

EAST DEVON DISTRICT COUNCIL

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

Held at Knowle, Sidmouth on Monday, 20 March 2006

Present: Councillors:

Mrs C E Drew
D R H Hull
Mrs F Newth

The meeting started at 9.40 am and ended at 12.35 pm.

*12 **Election of Chairman**

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

*13 **Minutes**

The minutes of the meeting of the Licensing and Enforcement Sub-Committee D held on 8 September 2005, were confirmed and signed as a true record.

*14 **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.

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of applications for approval where the parties have agreed a hearing is unnecessary and representations have been withdrawn**

RESOLVED that the applications from Orchard Country Hotel, Rousdon and Luppitt Village Hall for new premises licences, subject to the operating schedule and the mandatory condition in Section 19 of the Licensing Act 2003, be approved.

*16 **Application for a Premises Licence under the Licensing Act 2003 for Seaton Wines, 2 Fore Street, Seaton**

The Sub-Committee gave consideration to the Application for a Variation of a Premises Licence for Seaton Wines, 2 Fore Street, Seaton under the Licensing Act 2003 to permit the supply of alcohol for consumption off the premises.

The Chairman identified members of the Sub-Committee, officers, the applicant and representatives. The applicant was Mr Edwards. 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.

*16 **Application for a Premises Licence under the Licensing Act 2003 for Seaton Wines, 2 Fore Street, Seaton (Cont'd)**

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. In relation to the prevention of crime and disorder, there were already several licensed premises within a few yards of each other. There was need for fewer shops selling alcohol and more selling goods that would attract visitors in an environment that was more orderly than at present. Regarding public safety, there had been occasions where fights had occurred in the town centre. Regarding the prevention of public nuisance, there was loutish behaviour in that area of Seaton.

The applicant's case was, that the applicant had worked for many years in the wine trade in France and therefore has considerable experience. He stated that he has a low tolerance of alcohol fuelled bad behaviour of any description and did not wish to attract the underage drinking clientele associated with this type of behaviour. The applicant had been a resident in Seaton for some time. His business was concerned with the more expensive, quality wines that were not available within 15 miles of Seaton.

At the hearing he reemphasised that he was dealing with speciality wines and that suitable policies would be in place to deal with underage persons attempting to purchase alcohol. He agreed to the installation of CCTV.

The interested parties' case was that they were already several licensed premises within the vicinity and that they were concerned with frequently occurring loutish behaviour. There was a need for fewer shops supplying alcohol and more selling goods that would attract visitors to the town.

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

*17 **Application for of a Premises Licence under the Licensing Act 2003 for Seaton Wines, 2 Fore Street, Seaton (Cont'd)**

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.

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 Appendix B.
 - c) The conditions will now be as shown in Appendix F.
 - d) The conditions in the operating schedule as set out in the amended Appendices E and F will apply (to be renumbered accordingly).
- 2). The mandatory conditions of sections 19 of the Licensing Act 2003 will be imposed.
- 3) The Designated Premises Supervisor would be Richard Edwards of Springfield Cottage, Smallridge, Axminster.

*15 **Application for a Premises Licence under the Licensing Act 2003 for China Gardens, 23 Imperial Road, Exmouth**

The Sub-Committee gave consideration to the Application for a Premises Licence for the China Gardens, 23 Imperial Road, Exmouth under the Licensing Act 2003 to permit the provision of regulated entertainment, entertainment facilities, late night refreshment and the supply of alcohol for consumption on and off the premises.

The Chairman identified members of the Sub-Committee, officers, the applicant and representatives. The applicants were Mr G Lai represented by Mr A Wade, solicitor. The interested parties were, Mrs C McLaughlin, Mrs P Crocker and Mr P Riggs represented by Mr C Chesterton. 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.

*17 **Application for a Variation of a Premises Licence under the Licensing Act 2003 for China Gardens 23 Imperial Road, Exmouth (Cont'd)**

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 grant the Premises Licence. The written representations received from the interested parties related to all four of the licensing objectives. In relation to the prevention of crime and disorder, the interested parties reported late night anti-social behaviour in Manchester Street. Residents were forced to endure fighting, shouting and vomiting in the street. Missiles had been thrown at the windows. Regarding public safety, there had been illegal parking by clients of the restaurant on double-yellow lines in Manchester Street and delivery vehicles driving fast down Manchester Street making negotiating the street dangerous for elderly and infirm people. Regarding the prevention of public nuisance, the staff made a lot of noise in the "kitchen", and there was "oriental cooking smell" from the vent shaft or windows and loud music from an open window in roof. Restaurant rubbish, overfilled bins, rubbish bags in the road were kicked about by drunks on the way home.

The applicant's case was that he was a successful restaurateur for 29 years in Exmouth, he was well respected and the restaurant was a well run family business. At the hearing he added that any issue of nuisance was strictly one of a private nature and therefore outside of the Licensing objectives. The proprietor wished to be in "harmony" with his neighbours and address their concerns.

He stated that the karaoke equipment and plasma screen was of a domestic nature and not commercial equipment, the type of equipment available at High Street electrical retailers. In discussion the applicant offered to place a notice at the premises requesting that customers leaving the premises late into the night should be considerate to local residents as to noise levels. Further discussion led to the applicant agreeing to a licence condition that rubbish and bottles should not be placed in bins after 10.00pm or before 9.00am the following morning.

The interested parties' case was that the karaoke lounge or late night bar with possible live music and the resulting noise would make it impossible for residents adjoining the premises to sleep and would result in loss of quality of life. There was concern that the party wall would not contain the sound of the entertainment within the premises. There were added concerns about the premises' proximity to sheltered housing for the elderly and resulting anti-social behaviour emanating from various licensed establishments in the vicinity. Customers entering and leaving the premises banged car doors and made lots of noise.

At the hearing the interested parties added that Manchester Street was a cut through for a number of clubs and pubs in the town centre, that there issues regarding car parking on double yellow lines, reversing of vehicles in the street. Noise nuisance particularly from the premises when rubbish was being removed and when a velux window had been propped open late in the evening. Kitchen staff were noisy and there were oriental cooking smells coming from the vent shaft. Rubbish spilled out of bins and was a general nuisance as it covered the street.

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

*17 **Application for a Variation of a Premises Licence under the Licensing Act 2003 for China Gardens, 23 Imperial Road, Exmouth (Cont'd)**

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. They did consider that it would be helpful if the rubbish bins could be secured on the premises and that this would allay residents fears of litter nuisance.

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.

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 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 Appendix B.
 - (c) The conditions will now be as shown in Appendix F with two further conditions added.
 - (d) The conditions in the operating schedule as set out in the amended Appendix E and Appendix F as amended will apply.
 15. A notice to be placed at the entrance/exit of the premises requesting that customers leave the premises quietly and courteously, taking into consideration the local residents.
 16. All containers for rubbish and bottles shall not be placed outside between 10.00 pm and 9.00 am the following day, apart from the day of collection by waste disposal operator.
- 2). The mandatory conditions of sections 19 and 21 of the Licensing Act 2003 will be imposed.
- 3) The Designated Premises Supervisor would be George Lai, 23 Imperial Road, Exmouth.

***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 PG's application for renewal of her Hackney Carriage Driver's Licence be granted;
 - (2) that Mr GK's application for renewal of his Hackney Carriage Driver's Carriage Driver's Licence be refused.

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