

EAST DEVON DISTRICT COUNCIL

Minutes of the meeting of Licensing and Enforcement Sub Committee held Online via the Zoom app on 24 November 2021

Attendance list at end of document

The meeting started at 9.30 am and ended at 10.55 am

21 Minutes of the previous meeting held on 8 September 2021

The minutes of the meeting held on 8 September 2021 were agreed as a correct record.

22 Declarations of interest

There were no declarations of interest.

23 Matters of urgency

There were no matters of urgency.

24 Confidential/exempt items

There were no confidential / exempt items.

25 Determination of an application for the grant of a premises licence to allow the sale of alcohol for consumption OFF the premises at Exmouth Parade Mini Market, 5 Parade, Exmouth EX8 1RS

The Sub Committee considered the application for the grant of a premises licence to allow the sale of alcohol for consumption OFF the premises at Exmouth Parade Mini Market, 5 The Parade, Exmouth EX8 1RS. The meeting was a hearing under the Licensing Act 2003.

The Chair introduced the members of the Sub Committee.

The applicant, present and entitled to make representations was Mr Saravanan Thayanathan, accompanied by his agent Mr Patrick Burke of PMB Licensing.

The interested party, present and entitled to make representations, was Cllr Tim Dumper for Exmouth Town Council.

The Licensing Authority had received representations from the Police who had discussed the application with the applicant and had subsequently reached an agreed position, including further conditions, should the licence be approved.

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

The Licensing Officer, Lesley Barber, outlined the application. The Licensing Officer confirmed that, having checked the Licensing Authority's administrative procedures, a response from one objector had not been received at least five working days prior to the hearing as required under regulation 8(5) of the Licensing Act 2003 (Hearings) Regulations 2005. The Licensing Authority had no discretion to accept a late response

and the objector was not entitled to attend the hearing. The objector had been advised of this and had been provided with the link to access the papers and to watch the hearing online.

No updates or amendments had been made since the publication of the report.

In making the applicant's case, the agent, Mr Patrick Burke, made the following points:

- The applicant has wide experience of operating sites on a 24 hour basis.
- There would always be a minimum of two staff on site at the premises applied for.
- The Police had been in discussion with the applicant regarding the conditions.
- Objections raised by Exmouth Town Council regarding setting a precedent and the risk of exacerbating public nuisance and crime and disorder were either not relevant to the licensing objectives or there was no evidence to support the objections.
- The Licensing Authority should have regard to the principles laid down in 'the Thwaites case' [Daniel Thwaites plc v. Wirral Magistrates Court & Others] regarding the imposition of restrictions and inclusion of speculative opinions.

Responding to questions from Members, the applicant's agent advised the following:

- All of the 24 hour premises run by the applicant have been licensed.
- The applicant knows the part of Exmouth under discussion well, including the neighbouring nightclub, and is proposing to have door staff in place between the hours of 12 midnight to 5am.
- The applicant anticipates that the clientele between the hours of 12 midnight to 5am would include shift workers going to and from work and online orders via apps such as Uber Eats and Just Eat.
- The applicant would be willing to consider amending the proposed opening hours.
- There is no cumulative impact policy in place in East Devon.
- In his experience of running licensed premises, the applicant has never and would not serve a customer who was drunk.
- There have not previously been any issues regarding safety of staff at premises operated by the applicant.

There was a short break in the proceedings to enable the applicant and his agent to discuss opening hours and staffing levels.

On the resumption of the meeting, the applicant's agent advised that the applicant proposed revised opening hours in that the premises would open at 6am and close at 4am seven days a week and, on Friday and Saturday nights, two SIA security staff would be on duty.

The interested party, Cllr Tim Dumper, on behalf of Exmouth Town Council, addressed the Sub Committee. The Town Council had no concerns regarding daytime hours, but did have concerns with the proposed late night opening hours as there had previously been public disturbance in the area which had led to the imposition of a Public Space Protection Order.

In response to questions from Members, Cllr Dumper advised that he was aware of anecdotal evidence of noise and of confrontation between local residents and late night drinkers in the area.

The Sub Committee's legal advisor, Giles Salter, advised Members of the need to focus on the licensing objectives and whether the applicant had offered sufficient reassurances and conditions that the premises would be operated responsibly.

In their closing statement, the agent for the applicant included the following points:

- The applicant had extensive experience of operating similar premises.
- No objections from responsible authorities had been received.
- The applicant had offered to close the premises between 4am and 6am to allow for time for patrons of the neighbouring night club to disperse, should the nightclub re-open at any time.
- Two SIA security staff would be on the premises on Friday and Saturday nights and at least two members of sales staff would be on the premises at all times.

The Chair thanked all participants for attending the meeting and advised that the decision of the Sub Committee would be notified to all parties in writing within five working days.

Attendance List

Councillors present:

K Bloxham (Chair)

P Millar

T Wright

Councillors also present (for some or all the meeting)

None

Officers in attendance:

Lesley Barber, Licensing Officer

Sarah Jenkins, Democratic Services Officer

Giles Salter, Solicitor

Stephen Saunders, Licensing Manager

Sarah Helman, Democratic Services Officer

Rebecca Heal, Solicitor

Councillor apologies:

None

Chair

Date: