

**MINUTES OF A MEETING OF THE LICENSING SUB-COMMITTEE HELD AT
FOLLATON HOUSE, TOTNES ON MONDAY 29 SEPTEMBER 2014**

Present: Cllrs John Baverstock, Kathy Cuthbert and John Squire
Sue Nightingale, Solicitor
Darryl White, Democratic Services Manager
Naomi Wopling, Licensing Officer

Members also in attendance:

Cllr Alan Gorman

Also in attendance and participating:

Mr Bill Eaton – Applicant
Mr James Kershaw - Environmental Health Officer (EHO)
Ms Penelope Nixon – Objector representing the Residents Committee
Mr Richard Scott - Applicant

LSC.6/14 APPOINTMENT OF CHAIRMAN

RESOLVED

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

LSC.7/14 DECLARATIONS OF INTEREST

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

LSC.8/14 TO DETERMINE AN APPLICATION FOR THE REVIEW OF A PREMISES LICENCE AT THE IMPERIAL INN, 28 WESTERN ROAD, IVYBRIDGE PL21 9AN

The Committee considered a report that sought to determine a new Premises Licence at the Pie Shop, 50 Fore Street, Totnes TQ9 5RP in accordance with Section 18 of the Licensing Act 2003.

The Licensing Officer proceeded to present the application and summarised the contents of her report. In so doing, the Licensing Officer made particular reference to the applicants having adjusted their application in recognition of the Live Music Act 2012 having stated that conditions in relation to live music were not enforceable from 8.00am to 11.00pm. Whilst such conditions were not enforceable, the Council did retain the ability to review a licence if it was deemed to be necessary.

1. Address by the Applicants

In their address, Messrs Eaton and Scott made particular reference to:-

- their wish to develop good relations with their neighbours. The applicants stated that it was their intention to be open and honest with their neighbours from the offset and were therefore disappointed at the comments regarding their 'intentions having slipped';
- reassurances in respect of prevention of Anti-Social Behaviour. In providing these reassurances, Mr Eaton confirmed that the business was not intending to compete with pubs for drinkers or off-licences in terms of either price or range. Furthermore, the applicants were prepared to operate a 'Challenge 25' policy;
- music being played. It was proposed that the music would be acoustic and would not be played beyond 11.00pm. In striving to create a comfortable and pleasant atmosphere, the intention was to play ambient background music;
- the proposed opening hours. Whilst the initial intention was to open at 7.00am to enable customers the opportunity to purchase an early morning coffee, Mr Eaton confirmed that the applicants were content to revert to an 8.00am opening time. In addition, the applicants did not envisage regularly staying open until 11.00pm, but did wish to retain the provision to provide for functions such as birthday and office parties;
- the rear courtyard access. The Committee was informed that this access would not be a public right of way and would only be used as a fire exit. In addition, to prevent staff from potentially using this area as a smoking area, the applicants were also prepared to make this a no smoking area;
- noise concerns. To allay the noise concerns, the applicants were prepared to undertake measures including: ensuring that empty bottles were put out at the time of collection; deliveries only taking place during sociable hours; installing soft closure mechanisms to prevent doors from banging; and installing vibration mats under freezers. In light of the objector comments specifically regarding the noise generated by the ventilator, the Environmental Health Officer present confirmed that he was unaware of any such complaints, but any would be investigated through the statutory noise provisions;
- the takeaway description. In stating that the description was slightly misleading, the business was primarily looking at catering for lunch and tea time takeaway and was not considering offering a late night takeaway service.

2. Address by Ms Nixon

In her address, Ms Nixon reiterated that it was the overriding wish of the objectors for the premises to remain unlicensed. In focusing upon each of the four licensing objectives, Ms Nixon advised that:

Prevention of Crime and Disorder

The objectors considered it to be foolhardy to grant a licence to another premise in such close proximity to other venues. Since each of these venues would be closing at similar times, there was the potential for increased incidents of disorder. In addition, there were no public conveniences located in close proximity to this area.

Public Safety

Ms Nixon highlighted that this application would result in increased street litter and broken glass around the premises. Moreover, since the pavement was particularly narrow in this area, smokers would congregate on the highway which was not only putting their safety at risk, but was also intimidating for local residents.

Public Nuisance

Ms Nixon referred to the noise being generated by music, customers talking over this music and the industrial air conditioning unit. In expressing her concerns, Ms Nixon also pointed out the close proximity to the neighbouring properties and, due to the age of the premises, the sound tending to reverberate around the walls which further exacerbated the issue.

Protection of Children from Harm

Ms Nixon informed the Sub-Committee that an additional licensed premises in the area was likely to be the tipping point whereby young families would not wish to rent properties in the area. Such was the housing crisis in Totnes that the area could ill afford to lose another property for the rental use of families.

(At 2.40pm, the Sub-Committee adjourned in the presence of Mrs Nightingale to consider the application and reconvened at 3.05pm).

3. The Decision

“We have considered the application for a new premises licence at the Pie Shop, 50 Fore Street, Totnes.

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

We have read carefully the written representations received from parties not present today and have read carefully representations received from parties present plus additional statements from persons here today. We have also considered the conditions proposed by the applicant and those suggested by Environmental Health.

It is our decision to grant this application subject to the following changes being incorporated into the operating schedule. We have determined these changes to be APPROPRIATE to achieve the licensing objectives:

- Opening hours (for sale of alcohol):
 - Sunday to Thursday (inclusive) – 11.00am to 10.30pm, with the restaurant closing at 11.00pm;
 - Friday to Saturday (inclusive) – 11.00am to 11.00pm, with the restaurant closing at 11.30pm.
- It is appropriate to put back the opening hours from 7.00am to 8.00am;
- In respect of Christmas Eve and New Years Eve, it is deemed appropriate to approve this part of the application as proposed on the operating schedule;
- Alcohol can only be taken off site in sealed containers;
- No Smoking signs will be erected at the front and rear of the premises;
- The following soundproofing measures be implemented:
 - Soft bottoms will be put on chair and table legs;
 - Soft closure mechanisms to be installed to prevent doors from banging;
 - Vibration mats to be put under freezers.
- That the 'Challenge 25' proof of age policy be adopted (to replace the 'Challenge 21' condition);
- No public access to the rear courtyard;
- Bottles only to be taken outside shortly before a collection is due;
- Deliveries to only taken place during sociable hours;
- Sufficient provision of tables and chairs to accommodate all customers being seated.

It is our decision that this is appropriate for the following reasons:

- The business plan states that there is no need for later alcohol sales; and
- The premises are in particularly close proximity to neighbouring properties.”

As a general point, the Sub-Committee also made reference to live and recorded music and wished to point out that, since the premises was surrounded by dwellings, it was felt right and proper that music should be conducted in an acceptable way for neighbours. As a polite reminder, the Sub-Committee wished for the applicants to bear in mind their neighbours and reiterated the potential ability for the Sub-Committee to revoke the licence.

Chairman