

EAST DEVON DISTRICT COUNCIL

Minutes of a Meeting of the Licensing & Enforcement Committee

Held at Knowle, Sidmouth on Monday, 21 November 2005

Present: Councillors:
R H H Cross (Chairman)
Mrs C E Drew (Vice Chairman)

D J Cox	Mrs A E Liverton
J H Glanvill	J A Knight
M J L Green	R Mudge
Mrs M L Hardy	B Nicholson
D R H Hull	T G Reeves
S Hughes	

Also Present: Councillor
A J Wilkinson

Apologies: Councillors:
Mrs M A Boote
Mrs F Newth

The meeting started at 9.30 am and ended at 11.35 am.

*7 **Minutes**

The minutes of the meeting of the Licensing & Enforcement Committee held on 19 September 2005, were confirmed and signed as a true record.

*8 **Urgent item**

(Minute No 13 below refers)

Appeal by The Viper Public House, 2 Victoria Street, Exmouth

The Chairman agreed to take this item as an urgent item after the public (including the press) had been excluded in order to give members an opportunity to discuss the decision of the Magistrates Court in respect of the above appeal.

*9 **Exempt Information**

RESOLVED that the classification given to the documents to be submitted to the Sub-Committee be confirmed and that the item relating to exempt information referred to in minute 8 above, be dealt with under Part B of the agenda.

*10 **Environmental Health records and responses to noise complaints**

Consideration was given to the report of the Head of Environmental Health & Health Equalities on the Environmental Health services approach to dealing with licensing applications and noise complaints. Members noted that the Environmental Health section dealt with 4 – 5000 service requests and over 2000 inspections during a year. Until recently the recording of an incident was related to the needs of the service and did not record

*10 **Environmental Health records and responses to noise complaints**(Cont)

Issues of relevance to the requirements of the Licensing & Enforcement Sub Committee and Licensing Act 2003. However, procedures were being changed to allow recording on the computer programme of relevant items. Staff training would be improved to ensure that all relevant information was logged.

In relation to the Out of Hours work provided by the service, it was noted that the service was run via calls to Home Safeguard, who then called one of the two officers on-call who would attend the complaint. On occasions, particularly at weekends, it was possible that many calls could come in at one time and due to the need to have two officers attend a complaint and the large geographical spread of the area, some complaints could not be answered quickly. The Out of Hours service run by the Council was not a statutory requirement and was run by officers from the Environmental Health service who often worked the following day. A review of the terms of reference of the Environmental Health 'Out of Hours' service would be held as the Head of the Service considered that too much was being expected of officers at present. It was noted that any review could have cost implications.

Members acknowledged the dedication and hard work of those Environmental Health Officers who took part in the Out of Hours service.

RESOLVED

- 1) that the report be noted;
- 2) that a further report be considered by the Committee following a review of the terms of reference of the Environmental Health 'Out of Hours' service response procedures;
- 3) that the Environmental Health service consider logging all calls by post code and reconsidering their terms of reference.

*11 **Quarterly progress report on Licensing Act 2003 Implementation**

Consideration was given to the report of the Head of Legal and Member Services which gave an up date on the District Council's progress regarding the implementation of the Licensing Act 2003 and the new responsibilities placed on the authority. Members noted that Officers were very pleased with the progress made by the authority and the way in which hearings were being conducted. Members noted up to 11 November 2005. the sub-committee had sat on 24 occasions hearing 50 cases. 35 cases had been cancelled by agreement with the parties. In total 619 applications had been received with 200 variations. The mediation work carried out by the Licensing Officers, thus avoiding the need for a hearing, had been most appreciated.

The Council currently had received five appeals to the Magistrates' Court against decisions by the Licensing & Enforcement Sub-Committee. The first involving the Viper Public House, 2 Victoria Street, Exmouth had been heard by Honiton Magistrates Court sitting on 16 and 17 November. The Court had decided to allow the appeal giving the Viper the extended hours asked for, in full, subject to additional conditions requiring the provision of CCTV at the rear of the premises, a ban on patrons entering or re-entering after 1.30am and the requirement that "substantial" food be provided whenever alcohol was sold. Whilst stating that they did not criticise the Council's decision, or the way it had been made, the magistrates also awarded costs of £4,400 against the Council, payable within 28 days.

The decision of the Magistrates Court turned on how the evidence given should be dealt with as they considered the police evidence of problems with late night disturbance in

***11 Quarterly progress report on Licensing Act 2003 Implementation (Cont)**

Exmouth town centre could not directly be attributed to the Viper. The Magistrates also had the advantage of hearing evidence from two local residents, which the Sub-Committee did not, both of whom told of late night disturbance in the area. However, the Magistrates felt that as the disturbance could not directly be laid at patrons of the Viper it was wrong to penalise them. The need to have financial provision within the revenue budget for dealing with appeals was noted.

RESOLVED

- 1) that the report be noted;
- 2) that the Licensing and Legal section be thanked for their work in implementing the Licensing Act 2003.

***12 Exclusion of the Public**

RESOLVED

that under Section 100(A) (4) of the Local Government Act 1972 the public (including the press) be excluded from the meeting as exempt information, Para 12, Any instructions to counsel and any opinion of council, Schedule 12A of the Local Government Act regarding the item referred to in minute *8, is likely to be disclosed.

***13 Appeal by The Viper Public House, 2 Victoria Street, Exmouth**

The Head of Legal & Member Services further advised members on the implications of the decision by the Honiton Magistrates Court on 17 November 2005, to allow, in full, the appeal by The Viper Public House, 2 Victoria Street, Exmouth, and to award costs of £4,400 against the Council.

RESOLVED

- 1) that the Head of Legal & Member Services obtain Counsel's opinion on the decision by the Magistrates Court on the appeal by the Viper Public House;
- 2) that a meeting of the Licensing & Enforcement Committee be held after Counsel's opinion is obtained to discuss the way forward.

Chairman Date