



Minutes of the Licensing Sub-Committee

12 May 2016

-: Present :-

Councillors Stocks, Thomas (D) and Thomas (J)

1. Election of Chairman/woman

Councillor Thomas (J) was elected as Chairman for the meeting.

2. Minutes

The Minutes of the meeting of the Sub-Committee held on 21 April 2016 were confirmed as a correct record and signed by the Chairman.

3. An application for a Variation to a Premises Licence in respect of Lime Tree, 9-11 Dartmouth Road, Paignton TQ4 5AA

Members considered a report on an application for a Variation to a Premises Licence in respect of The Lime Tree, 9-11 Dartmouth Road, Paignton.

Written Representations received from:

Name	Details	Date of Representation
Police	Letter of representation objecting to the application for a variation to a Premises Licence on the grounds of 'The Prevention of Crime and Disorder' and 'The Prevention of Public Nuisance'.	5 April 2016
Public Protection	Letter of representation objecting to the application for a variation to a Premises Licence on the ground of 'The Prevention of Public Nuisance'.	8 April 2016

Additional Information:

Prior to the hearing additional information from the Applicants Representative and Public Protection was circulated to Members.

The Chairman had received a request from the Public Protection Representative to allow 15 minutes for Oral Representations.

The Chairman permitted the extension of time for Oral Representations and advised that each party would be permitted 15 minutes to make their representation.

Oral Representations received from:

Name	Details
Applicant's Legal Representative	The Applicant's Legal Representative outlined the application and responded to Members questions.
Police Representative	The Police Representative outlined their objection to the application and responded to Members questions.
Public Protection Officer	The Public Protection Officer outlined their objection to the application and responded to Members questions.

Applicant's response to Representations:

At the request of the Senior Solicitor to the Licensing Sub-Committee a copy of the Noise Management Plan was available for Members consideration during their deliberation.

Decision:

That the application for a Variation to a Premises Licence in respect of Lime Tree, 9-11 Dartmouth Road, Paignton be refused.

Reason for Decision:

Having carefully considered all the written and oral representations, Members resolved to refuse the application, having initially been satisfied that the conditions put forward by the Police and agreed in principal by the Applicant would be sufficient to promote The Prevention of Crime and Disorder Licensing Objective.

The decision to refuse the application overall is as a direct result of these premises being in such close proximity to residential areas and despite being led to believe by the Applicant's Legal Representative that there was a draft Noise Management Policy in place which turned out only to be a blank template, Members could not after lengthy deliberation on the evidence before them be satisfied that the granting of this Variation would not have a negative impact on The Prevention of Public Nuisance Licensing Objective.

In coming to this decision, Members had regard to the apparent lack of appropriate consideration by the Applicant before submitting their application for a 04.00 licence with a closing time of 04.30 and the impact the premises operation may have on residents living in the area and its adjoining streets being used by Patrons to exit the area in which the premises is located: being presumed by the Applicant that the current conditions would be acceptable, the absence of a said Policy, the fabric of the building which on the submission of the Senior Environmental Health Officer did not lend itself to be a live music venue, the windows to the building being single glazed, noise coming from Patrons using the smoking area until 04:30 with no clear delineation or number limitation to assist in its management and the overall absence of any additional conditions which may have alleviated or

prevented The Prevention of Public Nuisance Licensing Objective from being undermined.

Members noted that the premises currently held a 02:00 licence without noise complaint since August 2014 but on the submissions put forward by the Applicants Legal Representative: that the premises capacity was never realised and the premises had been closed due to the refurbishment, Members were concerned that if a 4:00 licence was granted as applied for, the premises proposed operations would increase patrons number and with it a serious risk of noise nuisance to nearby residents. In coming to that opinion, Members noted the Responsible Authorities representations that premises operating a 02:00 licence to that of a 04:00 licence were very different and required additional measures to ensure that the Licensing Objectives were promoted.

Members were concerned that the Applicant's Legal Representative sought to orally amend their application throughout the hearing, following written and oral representations being made by the Responsible Authorities. Whilst they noted that this was permissible, it did not in their opinion represent a responsible Premises Licence Holder who had given due consideration as to the potential impact a 04:00 licence would have. In addition, Members noted that the majority of the measures proposed by the Applicant's Legal Representative to address any concerns of noise emanating from these premises would need to be agreed and arranged subsequent to the application being granted. As such, they could not be satisfied what the final measures would be and whether in their mind they would promote the Licensing Objectives.

Members resolved that failure by the Applicant to consult with the Responsible Authorities before submitting their application, despite this being strongly advised to do so as set out in the Council's Licensing Statement of Principles Policy 2016-2021, had led to this application being amended in such a way which was unhelpful to all parties and had prohibited appropriate consideration of the measures now being proposed.

Chairman/woman