

# **EAST DEVON DISTRICT COUNCIL**

## **Minutes of a Meeting of the Licensing & Enforcement Sub-Committee B**

**Held at Knowle, Sidmouth on Tuesday, 2 May 2006**

**Present:** Councillors:  
  
Mrs C E Drew  
R Mudge  
Mrs F Newth

**Also Present:** Councillor  
T G Reeves

The meeting started at 9.35 am and ended at 3.45 pm.

**\*14 Election of Chairman**

**RESOLVED** that Councillor Mrs C E Drew be elected Chairman for the meeting.

**\*15 Minutes**

The minutes of the meetings of the Licensing and Enforcement Sub-Committee B held on 28 October 2005 and 6 February 2006, were confirmed and signed as true records.

**\*16 Exempt Information**

**RESOLVED** that the classification given to the documents to be submitted to the Sub-Committee be confirmed and that the report relating to exempt information be dealt with under Part B of the agenda.

**\*17 Schedule of applications for approval where the parties have agreed a hearing is unnecessary and representations have been withdrawn**

**RESOLVED** that the application from the Anchor Inn, Sidmouth for a variation to a premises licence, subject to the operating schedule and the mandatory condition in Section 19 of the Licensing Act 2003, be approved.

**\*18 Application for a variation to a Premises Licence under the Licensing Act 2003 for The Marine Bar, Esplanade, Sidmouth**

The Sub-Committee gave consideration to the Application for a Variation of a Premises Licence for The Marine Bar, Esplanade, Sidmouth under the Licensing Act 2003 to permit the provision of regulated entertainment and vary the permitted hours for the supply of alcohol for consumption on and off the premises.

It was confirmed that the Sub-Committee had read the documents in respect of the application including the representations from the interested parties. Those present were advised that there was no need to duplicate or repeat information already submitted.

\*18 **Application for a variation to a Premises Licence under the Licensing Act 2003 for The Marine Bar, Esplanade, Sidmouth (Cont'd)**

The Chairman identified members of the Sub-Committee, officers, the applicant and representatives. The applicant was Mr J Borett, Landlord represented by Mr C Greenslade from Punch Taverns and, Mr M Phipps Solicitor. The interested parties who identified themselves were Mr P Wharton, Mr G Govier, Solicitor representing Kingswood Hotel and Mr G Bess. Several other interested parties attended as observers only. No responsible authorities attended.

The Sub Committee received and took account of during its discussions, the procedure of Licensing Act 2003 hearings circulated to all parties present at the meeting and also the four licensing objectives agreed by the Council.

The Legal Adviser reminded members of the need to take into account the Human Rights Act 1998, the ability of parties to ask for a review of the licence and the police closure powers.

The Sub-Committee considered the application to vary the Premises Licence. The written representations received from the interested parties related to three of the four licensing objectives the prevention of crime and disorder, public safety and the prevention of public nuisance. The interested parties felt that the extension of hours would lead to disorderly behaviour and fighting outside the premises, vandalism to vehicles and property. Noise nuisance late into the night, disorderly conduct, urinating on the Esplanade would increase and there would be unacceptable levels of noise from regulated entertainment.

The applicant's case was that the applicant was an honest and experienced licensee, having been in the licensing trade since 1974. The licensee had been managing the Marine since 2004, living on the premises with his family who assisted him in running the business. He added that it was a good, well managed and supervised premises. There was clarification made of point 19, that drinks were permitted to be consumed on the Patio.

The applicant's solicitor discussed the submitted Appendix G points 1 – 18 plus the additional items for consideration points 19 – 23, he asked that points 6 – 9 relating to CCTV should be omitted but was otherwise in agreement with the proposed conditions.

Additional information was reported to the hearing from the Environmental Health section that on Saturday 22 April 2006, a noise complaint was received that patrons at the premises were making excessive noise and reference was made to broken glass. An Environmental Health Officer attended at 11.40 pm (the time was disputed by one of the interested parties who considered EHO attendance to be 12.20 am). No noise nuisance was witnessed or recorded.

The interested parties' case was that Mr Wharton from the Riveria Hotel had grave concerns about the current application to extend the bar's opening hours as the conduct of the Marine's customers caused concerns for the safety and well-being of his guests. The proposed extension of hours would result in an increase in alcohol consumption and he had seen no proposals in the operating schedules from the applicant to manage this situation.

At the hearing a DVD presentation of 15 minutes was shown giving a general view of events on the Esplanade on Saturday 6 August 2005, between the hours of 9.30 pm and 00.30 am. This showed a number of business premises on the Esplanade and a substantial number of people standing and sitting in the vicinity of all the premises. It could be seen that there was consumption of alcohol and a general hub of noise from conversations.

\*18 **Application for of a variation to a Premises Licence under the Licensing Act 2003 for The Marine Bar, Esplanade, Sidmouth (Cont'd)**

Mr Wharton made reference to his commissioned Noise Report made by a company called Atkins who were leading environmental and noise experts. He referred to data highlighted in the report that indicated that there were noise levels which in Atkins opinion exceeded statutory guidelines. He believed that Environmental Health was not doing their job as they did not object to the application and he considered that no case could be made without Environmental Health support.

Mr Govier, representing Sidmouth Hotels Ltd, trading as The Kingswood Hotel made a written representation that the Kingswood Hotel was situated within a few metres of the Marine. His customers of the hotel were usually of mature years. He had complained to the management of the Marine about the volume and intensity of the noise. He recognised the need to provide facilities for visitors and residents of Sidmouth but not at the expense of other visitors and residents. In order to address their concerns he recommended a list of conditions the he would like to see in place. At the hearing he re-iterated these concerns and considered that activities should cease at midnight.

Mr Bess in his written representation commented that the Esplanade was currently under policed due to lack of resources. Allowing live music past 11.00 pm, including consecutive nights over bank holiday weekends would agravate the disorder that was already present late at night on the Esplanade, grossly affecting the comfort of hotel residents and locals. The frontage of his hotel was regularly used for dumping bottles, urinating, breaking beer glasses and pulling up plants.

After lengthy retirement to consider the application, the Sub-Committee stated it had carefully considered the application with the amendments the applicants now proposed for the variation of the Premises Licence with a view to deciding whether the application promoted the licensing objectives, as required by the Licensing Act 2003. They also took into account Government guidance, the Council's own licensing policy and the Human Rights Act 1998

In making the decision, the Sub Committee considered relevant representations that the applicants had made at the meeting and the written representations made by the interested parties and other documentation put before them.

The Sub-Committee took into account the particular locality of the premises in a town centre and its physical relationship with other residential and commercial premises in the vicinity. They considered it relevant that no representations had been received from the police in relation to the Licensing Act objectives, namely crime and disorder, public safety, public nuisance and protection of children from harm. From this they concluded that the police did not consider that there was any significant problem associated with the current operation of the premises or that there was likely to be if the amended application was granted. However, they did consider that door staff and CCTV had an important role in preventing crime and disorder, identifying offenders and in managing public behaviour on and in leaving the premises.

The Sub-Committee carefully considered the operating schedule put forward by the applicants and the likely impact of the application, if approved. In relation to the evidence heard regarding the history of the premises, they considered that the establishment was not well managed and controlled. The policies in place were adequate but management supervision needed to be addressed.

Members did not accept that there was evidence of a significant public nuisance, risk of crime and disorder or risk to public safety 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. They did, however, take into account the concerns of local residents about

**\*18 Application for of a variation to a Premises Licence under the Licensing Act 2003 for The Marine Bar, Esplanade, Sidmouth (Cont'd)**

future operation by ensuring that suitable conditions were imposed and the operating hours were not unreasonably late. At present there was no real evidence that the operation the applicant proposed to run would cause the unacceptable impact local residents feared.

All parties were reminded of the closure and review powers which the Government brought into force on 24 November 2005. Premises which did 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 a Premises Licence be granted on the following basis:

- a) The extent of the areas within which the various licensable activities will be permitted is as indicated by the legends on the applicants plan.
  - b) Permitted hours for the licensable activity will be as set out in the amended Appendix B, but live and recorded music to terminate at 11.00 pm, except for New Years Eve, when the termination time will be 00.30 am; also drinking on the patio must cease at these times.
  - c) The conditions will now be as shown in Appendix G conditions 1 – 4 and 6 – 23 (removing item 5). Environmental Health be required to undertake a complete survey of the building with regard to noise emissions as a matter of urgency and that the applicant carries out all recommendations within 6 months.
  - d) The conditions in the operating schedule as set out in the Appendix E will also apply
- 2). The mandatory conditions of sections 19, 20 and 21 of the Licensing Act 2003 will be imposed.
- 3) The Designated Premises Supervisor would be Mr J Borett of The Marine, Esplanade, Sidmouth.

**\*32 Exclusion of the Public**

**RESOLVED** that under Section 100(A) (4) of the Local Government Act 1972 the public (including the press) be excluded from the meeting as exempt information, of the description set out on the agenda, is likely to be disclosed.

**\*33 Hackney Carriage Driver's Licence Applications**

Consideration was given to whether two applicants were fit and proper persons to be licensed as Private Hire and Hackney Carriage drivers.

- RESOLVED**
- (1) that Mr PR's application for renewal of her Hackney Carriage Driver's Licence be granted;
  - (2) that Mr RL's application for renewal of his Hackney Carriage Driver's Carriage Driver's Licence be granted.

In reaching these decisions the Licensing & Enforcement Sub Committee B has had regard to the Human Rights Act 1998 and in particular, Article 6.

Chairman ..... Date .....