

LICENSING AND HEALTH AND SAFETY COMMITTEE

MINUTES of a **MEETING** of the **LICENSING AND HEALTH AND SAFETY COMMITTEE** held in the Council Chamber, Civic Centre, Tannery Lane, Ashford on the **18TH SEPTEMBER 2003**

PRESENT: Cllr. Goddard (Chairman);
Cllrs. Allcock, Elliff, Link, Maltby, Mrs Martin.

In accordance with Procedural Rule 1.2(iii) Councillor Elliff attended as substitute Member for Councillor Enock.

APOLOGY: Cllr. Enock

ALSO PRESENT: Environmental Services Manager, Principal Legal Assistant, Licensing Officer, Member Services Officer.

Prior to the commencement of the meeting, the Environmental Services Manager introduced the Officers present.

174 **MINUTES**

Resolved:

That the Minutes of the meeting of this Committee held on the 9th April 2003 be approved and confirmed as a correct record.

175 **SEX ESTABLISHMENT LICENCES** **(Minute No. 166/09/03 refers)**

The Committee received the report of the Environmental Services Manager outlining the options regarding the introduction of general policy guidelines with regard to determining Sex Establishment Licence applications. The covering report explained that the attached report had been considered by the Executive and their recommendations had been circulated to all Members.

The report advised that over the past year, the Council had received three applications for Sex Shop Licences, all of which had been granted and suggested that a policy regarding sex establishments might be beneficial for Members, Officers and applicants. The Environmental Services Manager reiterated that the Local Authority did not have the right to have regard to the morality of sex establishments and its approval or disapproval of them was not a matter which could be taken into account when determining the granting of Licences. Straightforward objections on the ground that sex establishments should not be allowed to exist had no part to play in the Local Authority's consideration of a policy regarding premises.

The report did, however, set out the issues associated with a locality/vicinity policy that could be grounds for refusing an application. To take account of the provisions of the Local Government (Miscellaneous Provisions) Act 1982 Schedule 3, the Officers suggested that the following policy approaches could be considered for adoption by the Council:-

- Identifying certain types of premises use that, if present within the vicinity of the site in question, may generally render the grant of a Sex Establishment Licence inappropriate.
- Determine certain predominant uses that would render the character of the locality generally inappropriate for sex establishments.
- Permit a maximum number of sex establishments within pre-defined localities that the Local Authority was prepared to licence.

The report then examined each of the above options in detail and also provided information on human rights considerations, and the other options considered, which included unlicensed shops that sold sex articles. Appendix A to the report set out a definition of sex establishments; sex shops; sex cinemas; and sex articles. Appendix B set out draft conditions upon which a Sex Shop Licence could be granted, and Appendix C the relevant human rights articles.

The report advised that following consideration by Members, the draft policy guidelines would be subject to a wide consultation with current licensees, Ward Members, residents and businesses in the Borough, prior to a report on the outcome of the consultations being considered in due course.

During the debate, it was explained to Members that the Selection and Constitutional Review Committee were to consider removing the right of appeal to the Appeals Committee of this Authority. This would remove the existing opportunity to ensure that the Authority had properly considered all relevant, and no irrelevant, matters when considering a Licence application and so reduce the likelihood of a successful High Court Challenge. Whether or not the internal appeals procedure was to be removed, having a sex shop location policy would increase the number of grounds upon which the Authority could properly refuse to grant or renew a sex shop licence. Appropriate decisions made in accordance with that policy would strengthen the Authority's position in the event of a High Court challenge.

A Member raised concern regarding the setting of pre-defined localities. He considered that the description for the Town Centre might be too limited. The Licensing Officer explained that case law had dictated that a pre-defined locality area could not be too large but that this would be under constant review with the proposed changes for Ashford Town Centre. With regard to who would be consulted, the Licensing Officer confirmed that the Kent County Constabulary and the Legal and Democratic Services Manager had already been consulted on the report. In addition to those consultees detailed in the report, there would also be an article in the Ashford Borough Review inviting feedback.

A Member was concerned to see a specific Church mentioned and considered it would be better to refer to "Churches" in general. Additionally, Members were reluctant to support the Executive recommendation to limit the number of sex establishments to two at this stage. Whilst the Committee agreed in principle to limit the number of sex establishments, they considered that further consultation was required before a specific number was to be agreed. The point was made that these were all matters that Members could make as a part of the consultation process.

The debate concluded with Members seeking further information regarding training on the new licensing legislation. The Environmental Services Manager confirmed that training on the new licensing legislation had been delayed as Government deadlines had slipped. Members were assured that as soon as the information was available, training with an external trainer would be arranged. With regard to the training of other licensing issues, the Environmental Services Manager confirmed that the Authority could offer some in-house training for individual Members as required.

Recommended:

- That:**
- (i) the general draft policy guidelines as set out within the report with regard to the granting of Sex Establishment Licences in the Borough, be approved for consultation.**
 - (ii) the recommendation of the Executive in Minute No. 166/09/03 (ii) that no more than two sex establishments should be permitted within the Ashford Town Centre area be not approved at this stage.**