

Agenda for Licensing & Enforcement Sub Committee

Wednesday, 19 August 2015; 9.30am

[Members of the Committee](#)

Members for this Sub Committee: Cllr Steve Hall, Pat Graham (item 8 only), Matthew Booth and John O'Leary

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

[View directions](#)

Contact: [Chris Lane](#), 01395 517544 (or group number 01395 517546): Issued 12 August 2015

- 1 **Minutes for 5 August 2015 (pages 3-5)**
- 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 is one item that officers recommend should be dealt with in this way.**

- 6 **Schedule of application for Sub Committee approval where an agreed position has been reached and all parties have agreed a hearing is unnecessary** Licensing Officer 6 - 9

Part A Matters for Decision

- 7 **The Vice Chairman to move the following:**

“that under Section 100(A) (4) of the Local Government Act 1972 the public (including the press) be excluded from the meeting as exempt information, of the description set out on the agenda, is likely to be disclosed and on balance the public interest is in discussing this item in private session (Part B)”.(page 5)

Part B Matters for Decision

- 8 **Determination of an application to licence a Hackney Carriage over 4 years of age** Licensing Officer 10 - 13

Reason for consideration in Part B: Para 3 Schedule 12A Information relating to any individual.

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)



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EAST DEVON DISTRICT COUNCIL

Minutes of a Meeting of the Licensing & Enforcement Sub-Committee held at Knowle, Sidmouth on Tuesday, 5 August 2015

- Present: Councillors:
Jim Knight (Vice Chairman in the Chair)
Maddy Chapman
Pat Graham
- Also present: Councillors:
Steve Hall
- Apology: Councillor:
John O'Leary
- Officers: Douglas Jackson – Licensing Officer
(Minutes *43 and *44 only)
Chris Lane – Democratic Services Officer
Giles Salter – Solicitor
Steve Saunders – Licensing Officer
(Minute *41 only)

The meeting started at 9.30 am and ended at 12.05 pm.

***39** Minutes

The minutes of the meeting of the Licensing and Enforcement Sub-Committee held on 22 April 2015, were confirmed and signed as a true record.

***40** Exempt Information

RESOLVED that the classification given to the documents to be submitted to the Sub-Committee be confirmed and that the report relating to exempt information be dealt with under Part B of the agenda.

***41** 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 4 years and 5 months old. The vehicle was in good condition.

- RESOLVED**
1. that the application to license a Vauxhall Insignia saloon registration number VO60OKZ as a hackney carriage vehicle, despite falling outside of the criteria required by East Devon District Council, be granted as an exception due to its good condition when presented to the Sub Committee for inspection. However, Members requested that due to some seat stains and general dirt, the vehicle be fully valeted and inspected by the Licensing Officers before a licence was granted;
 2. that the Licensing & Enforcement Committee be requested to review the policy on hackney carriage vehicle suitability as it was now 21 years old and vehicle build quality had improved considerably in this period.

*42 Exclusion of the Public

RESOLVED that under Section 100(A) (4) of the Local Government Act 1972 the public (including the press) be excluded from the meeting as exempt information, of the description set out on the agenda, is likely to be disclosed and on balance the public interest is in discussing this item in private session.

*43 Hackney Carriage Driver's Licence Application

Consideration was given to whether an applicant was a fit and proper person to continue to be licensed as a Hackney Carriage Driver. Members considered the Council's policy on conviction, the overriding duty of the Sub Committee was protection of the public.

RESOLVED that, in consideration of the circumstances that members were made aware of at the meeting, Mr NA's Hackney Carriage Drivers application for a licence be refused. The circumstances were that he had been cautioned for soliciting another for the purposes of obtaining their sexual services as a prostitute in a street/public place on 25 May 2014, contrary to the Sexual Offences Act 2003 Sec 51A. It was considered that the applicant could not be trusted to carry vulnerable members of the public whilst carrying out duties as a hackney carriage driver.

Also the applicant had no employer, as a Hackney Carriage driver in the East Devon area, and lived in Bristol making it difficult to operate in East Devon as a Hackney Carriage driver.

In view of this set of circumstances it was considered that the applicant was not a fit and proper person to hold a Hackney Carriage Driver's licence.

He was informed that he had 21 days right of appeal to the Magistrates Court.

- *44 Hackney Carriage Driver's Licence Application
Consideration was given to whether an applicant was a fit and proper person to continue to be licensed as a Hackney Carriage Driver. Members considered the Council's policy guidelines that stated that applicants for a Hackney Carriage Driver's licence should be free of conviction for 3-5 years for either/and/or dishonesty and violence. The overriding duty of the Sub Committee was protection of the public.

RESOLVED that in consideration of the circumstances that members were made aware of at the meeting, Mr AB's Hackney Carriage Driver's licence be granted. It was considered that he was a fit and proper person to hold a Hackney Carriage Driver's licence. He was reminded that as a Hackney Carriage Driver he had a duty of care to the public. It was pointed out that if he was convicted on any further offences then he would have to make another appearance before the Sub Committee.

In reaching these decisions the Licensing & Enforcement Sub Committee had regard to the Human Rights Act 1998 and in particular, Article 6.

Chairman Date

Agenda Item 6

Licensing Sub Committee

19 August 2015

NMcD



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

Summary

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.

- 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	The Oddfellows, High Street, Exmouth, Devon, EX8 1NP.	<p>Following mediation the applicant, the Devon & Cornwall Constabulary, the Council's Environmental Health Team, a local councillor and three residents 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/amended conditions:</p> <ol style="list-style-type: none">1. Reduce the hours for licensable activities on a Wednesday and Thursday to 12 midnight with a 12:30am closing time.2. The balcony will be closed to customers: Sunday – Thursday: 23:00 hours at the latest. Friday, Saturday and Bank Holiday Sundays: 01:30 hours at the latest.3. The balcony will not be used for the purposes of Regulated Entertainment.4. The terminal hour for off sales of alcohol will be 23:00 hours every day.5. Customers will not be permitted into the garden with drinks Sunday – Thursday past 00:30 hours and on Fridays, Saturdays and Bank Holiday Sundays past 01:30 hours.

		<ol style="list-style-type: none"> 6. Regulated Entertainment indoors after 23.00 hours will be controlled by a sound limiter. The maximum noise levels will be set in agreement with the East Devon Environmental Health Service and will be reviewed from time to time as appropriate. 7. Door supervisors must be employed from 21:00 hours on a Friday and Saturday night (and on any other night when the premises are open for licensable activities past midnight) until the premises are closed and all customers have left. 8. Door supervisors will be used at a ratio of 1:100, with a minimum of two at any time. 9. A door staff register will be maintained at the premises to include details of date, name, SIA badge number and time on/off duty of all doorstaff. 10. CCTV must be installed, operated and maintained to the satisfaction of the Chief Officer of Police and Licensing Authority, subject to the ICO Code of Practice & relevant Data Protection Laws. 11. CCTV images must be retained for a minimum of 14 days and be produced on the request of the Police or Licensing Authority. 12. 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 must be informed immediately. Details of the malfunction must be recorded in the premises incident book. 13. Warning notices must be displayed in public areas of the premises and at all entrances advising that CCTV is in operation.
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		14. All signs must comply with the requirements of relevant Data Protection laws.
	Recommend approval of application subject to the amended operating schedule and the relevant mandatory conditions of the Licensing Act 2003	

Legal Implications

Included within the report

Financial Implications

No apparent financial implications

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

Neil McDonald Ext.2079

Licensing Sub Committee

Licensing Officer

19 August 2015