

## **EAST DEVON DISTRICT COUNCIL**

### **Minutes of the meeting of Licensing and Enforcement Sub Committee held online via the Zoom app on 7 July 2021**

#### **Attendance list at end of document**

The meeting started at 9.30 am and ended at 11.22 am

#### **6 Minutes of the previous meeting held on 16 June 2021**

The minutes of the previous meeting held on 16 June 2021 were agreed as a correct record.

#### **7 Declarations of interest**

Minute number 10. Determination of an application for the grant of a new premises licence to authorise the sale of alcohol for consumption ON the premises and the playing of recorded music (Indoors and Outdoors) at Hangtime Café, Unit 6-7 Sideshore, Queen's Drive, Exmouth EX8 2GD.

Councillor Joe Whibley, Personal, Member is a Member of Exmouth Town Council. The application site is not in the Member's ward..

#### **8 Matters of urgency**

There were no matters of urgency.

#### **9 Confidential/exempt items**

There were no confidential / exempt items.

#### **10 Determination of an application for the grant of a new premises licence to authorise the sale of alcohol for consumption ON the premises and the playing of recorded music (Indoors and Outdoors) at Hangtime Café, Unit 6-7 Sideshore, Queen's Drive, Exmouth EX8 2GD**

The Sub Committee considered the application for the grant of a new premises licence to authorise the sale of alcohol for consumption on the premises at Hangtime Café, unit 6 & 7 Sideshore, Queen's Drive, Exmouth EX8 2GD. The meeting was a hearing to consider the application for a premises licence under the Licensing Act 2003.

The Chair introduced the members of the Sub Committee and the East Devon District Council officers present.

The applicant, present and entitled to make representations, was Megan Barnett.

The interested parties, present and entitled to make representations were Martin Heslop, Jenny Heslop, Mary Nash, Gina Hanson, Charles Salter, Jane Ashton, Carol Metcalfe, Ron Metcalfe and Peter Tweedie.

Regarding representations from responsible authorities, the Chair advised that Devon and Cornwall Police had reached an agreed position with the applicant. As a result, the applicant had amended the application so that the licence would contain appropriate conditions and, if granted, would be for sales of alcohol for consumption ON the premises only.

The Sub Committee's legal advisor, Giles Salter, outlined the procedure for the meeting.

The Licensing Officer, Steve Saunders, outlined the application and highlighted the plan of the premises showing the proposed licensed area which includes the café and the adjoining outside area as defined on the plan. The conditions offered by the applicant were within the operating schedule set out in Appendix C of the report, with further conditions which had been agreed subsequently set out in Appendix F.

In total, 29 representations had been received; the representation from the Police was shown in Appendix F, one representation was in support of the application with a further 27 representations from local residents and District and Town Councillors which were in objection.

By way of formal mediation, a letter was sent to those who had submitted a representation which explained the agreement that had been reached with the Police. Five representations were subsequently withdrawn leaving 23 outstanding and to be considered by the Sub Committee at the meeting. All representations and key points in response to the notice of hearing were set out in the appendices to the report.

The applicant, Megan Barnett, addressed the Sub Committee and made the following points:

- The applicant and her partner had grown up in Exmouth and were proud to be known as the friendly café on the seafront and a small business run by local people
- The decision to apply for an alcohol licence was both the applicant's intention from the start of the business and was demand led by customers of the café
- It was hoped that the café's offering would complement the many and well known water sports events on Exmouth seafront
- No objections had been made by responsible authorities other than the agreed position which had been reached with the Police with regard to the consumption of alcohol on the premises only
- The application was more conservative than licences which had been granted to other nearby premises
- Various steps would be taken to promote the four licensing objectives; a comprehensive digital colour CCTV system would be installed to the satisfaction of the Police, only reusable branded plastic cups would be used, with no single use plastic or glass, low volume background music would be limited to the unit and the immediate seating area, the café had access to the facilities at the nearby Edge premises, regulated sale of alcohol, proof of age policies together with a refusals register would ensure that the café did not contribute to underage drinking on the seafront
- The applicant's intention was to improve the offering for the water sports community, the town and the café's customers on Exmouth seafront.

The applicant responded to questions from the Sub Committee and made the following points:

- The applicant did not want to cause any disturbance and would welcome a visit and advice from Environmental Health regarding noise levels from the premises
- The exact position of seating within the proposed licensed area had not yet been defined
- Should the licence be granted, the applicant would discuss with the General Manager of Sideshore the installation of a physical demarcation on the ground in order to easily identify the licensed area
- Café staff would not be outside all of the time, but regularly check the area and would deal with inappropriate behaviour by customers by asking them to leave
- The use of reusable branded plastic cups would enable alcoholic beverages to be differentiated from coffee which customers are able to consume off the premises
- The nearby toilet facilities are owned by Edge and should the licence be granted, patrons would be able to use the facilities by way of an agreed arrangement with Edge.

Interested parties put questions to the applicant who responded as follows:

- Access to the facilities at Edge is by way of code access rather than a key
- It is not the applicant's intention for Hangtime to become a public house, but rather to sell premium drinks such as local gin and craft beer.

Regarding the provision of toilet facilities, the legal advisor to the Sub Committee advised that there was no requirement to provide facilities under the Licensing Act and that this issue would not need to be considered by the Sub Committee if members were content that the application meets the four licensing objectives.

Further questions from interested parties were responded to by the applicant as follows:

- Use of the toilet facilities at Edge had not yet been approved by Sideshore, however the facilities are leased by Edge Watersports and as such are its responsibility
- The Edge facilities are not for use by the general public although customers of Hangtime could access the facilities using the code and with permission from Hangtime staff

The interested parties addressed the Sub Committee and the following points were highlighted:

- The detailed objections of the interested parties are set out in Appendix G and make reference to the Licensing Policy 2021
- If granted the application would provide a full on licence which would effectively provide a public house with a small outside seating area
- The type of premises are inappropriate by reason of size and without sufficient measures to promote the licensing objectives
- The absence of toilet facilities is relevant when considering the suitability of the premises under the licensing objectives
- The nature of the location gives rise to concern as it is next to a dangerous section of beach
- The premises is near a quiet residential area which will be adversely affected
- There is the potential for crime and disorder
- There is concern regarding potential for public nuisance from the playing of recorded music and an environmental health assessment should be carried out prior to any grant of licence
- Children will be exposed to increased dangers arising from the consumption of alcohol

- There is a saturation of similar premises in close proximity
- The amenity of local residents would be adversely impacted
- It is unclear how the outside area is to be delineated and how the applicant is to manage behaviour of those in the area
- The cumulative impact with other licensed premises in the area increases the risk of anti-social behaviour and disorder
- CCTV would not be sufficient to deal with the matters of concern raised by objectors
- The area was intended to be for public access and it is unclear how the applicant would exclude members of the public from the site
- The deficiencies in the application indicate that it should be rejected by the Sub Committee.

The legal advisor to the Sub Committee advised that Environmental Health has powers to take action following any complaints from the public arising in connection with the premises. As this is a new premises which has not been tested, the Sub Committee would have to consider the risk of the proposed operation.

Further concerns were raised by the interested parties as follows:

- It is essential to know how the tables would fit within the proposed licensed area
- It would be difficult for the applicant to monitor which patrons are leaving the premises with coffee and which with alcohol
- Completing the refusals register would take considerable time and there was concern as to whether sufficient café staff would be available to manage this and the issue of patrolling the outside area
- The Sub Committee needs to take into account the unintended consequences of how customers might behave and the issue of enforcement is of real concern to local residents, particularly regarding ensuring customers stay on site to consume alcohol
- Many licensed premises employ professional door staff to manage public nuisance and disorder

The applicant advised that currently there are five members of staff at weekends. Going forwards, it was uncertain how many members of staff would be required, but there would be two staff members with regard to the above points raised by interested parties.

The number of tables to be provided is dependent on the size of the outside area and had not yet been determined. However, the applicant wanted to provide sufficient space around the tables to avoid congestion and to provide a pleasant experience for customers. The applicant agreed to provide a plan with the proposed number of tables and the numbers seated at each.

In response to a question from the legal advisor, the applicant confirmed that the side hatch would not be used for serving customers, but could be used for monitoring that section of the outside area. The applicant anticipated a maximum number of 40 customers, but at this stage, the exact number was uncertain, but would be limited by the seating capacity.

The applicant also confirmed that, should the licence be granted, once the sound speakers are in place, she would contact Environmental Health for advice and a sound level assessment.

The applicant also advised that there is a public pathway outside of the designated seating area for the café.

In response to a question from an interested party regarding making patrons of Hangtime aware of the availability of toilet facilities, the applicant confirmed that signage would be preferable as a means of advising customers. Signage would also be used to clarify that alcohol must be consumed on site and while patrons are seated.

In order to clarify the designated seating area included in the area for which the licence was sought in relation to the public path running down the side of the café, the Sub Committee considered photographs provided in Appendix G1. The applicant confirmed that no seating would be placed on the public thoroughfare which is outside of the café's designated area.

In her final statement, the applicant thanked everyone for attending and advised that she and her partner are local business owners looking to contribute positively to the town.

The Chair thanked those present for taking part and advised that all parties would be notified in writing of the Sub Committee's decision with five working days.

**Attendance List**

**Councillors present:**

K Bloxham (Vice-Chair)

A Dent

J Whibley (Chair)

**Councillors also present (for some or all the meeting)**

None

**Officers in attendance:**

Giles Salter, Solicitor

Stephen Saunders, Licensing Manager

Sarah Jenkins, Democratic Services Officer

Alethea Thompson, Democratic Services Officer

Anita Williams, Principal Solicitor (and Deputy Monitoring Officer)

Emily Westlake, Licensing Officer

**Councillor apologies:**

None

Chair .....

Date: .....