

Agenda for Licensing & Enforcement Sub Committee

Wednesday, 3 December 2014; 9.30am

[Members of the Committee](#)

Venue: Council Chamber, Knowle, Sidmouth, EX10 8HL

[View directions](#)

Contact: [Chris Lane](#), 01395 517544 (or group number 01395 517546): Issued 13 August 2014



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- 1 Minutes for 10 November 2014 (pages 2-5)
- 2 Apologies
- 3 [Declarations of interest](#)
- 4 [Matters of urgency](#) – none identified
- 5 To agree any items to be dealt with after the public (including press) have been excluded. There are no items that officers recommend should be dealt with in this way.

Part A Matters for Decision

- 6 **Schedule of application for Sub Committee approval where an agreed position has been reached and all parties Have agreed a hearing is unnecessary (pages 6-7)**

Due to the requirements of the Licensing Act 2003 only parties to the hearing are permitted to address the sub-committee (through their representative as appropriate)

[Recording the meeting](#)

[Decision making and equalities](#)

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EAST DEVON DISTRICT COUNCIL
Minutes of a Meeting of the Licensing &
Enforcement Sub-Committee held at Knowle, Sidmouth on
Monday, 10 November 2014

Attendance list at the end of the document

The meeting started at 10.00 am and ended at 11.00 am

- *14 Minutes
The minutes of the meeting of the Licensing and Enforcement Sub-Committee held on 20 August 2014, were confirmed and signed as a true record.
- *15 Declarations of interest
There were none.
- *16 Application for the variation of a premises licence to extend the existing hours for the sale of alcohol off the premises to 24 hours a day seven days a week and to remove condition 6 of Annexe 2 of the existing licence at Shell Exmouth, 223 Exeter Road, Exmouth

The Sub Committee gave consideration to an application for variation of a Premises Licence to extend the existing hours for the sale of alcohol off the premises to 24 hours a day seven days a week and to remove condition 6 of Annexe 2 of the existing licence at Shell Exmouth, 223 Exeter Road, Exmouth.

The Sub Committee carefully considered the application with the amendments the applicant proposed for the variation of licensable activities and the extension of proposed hours of operation with a view to deciding whether the application promoted the licensing objectives, as required by the Licensing Act 2003. Government Guidance, the Council's own licensing policy and the Human Rights Act 1998 were also taken into account in making the decision.

The Sub Committee carefully considered the relevant representations that all parties had made and the written representations and other documentation put before the Sub Committee. They considered the particular locality of the premises in a residential area of Exmouth and its physical relationship with other residential and commercial properties in the vicinity.

The Sub Committee considered it relevant that no representations had been received from the police in relation to the Licensing Act objectives that had been the subject of representations, following mediation, which were, public nuisance, public safety, crime and disorder. From this the Sub Committee concluded that the police did not consider that there were currently any significant problems associated with the current operation of the premises, or that there was likely to be if the application was granted.

The applicant's case was at the hearing that this was a variation to remove condition 6 of Annexe 2 of their current licence that restricted late night refreshment to the sale of hot drinks and soup only and there had been no representations on this aspect of the application.

- *16 Application for the variation of a premises licence to extend the existing hours for the sale of alcohol off the premises to 24 hours a day seven days a week and to remove condition 6 of Annexe 2 of the existing licence at Shell Exmouth, 223 Exeter Road, Exmouth (Cont)

With regard to the 24 hour licensing for alcohol sales – Council (Professor Light) referred to the Council's Licensing Policy at Section 6.6 and Government Guidance.

The previous application in November 2012 had originally been for 24 hour alcohol sales but the applicant had agreed to reduced hours at that time to work with the residents who had concerns. This application was in front of the Sub Committee following two years of trading under the present licensing conditions. There were no issues concerning the three licensing objectives and it was important to note that the Police and other Responsible Authorities had not made representations.

Mr Fletcher the premises manager had had a conversation with one resident to allay fears of the increased hours for the sale of alcohol. The Town Council's representations were very similar to those on the previous application and there was nothing in the current application which evidenced the fears of the residents or nursing home.

The applicant's representatives, Locketts had 22 years experience of making this type of application and putting together the paperwork, with policies required.

Regarding public safety and the prevention of public nuisance the petrol station was in a residential area and next to a nursing home.

At the hearing Town Councillor Tim Dumper stated that he was representing the Town Council and in particular the Planning Committee who were the democratically mandated body. He stated there was concern about this application because it was felt by the Town Council that the 'spirit' of good neighbourliness had been compromised. He believed that the current position of the sale of alcohol between 5.00am and 12 midnight had been an indefinite agreement and that this had now been superseded by the new application.

He stated that there were concerns over the sale and consumption of alcohol in the area and that a number of residents had raised concerns to town councillors, although there were no concerns raised with the Licensing Authority or the Police.

A further relaxing of sales would endanger a quiet residential area. The nursing home and residents wanted to be good neighbours to the business.

The Sub Committee carefully considered the operating schedule put forward by the applicants and the likely impact of the application. In relation to the evidence the Sub Committee had heard regarding the history of the premises, they considered that the establishment was well managed with good policies in place and adequate supervision from line management.

- *16 Application for the variation of a premises licence to extend the existing hours for the sale of alcohol off the premises to 24 hours a day seven days a week and to remove condition 6 of Annexe 2 of the existing licence at Shell Exmouth, 223 Exeter Road, Exmouth (Cont)

The Sub Committee did not accept that there was evidence of a significant public nuisance, risk of crime and disorder or risk to public safety arising from the current operation of the premises. At the present time there was no real evidence that the operation the applicant proposed to run would cause the unacceptable impact local residents suggested.

All parties were reminded of the closure and review powers which the Government brought into force when the new licences were operational from 24 November 2005. Premises which did not operate in an acceptable way in terms of the licensing objectives may in extreme cases be closed down by police action or have their scope of operation reduced by the licensing authority.

- RESOLVED 1. that a variation of the Premises Licence be granted as follows:
- a) The extent of the areas within which the various licensable activities will be permitted as indicated by the legends on the applicant's plan.
 - b) Permitted hours for the sale of alcohol and late night refreshment shall be as set out in the Appendix A.
 - c) Condition 6 of Annexe 2 of the premises licence will be removed, all other existing conditions shall continue.
 - d) The mandatory conditions of Section 19 of the Licensing Act 2003 shall be imposed.

the designated Premises Supervisor will be: Nigel David Fletcher, 17 Claredale Road, Exmouth, Devon, EX8 2EE.

2.

**Attendance list
Councillors present**

Steve Hall (Chairman)
Frances Newth
Tom Wright

Councillor also present:
John Jeffery

Councillor apology from non member of the Sub Committee
Steve Gazzard

Officers present

Giles Salter, Solicitor

Neil MacDonald, Licensing

Chris Lane, Democratic Services

Chairman Date

Report to: **Licensing and Enforcement Sub Committee**



Date of Meeting: 3 December 2014

Public Document: Yes

Exemption: None

Agenda item: **Item 6**

Subject: Schedule of applications for Sub Committee approval where an agreed position has been reached and all parties have agreed a hearing is unnecessary.

Purpose of report: The report summarises an application for the variation of a premises licence.

Recommendation: Recommendation
That the application be granted as applied for subject to the agreed position set out in the schedule below, any relevant statutory conditions and the applicants having complied with relevant statutory requirements.

Reason for recommendation: To comply with statutory processes.

Officer: Neil McDonald nmcdonald@eastdevon.gov.uk 01395 517410

Financial implications: The only financial implication is if the applicant appeals against the decision made, with the possibility of court costs.

Legal implications: Legal implications are included within the report.

Equalities impact: Low Impact

Risk: Low Risk

Links to background information:

- The relevant licensing applications
- Representations received
- Guidance issued under Section 182 of the Licensing Act 2003
- The District Council's Statement of Licensing Policy

Link to Council Plan: Not applicable

a) Reasons for Recommendation

To ensure full compliance with statutory processes.

b) Alternative Options

The Licensing Authority must grant these applications as all parties have agreed a position which they consider makes a hearing unnecessary.

c) Risk Considerations

Applications must be dealt with within the statutory time limits.

d) Policy and Budgetary Considerations

Officers have taken into account the Council's Licensing Policy in making the recommendation.

e) Date for Review of Decision

The council's decision may be appealed to the Magistrates Court. The Licensing Act 2003 also contains review provisions.

1. Legislation Background

1.1 Under the Licensing Act 2003 it is unclear whether applications where an agreed position has been reached and the parties do not consider a hearing to be necessary, require to be formally determined by a licensing sub committee, as opposed to relying on determination powers delegated to officers. To put the matter beyond doubt, these applications are reported to members for their approval of the agreed position. This process also enables members to be advised of the success of the informal mediation in advance of hearings, which is facilitated by Licensing Officers or sometimes by other Responsible Authorities.

2. Schedule of Applications

Type of Application	Name of premises and address	Agreed position reached by the parties
Application for the variation of a premises licence	Osborne's Coffee & Wine Bar, Welwyn House, Fore Street, Beer, Seaton, Devon, EX12 3JB.	Following mediation the applicant and the Council's Environmental Health Service have agreed that they consider a hearing to be unnecessary if the following agreed position is approved. The application be approved as submitted subject to the following amendment: 1. That the applicants withdraw the request for recorded music from the application.
	Recommend approval of application subject to the amended operating schedule and the relevant mandatory conditions of the Licensing Act 2003	