

Agenda for Licensing & Enforcement Sub Committee

Wednesday, 6 January 2016; 9.30am

[Members of the Committee](#)

Members of the Sub Committee will be Councillors:

Steve Hall, Jim Knight,

Venue: Committee Room, Knowle, Sidmouth, EX10 8HL

[View directions](#)

Contact: [Chris Lane](#), 01395 571544 (or group number 01395 517546): Issued 9 December 2015



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- 1 Minutes for 16 December 2015 (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)

[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, 16 December 2015 in the Committee Room

Present: Councillors:
Jim Knight (Vice Chairman in the Chair)
Pat Graham
Cherry Nicholas

Also present: Councillors:
Steve Hall

Apologies: Councillors:
Colin Brown
John O'Leary

Officers:
Giles Salter – Solicitor
John Tippin - Licensing Manager
Elizabeth Scofield – Licensing Officer
Chris Lane – Democratic Services Officer

The meeting started at 9.30 am and ended at 11.20am.

*25 Minutes

The minutes of the meeting of the Licensing and Enforcement Sub-Committee held on 14 October 2015, were confirmed and signed as a true record.

*26 Hackney Carriage Vehicle Suitability

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 the 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 11 years and 5 months old. It was noted that the applicant had commissioned an RAC report which had highlighted a number of faults with the vehicle. The vehicle was a personal import, first registered in the UK on 1 October 2015.

RESOLVED

that the application to licence a Mercedes Viano registration number HL04 ZGF as a hackney carriage vehicle, be refused as the Sub Committee had concerns that there were a number of issues evidenced indicating that it was not a suitable vehicle to be licensed. These included:

1. The vehicle mileage could not be verified at this time;
2. The mechanics of the vehicle were 12 years old. The Sub Committee were concerned that the RAC Inspection picked up issues with corrosion on the brake linings, and engine oil seepage;
3. The RAC Inspection indicated there was 'Advisory' on the warning lights.

The vehicle fell outside of the guidelines of the Council's policy and it was considered that it did not satisfy the conditions of licensing.

***27 Private Hire Vehicle Suitability**

Consideration was given to the report of the Licensing Officer which set out the District Council's policy that on initial licensing a Private Hire vehicle should be no more than four years old from the 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 4 years and 9 months old. The vehicle was wheelchair accessible and it was noted that there was a shortage of wheelchair accessible hackney carriage/private hire vehicles in East Devon.

Heathpark commercials had carried out an independent assessment of the vehicle which had only highlighted a small number of advisory issues. The applicant reported that his coach business had its own workshops which carried out six weekly inspections of all vehicles in his fleet.

RESOLVED

that the application to licence a Ford Transit registration number YR11 FGD as a private hire vehicle, despite falling outside of the criteria required by East Devon District Council, be granted as an exception because it had Disability Access it was considered to be an exception to the policy and the Sub Committee were satisfied that it could be licensed. There was a need for this type of vehicle in the District and the Sub Committee hoped that it would be offered for general hire to the public other than to fulfil Devon County Council contracts.

Members requested that the inspection 'Advisories' were taken seriously and the applicant was reminded of the enhanced Duty of Care when conveying the general public in the vehicle and the responsibilities to the Council.

(Councillor Jim Knight declared a non pecuniary interest in this item as Chairman of Devon County Council School Transport Committee)

***28 Schedule of application for Sub Committee approval where an agreed position has been reached and all parties have agreed a hearing is unnecessary**

The Sub Committee gave consideration to an application for the grant of a premises licence where an agreed position had been reached and all parties had agreed that a hearing was unnecessary. The Sub Committee considered equality impacts when making their decision.

The Licensing Officer explained the background of the application and the negotiations that had been carried out.

RESOLVED that the application be granted as below, subject to the agreed position set out in the schedule and any relevant statutory conditions and the applicants having complied with the relevant statutory requirements.

Schedule:

Type of application:

Application for the grant of a premises licence

Name of premises and address:

JK's Bistro, 7 New Street, Honiton.

Agreed position reached by the parties:

Following mediation the applicant and the Devon and Cornwall Constabulary had agreed that they consider a hearing to be unnecessary if the agreed position set out below was approved.

The application be approved as submitted subject to the following amendment and conditions:

1. Reduce the proposed hours for alcohol sales on Mondays to Sunday to end at 23.00 instead of midnight and on New Year's Eve to end at 01.30 hrs instead of 02:00.
2. No person carrying open or sealed bottles or glasses will be admitted to the premises at any time.
3. No customers will be permitted to take open containers of alcoholic or soft drinks from the premises.

Chairman Date

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



Date of Meeting: 6 January 2016

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 details these applications.

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: The council's decision may be appealed to the Magistrates Court.

Equalities impact: Low Impact

Risk: Low Risk

Links to background information: Background Papers
The relevant licensing applications
Representations received from Responsible Authorities
Guidance issued under Section 182 of the Licensing Act 2003
The District Council's Statement of Licensing Policy

Link to Council Plan: Not applicable

Report in full

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.	The Volunteer Inn, Broad Street, Ottery St Mary, Devon, EX11 1BZ.	<p>Following mediation the applicant, the Devon & Cornwall Constabulary and the Council's Environmental Health Service have agreed that they consider a hearing to be unnecessary if the following agreed position is approved.</p> <p>The application be approved as submitted subject to the following amendments and additional conditions:</p> <ol style="list-style-type: none"> 1. Withdraw the application for recorded music outside the premises. 2. Amend the premises opening hours to close 30 minutes earlier in all the standard, seasonal and non standard timings requested. 3. No person carrying open vessels containing alcohol will be admitted to the premises. 4. No customers will be permitted to take open vessels containing alcohol from the premises. 5. CCTV will be installed operated and maintained to the satisfaction of the Licensing Authority and Chief Officer of Police. 6. Images will be maintained for a minimum of 14 days copies of which will be supplied to the Licensing Authority or Police on request. 7. Notices will be on display advising customers CCTV is in operation. 8. The premises will operate a Challenge 21 policy. The only acceptable forms of ID will be passport, photo driving licence, military ID bearing photo and date of birth and government approved pass card.
	Recommend approval of application subject to the amended operating schedule and the relevant mandatory conditions of the Licensing Act 2003	

Neil McDonald Ext.2079

Licensing Sub Committee

Licensing Officer

6 January 2015