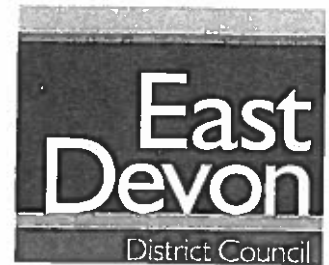


Date: 28 March 2011  
Contact number: (01395) 571544  
E-mail: [clane@eastdevon.gov.uk](mailto:clane@eastdevon.gov.uk)  
Our Reference: Christopher Lane  
Your Reference: CL



To: Members of the Licensing & Enforcement Sub-Committee  
(Councillors: Chris Gibbings, Steve Hall)

Senior Licensing Officer  
Assistant Solicitor  
All parties to the hearing

East Devon District Council  
Knowle  
Sidmouth  
Devon  
EX10 8HL

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## Meeting of the Licensing & Enforcement Sub-Committee

[www.eastdevon.gov.uk](http://www.eastdevon.gov.uk)

**Tuesday 5 April 2011 at 9.30 am 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.**

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

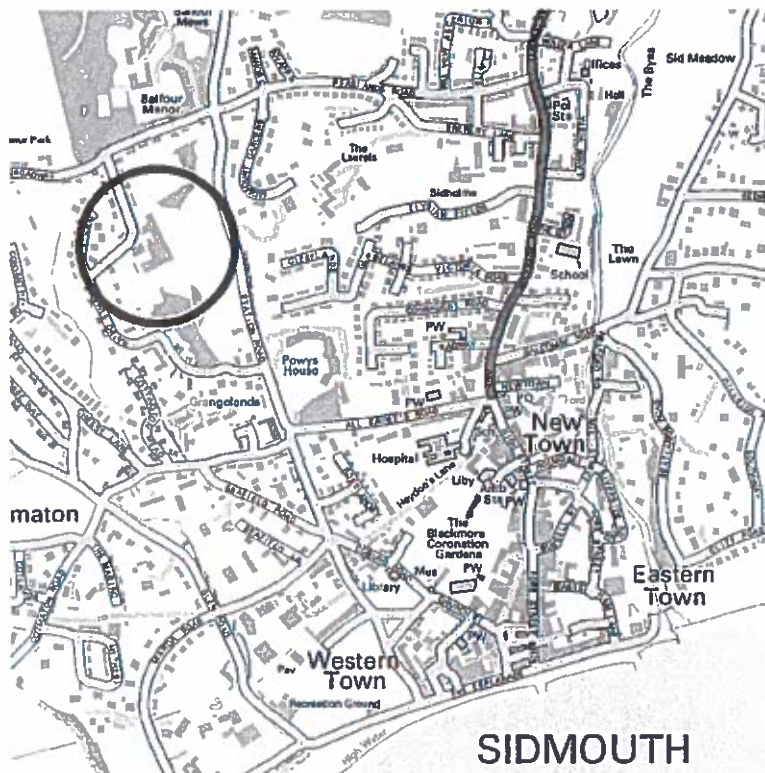
- |  | Page/s |
|--|--------|
| 1. To receive the minutes of the meetings held on 15 March 2011.   | 3 - 7  |
| 2. To receive any apologies for absence from Members of the Sub Committee.   |        |
| 3. To receive any declarations of interests relating to items on the agenda.   |        |
| 4. To consider any items which in the opinion of the Chairman should be dealt with as matters of urgency because of special circumstances.   |        |
| (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. 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 applications for Sub Committee approval where an agreed position has been reached and all Parties have agreed a hearing is unnecessary.                                     | 8 - 10 |

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, 15 March 2011

- Present:** Councillors:  
Chris Gibbings (Chairman)  
Steve Hall (Vice Chairman)
- Frances Newth
- Also present:** Councillors:  
David Atkins  
Roger Boote
- Officers:** Douglas Jackson – Licensing Officer  
Chris Lane – Democratic Services Officer  
Giles Salter – Assistant Solicitor  
Neil McDonald – Licensing Officer

The meeting started at 9.30 am and ended at 11.40 am.

### \*30 Minutes

The minutes of the meeting of the Licensing and Enforcement Sub-Committee held on 30 November 2010, were confirmed and signed as a true record.

### \*32 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.

### \*33 Application for Review of a Premises Licence under the Licensing Act 2003 - Seasons, 9 Silver Street, Ottery St Mary

Consideration was given to the report of the Licensing Officer on an application for review of the Premises Licence for Seasons, 9 Silver Street, Ottery St Mary requested by Devon & Cornwall Constabulary under Section 51 of the Licensing Act 2003.

The Sub Committee considered the evidence in the committee papers and the submissions of the Police Licensing Officer and Mr Martin Patterson, the DPS of the Review premises. The Committee considered that the facts evidenced a deliberate and considered breach of the Licensing Act 2003. The DPS was an experienced licensee who has applied for Temporary Event Notices in the past and was told by EDDC officers both orally and in writing that his application of 25 October 2010 was out of time and that he must not trade. Mr Patterson claimed that his 'online' application was accepted but that was merely an acknowledgement of a receipt of his application.

Mr Patterson claimed that the online application did not state that the application must be submitted with '10 clear working days'. However it is clearly stated that before any application is submitted to the Licensing Authority the applicant is advised to read the

**\*33 Application for Review of a Premises Licence under the Licensing Act 2003 - Seasons, 9 Silver Street, Ottery St Mary (Cont)**

Guidance Notes assisting TENS applications. These notes clearly stated the '10 clear working days' requirement for all applications. Mr Patterson chose not to read the Guidance Notes.

Mr Patterson's personal circumstances at that time were accepted but the Sub Committee took into account that at least 3 other TENS applicants applied out of time and did not trade on 5 November 2010 at the Tar Barrels event. Furthermore Mr Patterson's oral evidence pointed to the fact that he chose to attempt to circumnavigate the rules by serving alcohol in a covert way ( paying for a ticket with a free glass of alcohol), outside of his normal licensable premises.

It was the Committee's decision that there was a clear breach of the statutory requirements under Section 136 Licensing Act 2003 and the Guidance to the Act.

**RESOLVED**

that it was the Sub Committee's decision that there was a clear breach of the statutory requirements under s 136 Licensing Act 2003 and the Guidance to the Act and,

1. The Premises Licence is suspended for 7 days pending any appeal of this decision that Mr Patterson may choose to bring in the Magistrates Court. Mr Patterson has 21 days to lodge an appeal and the suspension will commence on the day that the Notice of Decision is served on Mr Patterson at the premises.
2. The licence is suspended as a means of deterring the licensee from allowing the problems that gave rise to the Review to happen again. The Committee consider that the detrimental financial impact of the decision is necessary and proportionate to the promotion of the licensing objectives given all the evidence in the papers.

**\*34 Schedule of applications 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.

The Licensing Officer explained the background of the application and the negotiations carried out.

**RESOLVED**

that the application be granted as below, 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 a premises licence to be granted	Normandy House, 5 Cornhill, Ottery St Mary, EX11 1DW	Following mediation the applicant, Devon & Cornwall Constabulary and the Councils Environmental Health service have agreed that they consider a hearing to be unnecessary if the

		<p>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"> <li>1. Within six months of this licence being granted 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.</li> <li>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.</li> <li>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.</li> <li>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.</li> <li>5. Live (non-amplified) music (apart from the playing of percussion instruments, including drums) shall be permitted within the indoor basement licensed area during the times 12:00 to 24:00. Such performances of live music shall be limited to no more than two per week.</li> </ol>
	<p>Approve the application subject to the amended operating schedule and the relevant mandatory conditions of the Licensing Act 2003</p>	
<p><b>Type of Application</b></p> <p>Application for a premises licence to be granted</p>	<p><b>Name of premises and address</b></p> <p>Hampton by Hilton Hotel, Exeter Airport Business Park, Clyst Honiton, Exeter</p>	<p><b>Agreed position reached by the parties</b></p> <p>Following mediation the applicant and the Devon &amp; 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 reduction of the hours alcohol is supplied by one hour each day to end at 0100 hrs daily from 0200 hrs daily and the addition of the</p>

		<p>following conditions</p> <ol style="list-style-type: none"> <li>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.</li> <li>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.</li> <li>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.</li> <li>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.</li> </ol>
<p>Approve the application subject to the amended operating schedule and the relevant mandatory conditions of the Licensing Act 2003</p>		

**\*35 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 and on balance the public interest is in discussing this item in private session.

**\*36 Hackney Carriage Driver's Licence Application**

Consideration was given to whether an applicant was a fit and proper person to be licensed as Hackney Carriage driver. Members considered the Council's policy guidelines that stated that applicants for a Hackney Carriage Drivers licence should be free of conviction for 3-5 year for either/and/or dishonesty and violence. The applicant was currently just over 3 years free of conviction. The overriding duty of the Sub Committee was protection of the public.

\*36 **Hackney Carriage Driver's Licence Application (Cont)**

- RESOLVED**
1. that Mr AQ's request to be licensed as a Hackney Carriage Driver be refused;
  2. that a further application for a Hackney Carriage licence be considered in 12 months time from the date of this meeting if the applicant has continued his rehabilitation and good behaviour.

In reaching this decision the Licensing & Enforcement Sub Committee had regard to the Human Rights Act 1998 and in particular, Article 6.

Chairman ..... Date .....

## Agenda Item 6

Licensing Sub Committee

5 April 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 this application be granted as applied for subject to the agreed position 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,



1.2 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	Seaton Town Social Club (Winstons) Beach Road, Seaton, EX12 2LE	<p>Following mediation the applicant and the Devon &amp; 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 reduction of the hours for all licensable activities now to end at midnight and the premises to close at 00:30 hrs and with the addition of the following conditions</p> <ol style="list-style-type: none"> <li>1. The premises must be run as a social club with membership and club rules.</li> <li>2. 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.</li> <li>3. 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.</li> <li>4. 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.</li> <li>5. 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</li> </ol>

		<p>comply with the requirements of the Data Protection Act 2002.</p> <p>6. Whenever the premises are used for a function or hired out for such use, there must be a written agreement between the club and the hirer. Part of this agreement will be a risk assessment which will state that consideration must be given to employing SIA registered doorstaff. This will be at a ratio of 1:75 with a minimum of 2 from the start time of the event until 30 minutes after closing.</p> <p>7. A member of the committee must be available throughout the course of any function held at the premises.</p>
		<p>Recommend approval of application subject to the amended operating schedule and the relevant mandatory conditions of the Licensing Act 2003</p>

### **Legal Implications**

Included within the report

### **Financial Implications**

No apparent financial implications

### **Background Papers**

- The relevant licensing applications
- Representation received from Responsible Authority
- Guidance issued under Section 182 of the Licensing Act 2003
- The District Council's Statement of Licensing Policy

Neil McDonald Ext.2079

Licensing Officer

Licensing Sub Committee

5 April 2011

