

EAST DEVON DISTRICT COUNCIL



LICENSING POLICY CONSULTATION

LIQUOR, PUBLIC ENTERTAINMENTS
& LATE NIGHT REFRESHMENTS

REPRESENTATIONS AND RESPONSES

under the

LICENSING ACT 2003

Consultation Period: September 2010 to November 2010

November 2010

Table Headings

1 Reference number	A unique number given to the particular representation
2 Policy paragraph number	This identifies the section of the Policy to which the representation relates
3 Respondent	The identification of the individual, company or organisation responding
4 Details of comments	A copy of the representation made
5 Appraisal of comments	Sets out the appraisal of the representation
6 Council's Response	Details the Council's response to the representation – i.e. whether or not a change is proposed

Consultation Responses received – August/November 2010

1	2	3	4	5	6
D&CP1	General comment	Devon & Cornwall Police	<p>I have received East Devon District Councils Licensing policy on behalf of the Chief Constable as the Inspector heading on Licensing for the Force.</p> <p>As you know your document aligns with national Strategies, guidance and legislation. It is helpful from a policing context as it provides further guidance to licence holders which is in-sync with that provided by the Constabulary.</p> <p>I have no amendments or additions to ask you to consider.</p> <p>Thank you for the opportunity to influence this important document.</p>	Comments Noted	No
EVH1	General	St Andrews Hall,	<p>As Honorary Secretary of the St Andrews Hall, Exton Committee I consider that the changes proposed are reasonable³ and therefore support the proposals.</p>	Comments Noted	No

1	2	3	4	5	6
WPC1	General Foreword	Woodbury Parish Council	Despite these two statements the policy still does not recognise Parish Councils as 'Interested Party' to be advised or consulted, either by EDDC or the individual applicant, on individual applications.	The legislation is very prescriptive on those who are permitted to give a view on an application made to a Licensing Authority. The Licensing Authority has received legal opinion that the legislation does not permit Town and Parish Councils on their own right to be consulted in the case of applications made to it. Town and Parish Councils however are permitted to represent people living in the 'vicinity' of the premise for which the application is made.	No
ETC1	1.6	Exmouth Town Council	Substitute 'Neighbouring authorities and town and parish councils will be consulted where appropriate' with 'The seven East Devon towns should be consulted at all times and neighbouring authorities and parish councils will be consulted where appropriate'.	The Licensing Authority is very conscious of the need to involve town and parish councils in the licensing process and would normally consult town and parish councils whenever possible however it is not always appropriate to consult on all issues. The policy states that the Licensing Authority will consult town and parish councils where appropriate. It is anticipated that generally consultation would take place on most occasions.	No
WPC2	1.6	Woodbury Parish Council	<i>Neighbouring authorities and town and parish councils will be consulted where appropriate.</i> How will Parish Councils be consulted if they are not given the status of 'Interested Party'?	This section of the policy relates to the Licensing Authority's general proposals to achieve the licensing objectives and for that purpose a town or parish council does not need to be an 'Interested Party' to be consulted and have an input.	No
WPC3	2.3 & Definition Pages	Woodbury Parish Council	<i>In Appendix B 'Interested Parties' specifically excludes Parish Councils.</i> <i>In the guidance note following clause 2.3 it states:-</i> <i>The licensing authority may consult beyond the statutory requirements, . . .</i> Will EDDC consider including Parish Councils under this heading?	This section of the policy relates to who the Licensing Authority will consult when reviewing their Licensing Policy including general proposals to achieve the licensing objectives and for that purpose a town or parish council does not need to be a 'Interested Party' to be consulted and have an input.	No

1	2	3	4	5	6
ETC2	3.4.1	Exmouth Town Council	<p>(1) Extend 'The use of toughened glass/polycarbonate or other plastic/non glass bottles/receptacles' with should be encouraged.</p> <p>(2) Add mid sentence 'Use of the appropriate number of trained security personnel, who have undergone CRB clearance and wear indentifiable uniform'.</p>	<p>(1) Comment Note</p> <p>(2) All “security personnel” must by law be SIA qualified and have under gone a CRB check. When working they must clearly wear their SIA badge. The suggested changes to the policy would seem to duplicate what is already required by legislation.</p>	<p>No</p> <p>No</p>
WPC4	3.4.1	Woodbury Parish Council	<p>Under clause 3.4.1 Prevention of Crime and Disorder there are additional powers to help address issues with binge drinking and excessive consumption of alcohol. It is hoped that EDDC will use these powers wisely to address these serious issues.</p>	<p>Comments noted This section refers to crime and disorder issues that should be dealt with within operating schedules by applicants. It is not powers that EDDC has - as suggested by this comment. However the Licensing Authority does actively encourage applicants to address these issues within their operating schedules.</p>	<p>No</p>
EDDC CLLR1	3.4.2	EDDC Councillor Miss Elson (Halsdon Ward)	<p>Late Night Take-a-Ways need to have conditions that include cleaning outside, their premises for a specified area, to prevent grease on the pavements or in the vicinity that may cause accidents to people when walking on them.</p>	<p>With the exception of the mandatory conditions set by central government the Licensing Authority (LA) can only require specific conditions being placed on a licence following representations made by a “Responsible Authority” or an “Interested Party”. Even then the conditions must relate to the four Licensing Objectives. The Policy at section 3.4 sets out the kind of standards the LA will expect to see addressed in Operating Schedules attached to Premises Licences. As Public Safety is an objective it would seem quite proper to expect operators of premises to ensure the safety of pedestrians by preventing the pavements in the vicinity of their premises becoming slippery due to spread of grease from fast foods dropping on the pavement surface.</p>	<p>Yes</p>

1	2	3	4	5	6
EDDC CLLR3	3.4.3	EDDC Councillor Miss Elson (Halsdon Ward)	Entertainment licences for outdoor events must be controlled by noise and control of audience with limits on time according to the nearness of residents in an area e.g. The Strand, Exmouth and Manor Grounds residents live very nearby and therefore a limit of 10.30pm.	The Police and the Council's Environmental Health Noise Team together with persons residing in the vicinity are able to make representations on all applications for Premises licences and the issues raised in this comment would be addressed at that point. However in the case of Temporary Event Notices the opportunity to restrict these are currently very restricted as only the police can object and only then on crime and disorder issues. There are some proposals being considered by government to amend the current legislation which may improve this situation.	No
EDDC CLLR2	3.4.3	EDDC Councillor Miss Elson (Halsdon Ward)	Sufficient litter bins are provided for rubbish. They should contribute to the cost of litter bins and emptying within a certain radius of premises.	With the exception of the mandatory conditions set by central government the Licensing Authority (LA) can only insist on specific conditions being placed on a licence following representations made by a "Responsible Authority" or an "Interested Party". Even then the conditions must relate to the four Licensing Objectives. The Policy at section 3.4 sets out the kind of standards the LA will expect to see addressed in Operating Schedules attached to Premises Licences. As Prevention of Public Nuisance is an objective it would seem quite proper to expect operators of fast food premises to provide sufficient litter bins in the vicinity of the premises to collect the rubbish associated with this type of late evening operation. However currently there is no provision in the licensing legislation to require operators of licensed premises to make a contribution for cleaning up or collecting rubbish; trade refuse is dealt with under separate legislation.	Yes

1	2	3	4	5	6
EDDC CLLR4	5	EDDC Councillor Miss Elson (Halsdon Ward)	Towns should be able to have a saturation policy to limit the number of take-a-ways in a given area - Exmouth it is The Strand.	The policy at section 5 does provide for saturation policies and provides an explanation. However they are normally introduced to restrict the number of premises that sell alcohol where exceptional problems of disorder and nuisance are occurring in an area. There should be an evidence basis for the decision by the LA to bring in a cumulative impact policy. This evidence would normally be provided by one of the “Responsible Authorities” or “Interested Parties” who would request the LA to consider the imposition of a cumulative impact policy.	No
ETC3	5.7	Exmouth Town Council	The last item 'enforcement action against those selling alcohol to people who are already drunk' to be placed at the top of section 5.7 as opposed to the end.	The items in the list are not listed in order of preference or importance. The list is intended as a guide.	No
ETC4	12.1	Exmouth Town Council	A request that the Licensing and Enforcement Committee should have a member from the locality when considering applications and no person alone should make a decision.	The delegations under the Licensing Act 2003 follow the DCMS's Guidance issued under Section 182 of the Licensing Act 2003. This means that with the exception of those that have no representations made against them all premises applications are heard by a Sub Committee of the Licensing and Enforcement Committee. The Sub Committees, as required by the legislation, is made up of three Councillors drawn from the 15 person Licensing and Enforcement Committee. Sometimes local knowledge may assist a Sub Committee, on other occasions local connections could give rise to a conflict of interest. The composition of sub committees takes these issues into account on a meeting by meeting/premise by premise basis. The availability of 15 members means that over the year members are drawn from across the district.	No

1	2	3	4	5	6
ETC5	12.9	Exmouth Town Council	Interested Parties should include a Town Councillor.	The legislation is very prescriptive on those who are permitted to give a view on an application made to a Licensing Authority. The last government made some alteration to the definition of “Interested Parties” by designating all members of the relevant licensing authority as “Interested Parties” This means that all District Councillors are “Interested Parties” however this change in definition did not extend to either County or Parish and Town Councillors. It is beyond the District Council’s authority to designate town councillors as “Interested Parties”.	No
ETC6	15.1	Exmouth Town Council	No reference is made as to how Anti Social Behaviour would be policed?	This list provides as a guide a range of strategies for dealing with anti social behaviour and not how it is to be policed.	No
STC1	General & Definition Pages	Seaton Town Council	As per previous requests from not only ourselves and other Councils we wish to be considered on all licensing applications.	See WPC1	No
ETC7	Definition Pages	Exmouth Town Council	Under section 'An Interested Party' A request to amend an elected Councillor of the District Council or Town Council (this does not include County or Parish Councillors)'	See ETC5	No
STC1	Definition Pages	Sidmouth Town Council	The Town Council considers that the District Council’s interpretation of the Act is inaccurate and that Town Councils should be considered ‘Responsible Authorities’. The Council’s research shows whilst some Town Councils felt as frustrated as Sidmouth at not been invited to comment, a large majority were consulted and treated as ‘interested parties’. Sidmouth Town Council would ask that East Devon District Council look again at the terms of the Act and interpret in a similar manner to other areas.	The legislation [LA 2003 Section 13(4)] provides a very strict definition of “Responsible Authorities” and the District Council cannot depart from that definition which does not include town or parish councils. In relation to the request for town and parish councils to be treated as “Interested Parties” please see WPC1 . However the Licensing Authority will be keep this issue under review.	No

1	2	3	4	5	6
BPC1	General	Branscombe Parish Council	Branscombe Parish Council would like you to consider adding “all relevant planning permissions should be submitted with each license application to show that the premises in which the event is to be held has the appropriate planning permission in place”.	The Licensing Authority has in the past considered this issue however the guidance issued with the legislation and our own legal advice is that planning is a separate issue and a matter for the Planning Authority.	No
EDDC CLLR5	General	EDDC Councillor Miss Elson (Halsdon Ward)	No drinks licences should be issued in the NO DRINK ZONES.	Generally only Temporary Event Notices are used to permit the sale of alcohol in No Drink Zones and Police are the only authority who can object. A point worth noting if a TEN is in force for a No Drinking Zone then the powers relating to the No Drinking Zone cease to exist for the duration of the TEN.	No
EDDC CLLR6	General	EDDC Councillor Miss Elson (Halsdon Ward)	Licensed premises should contribute to the cost of Street CCTV that prevent disorder.	Currently there is no provision in the legislation to require operators of licensed premises to make a contribution towards policing or the cost of street based CCTV. However there are proposals being considered by government which may change the legislation to permit some recharging of costs to operators of licensed premises. Although not helping with the cost of official street based CCTV the police sometimes request that the premises CCTV cameras cover outside areas if they feel it is proportionate to the risk of crime and disorder outside the premises.	No