

EAST DEVON DISTRICT COUNCIL

Minutes of a Meeting of the Licensing & Enforcement Sub-Committee B **Held at Knowle, Sidmouth on Monday, 25 September 2006**

Present: Councillors:

Mrs C E Drew
Mrs F Newth
Mrs M L Hardy

Also Present: Councillor:

Mrs P A Stott

The meeting started at 10.05 am and ended at 11.40 am.

*11 **Election of Chairman**

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

*12 **Minutes**

The minutes of the meetings of the Licensing and Enforcement Sub-Committee held on 8 May and 19 June 2006, were confirmed and signed as a true record.

*13 **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.

*14 **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.

*15 **Hackney Carriage Driver's Licence Applications**

Consideration was given to whether the applicant was a fit and proper person to be licensed as Private Hire and Hackney Carriage driver.

RESOLVED that PW's application for a Hackney Carriage Driver's Licence be granted;

*16 **Application for a new Gaming Permit to increase the number of Amusement with Prizes (AWP) machines in license premises selling alcohol from three to four machines**

The Sub-Committee gave consideration to the application for a new Gaming Permit to increase the number of Amusement with Prizes (AWP) machines in The Farmhouse Inn, Churchill Road, Exmouth from three to four machines

Ian Radford from Leisure Link UK Ltd attended on behalf of the applicant.

The Legal Adviser reminded members that on the 12 June 2006 the Licensing and Enforcement Committee had resolved "to require applicants for more than two amusements with Prizes machines in premises licensed for the sale of alcohol to appear before a Licensing Sub Committee to make their case for seeking a permit permitting more than two machines".

The Sub Committee carefully considered the application for the new Gaming Permit with a view to deciding whether the application promoted the licensing objectives, as required by the Licensing Act 2003 and the issue of Gaming permits under section 34 of the Gaming Act 1968. They also took into account Government guidance and the Council's own licensing policy and the Human Rights Act 1998 in making the decision.

The written representations made by the applicant were considered. It was considered 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, 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.

The applicant's case on paper was that there were occasions when customers at the premises were queuing to use the three existing AWP machines. For this reason he was applying to increase the number of AWP machines permitted from three to four. The applicant's agent Leisurelink supplied a detailed analysis of the plays of the existing three machines at the premises together with a plan indicating the position of the fourth machine should the Sub Committee grant the application.

The Sub Committee had carefully considered the application put forward by the applicant and its likely impact. In relation to the evidence heard it was considered that the increase from three to four machines would not alter the nature of the premises in such a way that their use was no longer ancillary to the main use of the premises.

RESOLVED: that the new Gaming Permit be granted.

*17 **Application for a variation to a premises licence under the Licensing Act 2003 for Samantha's, St Andrews Road, Exmouth**

The Sub-Committee gave consideration to the application for a variation of a premises licence under the Licensing Act 2003 to extend, on the morning on which British Summer Time begins, the permitted hours of the licence for the provision of regulated entertainment, the provision of entertainment facilities, late night refreshment and supply of alcohol for consumption on the premises for Samantha's, St Andrews Road, Exmouth.

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 Chairman identified members of the Sub-Committee, officers, the applicant and representatives. The applicant was Mr B McCarthy represented by Mrs Lesley Powell, Solicitor. The interested party was not present. No responsible authorities attended.

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 party related to two of the four licensing objectives, namely the prevention of crime and disorder and the prevention of public nuisance. The interested party felt that he suffered from noise nuisance from the loud music that emanated from the club through the fire escape when the doors had been left open. The door staff did not supervise those customers ejected and they were left to continue their arguments in the street which led to fighting. There were also incidents of vandalism The lorries which delivered to the premises blocked access to St Andrews Road.

The applicant's case on paper was to vary the premises licence to allow for an extra hour trading in the spring when the clocks changed from GMT to BST. If granted, the variation would put Samantha's in the position it would have been under the Licensing Act 1988.

At the hearing the applicant added that the Section 76(2A) Licensing Act 1964 (as inserted by the Licensing Act 1988) had given premises such as Samantha's a statutory extension which they had operated under for many years. The variation would allow the premises to operate for five hours rather than four hours on the night when the clocks go forward, as they would on any normal Saturday/Sunday.

Incidents of noise nuisance were isolated and logged in the premises management log, the applicant confirmed that they were aware of the noise on the fire escape, but that the ejection of customers on the particular evening had been at the request of the police. The Designated Premises Supervisor stated that the "Carlsberg" lorry was the only lorry that delivered regularly to the premises and that the "Excel" lorry referred to in the interested party's submission was delivering to another commercial premises. He could not be responsible for traffic congestion in St Andrews Road.

In making the decision, the Sub Committee considered relevant representations that the applicant had made at the meeting and the written representations made by the interested party and other documentation put before them.

*17 **Application for of a variation to a Premises Licence under the Licensing Act 2003 for Samantha's, St Andrews Road, Exmouth (cont'd)**

The Sub Committee had considered the operating schedule put forward by the applicant and the likely impact of the application. In relation to the evidence heard regarding the history of the premises, it was considered that the establishment continued to be well managed and controlled with good policies in place and adequate supervision from line management.

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. However, they did consider 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.

- 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 applicant's plan.
 - b) Permitted hours for the various licensable activities will be as set out in Appendix B
 - c) The conditions in the operating schedule as set out in the amended Appendix F will also apply.
- 2) that the mandatory conditions of sections 19, 20 and 21 of the Licensing Act 2003 will be imposed.
- 3) that the Designated Premises Supervisor would be Benedict McCarthy of 1 Ropewalk House, Shelley Road, Exmouth, EX8 1XU.

In reaching these decisions the Licensing & Enforcement Sub Committee A has had regard to the Human Rights Act 1998 and in particular, Article 6.

Chairman Date