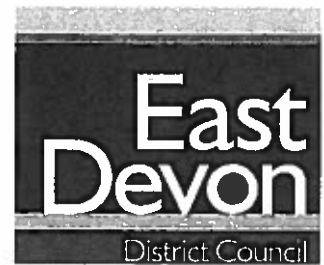


Date: 1 June 2010
Contact number: (01395) 571544
E-mail: clane@eastdevon.gov.uk
Our Reference: Christopher Lane
Your Reference: CL



To: Members of the Licensing & Enforcement Sub-Committee
(Councillors: Chris Gibbings and Steve Hall)
Remaining members of the Licensing and Enforcement Committee
for information)

Licensing Officer
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Meeting of the Licensing & Enforcement Sub-Committee

Tuesday 8 June 2010 at 11.00 am (or upon the rising of the Licensing & Enforcement Committee) Council Chamber, Knowle, Sidmouth

Members of the public are welcome to attend this meeting. A hearing loop system will be in operation in the Council Chamber. Due to the requirements of the Licensing Act 2003 only parties to the hearing are permitted to address the sub-committee (through their representative as appropriate). Visitor car parking is available at the top of the drive outside the main reception area.

Visitors please note that the doors to the civic suite (meeting rooms) will be opened ¼ hour before the start time of the meeting. Councillors are reminded to bring their key fobs if they wish to access the area prior to that time.

A G E N D A

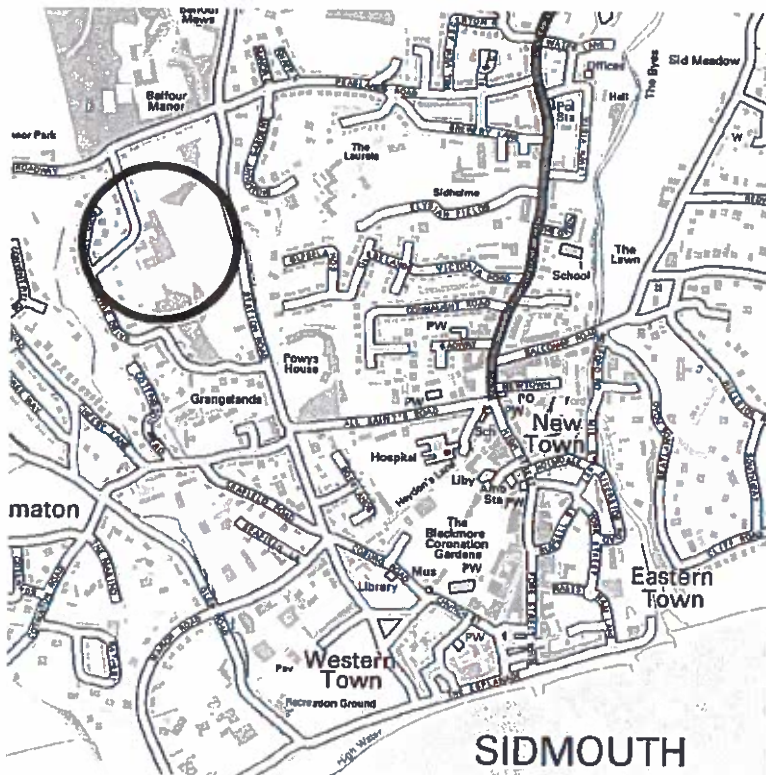
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|---|--------|
| 1. To receive the minutes of the meeting held on 25 May 2010. | 3 - 7 |
| 2. To receive any apologies for absence from Members of the Sub Committee. | |
| 3. To receive any declarations of interests relating to items on the agenda. | |
| 4. To consider any items which in the opinion of the Chairman should be dealt with as matters of urgency because of special circumstances. | |
| <p>(Note: Such circumstances need to be specified in the minutes; any Member wishing to raise a matter under this item is requested to notify the Chief Executive in advance of the meeting).</p> | |
| 5. To agree any items to be dealt with after the public (including the press) have been excluded. (There are no items which the Officers recommend should be dealt with in this way). | |

6. Schedule of application for Sub Committee approval where an agreed position has been reached and all parties have agreed a hearing is unnecessary – Newton Poppleford & Harpford Pavilion Back Lane, Newton Poppleford and Littleham Community Hall West Down Lane, Littleham, Exmouth, Licensing Officer

Members Remember!

- ❑ You must declare any personal or prejudicial interests in an item whenever it becomes apparent that you have an interest in the business being considered.
- ❑ Make sure you say the reason for your interest as this has to be included in the minutes.
- ❑ If your interest is prejudicial you must leave the room unless you have obtained a dispensation from the Council's Standards Committee or where Para 12(2) of the Code can be applied. Para 12(2) allows a Member with a prejudicial interest to stay for the purpose of making representations answering questions or giving evidence relating to the business but only at meetings where the public are also allowed to make representations. If you do remain, you must not exercise decision-making functions or seek to improperly influence the decision; you must leave the meeting room once you have made your representation.
- ❑ You also need to declare when you are subject to the party whip before the matter is discussed.

Getting to the Meeting – for the benefit of visitors



The entrance to the Council Offices is located on Station Road, Sidmouth. **Parking** is limited during normal working hours but normally easily available for evening meetings.

The following **bus service** stops outside the Council Offices on Station Road:
From Exmouth, Budleigh, Otterton and Newton Poppleford – 157

The following buses all terminate at the Triangle in Sidmouth. From the Triangle, walk up Station Road until you reach the Council Offices (approximately ½ mile).
From Exeter – 52A, 52B
From Honiton – 52B
From Seaton – 52A
From Ottery St Mary – 379, 387

Please check your local timetable for times.

The Committee Suite has a separate entrance to the main building, located at the end of the visitor and Councillor car park. The rooms are at ground level and easily accessible; there is also a toilet for disabled users.

For a copy of this agenda in large print, please contact the Democratic Services Team on 01395 517546

EAST DEVON DISTRICT COUNCIL

Minutes of a Meeting of the Licensing & Enforcement Sub Committee held at Knowle, Sidmouth on Tuesday 25 May 2010

Present: Councillors:
Chris Gibbings (Chairman)
Steve Hall
John Humphreys

Officers: Neil McDonald - Licensing Officer
Andrew Ennis – Environmental Health Manager
Christopher Holland - Democratic Services Officer
Giles Salter – Assistant Solicitor

Also present: Barry Nicholson

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

*1 **Minutes**

The minutes of the meetings of the Licensing & Enforcement Sub Committee held on 13 April 2010, were confirmed and signed as a true record.

*2 **Application to grant a time limited Premises Licence under the Licensing Act 2003 at Beautiful Days, Escot Park, Ottery St Mary**

The Sub Committee gave consideration to the application for the grant of a time limited Premises Licence under the Licensing Act 2003 to permit the provision of regulated entertainment, entertainment facilities and late night refreshment and the sale by retail of alcohol for consumption on and off the premises at Beautiful Days, Escot Park, Ottery St Mary.

The Chairman identified members of the Sub Committee, Officers, applicants and interested parties present. The applicant was Mr David Farrow accompanied by Laura Farrow . The applicant was represented by Mr Tim Selley, Crosse and Crosse Solicitors accompanied by Jason Mingo, and Mr Steve Anderson, Acoustic Consultant of Anderson Mitchell.

The Sub Committee carefully considered the application for licensable activities and the proposed hours of operation 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 and the Council's own licensing policy, and the Human Rights Act 1998 in making their decision.

The Sub Committee carefully considered the relevant representations that all parties had made and the written representations and other documentation put before the Sub Committee. They 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 made at the hearing, that is to say: public nuisance. From this, the Sub Committee 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. Consideration was given to the particular locality of the premises in a rural location and its physical relationship with residential properties in the vicinity.

Application to grant a time limited Premises License under the Licensing Act 2003 at Beautiful Days, Escot Park, Ottery St Mary (Cont)

At the hearing, the applicant's solicitor, Mr Selley outlined the business experience of the applicant, stating that the event was to be held for the seventh consecutive year. The event had followed the same format for the past four years. There was ongoing discussion through the year and a de-brief after the festival in November each year to review the event to which interested parties and Responsible Authorities were invited. Security had been tightened following complaints about noise from fireworks in the early hours of the morning. The event was worth over £2 million to the local economy and catered for 11,000 people and 1,500 staff, using local businesses to provide services. He added that the application on a similar basis to the previous year for which the Committee had given its approval. The noise controls and levels to be applied were no different. No members of the public had made representations to the current application. He felt that it was not fair for the applicant to be penalised simply because another operator had been granted a licence for the same venue.

The applicant, Mr Farrow, expressed his concerns that he did not want an event that caused a noise nuisance and as a result had employed Mr Anderson as the event noise consultant for the previous year's event. The applicant felt that the hours applied for with the various licensable activities were proportionate and drew the Sub Committee's attention to the Permitted Hours schedule, clarifying that in Appendix A, the 'Little Big Top (3)' would finish at 21:30 on Sunday.

Mr Anderson stated that although complaints were important, the low number of complaints received in 2009 proved that there was not a noise problem. A noise hotline was in place to deal with complainants and complaints investigated. It was important that there was little disturbance and annoyance to the average, reasonable person. Escot was a rural, isolated community, typical of locations for music festivals. Mr Anderson noted the distance and spread of the complaints received over the past years. There was some considerable distance to the villages where noise from the festival was audible, although he doubted that there was a nuisance. Complaints at Tipton St John, 3km from the festival site were noted, although no complaints had been received from residents within 800m of the site. Mr Selley, drew the Sub Committee's attention to the Guidance and section 182 of the Licensing Act 2003. There had been no representations from "interested parties". The hearing was going ahead because of representations from Environmental Health.

Mr Anderson stated that a level of audibility was acceptable on some occasions to most people. He referred to the objective criteria in the Noise Council Guidance, although this was not a definitive standard. The Noise Council Guidance set a level of 65 dB for green field festivals. However Mr Anderson felt that this was probably too lax and that a more realistic and appropriate level was 55 dB which the applicant operated at. He stated that the Guidance was some 15 years old and the subject of some debate and in need of urgent review as it had never worked for rural based events. The Guidance suggested guideline noise levels at which concerts set in rural venues should not exceed at particular times of the day and night and the frequency of the events. He accepted that there was bound to be some audibility of the event but that this was not necessarily nuisance

The applicant acknowledged that he had considered finishing the event at midnight. However as he was competing against over five hundred other music festivals it was necessary to keep the final finishing time for the Big Top at 2 am.

Application to grant a time limited Premises License under the Licensing Act 2003 at Beautiful Days, Escot Park, Ottery St Mary (Cont)

Mr Andrew Ennis, Environmental Health Manager set out East Devon District Council's Environment Health position regarding the prevention of public nuisance, the management of noise emanating from festival events and in particular after midnight in two festival venues. It was noted that EDDC received about 1000 noise complaints a year and of those up to 25 resulted in a Noise Abatement Notice being served. Mr Ennis clarified for the Sub Committee that it was the low frequency of an amplified bass beat that would intrude and lead to the potential for noise nuisance.

Mr Ennis explained in his written representation that acoustic terminology was complex, but basically it was about how a loud noise was measured by its dB and the character or nature of the noise and its frequency. Mr Ennis raised three issues. The first was guidance. There was an absence of precise guidance on audibility. However reference could be made to the non statutory guidance of Environmental Noise Management at Concerts and research from the Institute of Acoustics. People tolerated 45 dB but it was very difficult to measure a distant thumping bass beat. The bass beat penetrated buildings and travelled further than higher frequency music. The Local Authority's duty was to balance enjoyment of those attending the festival with the amount of noise nuisance to local residents and to limit the amount of broken sleep over the course of 72 hours activity. It was noted that weather conditions governed audibility.

The second issue raised by Mr Ennis was complaint history. It was reported that the weather at the previous year's festival had been inclement and the noise conditions could have been worse. Complaints had been received after the event and had been difficult to log, with the exact time that the nuisance occurred difficult to record. Mr Ennis also referred to the complaints received in 2007.

The third issue raised by Andrew Ennis, Environmental Health, was the role of the Environmental Health Officer. At the hearing Mr Ennis explained that this was to advise on preventing public nuisance. It was reported that a precautionary approach should be adopted. It was reasonable for any festival to give some respite to residents surrounding the event. He referred to the Code of Practice Guidance which suggested guideline noise levels at which concerts set in rural venues should not exceed at particular times of the day and night and the frequency of the events. The representation was submitted because the venue at Escott Park was holding a further 'noise' event (The Sound City Event) during the summer which meant that the number of events at the venue, Escott Park, fell into the range where the lower level noise guidance was invoked within the Code of Practice guidelines.

The Environmental Health Service have not proposed any stricter noise control criteria or conditions as it is believed that they are unlikely to be reasonably achievable by the event organisers. The sub-committee was asked to consider whether it was prepared to step outside of the code of practice guidelines.

Mr Ennis raised the issue of a cumulative impact at Escott due to more 'festival' events being held. More events meant the likelihood of more unreasonable disturbance.

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 heard regarding the history of the premises, they considered that the event was well managed and controlled with good policies in place and adequate supervision from event organisers.

Application to grant a time limited Premises License under the Licensing Act 2003 at Beautiful Days, Escot Park, Ottery St Mary (Cont)

The Sub Committee did not accept that there was evidence of a significant public nuisance 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 East Devon District Council's Environmental Health Manager about the future operation by ensuring that suitable conditions were imposed and that noise emanating from the festival site after midnight was sufficiently monitored and controlled.

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 Premises License be granted 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 applicant's plan.
 - (b) Permitted hours for the various licensable activities will be as set out in the Appendix A with the following amendment the applicant has now amended the hours applied for in the Little Big Top (Dance Tent) to cease all licensable activities at 9.30 pm on Sunday of the festival.
 - (c) The conditions will now be as shown in the Safety Event Management Plan
 - (d) The mandatory conditions of section[s] 19 and 21 of the Licensing Act will be imposed.
 - (f) All other conditions for licensable activities have been agreed between the parties for the regulation and conditioning of the Premises License on the application.
- 2) that whilst the Sub Committee acknowledged the concerns expressed by the statutory authority at the hearing, the Sub Committee believe the concerns expressed in representations had been addressed by the hours of operation for the licensable activities and the Noise Management Statement which the Sub Committee believe are necessary and proportionate.
- 3) that the Designated Premises Supervisor would be Patrick McCraig of Hills Farm, Cotleigh, Honiton, Devon, EX14 9HE.

*3

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

Consideration was given to the report of the Licensing Officer which set out a schedule of applications for Sub Committee approval where an agreed position had been reached and all parties had agreed that a hearing was unnecessary.

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

Type of Application	Name of premises and address	Agreed position reached by the parties
Application for the grant of a premises licence	Oakmead Golf Weston Sidmouth EX10 0PT	<p>Following mediation the applicants and the Devon & Cornwall Constabulary have agreed that they consider a hearing to be unnecessary if the following agreed position is approved.</p> <p>Section M Supply of Alcohol – withdraw non standard times.</p> <p>Plastic or toughened glass must be used in the outside area where alcohol is to be consumed.</p>

Chairman

Date

Agenda Item 6

Licensing Sub Committee

08 June 2010

NMcD

Schedule of applications for Sub Committee approval where agreed positions have been reached and all parties have agreed a hearing is unnecessary.

Summary

The report details these applications.

Recommendation

That these applications be granted as applied for subject to the agreed positions set out in the schedule below, any relevant statutory conditions and the applicants having complied with relevant statutory requirements.

a) Reasons for Recommendation

To ensure full compliance with statutory processes.

b) Alternative Options

The Licensing Authority must grant these applications as all parties have agreed a position which they consider makes a hearing unnecessary.

c) Risk Considerations

Applications must be dealt with within the statutory time limits.

d) Policy and Budgetary Considerations

Officers have taken into account the Council's Licensing Policy in making the recommendation.

e) Date for Review of Decision

The council's decision may be appealed to the Magistrates Court. The Licensing Act 2003 also contains review provisions.

1. Legislation Background

- 1.1 Under the Licensing Act 2003 it is unclear whether applications where an agreed position has been reached and the parties do not consider a hearing to be necessary, require to be formally determined by a licensing sub committee, as opposed to relying on determination powers delegated to officers. To put the matter beyond doubt, these applications are reported to members for their approval of the agreed position. This process also enables members to be advised of the success of the informal mediation in advance of hearings, which is facilitated by Licensing Officers or sometimes by other Responsible Authorities.

2 Schedule of Applications

Type of Application	Name of premises and address	Agreed position reached by the parties
Application for the grant of a premises licence	Newton Poppleford & Harpford Pavilion Back Lane, Newton Poppleford, EX10 0EY	<p>Following mediation the applicants and the Devon & Cornwall Constabulary have agreed that they consider a hearing to be unnecessary if the following agreed position is approved.</p> <p>To agree to extra and amended conditions as shown below</p> <ol style="list-style-type: none"> 1. The trustees of the Pavilion must ensure that all Pavilion hirers and users know and understand the layout of the Pavilion in terms of safety and fire regulations. 2. The trustees of the Pavilion must ensure that all hirers of the Pavilion understand and adhere to the terms of the hiring agreement and licence. 3. The trustees of the Pavilion must ensure that those using the hall behave in such a manner so as not to give cause for concern to residents and members of the public. 4. The trustees of the Pavilion must ensure that hirers of the Pavilion are fully conversant with the terms and restrictions of the licence. 5. The trustees of the Pavilion must ensure that all hirers and users of the Pavilion provide adequate supervisory individuals appropriate to the intended use of the Pavilion and to prevent any occurrence of an event that may potentially give rise or cause concern to residents or members of the public, whether it is on arrival at, vacation of, or during the use of the Pavilion. 6. The trustees must act together with the Police if the terms of the licence and or hiring agreement are contravened by any user hiring or using the Pavilion. 7. The trustees must ensure that all necessary safety checks and inspection reports by service providers are current and on display. 8. The trustees must ensure that those hiring the Pavilion are fully conversant and adhere to fire & safety regulations, emergency exits and that all first aid and safety equipment are adequate and current and that instructions for such use are on display. 9. The trustees must ensure that the premises provide a safe and secure environment for all Pavilion users and restrictions on its use are adhered to. 10. The trustees must ensure that the number of people in the building at any one time do not exceed the capacity of the building.

		<ol style="list-style-type: none"> 11. The trustees must ensure that the terms and restrictions of the licence are understood and adhered to by those hiring the Pavilion and that appropriate signage is displayed to remind users of their obligations to behave in such a manner so as to not give cause for concern to residents and that they must vacate the Pavilion quietly. 12. The signage must also remind users of their obligation to keep any music or other audible performances to a sensible level inside the Pavilion and that windows and doors are kept shut as appropriate. 13. The trustees must make checks during the course of the Pavilion hire and at lock up, to ensure that the terms of the licence are being adhered to. 14. When alcohol is sold or supplied at the Pavilion a "Proof of Age" policy must be enforced as part of the conditions of hire. 15. A trustee or other responsible individual appointed by them must be available whenever an event where alcohol is sold or supplied at the Pavilion. 16. There must be a written agreement between the Trustees and any hirer of the Pavilion which will include a risk assessment. Part of this risk assessment must ensure that when alcohol is sold or supplied at the Pavilion there will be a Proof of Age policy in force and that consideration must be given to the employment of SIA registered door staff.
Recommendation	Recommend approval of application subject to the amended operating schedule	
Application for the grant of a premises licence	Littleham Community Hall West Down Lane, Littleham, Exmouth, EX8 2RQ	<p>Following mediation the Applicant, the Devon & Cornwall Constabulary and the Council's Environmental Health Section have agreed that they consider a hearing to be unnecessary if the following agreed position is approved.</p> <p>The application be approved as submitted subject to the inclusion within the operating schedule of the following conditions</p> <ol style="list-style-type: none"> 1. A Committee Member must be available at any event where alcohol is sold or supplied at the premises. 2. There must be a written agreement between the Committee and any hirer of the hall which will include a risk assessment. Part of this risk assessment must ensure that when alcohol is sold or supplied at the premises there will be a proof of age policy in force and that consideration must be given to the employment of SIA registered doorstaff. 3. The licence holder must ensure that staff regularly patrol the premises both indoors and outdoors to supervise the orderly conduct of patrons. 4. Customers must be asked not to stand around talking in the street outside the premises or car

		<p>park and will be asked to leave the vicinity quickly and quietly.</p> <p>5. The licence holder, or persons authorised by them, must control the volume of regulated entertainment taking place at the premises.</p> <p>6. Suitable signage must be displayed in the patio and garden areas requesting patrons to respect the amenities of local residents.</p> <p>7. An announcement must be made prior to closing requesting patrons co-operation in leaving the premises and vicinity as quietly and quickly as possible.</p>
Recommendation	Recommend approval of application subject to the amended operating schedule	

Legal Implications

Included within the report

Financial Implications

No apparent financial implications

Background Papers

- The relevant licensing application
- Representations received from Responsible Authorities
- Guidance issued under Section 182 of the Licensing Act 2003
- The District Council's Statement of Licensing Policy

Neil McDonald Ext.2709

Licensing Sub Committee

Licensing Officer

8 June 2010

