

AGENDA  
ITEM

**4**

## SOUTH HAMS DISTRICT COUNCIL

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

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### 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:**

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**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:

<b>Opportunities</b>	<b>Benefits</b>
<p>To review the application in line with:</p> <ul style="list-style-type: none"> <li>• The Licensing Act;</li> <li>• National Guidance issued by the Secretary of State, and,</li> <li>• The South Hams District Council Statement of Licensing Policy.</li> </ul> <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"> <li>• The prevention of Crime and Disorder;</li> <li>• Public Safety;</li> <li>• The prevention of public nuisance; and</li> <li>• The Protection of children from harm.</li> </ul>
<b>Issues/Obstacles/Threats</b>	<b>Control measures/mitigation</b>
<p>The need to address the four Licensing Objectives written within the Act namely:</p> <ul style="list-style-type: none"> <li>• The prevention of Crime and Disorder;</li> <li>• Public Safety;</li> <li>• The prevention of public nuisance; and</li> <li>• The Protection of children from harm.</li> </ul> <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>

<b>Corporate priorities engaged:</b>	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'.
<b>Statutory powers:</b>	Licensing Act 2003
<b>Considerations of equality and human rights:</b>	Compliance with the Human Rights Act 1998 – Article 6: Right to a fair hearing
<b>Biodiversity considerations:</b>	Not applicable
<b>Sustainability considerations:</b>	As above under corporate priorities engaged
<b>Crime and disorder implications:</b>	Section 17 of Crime and Disorder Act 1998 applies.
<b>Background papers:</b>	<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>
<b>Appendices attached:</b>	<p>Appendix A – Existing premises licence</p> <p>Appendix B – Application for new premises licence</p> <p>Appendix C – Representation and agreed amendments</p>