

## **LICENSING SUB-COMMITTEE B**

Thursday 28 February 2008

### **Present:**

Councillors Cole, Newby and Wadham

### **Also Present:**

Principal Licensing Officer, Licensing Solicitor and Member Services Officer (HB)

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### **APPOINTMENT OF CHAIR**

It was agreed that Councillor Newby would act as Chair for this meeting of the Licensing Sub Committee.

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### **DECLARATION OF INTERESTS**

No declarations of interest were made by Members.

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### **LICENSING ACT 2003** **APPLICATION FOR A GRANT OF A PREMISES LICENCE - VERNEY** **HOUSE, 115C, 115 SIDWELL STREET, EXETER**

In attendance were:

Mr Sadgrove - the Applicant

Representing the Devon and Cornwall Constabulary:

Inspector Brent Davison

PC Alaric Spendlove :Alcohol Related Crime Reduction Officer

Ms Lesley Carlo: Police Licensing Officer

### **The Application**

In introducing his application, Mr Sadgrove referred to the objection relating to the proposed use of Verney House as a base for his business. He acknowledged that drink and drug related incidents were associated with Sidwell Street and that there was a fear that homeless people would gravitate to Verney House if they could get alcohol there and that he was therefore prepared to consider an alternative premises.

He explained that the main premise of his proposal was to sell alcohol on a membership basis. The public would be required to provide details of their name and address and proof of identity including age either on the doorstep or when they first registered through a visit to the Bring the Booze office. The majority of the stock would be kept off the site in a separate storage facility with a limited amount

retained at the office for deliveries. Mr Sadgrove suggested that a close analogy would be that of a pizza delivery business. He also compared the sale of alcohol from his business with that of a supermarket that provides a home delivery service from a telephoned or internet order.

The Licensing Solicitor advised that if he wished to propose an alternative office base he should withdraw his current application and submit a new one. The Principal Licensing Officer also stated that if he wished to pursue this avenue he must submit a new application. Lesley Carlo stated that the police objections related to the nature and operation of the business, not the premises. On reflection, Mr Sadgrove confirmed that he wished to proceed with his current application in respect of the proposed base at Verney House as presenting a further application for an alternative base would entail an unacceptable delay in his business plans.

**Councillor Wadham asked if those who made subsequent orders would be checked against a membership list and enquired how payments would be made. He also asked if the individual delivering the alcohol would be accompanied in the delivery van.**

Mr Sadgrove stated that the membership scheme was in response to police concerns that certain customers could be problematic. He had met with the police on three occasions to discuss his application. Details of all customers would be recorded with a view to refusing future service if problems had occurred and were traceable to certain individuals. Ideally, payments would be by credit card but cash would also be acceptable. He would deliver the alcohol and his partner, Melissa Rees, would staff the office.

In response to Councillor Cole, Mr Sadgrove advised that stock retained in the premises or in the van would be sufficient for immediate needs, the rest to be kept in storage.

Councillor Newby stated that he was concerned for the welfare of Mr Sadgrove and any co-driver. With the possibility of combining deliveries in respect of five to six orders there could be a significant amount of alcohol on board at certain times and that there was therefore a potential for certain individuals whose alcohol stock had been depleted or running low in the early morning to commandeer the entire van's stock without payment.

In response, Mr Sadgrove reported that similar businesses in Brighton, Cardiff, North Cornwall and Central London operated without such problems. He advised that he was prepared to employ a co-driver.

The Licensing Solicitor advised that questions relating to potential risk of harm to the driver and any co-driver were only relevant to a point as the licensing objective was harm to the wider public.

Lesley Carlo, on behalf of the police, questioned Mr Sadgrove:

**Do you have a target market?** No specific target - will seek to sell to everyone.  
**How will you market this business?**

Through leafleting residents, street by street and advising that the business will operate on a membership basis.

**How will you check identity and register members?**

Personal details requested will include name, address, contact number(s) and proof of identity such as a driving licence or passport. This will be on a similar basis to DVD/video rentals. Membership checks will help assess suitability of individuals.

**How will you recognise risks at point of delivery?**

Through judgement.

**Normally membership clubs, as for example with sports clubs, have a cooling off period. If you accept membership at point of delivery how will you be able to judge suitability on the spot?**

Also through judgement. In addition, it is expected that some clients will register at the office.

**Inspector Davison: How will you know that the individual ordering and receiving the alcohol will not pass the alcohol on to under age individuals?**

It will not be possible to categorically know that alcohol will not be consumed by those under age. Sales can be compared to senior family members buying alcohol from a supermarket.

**How do you explain the statement that the business should help contribute to a reduction in drink driving? Do you have any evidence?**

Drink driving is a problem everywhere.

Councillor Newby suggested that, in general terms, alcohol consumption currently ceased following return home after visits to pubs and clubs or when a party finished at approximately 4.00am/5.00am at the latest. The proposal to deliver up to 6.00am could lead to any potential problems relating to noise and disturbance extending to 8.00am or 9.00am.

Mr Sadgrove responded by stating that there was a possibility that noise problems would occur but that society had changed with an increased consumption of alcohol. He believed that with changes in shift patterns and different working hours there was now a demand for alcohol at all hours.

Representations from Relevant Authorities/Interested Parties

Lesley Carlo stated that the police concerns related to prevention of crime and disorder, public nuisance and the protection of children against harm. She remarked that this was an unusual application in that it had the potential to impact on all residents in the city. The police had a number of concerns:

- (1) The police felt that the hours requested were an issue as sales until 6am meant that consumption could go on until after that and likened the scenario to having an off licence on every street corner.
- (2) Lesley Carlo referred to problems with the Spar shop at Exwick which was located next to a children's facility and which had agreed to limit its hours and not serve alcohol beyond 10.00pm. In Alphington all premises closed at 11.00pm or 12 midnight or with a special licence issued on an ad hoc basis for a slightly later hour. The current application however would make alcohol available throughout the night. Most residents were unaware of the application. There would be an increase in calls to Environmental Services.
- (3) Although it was not proposed to deliver to public areas such as car parks, play areas, sports fields etc., there remained concerns that alcohol would be

delivered to homeless hostels, young offender homes, care homes etc. It was felt that this would undermine the licensing objectives by making alcohol so readily available to vulnerable individuals within such locations.

- (4) The location of the premises did not make a significant difference as the impact on the rest of the City would be the same.
- (5) Although likely clientele had not been specified, two markets were anticipated:
  - (a) late night parties in residential areas where the initial supply of alcohol had been consumed i.e. the anticipated consumption of alcohol had been under estimated; and
  - (b) a continuation of alcohol consumption where consumption would already have been significant following a night out.

Providing individuals who had already consumed a significant amount of alcohol with more could lead to difficulties.

- (6) With regard to drink drive incidents, 178 offences had been recorded between January 07 - January 08. Not one involved individuals driving to purchase alcohol. There was no evidence to suggest therefore that individuals would consume excess alcohol and drive to Tesco in the early hours.
- (7) It was essential that anyone who looked under the age of 21 be asked for appropriate ID. It was also essential that alcohol was not provided to anyone who would pass it to an individual who was under 18. It was felt that the easy availability of alcohol by home delivery would simply encourage those who were under 18 to attempt to purchase alcohol. They would not have to undergo scrutiny by shop staff or CCTV as they would in most off licences. It would be a lot easier for individuals over 18 to order and answer the door yet pass on the alcohol to under 18's also attending a party and it was easier for them to consume the alcohol out of public view.
- (8) The applicant did not have the same level of accountability as with applications made in respect of premises licences such as for pubs. Any problems related to individual pubs were quickly brought to the attention of the police. Delivery to individual households where noise disturbances and criminal activity subsequently occur could not be readily traced to the individual delivering the alcohol.
- (9) The police made reference to a suggested increase in alcohol related incidents resulting from the change in licensing legislation and produced a Daily Telegraph web page to support this. The Licensing Solicitor advised the Committee that this was not relevant to the licensing objectives in this case as if it applied, it applied generally to all premises. The Principal Licensing Officer added that there has been at least three media reports recently each stating an opposing viewpoint. The Committee deemed this part of the police representation to be not relevant.
- (10) Ms Carlo stated that the police recommended and hoped that the application

would be rejected but referred to conditions that the police would like to see imposed if the application was granted. The main concern was the lateness of the hour and that it could lead to an increase in alcohol related incidents and crime into the early morning.

The Licensing Solicitor and Principal Licensing Officer advised that the conditions should have been submitted with the representations in the interests of fairness to allow the Applicant sufficient time to consider them. Although the Sub-Committee might grant conditions of its own volition, knowing that there were some conditions formulated by one of the parties meant that it was only fair for all parties to have the opportunity to consider conditions before giving their views thereon to the Sub-Committee. The Licensing Solicitor advised that an adjournment to a later date might be justifiable if that is what the Applicant was seeking. The Applicant stated that he did not want to have to come back at a later date as it would mean further time off work. The Applicant stated that he was content with a 15 minute adjournment so that he could examine the conditions on his own and then discuss with the police prior to returning to the meeting where the application, including the suggested conditions, in the event of a decision to grant the application being made, would be determined by this Committee. (The application was adjourned until 1530hrs.)

The application reconvened at approximately 1545hrs and Cllr Shepherd, who was an interested party, also joined the meeting at this stage.

On the return of the Applicant and the other parties, the Licensing Solicitor asked the Sub-Committee to determine whether they would allow the late submission of a document containing the conditions and advised that they could only do so with the consent of the Applicant. The Applicant confirmed his consent to the submission of the document.

The conditions were circulated to the Committee and all parties.

Referring to the conditions, Mr Sadgrove stated that he was opposed to a terminal hour of 12 midnight as he believed that his business would not be viable. The other conditions were acceptable subject to his original remarks.

The Applicant stated that he was prepared to work with Exeter Businesses Against Crime.

It was suggested that the operation of a form of CCTV cameras as utilised by the police would be covered by the Regulation of Investigatory Powers Act 2000 and therefore would not be appropriate either affixed to the van or to the individual delivering alcohol to the doorstep. The Licensing Solicitor advised that the Applicant would not be covered by this as he was not a relevant body under the Act.

Inspector Davison summarised the reasons for opposing the application. The police workload later into the night/early morning had increased in response to public disorder and the hours of operation proposed for the application were likely to exacerbate the problems in this area. There was an increase in anti-social behaviour in neighbourhoods across the city. He had returned to the city after three years. Exeter was now a very different place and this was related to the increased availability of alcohol. He referred to the problem of accountability in respect of

this particular application. Whereas an off licence possessed CCTV cameras and sale to under 18's could more easily be prevented through obtaining proof of age, such reassurances were not possible in this case.

Ms Carlo feared the grant of this application would set a precedent and could lead to applications from similar business ventures. Whilst Mr Sadgrove had attempted to allay police concerns it was felt that the applicant could not meet the licensing objectives and he expressed grave reservations in respect of the application.

Ms Carlo requested that a further condition be added to ensure that a co-driver accompanied Mr Sadgrove on all visits to increase his personal safety and to reduce the possibility of crime and disorder.

Councillor Shepherd made representations as an Interested Party.

The Licensing Solicitor advised that the conditions proposed by the police in the event of the application being granted had not been part of the original application for a premises licence and only formed part of the application in so far as they were agreed.

Councillor Shepherd advised that although he had learnt of the application through his role as local Councillor for the Newtown Ward he was making representations in his capacity as a local resident. The premises at which the alcohol could be sold and consumed would be houses and flats throughout the city including therefore houses and flats in his road. As the application was for the sale of alcohol throughout the city it was possible that his own residence would be affected if alcohol was sold in his street.

A considerable component of a client base for a "booze" delivery service to private houses in the small hours of the morning would be all night parties that had run out of drink. Unlike a provider of alcohol in premises such as a pub or club, the applicant would have no ability to prevent extended public nuisance arising from noise on these premises and so could give no credible assurance that his activities would not lead to aggravation of such situations. The applicant would simply hand over the alcohol for payment and then immediately leave the scene. The main purpose of this application was to facilitate the sale of alcohol to individuals holding late night parties and enable them to re-stock when existing supplies had run low or been consumed. Councillor Shepherd had already received a number of complaints from the public in respect of rowdiness and noise from late night parties and believed that granting the application would exacerbate the problems.

One area of concern was the licensing objective of preventing crime and disorder. While pubs and clubs would provide perfectly credible assurances that they could address such issues, the applicant was unable to do so as he had no control over each occupier of a house to which alcohol was sold and was therefore in a much weaker position to ensure that the licensing objectives were being fulfilled.

Similarly, with regard to the licensing objective of the protection of children from harm, whilst the pub or club manager could ask for proof of age, in this application requests for delivery were made by phone and it would not therefore be possible to verify whether an individual was over 18. The applicant's assurance that they would demand to see identification of anyone they believed to be under 21 or if they

believed that alcohol would be passed to under 18's was empty, as the applicant would receive orders by telephone from people whose age could not be checked by show of an identity card at the time of order. Moreover, upon delivery the applicant would have absolutely no right of entry into a private house to determine who would be drinking there. The requirement of no sale of alcohol to under 18's was enforceable in pubs, clubs and shops licensed to sell alcohol but totally unenforceable in the case of all-night deliveries of alcohol.

Councillor Shepherd agreed that preventing sale after 12 midnight was likely to impact significantly on the viability of the business. He noted that if the office had been based in East Devon but was also targeting an Exeter market it may not have been brought to the attention of this Sub-Committee. Councillor Shepherd suggested that Licensing Officers liaise with their colleagues in neighbouring authorities. He requested the Sub Committee to refuse the application.

The Applicant had referred to a similar operation in North Cornwall, Councillor Shepherd responded that an operation of this nature was new to Exeter.

The following responses were given by Mr Sadgrove to Councillor Shepherd's questions:

**(a) how will you ascertain if an individual is too inebriated to be sold alcohol?**

Will use my judgement.

**(b) how will you determine if an individual is under 18?**

Will use my judgement.

**(c) Are you concerned that in some instances you will be selling alcohol to individuals suffering from alcoholism and therefore exacerbating their problems?**

If individuals are alcoholics they will purchase alcohol elsewhere.

Mr Sadgrove, in conclusion, stated that he had been flattered by the concern of the Police over the nature of his operation and that he had tried to be as open and transparent as possible having contacted them at an early stage. Apart from the suggested change to the terminal hour, he was happy to accede to the conditions suggested but could not agree with the assertion that significant public disorder in an area such as Exwick could result from the operation of his business. He felt that prohibition never worked and he couldn't see why Exeter should be different to anywhere else.

In response to a final question from Councillor Cole, Lesley Carlo advised that the police did not feel that it was practical to ensure that no further deliveries were made to addresses where problems of noise and disturbance had occurred, especially as some areas of the City possessed a transient population. Mr Sadgrove advised that he would manage such a situation by striking individual names off the membership list.

There was further written representation from an Interested Party in a property neighbouring the premises but that party did not attend in person.

The Applicant, the Principal Licensing Officer and the representatives of the police left the room when the Sub-Committee resolved to deliberate in private on the

application and all representations both written and oral.

The Applicant, Principal Licensing Officer, Ms Carlo and Mr Spendlove returned to room. The Committee gave its decision. The application as it stood did not adequately promote the licensing objectives of prevention of public nuisance and prevention of crime and disorder but the Committee was satisfied that the addition of the following conditions would remedy that and the application was granted:

- (1) the hours of operation to be 10pm to 12 midnight, Sunday to Thursday and 10pm to 2.00am, Friday to Saturday.
- (2) no alcohol will be sold to the public from the premises other than via telephone;
- (3) the public must not be permitted to attend the premises to order, pay for or collect alcohol;
- (4) a name, full postal address and contact number will be obtained from all customers. No deliveries will be made to public places including but not limited to parks, streets, car parks;
- (5) alcohol will only be delivered on verification of identity of the individual who has placed the order;
- (6) a register will be kept containing a record, either electronic or in paper form detailing all orders showing date, time, location, customer details and order details; such record to be retained for a minimum of twelve months and produced to an authorised officer of the police of Licensing Authority on request;
- (7) details of all refused deliveries are to be entered into the register. No further deliveries will be made to the persons named in the log, as residing at that address;
- (8) last orders will be placed 30 minutes before the end of licensed hours. No delivery will be made after licensed hours; and
- (9) a co-driver to accompany the Applicant on all visits to increase his personal safety and to reduce the possibility of crime and disorder.

(The meeting commenced at 2.15pm and closed at 4.50pm)

#### **LICENSING SUB COMMITTEE B**

Thursday 28 February 2008

#### Present

Councillors Cole, Newby and Wadham.

Also present

Principal Licensing Officer, Licensing Solicitor and Member Services Officer (HB)

The hearing in respect of Min. No. 18 convened during the adjournment of the Licensing Act 2007 hearing.

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**APPOINTMENT OF CHAIR**

It was agreed that Councillor Newby would act as Chair for this meeting of the Licensing Sub Committee.

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**DECLARATIONS OF INTERESTS**

No declarations of interest were made by Members.

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**LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985**  
**EXCLUSION OF PRESS AND PUBLIC**

**RESOLVED** that, under Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting for the consideration of the following item on the grounds that they involved the likely disclosure of exempt information as defined in Paragraph 1 of Part I, Schedule 12A of the Act.

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**LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976**  
**APPLICATION FOR RENEWAL OF A PRIVATE HIRE VEHICLE**  
**LICENCE FOR A VEHICLE OVER 8 YEARS OLD**

The Chair introduced the Sub-Committee Members and Officers.

The Principal Licensing Officer reported that Ms M had applied for a renewal of an existing Private Hire Vehicle Licence for a vehicle which is over 8 years old. Although the vehicle had been purchased in August there was a statutory duty to register the transfer within 14 days. This had not been undertaken.

Ms McClain owned a black Ford Mondeo, first registered to her on the 1 February 2008. Its licence was due to expire on the 18 February 2008. On the licence renewal date the vehicle would be 8 years and 4 months old. A short-term licence had been issued to cover the time between the renewal date and the date of the hearing.

Ms M was in attendance. She wished to renew the licence for a further 12 months. She currently worked for a City operator in an administrative capacity and also possessed a Private Hire Vehicle driver licence. She had been driving the taxi one or two nights a week since before Christmas and was keen to return to full time driving. The current mileage on the car was 187,000 which she felt was not particularly high for a diesel vehicle of this nature. As it was a private hire vehicle it had not been adapted for private hire. She had spent £211 to renew the licence and a further £800 on tax and MOT. She was a single parent with a mortgage and could not afford a newer car at present.

She reported that she had obtained the car in August but had not registered it at that time as she was seeking to change her name on her driver's licence. This had occurred before Christmas but she had forgotten at that time to register.

Members inspected the vehicle.

The applicant and the Principal Licensing Officer left the room while the Sub Committee deliberated.

**RESOLVED** that the application for the renewal of a Private Hire Vehicle Licence for a vehicle which is over 8 years old be approved for a period of 6 months, subject to the receipt of an acceptable independent mechanical report

(Report circulated to Members)

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**APPLICATION FOR A LICENCE TO DRIVE A HACKNEY CARRIAGE  
OR PRIVATE HIRE VEHICLE**

The Principal Licensing Officer reported that Mr L had submitted an application for a Private Hire/Hackney Carriage drivers licence. However, in view of the applicant's declared conviction the matter had been referred to the Sub-Committee for consideration.

The Principal Licensing Officer stated that Mr L had been convicted of an assault on a female, his partner, and as this conviction was not yet spent he could not deal with it under delegated powers. He added that prior to the hearing taking place the lady in question had been waiting to speak to the Committee to advise that she wanted to support Mr L in his application but had left because the child needed feeding etc and she could wait no longer. The Principal Licensing Officer concluded by saying that although the matter in question was an act of violence against a woman and could not be condoned in any way, the time that had elapsed since the incident and the support shown by the partner suggested that the licence could be issued without any major concerns for the future.

Mr L attended the meeting and explained the background to the conviction. The Sub Committee noted the background and the fact that he had been driving for 20 years. It was also noted that he had held a licence in the past.

The applicant and the Principal Licensing Officer left the room while the Sub Committee deliberated.

**RESOLVED** that the application be granted with a warning that the licence would be at risk if he was convicted of any further offences during the period of the licence.

(Report circulated to Members)

(The meeting in respect of Min. No. 18 commenced at 3.15pm and closed at 3.40pm and at 4.50pm and 5.20pm in respect of Min. No. 19)

