

MID DEVON DISTRICT COUNCIL

MINUTES of a **MEETING** of the **LICENSING SUB-COMMITTEE B** held on 30 January 2015 at 2.00 pm

Present

Councillors

R J Chesterton (Chairman)
D R Coren and M A Lucas

Present

Officers

Simon Newcombe (Public Health and Professional Services Manager), Simon Johnson (Legal Services Manager), Thomas Keating (Lead Licensing Officer) and Sarah Lees (Member Services Officer)

1 Chairman - Election

RESOLVED that Cllr R J Chesterton be elected Chairman of the Sub Committee for the meeting.

Cllr Chesterton then took the Chair.

2 Review of the Premises Licence of Tomato Cafe / Bar, Tiverton

The Sub Committee had before it a report * of the Head of Human Resources and Development which had been written in response to an application which had been received from Devon and Cornwall Police to review the premises licence of Tomato Café / Bar, Tiverton.

The Members and officers introduced themselves and it was agreed that the hearing be held in public.

The Lead Licensing Officer outlined the contents of the report, confirming the timeline of events and the paperwork which had been circulated to all interested parties. He also confirmed that an agreement had been reached between the Licence Holder and the Police over some of the conditions but they had not reached agreement on two conditions relating to the number of door staff required and the use of polycarbonate glasses in the outside area.

Since the Police had requested the review take place the Chairman invited Police representatives to present their evidence first.

Inspector Jane Alford-Mole, Licensing Officer Lesley Carlo and Counsel Robert Sheridan presented the following salient points as their evidence:

- Requesting a review had been the last resort, they stated that many attempts had been made to reach an informal agreement with the Licence Holder. Improvements had been seen on many occasions following liaison between the Police and the Licence Holder but there had always been a return to 'disturbance' having a significant impact on Police resources.
- There had not been any reports of incidents since 10 December 2014 when notice had been given of the Police's intention to request a review of the Licence. However, January was traditionally a quiet time of year in drinking establishments but it would not be unrealistic to expect incidents to occur during the warmer spring and summer months when customers moved outside.
- The Licence Holder had put several safeguards in place since 10 December such as a rope barrier in the outside area and notices within the licensed premises. It was the Police's request that such safeguards be formalised within the conditions of the Licence. Furthermore it was their view that the wording of the conditions generally within the Licence needed tightening up.
- In their view there should be a minimum of 2 door staff from 23:00 hours each evening that the premises was open. This did not accord with the view of the Licence Holder, however, it remained the police's view that it would be very difficult for the Licence Holder to obtain a second member of door staff at very short notice should customer numbers suddenly increase or incidents of disturbance occur. The Licence Holder had requested only 1 door staff man the entrance during May, June, July, August, September and December. However, it remained the concern of the Police that Easter, Christmas and several Bank Holidays fell within these months and they felt greater cover was required.
- Inspector Alford-Mole informed the Sub Committee that she had been very reasonable with the Licence Holder, had given him many opportunities and was a strong supporter of local businesses. She had seen improvements in the past but then it had always 'gone downhill'. She reminded the Sub Committee that Mid Devon had a population of 80,000 but she only had 8 officers to cover this in the evenings.
- A long list of the responsibilities of door staff was related including checking ID, monitoring the PubWatch radio, and assessing customers for levels of drunkenness.
- Since 10 December 2014 the Licence Holder had changed his door company and improvements had been seen as a result.
- In their view, the presence of tables and chairs in the outside area when the premises were open for licensable activities up until 23:00 hours created the ambiance of a café style culture rather than a vertical drinking zone.
- Although they had not specifically requested a review of the opening hours they requested that it was up to the Sub Committee to come to a view about all of the existing conditions within the Licence including the opening hours.

The Licence Holder, Mr Ahmad Babolhavaeji and his legal representative, Mr David Campbell then provided their evidence to the Sub Committee which included the following salient points:

- Mr Campbell thanked the Licensing Officer, Tom Jones, for highlighting conditions within the existing Licence that required rewording in order to make more sense. He also stated that it was not appropriate for the Sub Committee

to consider Police resources and referred them and the Council's legal adviser to their own Licensing Policy.

- He stated that the Sub Committee had been quite right to identify the difficulty in distinguishing precisely when 'night time activities' commenced in terms of taking glassware outside.
- During the winter months customer numbers were significantly lower and it was uneconomical for the Licence Holder to employ two bar staff when there were only a few customers on the premises. Austerity also affected the Licence Holder as well as the Police. They had drawn a distinction between the busier months and the quieter months based on evidence.
- The Licence Holder, Mr Babolhavaeji, informed the Sub Committee that he had lived in the town for 25 years and owned five businesses.
- He confirmed that he would be able to get a second member of door staff at short notice.
- Entry would be refused after the number of 75 customers had been reached and this would be ascertained by the use of a clicker.
- On Friday 23rd January there had been a maximum of 25 people in the premises and on the following night a maximum of 59 people between the hours of 1am and 2am.
- Mr Campbell stated that the Licence Holder was 'damned if he did call the Police' and 'damned if he didn't'. He requested that the Sub Committee base their decision on the evidence alone.
- Mischief amongst customers could not be resolved by reducing opening hours but rather by better management and the Licence Holder had proved that he was capable of this having changed the door staff company.

Mr Ivor Annetts, who had made a written representation to the Committee, stated that he had known the Licence Holder for 15 years and knew him to be a very responsible landlord. In his view he had tried to attract a 'better class of customer' to his premises by allowing groups such as the chess club to hold their functions there. He felt that it was unfair to penalise the Licence Holder for lack of Police resources.

Members of the Sub Committee withdrew to consider their decision.

RESOLVED that:

The conditions within the existing licence remain the same, except in the following areas:

Door supervision:

Two SIA registered door supervisors will be on duty at the premises from 23:00 hours to the close of the premises on Fridays, Saturdays, Christmas Eve and New Year's Eve.

Outside area:

- (i) Consumption of alcohol outside will be confined to the area marked in blue on the plan. This area will be permanently demarcated by a red line on the ground. When the premises are open for licensable activities after 18:00

hours then this area will be further demarcated with a rope barrier or similar structure.

- (ii) When the premises are open for licensable activities the external licensed area (as shown in blue on the plan) shall be laid out with tables and chairs. These shall be removed at 23:00 hours each day or at the time of closing if earlier.
- (iii) Items of glassware such as glasses or bottles shall not be permitted outside after 18:00 hours.

Notices:

- (i) A notice will be displayed inside the premises advising customers that any drinks left unattended will be removed.
- (ii) A notice will be displayed inside the premises advising customers that no open containers of alcohol or soft drinks can be taken from the building after 23:00 hours.
- (iii) A notice will be displayed inside the premises within 1 metre of any exit advising customers to leave the premises as quietly as possible.
- (iv) The text of the font for these Notices to be no smaller than 36 Arial.

Reasons:

The Sub Committee reached their decision having heard the evidence and having sought further clarification from the Applicant and the Licence Holder regarding a number of issues. They considered that the wording of a number of conditions placed upon the Licence needed to be clarified and by adding additional conditions this could be provided. Overall there was a need to make the conditions more appropriate and enforceable. In reaching their decision the Sub Committee also felt that there was a need to protect the following Licensing Objectives:

- Public Safety
- Prevention of Crime and Disorder
- Public Nuisance

Informative note:

The Sub Committee felt that at this point there was not enough evidence that a single member of door staff was sufficient for the months that had been suggested by the Licence Holder. However, with appropriate additional evidence the Licence Holder may seek a minor variation to the Licence. They also did not feel that a change in the hours was appropriate based upon the evidence presented to them at the meeting. However, should there be further incidents it might be appropriate to reconsider this decision at a further review.

(The meeting ended at 5.00 pm)

CHAIRMAN