

LICENSING COMMITTEE
11th November 2010

Present: Councillors: Christian Mitchell (Chairman), Leonard Warner (Vice-Chairman), George Cockman, Christine Costin, Leonard Crosbie, Sheila Dale, Brian Donnelly, Duncan England, Mrs Sheila Van Den Bergh

Apologies: Councillors: Peggy Davies, Alan Fisher, Sally Horner, Jim Sanson, Ian Shepherd, Keith Wilkins

LI/9 **MINUTES**

The minutes of the meeting held on 24th June 2010 were approved as a correct record and signed by the Chairman.

LI/10 **DECLARATIONS OF INTEREST**

There were no declarations of interest.

LI/11 **ANNOUNCEMENTS**

There were no announcements.

LI/12 **DRAFT LICENSING POLICY**

The Head of Planning & Environmental Services reported that under the Licensing Act 2003, a statement of the Council's Licensing Policy had to be published every three years.

The policy had to be the subject of public consultation and comments received had to be taken into account before the policy could be approved by full Council and formally adopted. The new policy had to be published at least one month before the Council's current policy expired on 7th January 2011. Therefore the new policy had to be published by 7th December 2010.

At its meeting on 24th June the Committee had agreed a draft policy for consultation. The draft policy had been sent to a wide range of consultees, including statutory consultees, councillors, parish and neighbourhood councils, licensed premises and trade representative bodies. The period of public consultation had closed on 1st October 2010.

Six consultation responses had been received. None of the respondents had chosen to use the questionnaire provided. Two of the responses highlighted issues which were not matters of policy and one was not relevant to the consultation. Two responses were outside the scope of the consultation and the issues highlighted were already covered by or

LI/12 Draft Licensing Policy (cont.)

would require a change of primary legislation. The suggestion in the final response would be contrary to statutory guidance, may be illegal and could be subject to challenge on appeal.

A number of minor administrative amendments to the policy were proposed to ensure that the policy complied with changes to the statutory guidance and other primary legislation affecting the provisions of the Licensing Act 2003.

Once adopted by full Council the policy would be available to all persons in licensed trade who have to make applications in accordance with the policy and to all persons who may be affected by it. A copy would be posted on the Council's website.

RECOMMENDED TO THE COUNCIL

That the draft Licensing Policy be adopted as submitted as this Council's Licensing Policy with effect immediately following the adoption by Council.

RESOLVED

That, once adopted, copies of the Licensing Policy be made available to both the licensed trade and all persons affected by it.

REASONS

- (i) To comply with legislative requirements.
- (ii) To ensure openness and transparency in the Council's decision making.
- (iii) To ensure that those persons affected by the policy have the opportunity to be made aware of the content of the amended policy.

LI/13 **REGULATION OF SEXUAL ENTERTAINMENT VENUES**

The Head of Planning & Environmental Services reported that the Policing and Crime Act 2009 had introduced provisions to reclassify lap dancing clubs, pole dancing clubs and other such establishments as sex establishments under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (the 1982 Act).

LI/13 Regulation of Sexual Entertainment Venues (cont.)

At its meeting on 24th June 2010 the Committee had received a report advising them of the new statutory provisions. The Committee had resolved to adopt the new provisions. It had also been resolved that a draft policy, draft conditions and a timetable for implementation be submitted to the Committee, which were considered at this meeting.

Under the new provisions sexual entertainment venues which sold alcohol or provided other forms of regulated entertainment would still require authorisation under the Licensing Act 2003, as well as a licence under the 1982 Act.

The Committee were presented with a draft Sex Establishment Policy and Licence Conditions for Sexual Entertainment Venues. There was no requirement for the Council to produce such a policy. Although the Council already had standard conditions for sex shops and sex cinemas, none had been adopted for sexual entertainment venues.

It was recommended that the policy and conditions should be adopted. The Council had not previously adopted a policy for sex establishments other than to limit the maximum number which the district could have to one. The adoption of the new policy would allow each application to be determined on its merits.

It was proposed that a fee of £3375 be charged for each application, each licence renewal and each licence transfer. The Provision of Service Regulations 2009 required that any such fees charged must be reasonable and proportionate to the costs incurred. They could not be set to either act as an economic deterrent or to raise revenue. Officers had arrived at this cost based on the cost of determining an application.

The suggested timetable anticipated that a Council resolution approving the adoption of the provisions would be attained at the Council meeting on 15th December 2010. Public notices that the Council resolution had been passed would then be published in the local newspaper on both 13th and 20th January 2011. The amended provisions would come into effect on 22nd February 2011. This timetable would fulfil the procedural requirements prescribed in Section 2 of the 1982 Act for the adoption of the provisions.

There would be a transitional period of 12 months beginning with the date the provisions came into effect. Since there were no existing operators of sex establishments in the Horsham District the arrangements in this period would apply only to new applicants. During the first six months of the transitional period applications could be submitted to the Licensing Authority but no licence would be granted. At the end of the six month period the Licensing Authority would have to consider all applications received and would have to consider any applications received after this time individually.

LI/13 Regulation of Sexual Entertainment Venues (cont.)

RESOLVED

- (i) That the provision of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 be adopted.
- (ii) That the suggested timetable for implementation of the provisions be agreed, as submitted.
- (iii) That the draft Sex Establishment Policy be approved, as submitted.
- (iv) That the fees for sex establishment licence applications be approved, as submitted.
- (v) That the Licence Conditions be approved, as submitted.

REASON

To ensure the Council has adequate controls over sexual entertainment venues.

LI/14 APPLICATION FOR STREET TRADING CONSENT: A24 (SOUTH)

The Head of Planning & Environmental Services reported that Ms Emma Appleton and Mr Paul Buckham of Saxon Farm, Emma Lane, Brooks Green, West Sussex had applied for annual street trading consent under the Local Government (Miscellaneous Provisions) Act 1982 to sell hot and cold food and drink from a catering unit located in the lay-by on the A24 south, approximately 200 metres from the Shell Service Station.

The A24 was a dual carriageway subject to a 70 miles per hour speed limit.

West Sussex Highways objected to the application on safety grounds. The A24 was a principal road and roadside trading on a principal was an offence under Section 147A(1).

Sussex Police also objected to the application on safety grounds. The application had not been supported by a site specific risk assessment. The lay-by in question was relatively short and was not segregated from the main carriageway. Damage could potentially be caused to the highway infrastructure as a result of vehicles overrunning the kerb line and layout of the lay-by. Since the carriageway was on an incline large goods vehicles would take longer to build up speed away from the site.

LI/14 Application for Street Trading Consent: A24 (south) (cont.)

There was restricted visibility for drivers both approaching and exiting the lay-by. The potential for conflict between vehicles emerging from the lay-by and vehicles travelling at speed in lanes one and two would be increased. The lay-by would potentially not be available for other road users. There was no street lighting at the site which would therefore be inadequately illuminated. There were also no public convenience or waste facilities at the site.

The applicant had paid the current fee of £667.00 for an annual street trading consent, which was refundable if the application were to be refused.

RESOLVED

That the application by Ms Emma Appleton and Mr Paul Buckham for street trading consent for the operation of a mobile catering unit at the lay-by on the A24 south, approximately 200 metres from the Shell Service Station, between the hours of 5.00am and 12.00am Monday to Sunday be refused on the grounds of highway safety.

The meeting ended at 6.31pm having started at 5.30pm

CHAIRMAN