

AGENDA
ITEM

5

SOUTH HAMS DISTRICT COUNCIL

AGENDA
ITEM

5

NAME OF COMMITTEE	Licensing Sub-Committee
DATE	Thursday 3 May 2012
REPORT TITLE	Application for a new Premises Licence
Report of	The Business Support Manager
WARDS AFFECTED	Dartmouth

Summary of report:

To determine an application for a new Premises Licence at **Dart Marina Hotel & Spa, Sandquay Road, Dartmouth, TQ6 9PH** 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:

Naomi Wopling

naomi.wopling@southhams.gov.uk

01803 861336

V240412

1. BACKGROUND

- 1.1 The Licensing Authority received an application for a new premises licence on 26 March 2012 for **Dart Marina Hotel & Spa, Sandquay Road, Dartmouth, TQ6 9PH**. A copy of the application is attached (**Appendix 'A'**).
- 1.2 The application is for a new premises licence for:
- sale of alcohol for consumption on and off the premises daily from 11am to 11.30pm (residents 24hrs);
 - late night refreshment daily from 11pm to midnight (residents 11pm to 5am);
 - films daily from 10am to 11.30pm;
 - recorded music and facilities for dancing daily from 11am to 11pm;
 - live music (inside and outside) daily from 11am to 11pm.
- 1.3 As the applicant wishes to provide the sale of alcohol and the provision of regulated entertainment, under the Licensing Act 2003 a premises licence is required. As regards to this application, only Interested Parties, Responsible Authorities or District Councillors may make representations.
- 1.4 We have received three representations in respect of this application. These can be found in **Appendix 'B'**. The representation received from the Police was concerned with the sale of alcohol for consumption off the premises, given the close proximity to the Designation Order zone. The representations received from Environmental Health and the District Councillor were mainly concerned with noise nuisance caused by outside music.
- 1.5 The Police requested that a further condition be included on the premises licence to prevent customers from taking open vessels off the premises. The premises is in very close proximity to Coronation Park which is within the boundary of the Designation Order zone. There was a concern that people may take open vessels containing alcohol from the premises into this area. The Police have requested that only sealed containers of alcohol may be taken outside of the hatched area as marked on the plan.
- 1.6 The Environmental Health Officer (EHO) was concerned with possible noise disturbance arising from live music being performed outside. It was agreed with the applicant to limit outdoor music to a maximum of three days per year. The EHO also requested that further conditions be included on the premises licence to address general noise nuisance from both music and people.
- 1.7 Through discussion and mediation, all parties have agreed to the suggested amendments shown in **Appendix C**. All parties have agreed that subject to these amendments being implemented on the premises licence, a hearing is unnecessary.

(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 A representation was received from the Police in relation to the prevention of crime and disorder licensing objective. They are satisfied that the licensing objectives will be addressed through the implementation of the agreed amendments.
- 2.2 Representations were received from Environmental Health and a District Councillor in relation to the prevention of public nuisance licensing objective. They are satisfied that the licensing objectives will be addressed through the implementation of the agreed amendments.
- 2.3 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:

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 trial
Biodiversity considerations:	Not applicable
Sustainability considerations:	Not applicable
Crime and disorder implications:	Section 17 of Crime and Disorder Act 1998 applies.
Background papers:	The Licensing Act 2003 Guidance issued under Section 182 of the Licensing Act 2003 The District Council's Statement of Licensing Policy Confirmation from applicant and Environmental Health Officer and interested party that they agree to the amendments to the application and that a hearing is not necessary.
Appendices attached:	Appendix A – application for new premises licence Appendix B – representations Appendix C – agreed amendments

STRATEGIC RISKS TEMPLATE

No	Risk Title	Risk/Opportunity Description	Inherent risk status			Mitigating & Management actions	Ownership
			Impact of negative outcome	Chance of negative outcome	Risk score and direction of travel		
1	Ensuring the Licensing Objectives are not undermined	<p>To review the application in line with: The Licensing Act; National Guidance issued by the Secretary of State, and The South Hams District Council Statement of Licensing Policy.</p> <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</p>	3	2	6 	<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> <p>The prevention of Crime and Disorder; Public Safety; The prevention of public nuisance; and The Protection of children from harm.</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>	EH Business Support / Licensing Manager.

No	Risk Title	Risk/Opportunity Description	Inherent risk status			Mitigating & Management actions	Ownership
			Impact of negative outcome	Chance of negative outcome	Risk score and direction of travel		
		<p>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>Failure to adequately consider these issues could result in the Council facing an appeal to the Magistrates Court.</p>					

Direction of travel symbols ↓ ↑ ↔