

Agenda for Licensing & Enforcement Sub Committee

Wednesday, 20 August 2014; 9.30am

[Members of the Committee](#)

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

[View directions](#)

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- 1 Minutes for 6 August 2014 (pages 2-4)
- 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 5-6)**

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, 6 August 2014

Present: Councillors:
Steve Hall (Chairman)
Jim Knight (Vice Chairman)
David Atkins

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

Also Present: Councillor:
Steve Gazzard
John O’Leary
Tom Wright
Eileen Wragg

The meeting started at 9.30 am and ended at 11.00am.

***9 Minutes**

The minutes of the meeting of the Licensing and Enforcement Sub-Committee held on 16 July 2014, were confirmed and signed as a true record.

***10 Application for the variation of a premises licence to extend the times for all licensable activities and opening times on the current licence on Wednesdays , Fridays and Saturdays by one hour and to construct a cocktail bar on the ground floor at the Q Club, Elm Grove, Exmouth**

The Sub Committee gave consideration to an application for variation of a Premises Licence to extend the times for all licensable activities and opening times on the current licence of Wednesdays, Fridays and Saturdays by one hour and to construct a cocktail bar on the ground floor at the Q Club, Elm Grove, 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 town centre and its physical relationship with other residential and commercial properties in the vicinity.

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Application for the variation of a premises licence to extend the times for all licensable activities and opening times on the current licence on Wednesdays , Fridays and Saturdays by one hour and to construct a cocktail bar on the ground floor at the Q Club, Elm Grove, Exmouth (Cont)

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 had reduced the hours originally asked for after mediation.

The applicant's case was that an application for a variation had been made because of the changes in the habits of users of the club. The applicant stated that the opportunity for the club to recoup its overheads had diminished because the club was effectively operating in a reduced window of time. The public was going out into the town later in the evening and therefore drinking in bars and clubs later and so the period of entertainment in the club was reduced - effectively there were only two hours each evening when the club was open during the week where it could maximise income. The extension of hours was not an attempt to gain, but to stand still. The public had a fixed window of opportunity to go out and a fixed amount of money to spend.

The application before the Sub Committee had been viewed by the police, and Environmental Health who had both withdrawn representations following mediation and they did not have an issue with the extension of the terminal hours now applied for.

The applicant showed CCTV footage which he believed demonstrated the effective management of the entry and exit to the club after 11.00pm on any night when the club was open for business.

The interested parties' case was that Exmouth Town Council had provided the following statement "The standard licensing hours should be 3.00am (closing time of 3.30am) on Friday and Saturday so that they were uniform throughout Exmouth. The impact of later opening would be increased nuisance to residents in the locality and that it would set a precedent to other establishments to request longer licensing hours. The potential for drinkers to carry out anti social acts when dispersing within the town would be heightened with prolonged drinking time.

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.

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Application for the variation of a premises licence to extend the times for all licensable activities and opening times on the current licence on Wednesdays , Fridays and Saturdays by one hour and to construct a cocktail bar on the ground floor at the Q Club, Elm Grove, Exmouth (Cont)

The Sub Committee considered that CCTV had an important role in preventing crime and disorder, identifying offenders and in managing public behaviour on the premises and when leaving.

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 various licensable activities will be as set out in amended appendix to the report following mediation with the police.
- c) The conditions in the operating schedule as set out in the amended appendices F and G will also apply. In Appendix F replace "Safeguard Security" with "an SIA approved security company".

2.

the designated Premises Supervisor will be: John Derek Hutchinson, 122 St Katharines Road, Whipton, Exeter, EX4 7JJ.

Chairman Date

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

Date of Meeting: 20 August 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 grant 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 grant of a premises licence	Coast, East Walk, Seaton, Devon, EX12 2LN.	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	