

# **EAST DEVON DISTRICT COUNCIL**

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

**Held at Knowle, Sidmouth on Monday, 4 February 2008**

- Present:** Councillors:  
Mrs C E Drew (Chairman)  
Mrs F Newth  
K Potter
- Also Present:** Councillors:  
G Godbeer  
C Tratt
- Officers:  
Mr Ian Carter Senior Licensing Officer  
Mr D Jackson Licensing Officer  
Mr G Salter Assistant Solicitor  
Mr C Lane Democratic Services Officer

The meeting started at 9.30 am and ended at 11.55 am.

### **\*16 Minutes**

The minutes of the meeting of the Licensing and Enforcement Sub-Committee A held on 7 January 2008, were confirmed and signed as a true record.

### **\*17 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.

### **\*18 Application to vary a Premises Licence under the Licensing Act 2003 for 11a Church Street, Exmouth**

The Sub-Committee gave consideration to the Application as amended for a Variation of a Premises Licence for 11a Church Street, Exmouth under the Licensing Act 2003 to amend the existing operating schedule by the removal of conditions and the imposition of additional conditions and to vary the licensed area by way of structural alterations.

The Chairman identified members of the Sub-Committee, officers and the applicant. The applicant was Mr Johnson and son. There were no interested parties present. No responsible authorities attended.

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.

The Sub Committee received and took account of during its discussions, the procedure of Licensing Act 2003 hearings and also the four licensing objectives agreed by the Council.

\*18 **Application to vary a Premises Licence under the Licensing Act 2003 for 11a Church Street, Exmouth (Cont'd)**

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 interested party's case was on paper that the variation would lead to anti social behaviour and vandalism. There were issues of public safety because of the nature of the structure and proximity to neighbouring premises. Use of the roof space would lead to noise nuisance.

The applicant's case was on paper, that the variation was to use the existing roof terrace as a smoking area with shelter to accommodate patrons using the bar and restaurant so that they did not have to use the highway. At the hearing they gave an explanation of the proposed plan and its impact.

After 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, they 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.

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 well managed and controlled with good policies in place and adequate supervision from line management.

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 future operation by ensuring that suitable conditions were imposed and the operating hours were not unreasonable late. At present there was no real evidence that the operation the applicant proposed to run would cause the unacceptable impact local residents feared. The Sub Committee considered that CCTV had an important role in preventing crime and disorder, identifying offenders and in managing public behaviour on and in leaving the premises.

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.

**\*18 Application to vary a Premises Licence under the Licensing Act 2003 for 11a Church Street, Exmouth (Cont'd)**

- RESOLVED** (1) that a variation of the 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) The conditions will now be as shown in Appendix E.
  - c) The conditions in the operating schedule as set out in the amended Appendices D will apply.
- 2) that the mandatory conditions of sections 19 of the Licensing Act 2003 will be imposed.
- 3) that the Designated Premises Supervisor would be Joe Richard Johnson, 13 Carlton Hill, Exmouth, EX8 2AJ.

**\*19 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 and on balance the public interest is in discussing this item in private session.

**\*20 Hackney Carriage Driver's Licence Applications**

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

- RESOLVED** (1) that Mr BTS's Hackney Carriage Driver's Licence be suspended with immediate effect until he has passed a Driving Standards Agency test and if another 3 penalty points appear on his driving licence in 2008, then he will have to reappear before the Sub Committee for consideration to be given a longer period of suspension ;
- (2) that Mr LWS's Hackney Carriage Driver's Licence be suspended with immediate effect until he has passed a Driving Standards Agency test and produced evidence to the Licensing Officer
- (3) that Mr APFQ's Hackney Carriage Driver's Licence be revoked with immediate effect and he be advised that he may apply for a Licence after January 2011.

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

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