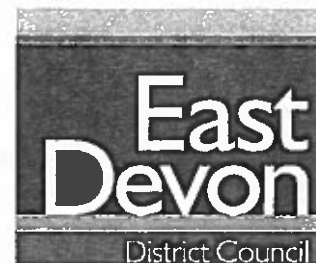


Date: 14 November 2011
Contact number: (01395) 517544
E-mail: clane@eastdevon.gov.uk
Our Reference: Chris Lane
Your Reference: -



East Devon District Council
Knowle
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To: Members of the Licensing & Enforcement Sub-Committee
(Councillors: Steve Hall, Jim Knight)

Licensing Officer
Assistant Solicitor

Dear Sir/Madam

www.eastdevon.gov.uk

Licensing & Enforcement Sub-Committee, Tuesday 22 November 2011 at 11.00am (or upon the rising of the Licensing & Enforcement Committee)

The Licensing & Enforcement Sub Committee meeting will take place in the Council Chamber, Knowle, Sidmouth, to consider the matters detailed on this agenda.

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).

Councillors and members of the public are reminded to switch off mobile phones during the meeting. If this is not practical due to particular circumstances, please advise the Chairman in advance of the meeting.

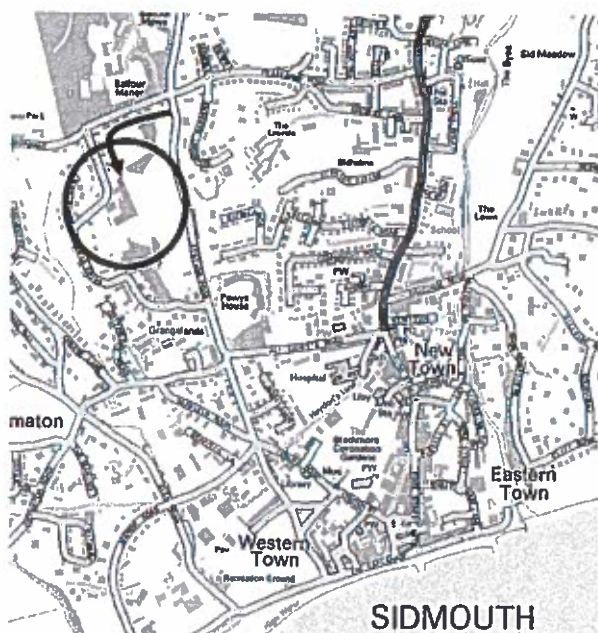
A G E N D A

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|--|----------------------------|
| 1. To confirm the minutes of the meetings of the Licensing and Enforcement Sub Committee held on 8 November 2011. | 3 - 6 |
| 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. | |
| (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). | |
| 5. Schedule of applications for Sub Committee approval where an agreed position has been reached and all Parties have agreed a hearing is unnecessary. | Licensing Officer
7 - 9 |

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, 8 November 2011

- Present:** Councillors:
Steve Hall (Chairman)
David Atkins
Pat Graham
- Officers:** Chris Lane – Democratic Services Officer
Giles Salter – Assistant Solicitor
Neil McDonald – Licensing Officer
- Also Present:** Councillor
Steve Gazzard
- Apologies:** Councillors:
Jim Knight
Tom Wright

The meeting started at 9.30 am and ended at 10.00am.

***27 Minutes**

The minutes of the meeting of the Licensing and Enforcement Sub-Committee held on 11 October 2011, were confirmed and signed as a true record.

***28 Application to grant a Premises Licence under the Licensing Act 2003 at Tesco's, Harbour Road, Seaton**

The Sub Committee gave consideration to an application for a Premises Licence under the Licensing Act 2003 to permit the sale of alcohol for consumption off the premises at Tesco's, Harbour Road, Seaton.

The Sub Committee carefully considered the application for a Premises Licence with the amendments the applicant proposed for the granting of a new premises licence 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 by all parties. They considered the particular locality of the premises in a town centre and its physical relationship with other residential and commercial properties in the vicinity. It was considered relevant that representations had been received from the Police in relation to the Licensing Act objectives that had been the subject of comments and observations made at the hearing, that is to say: public safety, public nuisance and prevention of crime and disorder, had been negotiated prior to the hearing. From this it was concluded that the Police did not consider that there was currently any significant problem associated with the proposed operation of the premises or that there was likely to be if the application

*28 **Application to grant a Premises Licence under the Licensing Act 2003 at Tesco's, Harbour Road, Seaton (Cont)**

was granted provided the conditions they had requested were imposed.

The applicant had now reduced the hours originally asked for from 6.00am premises opening and the sale of alcohol to 7.00am premises opening and sale of alcohol.

The applicant's case was on paper, that Tesco's was a national retailer that sold alcohol as part of a broad offering of goods and services. They had held off-licences in their stores for many years and were an approved British Institute of Inn-keeping examination centre. They had written training policies and formal training programmes in place, which ensured their staff were equipped to meet all licensing objectives.

In addition all training and revision/refresher materials were reviewed regularly; all stores had a Think 25', police and awareness was created to customers through point of sale material within the store. The applicant took legal compliance very seriously and in addition to local training they employed a central alcohol licensing compliance manager and had a compliance committee.

Members noted that ordinarily a member of the Management Team would be on the premises all the times the store was open. A person would have responsibility for the premises whilst they were open. Management would be trained to support the running of the premises including looking after customers and staff. The store would adhere to all rules and regulations relating to public safety. It was noted that Tesco's intended to be an active member of the community

The applicant confirmed they would welcome the opportunity to liaise with the Police and enforcement authorities should the need arise. All staff would be trained and regularly refreshed in the corporate 'Think 25' Policy and staff would be trained to look at the customer and 'Think 25' when selling alcohol. A till prompt would appear on the initial sale of alcohol that would remind the seller of their responsibilities including not to sell alcohol to anyone under the age of 18.

Members were made aware that the store would display signage around the premises informing both staff and customers of the 'Think 25' policy on alcohol. The premises would have a digital CCTV system that covered many areas of the shop floor; including the proposed area which would be used for the main display of beer, wine and spirits. Images, where retained, would be kept for a minimum of 21 days and made available on enforcement request.

At the hearing they added that the car park was monitored 24 hours per day with number plate recognition. A night team monitored the store and car park linked to security with ability to report anti social behaviour to the police. All Tesco stores used the 'Think 25' Policy, with quarterly refresher training. There was a till lock down until the operative had answered the questions linked to Think 25. The store would be opening on 21 November 2011.

***28 Application to grant a Premises Licence under the Licensing Act 2003 at Tesco's, Harbour Road, Seaton (Cont)**

The interested parties' case was on paper, that the prevention of crime and disorder would be affected by the hours of sale of alcohol 6.00am to 12.00 midnight the premises were open to the public. Regarding public safety, this would be affected by the increased traffic movements early in the morning and late at night. Regarding the prevention of public nuisance, there was a perceived alcohol related anti social behaviour in the area of the new Tesco and the Grove Nightclub. No interested party attended the hearing.

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 establishment would be well managed and controlled with good policies in place and adequate supervision of staff from line management. It was considered that CCTV had an important role in preventing crime and disorder, identifying offenders and in managing public behaviour on and in leaving the premises.

It was not accepted that there was evidence of significant public nuisance, risk to crime and disorder, risk to public safety and risk to children arising from the operation of the premises the applicant proposed. This was because of a lack of evidence as this was a new premises. The Sub Committee 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 unreasonable late.

All parties were reminded of the closure and review powers which the Government brought into force once new premises licences were operational from 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 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 applicant's plan.
 - (b) Permitted hours for the various licensable activities will be as set out in the amended Appendix B.
 - (c) The conditions will now be as shown in Appendix F and G.
 - (d) The mandatory conditions of Section 19 of the Licensing Act 2003 will be imposed.
 - 2) that whilst the Sub Committee acknowledged the concerns expressed by the interested parties in written submissions, the Sub Committee believe the concerns expressed in representations had been addressed by the hours of operation for the licensable activities and the conditions that have been imposed which have been tailored to the size, characteristics and activities on the premises which the Sub Committee believe were necessary and proportionate.
 - 3) that the Designated Premises Supervisor would be Greg Bartley, 39 Offley Road, Hitchin, Herts.

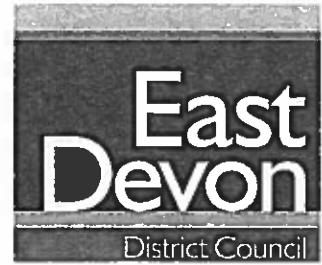
Chairman Date

Agenda Item 5

Licensing Sub Committee

22 November 2011

NMcD



Schedule of applications for Sub Committee approval where an agreed position has 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 a premises licence to be granted.	Brampford Speke Village Hall, Brampford Speke, Exeter, Devon, EX5 5HW	<p>Following mediation the applicant and the Devon & Cornwall Constabulary 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:</p> <p>A reduction in the hours the premises are open to the public and as a result the premises to close at 01:30 each day.</p>
Recommend approval of application subject to the amended operating schedule and the relevant mandatory conditions of the Licensing Act 2003		
Application for a premises licence to be granted.	Londis Convenience Store, 26 Fore Street, Seaton, Devon, EX12 2AD	<p>Following mediation the applicant and the Devon & Cornwall Constabulary 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 addition of the following conditions:</p> <ol style="list-style-type: none"> 1. CCTV must be installed, operated and maintained to the satisfaction of the Licensing Authority and the Chief Officer of Police in accordance with the requirements set out in the EDDC Licensing Policy. 2. CCTV images must be retained for a minimum of 14 days and to be produced on the request of the Police or a Licensing Officer of East Devon District Council. Recording media must be set to 25 frames per second. 3. The CCTV system must be operational at all times whilst the premises are trading. If the system is faulty or not working then the Police and East Devon Licensing Service must be informed immediately. Details of the malfunction must be recorded in the premises incident book.

		<p>4. A4 sized warning notices must be displayed in public areas of the premises and at all entrances advising that CCTV is in operation. The signs located at entrances should be located on the exterior of the building at, and adjacent to, all public access doors. All signs must comply with the requirements of the Data Protection Act 2002.</p> <p>5. A proof of age policy to the satisfaction of the police and the Local Authority will be in place. This will be Challenge 21. The only Identification Documents that will be accepted are Driving Licence, Passport or a card bearing the PASS logo.</p>
Recommendation	Recommend approval of application subject to the amended operating schedule and the relevant mandatory conditions of the Licensing Act 2003	

Legal Implications

Included within the report

Financial Implications

No apparent financial implications

Background Papers

- The relevant licensing applications
- 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.2079

Licensing Sub Committee

Licensing Officer

22 November 2011



