

AGENDA  
ITEM

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## 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 for a new 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 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:

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## **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"> <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 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"> <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>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>	
<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 priority of improving Community Life.
<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>	Not applicable
<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 interested party that they agree to the amendment and that a hearing is unnecessary</p>
<b>Appendices attached:</b>	<p>Appendix A – Application for new premises licence</p> <p>Appendix B – Representation from interested party</p> <p>Appendix C – Agreed amendment</p>