

**NORTH DEVON COUNCIL**

Minutes of a meeting of the LICENSING SUB-COMMITTEE E of the LICENSING COMMITTEE held at the Brynsworthy Environment Centre, Barnstaple on Tuesday 1<sup>st</sup> August 2017 at 10.00 a.m.

PRESENT: Members:

Councillor Yabsley (Chairman)

Councillors Biederman and Chesters (substitute for Councillor Lucas).

Substitute Member:

Councillor Mathews.

Officers:

Licensing Officer (PF), Assistant Solicitor (DH), and Corporate and Community Services Officer (AD).

**(a) APOLOGIES FOR ABSENCE**

There were no apologies for absence.

**(b) DECLARATIONS OF INTEREST**

The following declarations of interest were announced:

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| Councillor Chesters  | Application for the review of a Premises Licence, Vivid, 1-5 Market Street, Ilfracombe, Devon, EX34 9AU – Personal Interest as the Solicitor representing the Premises Licence Holder and Leaseholders has previously acted on her behalf in respect to various matters. |
| Councillor Biederman | Application for the review of a Premises Licence, Vivid, 1-5 Market Street, Ilfracombe, Devon, EX34 9AU – Personal Interest as a Member of the Devon & Somerset Fire and Rescue Authority.   |
| Councillor Mathews   | Application for the review of a Premises Licence, Vivid, 1-5 Market Street, Ilfracombe, Devon, EX34 9AU – Personal Interest as he knew the Representative of Devon and Cornwall Constabulary.  |

**(c) DETERMINATION OF APPLICATION FOR A REVIEW OF A PREMISES LICENCE, VIVID, 1-5 MARKET STREET, ILFRACOMBE, DEVON, EX34 9AU (REFERENCE NUMBER: 046327).**

Also Present:

Ms Jasmine Jones (Applicant), Mr Jon Dunkley (Solicitor representing Premises Licence Holder and Leaseholders), Mr David Hutchings (Premises Licence Holder), Mr Lee Woodward (Designated Premises Supervisor and Lease Holder), Mr Sean Dullaghan (General Manager of Vivid and Lease Holder), Mr Howard Bee (Lead Officer, Licensing, NDC) and Mr Barry Sleight (Devon and Cornwall Constabulary).

The Chairman introduced himself, Members and Officers to those present.

The Licensing Officer confirmed that the formal requirements had been met.

The Assistant Solicitor summarised the process for the hearing.

The Chairman advised that two further interested parties, Mr Regis Faulvel and Bidy Lee, who had made representations, were not present.

RESOLVED that the hearing proceed in the absence of Mr Regis Faulvel and Bidy Lee.

The Interested Parties introduced themselves to those present.

The Licensing Officer outlined his report (circulated previously) regarding an application for the review of a Premises Licence at Vivid, Ilfracombe (Reference Number 046327).

Ms Jasmine Jones (the Applicant) addressed the Sub-Committee. She outlined her reasons for requesting a review of the licence, on the grounds that the premises were undermining the four licensing objectives, which were as follows:

- (i) the prevention of crime and disorder.
- (ii) the prevention of public nuisance.
- (iii) public safety and
- (iv) the protection of children from harm.

Members of the Sub-Committee then questioned the applicant.

Ms Jones advised the Sub-committee that a noise complaint she had made was still outstanding.

Mr Howard Bee (The Lead Officer, Licensing, NDC) addressed the Sub-Committee. He explained that following the application to review the licence

he visited the premises on two occasions where he was met by Mr Dullaghan who was very helpful. He referred to his written representations (Appendix 2 of the Licensing Officer's Report) and advised that the Licensing Authority, Devon and Cornwall Constabulary and the Premises Licence Holder and Leaseholders had agreed all of the proposed conditions set out in the Licensing Officers report save for condition numbers 7, 10, 17, 19, 20 and 21. He also requested further information in relation to conditions 17 and 20 from the Premises Licence Holder and Leaseholders.

Members of the Sub-Committee then questioned the Lead Officer, Licensing.

Mr Barry Sleight (Devon and Cornwall Constabulary) advised the Sub-Committee that enquiries were ongoing in relation to the death of a 16 year old boy at the Premises with toxicology results still pending and no further update could be made at this time. In relation to the review of the Premises Licence, he stated that the view of the police was that the hand over of the Premises lease had not been properly done and that there was a certain amount of inexperience within the current management team. He finally added that he was happy to withdraw the list of conditions mentioned in his written representations (Appendix 3 of the Licensing Officer's Report) and rely upon those contained within the Licensing Officers report.

Members of the Sub-committee then questioned Mr Sleight.

Mr Jon Dunkley (Solicitor and representative of Premises Licence Holder and Leaseholders) addressed the Sub-Committee. He responded to the grounds for the review of the Licence on behalf of his clients and updated the Sub-committee with regard to changes to the maintenance of the air conditioning system and the CCTV system that the current management team had put in place. He also went on to advise the Sub-committee why the Premises Licence Holder and Leaseholders had concerns with the proposed conditions 7, 10, 17, 19, 20 and 21 set out in the Licensing Officers report.

Members of the Sub-committee then questioned Mr Dunkley who referred some of the questions to his clients to answer.

RESOLVED that it being 12.00 p.m. the meeting be adjourned for 30 minutes and reconvened at 12:30 p.m. to provide the parties with an opportunity to discuss and attempt to agree a revised set of conditions.

RESOLVED, that everyone be re-admitted to the meeting to allow the Sub-Committee to hear the parties comments upon the conditions.

Mr Dunkley confirmed that the parties had reached an agreement in respect to the conditions (including revised wording in relation to condition numbers 7, 10, 17, 19, 20 and 21, which he outlined to the Sub-Committee). He also submitted a Plan marked NDC01 showing an agreed designated smoking area outside the front of the Premises.

RESOLVED, that everyone be excluded from the meeting with the exception of Members, the Legal representative for North Devon Council and Committee Clerk in order for the Sub-Committee to receive legal advice in a accordance with paragraph 5 of Schedule 12A of the Local Government Act 1972.

RESOLVED, that everyone be re-admitted to the meeting.

RESOLVED having considered representations made by Ms Jones (the applicant), Mr Jon Dunkley (Solicitor representing the Premises Licence Holder and leaseholders), Mr Hutchings (Premises Licence Holder), Mr Lee Woodward (Designated Premises Supervisor and Lease Holder), Mr Sean Dullaghan (General Manager of Vivid and Lease Holder), Mr Howard Bee (Lead Officer Licensing) and Mr Barry Sleight (Devon and Cornwall Constabulary), in relation to the review of the Premises Licence in respect of Vivid, Ilfracombe, that the conditions attached to the Licence be modified as set out in the Licensing Officer's report save for the following amendments agreed between all parties:-

(i) Condition 7 will be amended to read as follows:

Whenever the Premises are open for licensable activities after midnight a minimum of the greater of 2 door supervisors or a number at a ratio of 1:75 patrons will be employed from 21:30 hours. Door supervisors must be correctly registered with the Security Industry Authority (SIA) and carry proof of registration. A duty register will be kept of all door supervisors and will include the date and time of duty, the name, registration number and expiry date of registration. Logs will be kept for 12 months and be made available for inspection and copying upon request of an authorised officer of a responsible authority.

(ii) Condition 10 will be amended to read as follows:

Records must be completed within 24 hours of any incident and will contain the time, date, nature of the incident, names of the people involved, action taken and the name of the person responsible for the management of the premises at the time of the incident where reasonably possible. Logs will be kept for 12 months following the date of entry and will be made available for inspection and copying

upon request of an authorised officer of a responsible authority.

(iii) Condition 17 will be amended to read as follows:

No person under the age of 18 years shall be in the premises after 22:00 hours. At any event where persons under the age of 18 years are present on the premises the management will ensure that a risk assessment is put in place to determine whether door supervisors are required and ensure that the required level of door supervisors are put in place.

(iv) Condition 19 will be amended to read as follows:

The management shall take reasonable measures to ensure that local residents that may suffer disturbance either from noise or anti-social behaviour may contact, with a direct number, the management of the premises. A record of all calls received, including the date and time and the action taken shall be recorded. Records shall be made available to an authorised officer of a responsible authority throughout trading hours of the premises.

(v) Condition 20 will be amended to read as follows:

Persons allowed out of the premises for the purposes of smoking shall be supervised by an SIA licensed door supervisor to ensure no public nuisance or obstruction of the public highway and shall be restricted to a designated smoking area defined outside the front of the venue as shown hatched on Plan NDC01. Clear and legible notices shall be prominently displayed to any designated area used for smoking and shall include the need for patrons to respect the needs of local residents and use the area quietly.

(vi) Condition 21 will be amended to read as follows:

To minimise noise nuisance resulting from the opening of doors and windows, a system of regulating the air temperature within the building shall be installed and maintained in a satisfactory working condition during all opening hours.

- (vii) Furthermore remove condition 11 from Annexe 2 of the original licence.

Chairman

The meeting ended at 13:50 p.m.

**NOTE:** These minutes will be confirmed as a correct record at the next meeting of the Committee.