

EAST DEVON DISTRICT COUNCIL

Minutes of a Meeting of the Licensing & Enforcement Sub Committee B held at Knowle, Sidmouth on Monday 18 June 2007

Present: Councillors:

Mrs C E Drew
Mrs A E Liverton
Mrs F Newth

Also Present: Councillors

G Godbeer
K Potter
C Tratt

The meeting started at 9.30 am and ended at 1.30 pm.

*30 **Minutes**

The minutes of the meeting of the Licensing and Enforcement Sub-Committee held on 4 June 2007, were confirmed and signed as a true record.

*31 **Application for a variation to a Premises Licence under the Licensing Act 2003 to amend the existing permitted hours of the licence for the playing of recorded music and the sale of alcohol to add the playing of live music and the provision of late night refreshment and facilities for dancing and to permit the sale of alcohol for consumption on the premises only at Olivants, Units 14-19-20 Pilots Wharf, Exmouth Marina, Exmouth**

The Sub-Committee gave consideration to the Application for a Premises Licence for Olivants, Units 14-19-20 Pilots Wharf, Exmouth Marina, Exmouth 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 A Olivant represented by Mr R Price Hughes, Manager. The interested parties were Mr I Dowell, Ms J Jerrard, Mr D J Apperley and Mr Bolt.

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 mixed residential/business area and its physical relationship with 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 - public nuisance. From this it was concluded that the police did not

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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 applicant had reduced the hours originally asked for and offered an amendment of the plan to show the specific area for licensed live music.

The applicant's case was set out on the papers presented to the Sub Committee. At the hearing he added that he was a new manager and he had been in post for 8 weeks. The application to extend late night refreshment was to accommodate diners after 9.30pm and extend eating time after 11.00pm. Facilities for dancing were applied for in order to complement the fine dining experience, but with the ability to hold functions such as weddings, private parties and Exmouth Festival events.

The interested parties' case was set out on the papers presented to the Sub Committee. At the hearing Mr Ian Dowell, Chairman of the Exmouth Quay Residents Association added that he had held a meeting with Mrs Olivant over the extra 30 minutes requested and was concerned that the application had differed from reassurances that she had previously given. He made reference to several license conditions which he felt were currently breached including the installation of a noise limiter. However, he stated that he wanted the restaurant to succeed.

Mrs Jane Jerrard distributed brochures which publicised the area and gave a flavour of the mixed business residential area at Pilots Wharf. The restaurant was wanted by residents and it was a good facility in the area. She was concerned about the increased noise from the further extension of licensable activities. She felt that the premises was a restaurant first and did not lend itself to further licensable activities. There was concern that automatic doors were not installed.

There was currently staggered leaving from the premises, but if late dancing was licensed then large groups of people would be leaving at the same time, adding to the nuisance and disturbance.

Mr Appleby was concerned about noise travelling through the venting ducts to his property above. The building was a framework of steel and brick and that sounds from below vibrated in his flat. He had had concerns recently during a private function. An extension of hours and the addition of live music was a change not for the better.

Mr Darren Bolt cited as proof a report commissioned by Mrs Olivant dated August 2002 which gave an assessment on sound insulation between the first and second floors at the premises. There was some concern that no up to date assessment had been commissioned. He was concerned about the lack of a noise limiter which had been a condition of the original licence not having been fitted at the time of the variation application.

He had also witnessed other breaches of the current licence, including glasses and bottles on the table outside and the lack of automatic door closure. He was concerned that noise issues had not been assessed with the live music as well as a full premises of people.

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

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representations that the applicant had made at the meeting and the representations made by the interested parties 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 now under careful management and that the licence conditions would be monitored and concerns addressed. The Sub Committee considered it most important that the original conditions and new conditions must be observed.

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. The Sub Committee considered 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.

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 the variation to the 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' amended plan. The applicant had agreed to restrict the performance of live music to the area indicated on the amended plan attached.
 - (b) Permitted hours for the various licensable activities will be as set out in the amended Appendix B. NB Non standard timings Late Night refreshment from 11.00pm to 12.30am, apart from New Year's Eve 2.00am.
 - (c) No live performance of music to be allowed until a noise limiter is installed to the satisfaction of the Council's Environmental Health Service.
 - (d) The conditions in the Operating Schedule as set out in the Annex 1, 2 & 3 of Premises Licence PLWA0244 will apply.
 - (e) The mandatory conditions of section 19 will be imposed.
- 2) the Designated Premises Supervisor will be Richard Price Hughes, 4 Mamhead View, Exmouth, EX8 1DS..

Chairman Date