

EAST DEVON DISTRICT COUNCIL

Minutes of a Meeting of the Licensing & Enforcement Sub Committee A held at Knowle, Sidmouth on Monday 9 July 2007

Present: Councillors:
Mrs C E Drew (Chairman)
Mrs F Newth
B Nicholson
Also present: Councillors
G S Godbeer
K Potter
C Tratt

The meeting started at 9.30 am and ended at 10.50 am.

*4 Minutes

The minutes of the meeting of Licensing Sub Committee A held on 11 June 2007, were confirmed and signed as a true record.

*5 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 Powder Monkey, Hayne House, 2 The Parade, Exmouth, Devon EX8 1RJ 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.

- *5 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 (Cont)

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. Due to this customer demand, 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.

- *6 Application for a variation to a Premises Licence under the Licensing Act 2003 to permit the provision of regulated entertainment, the provision of entertainment to include plays, live music, recorded music and performance of dance at Royal Beacon Hotel, Exmouth

The Sub-Committee gave consideration to the application for a variation to a Premises Licence for the Royal Beacon Hotel, Exmouth under the Licensing Act 2003 to permit the provision of regulated entertainment, the provision of entertainment to include plays, live music, recorded music and performance of dance.

The Chairman identified members of the Sub-Committee, officers, applicant. The applicant was Mr P Nightingale. The interested parties did not attend the hearing.

It was confirmed that the Sub-Committee had read the documents in respect of the application including the representations from the interested party. 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 town centre and its physical relationship with other residential 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 have been the subject of representations. That is to say: public safety, public nuisance, crime and disorder, and the 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.

- *6 Application for a variation to a Premises Licence under the Licensing Act 2003 to permit the provision of regulated entertainment, the provision of entertainment to include plays, live music, recorded music and performance of dance at Royal Beacon Hotel, Exmouth (Cont'd)

The applicants' case was on paper that this was an application to amend the Premises Licence following the recent consolidation of the hotel premises with the operation at Donato's restaurant and to clear up certain small anomalies. There has been no history of problems at the hotel or Donato's. The hotel would not wish to cause any nuisance to its residents or patrons as they are the lifeblood of the business, or to its neighbours with whom it seeks a good relationship.

At the hearing, Mr Nightingale added that the Engineers had started work on the installation of air conditioning, which he expected to be completed by 13th July, 2007, and he was also having work carried out at the rear of the property which meant that there would be a lobby so that no doors from the function room would open direct on to the outside. He said that the premises had been a hotel since the 1800's and there was always going to be some low level noise created but there had never been a statutory nuisance. The work which was being carried out should address any problems. The 2 windows nearest to the source of noise were to be screwed down. In response to questioning he confirmed that the kitchen door would remain closed. Regarding the specific issue of off sales he confirmed that this had been omitted by accident from the last application but until then, the hotel had always had a full on/off licence.

The written submissions from interested parties Pauline Fisher, D.M. Powell and Mr. Graham Manchester, were considered, none of whom attended the hearing. The submissions related to noise nuisance and smell coming from the hotel.

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 had made at the meeting and the representations made by the interested parties 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 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. The committee were pleased that the applicant had been willing to enter into mediation prior to the hearing and was able to agree proposed additional conditions to satisfy the requirements of the Council's Environmental Officer and of the interested party's concerns.

The Sub Committee did not accept that there was evidence of a significant public nuisance, risk to crime and disorder, risk to public safety and risk to children arising from the proposed 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. At the present time there was no real evidence that the operation the applicant proposed to run would cause the unacceptable impact local residents suggested.

- *6 Application for a variation to a Premises Licence under the Licensing Act 2003 to permit the provision of regulated entertainment, the provision of entertainment to include plays, live music, recorded music and performance of dance at Royal Beacon Hotel, Exmouth(Cont'd)

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 the new Premises Licence be granted as follows:

- (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 as set out in the Appendix B.
- (c) The conditions in the operating schedule as set out in Appendix E will apply. It shall be a condition of the Licence that the air conditioning shall be installed and operable before the licensable activities and permitted hours hereby approved can be operate
- (d) The Applicant shall arrange for an Officer of the licensing authority to attend the premises to verify that the works have been completed and are in an operable condition
- (e) The mandatory conditions of sections 19 20 and 21 of the Licensing Act will be imposed.

2) that the Designated Premises Supervisor will be:
George Edward Nightingale
The Royal Beacon Hotel
Exmouth
Devon
EX8 2AF

Chairman Date