

# Agenda for Licensing & Enforcement Sub Committee

Wednesday, 4 October 2017; 9.00am

## [Members of the Committee](#)

Members of the Sub Committee will be Councillors:

John O'Leary, Geoff Jung

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

## [View directions](#)

**Contact:** [Chris Lane](#), 01395 571544 (or group number 01395 517546): Issued 25 September 2017



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- 1 Minutes for 20 September 2017 (page 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, Honiton SF Connect, Turks Head Lane, Honiton, EX14 1BQ Devon, (Pages 6-7)**
- 7 **Schedule of application for Sub Committee approval where an agreed position has been reached and all parties have agreed a hearing is unnecessary, The Winehub Devon Ltd, 31-32 The Strand, Exmouth, EX8 1AQ. (Pages 8-10)**

**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, 20 September 2017

Present: Councillors:  
John O'Leary(Chairman)  
Jim Knight  
Dean Barrow

Apologies: Maddy Chapman

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

The meeting started at 9.30am and ended at 10.45am.

- \*23 Minutes  
The minutes of the meeting of the Licensing and Enforcement Sub-Committee held on 13 September 2017, were confirmed and signed as a true record.
- \*24 Declaration of interest  
Councillor John 'Leary  
Minute \*25  
Disclosable Pecuniary Interest – Personal Licence Holder
- \*25 Application for the grant of a premises licence to allow live and recorded music, late night refreshment and the sale of alcohol on and off the premises at Nightjar, Village Way, Aylesbeare, EX5 2BX  
The Sub Committee gave consideration to an application for the grant of a Premises Licence to allow the live and recorded music, late night refreshment and the sale of alcohol on and off the premises at Nightjar, Village Way, Aylesbeare, EX5 2BX.

The Sub Committee carefully considered the application with the amendments the applicant proposed for the grant of a premises licence for 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 Sub Committee carefully considered the relevant representations that all parties had made, the written representations and other documentation put before the Sub Committee. The Sub Committee considered the particular locality of the premises in a small village and its physical relationship with other residential 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, namely; public safety, public nuisance, crime and

disorder and the protection of children from harm. From this it was concluded that the Police did not consider that there was currently any significant problem associated with the current operation of the premises, or that there was likely to be if the application was granted.

The applicant had now reduced the hours originally asked for due to a mediation process. There had also been a separate mediation with Environmental Health in which suitable conditions had been agreed.

The applicant Mr Paul Britton and Mr Simon White, Designated Premises Supervisor, case at the hearing was that they gave details of the recent history of the village pub (The Aylesbeare Inn) setting out the difficulties of the pub trade in a village and retaining a tenant to run it. In 2016 planning permission was received to demolish the building and rebuild the premises on a similar foot print with work commencing in October 2016. Mr Simon White stated that he had met with villagers to discuss the business plans. This was to be a hub and an important amenity for the village as a whole including potentially offering a “mums and toddlers” meeting on a Monday afternoon on the premises.

The business model was based around a local public bar and a food offer of good quality, reasonably priced pub food. He hoped that this would be the basis of a successful business but there were very few new pubs opening, especially in a village environment.

The mediated hours were agreed around the premises being able to open until midnight on Friday and Saturday for meals, and until 11.30pm on Sunday through to Thursday. Mr White stated that the extra half an hour of Friday and Saturday would enable his customers to eat a meal slightly later in the evening. Research showed that people now eat later in the evening and the extra half hour, on what would be the busiest two days of the week, would give his business flexibility. It was hoped to offer coffee, cakes, bacon sandwiches etc between 10.00 and 12.00 (midday) before the sale of alcohol would commence at the bar.

The Sub Committee questioned the applicant on the wine/bread servery in the upstairs restaurant. There were no alcohol sales at the servery. Orders for wine and warm bread were taken at customer's tables.

The Sub Committee questioned the applicant on the issue of empty bottles and whether the applicant would be happy to accept a condition on the use of bottle bins outside in unsociable hours. The interested party questioned the applicant on whether he had costed the marginal advantages to the business of the 12.00 (midnight) closing.

The interested party, Alison Pearson's, case was on paper firstly in relation to the prevention of crime and disorder, extended hours for consumption may increase the likelihood of persons becoming drunk and/or disorderly. Links between alcohol consumption and drunkenness were well documented. Particular concern because of the rural location of the pub where a significant proportion of pub goers would drive home from the venue.

Regarding public nuisance, the pub was located in a small quiet rural village, adjacent to a number of houses, and in close proximity to the centre of the village. Granting a licence to play live music beyond 11pm and to allow alcohol consumption beyond this hour would likely cause considerable disruption and

nuisance to local residents – noise of live music, people leaving and car noise would all be significant.

Regarding the protection of children from harm, there were a number of very small children living in the centre of the village, including the interested party's property. Sleep was important to everyone, but especially for children which could affect their school performance.

Suggested times for closure were – Closing time Sunday to Thursday 11pm, Friday and Saturday 11.30pm. End of licensed activities half an hour before these times.

At the hearing Ms Pearson added that she hoped that the business would be a success but she was concerned that Aylesbeare was a small village with limited parking. The pub would attract more traffic and noise through the village. There were concerns expressed about the previous conditions on the outside space, bottle bins, barrel changing of the Aylesbeare Inn. There was a fine balancing act between the applicant being allowed to run their legitimate business and the neighbours being able to have a quiet, normal life. The application would allow licensed activities late into the evening with neighbours trying to sleep in houses in close proximity to the premises.

The Sub Committee had carefully considered the operating schedule put forward by the applicants and the likely impact of the application which was for a new premises. It was considered that the establishment would be well managed and controlled with good policies in place and adequate supervision from management.

The Sub Committee did not accept that there was evidence of a significant public nuisance, risk to crime and disorder, risk to public safety, risk to children of harm arising from the proposed operation of the premises. This was because of a lack of evidence of a history of complaints to the statutory authorities. The Sub Committee had however, taken into account the concern of local residents about future operation by ensuring that suitable conditions were imposed and that the operating hours were not unreasonably late. At the present time there was no evidence that the operation the applicant now proposed to run would cause the unacceptable impact the interested party had stated at the hearing.

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 the Sub Committee acknowledged the concerns expressed by the interested parties before them, they believed the 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 which they believed 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 licensable activities will be permitted are as indicated by the legends on the applicant's plan.
- b) Permitted hours for the various licensable activities will be as set out in the Appendix F.
- c) The conditions in the operating schedule as set out in the Appendices G and H will apply.
- d) Further condition imposed by the Sub Committee – "No clearing away of empty bottles into the bottle banks outside of the premises between 9.00pm and 9.00am on every day".
- e) The mandatory conditions of Section 19 of the Licensing Act 2005 will be imposed.

**2.**

that the Designated Premises Supervisor will be Mr Simon White, New Barn Farm, Talaton. Exeter, EX5 3RX.

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



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

**Date of Meeting:** 04 October 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](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:** 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 the police  
Representations received from councillor  
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

<b>Type of Application</b>	<b>Name of premises and address</b>	<b>Agreed position reached by the parties</b>
Application for the grant of a premises licence.	Honiton SF Connect, Turks Head Lane, Honiton, Devon, EX14 1BQ.	<p>Following mediation the applicant, the Devon and Cornwall Police and a local councillor 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 additional conditions:</p> <ol style="list-style-type: none"> <li>1. Before commencing the sale of alcohol outside of the hours of 0800 to 2300 the licence holder will undertake a risk assessment a copy of which will be made available to the licensing authority on request.</li> <li>2. Between the hours of 2300 and 0500 there will be a minimum of two members of staff on duty. In the alternative, if there is only one member of staff on duty between 2300 and 0500 the entrance door to the shop will be closed to customers and any sales between these hours will be made through the night pay window.</li> </ol>
	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 Officer

Licensing Sub Committee

04 October 2017

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



**Date of Meeting:** 04 October 2017

**Public Document:** Yes

**Exemption:** None

**Agenda item:** **Item 7**

**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](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:** 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 the 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
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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 grant of a premises licence.	Winehub Devon Ltd, 31 – 32 The Strand, Exmouth, Devon, EX8 1AQ.	<p>Following mediation the applicant and the Devon and Cornwall Police 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 additional conditions:</p> <ol style="list-style-type: none"> <li>1. Alcohol can only be ordered for delivery to a residential or business address and not to a public place.</li> <li>2. Full address details including postcode must be given when placing an order online for alcohol.</li> <li>3. At the time an online order for alcohol is placed a declaration will be required from the person placing the order that the person is over 18 years of age.</li> <li>4. All licence conditions pertaining to online sale of alcohol must be part of the terms and conditions which must be displayed on the website or any other promotional material and expressly brought to the attention of the buyer at the time of ordering.</li> <li>5. No person carrying open vessels containing alcohol will be admitted to the premises at any time.</li> <li>6. No customers will be permitted to take open vessels containing alcohol from the premises.</li> <li>7. Sales of alcohol for consumption on the premises will be limited to no more than 25cl per serving.</li> </ol>
	Recommend approval of application subject to the amended operating schedule and the relevant mandatory conditions of the Licensing Act 2003	

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Neil McDonald Ext.2079

Licensing Sub Committee

Licensing Officer

04 October 2017