organisation (if applicable):

Contact address (incl. postcode):

Telephone number (daytime):

Telephone number (evening):

Email address:

Name of road(s) to be closed:

Date and time of road closure

If you plan to close only a section of the road(s), where will the closure begin and end?

From:
To:

Give a brief list of properties affected. This means any property, residential or commercial, which is located on or accessed only by the road(s) you wish to close – e.g. Cedar Close numbers 1-20 and numbers 21-98

Are any of the roads to be closed used by through traffic?

YES/NO?

If yes, you will need to send a traffic plan showing the exact extent of the closure and an alternative route for traffic.

Are you planning on closing a road that is part of a bus route?

YES/NO?

If yes, you will need to consult the bus company and attach a copy of their response.





Will access for emergency vehicles (if required) be readily available at all times?

YES/NO?

If no, you will need to discuss this with your council and emergency services. In the interest of safety we highly recommend that roads are accessible for all emergency vehicles.

How will people know the road has been closed off - have you thought about barriers/diversion signs needed?

If yes, can you say what you will be doing?

If no, you can speak to your council or Streets Alive (www.streetparty.org.uk) who will be able to help you with street signs.

Have most residents agreed to this neighbourhood/community event?

YES/NO?

The council will want to ensure most people are happy with this event, so if there are any objections you should let them know. They may be able to help you resolve any objections. It is worth remembering that not everyone will be able to participate so let everyone know what time the party will start and end (you may want to finish by 9pm to minimise noise).

If you are planning a road closure you will also need to consult businesses in the wider area that may be affected. Have you already consulted about the road closure?

YES/NO?

If yes, please attach a copy of your consultation invitation/notice and confirm the date it was sent:

What happens next?

Send your form to your local council (in a two-tier authority this will be the borough or district council).

The council will look at what you are proposing, will process your application for road closure and will let you know if there is anything else you need to consider.

We hope this guidance has made things easier for you. Good luck with your event.





FAQS and checklist

Q. Do we need insurance cover?

A. Most local authorities do not ask for public liability insurance cover for a small residential street party. But where you or your council think insurance would be a good idea you might find it helpful to go on Streets Alive (www.streetparty.org.uk) and The Big Lunch website (www.thebiglunch.com) for further advice. Quotes for insurance start from as little as £50. The costs can always be split between residents, or you could hold a raffle or ask for donations to cover the costs.

Q. Do I need to do a risk assessment?

A. Most local authorities do not ask for a risk plan for small street parties, but you may wish to think about how you can minimise things going wrong and have a back up plan, for example - what would you do if there was bad weather? Can you use plastic plates and cups rather than glass? Have you made sure an adult is in charge of the barbeque etc.

Q. We're serving alcoholic drinks - do we need an alcohol licence?

A. No, licences are only required if alcohol is sold. At a private party, sharing drinks with your neighbours does not require a licence. If you did want to sell alcohol, you will need to contact your council for a Temporary Events Notice form. This form costs £21.

Q. We're playing music - do we need an entertainment licence?

A. No - if your street party is a private party for residents and the music is not advertised in advance to attract people, and you're not making money then there is no need for a licence for your music, whether it's live or recorded.

Q. Do we need a permit to serve food?

A. No - as a private party, you do not need a licence under the Licensing Act 2003 to sell food (unless you wanted to only sell hot food and drink after 11pm). Remember you can always ask your neighbours to bake a cake, make a sandwich or bring food to share with one another. This is also a good way to bring different groups of people together.

Q. We're having a tombola/raffle - do we need permission?

A. Probably not. If the tombola/raffle tickets are sold on the day and the prizes are not worth more than £500 in total then it will be exempt from gambling regulations (however, if tickets are sold in advance of the event, you will need a lottery registration but do speak to your council first). Any proceeds from the tombola/raffle must go to a good cause such as charity or even covering the cost of your party. Alternatively, if you did want to raise some money for your local church or charity, you can always ask people for donations.

Q. Do we need to clean up afterwards?

A. Yes, you will need to clean up after your street party. It's your street, your party, so keep your local area clean and tidy. Let people know in advance what time the party will finish and have a section set aside for bin bags and recycling.



Report to the Licensing Committee

Report reference: *LSC-004-2010/11*

Date of meeting: *13 October 2010*



**Epping Forest
District Council**

Portfolio: Safer & Greener.

Subject: Statement of Licensing Policy.

Responsible Officer: Alison Mitchell (01992 564017).

Democratic Services Officer: Gary Woodhall (01992 564470).

Recommendations/Decisions Required:

- (1) To consider the representations made in respect of the Licensing Policy; and**
- (2) To agree to the Licensing Policy incorporating any agreed amendments and recommend that it is adopted by the Council.**

Executive Summary:

On 14 April 2010 the Licensing Committee agreed that the draft statement of Licensing Policy which was annexed to the report should go out to consultation and the replies be reported back. Four replies to the consultation were received which are attached. The Committee is asked to consider the replies taking into account the requirements of the Licensing Act 2003 and to recommend to the Council the adoption of the Licensing Policy with any amendments it considers necessary.

Reasons for Proposed Decision

The Licensing Act 2003 ('the Act') requires that a Licensing Authority reviews and publishes its licensing policy every three years and for consultation to take place on the proposed policy. This must be completed before 7 January 2011.

Other Options for Action:

There is no legal option other than to carry out the review, consultation and adopt a policy.

Report:

1. Following the decision of the Licensing Committee, a consultation took place. The Licensing Act 2003 prescribes that the following must be consulted:
 - (a) the Chief Officer of Police for the Licensing Authority area;
 - (b) the Fire Authority for that area;
 - (c) such persons as the licensing authority considers to be representative of holders of premises licences, club premises certificates and personal licences issued by that authority; and

(d) such other persons as the licensing authority considers to be representative of businesses and residents in its area.

2. A full list of those consulted is attached.

3. Four responses were received, and again copies are attached.

4. Members are reminded that recently the government issued a consultation document – Rebalancing the Licensing Act 2003. There was a short time for reply and therefore it was not possible to report to this Committee. It was discussed at the Safer Cleaner Greener Standing Scrutiny Panel and the Overview and Scrutiny Panel and reported to Cabinet. If the proposals set out in the consultation document are adopted it may be necessary to amend the Licensing Policy but the Government has issued guidance that states that this current review of policy must proceed as required by statute.

5. The policy was written taking account not only of the statute but guidance issued under S182 of the Act. Section 4 of the Act provides that in carrying out its functions a licensing authority must ‘have regard to’ this guidance issued by the Secretary of State under S182. However, the Guidance cannot anticipate every possible scenario or set of circumstances and so, as long as the Guidance has been considered and the Authority has given full reasons it is free to depart from the Guidance.

6. Comments on the Objections received:

(a) Loughton Town Council:

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| <p>(i) Paragraph 1.16 line 3 - the Town Council has asked that the word ‘the’ should be omitted and replaced by ‘any’. This wording is a quotation from the Guidance and the Authority would have to give full reasons for permitting any change;</p> <p>(ii) the Town Council has asked that the last sentence be deleted. This wording again reflects the Guidance. It could be deleted but the Authority would have to take account of the Guidance when reaching any decision but this Guidance may be changed in the future; and</p> |
| <p>(iii) Paragraph 1.24 - A District Councillor may make a representation in respect of an application made in respect of premises anywhere within the District.</p> |

(b) Loughton Residents' Association:

| |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>(i) Paragraph 1.16 - The Guidance states that ‘A natural concern to prevent disturbance in neighbourhoods should always be balanced against these wider cultural benefits, particularly for children’. Each case should be decided on its merits;</p> |
| <p>(ii) Paragraph 1.32 - The Guidance stresses the need to promote a broad range of entertainment. If the quality of life of local residents is affected in one area then this would be the subject of a Licensing Act Review procedure; and</p> |
| <p>(iii) Paragraph 7 - Any condition imposed on a licence should be the minimum. Restricting opening hours would be an option to consider under conditions when an application is heard.</p> |

Resource Implications:

None.

Legal and Governance Implications:

Licensing Act 2003, and other documentation listed in the draft policy.

Safer, Cleaner and Greener Implications:

The Council Plan 2006 – 2010 – A Safe Community.

Consultation Undertaken:

Consultation undertaken in respect of the draft Licensing Policy.

Background Papers:

Report and Minutes of the Licensing Committee dated Wednesday 14 April 2010.

Impact Assessments:

Risk Management

N/A.

Equality and Diversity:

Did the initial assessment of the proposals contained in this report for relevance to the Council's general equality duties, reveal any potentially adverse equality implications? No

Where equality implications were identified through the initial assessment process, has a formal Equality Impact Assessment been undertaken? No

What equality implications were identified through the Equality Impact Assessment process?
No.

How have the equality implications identified through the Equality Impact Assessment been addressed in this report in order to avoid discrimination against any particular group?
None.

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STATEMENT OF LICENSING POLICY

Made under section 5 of the Licensing Act 2003

**This policy shall come into force on 7th January 2010 and be reviewed
not later than 6th January 2013**

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1. Purpose and Scope

1.1 Epping Forest District Council ('the Council') is the licensing authority under the Licensing Act 2003 ('the Act'). This policy relates to all those licensing activities identified as falling within the provisions of the Act, including granting premises licences, club premises certificates, temporary events and personal licences in the district in respect of the sale and/or supply of alcohol and/or the provision of regulated entertainment and late night refreshment.

1.2 The Act requires that the Council publish a 'Statement of Licensing Policy' that sets out the policies the Council will generally apply to promote the licensing objectives when making decisions on applications made under the Act and to regulate licensable activities on, and in the vicinity of, licensed premises. This 'Statement of Licensing Policy' has been prepared in accordance with the Act.

1.3 This 'Statement of Licensing Policy' was been prepared in accordance with the provisions of the 2003 Act and having regard to the guidance issued under Section 182 of the Act.

1.4 This Statement of licensing policy has been produced in consultation with the Chief Police Officer for Essex, the Fire Authority and bodies representing local holders of premises licences, club premises certificates and personal licences, businesses and residents of the area. The policy will be reviewed in not less than three years, or in the light of changes to legislation or circumstances, whichever is sooner.

Licensing Objectives

1.5 The Act requires that the Council carry out its various licensing functions so as to promote the following four licensing objectives:

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm

1.6 To achieve these objectives the Council will use the full range of measures available to it, including relevant legislation. The Council will work closely with the police, the fire authority, businesses, community representatives and local people in meeting these objectives.

1.7 There are a number of other Council and Government policies, strategies, responsibilities, and guidance documents that have been considered in the formulation of this licensing policy and which will be taken into account in its implementation.

1.8 Applicants must be able to demonstrate that they have considered the four licensing objectives within their operating schedule. Applicants know their premises best and will be expected to address all aspects relevant to the individual style of their premises. Consideration must be given to all of the licensing objectives. There are many control measures that are available to applicants to achieve this goal. Where appropriate applicants should consider whether or not any additional measure are required in respect of occasional or specific events that it is intended or are likely to attract large audiences.

Consultation, Strategies and Policies

1.9 In developing this Policy Statement, the Council consulted widely. Along with the statutory consultees (the Chief Police Officer for the District and the Essex County Fire and Rescue Service), the views of existing licence holders, businesses, voluntary groups and residents were also taken into account. Due consideration was given to the views of all those who responded to that consultation process.

Details of the consultation on this policy is attached as appendix 2.

1.10 The Council will take account of the guidance and strategies listed or any replacement guidance or strategy when preparing its policies and in its decision making.

- Environmental Health Enforcement Policy
- Enforcement Concordat
- The Council Plan – Homes and Neighbourhoods, a Safe Community and Economic Prosperity

Other Responsibilities

- Responsibilities under Anti Social Behaviour Act 2003
- Race Relations Act 1976
- Equalities Act 2010

Guidance Documents

- Guidance issued under S182 of the Licensing Act 2003
- A practical guide for dealing with Alcohol related problems issued by the Home Office
- Home Office Safer Clubbing Guide
- LACORS/TSI Code of Practice on Test Purchasing
- Any future documents issued relating to the Private Security Industry Act 2001, for example liaison or information sharing protocols
-

Any documentation relating specifically to temporary events such as:

- The Event Safety Guide: A Guide to Health, Safety and Welfare at Music and Similar Events (HSE 1999) (“the Purple Book”) ISBN 0 7176 2453 6
- Managing Crowds Safely’ (HSE 2000) ISBN 07176 1834 X

- Steps to Risk Assessment: Case Studies (HSE 1998) ISBN 0716 150804
- The Guide to Safety at Sports Grounds (The Stationary Office 1997)
- Safety Guidance for Street Arts, Carnivals, Processions and Large-scale Outdoor Performances Independent Street Arts Network copies of which may be obtained through www.streetartsnetwork.org.uk/pages/publications.htm

1.11 The Council will have regard to, and consult with those involved with, local crime prevention, planning, transport, tourism, race equality and cultural strategies. Review or amendment to these strategies will be considered for their impact on this statement of licensing policy.

1.12 Furthermore, arrangements will be made for the Licensing Committee to receive reports, when appropriate, on the needs of the local tourist economy to ensure that these are reflected in their considerations. The Licensing Committee will also be appraised of the local employment situation and the need for new investment and employment, where appropriate.

1.13 To ensure proper integration with the Council's planning policies, the Licensing Committee will provide reports to the Development Control Committee, where appropriate, on the situation regarding licensed premises in the area, including the general impact of alcohol related crime and disorder, to enable the Development Control Committee to have regard to such matters when making its decisions.

1.14 The Council recognises its responsibilities under the Race Relations Act 1976, as amended by the Race Relations (Amendment) Act 2000. The impact of this policy on race relations will be monitored through the Council's race equality scheme.

Regulated Entertainment

1.15 As part of implementing local cultural strategies, proper account/consultation will be taken of the need to encourage and promote in suitable locations, a broad range of entertainment, particularly live music, dancing and theatre for the wider cultural benefit of communities.

1.16 If representations are made concerning the potential for disturbance in a particular neighbourhood, the Council's consideration where disturbance is likely to be of limited extent, will be balanced against the wider benefits to the community. When attaching conditions the Council will also be aware of the need to avoid measures that might deter live music, dancing or theatre by imposing indirect costs of a substantial nature.

Applications

1.17 In determining a licence application, the overriding principle adopted by the Council will be that each application will be determined on its merits, taking into account:

- the Licensing Act 2003 and the four licensing objectives,
- Government Guidance issued under Section 182 of the Licenseing Act 2003,
- Supporting regulations
- This statement of Licensing Policy, and
- the nature and locality of the premises and the Operating Plan submitted by the applicant.

1.18 The Council requires the applicants to satisfactorily address the licensing objectives, from the design of the premises through to the daily operation of the business, in their Operating Plans, which must be submitted with their application.

1.19 Nothing in this Statement of Policy will:

- Undermine the rights of any person to apply under the Act for a variation of permissions and have the application considered on its individual merits;
- Override the right of any person to make representations on any application or seek a review of a licence or certificate where they are permitted to do so under the Act;
- Prevent any person from applying for a variety of permissions under the Act.

1.20 So far as possible, this policy will not duplicate existing legislation and regulatory regimes that already place obligations on employers and operators e.g. The Health & Safety at Work etc Act 1974, The Environmental Protection Act 1990, equalities legislation, and the Fire Safety Regulatory Reform Order 2005. Conditions in respect of public safety will only be attached to licences if they are necessary for the promotion of a licensing objective.

1.21 When one part of the Council seeks a premises licence from the Licensing Committee, the application will be considered from an entirely neutral standpoint. If relevant representations are made, for example, by local residents or the police, they will be considered fairly by the Committee.

1.22 In all cases, the applicants and those making representations have a right to appeal to the magistrates' court against any decision made by the Council.

Representations

1.23 The Chief Officer of Police, the Fire Authority, the Enforcing Authority for health and safety purposes, the local planning authority, the authority responsible for minimising or preventing the risk of pollution and the Child Protection Authority are all known as 'Responsible Authorities'. These Responsible Authorities may make representations on applications, so far as they relate to the promotion of the four licensing objectives, and request reviews once licences have been granted.

1.24 Local residents and businesses, in the vicinity of the premises subject to the application, or their representatives are known as 'interested parties' and are free to raise relevant representations. A Councillor for the District may also make representations. A representation would only be 'relevant' if it relates to the likely effect of the grant of the licence on the promotion of at least one of the four licensing objectives. Any representation must not be frivolous or vexatious, and in addition, in the case of reviews, not be repetitious.

1.25 In the absence of any representations the licence must be granted and any representations must be heard at a hearing of the Licensing Sub-committee.

Conditions

1.26 Licence conditions will be tailored to the individual application and only those necessary to meet the licensing objectives will be imposed. Licence conditions will not be imposed where other controls/legislation exist to provide sufficient protection to the public. There are pools of conditions set out in the Guidance issued under Section 182 of the Licensing Act 2003 which an applicant for a licence may wish to draw on as appropriate. The Council may also create its own pool of conditions to assist applicants. In this way.

1.27 Any conditions arising from the operating schedule or as a result of representations will be focused on the direct impact of the activities taking place at the licensed premises, on members of the public living, working or engaged in normal activity in the area concerned and which are within the control of the individual licensees and others with relevant authorizations.

Administration, Exercise and Delegation of Functions

1.27 The powers of the Council under the Act may be carried out by the Licensing Committee, by a Sub-Committee or by one or more officers acting under delegated authority.

1.28 With the exception of the approval and review of its Licensing Policy, decisions on licensing matters will be taken in accordance with an approved scheme of delegation aimed at underlining the principles of timely, efficient and effective decision-making. A table setting out how we will approach this is attached at Appendix 1.

1.29 The Licensing Committee will receive regular reports regarding licences determined by officers under delegated powers, in order to maintain an overview of the general situation.

1.30 The Licensing Committee will expect individual applicants to address the licensing objectives in their Operating Plan, having regard to the type of premises, the licensable activities to be provided, the operational procedures, the nature of the location and the needs of the local community.

1.31 The Council recognises the advice of the Department of Culture Media and Sport that the views of vocal minorities should not be allowed to predominate over the general interests of the community. The Council will revisit this policy if there is any indication that regulated entertainment is being deterred by its provisions.

Cumulative Impact of a Concentration of Licensed Premises

1.32 Cumulative impact means the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area.

1.33 The cumulative impact of licensed premises on the promotion of the licensing objectives is a matter that the Council can take into account. This will not be confused with 'need', which relates more to the commercial demand for a particular type of premises, and is therefore a matter for planning consideration and does not form part of this licensing policy statement.

1.34 The Council may receive representations from either a Responsible Authority or an interested party, (both defined by the Act), that the cumulative impact of new licences is leading to an area becoming saturated with premises of a certain type, making it a focal point for large groups of people to gather, and thereby creating exceptional problems of disorder and nuisance over and above the impact from the individual premises themselves. In such cases, the issue of cumulative impact may be taken into account when considering the individual merits of any application.

1.35 The Council will not operate a quota of any kind which would pre-determine any application, nor will it seek to impose general limitations on trading hours in particular areas. Instead, regard will be given to the individual characteristics of the premises concerned within a given area. It is recognised that pubs, nightclubs, restaurants, hotels, theatres, and other clubs all sell alcohol, serve food and provide entertainment but with contrasting styles and characteristics. Proper regard will be had to those differences and the impact they are likely to have on the local community.

1.36 In determining whether to adopt a 'saturation' policy for a particular area the Council may, amongst other things –

- Gather evidence of serious and chronic concern from a responsible authority or interested parties about nuisance and disorder;
- Identify the area from which problems are arising and the boundaries of that area;
- Make an assessment of the causes;
- Adopt a policy about future applications for premises within that area.

1.37 The Council recognises however, that as well as the licensing function there are a number of other mechanisms for addressing issues of unruly behaviour that occur away from licensed premises. The Council recognise that licensing law is not a mechanism for the general control of anti-social behaviour by individuals once they are away from the premises and beyond the direct control of the licence holder.

Advice and Guidance

1.38 The Council recognises the valuable cultural, social and business importance that premises and events requiring a licence under the Licensing Act provide and welcomes the diversity of activities that are provided by licence holders. For this reason, pre-application discussions will be encouraged to assist applicants to develop their operating schedule. The Council, Essex Police and/or Essex County Fire and Rescue Service will offer as much advice and guidance to applicants, as resources permit.

1.39 The Council will also seek to liaise with applicants and/or mediate between applicants and others who may make representations, to achieve a satisfactory outcome for all involved, wherever possible and where resources permit. Where an applicant considers that mediation and liaison may be likely or probable, it is recommended that the applicant discuss his proposal with the licensing department/section and those from who they think representations are likely prior to submitting their application. Once an application has been lodged, there are statutory timescales imposed upon the application and determination process, which restrict the opportunity for such discussions, liaison and mediation.

Reviews

1.41 A Responsible Authority and/or interested parties can trigger a review of a premises licence or club premises certificate but an evidentiary basis would be required to be presented to the Licensing Authority. Representations received must be relevant to the promotion of the licensing objectives and submitted in writing. Representations must not be frivolous or vexatious.

1.35 The Act provides a mechanism for reviewing Premises Licences where problems associated with achieving the Licensing Objectives occur. However, no more than one review from an interested party will normally be permitted within any 12 month period on similar grounds, except in exceptional and compelling circumstances or where it arises following a Closure Order.

1.36 In addition where premises are associated with serious crime or serious disorder

a senior police officer (Superintendent or above) may apply for a summary review of the premises licence which may result in :-

- a) the modification of the conditions of the premises licence;
- b) the exclusion of the sale of alcohol by retail from the scope of the

licence;

c) the removal of the designated premises supervisor from the licence;

d) the suspension of the licence.

The initial decision may be determined in the absence of the premises licence holder. A review hearing must then take place within 28 days.

1.37 Where an Interested Party applies for a review, the Licensing Authority has to be satisfied that the person making it qualifies as an Interested Party and that it is relevant. There is no appeal to the decision of the Authority other than by way of judicial review.

1.38 As the Licensing Authority can generally only determine whether a person is an Interested Party by reference to the name and address of the person making the application, this Authority will not consider any application that fails to provide those details.

1.39 The Licensing Authority accepts that in exceptional circumstances, an Interested Party may not wish to provide his/her personal details to the licence or certificate holder. In those circumstances an Interested Party might consider providing the relevant Responsible Authority with details of how they consider the licensing objectives are being undermined so that the Responsible Authority can apply for a review.

1.40 Where possible and appropriate the Council, Essex Police and/or Essex Fire Service will give early warning to licence holders of any concerns about problems identified at premises and of the need for improvement.

1.41 No more than one review from interested parties will be normally permitted within any 12 month period on similar grounds except in exceptional and compelling circumstances.

Enforcement

1.41 The Council delivers a wide range of enforcement services aimed at safeguarding the environment and the community and at providing a 'level playing field' on which businesses can fairly trade. The administration and enforcement of the licensing regime is one of these services. The Council has adopted the Government's Enforcement Concordat designed to ensure effective and efficient public protection services. Specifically, the Council is committed to the principles of good inspection and enforcement practice and recognises the Hampton principles by carrying out its regulatory functions in a fair, open and consistent manner.

1.42 Once licensed, it is essential that premises are maintained and operated so as to ensure the continued promotion of the licensing objectives, and compliance with the specific conditions of their licence and their Operating Plan. The Council will make arrangements to monitor premises and take appropriate enforcement action to ensure this.

1.42 The Council has established an enforcement protocol with Essex Police, Essex County Fire and Rescue Service and (Essex County Council) Trading Standards on enforcement issues. This protocol provides for the targeting of resources towards high-risk premises and activities that require greater attention, while providing a lighter touch in respect of low risk premises.

2. Licensing Objectives

2.1 The following sections set out the Council's Policy relate to the four licensing objectives:

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

3. Prevention of Crime and Disorder

3.1 When considering Crime & Disorder applicants should look to include in their Operating Plan measures to control problems associated with this as required:

- Effective training and supervision of staff
- Adoption of best practice guidance (e.g Safer Clubbing, The National Alcohol Harm Reduction Strategy Toolkit, Pub watch schemes, CCTV, Drug Awareness)

4. Public Safety

When considering Public Safety the applicant should consider whether it is necessary to address the following in their Operating Plan:

- Suitable and sufficient risk assessments
- Effective and responsible management of premises
- Adoption of best practice guidance (eg Guide to Fire Precautions in licenced premises)

5. Public Nuisance

When considering Prevention of public nuisance applicants should consider what measures may be necessary and should take account of the following:

- Adoption of best practice Guidance (eg Good practice Guide on the control of Property, Noise, published by BBPA)
- Ensuring customers leave quietly
- Installation of sound proofing

6. Protection of Children from Harm

6.1 The Council recognises the great variety of premises for which licences may be sought. These will include theatres, cinemas, restaurants, pubs, nightclubs, cafes, take aways, community halls and schools. Access by children to all types of premises will not be limited in any way unless it is considered necessary to do so in order to protect them from harm.

6.2 When deciding whether to limit access to children or not the Council will judge each application on its own individual merits. Examples that may give rise to concern in respect of children would include premises where:

- entertainment of an adult or sexual nature is provided;
- there is a strong element of gambling taking place;
- there is a known association with drug taking or dealing;
- there have been convictions for serving alcohol to those under 18;
- there is a reputation for underage drinking.

6.3 In the case of premises which are used for film exhibitions, conditions will be imposed restricting access only to those who meet the required age limit in line with any certificate granted by the British Board of Film Classification or, in specific cases, a certificate given to the film by the Council itself.

6.4 Where a large number of children are likely to be present on any licensed premises, for example, a children's show or pantomime, then conditions will be imposed requiring the presence of an appropriate number of adult staff to ensure the childrens' safety and their protection from harm.

6.5 The options available for limiting access by children could include –

- A limit on the hours when children may be present;
- A limitation or exclusion when certain activities may take place;
- The requirement to be accompanied by an adult;
- Limiting access to parts of the premises;
- An age limitation.

6.6 The Council will not impose any condition that specifically requires access for children to be provided at any premises. Where no restriction or limitation is imposed the issue of access will remain a matter for the discretion of the individual licensee or club. In all cases, it is expected that the applicant will have considered the protection of children in their Operating Plan. The Council commends the Portman Group Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks and would expect applicants to consider the Code in their Operating Plan.

6.7 In the case of premises giving film exhibitions the Council would expect licencees or clubs to include in their operating schedules arrangements for restricting children from age-restricted films as classified according to the recommendations of the British Board of Film Clasasification.

6.8 The competent responsible authority in relation to the protection of children from harm is the Essex County Council's Childrens Safeguarding Service.

7. Licensing Hours

The Council recognises that longer licensing hours may be in the interests of the community by avoiding concentrations of disturbance from customers leaving premises whilst ensuring that nuisance is minimised to local residents. Premises will generally be able to sell alcohol during the hours they are permitted to open. Entertainment providers may provide a range of entertainment during their operating hours. When issuing a licence, however, stricter conditions are likely to be imposed with regard to noise control in the case of premises situated in largely residential areas.

Contact Details

Further information concerning all aspects of licensing can be obtained from our website:

www.eppingforestdc.gov.uk

or

Environmental Health Licensing Section
Epping Forest DC
Civic Offices
High St
Epping
Essex CM16 4BZ

Tel: 01992 564034
Fax: 01992 564539

Email: sharcher@eppingforestdc.gov.uk

Environmental Health General Enquiry Line: 01992 564610

Delegation of Functions

Appendix 1

| Matter to be dealt with | Full Committee | Sub Committee | Officers |
|-------------------------------------------------------------------------------------------------------------------|-----------------------|-----------------------------------|------------------------------------|
| Application for personal licence | | If a police objection | If no objection made |
| Application for personal licence with unspent convictions | | All cases | |
| Application for premises licence/club premises certificate | | If a relevant representation made | If no relevant representation made |
| Application for provisional statement | | If a relevant representation made | If no relevant representation made |
| Application to vary premises licence/club premises certificate | | If a relevant representation made | If no relevant representation made |
| Application to vary designated premises supervisor | | If a police objection | All other cases |
| Request to be removed as designated premises supervisor | | | All cases |
| Application for transfer of premises licence | | If a police objection | All other cases |
| Applications for interim Authorities | | If a police objection | All other cases |
| Application to review premises licence/club premises certificate | | All cases | |
| Decision on whether a complaint is irrelevant frivolous vexatious etc | | | All cases |
| Decision to object when local authority is a consultee and not the relevant authority considering the application | | All cases | |
| Determination of a police objection to a temporary event notice | | All cases | |
| All policy matters except the formulation of the statement of licensing policy | All cases | | |

Appendix 2

Consultation

Consultation will be undertaken with those listed below. The majority of those being contacted via email and the rest by post. A copy of the draft policy will be available on the EFDC website. All comments received will be considered and the results of the consultation published on the EFDC website. The consultation period will be three months.

| | |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Arriva Bus Company Arts Council England Association of Licensed Retailers Attwater & Liell Solicitors Berwin Leighton Paisner Solicitors Bill Rammell MP British Transport Police Butler & Mitchells Brewers Roman Catholic Church Church of England Citizens Advice Bureau Consumers Association Cooley Partnership Campaign for the Protection of Rural England Curwens Solicitors Council for Voluntary Services Crime and Disorder Strategy Panel East Herts DC EFDC Councillors EFDC Senior Officers Eleanor Laing MP Environment agency Epping Forest Conservators Epping Forest PCT Epping Magistrates Equity Eric Pickles MP Essex Ambulance NHS Trust Essex County Council Essex Fire & Rescue Essex Police Essex Probation Service Essex Tourist Bodies Federation Synagogue Fosket Marr Gadsby & Head | General Municipal and Boilermakers Union Hammonds Solicitors Health and Safety Executive Essex Jarmans Solicitors Laurel Pub Co Lea Valley Park Authority Limes Farm Synagogue Local Chambers of Commerce Local Council Liaison Committee Local Round Tables Local Taxi Operators LUL Transport for London Mcmullens Brewery Musicians Union Parish and Town Councils Police & Community Consultative Group Princess Alexandra NHS Trust Ridleys Breweries Rural Community Council of Essex Scottish & Newcastle Retail Somersfield Supermarkets Spirit Group Brewery Transport and General Workers Union Town Centre Partnerships Union of Shop, Distributive and Allied Workers Unison Licensed Victuallers Association Wiskers & Co Solicitors Whipps Cross NHS Trust All current holders of licquor, public entertainment, private places of entertainment, cinemas, theatre and late night refreshment houses licences within the district. |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

Report to the Licensing Committee

Report reference: LSC-005-2010/11.

Date of meeting: 13 October 2010.



**Epping Forest
District Council**

Portfolio: Safer & Greener.

Subject: Pavement Licences.

Responsible Officer: Kim Tuckey (01992 564034).

Democratic Services: Gary Woodhall (01992 564470).

Recommendations/Decisions Required

- (1) To note that Licensing Service will undertake the issue of consents under S115E of the Highways Act 1980 with immediate effect; and**
- (2) That the Committee recommends to the Council that:**
 - (a) the delegations set out in the report are adopted;**
 - (b) the Council agree the standard conditions be attached to the consents issued; and**
 - (c) the fees set out in the report are agreed.**

Executive Summary:

There has been an increase in the number of tables and chairs being placed on the pavements in the District. The Highways Act 1980 gives the District Council the power to give permission to allow objects and obstructions to be placed on the public highway. If the Council is asked for a permission it will have to make a decision as to whether to grant the consent.

The Committee is asked to recommend that the Council adopts the scheme of delegations, standard conditions to be imposed on consents and fees to be charged when issuing a consent.

Reasons for Proposed Decision:

The District Council is under an obligation to make a decision, if requested, as to whether to permit objects being placed on the highway. Essex County Council's Highways Department has asked the District Council to issue consents in respect of the increasing number of tables and chairs being placed on the pavements. This report asks the Committee to recommend to the Council that procedures are put in place to regulate the issue of these consents.

Other Options for Action:

None.

Report:

1. The Highways Act 1980 allows applications to be made to this Authority for permission to place tables, chairs, portable advertising boards and similar objects on the pavements which are adopted as highways. .
2. Once an application is made the licensing officer must undertake consultations, prepare a notice and place this outside the premises and serve notice on neighbouring properties that are affected. The consent of the owner of any property adjoining the area of pavement must be obtained. The Council can impose reasonable conditions and the consents must be renewed annually.
3. The suggested fee in respect of a consent of £125 per annum for 5 or more tables (and associated chairs) and £75 per annum for 5 and under. If only chairs, boards or other items are placed on the footpath a fee of £75 will be applicable
4. A list of suggested delegations is set out below.

DELEGATION OF FUNCTIONS

| Matter to be dealt with | Full Committee | Sub Committee | Officers |
|-----------------------------------------------------------------------------------|-----------------------|----------------------|----------------------|
| Application for permission to place objects on the highway | | If an objection | If no objection made |
| All policy matters except the formulation of the policy relating to these permits | All cases | | |

5. Attached to this report below are the proposed conditions of the consent recommended by the Senior Licensing Officer.

Resource Implications:

None.

Legal and Governance Implications:

Section 115E of the Highways Act 1980 gives local authorities the power to grant permission to erect and use a facility on the highway (e.g. tables and chairs and portable advertising board).

Section 115F of the Highways 1980 Act gives the local Authority power to require a payment of such reasonable charges for the grant of a permission issued under section 115E of the 1980 Act and, section 115F gives the authority power to impose conditions.

Safer, Cleaner and Greener Implications:

The Council Plan 2006 – 2010 – A Safe Community.

Consultation Undertaken:

None.

Background Papers:

None.

Impact Assessments:

Risk Management

N/A.

Equality and Diversity:

Did the initial assessment of the proposals contained in this report for relevance to the Council's general equality duties, reveal any potentially adverse equality implications? No

Where equality implications were identified through the initial assessment process, has a formal Equality Impact Assessment been undertaken? No

What equality implications were identified through the Equality Impact Assessment process?
No.

How have the equality implications identified through the Equality Impact Assessment been addressed in this report in order to avoid discrimination against any particular group?
None.

Standard Consent Conditions – Highways Act 1980

1. Except with the previous written consent of the Council, only the amenities detailed on the consent are to be placed on the public highway, and the amenities are only to be placed on the public highway between the times detailed on the consent on the permitted area specified in the consent.
2. Any heaters must be to BS Standards (BS EN 60529:1992 (Electric heaters) and BS EN 14543:2005 (Gas heaters)). Access to the controls/pipe/cylinder on the heaters must be restricted to authorised employees of the premises only. .
3. The Council may require the boundary of the permitted area to be defined by shall be a fixed barrier system that is suitably stable not to be easily blown or knocked over.
4. Clear access to the entrance of the adjoining premises must be maintained at all times.
5. The permit holder is not permitted to make any fixtures, or excavations of any kind, to the surface of the highway without prior written approval of the Council.
6. The permit holder is not permitted to erect the amenities other than in accordance with the provisions of the permit.
7. The permit holder is not to make or cause to be made any claim against the Council in the event of any property of the permit holders becoming lost or damaged in any way from whatever cause.
8. The permit holder is to indemnify and keep indemnified the Council from and against all actions, costs, claims, proceedings, demands and liability, which may at any time arise or be incurred in consequence of the placing and maintaining the amenities on the highway or their removal from the highway.
9. The permit holder will hold a Public Liability Insurance indemnity policy throughout the term of the permit up to the value of £5 million against any liability, loss or damage, claim of proceeding whatsoever arising under Statute or Common Law in respect of the placing and maintaining the Street Furniture on the highway or their removal. The applicant is required to submit proof of this insurance prior to the licence being issued.
10. At the instruction of the Council to remove the Street Furniture during the permit period for the purpose of:
 - (a) Works in or under or over the highway or for using it in connection with works in, under or over land adjacent to or adjoining it as may be required by Epping Forest District Council, the local highways authority or any statutory undertaker or other person authorized by the Council.
 - (b) Use by emergency services.

(c) Any other reasonable cause.

11. Not to cause a nuisance to persons using the highway or any adjacent land or premises. The permit holder is responsible for the keeping of good order within the boundary of the permitted area.
12. To remove the amenities immediately at the end of the permit period or on any sooner revocation of the licence.
13. To reinstate the highway in the event of a breach of the permit. To reimburse Epping Forest District Council if, as a result of a breach of the permit conditions, it is required to carry out any reinstatement works itself.
14. To keep the permitted area free of litter and rubbish, including staining from food and drink spillages.
15. The permitted area must be washed down thoroughly, at the end of every day, using a method sufficient to remove food debris, grease and other spillages that may occur.
16. To make arrangements to regularly check for and to remove litter and rubbish on pedestrian walkways, caused by persons using the amenities, for a distance of up to 10 metres from the boundary of the permitted area.
17. The footway must not be obstructed by patrons standing between tables and between tables and chairs and the curb.
18. The amenities must be removed from the public highway at the end of the permitted period each day and in any event they must be removed when the business is not trading.

Note: Permission to place tables and chairs on the highway does not exempt the applicant from complying with any other legislation applying to the premises. In particular, where the premises are licensed for the sale of alcohol, an extension to the liquor licence must be obtained. Planning permission may also be required.

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