

Agenda for Licensing & Enforcement Sub Committee

Wednesday, 29 November 2017; 9.00am

[Members of the Committee](#)

Members of the Sub Committee will be Councillors:

Steve Hall, John O'Leary

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

[View directions](#)

Contact: [Chris Lane](#), 01395 571544 (or group number 01395 517546): Issued 22 November 2017



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- 1 Minutes for 8 November 2017 (page 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, Axminster Conservative Club, Silver Street, Axminster, Devon, EX13 5AN, (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 Town Hall, Seaton, on Wednesday, 8 November 2017

Present: Councillors:
Steve Hall (Chairman)
John O'Leary (Vice Chairman)
Jim Knight

Apologies: Matthew Booth

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

The meeting started at 9.30am and ended at 12.15pm.

*32 Minutes

The minutes of the meeting of the Licensing and Enforcement Sub-Committee held on 25 October 2017, were confirmed and signed as a true record.

*33 Declarations of interest

Councillor John 'Leary

Minute *34

Disclosable Pecuniary Interest – Personal Licence Holder

Councillor Jim Knight

Minute *34

Disclosable Personal Interest – Knew the applicant when a Devon County Councillor.

*34 Application for a variation of a premises licence to add films (on the premises), live and recorded music (on the premises), and the provision of late night refreshment (on and off the premises) and to extend the hours for the sale of alcohol (on and off the premises) at the Barrel of Beer, Fore Street, Beer, Devon, EX12 3EQ

The Sub Committee gave consideration to an application for the grant of a Premises Licence to add films (on the premises), live and recorded music (on the premises) and the provision of late night refreshment (on and off the premises) and to extend the hours for the sale of alcohol (on and off the premises) at the Barrel of Beer, Fore Street, Beer, Devon, EX12 3EQ.

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 village centre 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 or Environmental Health in relation to the Licensing Act objectives that had been the subject of representations, namely; public safety, public nuisance and crime and disorder. From this it was concluded that the statutory authorities 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 amended application was granted provided the conditions they had requested were imposed.

Following discussions at the meeting the applicant agreed to reduce the hours originally asked for.

The applicant, Darren Clinch, said he was the current licensee of the Dolphin which was situated 3 doors down from the premises. He had owned and managed that premises for 15 years. He had purchased the premises in July 2017 with the intention of moving the public bar trade from The Dolphin to the Barrel of Beer so that he could eventually turn The Dolphin into a more family friendly dining pub with accommodation. In the application he had used The Dolphin's operating schedule as the basis of this application which was why it was a comprehensive variation application. His parent lived in the property between the two licensed establishments.

The Sub Committee and Interested Parties questioned the applicant about Late Night Refreshment, Live Music, noise management from the premises and in the Fore Street into the night, smokers using the highway and the alleyway at the side of the premises, the use of the fire escape door at the side of the premise for general entrance and exit, installation of extra CCTV to monitor the alleyway, the capacity of the outside area and its current use as a seating area and the installation of a noise limiter by Environmental Health.

The applicant stated that he did not intend to serve hot food beyond 9.00pm and withdrew the Late Night Refreshment application, he also withdrew the Live Music part of the application and the showing of films.

Following discussion he agreed to the Sub Committee imposing further conditions on the operating schedule which related to signage, the restricted use of the emergency exit, the use and capacity of the outside area.

Mr Clinch also provided a private/mobile telephone number for residents to contact him if they had issues with the management of the pub and any nuisance they might suffer so that it could be solved quickly. (01297 20099/07790 211242).

The interested parties' case was, firstly in relation to the prevention of crime and disorder. The outside space was limited and there was a fear that people would spill onto the pavement causing pedestrian access issues. Fear of damage to properties and vehicles from late night drinkers leaving the premises. The side alley being used a toilet.

Regarding public safety, an environment that increased opening time to 15 hours a day was a risk to public safety.

Regarding the prevention of public nuisance, the extension of hours would further increase disruption in a residential area and cause distress of a fear of more anti-social behaviour for residents and visitors. The 1.30am licence would make Beer a late night drinking destination. Noise level from smokers outside of the premises smoking late at night.

At the hearing, Mrs Davison added that she feared that the application if granted would change the nature and character of Beer as a village. Dr Davison stated that the pub was advertised as a Sports Bar, he was also unhappy about the increased access to drink for young people and that this would encourage nuisance to neighbouring properties late into the evening.

Mr Stott was opposed to the late closing of the premises at 1.30am which would mean that there were two late night drinking establishments in Beer. He was also concerned with the late night noise stating that he was regularly woken up at 2.00am by people he assumed were linked to being pub patrons. He stated that he was keeping a log of the issues of noise nuisance at The Dolphin which he believed to be linked to the premises.

Mr Croft lived next door to the premises. He was concerned with the use of the alley by smokers and the noise from the juke box. Mrs Gibbs was concerned with the noise late into the evening from patrons slamming car doors or leaving by foot passing along Fore Street.

The Sub Committee had 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, it was considered that the establishment would be well managed and controlled with appropriate policies in place.

The Sub Committee did not accept that there was evidence of a significant public nuisance, risk to crime and disorder, risk to public safety, arising from the current operation of the premises. This was because of a lack of evidence of 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 local residents had 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.

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 B as amended by the Sub Committee to incorporate:

Monday to Thursday Last sale of alcohol at 12.00 (Midnight)

Friday and Saturday Last sale of alcohol at 12.30am

Closure of the premises at 1.00am

Sunday Last sale of alcohol at 11.00pm

Closure of the premises at 11.30pm

Recorded music to cease at 11.00pm on every night.

c) The conditions in the operating schedule as set out in the amended Appendices F, G and H will also apply.

New conditions

Clear signage must be displayed at entrances and exits requesting that patrons respect the peaceful enjoyment of neighbouring property occupants and owners when leaving the premises.

A further CCTV camera must be installed to monitor the alleyway.

A fire door must be installed that is compliant with the fire regulations which remained locked until it has to be used in an emergency. The fire door was not to be used as a general entrance/exit into or out of the premises.

No patrons to be allowed outside in the designated licensable area after 11.00pm.

There shall be no more than 12 patrons, who must be seated, in the outside licensable area at any time.

A noise limiter must be installed by EDDC Environmental Health to be set at a level to its satisfaction.

d) The mandatory conditions of Section 21 of the Licensing Act 2005 will be imposed.

2. that the Designated Premises Supervisor will be Mr Darren Clinch of The Barrel of Beer, Fore Street, Beer, EX12 3EQ.

*35 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 two applications; one for a variation of premises licence and one for a grant of 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 to the applications 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 variation of a premises licence

Name of premises and address:

34 Queen Street, Seaton, Devon, EX12 2RB.

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. The premises will adopt a Challenge 21 policy. The only acceptable forms of ID will be Passport, Photo Driving Licence or Government Approved PASS Card.
2. CCTV will be installed operated and maintained to the satisfaction of the Licensing authority and Chief Officer of Police.
3. Images will be installed, operated and maintained to the satisfaction of the Licensing Authority or Police upon request.
4. The CCTV system must be operational at all times whilst the premises are trading. If the system is faulty or not working then the Police and East Devon Licensing Service must be informed immediately. Details of the malfunction must be recorded in the premises incident book.
5. A4 sized warning notices must be displayed in public areas of the premises and at all entrances advising that CCTV is in operation. The signs located at entrances should be located on the exterior of the building at, and adjacent to, all public access doors.
6. All signs must comply with the requirements of the Data Protection act 2002.
7. No customer carrying open vessels containing alcohol will be admitted to the premises at any time.
8. No customers will be permitted to take open vessels containing alcohol from the premises.

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

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The Licensing Officer explained the background to the applications 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 variation of a premises licence

Name of premises and address:

Bovey Down Farm, Farway, Colyton, Devon, EX24 6JD.

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:

Amendments

1. Reduce the opening hours for the premises from 24 hours each day to Monday to Saturday 07.00 to midnight and Sunday 07.00 to 23.00 and New Year's Eve 07.00 to 01.00.
2. Reduce the hours for late night refreshment from 23.00 to 05.00 each day to Monday to Saturday 23.00 to midnight and New Year's Eve 23.00 to 01.00.

Additional Conditions

1. SIA security staff shall be employed at the premises at the discretion of the Designated Premises Supervisor/Holder of the Premises Licence in accordance with their assessment of risk for events at the premises. A written risk assessment shall be prepared. The risk assessment shall be made available for inspection by the authorities on demand.
2. The premises will adopt a Challenge 25 policy. The only acceptable forms of ID will be Passport, Photo Driving Licence or Government Approved PASS Card.
3. All children under the age of 18 be removed from the function room before 9pm to ensure a safe environment for them unless accompanied by an adult.

Report to:

Licensing and Enforcement Sub Committee



Date of Meeting: 29 November 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 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

- 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 variation of a premises licence.	Axminster Conservative Club, Silver Street, Axminster, Devon, EX13 5AN	<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 amendments and additional conditions:</p> <p><u>Amendments</u></p> <p>Remove conditions 2-7.</p> <p>Remove condition 11 and replace with –</p> <p>No customer carrying open vessels containing alcohol will be admitted to the premises at any time.</p> <p>No customers will be permitted to take open vessels containing alcohol from the premises.</p> <p><u>Additional Conditions</u></p> <ol style="list-style-type: none"> 1. The premises will adopt a Challenge 21 policy. The only acceptable forms of ID will be Passport, Photo Driving Licence or Government Approved PASS Card. 2. An incident book must be maintained within which full details of all occurrences of anti-social behaviour, disorder and refused alcohol sales at the premises must be recorded. 3. The incident book must be kept on the premises at all times and must be made available for inspection by officers of both the Licensing Authority and the police.

	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

29 November 2017