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SOUTH HAMS LICENSING SUB-COMMITTEE - WEDNESDAY, 24TH AUGUST, 2011

Agenda, Reports and Minutes for the meeting

Agenda No Item

1. **Agenda Letter** (Pages 1 - 2)

2. **Reports**

Reports to Licensing Sub Committee:

a) No. Eight, 8 Foss Street, Dartmouth TQ6 9DW (Pages 3 - 8)

b) Royal Avenue Gardens (Pages 9 - 14)

3. **Minutes** (Pages 15 - 18)

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Agenda Item 1

To: Members of the Licensing Sub - Committee

Our Ref: CS/KT

(Cllrs Cuthbert, Gilbert and Squire)

cc: Remainder of the Licensing Committee
Local Ward Members
(Cllrs Bastone, B Cooper, Hawkins and Stone)

16 August 2011

Usual Officer and Press Circulation

Dear Councillor

A meeting of the **Licensing Sub-Committee** will be held in the **Cary Room**, Follaton House, Plymouth Road, Totnes on **Wednesday, 24 August 2011** at **10.00 am** when your attendance is requested.

Yours sincerely

Kathryn Trant
Senior Member Support Officer

<p>FOR ANY QUERIES ON THIS AGENDA, PLEASE CONTACT KATHRYN TRANT SENIOR MEMBER SUPPORT OFFICER ON DIRECT LINE 01803 861185</p>
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A G E N D A

1. **Appointment of Chairman;**
2. **Division of Agenda** - to consider whether the discussion of any item of business is likely to lead to the disclosure of exempt information;
3. **Declarations of Interest** - Members are invited to declare any personal or prejudicial interests, including the nature and extent of such interests; they may have in any items to be considered at this meeting;
4. To determine an application for the variation of the Premises Licence at **No. Eight, 8 Foss Street, Dartmouth TQ6 9DW** in accordance with Section 18 of the Licensing Act 2003 (pages 1 to 40);

5. To determine an application for a new Premises Licence at **Royal Avenue Gardens, Dartmouth** in accordance with Section 18 of the Licensing Act 2003 (pages 41 to 73).

Members of the public may wish to note that the Council's meeting rooms are accessible by wheelchairs and have a loop induction hearing system

MEMBERS ARE REQUESTED TO SIGN THE ATTENDANCE REGISTER

THIS AGENDA HAS BEEN PRINTED ON ENVIRONMENTALLY FRIENDLY PAPER

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AGENDA
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SOUTH HAMS DISTRICT COUNCIL

AGENDA
ITEM

4

NAME OF COMMITTEE	Licensing Sub-Committee
DATE	Wednesday 24 August 2011
REPORT TITLE	Application to vary a Premises Licence
Report of	The Licensing Manager
WARDS AFFECTED	Dartmouth

Summary of report:

To determine an application for the variation of the Premises Licence at **No. Eight, 8 Foss Street, Dartmouth, TQ6 9DW**, in accordance with Section 35 of the Licensing Act 2003. Relevant representation has been received but mediation has taken place with amendments being made to the application. As a result all parties consider a hearing is unnecessary.

Financial implications:

There are no direct financial implications to the Council from this Report.

RECOMMENDATIONS:

That the Sub-Committee consider the application to vary the Premises Licence together with the amendments agreed following representations and make a determination in respect of this application, namely to:

- i grant the application as submitted, subject to any Mandatory Conditions required;**
- ii modify the conditions of the licence;**
- iii reject the whole or part of the application;**
and for this purpose the conditions of the licence are modified if any of them are altered or omitted or any new condition is added.

in line with the licensing objectives (Section 4) contained within the Licensing Act 2003.

Officer contact:

Graham Munson

graham.munson@southhams.gov.uk

01803 861336

1. BACKGROUND

- 1.1 The Licensing Authority has received an application for a variation to the premises licence for **No. Eight, 8 Foss Street, Dartmouth, TQ6 9DW**. A copy of the application is attached (**Appendix 'B'**).
- 1.2 The application is to allow alcohol to be consumed at tables outside, in the area adjacent to the premises, between the hours of 10am and 4pm. Also to include the provision of live music for two hours per day (11am-12pm and 3pm-4pm) on the Friday, Saturday and Sunday of Dartmouth Regatta and Dartmouth Music Festival. Application also to reduce opening hours to closing at 10pm. In addition, there is the request for recorded music Monday to Sunday from 9am to 10pm. As this is for background music only, this will not be included on the licence as it is not a licensable activity. The existing licence can be found in **Appendix 'A'**.
- 1.3 As the applicants wish to provide the sale of alcohol and provision of regulated entertainment, under the Licensing Act 2003 they require a premises licence. As regards to this application, only interested parties, responsible authorities or district councillors may make representations.
- 1.4 The current premises licence permits alcohol to be sold for consumption on the premises only, Monday to Sunday from 10am to 10pm and the opening hours are currently from 9am to 10.30pm.
- 1.5 We received one representation from the Police in relation to the hours permitted for the sale of alcohol and in relation to the Prevention of Crime and Disorder licensing objective. Their representation and proposed amendments can be found in **Appendix 'C'**. The Police have requested that hours permitted for the sale of alcohol be reduced by 30 minutes to 9am to 9.30pm. This is to allow for a half hour period of time between the end of alcohol sales and closing time. They have also requested additional conditions be included to clarify that the application will be for consumption on the premises only (including the outside seating area) and ensure this will be between 10am and 4pm only . The applicant has agreed to these amendments.
- 1.6 Both parties have agreed, subject to these amendments being implemented on the licence that a hearing is unnecessary.
- 1.7 The existing premises licence is in **Appendix 'A'**, the variation application can be found in **Appendix 'B'**, and the representation and agreed amendments are in **Appendix 'C'**.

(Please note that due to the amount of paperwork contained within these appendices, full copies have only been circulated to the Sub-committee Members. Any Interested Parties who would like to receive full (or part) copies are asked to contact Member Support Services on (01803) 861273.)

2. ISSUES FOR CONSIDERATION

- 2.1 The Police were concerned with the hours permitted for the sale of alcohol and use of the outside area. They are satisfied that their concerns will be addressed through the implementation of the agreed amendments.
- 2.2 The Sub Committee will now need to consider this application.

3. LEGAL IMPLICATIONS

- 3.1 The Act requires mandatory conditions to be imposed (if applicable) on the licence, the wording of which is prescribed by the Act but may be summarised as follows:

(a) Section 19 - Mandatory conditions relating to the supply of alcohol

No alcohol may be supplied unless there is a Designated Premises Supervisor who also holds a personal licence.
Every supply of alcohol under a premises licence must be made or authorised by a personal licensee.

(b) Section 19A - Irresponsible drinks promotions

Staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

(c) Section 19A - No alcohol to be dispensed directly into the mouth of another person

No alcohol is dispensed directly by one person into the mouth of another.

(d) Section 19A - Free drinking water

That free tap water is provided on request to customers where it is reasonably available.

(e) Section 19A - Age verification policy

- (i) The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.
- (ii) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark.

(f) Section 19A - Minimum measures for alcoholic beverages

The responsible person shall ensure that-

(a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures-

- (i) beer or cider: ½ pint;
 - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
 - (iii) still wine in a glass: 125 ml; and
- (b) customers are made aware of the availability of these measures.

(g) Section 20 - Mandatory condition relating to exhibition of films

Children may only be admitted to films in accordance with the classification recommendations of the British Board of Film Classification, or as recommended by the Licensing Authority.

(h) Section 21 - Door Supervision

Where door supervisors are specified by condition, those individuals must be licensed by the SIA.

4. FINANCIAL IMPLICATIONS

- 4.1 There are no direct financial implications to the Council from this Report.

5. RISK MANAGEMENT

- 5.1 The risk management implications are:

Opportunities	Benefits
<p>To review the application in line with:</p> <ul style="list-style-type: none"> • The Licensing Act; • National Guidance issued by the Secretary of State, and, • The South Hams District Council Statement of Licensing Policy. <p>To create an increased opportunity for employment in the district.</p> <p>An opportunity to maintain the districts distinctive environment whilst enabling access and sensitive development.</p> <p>To consider whether the proposal would promote tourism. The population doubles in the summer months with tourists and international visitors who are, in the main, families with young children and retired people – the very segments of society who would perhaps be deterred by anti-social behaviour.</p>	<p>To be able to give consideration to representations made by ‘Interested Parties’ and / or ‘Responsible Authorities’ in line with the Licensing Objectives, namely:-</p> <ul style="list-style-type: none"> • The prevention of Crime and Disorder; • Public Safety; • The prevention of public nuisance; and • The Protection of children from harm.
Issues/Obstacles/Threats	Control measures/mitigation
<p>The need to address the four Licensing Objectives written within the Act namely:</p> <ul style="list-style-type: none"> • The prevention of Crime and Disorder; • Public Safety; • The prevention of public nuisance; and • The Protection of children from harm. <p>(Also listed above as a benefit)</p> <p>Due consideration should be given to Guidance issued by the Secretary of State under section 182 of the said Act 2003.</p> <p>Due consideration should be given to the Council’s Licensing Policy Statement.</p> <p>Failure to adequately consider these issues could result in the Council facing an appeal to the Magistrates Court.</p>	<p>The Licensing Authority follows strict legislation in accordance with the Licensing Act 2003 and adheres to the statutory instruments contained within the Act.</p>

Corporate priorities engaged:	There is a link to the Council's priorities of CP2: 'Creating the conditions for the growth and maintenance of quality economic activity' and CP3: 'Maintaining the district's distinctive environment whilst enabling access and sensitive development'.
Statutory powers:	Licensing Act 2003
Considerations of equality and human rights:	Compliance with the Human Rights Act 1998 – Article 6: Right to a fair hearing
Biodiversity considerations:	Not applicable
Sustainability considerations:	As above under corporate priorities engaged
Crime and disorder implications:	Section 17 of Crime and Disorder Act 1998 applies.
Background papers:	<p>Guidance on Meeting the Licensing Objectives</p> <p>The Licensing Act 2003</p> <p>Guidance issued under Section 182 of the Licensing Act 2003</p> <p>The District Council's Statement of Licensing Policy</p> <p>Confirmation from applicant and Police that they agree to the amendments and that a hearing is unnecessary.</p>
Appendices attached:	<p>Appendix A – Existing premises licence</p> <p>Appendix B – Application for new premises licence</p> <p>Appendix C – Representation and agreed amendments</p>

AGENDA
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SOUTH HAMS DISTRICT COUNCIL

AGENDA
ITEM

5

NAME OF COMMITTEE	Licensing Sub-Committee
DATE	Wednesday 24 August 2011
REPORT TITLE	Application for a new Premises Licence
Report of	The Licensing Manager
WARDS AFFECTED	Dartmouth

Summary of report:

To determine an application for a new Premises Licence at **Royal Avenue Gardens, Dartmouth** in accordance with Section 18 of the Licensing Act 2003. Relevant representation has been received but mediation has taken place with amendments being made to the application. As a result all parties consider a hearing is unnecessary.

Financial implications:

There are no direct financial implications to the Council from this Report.

RECOMMENDATIONS:

That the Sub-Committee consider the application for a new Premises Licence and make a determination in respect of this application, namely to:

- i grant the application as submitted, subject to any Mandatory Conditions required;**
- ii modify the conditions of the licence;**
- iii exclude any of the licensable activities to which the application relates;**
- iv to refuse to specify a person in the licence as the premises supervisor;**
- v reject the application,**

in line with the licensing objectives (Section 4) contained within the Licensing Act 2003.

Officer contact:

Graham Munson

graham.munson@southhams.gov.uk

01803 861336

1. BACKGROUND

- 1.1 The Licensing Authority has received an application for a new premises licence for **Royal Avenue Gardens, Dartmouth**. A copy of the application is attached (**Appendix 'A'**).
- 1.2 The application is for the provision of regulated entertainment (plays, films, live music, recorded music, performances of dance, and anything of a similar description, the provision of facilities for making music, provision of facilities for dancing and provision of entertainment facilities of a similar description), Monday to Sunday from 8am to 9pm.
- 1.3 As the applicants wish to provide regulated entertainment, under the Licensing Act 2003 they require a premises licence. As regards to this application, only interested parties, responsible authorities or district councillors may make representations.
- 1.4 We received one representation from an interested party in relation to the Prevention of Public Nuisance licensing objective. Their representation can be found in **Appendix 'B'**.
- 1.5 The interested party was concerned that they would experience increased disturbance from noise emanating from Royal Avenue Gardens, which can be heard from their property. The starting hours of 8am caused particular concern. After speaking with both parties, it was agreed that licensed hours would be reduced to 10am to 9pm daily.
- 1.6 Both parties have agreed, subject to this amendment being implemented on the licence that a hearing is unnecessary. The agreed amendment is shown in **Appendix 'C'**.

(Please note that due to the amount of paperwork contained within these appendices, full copies have only been circulated to the Sub-committee Members. Any Interested Parties who would like to receive full (or part) copies are asked to contact Member Support Services on (01803) 861273.

2. ISSUES FOR CONSIDERATION

- 2.1 The interested party was concerned about noise disturbance, relating to the Prevention of Public Nuisance licensing objective. They are satisfied that their concerns will be addressed through the implementation of the agreed amendment.
- 2.2 The Sub-Committee will now need to consider this application.

3. LEGAL IMPLICATIONS

3.1 The Act requires mandatory conditions to be imposed (if applicable) on the licence, the wording of which is prescribed by the Act but may be summarised as follows:

(a) Section 19 - Mandatory conditions relating to the supply of alcohol

No alcohol may be supplied unless there is a Designated Premises Supervisor who also holds a personal licence.

Every supply of alcohol under a premises licence must be made or authorised by a personal licensee.

(b) Section 19A - Irresponsible drinks promotions

Staff on relevant premises do not carry out, arrange or participate in any irresponsible drinks promotions in relation to the premises.

(c) Section 19A - No alcohol to be dispensed directly into the mouth of another person

No alcohol is dispensed directly by one person into the mouth of another.

(d) Section 19A - Free drinking water

That free tap water is provided on request to customers where it is reasonably available.

(e) Section 19A - Age verification policy

(i) The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.

(ii) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark.

(f) Section 19A - Minimum measures for alcoholic beverages

The responsible person shall ensure that-

(a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures-

(i) beer or cider: ½ pint;

(ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and

(iii) still wine in a glass: 125 ml; and

(b) customers are made aware of the availability of these measures.

(g) Section 20 - Mandatory condition relating to exhibition of films

Children may only be admitted to films in accordance with the classification recommendations of the British Board of Film Classification, or as recommended by the Licensing Authority.

(h) Section 21 - Door Supervision

Where door supervisors are specified by condition, those individuals must be licensed by the SIA.

4. FINANCIAL IMPLICATIONS

4.1 There are no direct financial implications to the Council from this Report.

5. RISK MANAGEMENT

5.1 The risk management implications are:

Opportunities	Benefits
<p>To review the application in line with:</p> <ul style="list-style-type: none"> • The Licensing Act; • National Guidance issued by the Secretary of State, and, • The South Hams District Council Statement of Licensing Policy. <p>To create an increased opportunity for employment in the district.</p> <p>An opportunity to maintain the district's distinctive environment whilst enabling</p>	<p>To be able to give consideration to representations made by 'Interested Parties' and / or 'Responsible Authorities' in line with the Licensing Objectives, namely:-</p> <ul style="list-style-type: none"> • The prevention of Crime and Disorder; • Public Safety; • The prevention of public nuisance; and • The Protection of children from harm.

<p>access and sensitive development.</p> <p>To consider whether the proposal would promote tourism. The population doubles in the summer months with tourists and international visitors who are, in the main, families with young children and retired people – the very segments of society who would perhaps be deterred by anti-social behaviour.</p>	
Issues/Obstacles/Threats	Control measures/mitigation
<p>The need to address the four Licensing Objectives written within the Act namely:</p> <ul style="list-style-type: none"> • The prevention of Crime and Disorder; • Public Safety; • The prevention of public nuisance; and • The Protection of children from harm. <p>(Also listed above as a benefit)</p> <p>Due consideration should be given to Guidance issued by the Secretary of State under section 182 of the said Act 2003.</p> <p>Due consideration should be given to the Council's Licensing Policy Statement.</p> <p>Failure to adequately consider these issues could result in the Council facing an appeal to the Magistrates Court.</p>	<p>The Licensing Authority follows strict legislation in accordance with the Licensing Act 2003 and adheres to the statutory instruments contained within the Act.</p>

Corporate priorities engaged:	There is a link to the Council's priority of improving Community Life.
Statutory powers:	Licensing Act 2003
Considerations of equality and human rights:	Compliance with the Human Rights Act 1998 – Article 6: Right to a fair hearing

Biodiversity considerations:	Not applicable
Sustainability considerations:	Not applicable
Crime and disorder implications:	Section 17 of Crime and Disorder Act 1998 applies.
Background papers:	<p>Guidance on Meeting the Licensing Objectives</p> <p>The Licensing Act 2003</p> <p>Guidance issued under Section 182 of the Licensing Act 2003</p> <p>The District Council's Statement of Licensing Policy</p> <p>Confirmation from applicant and interested party that they agree to the amendment and that a hearing is unnecessary</p>
Appendices attached:	<p>Appendix A – Application for new premises licence</p> <p>Appendix B – Representation from interested party</p> <p>Appendix C – Agreed amendment</p>

MINUTES OF A MEETING OF THE LICENSING SUB-COMMITTEE HELD AT FOLLATON HOUSE, TOTNES ON WEDNESDAY 24 AUGUST 2011

Present: Councillors Cuthbert, Gilbert and Squire
T Johnson, Solicitor, SHDC
D White, Member Support Services Manager, SHDC
N Wopling, Licensing Officer, SHDC

LSC.04/11 **APPOINTMENT OF CHAIRMAN**

RESOLVED

That Cllr Squire be appointed Chairman for the duration of the meeting.

LSC.05/11 **DECLARATIONS OF INTEREST**

Members were invited to declare any interests in the items of business to be considered during the course of the meeting but none were made.

LSC.06/11 **TO DETERMINE AN APPLICATION FOR THE VARIATION OF THE PREMISES LICENCE AT NO. EIGHT, 8 FOSS STREET, DARTMOUTH TQ6 9DW**

1. Update from the Solicitor

The Solicitor updated the Sub-Committee that he still had not been given adequate assurances from the Police Authority in relation to the necessary delegated authority being in place for valid representations to be made by other officers on behalf of the Superintendent.

However, in this particular instance, since the amendments had already been agreed, the Solicitor was satisfied that this application could be determined at this meeting by the Sub-Committee. Nonetheless, the Sub-Committee did acknowledge these comments and equally wished to put on record its request for assurances to be received from the Police Authority in this regard.

2. Licensing Officer's Report

The Licensing Officer introduced the report to the Sub-Committee and advised that appendix C to the presented agenda report outlined the amendments that had been agreed following the aforementioned initial representations made by the Police Authority.

Since these amendments had been agreed by all parties, it had therefore been deemed that a formal hearing would not be necessary.

3. Committee's Deliberations

The Sub-Committee discussed the application between themselves and particular reference was made to:-

- (a) confirmation that outside alcohol would only be served at a table and by a waiter/waitress;
- (b) the Chairman having received correspondence from two of the four Dartmouth local Ward Members outlining that they had no objections to these proposals.

4. The Decision

The Chairman then proceeded to announce the decision as follows:

"We have considered the application for a variation to the premises licence.

We have considered the Statement of Licensing Policy, the government guidance and our obligations that relate to the promotion of the four licensing objectives.

Following representation and the agreement reached between parties, we now note all parties consider a hearing unnecessary. We agree.

It is our decision therefore to grant this application subject to the agreed amendments being incorporated into the operating schedule."

LSC.07/11 TO DETERMINE AN APPLICATION FOR A NEW PREMISES LICENCE AT ROYAL AVENUE GARDENS, DARTMOUTH

1. Licensing Officer's Report

The Licensing Officer introduced the report to the Sub-Committee and advised that appendix C to the presented agenda report outlined the amendments that had been agreed following initial representations made by local residents. Since these amendments had been agreed by all parties, it had therefore been deemed that a formal hearing would not be necessary.

2. Committee's Deliberations

The Sub-Committee discussed the application between themselves. In discussion, reference was made to the unusual nature of this application whereby the Council was both the applicant and the determining authority. For clarity, the Solicitor confirmed that he had found no case law in this regard. However, in this particular instance he was content to advise that since the amendments had been agreed by all parties, the Sub-Committee could proceed to determine this application.

The Chairman then announced the decision of the Sub-Committee.

3. The Decision

The Chairman announced the decision as follows:

“We have considered the application for a new premises licence.

We have considered the Statement of Licensing Policy, the government guidance and our obligations that relate to the promotion of the four licensing objectives.

Following representation and the agreement reached between parties, we now note all parties consider a hearing unnecessary. We agree.

It is our decision therefore to grant this application subject to the agreed amendments being incorporated into the operating schedule.”

Chairman

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