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Licensing Committee (Miscellaneous)

Tuesday 22 February 2011

PRESENT:

Councillor Mrs Bowyer, in the Chair.

Councillor Delbridge, Vice Chair.

Councillors Drean, K Foster, Gordon, Lock, Mrs Nicholson, Rennie, Williams and Wright.

Apologies for absence: Councillors Browne, Mrs Nelder and Reynolds

Also in attendance: Kathy Davey - City Centre Operations and Street Trading Manager, Marie Price - Licensing Officer, Dave Hughes - Plymouth City Council Senior Environmental Health Officer, Fred Prout – Devon and Cornwall Police Licensing Officer and Simon Martyn – Devon and Somerset Fire and Rescue Service, Andy Netherton – Unit Manager (Safety, Health and Licensing) and Ann Gillbanks – Senior Lawyer.

The meeting started at 10.00 am and finished at 11.10 am.

Note: At a future meeting, the committee will consider the accuracy of these draft minutes, so they may be subject to change. Please check the minutes of that meeting to confirm whether these minutes have been amended.

18. DECLARATIONS OF INTEREST

There were no declarations of interest made by Councillors in accordance with the code of conduct.

19. MINUTES

Agreed that the minutes of the 21 December 2010 Licensing Committee (Miscellaneous) and 8 February 2011 Licensing Sub Committee were approved as a correct record.

20. CHAIR'S URGENT BUSINESS

The increasing problem of intimidating and often aggressive charity fundraising individuals in the city centre was raised under this item. The City Centre Operations and Street Trading Manager informed the Committee that she was aware of the problem however it currently couldn't be enforced as it did not fall under street trading regulations.

Agreed that a letter be sent to Alison Seabeck MP, Oliver Colville MP and Gary Streeter MP requesting that they support the Licensing Committee and citizens of Plymouth by raising this issue at Parliament.

21. Order of Business

The order of business on the agenda was amended as set out below in the minutes.

(In accordance with Section 100 (B) (4)(b) of the Local Government Act, 1972, the Chair brought forward the above items for consideration because of the need to inform Councillors and seek a decision).

22. **STREET TRADING REPORT**

Kathy Davey, City Centre Operations and Street Trading Manager provided the Committee with an update on street trading.

The Committee was informed that street trading sites and fees had recently been reviewed due to several factors such as shops closing, the development of the west end of the city and the current economic climate which all affected trade.

In response to questions raised it was reported that –

- (a) the fee for one of the ice cream sites at Madeira Road had increased in order to match the increase on the other site, this was due to the same footfall numbers and also the unrealistic fee set originally;
- (b) all ice cream vendors had applied for their sites again indicating that they had accepted the increase in fees charged;
- (c) the vacant ice cream site in at James Street and the trading sites at 1A and 1B Frankfort Gate should be closed due to the business rates still charged for these vacant sites;

Agreed that –

- 1 the consent dates for 2011/2012 are approved;
- 2 the proposed new site identified as Sundial/Armada Way opposite MadHouse known as Sundial West is approved;
- 3 the long standing vacant sites 1A and 1B at Frankfort Gate and Ice Cream site at James Street, Devonport are removed;
- 4 the consent fees set out in Appendix 2 of the report, for 2011/2012 are approved;
- 5 the Assistant Director for Economic Development has delegated authority to approve within Committee policy the issuing of Consents to existing city centre traders seeking to continue trading during 2011/2012;
- 6 the Assistant Director for Economic Development has delegated authority to approve within Committee policy the issuing of Consents to new traders for vacant sites;

- 7 the Assistant Director for Economic Development has delegated authority to approve within Committee policy short-term street trading consents in association with other city centre events and commercial activity;
- 8 the Assistant Director for Economic Development has delegated authority to approve and set fees for ad hoc street trading applications, within Committee policy;
- 9 authority is delegated to the Licensing Sub Committee (Miscellaneous) to hold a special meeting in March 2011 to allocate Ice Cream Consent sites.

The Chair commended Kathy on her well written report.

23. **INFORMATION REGARDING DELEGATED DECISIONS FOR APPLICATIONS FOR THE GRANT / VARIATION OF PREMISES LICENCES AND CLUB PREMISES CERTIFICATES.**

Marie Price, Licensing Officer, provided the Committee with an update on seven applications for the grant / variation of premises licences and club premises certificates that had been mediated by officers through delegated powers.

In response to questions raised it was reported that –

- (a) the majority of objections to licensing applications came from Environmental Health, the Police or other interested parties;
- (b) a Bill was being considered by Parliament which may change regulations surrounding representations to licensing applications to enable anyone, despite of their vicinity to the licensed premises, to make an objection;

Agreed that the report be noted.

24. **ENFORCEMENT ACTIVITY REPORT**

Dave Hughes - Plymouth City Council Senior Environmental Health Officer, Fred Prout – Devon and Cornwall Police Licensing Officer and Simon Martyn – Devon and Somerset Fire and Rescue Service provided the Committee with an update of enforcement activity in Plymouth to give an overview of the various aspects of the work undertaken by agencies involved regulating the Evening and Night Time Economy during 2010.

The Committee was informed that –

- (a) this was the third enforcement activity report provided to the Committee;

- (b) in 2010 a three year licensing policy review was undertaken, this amended policy would form a framework for licensing decisions to be made; the Gambling Fees annual report was also completed;
- (c) officers had conducted a test purchase operation in October 2010 designed to test gambling establishments and their ability to restrict underage individuals from using age restricted gambling machines in their premises;
- (d) in the test purchasing operation for gambling establishments 24 premises were visited over a two day period; seven operators and four betting shops were found to allow underage individuals to gamble on age restricted machines. These premises were subsequently visited and steps put in place to prevent this from reoccurring;
- (e) the test purchasing operation for gambling premises was undertaken with the knowledge of the Gambling Commission; the Commission received the report and operation very favorably and stated that this was the second largest operation to have taken place in the country;
- (f) a draft Sex Establishment Policy was launched for public consultation on 20 January 2011; full Council would have the opportunity to ratify the policy;
- (g) Councillors of the Licensing Committee (Miscellaneous) gave permission for a public consultation to take place regarding a Designated Public Places Order (DPPO) for Freedom Fields and Tothill Park; the consultation and accompanying report would be submitted to the Licensing Committee (Miscellaneous) on 15 March 2011;
- (h) licensed premises received an addendum to their licenses stipulating new mandatory conditions such as a ban on irresponsible drinking and access to free tap water and requested that they be attached to the existing license;
- (i) the coalition government had published a consultation document entitled 'rebalancing the Licensing Act' that sets out proposals to amend the Licensing Act 2003; officers viewed the proposals favorably;
- (j) fewer reviews of licensed premises had taken place in 2010 compared to 2009; it was considered that this was due to issues being resolved through the mediation process as enforcement procedures had stayed the same;
- (k) officers from responsible authorities such as environmental health, the police and fire brigade had undertaken a joint visit to 42 licensed premises in December 2010 to inspect several licensing conditions;

- (l) throughout 2010 the Fire Authority has continued to carry out its inspection duties, under the Regulatory Reform (Fire Safety) Order using two approaches; the first a Fire Safety Check and the second Fire Safety Audits;
- (m) Fire authority operational crews conducted 86 Fire Safety Checks within licensed premises to confirm that the general fire precautions were of a reasonable standard and that a fire risk assessment had been conducted; of the 86 checks, 21 resulted in audits from fire safety officers
- (n) the fire safety audit was based on the Chief Fire Officers Association nationally approved enforcement policy and can result in five levels of enforcement:
 - Broadly compliant
 - Non compliant with minor deficiencies
 - Action plan
 - Enforcement notice
 - Prohibition notice - prosecution can be considered particularly where dangerous conditions are found;
- (o) Fire Safety Officers carried out 40 audits within Licensed Premises, 21 of these resulted from Fire Safety Checks and 19 resulted from a pre-programmed inspection strategy and more importantly joint agency work such as a late night operation carried out with officers from Environmental Health, Licensing, the Police and Fire Service in early December 2010;
- (p) of the 40 audits, two resulted in a Prohibition (on inappropriate sleeping arrangements), four resulted in Enforcement Notices, five resulted in Action Plans, 14 resulted in Notification of Deficiencies and 15 were broadly compliant;
- (q) the total number of audits in Licensed Premises was double the number carried out in 2009 in similar premises;

Agreed that the report is noted.

25. **REVIEW OF FEES PAYABLE UNDER THE GAMBLING ACT 2005 AND THE GAMBLING (PREMISES LICENSING FEES) (ENGLAND AND WALES) REGULATIONS 2007**

Andy Netherton – Unit Manager (Safety, Health and Licensing) provided the Committee with a report on the Gambling Act.

The Committee was informed that –

- (a) the Gambling Fees were set by the Committee subject to a statutory maximum;

- (b) fees have been set annually since 2007 and have been set at the maximum level;
- (c) the fees are to be set to allow the Licensing Authority to recover all costs associated with the operation of the system;
- (d) the projected fee income for 2010/11 was £61,000;
- (e) the projected fee income for 2011/12 was £57,000;
- (f) costs detailed in Appendix C of the report have reduced from last year due to a reduction in central support;
- (g) the contingency budget has reduced from 10% to 5% based on the reduction in the threat of a legal challenge;
- (h) it was suggested that fees remain at the maximum for this year;
- (i) all departments are looking at ways to reduce non service related work demands; therefore it was suggested that future reports on fees be brought to the Committee where the difference between income and expenditure is 10% or greater;
- (j) in Appendix A of the report the annual fee for family entertainment centre's should read £750.00

Agreed that –

- (1) the fees for gambling premises licences remain at the maximum levels as specified in the Gambling (Premises Licence Fees) (England and Wales) Regulations 2007 as set out in Appendix A.
- (2) a further report be submitted if the difference between future fee income and future expenditure is 10% or more.

26. **EXEMPT BUSINESS**

There were no items of exempt business.