

WEST DEVON LICENSING SUB- COMMITTEE



West Devon
Borough
Council

Minutes of a meeting of the **West Devon Licensing Sub-Committee** held on **Tuesday, 23rd August, 2022 at 10.00 am** at the **Meeting Room 3 - Kilworthy Park**

Present: **Councillors:**

Chairman
Vice Chairman

Cllr Leech
Cllr Yelland

Cllr Moyse

In attendance:

Councillors:

Cllr Mott (via Teams)

Cllr Pearce (via Teams)

Officers:
Monitoring Officer
Licensing Contractor
Licensing Specialists
Democratic Services Officer

Others in attendance and participating:
Applicant (via Teams)
Applicant's Representative
Registered Speakers

1. **Appointment of Chairman**
*LSC1

It was **RESOLVED**

That Cllr Yelland be appointed Chairman for the duration of the Sub-Committee meeting.

2. **Declarations of Interest**

*LSC2

There were no interests declared by Members of the Committee.

3. **Application for a new Premises Licence at Eversfield Manor Cottages, Bratton Clovelly**

*LSC3

The Sub Committee considered an application for the granting of a new premises licence at Eversfield Manor Cottages, Bratton Clovelly. The Applicant, Mr McNelis, was not present, but his agent Mr Stockbridge was present.

The Licensing Officer proceeded to present the application and the content of the report. He reported that there had been a number of relevant representations received, both against and in favour of the Application. The objections to the Application had raised concerns about all four Licensing Objectives, but in particular the prevention of public nuisance due to noise and public safety due to the condition of the access road. Those in support referred to the premises being an asset to local area and those making the representation had not been disturbed by noise from the premises. The Licensing Officer said no representation had been received by Environmental Health as at the time of the application being made they had not received any complaints. He added that a noise report from one of the objectors and comments by the Applicant responding to some of the objections had been received as late submissions.

Finally, the Licensing Officer highlighted the plan attached to the Application.

Mr Stockbridge made representations in support of the Application. He said the established holiday lets had not received any complaints until the application for the premises licence was made. He confirmed the bookings system would be controlled in-house rather than through an agency so as to monitor the groups of people making the booking. He stated all music after 11pm would be held in solid buildings with windows closed. Sound monitoring equipment would be installed and should the sound go above the levels permitted the music would be shut down. He stated the applicant had withdrawn the request for music to 2am.

Upon the conclusion of his presentation, the Sub-Committee asked Mr Stockbridge about the details of the Application. Mr Stockbridge explained that banquets could be booked by guests during their stays. The applicant would also like to put on oriental banquets for people in the village to attend. The letting season is mainly in the summer and to supplement income the applicant hoped to continue to hold banquets. Currently this can happen up until 11pm without the need for a licence.

Having previously said that he would be asking Mr Stockbridge about the plan that was part of the Application, the Monitoring Officer

explained what the statutory requirements were that a plan had to meet. The Monitoring Officer then took Mr Stockbridge through each of the requirements and invited Mr Stockbridge to explain how the plan met those requirements or to say what the intention was. Mr Stockbridge explained that the plan was supplemented by a number of further plans that had been submitted due to the size of the premises and the impracticability of showing them at a scale of 1:100. He then explained the various areas and that the plan was intended to be an overarching plan and he had not been aware that he had to show the detail on this plan. The detailed plans had been, Mr Stockbridge said part of the application.

The Licensing Officer then explained that if the plan was an overarching plan then it should have been annotated to refer to the more detailed plans showing the prescribed details. In response to a question from the Sub-Committee the Monitoring Officer advised the Committee that should they be minded to approve the application they could make it a condition that a plan was annotated to refer to the other plans submitted.

Ms Wallbank spoke in support of the application. She said that in her view there were very few objections and speaking to people in the area most seemed supportive.

Mr Sealy spoke in objection to the application. He said his property was approximately 500m in a straight line across the valley to Eversfield Manor. He explained that had worked as an audio-visual engineer at large indoor and outdoor events so was aware at how far sound could travel. He was therefore concerned about the potential for noise nuisance as there were large outdoor spaces within the premises and weddings and conferences would be held there in the future. The Sub-Committee asked Mr Sealy about his previous experience of events held at the premises.

Mr Kennett spoke in objection to the application. He explained the access was along a bridle path and is used by farm vehicles. Mr Kennett further explained that there were drainage holes either side of the track that are not very visible and expressed his concern about them. Mr Kennett also raised concerns about noise based on his experience of the previous summer.

Mrs Braidwood spoke on behalf of herself, her husband and Ms Jellyman. Mrs Braidwood referred to their statements, but said that she would not refer to the public safety concern as this had been adequately covered. In response to questions from the Sub-Committee Mrs Braidwood explained that she had recently complained to Environmental Health, who had asked her to keep a diary. She said that she had not realised that she could complain to Environmental Health before this recent contact with the Environmental Health department.

In response to questions from the Sub-Committee the Licensing Officer confirmed that no complaints had been received by Environmental

Health prior to the application being made. He said they risk assess against a current establishment and any complaints received when deciding whether to make a representation on any new application.

Mr Phillips spoke in objection to the application. He spoke of the noise impact on neighbouring property from the elevated position of the application property. Mr Phillips referred to the noise consultant's report that had been submitted.

Mrs Tope spoke on behalf of herself and her husband in objection to the application. She read her statement.

Mr Lee spoke in objection to the application. He stated he ran a family holiday business in a neighbouring property and is concerned potential noise could disrupt his business.

In response to Mr Lee, Mr Stockbridge clarified aspects of the application and in particular that there would not be any outdoor music. Live music he said, would be indoors with sound levels set at a reasonable level.

Once the Sub-Committee were content that they had no further questions to raise they adjourned to deliberate at 12.15pm.

The Sub-Committee returned at 12.55pm to ask Mr Stockbridge about the number of persons who would be present on the premises. Mr Stockbridge confirmed that it would be no more than 50.

The Sub-Committee asked the Licensing Officer when the plans with the supporting information were submitted. The Licensing Officer said the plans had been received on 24 May 2022. However, Mr Stockbridge had been told on 27 May 2022 that the plans had been rejected and further plans requested. The Licensing Officer explained that the Application was not submitted until 6 June when the overarching plan was submitted.

The Sub-Committee retired once and reconvened at 12.52pm when the members returned the Chairman read out the following statement setting out the Sub-Committee's decision and the reasons for it:

The Decision

The Sub-Committee decided to **REFUSE** the application;

The aim of the Licensing Act 2003 is to provide a more flexible licensing system, by reducing the burden of unnecessary regulation, but still maintaining public order and safety. The 2003 Act makes it clear that licensable activities are to be restricted only where it is necessary to promote the four Licensing Objectives.

1. In determining an application with a view to promoting the Licensing Objectives in the overall interests of the local community, the Sub-Committee is required to give appropriate weight to:
 - the steps that are appropriate to promote the Licensing Objectives;
 - the representations (including supporting information) presented by all the parties;
 - the Guidance issued under section 182 of the 2003 Act; and
 - our own statement of licensing policy.
2. The statutory guidance provides that it is imperative that our decision is evidence-based and that in reaching a decision the factors which are to be taken into account are limited to a consideration of the promotion of the licensing objectives and nothing outside those parameters.
3. The Licensing Specialist's report has also highlighted relevant provisions of the statutory guidance and our own statement of licensing policy.
4. Finally, by way of setting the scene for our decision, the Licensing Sub-Committee is mindful that an application must be considered on its own merits. Our function is to take such steps as we consider appropriate for the promotion of the licensing objectives having regard to the representations we have received and heard.
5. It is against this background that the Sub-Committee has considered the application for a Premises Licence at Eversfield Manor Cottages, Bratton Clovelly. The Application seeks approval for the supply of alcohol for consumption on- and off- the premises; the provision of late-night refreshment and the performance of live music. The full details of the Application are set out in paragraphs 2.1 and 2.2 of the Licensing Officer's report. During the hearing Mr Stockbridge on behalf of the Applicant modified the Application so that there would be no amplified music outdoors after 11pm and live music would be confined to indoors with a monitoring system to be installed
6. As our Legal Advisor explained, an application for a premises licence must be in writing and be accompanied by a plan that complies with certain prescribed requirements. The prescribed requirements are set out in Regulation 23(3) and (4) of the Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005. The Sub-Committee also notes that while the statutory guidance says that plans need not be professionally drawn, they must contain the prescribed information. The prescribed information is to ensure that a licensing authority has the information it needs to determine the application.
7. The Sub-Committee notes that the plan submitted with the Application and included in the agenda papers does not meet the prescribed requirements. We heard from the Licensing Officer that

more detailed plans had been submitted in May 2022, but these had not been accepted by the Licensing Authority and this had been communicated to Mr Stockbridge. In the Sub-Committee's view those rejected plans cannot form part of the Application to be considered. The plan must therefore be taken on its own merits. While Mr Stockbridge tried to explain the details, we found this to be confusing and therefore did not feel able to consider granting the application, were we so minded, subject to a condition requiring the submission of a plan that complied with the statutory requirements. The Plan as submitted does not in our view comply with Regulation 23(3) in that it did not show:

- the extent of the perimeter of the premises;
 - the location of points of access to and egress from the premises;
 - the location of escape routes from the premises;
 - the areas within the premises used for each licensable activity;
 - fixed structures (including furniture) or similar objects temporarily in a fixed location (but not furniture) which may impact on the ability of individuals on the premises to use exits or escape routes without impediment;
 - the location of any steps, stairs, elevators or lifts;
 - the location and type of any fire safety and any other safety equipment; and
 - the location of the kitchen on the premises.
8. The Application also referred to the Spa Lounge, Bar etc without these being shown on the Plan.
 9. The Plan did not comply with Regulation 23(4) in that it did not have a legend.
 10. In the circumstances, we felt that we had no alternative but to refuse the Application on this preliminary point.
 11. While the Sub-Committee heard from various speakers both for and against the Application, because of the Sub-Committee's decision on the non-compliance of the Plan with the statutory requirements, the Sub-Committee has not reached a view on those representations.
 12. All parties have the right to appeal to the Magistrates' Court within 21 days of receipt of written notification of the Licensing Sub-committee's decision.

The Meeting concluded at 1.00 pm

Signed by:

Chairman
