

LICENSING COMMITTEE

12 February 2013

Present:

Councillor Keith Owen (Chair)

Councillors Clark, D J Henson, Leadbetter, Macdonald, Payne, Pearson, Robson, Ruffle, Shiel, Tippins and Winterbottom

Apologies:

Councillors Dawson and Choules

Also present:

Assistant Director Environment, Corporate Manager - Legal, Licensing Solicitor, Solicitor, Principal Licensing Officer and Member Services Officer (SJS)

1 **Minutes**

The minutes of the meeting held on 27 November 2012 were taken as read and signed by the Chair as a correct record.

2 **Declarations of Interest**

No declarations of interest were made by Members.

3 **Consultation on the formulation of policy for Sex Entertainment Venues & other Sex Establishments**

The Assistant Director Environment presented the report seeking to proceed with a public consultation exercise in order to inform any revision of the current interim policy on sex establishments previously adopted by this Committee in July 2012. Members were asked to consider the proposed consultation questionnaire and confirm the timetable for considering responses from the consultation.

The Assistant Director Environment addressed the position with regard to an alternative questionnaire that had been circulated. He clarified the difficulties of replacing the published questionnaire wholesale and the need to protect the Council from legal challenge.

Members were updated on the background and consultation process. They were advised that the questionnaire had been modelled on one used by the City of London where expert legal advice had been sought. The Council needed to have a robust policy that was defensible to challenge.

The Assistant Director Environment advised of the discretionary grounds and that further work would be undertaken with the Community Consultation Officer and Equalities and Diversity Officer to ensure that the questionnaire was in plain English and the equalities questions were in line with those usually used on Council forms. He reported that ground 5 would be amended to read: *The grant of the licence would be inappropriate having regard to the character of the neighbouring properties.*

Members were circulated with an extensive list of organisations to be consulted.

In response to Members, the Assistant Director Environment clarified the following:

- if Members were aware of other organisations which they feel should be consulted please inform officers
- this consultation was not a referendum; the responses would be brought back to the Licensing Committee for consideration
- the details regarding name/address/phone number should help to deter people from filling out multiple questionnaires;
- expert legal advice from Philip Kolvin QC had been sought on the need for the consultation process
- the final decision on the policy would be made by this Committee
- the questionnaire contained questions on the locality and the neighbourhood (grounds four and five, questions ten and twelve)
- an Equality Impact Assessment was not required, however, due regard to the duties under the Equality Act 2010 had been taken in relation to the consultation

During discussion, Members raised the following points:

- need to ensure that the questionnaire was in plain English
- concern regarding the use of the word locality
- should the layout be changed to include the preamble before each relevant question
- why were the views expressed on grounds of morality not to be included?

The Chair advised that any amendments, including the use of plain English, could be undertaken by officers in consultation with the Chair of Licensing Committee.

The Assistant Director Environment informed Members that the consultation needed to cover all sex establishments, as the interim policy applied to all such.

The Licensing Solicitor clarified that an Equality Impact Assessment would be provided when the draft policy was brought back to the Committee in July. Locality was a term not defined in the legislation and was intended to afford the local authority flexibility in the scope of its policy drafting as well as the determination of individual applications. It would be for a party to an application to establish locality on the basis of an area that could be said to be affected by the presence of a sex establishment. This might be explained further in the preamble to the questionnaire but one of the aims was that defined localities would emerge as a result of the consultation process.

RESOLVED that:

- (1) delegated authority be given to the Assistant Director Environment to make necessary amendments to the preamble to the consultation questionnaire and, where possible, to ensure it is plain English in consultation with the Chair of the Licensing Committee;
- (2) public consultation on the Sex Establishment Policy be undertaken, commencing 1 March 2013 until 31 May 2013, as outlined in this report;
- (3) officers report the outcome and conclusions of the consultation to this Committee in July 2013; and
- (3) any revision to the Sex Establishment Policy be approved by this Committee.

(Report circulated)

4 **Proposals for Deregulating Entertainment Licensing**

The Principal Licensing Officer presented the report informing the Licensing Committee of proposed changes to the Licensing Act 2003 and advising on the potential impact this new legislation would have when in place.

Members were updated on the background, the proposals for deregulation, suspension of licensing between 0800 hours and 2300 hours and exemptions.

RESOLVED that the report be noted.

(Report circulated)

5 **Local Government (Access to Information) Act 1985 - Exclusion of Press and Public**

RESOLVED that, under Section 100A (4) of the Local Government Act 1972, the press and public be excluded from the meeting for the consideration of the following item on the grounds that it involved the likely disclosure of exempt information as defined in Paragraphs 1 and 2 of Part I, Schedule 12A of the Act.

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982

6 **Application for the issue of a Street Trading Consent (Mr AK)**

Councillor Payne clarified his position with regards to the objector.

The Principal Licensing Officer reported that Mr AK had applied for a consent to street trade for a period of three months in Hele Road (outside Exeter College) Exeter. He would be selling hot dogs from a traditional mobile hot dog vending cart. The dimensions of the cart were 150cm wide, 150cm in length and 140cm in height. The hours requested for trading would be Monday to Friday during the opening hours of Exeter College.

Mr L (representing Mr AK) attended the meeting and spoke in support of the application.

Mr S attended and spoke objecting to the application.

Councillor Prowse spoke raising concerns regarding the application.

The Licensing Committee retired to make its decision.

RESOLVED that consent be granted as applied for, for a period of three months.

(Report circulated to Members)

The meeting commenced at 5.45 pm and closed at 7.35 pm

Chair