

## **MID DEVON DISTRICT COUNCIL**

**MINUTES** of a **MEETING** of the **LICENSING SUB-COMMITTEE B** held on 20 January 2021 at 11.00 am

### **Present Councillors**

D R Coren, J M Downes and  
Mrs F J Colthorpe

### **Also Present**

**Officer(s):** Maria De Leburne (Legal Services Team Leader), Thomas Keating (Specialist Lead (Licensing) Officer), Deborah Sharpley (Solicitor), Sally Gabriel (Member Services Manager) and Carole Oliphant (Member Services Officer)

## **10 CHAIRMAN - ELECTION**

Cllr J M Downes was duly elected Chairman

## **11 REMOTE MEETINGS PROTOCOL**

The Sub Committee had before it, and **NOTED**, the \*Remote Meetings Protocol.

Note: \*Remote Meetings Protocol previously circulated and attached to the minutes

## **12 APOLOGIES AND SUBSTITUTE MEMBERS**

There were no apologies or substitute Members.

## **13 NEW PREMISES LICENCE APPLICATION (FOR FRANKIES BAR, CULLOMPTON)**

Consideration was given to a report \* of the Lead Licensing Officer relating to an application that had been received by Frankies Bar, 40 High Street, Cullompton EX15 1AE. This was a requirement of the Council as the Licensing Authority.

The Licensing Sub Committee agreed that the meeting should be heard in public session.

The Lead Licensing Officer stated that the reason for the hearing was that a new premise license application had received representations objecting to the application and the Council, as the Licensing Authority, was obliged to hold a hearing to determine the application.

The officer outlined the contents of the report and explained the four licensing objectives, those being public safety, prevention of public nuisance, protection of children from harm and the prevention of crime and disorder. The options before the Sub Committee in relation to the licence were also outlined.

The applicant had provided details on the steps they intended to take to promote the four licensing objectives.

There had been no representations from the responsible authorities and the applicant had agreed to additional conditions in consultation with the Police and Environmental Health. The Fire Service had confirmed that it would deal with the applicant direct on any necessary fire precaution measures.

The applicants agent explained to the Sub Committee that the reason for extended opening hours was to ensure that there were staggered leaving times with other establishments. The Police had agreed to conditions and were satisfied that the extended opening times would not lead to increased instances of crime and disorder.

He further explained that additional conditions offered included no more than 10 smokers allowed outside after 11.00pm and no drinks would be allowed to be consumed outside. In addition, the extended music license was not intended to be used 7 days a week but would be used on demand and would offer some flexibility to the business to hold events on different days if required. Doors and windows would be closed after 11.00pm to minimise noise.

The Committee then heard statements from interested parties who made the following representations:

- The sale of alcohol could lead to drunk and disorderly/anti social behaviour
- People smoking in the street
- Music from the premises could lead to a nuisance in a residential area
- Possible safeguarding issues
- The late licence could lead to drunk people, smokers and drinkers on the street in a residential area
- Additional drinkers in the area could cause issues
- Possible safety of customers when leaving the premises
- Possible disorder with the late licence and customers standing on the High Street (smoking and drinking)

Objectors then questioned the amount of people who would be allowed in the premises at any one time and the Lead Licensing Officer stated that this was not in the remit of the Licensing Authority and was determined by the Fire Service using fire safety legislation.

In response to a question from the public regarding the notice of publication procedure for the application, the Lead Licensing Officer explained that notices had been posted on the premises, in the local press and on the District Council website. The notices had adhered to the Licensing act 2003.

Objectors were then invited to suggest any further conditions they would like to see imposed with regard to the application and they stated:

- A restriction of 5 people allowed to smoke outside
- A maximum of 60 people allowed in the premises at any one time
- Restrict to 11pm closing
- A requirement to have permanent door staff of duty when the premises was open for business

The Chairman advised that the Sub Committee could only make its decision regarding factors that were relevant to the Licensing Policy and could not impose conditions that were not relevant to the Licensing Policy. It was for this reason that a condition could not be imposed which limited the maximum number of people allowed in the premises at any one time.

The Sub Committee then withdrew to make its deliberations.

On its return the Chairman announced to interested parties present that the Sub Committee would not be issuing its decision at the meeting and informed members of the public present that a decision notice would be issued within 5 working days of the meeting.

The Legal Services Team Leader informed all those present of the right of appeal which was 21 days to the Magistrates' Court from the date of notification of the Sub Committee's decision.

Having reflected on the evidence presented The Licensing Sub-Committee **RESOLVED** to grant the application for the licence but subject to conditions and a single variation on the hours applied for being that on a Sunday only, the Live/Recorded music ceases at 23:00 (instead of 01:30) and the premises close at 23:30 (instead of 02:00). The licence to be subject to the Standard Conditions, and with the addition of the following conditions:

#### **Condition 1**

All staff engaged in licensable activity at the premises will receive training and information in relation to the following:

- i. The Challenge 25 scheme in operation at the premises, including the forms of identification that are acceptable.
- ii. The hours and activities permitted by the premises license issued under the Licensing Act 2003 and conditions attached to the license.
- iii. How to complete and maintain the refusal register in operation at the premises (in relation to the sale of alcohol).
- iv. Recognizing the signs of drunkenness.
- v. The operating procedures for refusing service to any person who is drunk, under-age or appears to be under-age, or appears to be making a proxy purchase.
- vi. Action to be taken in the event of an emergency, including reporting an incident to the emergency services.
- vii. To be alert to any potential danger to customers and react accordingly. If they are unable to quickly defuse the situation without risk to customer or staff, then they are instructed to call the police.

Training shall be recorded in documentary form and shall be regularly refreshed at no greater than 12-month intervals. Training records shall be made available for inspection and copying at reasonable times upon request of an authorized officer of a responsible authority.

Training records will be retained for at least 12 months.

## **Condition 2**

CCTV shall be of an appropriate standard as agreed with the Licensing Authority in consultation with the Police.

The CCTV equipment shall be maintained in good working order and continually record when licensable activity takes place and for a period of two hours afterwards.

The premises licence holder shall ensure images from the CCTV are retained for a period of 31 days.

The correct time and date will be generated onto both the recording and the real time image screen.

If the CCTV equipment (Including any mobile units in use at the premises) breaks down the Premises Licence Holder shall ensure the Designated Premises Supervisor (DPS), or in his/her absence other responsible person, verbally informs the Licensing Authority and the Police as soon as is reasonably practicable.

This information shall be contemporaneously recorded in the incident report register and shall include the time, date and means this was done and to whom the information was reported.

Equipment failures shall be repaired or replaced as soon as is reasonably practicable and without undue delay. The Licensing Authority and the Police shall be informed when faults are rectified.

The premises Licence holder shall ensure that there are trained members of staff available during licensable hours to be able to reproduce and download CCTV images into a removable format at the request of an Authorised Officer of the Licensing Authority or a Police Officer.

There shall be clear signage indicating that CCTV equipment is in use and recording at the premises during all trading hours.

## **Condition 3**

The DPS will keep an up to date DPS Authorisation sheet which will show the list of staff members who have been given the authority to sell alcohol on the premises.

## **Condition 4 (wording amended by Sub Committee)**

An incident log shall be kept in a bound book and maintained at the premises which will include a log of the following, including pertinent details:

- i. Any incidents of disorder or of a violent or anti-social nature
- ii. All crimes reported to the venue, or by the venue to the police
- iii. All ejections of patrons
- iv. Any complaints received
- v. Seizures of drugs or offensive weapons
- vi. Any visits by a responsible authority (under the Licensing Act 2003) or emergency service.

Records must be completed within 24 hours of any incident, and will contain the time and date, the nature of the incident, the people involved, the action taken and details

of the person responsible for the management of the premises at the time of the incident.

The logs shall be kept for at least 12 months following the date of entry and be made available for inspection and copying upon request of an authorised officer of a responsible authority.

**Condition 5**

Clear and legible notices shall be prominently displayed at all exits requesting patrons to respect the needs of residents and businesses and to leave the vicinity as quickly and quietly as possible

**Condition 6 – amended by the Sub Committee**

Steps shall be taken ensure that any patrons smoking outside the premises do so in an orderly manner and are supervised by staff to ensure that there is no public nuisance or obstruction of the public highway.

Patrons are not permitted to take drinks or glass containers with them outside of the premises.

No more than 5 patrons are permitted to smoke outside the premises at any one time after 23:00. This is to be communicated via signage at the exit door, and enforced by staff at the premises.

**Condition 7**

There will be in place a written age verification policy in relation to the sale or supply of alcohol, which will specify a Challenge 25 proof of age requirement. This means that staff working at the premises must ask individuals who appear to be under 25 years of age, attempting to purchase alcohol, to produce identification. The only acceptable identification documents will be:

- A photo driving license
- A passport
- An identification card carrying the PASS hologram, military ID

Unless such identification is produced the sale of alcohol must be refused.

This policy will include documented steps taken to prevent adults from purchasing alcohol for or on behalf of children under 18.

**Condition 8**

The premises shall display prominent signage which states that a Challenge 25 scheme is in operation.

**Condition 9**

Staff under the age of 18 years old shall not sell alcohol. Any staff under the age of 18 years old must call a senior staff member (18 years old or over) to take over the sale and complete the transaction.

**Condition 10 (wording amended by Sub Committee)**

All refused sales of alcohol will be recorded in a bound refusals book, which will be made available for inspection by Police or Licensing Officers of the council on request.

**Condition 11**

All external doors and windows shall be kept shut at all times when the premises are open/during regulated entertainment. Doors may be opened for normal entrance and egress of people but must be shut immediately after.

**Condition 12**

Suitable receptacles will be provided for cigarette litter within the designated smoking area.

In making its decision the Sub Committee acknowledged the licensing objectives and the concerns raised by submitted representations. The reasons for granting the licence were:

- a) The proposed conditions suggested by objectors during the hearing which included reducing hours on all days to 23:00 and a restriction from 10 to 5 people smoking outside after 23:00 hours and a maximum of 60 people allowed in at any one time and the requirement to have door staff on duty when the premises was open for business
- b) The quality and comprehensive application submitted by the applicant;
- c) The views of the objectors with regard to concerns the amount of smokers outside the premises had been considered and mitigated by way of a condition;
- d) The additional conditions agreed by the applicant to ensure promotion of the Licensing Objectives;
- e) The need to stagger closing times with other establishments in the area;
- f) The requirement for door staff would not be consistent with other establishments in the vicinity.

**Notes:**

- i.) Cllr Mrs F J Colthorpe declared a Personal interest as she was a member of the Devon and Somerset Fire and Rescue Authority.
- ii.) Cllr J M Downes declared a Personal interest as he had family living in Cullompton
- iii.) \*Report previously circulated and attached to the minutes

(The meeting ended at 1.15 pm)

**CHAIRMAN**