

EAST DEVON DISTRICT COUNCIL

Minutes of a Meeting of the Licensing & Enforcement Sub Committee A held at Knowle, Sidmouth on Monday 21 August and Tuesday, 22 August 2006

Present: Councillors:
Mrs C E Drew
M J L Green
Mrs F Newth

Also Present: Councillor R C Peachey

The meeting started at 9.50am on 21 August adjourned at 3.20pm and reconvened at 10.30 am on 22 August and ended at 11.00 am.

*1 **Election of Chairman**

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

*2 **Minutes**

The minutes of the meeting of the Licensing and Enforcement Sub-Committee B held on 2 May 2006, were confirmed and signed as a true record.

*3 **Application for a grant of a Premises Licence 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 for Crealy Adventure Park, Sidmouth Road, Clyst St Mary**

The Sub-Committee gave consideration to the Application for a Grant of a Premises Licence for Crealy Adventure Park, Sidmouth Road, Clyst St Mary 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, applicants and interested parties. The applicants were Mr C Down and Mrs Angela Wright, Managing Directors with Ms J Paton, represented by Mr Tim Selley, solicitor. The interested parties who identified themselves were Mr & Mrs T Adams, Ms V Barnes, Ms T Blyth, Mrs S Grey, Mr T Porter, Mrs Maxim and Mr Moore represented by Mr K Barker, Counsel and Mr Mogridge, Solicitor.

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.

The Sub-Committee considered the application to grant a Premises Licence. The written representations received from the interested parties related principally to three of the four licensing objectives, namely public safety, public nuisance and the prevention of crime and disorder.

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Application for a grant of a Premises Licence under the Licensing Act 2003 for Crealy Adventure Park, Sidmouth Road, Clyst St Mary (Cont'd)

The applicants case was on paper that Crealy Adventure Park was a well established family business with two centres, the other in Cornwall where there had been no controversy over the Licensing application. The application stated that they were not seeking a licence for "Glastonbury Mark II", this was a straightforward premises licence application and not the objectors mistaken fear that the licensable hours and activities would change the nature of the park. They wished to preserve flexibility in the way they ran the business and this was covered by the Licensing Act.

The application would allow then to continue to offer "hospitality events", weddings, corporate functions, outside musical events, as well as an activity park for children. There was no intention of becoming a major music festival centre or similar. By way of reassurance they did not intend opening for anywhere near the hours shown in the application on a regular basis.

The application gave them flexibility with the need to meet customer requests. As a matter of course they notified the Highways Agency about major events. It was not their intention to be unapproachable. In this context some out of hours home numbers were currently made available to their neighbours. It was firmly believed that the business was sufficiently and properly run.

At the hearing the applicants solicitor volunteered to reduce the licensed area subject to licensable activities as indicated on the amended plan. They felt that the application had been misunderstood and that most objections were irrelevant and focused on what they believed was going to happen. The application was not for everything in all places at all times but was made under the spirit of the Act to enable them to continue the normal and flexible operation of their business.

The solicitor pointed out that the "interested parties" from the Cat & Fiddle Park were a mile from Crealy. The applicants never objected to the midnight terminal hour of the Cat & Fiddle Pub. Other "interested parties" from Clyst St Mary, including St Bridget's Nursery were one and half miles from Crealy. The North West field was designated as agricultural land and could only be used for events 28 days per year without further planning permission.

Mr Down, Managing Director – pointed out that Crealy was a member of the British Association of Amusement Parks and also the International Association of Amusement Parks. It had state of the art CCTV cameras with a raft of policies on Staff Training, Drugs, Traffic Management, Health & Safety and Risk Assessment. Angela Wright, Managing Director – stated that Crealy used plastic glasses, except in the restaurant and that people were not wandering around the site with glasses or bottles. There was clarification as to where alcohol was sold and this was indicated on the amended plan.

The interested party's case, on paper appeared to relate principally to three of the four licensing objectives. First, in relation to the prevention of crime and disorder. Concerns were over: Adequate supervision of the premises and grounds by staff members including doorstaff at public and private events; Supervision and prevention of glasses and bottles being taken off premises; Control and monitoring of the safe dispersal of customers from the premises, including road traffic issues; Lack of drugs policy. Regarding public safety, concerns over – lack of detail in the application for safety policy for events in temporary marquees including fire, procedures for the disabled, sanitary provision, trained first aid personnel, provision of safety glass and plastic bottles. Regarding the prevention of public nuisance – concerns over, ambient noise, light pollution and road congestion.

At the hearing Mrs Vivienne Barnes, Parish Councillor for Farringdon added that her Council had expressed concern over the issues of increased disruption and disorder in the area and increased traffic nuisance on the A3052 and noise issues. She suggested the following

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4 **2003 for Crealy Adventure Park, Sidmouth Road, Clyst St Mary(Cont'd)**

steps to reduce the impact of the application: noise monitoring on the boundary, good management to ensure no crime and disorder – reference to minor thefts.

Mr Barker, Counsel, requested that letters from Devon County Highways and the Highway Authority be admitted as evidence. The Chairman asked the applicants solicitor if they agreed to this but he refused. He stated that he was going to concentrate on the noise issue that affected people miles away. He said the impact of noise measured against the ambient noise level in a rural area was greater because of low background noise levels.

At this point Mr Barker requested to call a noise expert, Mr Selley objected because his client had not received prior notice to the evidence that this expert might adduce. He added that it was unjust to allow this to be called and suggested that it was wrong to give permission. At this point the Chairman adjourned the meeting to seek legal advice over the submission of new evidence that had not been placed before the Sub committee prior to the hearing. When the meeting reconvened Mr Selley's objection was upheld with a view that whilst the interested party gave notice that he was bringing a noise expert, no written report was put before the Sub Committee prior to the hearing, therefore the applicant was unable to refute any substantive issue or claim put forward by the interested parties expert.

Mr Terry Adams listed a history of events going back to 1990, that he had found objectionable at Crealy. These mainly concerned noise and included a clay pigeon shoot, go-karts both electric and petrol and a crude tannoy system that pointed directly towards his property. Other activities included a Gemini FM event, a young farmers ball and the construction and dismantling of a dog show. He also stated that private events had been noisy, this included weddings. Two new rides were also noisy and this was exacerbated by "an uncaring approach by Crealy management to maintenance issues", particularly the "clunk, clunk" of the log flume and roller coaster.

Mr Adams made reference to the difficulties he had had in the past with the Environmental Health Officer and the registering of his various complaints and the responses to them. Mr Adams made reference to the noise nuisance disturbing not only his family life but also his employees at Greendale Farm. An example of this was the inability to hear/use the telephone when the tannoy was in operation.

Mrs Metson- Treasurer/Secretary of the Oil Mill Lane Residents Association stated that her main concern was that the noise she accepted during the day would continue through to 2.00am. She wished to maintain the status quo. Prof John Barber lived half a mile from Crealy, he suffered noised disturbance and the possibility of this until 2.00am worried him. He thought it was too wide ranging application which left him with immediate doubts.

Mrs Sue Grey, Co Chair of the Oil Mill Residents Association lived half a mile from the site. She had no problems with the park but the new rides had changed her view. Intermittent screams from children on the rides were very disturbing. The fireworks display caused a huge amount of noise. Sound travelled so far in the countryside at night. Increase of traffic on the A3052 and 2.00am drinking would lead to more drink-driving. She felt that Crealy did not control third party events well enough. When questioned what Crealy could do to alleviate some of the site noise, she suggested a better, more up to date PA system.

Mr Porter representing the Cat & Fiddle Park, advised that it was a residential park of 150 homes, with mainly elderly people who enjoyed a quiet lifestyle. He accepted that Crealy was an ideal venue for grandchildren. At the moment noise was not too excessive but it could be heard when the wind blow in the wrong direction. Late egress was noticeable from the point of noise. He made the point that residents also had to deal with issues at Westpoint. He wished for restrictions on the type of events in the North West field. No hippy-type or loud events.

Application for a grant of a Premises Licence under the Licensing Act 2003 for Crealy Adventure Park, Sidmouth Road, Clyst St Mary(Cont'd)

Mrs T Blyth lived halfway between the Cat & Fiddle and Crealy. Her main concern was traffic congestion on the A3052. Mr Moore lived within a mile of Crealy. His concerns were the annual Firework event and the Dog Shows. He felt that Crealy had little interest in its neighbours, that it was applying for blanket cover and his fear for the future was "what comes next".

After retirement to consider the application, the Sub-Committee stated it had carefully considered the application the applicants 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 applicants had made at the meeting and the written representations made by the interested parties and other documentation put before them.

The Sub-Committee considered the particular locality of the premises in the countryside and its physical relationship to residential and commercial properties in the vicinity. It considered it relevant that no representations had been received from the responsible authorities in relation to the Licensing Act objectives that have been the subject of representations today, namely: public safety, public nuisance, crime and disorder. From this the Sub Committee have concluded that the police did not consider that there would be any significant problem associated with the operation of the premises, or that there was likely to be if the application is granted.

The Sub-Committee had 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 and adequate supervision.

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 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.

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.

Members noted that a member of the applicants team had been making an audio recording of the proceedings, which was against the District Councils policies. This recording was deleted by the Council's legal advisor. The Chairman asked if any other person had taken a recording of the meeting and it was confirmed that no other recording had been taken.

RESOLVED 1) that the 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 amended plan
- (b) Permitted hours for the various licensable activities will be as set out in Appendix B subject to:
- (c) The conditions in the operating schedule as set out in Appendix E as amended with the following will apply:

.2. Add "amended" between the and plan

6. Amend ratio 1:100 to 1:75 and add to the end of this statement "However, these private functions must still be adequately supervised" Whenever SIA door staff are employed they will

(i) display the correct name badge

(ii) carry proof of registration

(iii) will wear clothing that can be easily identified on CCTV

(iv) wear a reflective number between 1 and 99 at least 100mm high in a prominent position on the upper part of the body.

(v) where the number of supervisors exceeds 4 there should be both male and female staff available.

9. Add "or exiting the premises"

22. Change "or" to "and the provision of a noise limiter if practicable or noise monitoring system to the satisfaction of the Police and Local Authority"

Additionally

26. Any amplified music after 7.00 pm must be played within the confines of a permanent licensed building or a marquee that has been adequately sound proofed with acoustic curtaining or some such acoustic device or equipment.

27. Tape recordings of all matters covered will be maintained for 7 days or as otherwise agreed with the Police and will be made available to either the Police or the Licensing Authority.

28. A notice will be displayed at the entrance to the premises advising that CCTV is in operation.

29. If the CCTV is inoperative, the Police and Licensing Authority must be informed immediately and the management must take immediate steps to put the equipment back into action.

30. An Anti Drug Policy to be copied to the Police and the Local Authority upon request.

31. No event involving the anticipated attendance of more than 2,500 people outside the hours of 10.00am to 10.00pm at any one time will be held without 28 days prior notice being given to the Police, Local Authority and Fire Service.

32. Suitable signage at the exits from the premises, or those parts of the premises being used for a particular event, will be displayed requesting the co-operation of patrons in particular, to make as little noise as possible when returning to their cars and leaving the premises.

33. No construction or dismantling of event equipment, stands, marquees and ancillary equipment to take place between 12.00 (midnight) and 7.00 am.

Although not part of the conditions Crealy Park management has agreed to nominate a noise expert and then to hold a meeting with the noise expert instructed by Mr Adams/Objectors within 28 days to explore possible improvements to the operation at Crealy Park so as to reduce the impact of noise, if any, from licensable activities as defined in the Licensing Act 2003. Access to the premises will be given to the two nominated experts only.

- 2) that the mandatory conditions of sections 19, 20 and 21 of the Licensing Act 2003 be imposed.
- 3) that the Designated Premises Supervisor be Jean Paton of 32 Waverley Road, Exmouth, EX8 3HJ.
- 4) that the Members of the Sub Committee be thanked for the considerable amount of time they had spent deliberating on this application.

(Councillor R C Peachey declared a personal interest as the Ward Member for the area and took no part in the discussion)

Chairman Date