

LICENSING ACT 2003

NOTICE OF DETERMINATION

Date of Hearing:	23 rd May 2024
Application:	Premises Licence
Name of Premises:	174 Sidwell Street
Address:	174 Sidwell Street, Exeter EX4 6RH
Licensing Sub-Committee:	Cllr Peter Holland (Chair) Cllr Snow Cllr Bennett
Committee Legal Advisor(s):	Matthew Hall Max Murphy
Licensing Officer(s):	Nigel Marston
Democratic Services Officer(s):	Pierre Doutreligne
The Applicant:	Damien Mark Sluman
Representations:	Environmental Health: Lisa Cocks Environmental Health Apprentice: Kaylee Nisbet Devon and Cornwall Constabulary (not in attendance)
Hearing Duration:	0935 – 1029hrs

TAKE NOTICE:

That the Licensing Sub-Committee convened on 23rd May 2024 to determine the application for a premises licence has resolved to grant the licence in accordance with section 18 of the Licensing Act 2003 subject to the agreed amendments and conditions set out below together with the conditions set out in the Operating Schedule of the application.

THE SUB-COMMITTEE'S DECISION:

In determining this application, the Licensing Sub-Committee took into account all the relevant evidence and information presented to it both written and oral, and took account of all the matters it is bound to take account of, in particular the following:

- Licensing Act 2003
- Statutory Guidance
- Exeter City Council Statement of Licensing Policy
- Human Rights Act 1998
- Any equality and diversity considerations

Amendments to the Application

The application is granted subject to the amendments agreed by the Applicant with the Devon and Cornwall Constabulary set out below.

Opening Hours Friday to Saturday 1000hs to 0400hrs

Supply of Alcohol for consumption on and off the premises Friday to Saturday 1000hrs to 0330hrs

Operating Schedule b) The prevention of crime and disorder

SIA licensed door supervisors shall be on duty at the premises until all customers have left the premises as set out below:

A minimum of 1 on Sunday to Thursday where the premises is open after 22:00hrs.

A minimum of 2 on Friday to Saturday where the premises is open after 22:00hrs.

Conditions

In addition the following conditions were imposed by the Licensing Sub-Committee:

A telephone number shall be made available and displayed in a prominent location where it can be conveniently read from the exterior of the premises for local residents to contact in the case of noise-nuisance or anti-social behaviour by persons or activities associated with the premises. The telephone number will be a direct number to the management who are in control during opening hours. A record will be kept by management of all calls received, including the time, date and information of the caller, including action taken following the call. Records will be made available for inspection and copying by an authorised officer of a responsible authority throughout the trading hours of the premises.

Noise levels in outside areas will be monitored and controlled to minimise any potential impact on local residents and neighbouring businesses. Customers will be advised of the need to respect local residents and neighbouring businesses, where appropriate. Any patrons continuing to cause any disturbance or disorder will be asked to leave the premises.

Doors and windows shall be kept shut at all times during the performance of live music or the playing of recorded music inside the premises. Doors may be opened for normal entrance and egress of people but must be shut immediately after.

REASONS FOR DECISION

Having carefully considered all the written and oral Representations, the Licensing Sub-Committee unanimously resolved to approve the application for a Premises Licence, subject to the amendments and the conditions set out above.

In coming to their decision, Members had regard to the concerns raised by the Responsible Authority Environmental Health in respect of potential noise nuisance and the proximity of the premises to residential properties. The Licensing Sub-Committee were reassured by the applicant that the premises would be run primarily as a restaurant with weekly karaoke and live 'acoustic' music. Whilst no neighbouring businesses or residents had made representations the Licensing Sub-Committee considered it appropriate and proportionate to address the concerns raised by Environmental Health and attach conditions to ensure that the Licensing Objective prevention of public nuisance would be promoted.

In addressing the Cumulative Impact Zone which applies to the Licensable Activity the sale of alcohol the Licensing Sub-Committee considered that the business model proposed by the Applicant would not add to the cumulative impact of the area and this was supported by the reduction in the operating hours and conditions agreed with the Devon and Cornwall Constabulary.

The Licensing Sub-Committee were mindful of the outside area but this did not form part of the application and should be addressed by the Pavement Café regime under the Business and Planning Act 2020. Members were reassured by the standard licence conditions contained within the Council's Pavement Licences in respect of noise nuisance and

disturbance. The Applicant also stated if he was to make an application for a Pavement Café Licence he would request a terminal hour of 22:00hrs.

Whilst the Licensing Sub-Committee were reassured by the Applicant's commitment to monitor sound and engage with neighbours to address complaints as they arise, the Licensing Sub-Committee noted that a Review of the Premises Licence can be sought by any party should issues arise, as a result of this grant of a Premises Licence.

RIGHT OF REVIEW

At any stage, a responsible authority or any other person may ask the Licensing Authority to review the licence or certificate because of a matter arising at the premises in connection with any of the four licensing objectives; the prevention of crime and disorder, Public Safety, the prevention of public nuisance and the protection of children from harm.

RIGHT OF APPEAL

All parties are reminded of their right to appeal against this decision to the Magistrates' Court by virtue of Section 181 and Schedule 5 Part 1 of the Licensing Act 2003. Any appeal must be made within the period of 21 days beginning with the date on which you are notified of the decision.

Any Appeal is commenced by a notice addressed to:

The Clerk to the Justices, North and East Devon Magistrates' Court Office, Southernhay Gardens, Exeter, EX1 1UH Telephone 01392 415300.

Parties are advised to contact the court office to check the form of notice required and the fee payable.

The Chair of Licensing Sub Committee

A handwritten signature in black ink, appearing to read 'Peter Holland', with a long horizontal flourish extending to the right.

Councillor Peter Holland