

EAST DEVON DISTRICT COUNCIL

Minutes of a Meeting of the Licensing & Enforcement Sub Committee A held at Knowle, Sidmouth on 28 April 2008

Present:

Councillors:

Mrs C E Drew (Chairman)

G Godbeer

C Tratt

Also Present:

Councillors:

J Humphreys

K Potter

Officers:

John Loveridge - Assistant Licensing Officer

Christopher Holland - Democratic Services Officer

Giles Salter – Assistant Solicitor

The meeting started at 9.30 am and finished at 10.40 am.

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Minutes

The minutes of the meeting of the Licensing & Enforcement Sub Committee A held on 14 April 2008, were confirmed and signed as a true record.

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Application to grant a variation to a Premises License under the Licensing Act 2003 at First and Last Inn, 10 Church Street, Exmouth.

The Sub Committee gave consideration to the application for the grant of variation to a Premises Licence under the Licensing Act 2003 to amend the existing operating schedule by the removal of conditions and the imposition of additional conditions and to vary and extend the licensed area by way of structural conditions to the building and the extension of the existing beer garden and to allow regulated entertainment of live and recorded music in the beer garden area at the First and Last Inn, 10 Church Street, Exmouth.

The Chairman identified members of the Sub Committee, Officers, applicants and interested parties present. The applicant was Mr M Williams, licensees. The interested party was Ms M Dixon.

The applicant's case was that the extension of the garden area was to allow customers to have a greater choice in seating outside. There was no increase in the premises occupancy, and the licensee had spoken to the fire brigade about this issue. The beer garden currently had seating for 32 people but the garden extension would allow for a further 48-50 people to sit outside. He wanted to create what the government called a café culture. The applicant had attended mediation with the police and the Environmental Health Service and was happy to work with the responsible authorities. It was noted that the premise was situated within the "Unlocking Exmouth" commercial area. There was currently a planning application to remove an existing wall. He was happy to offer a concrete block screen wall to surround the extended garden perimeter. Mr. Williams stated that he employed a glass collector on a Friday and Saturday who would also police the extended area, together with the CCTV camera.

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Application to grant a variation to a Premises License under the Licensing Act 2003 at First and Last Inn, 10 Church Street, Exmouth (Cont)

The interested parties' case was in relation to the prevention of crime and disorder; Unruly behaviour, fighting, verbal abuse and foul language, anti-social behaviour. Regarding public safety; Anti-social behaviour, broken glass. Regarding the prevention of public nuisance; Noise level heard from neighbouring properties, unsocial hours with excessive noise level from the public and music if licence extended. Regarding the prevention of children from harm; Children need to be protected from foul and abusive language.

At the hearing Ms Dixon, stated that she had recently bought her property for the large garden but hadn't realised there was a licensing application to extend the pub garden. She could hear the noise currently omitted from the pub garden, particularly on a Friday and Saturday evening. She noted that the licensee had recently attempted to screen the property and reduce the noise by placing some trellising on the boundary wall. She objected to recorded music particularly in the Winter months. She believed that people usually went outside to escape recorded music from licensed premises. She objected to the potential noise nuisance and could currently hear the content of conversation in the current garden.

The Sub Committee carefully considered the application for variation to a Premises Licence under the Licensing Act 2003. They also took into account Government Guidance and the Council's own licensing policy, and the Human Rights Act 1998 in making their decision.

The Sub Committee considered the particular locality of the premises in a town centre and its physical relationship with other residential and commercial properties in the vicinity. They also considered it relevant that no representations have been received from the police in relation to the Licensing Act objectives that have been the subject of representations today, that is to say: public safety, public nuisance, crime and disorder, protection of children from harm. From this they concluded that the police did not consider that there was 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 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 has been well managed and controlled. They also considered that CCTV played an important role in preventing crime and disorder, identifying offenders and in managing public behaviour on and in leaving the premises.

The Sub Committee 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 did, however, take 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.

There was no real evidence that the operation the applicant proposed to run, would cause the unacceptable impact local residents suggested.

The Committee suggested that the licence holder and Mrs. Dixon should hold a regular meeting to discuss management issues at the premises, and in particular concerns of noise nuisance so that issues could be monitored.

*25 **Application to grant a variation to a Premises License under the Licensing Act 2003 at First and Last Inn, 10 Church Street, Exmouth (Cont)**

All parties were reminded of the closure and review powers which the Government brought into force on 24 November 2005. Premises which do 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 grant of the variation of the Premises Licence be permitted with the following conditions:

- (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 various licensable activities will be 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 Appendices E and F will apply.
- (e) The mandatory conditions required by sections 19 and 21 of the Licensing Act 2003 will also be imposed.

2) that the Designated Premises Supervisor would be Sian Karine Williams, The First and Last Inn, 10 Church Street, EXMOUTH, EX8 1PE

*15 **Schedule of applications for Sub Committee approval where an agreed position has been reached and all parties have agreed a hearing is unnecessary**

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

Chairman Date.....