

## **EAST DEVON DISTRICT COUNCIL**

### **Minutes of the meeting of Licensing and Enforcement Sub Committee held at Clyst Room, Blackdown House, Honiton on 24 April 2023**

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

The meeting started at 9.28 am and ended at 11.02 am

#### **32 Minutes of the previous meeting**

The minutes of the previous meeting held on 6 April 2023 were agreed and signed as a true record.

#### **33 Declarations of interest**

There were none.

#### **34 Matters of urgency**

There were no matters of urgency.

#### **35 Confidential/exempt items**

There were no confidential / exempt items.

#### **36 Determination of an application to vary a premises licence to allow the addition of an external bar to the premises' outside consumption area at The Puffing Billy, Station Road, Exton, EX3 0TR.**

The meeting was a hearing under the Licensing Act 2003.

The Chair introduced the members of the Sub Committee.

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

The Sub Committee considered the application for the variation of a premises licence to allow the addition of an external bar to the premises' outside consumption area at The Puffing Billy, Station Road, Exton, EX3 0TR.

The applicant, present and entitled to make representations was St Austell Brewery Co Ltd, represented by Mr Ewen Macgregor of TLT Solicitors. Also present and representing St Austell Brewery Co Ltd were Charlotte Bowden and Theo Rihll (The Puffing Billy) and Andre Quibell, Regional Business Manager.

The Licensing Authority had received representations from several local residents who had given notice that they did not wish to attend the hearing.

The Licensing Authority had not received any representations from responsible authorities regarding this application.

The Licensing Officer, Phillippa Norsworthy, summarised the application and confirmed that no further information relating to the application had been received since publication of the report.

In response to a question from the Sub Committee, it was confirmed that neither the Licensing Department nor Environmental Health had received any complaints concerning noise, or disturbance in the area where the bar is to be situated.

The applicant's representative had no questions for the Licensing Officer.

The applicant's representative made the case for the application and highlighted the following points:

- The application is for an external bar in an existing garden area where people can already consume alcohol; if the application is refused, people will still be permitted to sit outside and drink.
- There has been a single instance of someone urinating in a hedge; this was during the pandemic when restrictions meant that people had to wait longer than usual to access the toilets.
- The pub is central to the community, and food driven with a split in favour of dry sales over wet sales.
- An outside bar would stop people carrying their drinks along the footpath, and be safer and more enjoyable for families who don't want to leave young children in order to go to the bar.
- The appearance of external bars and beer gardens has happened, and the brewery has made numerous applications up and down the country.
- There will always be someone positioned behind the bar when it is open for the sale of alcohol; their presence will ensure supervision of the garden, where currently there is none.
- All products will be brought inside when the bar is not operational, and the bar will be inaccessible to customers.
- If the application is granted, there will be additional security coverage with CCTV in the external bar and garden area.
- Of those who have written in concerning the application, the balance is in favour.
- National guidance indicates that responsible authorities are the primary source of information; and there have been no representations from responsible authorities in relation to this application.

Members of the Sub-Committee put questions to the applicant's representative who made the following points in reply:

- Stock will be brought into the external bar at the start of the trading day from the kitchen and cellar, via a door behind the external bar.
- There will be two members of staff in the outside area during service; one as bar staff, the other serving food.
- Whilst the pavement along the front of the front is narrow, and vehicles park right up to it, there have been no problems with access for wheelchair users or pushchairs.
- It is not intended to have outside entertainment.
- The pub is currently recruiting for supervisors and managers to ensure appropriate staffing levels.
- It was confirmed that all alcohol including optics will be removed from the external bar at the end of the evening.

The applicant's representative made a final statement which included the following point:

- Three conditions were offered with the application, and his clients were happy for these to be added onto the licence if the application is granted.

The officers and the applicant's representatives left the meeting room. The Sub-Committee members remained in the room to make their decision.

The officers and the applicant's representatives returned to the meeting room.

The Sub-Committee was minded to grant the application with the condition that two members of staff are designated to the outside area at all times, during the external bar's operating hours.

37 **Determination of an application for the grant of a time limited premises licence to permit the provision of regulated entertainment and the supply of alcohol for consumption ON and OFF the premises at The Ham Recreation Ground, Sidmouth as part of Sidmouth Folk Week**

The Sub Committee considered an application for the grant of a time limited premises licence to permit the provision of regulated entertainment and the supply of alcohol for consumption on and off the premises at The Ham Recreation Ground, Sidmouth as part of Sidmouth Folk Week.

The applicant, present and entitled to make representations was Mr John Braithwaite for Sidmouth Folk Week Productions Ltd.

A local resident, Mr Pemberton, had made representations but had not given notice that he wished to attend the hearing. The Licensing Officer, Lesley Barber, shared with the applicant and the Sub Committee an email from Mr Pemberton which had come to her attention immediately before the hearing and to which there had not been time to respond, concerning his attendance.

The Licensing Authority had not received any representations from responsible authorities regarding this application.

The Licensing Officer summarised the application and stated that Mr Pemberton's representation was accepted because it referenced public nuisance. The licensable activities are to cease at 11pm and the closing time will also be 11pm; she highlighted this because it was the basis of Mr Pemberton's representation but was not the reason why the representation was accepted, and the finish times are the same as for previous years.

The Sub Committee had no questions for the Licensing Officer.

The applicant had no questions for the Licensing Officer.

The applicant made the case for the application and highlighted the following points:

- The festival has been running for 68 years, with a professional team in place.
- The organisers have appropriate facilities for the general public to feed back to them before and during the event.
- There were no complaints of nuisance or noise during the event last year.
- No evidence has been provided in respect of the representation on the grounds of public nuisance, so presumably no evidence exists.
- One resident has indicated that he is much happier during folk week than during normal weekends, because of the security in place and people are not able to make a lot of noise, keeping residents awake on The Ham.

- The applicant is concerned that Mr Pemberton appears to be taking an intimidatory stance; he outlined an exchange which he understands took place in the street between Mr Pemberton and a resident who supports the festival, which the applicant stated indicates more malice from Mr Pemberton than is appropriate for an issue of this nature.

In response to a question from a member of the Sub Committee, the legal advisor highlighted that there had been no concerns raised by statutory officers. He added that decisions had to be made on evidence and in this instance there is none; Mr Pemberton's points are speculative, with no evidence of any public nuisance having occurred.

The applicant made a final statement which included the following points:

- The whole basis of the representation is that the event organisers are seeking to extend the times for licensable activities, when this is not the case; the same conditions for entertainment and alcohol have been in place for the last 8 years.
- Some pubs have licences going on to 1pm; the festival's programmes are generally timed to finish at 10.30pm but some leeway is needed up to 11pm.
- The organisers will reviewing all policies with Police Licensing during the next 12 months, to ensure they are in tune with them.

The officers and the applicant left the meeting room. The Sub-Committee members remained in the room to make their decision.

The officers and the applicant returned to the meeting room.

The Sub-Committee was minded to grant the application. The event is appreciated, professionally run, and good for the local economy.

### **Attendance List**

#### **Councillors present:**

K Bloxham (Chair)

A Dent

T Wright

#### **Officers in attendance:**

Lesley Barber, Licensing Officer

Sarah James, Democratic Services Officer

Phillippa Norsworthy, Licensing Officer

Giles Salter, Solicitor

Lee Staples, Senior Licensing Manager

Chair: .....

Date: .....