



Leigh-on-Sea Town Council

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Chairman: Cllr Pat Holden
Vice Chairman: Cllr Carole Mulroney
Town Clerk: Paul Beckerson



14th July 2011

Notice is hereby given that the next meeting of the **Licensing Sub-Committee** of the Leigh-on-Sea Town Council will take place on **Thursday 21st July 2011 at 7.15 pm** at the Town Council office 67 Elm Road, Leigh-on-Sea, when it is hoped to transact the following business.

AGENDA

1. APOLOGIES FOR ABSENCE
2. DECLARATION OF MEMBERS INTERESTS
3. MINUTES OF PREVIOUS MEETING – 18th May 2011
4. LICENSING APPLICATIONS – LICENSING ACT 2003

Members are asked to note that applications can only be considered on the following criteria:

- **Public Nuisance**
- **Crime and disorder**
- **Public Safety, and**
- **The protection of Children from harm**

a) Café Del Ora 1452 London Road

Application for Premises Licence for the sale of alcohol for consumption on the premises daily from 8.00am to 8.00pm (extended to 11.00pm on Christmas Eve, New Years Eve, Valentines Day and Sundays preceding Bank Holiday Mondays).

b) The Estuary Gourmet Foods (Delicatessen and Off-Licence), 51 Broadway

Application for Premises Licence for the playing of Background Music between the hours of 9.00am and 9.00pm Monday to Sunday and the supply of alcohol off the premises between 9.00am and 9.00pm Monday to Sunday.

c) La Belle Epoque, 92 Leigh Road

Application for a Premises Licence for the showing of French Films on a TV screen, whilst the premises are open between 8.30am and 10.30pm Monday to Sunday (and on New Years Eve from 8.30am until 10.30pm the following day). Live Music, a maximum of two musicians playing French music between 7.00pm to 10.30pm Friday to Saturday (and on New Years Eve from 7.00pm until 2.00am the following day). Recorded Music, background music between 8.30am until 12.30am Monday to Sunday (and on New Years Eve from 9.00am to close of business the following day). Late Night Refreshment between 11.00pm and 12.30am Monday to Sunday (and on New Years Eve from 11.00pm until 5.00am the following day). Supply of alcohol between 8.30am and 12.00am Monday to Sunday on and off the premises (and on New Years Eve from 9.00am until close of business the following day) (Waiter service only and no alcohol or bottles taken outside the licensed area).

5. SEX ESTABLISHMENT LICENSING CONSULTATION (Appendix 1)
6. LICENSING HEARING BELLINI BAR BRASSERIE & LOUIS XIV

The following clause has been added to the licence by SBC Environmental Health:

After 23.00 until the commencement of licensable hours the following day the outside areas as shown on the application plan shall only be used as smoking areas and not for the consumption of alcohol or food.

During the restricted period, all seating on the outside area shall be removed or otherwise be rendered inaccessible to patrons. External space heaters shall not be used. The number of patrons [smokers] using the outside areas shall be managed in order to minimise the noise impact on occupiers of noise sensitive premises.

With the agreement of the Chairman LTC has now withdrawn its objection to both applications, as the clause addresses the Sub-Committees concerns.



Town Clerk
14th July 2011

Any member who is unable to attend the meeting should give their apologies in advance of the meeting.



**LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982
(as amended by the POLICING and CRIME ACT 2009)**

DRAFT LICENSING POLICY

1.0 INTRODUCTION

- 1.1 In October 1982, the Council resolved to adopt the new powers which had been made available by the Local Government (Miscellaneous Provisions) Act 1982 ('the Act') to control sex establishments, which were defined as sex shops and sex cinemas.
- 1.2 Premises which operated as lap-dancing clubs and similar did not come within the definition of sex establishments and therefore any necessary controls could only be put in place by reference to existing legislation namely the Licensing Act 2003.
- 1.3 The Government deemed the controls insufficient and introduced legislation which has amended the Act to extend the definition of sex establishments to include sexual entertainment venues. In general terms these will include premises which have lap dancing, pole dancing, table dancing, strip shows and live sex shows.
- 1.4 On *[date]* the Council resolved to adopt the new powers under schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 (as amended by section 27 of the Policing and Crime Act 2009) to control sex establishments, namely sex shops, sex cinemas and sexual entertainment venues.

2.0 STATEMENT OF LICENSING POLICY

- 2.1 The Licensing Authority is not required to publish a Statement of Licensing Policy but is doing so as a matter of good practice. The policy contains the principles it will apply when exercising its functions under the Act.
- 2.2 This Policy Statement comes into force on *[date]*. It will be subject to regular review involving further consultation as required.

3.0 CONSULTATION

3.1 There are a number of groups who have a stake in the leisure industry, including providers, customers, residents and enforcers, all of whom have views and concerns which require consideration as part of the licensing function.

3.2 In developing this Policy Statement, the Council consulted widely. Along with the Police and other authorities, the views of representatives of existing licence holders, businesses, voluntary groups and residents were also taken into account. Due consideration was given to the views of all those who responded to that consultation process.

4.0 APPROVAL OF POLICY

4.1 This policy was approved at a meeting of the full Council on [date] and was published via its website on [date]. Copies are available on request.

5.0 EXCHANGE OF INFORMATION

5.1 The Licensing Authority is under a duty to protect the public funds it administers and to this end may use for the prevention and detection of fraud the information provided by applicants. It may also share this information for these purposes with other bodies responsible for auditing or administering public funds.

6.0 PUBLIC REGISTER

6.1 The Licensing Authority keeps a public register which may be inspected at the offices of the Licensing Authority on Mondays to Fridays (except bank and public holidays) between 9 am and 4.45 pm. Regulations prescribe what information should be kept in the register.

7.0 COMPLIANCE and ENFORCEMENT

7.1 In exercising its functions with regard to the inspection of premises and to the institution of criminal proceedings for offences committed under the Act, the Licensing Authority will follow best practice. This requires that actions should be-

- Proportionate - intervention will only take place when necessary. Remedies should be appropriate to the risk posed and costs identified and minimised.
- Accountability - the Licensing Authority must be able to justify its decisions and be subject to public scrutiny

- Consistent - rules and standards must be joined up and implemented fairly.
 - Transparent - enforcement should be open and regulations kept simple and user friendly.
 - Targeted -enforcement should be focused on the problems and minimise side effects.
- 7.2 The Licensing Authority will endeavour to avoid duplication with other regulatory regimes, so far as is possible, and will adopt a risk based inspection programme.
- 7.3 The main enforcement and compliance role of the Licensing Authority is to ensure compliance with the licences and permissions it authorises.
- 7.4 The Licensing Authority will keep itself informed of developments as regards the work of the Better Regulation Executive in its consideration of the regulatory functions of Local Authorities.
- 7.5 The Licensing Authority's enforcement/compliance protocols are available on request, as are details of the risk-based approach to inspection.

8.0 GENERAL PRINCIPLES

- 8.1 This policy does not undermine the rights of any person to apply under the Act and to have their application considered on its individual merits, nor does it override the right of any person to make representations on any application.
- 8.2 The Licensing Authority has certain expectations in respect of applicants and the information they produce about the operation of the premises. It is for applicants to decide on the extent of the measures they believe to be appropriate but when assessing the application the Licensing Authority will have regard to what is set out below with regard to conditions.
- 8.3 Applicants are advised to consider providing evidence that suitable and sufficient control measures will be implemented and maintained relevant to the nature and mode of operation of their premises.
- 8.4 Duplication with other regulatory regimes should be avoided. In particular, applicants should have regard to the fact that the Local Authority's licensing function will be discharged separately from its functions as the local planning authority. Normally, applications should be from businesses with planning consent for the property concerned.
- 8.5 Licensing is about the appropriate control of licensed premises and the people who manage them. Where valid representations are made, the licensing committee will make objective judgments as to whether conditions need to be attached to a licence. Any such conditions will

primarily focus on the direct impact of the activities taking place at the premises and members of the public living, working or otherwise engaged in normal activity in the area concerned and will cover matters which are within the control of individual licensees.

- 8.6 Conditions which seek to control the range or nature of activities within the premises may be necessary. Such conditions may also seek to directly impact upon the behaviour of customers on, or within the immediate vicinity of, the premises.
- 8.7 When considering applications the Licensing Authority will have regard to the Act, this policy, statutory guidance, all supporting regulations and the Human Rights Act 1998.

9.0 ADVICE AND GUIDANCE

- 9.1 Pre-application discussions are encouraged to assist applicants to develop their proposals. Officers of the Licensing Authority, together with those of other relevant authorities, will endeavour to provide guidance at that stage, as resources permit.
- 9.2 Where appropriate to do so, officers of the Licensing Authority will assist applicants to work with others who may make representations with a view to resolve areas of concern. Once an application has been lodged there are statutory timescales imposed on the application and determination process which restrict the opportunity for such discussions, liaison and mediation.
- 9.3 If there are no relevant representations the application will be dealt with by the Licensing Authority's licensing officers under the scheme of delegation. If there are relevant representations the application will be considered by the licensing sub-committee at a public hearing.
- 9.4 Mandatory Conditions are imposed by the Act whether or not the application is opposed.

10. APPLICATION

- 10.1 The forms which the applicant must use for the application and public notice are obtainable from the Council's Licensing team. If other forms are submitted they will be rejected.
- 10.2 The Licensing Authority aims to determine your application within 28 days of the end of consultation period. If it fails to do it will inform the parties accordingly.
- 10.3 Tacit authorisation (as set out in the Provision of Services Regulations 2009) does not apply because different arrangements are in place.

11.0 OBJECTIONS

- 11.1 Any person can object to an application but the objection must be relevant to the grounds for refusing an application set out in paragraph 12 of Schedule 3 of the Act.

- 11.2 Objections shall not be based on moral grounds or values.
- 11.3 Objectors must give notice of their objection in writing within the specified period. They should give as full an explanation as possible of their reasons for making an objection.
- 11.4 The licensing authority shall not reveal an objector's name or address to the applicant without the consent of the person making the objection.

12.0 LICENSING COMMITTEE

- 12.1 The Committee is composed of 15 Councillors. A contested application will be heard by a sub-committee comprising 3 members of the Licensing Committee.
- 12.2 When considering applications the sub-committee will have regard to this policy, statutory guidance, the Act itself together with supporting regulations & The Human Rights Act 1998.
- 12.3 Each application is considered on its individual merits.
- 12.4 Should the sub-committee decide to approve the application, the mandatory conditions must be applied. In addition, the sub-committee will determine whether other conditions need to be attached to the licence.

13.0 CONDITIONS/CONTROL MEASURES

- 13.1 The Licensing Authority expects that unless there is a specific reason not to do so the licence conditions which are currently in force for sex establishments will be included in any conditions to be imposed on a licence. These are attached.
- 13.2 In addition, the Licensing Committee may wish to include other control measures. This may include but shall not be limited to:-
- Consideration as to if the location of the premises is appropriate or inappropriate.
 - Consideration as to if the premises are appropriate for a particular locality

14.0 GROUNDS OF REFUSAL

14.1 Mandatory

- (1) The applicant is under 18 years of age
- (2) The applicant has been disqualified for a period of 12 months following the revocation of a licence for a sex establishment in the same area

(3) The applicant (other than a body corporate) is not resident in the United Kingdom or a European Economic Area State or was not so resident throughout the period of 6 months immediately preceding the date when the application was made

(4) The applicant company is not incorporated in United Kingdom or a European Economic Area State

(5) There has been a refusal within the previous 12 months of the grant or renewal of a sex establishment licence to the applicant in respect of the premises for which the application is made.

14.2 Discretionary

(1) Unsuitability of the applicant

(2) The business would be managed by or carried on for the benefit of a 3rd party who would themselves be refused a licence.

(3) The number of sex establishments in a specific locality (or of sex establishments of a particular kind) in a specific locality equals or exceeds the number considered appropriate for that locality

(4) That the grant or renewal of the licence would be inappropriate having regard to-

- the character of the locality
- the use to which other premises in the vicinity are put; or
- the lay-out, character, or condition the premises in respect of which the application is made.

15.0 FEES

Fees are regularly reviewed and are advertised on the Council's website

16.0 APPEALS

16.1 If an application for the grant, renewal or transfer of a sex establishment licence is refused the applicant may have the right of appeal to the magistrates' court but there are a number of exceptions to this. In certain circumstances the applicant can only challenge the refusal by way of judicial review.

17.0 RENEWAL

Licences expire annually and must be renewed every year. Renewal is not an automatic grant.