

Agenda for Licensing & Enforcement Sub Committee

Wednesday, 19 September 2018; 9.00am

[Members of the Committee](#)

Members for this Sub Committee: Cllrs Steve Hall and John O'Leary

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

[View directions](#)

Contact: [Chris Lane](#), 01395 517544 (or group number 01395 517546): Issued 10 September 2018



East Devon District Council
Knowle
Sidmouth
Devon
EX10 8HL

DX 48705 Sidmouth

Tel: 01395 516551

Fax: 01395 517507

www.eastdevon.gov.uk

- 1 **Minutes for 22 August 2018 (pages 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.**

- 6 **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 Café, 50 The Strand, Exmouth, EX8 1AL. (pages 6-7).**

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)

[Recording the meeting](#)

[Decision making and equalities](#)

For a copy of this agenda in large print, please contact the Democratic Services Team on 01395 517546

EAST DEVON DISTRICT COUNCIL

Minutes of a Meeting of the Licensing & Enforcement Sub-Committee held at Knowle, Sidmouth on Wednesday, 22 August 2018

Present: Councillors:
Steve Hall (Chairman)
John O'Leary
Colin Brown

Also present: Megan Armstrong
Brian Bailey

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

The meeting started at 10.30 am and ended at 11.50am.

*23 Minutes

The minutes of the meeting of the Licensing and Enforcement Sub-Committee held on 8 August 2018, were confirmed and signed as a true record.

*24 Application for the grant of a premises licence to allow live and recorded music, performance of dance and the sale of alcohol on and off the premises at Budleigh Salterton Cricket Club, Ottermouth Ground, Granary Lane, Budleigh Salterton, EX9 6HA.

The Sub Committee gave consideration to an application for the grant of a Premises Licence to allow the sale of alcohol on and off the premises at Budleigh Salterton Cricket Club, Ottermouth Ground, Granary Lane, Budleigh Salterton, EX9 6HA.

The Sub Committee carefully considered the application with the amendments following mediation that the applicant proposed for the grant of a premises licence 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 and its physical relationship with 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, that is to say:

-) public safety
-) public nuisance

-) crime and disorder
-) protection of children from harm.

From this the Sub Committee concluded that the police did not consider that there was currently any significant problem associated with the current operation of the club premises certificate, or that there is likely to be if the premises licence application is granted.

The applicant's case was:

On paper – that like a number of other sports clubs in East Devon the club had decided to change its licence from a club premises certificate to a full premises licence as they were finding it difficult to comply with the strict 'members and guests' restriction on the supply of alcohol.

Mr. Gregory Evans-Chairman and Director

At the hearing he stated that the Club had no plans to cease operating as a Members' Club but the application gave the Committee more flexibility to serve invited guests of club members. However if they operated as a public house this would reduce the incentive to have a dedicated membership. There was no anticipation of running music events as the club took very seriously its responsibility to neighbours and its landlord Clinton Devon Estates.

The Club had acceded to and worked with the EDDC Environmental Health Officer to modify the original application and to include her suggestions on operation of a licence.

There was a robust Safeguarding Policy which included a dedicated Welfare Officer in place for children and the Club was accredited to the England and Wales Cricket Board. The conversion from Club Premises Certificate to Premises Licence created no additional risk to children. The Club didn't expect the volume of U18 membership to increase as a result.

The Chairman felt that the Club had demonstrated a reasonable and appropriate course and that it had listened to and conceded to local residents who were concerned with potential issues of public nuisance.

He stated that there were no plans for events, that the licence was used for the period from 1st April to 30th September when matches or practices were being held. The Club was effectively closed down in the winter months because of the risk of flooding in the pavilion.

A new till system had been introduced to provide incentive for social membership of the Club for new people using the bar for the first time.

The interested parties' case was:

On paper – The concerns expressed by the objectors related to all four of the licensing objectives and their concerns were varied and covered in detail on their original representations (see Appendix D). Some of the main issues covered related to music and people noise and the possibility that the more open and extended licence would turn the club into a pub or nightclub type venue. There were concerns at the extra numbers of people that may be drawn to the club and the area resulting in extra traffic in Granary Lane causing noise and traffic danger to residents. Safeguarding concerns were also raised over youngsters and vulnerable

adults attending the club as well as the possible increase in crime, disorder and disturbance to local residents.

The Interested Party questioned the applicant on Safeguarding of children issues, Noise nuisance, Off sales of alcohol to be taken outside of the bounds of the Club's leased playing area, nuisance in Granary Lane, use of plastic glasses.

Mrs Louise Kane

Made no submissions to the Committee.

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 heard regarding the history of the premises, the Sub Committee consider that the establishment was well managed and controlled with good 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, risk to children, arising from the current 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 but at the present time there was no real evidence that the operation the applicant now proposed to run would cause the unacceptable impact local residents suggested in their representations.

Whilst the Sub Committee acknowledged the concerns expressed by the interested parties before it, they believed the concerns expressed in representations had been addressed by the hours of operation for the licensable activities and the conditions offered and agreed at mediation which had been tailored to the size, characteristics and activities on the premises, and which members believed were necessary and proportionate.

All parties were reminded of the closure and review powers which the government brought into force once the new licences were operational from 24th November 2005. Premises which do 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.

RESOLVED 1. that the grant of the premises licence be made as follows:

- a) The extent of the areas within which the various licensable activities will be permitted is 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 A but as amended at mediation in Appendix F.
- c) The conditions will now be as shown in Appendix G and Appendix F.
- d) The mandatory condition required by section 19 of the Licensing Act 2003 will also be imposed.

2. The Designated Premises Supervisor will be Mr. Gregory Evans Chairman of Budleigh Salterton Cricket Club.

- *6 Confirmation of a Film to be shown at Exmouth Savoy Cinema
Consideration was given to a report which informed Members with the background, history and issues of an application made under the Licensing Act 2003 for the certification of a film that did not currently have a British Board of Film Classification (BBFC). The report further informed Members of the options available to them when considering an application for the certification of films.

The applicant did not attend the hearing whilst the Sub-Committee considered its decision. The Sub-Committee viewed the film and applied the scoring matrix contained in Appendix A of the report.

RESOLVED

that the Su Committee having viewed the film, determined that the film would carry a certificate in line with the BBFC categories to require a classification of "U". The decision of the Licensing Authority authorised the film as being suitable for audiences aged four years of over in accordance with the classification that was passed.

Chairman Date



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

Date of Meeting: 19/09/2018

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 grant of a premises licence.	Winehub Café 50 The Strand Exmouth Devon EX8 1AL	<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 condition:</p> <ol style="list-style-type: none"> 1. The Premises will comply with the Street Café Licence issued by Devon County Council. 2. No open containers of alcohol will be taken from the premises other than for consumption in the external seating area marked in red on the plan. 3. An incident book must be maintained within which full details of all occurrences of disorder and refused alcohol sales at the premises must be recorded. 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. 4. Staff Training records will be retained for at least 12 months and 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		

Neil McDonald Ext.2079

Licensing Officer

Licensing Sub Committee

19 September 2018