

# **EAST DEVON DISTRICT COUNCIL**

## **Minutes of a Meeting of the Licensing & Enforcement Sub Committee held at Knowle, Sidmouth on Friday, 10 February 2006**

**Present:** Councillors:  
R Mudge  
B Nicholson

The meeting started at 9.30 am and ended at 12.35 pm.

\*10 **Election of Chairman**

**RESOLVED** that Councillor B Nicholson be elected Chairman for the meeting.

\*11 **Minutes**

The minutes of the meeting of the Licensing and Enforcement Sub-Committee C held on 11 November 2005, were confirmed and signed as a true record.

\*12 **Reconvened Hearing for the application for a Variation of a Premises Licence under the Licensing Act 2003 for Carina's, Fore Street, Sidmouth**

The Sub Committee received and noted the minutes of the adjourned hearing which took place on 25 November 2005. (Licensing & Enforcement Sub Committee D Minute 13 refers). The meeting had been adjourned because the Sub Committee felt it necessary to obtain further evidence from the police and the Environmental Health Officer.

At the reconvened hearing Members of the Sub Committee, the applicant and the interested party present received the reports of the Police and Environmental Health as requested by the Sub Committee on 25 November 2005.

The Police report stated that there was only a finite number of officers available to police the East Devon area and at times officers were called away to attend incidents at other locations. They commented that the offer of an additional camera by the applicant was welcomed and would assist in crime prevention at the premises.

The Environment Health report stated that, on the occasion the Officer visited the noise nuisance was significant. The report stated that in the Officer's opinion the levels of noise witnessed and recorded on Saturday 28 January 2006 constituted a statutory nuisance under Section 79 of the Environmental Protection Act 1990 and as a result a noise abatement notice was served under Section 80 of the same legislation to abate the noise within a specified period.

The applicant, Mr R J Derrick stated that he apologised for the noise levels at the time of the visit. He said that up until 11 pm noise levels had been lower but acknowledged that the measurements taken were not acceptable. He said that the DJ in charge must have altered the volume levels and that he had spoken with the member of staff. Mr Derrick stated that he had since had work undertaken to reduce the noise level including the relocation of the volume controls to the Manageress' Office which would prevent any tampering. He said that the Manageress had a noise meter and made regular checks which are recorded and open for inspection by the authority at any time.

\*12 **Reconvened Hearing for the application for a Variation of a Premises Licence under the Licensing Act 2003 for Carina's, Fore Street, Sidmouth (cont'd)**

The interested party present, Mr Mc Ewan, said that he was satisfied that the measurements had been made and noise abatement notice served. He said that although work had been carried out to reduce noise from the premises, it had yet to be verified by the Environmental Health section. He was disappointed by the Police report.

After retirement to consider the application, the Sub Committee stated that it had carefully considered the application for the variation of licensable activities and the extension of proposed hours of operation with a view to deciding whether the application promoted the licensing objectives, as required by the Licensing Act 2003. It had also taken into account Government Guidance and the Council's own licensing policy, and the Human Rights Act 1998 in making this decision.

It considered the particular locality of the premises in a town centre and its physical relationship with other residential and commercial properties in the vicinity.

The Sub Committee considered it relevant that no representations had been received from the police in relation to the Licensing Act objectives that have been the subject of representations made at the hearing: crime and disorder, the prevention of public nuisance and the protection of children from harm. From this they had concluded that the police did not consider that there was currently any significant problem associated with the current operation of the premises, or that there was likely to be if the application was granted. The police had welcomed the offer of the installation of increased CCTV coverage.

The applicant's case was that he wished to extend the hours for the sale of alcohol, hot food and the provision of entertainment until 2.00 am, and 3.00 am on Thursdays, Fridays and Saturdays. He also wish to remove all entry restrictions. He provided a lengthy operating schedule. At the hearing he added that he has run the premises for 15 years. Although it was not in the best place it was in a commercial area, not a residential one. The management did try to get on with their neighbours. The capacity of the club was 420 and it was the only nightclub in Sidmouth. The doorstaff took steps, especially at beginning of the evening, to control queues, so as not to disturb the neighbours. If there was a behavioural problem in the club in the area of the fire exit in King's Lane the doorstaff eject troublemakers there instead of going across the dance floor. The door has an alarm; the applicant had not known that there was a problem until now. He said he needed an alarm to know if people are getting in but he could change it to a flashing light if required. It was not a frequent occurrence but it did happen.

The applicant said that he ran Carina's in a similar way to The Grove, Seaton with the same policies, although he had more objections at Carina's. He had the same policy re complaints: he was happy for people to phone him and he would deal with any issues. The applicant liaised with Environmental Health about noise. The limiters were sealed so they could not exceed limits. They monitored during opening hours with a meter to check it was ok. Since the first part of this hearing he responded to concerns and has moved the noise limiter controls to the Manageress' office away from the control of the DJ. He had also undertaken additional work of sound insulation to reduce noise levels outside the premises.

The interested parties' case was that there are insufficient police resources to deal with disorder arising when patrons were leaving the premises. They had said that there was noise in the street including shouting and swearing, and some of it occurred when people were being ejected from the premises by staff. Much of it was late at night and the disturbance regular. Mr McEwan, who was the only interested party who attended the resumed hearing, commented that the measures taken by the applicant to reduce the noise were a step in the right direction but felt only time would tell. He was still concerned about the lack of police presence.

\*12 **Reconvened Hearing for the application for a Variation of a Premises Licence under the Licensing Act 2003 for Carina's, Fore Street, Sidmouth (cont'd)**

The Sub Committee stated that it had carefully considered the operating schedule put forward by the applicants and the likely impact of the application. In relation to the evidence it had heard regarding the history of the premises, it considered that the establishment has not been well managed or controlled. With the new operating schedule in place, the improvements currently being made to the acoustic insulation and adequate supervision from line management it thought that it was capable of improvement.

The Sub Committee noted that there were no relevant representations from the police but found that their report, in a letter dated 10 January 2006 was helpful. It considered that doorstaff and CCTV had an important role in preventing crime and disorder, identifying offenders and in managing public behaviour on and in leaving the premises.

There had been no relevant statutory representations from environmental health, but the Sub Committee had called for a report and now accepted that there was evidence of a significant public nuisance, namely noise, arising from the current operation of the premises

The Sub Committee had taken into account the concern of local residents about future operation, and their human rights, by ensuring that suitable conditions were imposed. At the time, it considered that with the improvements carried out by the applicant and the conditions imposed, it was probable that the operation would not 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.

Whilst the Sub Committee acknowledged the concerns expressed by the interested parties, it believed that their concerns had been addressed by the conditions it had imposed which had been tailored to the size, characteristics and activities on the premises, and which it believed were necessary and proportionate.

**RESOLVED**

- 1) that a new 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 applicant's plan.
  - (b) Permitted hours for the various licensable activities will be as set out in Appendix B.
- 2) The conditions in the operating schedule as set out in Appendix E, amended by Appendix F will also apply.
- 3) The mandatory conditions of sections 19 and 21 of the Licensing Act 2003 will be imposed.
- 4) The Designated Premises Supervisor would be Mrs Mandy Davey