

Agenda for Licensing & Enforcement Sub Committee

Wednesday, 11 January 2017; 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 3 January 2017



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- 1 Minutes for 9 November 2016 (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, 9 November 2016

Attendance list at the end of the document

The meeting started at 9.30 am and ended at 9.55 am

***11 Appointment of Chairman for the meeting**

RESOLVED that Councillor John O’Leary be appointed Chairman for the meeting.

***12 Minutes**

The minutes of the meeting of the Licensing and Enforcement Sub-Committee held on 28 September 2016, were confirmed and signed as a true record.

***13 Application for the grant of a premises licence to allow films, live and recorded music, performance of dance, anything similar to live and recorded music and performance of dance, late night refreshment and the sale of alcohol on and off the premises at The Balfour arms, 26 Woolbrook Road, Sidmouth, EX10 9UZ**

The Sub Committee gave consideration to an application for the grant of a Premises Licence to allow films, live and recorded music, performance of dance, anything similar to live and recorded music and performance of dance, late night refreshment and the sale of alcohol on and off the premises at The Balfour arms, 26 Woolbrook Road, Sidmouth, EX10 9UZ

The Sub Committee carefully considered the application for the licensable activities 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 Licensing Officer advised that the concerns of nine of the objectors including the Environmental Health Officer had been addressed through mediation and as a consequence three further conditions would be added to the licence, if approved. The remaining four objectors, who were not present, remained concerned that any increase in hours would further aggravate noise and unacceptable anti social behaviour. The applicants had offered to have a noise limiter fitted to the equipment in the outside area as well as setting up a smoking area in the beer garden with notices directing customers to that area rather than using the front porch.

The Sub Committee carefully considered the relevant representations that all parties had made, the written representations and other documentation put before the Sub Committee and the update from the Licensing Officer on the outcome of the mediation. The Sub Committee considered the particular locality of the premises in the town of Sidmouth 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 which was, public nuisance. 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 were likely to be if the application was granted. In addition representations from Environmental Health had been addressed through mediation.

The applicant's case was that the new licence application had been made primarily to allow an outside area of the premises to be licensed and to extend the opening hours to allow a start time of 8.30am to serve breakfasts only (no alcohol). Included within the new application were extra licensable activities indoors and outdoors for films, performance of dance and anything similar to live and recorded music and performance of dance. The live and recorded music to be changed from indoors to outdoors and extended by one hour on Fridays and Saturdays but all licensable activities to cease outdoors by 11pm. The applicants (Martyn Clark, Area Operations Manager – Punch Taverns and Ron Miles, licensee) confirmed that noise levels would be controlled and monitored and that the outdoor smoking arrangements were already in place.

The interested parties' case on paper was regarding the prevention of public nuisance regarding noise from the premises. No interested parties attended the hearing.

The Sub Committee carefully considered the operating schedule put forward by the applicant and the likely impact of the application. In relation to the evidence heard regarding the history of the premises, it was considered that the establishment would be well managed and controlled.

The Sub Committee did not accept that there was evidence of a significant public nuisance.

At the present time there was no real evidence that the operation the applicant proposed to run would cause the unacceptable impact local residents suggest.

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.

Whilst acknowledging the concerns expressed by the interested parties, the Sub Committee believed that the premises would be well managed with policies in place to ensure that the perceived issues of anti-social behaviour and noise would not be an issue. Concerns expressed in representations had been addressed by the hours of operation for the licensable activities and the conditions imposed which had been tailored to the size, characteristics and activities on the premises and reflected the issues addressed through mediation. The Sub Committee believed that the conditions were necessary and proportionate.

- RESOLVED 1.** that a grant of a Premises Licence be made as follows:
- a) The extent of the areas within which the various activities will be permitted is as indicated by the legends on the applicants' plan.
 - b) Permitted hours for the various licensable activities will as set out in Appendix B to the report
 - c) The conditions in the operating schedule as set out in Appendices G and H apply.
- 2.** the designated Premises Supervisor will be Ronald Mlles

Attendance list

Councillors present:

John O'Leary (Chairman)
Dean Barrow
Colin Brown

Officers present:

Giles Salter, Solicitor
Neil McDonald, Licensing Officer
Diana Vernon, Democratic Services Manager

Councillor apologies:

Bruce de Saram
Steve Gazzard

Chairman Date

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



Date of Meeting: 11 January 2017

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 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 police
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.	Honiton Golf Club The Club House Middlehills Honiton Devon EX14 9TR.	<p>Following mediation the applicant and the Devon and Cornwall Constabulary 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 amended conditions:</p> <ol style="list-style-type: none"> 1. CCTV will be installed, operated and maintained to the satisfaction of the Licensing Authority and the Chief Officer of Police. Images will be retained for a minimum of 14 days copies of which will be supplied to the Licensing Authority or the Police on request. 2. The premises will operate a challenge 21 policy the only acceptable forms of ID will be photo driving licence, passport or 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

11 January 2017