

# Agenda for Licensing & Enforcement Sub Committee

Wednesday, 11 June 2014; 11.00am(or upon rising of the main Committee)

[Members of the Committee](#)



East Devon District Council  
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**Contact:** [Chris Lane](#), 01395 571544 (or group number 01395 517546): Issued 4 June 2014

- 1 Minutes for 14 and 20 May 2014 (pages 2-7)
- 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 8-9)**

**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  
Wednesday, 14 May 2014

Present: Councillors:  
Steve Hall (Chairman)  
Pauline Stott  
Tom Wright  
Jim Knight (Minute No \*59 only)

Officers:  
Giles Salter – Solicitor  
Stephen Saunders –Licensing Officer  
Neil McDonald – Licensing Officer  
Chris Lane – Democratic Services  
Officer

The meeting started at 9.30 am and ended at 11.40am.

**\*57** Minutes

The minutes of the meeting of the Licensing and Enforcement Sub-Committee held on 6 May 2014, were confirmed and signed as a true record.

**\*58** \*Declarations of interest

<b>Councillor/ Officer</b>	<b>Minute number</b>	<b>Type of interest</b>	<b>Nature of interest</b>
Councillor Steve Hall	*59	Disclosable Pecuniary	Private Hire Licence Holder.

**\*59** Determination of an application to licence a Hackney Carriage Vehicle which does not comply with the Council's vehicle age policy

Consideration was given to the report of the Licensing Officer which set out the District Council's policy that on initial licensing as a hackney carriage a vehicle should be no more than four years old from date of first registration. Vehicles should not normally be licensed in the case of ordinary cars beyond eight years old and purpose built hackney carriages beyond ten years of age. Members were asked to consider licensing a vehicle as a hackney carriage which was fourteen years old and had done over 300,000 miles.

- \*59 Determination of an application to licence a Hackney Carriage Vehicle which does not comply with the Council's vehicle age policy (Cont)

**RESOLVED**

that the Sub Committee was minded to refuse the application to licence a 14 year old London TXI as a hackney carriage vehicle, as it fell outside the criteria required by East Devon District Council as it was not an exceptional example and therefore was not an exception to the policy. The Sub Committee were concerned as to the vehicles' capability to be a reliable and safe vehicle in which to convey the public, especially wheelchair users who were very often vulnerable.

The Sub Committee was further concerned by the extensive rust spots and evidence of previous repairs to the body work.

Members were disappointed to reach this decision because the Council was keen to promote more wheelchair accessible vehicles.

- \*60 Application for Club Gaming Machine Permit issued Under the Gambling Act 2005 for Social Clubs located at:

- a) Tesco Store at Honiton
- b) Tesco Store at Seaton
- c) Tesco Store at Axminster

The Sub Committee gave consideration to an application for a Club Gaming Machine Permit issued under the Gambling Act 2005 for Social Clubs located at Tesco Stores in Honiton, Seaton and Axminster.

The District Council's case was that Mr John Richards was a gaming machine supplier licensed by the Gambling Commission; he was making application to install gaming machines to be sited in each of the staff canteen rooms at Tesco store at Honiton, Seaton and Axminster. There was no entitlement under the Gambling Act 2005 to have gaming machines at supermarket stores, cafes and canteens. However, under the current legislation Section 273 of the Gambling Act will allow up to three gaming machines on a premises for which a 'members club' operates under the provision of a club machine permit. It was this aspect of the legislation that Mr Richards based the application under whilst acting as agent for each store. These canteens also acted as social clubs.

In the course of considering the applications licensing staff had visited each staff canteen to view the location, security and supervision arrangements for the rooms where gaming machines were requested. It was the Council's case that these social clubs did not constitute properly constituted members clubs under Section 273 of the Gambling Act 2005.

60 Application for Club Gaming Machine Permit issued Under the Gambling Act 2005 for Social Clubs located at:

- a) Tesco Store at Honiton
- b) Tesco Store at Seaton
- c) Tesco Store at Axminster **(Cont)**

John Richards, applicant stated that the Gambling Act 2005 had a 28 day consultation period and it was expected that an application would normally be determined immediately after that period. However, he did indicate that he would have no objection to the application being deferred at this meeting for further information. He further stated that the Gambling Commission can only give guidance and Section 266 of the Act defined what could be a members club.

He reiterated that it was the intention to only put Category D machines in the Social Clubs in Honiton, Seaton and Axminster, which would limit the payout to £8 and the pay per play to £0.10p. With regard to Section 273 of the Gambling Act 2005, Tesco had induction procedures which meant that staff had to be well trained before they started their employment meaning they did not start work immediately on being employed.

Tesco Social Clubs were members' clubs for the benefit of the members of that club and had no input from Tesco.

Councillor Tom Wright questioned that there was no evidence of the stores being properly constituted clubs. John Richards confirmed that he had never been asked to provide details of this for the large number of Tesco Social Clubs elsewhere where he had installed gaming machines. There were no other gaming machines in the Social Clubs and he confirmed that he could provide a list of members of social clubs for each store if required.

RESOLVED	that the application for a Club Gaming Machine permit issued under the Gambling Act 2005 for Social Clubs located at Tesco Stores at Honiton, Seaton and Axminster be adjourned to a date after the Sub Committee had seen evidence that a members' club existed for each premise, this included documents that evidenced that there were elected officers, minutes of meetings and particularly annual general meeting and at least two years of accounts for each club.
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The applicant offered to liaise with the Licensing Authority and Tesco employees to help convene a single meeting for the three premises

Chairman ..... Date .....

# EAST DEVON DISTRICT COUNCIL

## Minutes of a Meeting of the Licensing & Enforcement Sub-Committee held at Town Hall, Exmouth on Tuesday, 20 May 2014

Present: Councillors:  
Jim Knight (Vice Chairman in the Chair)  
Maddy Chapman  
Frances Newth

Also present: Councillors:  
Steve Gazzard  
Steve Hall

Officers:  
Giles Salter - Solicitor  
Chris Lane – Democratic Services Officer  
Neil McDonald – Licensing Officer

The meeting started at 9.30 am and ended at 10.20 am.

### \*1 Declarations of interest

Councillor/ Officer	Minute number	Type of interest	Nature of interest
Councillor Jim Knight	*3	Personal	Was a former Council colleague of an interested party.
Councillor Frances Newth	*3	Personal	Was a former Council colleague of an interested party.

### \*2 Application for a grant of a premises licence to be granted under the Licensing Act 2003 to allow the supply of alcohol on and off the premises at Lily Farm Vineyard, Dalditch Lane, Knowle, Budleigh Salterton

The Sub Committee gave consideration to an application for the grant of a premises licence to allow the supply of alcohol on and off the premises at Lily Farm Vineyard, Dalditch Lane, Knowle, Budleigh Salterton.

The Sub Committee carefully considered the application for the premises licence and the 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 on the edge of a small village and its physical relationship with other residential and commercial properties in the vicinity.

- \*2 Application for a grant of a premises licence to be granted under the Licensing Act 2003 to allow the supply of alcohol on and off the premises at Lily Farm Vineyard, Dalditch Lane, Knowle, Budleigh Salterton(Cont)

The Sub Committee considered it relevant that representations had been received from the police in relation to the Licensing Act objectives that had been the subject of representations, which were, public safety and public nuisance. From this the Sub Committee concluded that the police did not consider that there would be any significant problems associated with the operation of the premises, if the amended application was granted.

The applicant's case was presented by Mr Graham Gover, Solicitor; he considered this to be a straightforward application. The current licence was for off-sales of wine between 10.00am and 6.00pm. The vineyard was now on the international wine map having recently received a silver award from the International Wine Challenge. The premises now included a refreshment area as the business had evolved. The application for increased hours of sale was to allow the business to develop so that the vineyard produced wine could be sold following a wine tasting. Currently there was a weekly wine/vineyard tour on a Saturday afternoon at 2.30pm, but the extension of hours would allow as hoc parties to visit and wine to be tasted and sold. The extended hours were not going to be used on a regular basis but were there 'just in case' they were needed for flexibility. The applicants had no intention to work any longer hours than were necessary.

The applicants reassured the Sub Committee that they did not intend to operate a wine bar, wine sales were linked to the marketing of their own vineyard produced wine. The applicant's accepted the Sub Committee's requirements for a CCTV condition on the licence.

The interested parties' case on paper was related principally to two of the four licensing objectives. Regarding public safety, the location of the premises along a narrow lane with no street lighting and an increase in visitor traffic made it unsuitable for a retail outlet. Regarding the prevention of public nuisance, they consider there was the intrusion of artificial light pollution in the AONB, leading to urbanisation of a rural setting. Also the increased potential of noise pollution in the evening and weekends. No interested parties attended the hearing.

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 and controlled with good policies in place. This was a minimal operation and the application as set out in the agenda was accepted. At present there was no real evidence that the operation the applicant now proposed to run would cause the unacceptable impact local residents suggested.

The Sub Committee reminded all parties of the closure and review powers which the Government brought into force once 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.

\*2 Application for a grant of a premises licence to be granted under the Licensing Act 2003 to allow the supply of alcohol on and off the premises at Lily Farm Vineyard, Dalditch Lane, Knowle, Budleigh Salterton(Cont)

**RESOLVED** 1. that the Premises Licence be granted as follows:

- (a) The extent of the areas within the various licensable activities will be permitted is as indicated by the legends on the applicant's plan.
- (b) Permitted hours for the various licensable activities will be as set out in Appendix B to the report.
- (c) The conditions in the operating schedule as set out in the amended Appendix F will apply.  
New Condition to read – "There will be a CCTV system installed which has the ability to retain images for up to 30 days".
- (d) The mandatory conditions of Sections 19, 20 and 21 of the Licensing Act 2003 will be imposed.

2. The Designated Premises Supervisor will be:  
Alan Leslie Pratt, 7 Moormead, Budleigh Salterton, EX9 6QA.

Whilst the Sub Committee acknowledged the concerns expressed by the interested parties, they believed the concerns expressed in representations had been addressed by the hours of operation for the licensable activities and the conditions we have imposed which have been tailored to the size, characteristics and activities on the premises, and which they believed were necessary and proportionate.

Chairman ..... Date .....

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



**Date of Meeting:** 11 June 2014

**Public Document:** Yes

**Exemption:** None

**Agenda item:** **Item**

**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 to be granted.

**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](mailto: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

<b>Type of Application</b>	<b>Name of premises and address</b>	<b>Agreed position reached by the parties</b>
Application for the variation of a premises licence	The King Billy, 53 High Street, Budleigh Salterton, Devon, EX9 6LE.	Following mediation the applicant and the Budleigh Salterton Town Council 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 amendments:  1. That the hours for the sale of alcohol be reduced to end at 12 midnight on Monday to Sunday.
	Recommend approval of application subject to the amended operating schedule and the relevant mandatory conditions of the Licensing Act 2003	