

EAST DEVON DISTRICT COUNCIL

Minutes of a Meeting of the Licensing & Enforcement Sub Committee A held at Knowle, Sidmouth on Monday 11 June 2007

Present: Councillors:
Mrs C E Drew (Chairman)
Mrs M L Hardy
Mrs F Newth

Also present: Councillors
S Hall
J Humphreys
K Potter
C Tratt

The meeting started at 11.00am and ended at 11.50am.

*41 **Minutes**

The minutes of the meeting of Licensing Sub Committee A held on 30 April 2007, were confirmed and signed as a true record.

*42 **Application for a Premises Licence under the Licensing Act 2003 to permit the provision of regulated entertainment, the provision of entertainment to include plays, live music, recorded music and performance of dance at Axminster Arts Café, the Old Courthouse, Church Street, Axminster**

The Sub-Committee gave consideration to the Application for a Premises Licence for Axminster Arts Café, the Old Courthouse, Church Street, Axminster under the Licensing Act 2003 to permit the provision of regulated entertainment, the provision of entertainment to include plays, live music, recorded music and performance of dance.

The Chairman identified members of the Sub-Committee, officers, applicants and interested parties. The applicant was Mrs J Fells. The interested party was Mrs C M Crooke.

It was confirmed that the Sub-Committee had read the documents in respect of the application including the representations from the interested party. 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 circulated to all parties present at the meeting and also the relevant licensing objectives. They considered the particular locality of the premises situated in a town centre and its physical relationship with other residential 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. That is to say: public safety, public nuisance, crime and disorder, and the protection of children from harm. From this it was 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.

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The applicants' case was on paper that this was an application to allow the Arts Café Committee to operate the premises without the use of TENs applications. At the hearing they added that the Committee ran a 5 week programme of events. They had a programme of 18 events of which 12 included licensable activities. The Arts Café Committee promoted the arts in Axminster and the surrounding area and sponsored students. Events were free to the public and money raised help fund future activities. There were 3 events planned for the evening and these were scheduled to finish at 9.30pm. The capacity for events was 100 in the garden and 40 inside the premises.

The interested parties case was on paper that she wished to appeal very strongly for the following reasons: her property was next door to the premises; her bathroom window was 2 feet from the boundary and the premises toilet and the bedroom was on the corner of her house, some 3 – 5 feet from the Arts Café. There were 13 dwellings in The Shrubby and the noise and smell from any change (especially up to 2000 hours) would in tolerable.

At the hearing she added her concern was noise nuisance and the discipline of supervising events. Mrs Crooke was not against the idea of an Arts Café or music but noise could be intolerable and could get out of hand. There had been events in the previous year but she had no cause to complain. Mrs Crooke had had cause to complain about a private party held at the premises which had not been adequately supervised, when she did complain she had been dealt with "rudely".

After retirement to consider the application, the Sub-Committee stated it had carefully considered the application now proposed for 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 applicant had made at the meeting and the representations made by the interested party and other documentation put before them.

The Sub-Committee carefully considered the operating schedule put forward by the applicants and the likely impact of the application. In relation to the evidence they had 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. They did recommend that private parties were supervised at all times by a Committee member. They also noted that private parties would not take place after 6.00pm.

The Sub Committee did not accept that there was evidence of a significant public nuisance, risk to crime and disorder, risk to public safety and risk to children arising from the proposed operation of the premises. This was because of a lack of evidence of a history of complaints to the statutory authorities. They had however, taken into account the concern of local residents about future operation by ensuring that suitable conditions were imposed. And that the operating hours were not unreasonably late. At the present time there was no real evidence that the operation the applicant proposed to run would cause the unacceptable impact local residents suggest.

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

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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 the new Premises Licence be granted as follows:

- (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 various licensable activities will be as set out in the Appendix B.
- (c) The conditions will be as shown in Appendix E
- (d) The conditions in the operating schedule as set out in Appendix F will also apply.

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

RESOLVED: that the application from Winston's, Seaton for a grant of a premises licence, be approved.

Chairman Date