

**KEY POINTS & OBJECTIONS**

re

**LICENSING APPLICATION NO 051967**

**HANGTIME LIMITED**

By

Jenny and Martin S Heslop QC

**1 KEY POINTS**

We object to this application since, if granted, it is likely to have a serious adverse impact upon all Four of the Licensing Objectives:

- a) The Prevention of Crime and Disorder
- b) Public Safety
- c) Prevention of Public Nuisance
- d) The Protection of Children from Harm

It will increase the potential for crime and disorder and public nuisance, be likely to endanger public safety and has real potential to increase harm to children.

**2 OUR POSITION**

- A) We live almost immediately behind the site of the property for this application and believe we are therefore in a position to make significant representations under the Licensing Objectives in respect of this application.
- B) We refer in our representations to the **Statement of Licensing Policy for East Devon District Council 2021 - 2026** and indicate the relevant passages by paragraph number.

## 3 OBJECTIONS

Our objections under the licensing objectives relate to:

- a) the type of premises - **Para 5.3.2**  
wholly inappropriate by reason of size without sufficient measures to promote the objectives
- b) the nature of the location - **Para 5.3.2**  
by reason of being next to a dangerous section of beach, potentially enticing late night drinkers onto the beach without any apparent control
- c) the needs of the local community - **Para 5.3.2**  
near a quiet residential area which will obviously be adversely affected by increased noise and disturbance from recorded music, customers congregating outside and coming and going from the premises - all of which will impact upon the amenity of the area and the residential population
- d) the potential for crime and disorder - **Para 5.3.3**  
including alcohol related violence and disorder, antisocial behaviour and littering
- e) public nuisance - **Para 5.3.4**  
including noise from recorded music and general disturbance by the introduction of a full on and off licence
- f) harm to children - **Para 11**  
a family area of limited size frequented at present by children who will be exposed to the increased dangers attached to alcohol consumption
- f) saturation with premises of the similar nature in close proximity in a small area creating exceptional problems of crime and nuisance over and above the impact from the individual premises - **Para 9** and
- g) the amenity of local residents being placed under severe pressure with the granting of this licence - **Para 16**

We argue this application falls foul of all four objectives under these considerations.

## 4 APPROACH

- A) The application will have to be considered in the light of the provisions of **Para 5.3** of the Policy.
- B) This specifically requires the Authority to make a judgement under **Para 5.3.6** about the risk of granting the application - "*to make an informed assessment of the risk of ... things occurring if a licence is granted and to take such steps as it considers appropriate to prevent or minimise such risks*".

## 5 DETAIL

- A) The application relates to a small hut in an area originally intended as a watersports centre but which has now become little more than an eating and entertainment area with a few retail outlets.
- B) It is in a family area, limited in size, heavily frequented by children and young adults and is in very close proximity to Mickey's Cafe which already has a full on licence with restricted hours.
- C) In effect, the application amounts to seeking to obtain for this tiny hut and its small surrounding area permission for a "public house" with full on licence facilities extending to 22.00 and the playing of recorded music all day, every day - both inside and outside until the same time which will be open until 23.00.
- D) The sale of alcohol on the premises in such a small area, opposite a highly dangerous section of beach, presents real risks of contravention of the licensing objectives.
- E) The premises at the moment are a small hut selling coffee, pastries etc and if this licence is granted it will have a cumulative adverse impact on the local amenity and the licensing objectives, particularly having regard to the licence which already exists for Mickey's cafe.

## 6 SPECIFIC OBJECTIONS

- A) **POLICY 5.3.2 and 5.3.3 - LICENSING OBJECTIVES / CRIME & DISORDER / PUBLIC SAFETY**

The type of premises, the nature of the location and the needs of the local community (a quiet residential area), are such that this licence should not be granted since in this case, these matters impact upon all the licensing objectives - including potential for alcohol related violence and disorder; antisocial behaviour; littering; nuisance generally and noise.

The Committee will have to have regard to the wider considerations affecting the residential population and the amenity of the area.

**B) PARA 5.3.4 and PARA 16 - PUBLIC NUISANCE**

The proposal is to play music inside and outside the premises between 09.00 - 22.00.

This is recorded music.

The application provides no details of how this is to be supplied; nor levels of noise control.

This contrasts with the Miceys Cafe Application where there were detailed discussions with Environmental Health and an Agreement specifying noise levels that were said to be acceptable.

There does not appear to be any such report or any control intended over the level of music to be played and this is likely adversely to impact upon the nearby residential areas, contrary to the Licensing Objective.

**PARA 16** requires the applicants to demonstrate they have in place measures for the prevention of public nuisance and the impact their activities will have on people living in the vicinity - which should not be disproportionate or unreasonable - these include noise, light, smells and litter and this can include low level nuisance "*affecting a few people living locally ...*" and the environment of interested parties.

We have not seen any measures aimed at dealing with these issues and are surprised that the applicants appear not to have considered or addressed these matters.

We have not see any proposal for lavatories. At present there are none - except in Miceys Cafe. If there are proposals to deal with this issue, why have they not been included within the application since this obviously is of serious concern in relation to public nuisance.

The premises are, of course, too small to provide their own conveniences and it is not clear what is intended by the applicant.

**C) PARA 11 - THE PROTECTION OF CHILDREN FROM HARM**

This is a small area used by families many of whom come from the beach area. Allowing the consumption of alcohol both inside and, in particular, outside will lead to a change of character of this area and inevitably impact upon the children and young adults who use it at present.

D) **PARA 9 - CUMULATIVE IMPACT**

**Para 9.2** - This confirms that the Authority will consider the cumulative impact of a new licence and whether it is likely to lead to this area becoming '*saturated with premises of a particular type, thereby making it a focal point and thereby creating exceptional problems of disorder and nuisance over and above the impact from the individual premises themselves.*'

This is to be taken into account when considered the individual merits of this application.

We believe it is quite clear that the granting of this licence will have a cumulative impact upon the area adverse to the licensing objectives.

With a full On Licence at close proximity to Mickeys Cafe, we believe this is exactly what is likely to happen.

We base this upon the character of the premises concerned (a small hut); the location in an area which is limited in size and very close to a section of the beach which is highly dangerous and all the matters set out above including, perhaps most importantly, that this is a family location.

There is a real danger that Shoreside will become little more than a significant drinking venue, particularly in the evenings.

Having regard to the existing licence granted to Mickeys - we believe there is a real danger that the granting of this licence will adversely affect the amenity of local residents and the authority should consider the issue of any cumulative impact on the amenity of the local area in particular local residents being placed under severe pressure of nuisance, noise, disturbance and crime.

D) **PARA 9.6** - The Committee will consider:

- a) The character of the surrounding area
- b) The impact upon the surrounding area both individually and cumulatively with the existing licences and
- c) The nature and character of the proposed operation

We suggest that nothing in the application deals with the issues to be considered under this Paragraph.

## 7 SUMMARY

These objections should be seen in the light of the existing concern about anti-social drinking on Exmouth's beaches and public areas where there are already major problems about serious alcohol and drug abuse and other anti-social behaviour.

This is reflected in the recent anti-social behaviour issues that the local authority has had to consider, and the increase in public funding in an attempt to deal with it.

The granting of a new on and off licence in this area has clear potential to exacerbate this problem and offend against all 4 Licensing Objectives.

## 8 POLICE

- A) At a late stage, we have learnt that the Police have made a representation - and the Applicants have agreed to comply with that representation for the consumption of alcohol On the premises only, those premises being the Licensed area as shown on the approved plan, including both the inside of the hut and the designated outside seating area.

We also understand there will be a sales refusal register.

- B) We understand the natural police concerns in respect of this application.
- C) However, it will be recognised that the police have different considerations from those of the Licensing Committee who must consider the wider issues as set out within the Licensing Policy.

It follows that our concerns are not allayed by any condition that limits the consumption of alcohol only to persons inside the Applicants Hut premises and those seated outside.

In any event, it is unclear, how the Applicants are themselves effectively going to police the outside area from the obvious risks of outside drinking breaching the Licensing Objectives.

## 9 CONCLUSION

In all these circumstances, we invite the Committee to reject this application.

**HANGTIME**

**LICENSING APPLICATION NO 051967**

**Further Representations**

**by**

**Jenny and Martin S Heslop QC**

- 1 These representations are to be added to those already made by us and submitted to the Sub-Committee for its consideration.
  
- 2 These representations are made in the light of the fact that we have only yesterday seen the applicant's Plan of the premises supplied by another objector. This plan was not included in the material posted on the website in respect of this application.
  
- 3 We invite the Sub-Committee to consider the following re the Plan:
  - A Despite the magnitude of the potential impact of this licence there do not appear to be any professionally drawn plans to represent the full layout of the premises and the outside area.
  
  - B The application fails to confirm what title Hangtime has to the outside area as defined by the Red Line. We understood this was to be a public area.  
  
Do Hangtime have exclusive right to this area?  
  
There is no mention of their entitlement in the application.
  
  - C How are the interior premises to be laid out - apart from the suggestion in Green of "Main Point" of sale, there is no indication as to the layout of the interior other than apparently two exits. Where are the other points of sale to be, if any?  
  
Where is alcohol to be served inside the premises since the only indication is that of sale outside (again coloured in Green).  
  
What does Main Point of Sale mean? - Where are the others, if any?

- D As to the outside area, this is delineated apparently on the hand drawn plan within the Red line.
- i) There is no indication as to how far this extends into the existing SideShore Development because it has not been represented in the context of the whole SideShore area.
  - ii) How is this area to be delineated physically so that the public know what is part of the licensing area and what is not?
  - iii) What measures are proposed to ensure this area remains limited only to customers on licensed premises rather than those choosing to take drinks outside this area?
  - iv) What sound system is proposed for the recorded music to be played outside - there is no indication of the type, where speakers are to be placed, what sound controls are proposed and how is the sound level to be monitored?  
  
We have already raised this matter under our original observations and are surprised to find there is no reference to it in the Plan at least to show the location of speakers.
  - v) Assuming this proposed outside area is to be secure, where are the entrances and exits (not designated on Plan) and what proposals are advanced to ensure this area remains within the control of the potential Licencee?
  - vi) There do not appear to be any provision for customer lavatories. They are certainly not shown on the plan.
- E It does not appear that the Sub-Committee have been provided with any information about the number of customers anticipated.
- F The Plan provides no detail as to what seating is to be proposed either inside or outside.

## SUMMARY

- 1 Over and above our original representations/objections, we invite the Sub-Committee to conclude now having seen the proposed Plan, that this application is totally misconceived and should be rejected.

- 2 If there are proposals to deal with the issues we have raised above and in our earlier representations, then we wish to hear them in advance of the hearing.
- 3 The Sub-Committee does not have professionally drawn plans showing full detail of the application, only some hand drawn configuration which fails to delineate the application in the context of the surrounding area and gives no real indication of what is planned either inside or outside.

If follows, of course, there is no indication of how the outside is to be managed and monitored and what proposals are advanced to avoid late night nuisances that are inherent in the granting of this sort of licence, particular outdoors..

Nor is there any indication about noise management, yet they are asking for recorded music all day.

## CONCLUSION

We do not know if the Sub-Committee is familiar with this site.

- 1 We suggest that the Sub-Committee members attend the site - since without a site visit the Sub-Committee will find it difficult to assess fully whether these premises, at the outset, are suitable for the granting of an alcohol licence and/or a music licence having regard to all the matters we have raised.
- 2 We suggest that the deficiencies in this application and all the other matters raised confirm this is nothing more than an opportunistic application, without merit and should be rejected.

JENNY AND MARTIN S HESLOP QC

APPENDIX G1

