

EAST DEVON DISTRICT COUNCIL

Minutes of a Meeting of the Licensing & Enforcement Sub Committee A held at Knowle, Sidmouth on Monday 20 August 2007

Present: Councillors:
Mrs F Newth (Vice Chairman in the Chair)
G Godbeer
B Nicholson

Also Present: Councillors
K Potter
C Tratt

The meeting started at 9.30 am and ended at 11.50 am.

***7 Minutes**

The minutes of the meeting of the Licensing and Enforcement Sub-Committee held on 9 July 2007, were confirmed and signed as a true record.

***8 Election of Chairman**

RESOLVED that Councillor Mrs F Newth be elected chairman for the meeting.

***9 Application for a Premises Licence under the Licensing Act 2003 to permit the sale by retail of alcohol for consumption off the premises only at 24 Park Lane, Exmouth**

The Sub-Committee gave consideration to the Application for a Premises Licence for 24 Park Lane, Exmouth under the Licensing Act 2003 to permit the sale by retail of alcohol for consumption off the premises only.

The Chairman identified members of the Sub-Committee, officers, applicants and interested parties. The applicants were Mr N Eyres and Miss E Eyres represented at the meeting by Mr Wigley, Solicitor. The interested parties were Mr Fairclough representing A and J Jones, Ms MacIntosh, Mr D Parsons, Mr B Webb and Councillor Mrs E Wragg, representing three interested parties.

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 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 residential area of Exmouth 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 had been the subject of representations. 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 amended application was granted.

Application for a Premises Licence under the Licensing Act 2003 to permit the sale by retail of alcohol for consumption off the premises only at 24 Park Lane, Exmouth (Cont'd)

The applicants' case was on paper that this was an application to operate a premises licence for the sale of alcohol on the premises via the internet and e-mail. At the hearing the applicant's solicitor added that this was a small fledgling business operated by father and daughter. It was agreed that the plans of the premises indicated that it was not suitable for anything else and that if the business grew in size the applicants would be seeking larger premises elsewhere. Also it was confirmed that the conditions offered should help to allay the fears of residents that this was an application for anything other than a small business concern.

The interested parties' case was on paper that the granting of a premises licence would lead to an increase in crime and disorder through risk of theft from the premises. Public nuisance would occur through increased traffic and noise associated with the running of a business particularly in the evening. Public safety would be threatened through increased traffic and an increase of a fire risk and access for emergency vehicles. Protection of children from harm issues would occur with the use of Park Lane as a thoroughfare for children to and from school.

At the hearing Mr M Fairclough, representing A & J Jones, reiterated his concerns that the premises would be a target for theft because of the storage of alcohol. That increased traffic to and from the premises would cause a nuisance to residents. Councillor Mrs Wragg, representing A Brown and daughter, D Jackson and S Western, expressed that she was uncomfortable with the application, that there were too many vague issues about the amount of storage of alcohol and planning issues unresolved.

D Parsons enquired about the relationship between the applicant and Contessa Wines Ltd. He was also concerned about the amount of wine storage linked to deliveries at the premises. B Webb attempted to enlighten the Sub Committee on the nature of some of the other business which used Park Lane, explaining that the coming and goings from garages was minimal.

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 and interested parties had made at the meeting 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 would be well managed and controlled with good policies in place. They did not accept that there was evidence of a significant public nuisance, risk to crime and disorder, risk to public safety, risk to children 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 that operating hours were not unreasonable late. At the present time there was no real evidence that the operation the applicants proposed to run would cause the unacceptable impact local residents suggested.

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.

*9 **Application for a Premises Licence under the Licensing Act 2003 to permit the sale by retail of alcohol for consumption off the premises only at 24 Park Lane, Exmouth (Cont'd)**

RESOLVED 1) that a new Premises Licence be granted as follows:

- (a) The extent of the areas within which the sale of alcohol will be permitted is as indicated by the legends on the applicant's plan.
- (b) Permitted hours will be as set out in Appendix B to the report.
- (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 amended Appendices E and F will also apply as follows:
 - Conditions 1 – 3 of Appendix F to replace conditions 1 – 3 of Appendix E.
 - Condition 4 Appendix E stands.
 - Condition 5 Appendix E replaced by condition 4 of Appendix F.
 - Appendix E conditions 6, 7 & 8 stand.
 - Appendix E condition 9 is replaced by condition 5 of Appendix F.
 - Appendix E condition 10 is replaced with the following.
 - Appendix D condition 6 to read "Deliveries and collections by vehicles will only take place between the hours of 10.00am and 6.00pm Monday to Friday and 10.00am to 1.00pm on Saturday."
 - Appendix E condition 11 to read "Containers of rubbish generate by the premises will be stored within the premises until collection".
- (e) The mandatory conditions of section 19 of the Licensing Act 2003 will be imposed.

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

RESOLVED that the applications be granted as applied subject to the amendments set out in the schedule and any statutory conditions and the applicants having complied with relevant statutory requirements.

(Councillor G Godbeer declared a personal interest in the application from River Cottage Ltd, Trinity Square, Axminster as Chairman of Axminster Town Council).

Chairman Date