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SOUTH HAMS LICENSING SUB-COMMITTEE - WEDNESDAY, 13TH JUNE, 2012

Agenda, Reports and Minutes for the meeting

Agenda No Item

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

2. **Reports**

Reports to Licensing Sub Committee:

a) Bakers Bar, 37 Victoria Road, Dartmouth TQ6 9RT (Pages 3 - 16)

b) Morrisons, Redford Meadow, Cookworthy Road, Kingsbridge TQ7 1TP (Pages 17 - 22)

3. **Minutes** (Pages 23 - 34)

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Agenda Item 1

To: Members of the Licensing Sub - Committee
(Cllrs Carson, Cuthbert and Squire)

Our Ref: CS/DW

6 June 2012

Usual Officer and Press Circulation and local Ward Members

Dear Councillor

A meeting of the **Licensing Sub-Committee** will be held in the **Dining Room**, Follaton House, Plymouth Road, Totnes on **Wednesday, 13 June 2012** at **2.00pm** when your attendance is requested.

Yours sincerely

Darryl White
Democratic Services Manager

<p>FOR ANY QUERIES ON THIS AGENDA, PLEASE CONTACT DARRYL WHITE DEMOCRATIC SERVICES MANAGER ON DIRECT LINE 01803 861247</p>

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 a new Premises Licence – Bakers Bar, 37 Victoria Road, Dartmouth TQ6 9RT** (pages 1 to 70);
5. **To determine an application to vary a Premises Licence – Morrisons, Redford Meadow, Cookworthy Road, Kingsbridge TQ7 1TP** (pages 71 to 99).

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

If you or someone you know would like this publication in a different format, such as large print or a language other than English, please call Darryl White on 01803 861247 or by email at: darryl.white@southhams.gov.uk

AGENDA
ITEM

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SOUTH HAMS DISTRICT COUNCIL

AGENDA
ITEM

4

NAME OF COMMITTEE	Licensing Sub-Committee
DATE	Wednesday 13 June 2012
REPORT TITLE	Application for a new Premises Licence
Report of	The Licensing Officer
WARDS AFFECTED	Dartmouth

Summary of report:

To determine an application for a new Premises Licence at **Bakers Bar, 37 Victoria Road, Dartmouth, TQ6 9RT**, in accordance with Section 18 of the Licensing Act 2003.

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 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

1. BACKGROUND

1.1 The Licensing Authority received an application for a new premises licence on 17 April 2012 from Miss Lorna Churchill for **Bakers Bar, 37 Victoria Road, Dartmouth, TQ6 9RT**. A copy of the application is attached (**Appendix 'A'**).

1.2 The application is for:

Activity	Days	Hours
B) Films	Monday to Sunday	9am to 12.00am
E) Live music	Monday to Sunday	9am to 12.30am
	Non-standard timings	9am to 1.30am
F) Recorded music	Monday to Sunday	9am to 12.30am
	Non-standard timings	9am to 1.30am
H) Anything of a similar description to that within E), F) or G)	Monday to Sunday	9am to 12.30am
	Non-standard timings	9am to 1.30am
I) Provision of facilities for making music	Monday to Sunday	9am to 12.30am
	Non-standard timings	9am to 1.30am
K) Provision of facilities for entertainment of a similar description to I or J	Monday to Sunday	9am to 12.30am
	Non-standard timings	9am to 1.30am
L) Late night refreshment	Monday to Sunday	11pm to 1.30am
	Non-standard timings	11pm to 1.50am
M) Supply of alcohol	Monday to Sunday	9am to 1.00am
	Non-standard timings	9am to 1.30am
O) Opening hours	Monday to Sunday	9am to 1.30am
	Non-standard timings	9am to 1.50am

Non-standard timings are: Bank Holiday Weekends (Friday-Monday inclusive); Dartmouth Regatta Days; Dartmouth Music Festival; Dartmouth Food Festival; Christmas Eve; Christmas Day; Boxing Day; Royal Celebrations.

All licensable activities (excluding films) to be provided from end of licensing hours on New Year's Eve to the commencement of licensing hours on New Year's Day.

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. Because the application was received before changes to the Act, only Interested Parties, Responsible Authorities or District Councillors may make representations. Since 25 April 2012, anybody is able to make a representation to a new premises licence application and not restricted to persons living within the vicinity.

- 1.4 The Licensing Department received seventeen representations in respect of the application from Interested Parties. These can be found in **Appendix 'B'**. The main cause for concern is in relation to the Prevention of Public Nuisance licensing objective, there are also concerns in relation to the Prevention of Crime and Disorder. The representations refer to noise disturbance from music and from customers standing outside and leaving the premises late at night. There are also references to disorderly behaviour demonstrated by previous customers of the premises.
- 1.5 The premises was run as a bar from 2004 and held a premises licence until February 2011, when it was surrendered by the previous owners. Most of the representations received relate to nuisance experienced during the years that the premises were open.
- 1.6 The Environmental Health Department received a number of complaints from nearby residents about noise from music and from customers outside when the premises was run by the previous owners. The new applicant was made aware of these issues and therefore sought the advice of an acoustic sound engineer. Several modifications have been recommended to improve the acoustic integrity of the building, which the applicant intends to carry out before opening. These recommendations can be found as part of her application in '**Appendix A**'. The Environmental Health Officer (EHO) has read through these sound proofing measures and is satisfied that the works would alleviate the majority of noise from music, providing that music noise levels are kept to a reasonable volume. The EHO has made further suggestions for conditions to be included, these are intended to address the Prevention of Public Nuisance licensing objective and relate to noise from both music and people, see **Appendix 'C'**.
- 1.7 The Licensing Department has received comments from the Police requesting that amendments are made to the hours permitted for licensable activities and to the opening hours. They have also requested that additional conditions be included on the premises licence, including the provision of CCTV. These requested amendments can be found in **Appendix 'D'**. Following discussion between the Police and the applicant, the applicant has agreed to these amendments being implemented on the premises licence.
- 1.8 On 29 May 2012, the Licensing Officer and Business Support Manager visited the applicant at the premises to discuss the issues raised in the representations received. It was suggested to the applicant that further conditions may be required in her operating schedule to fully address the Prevention of Public Nuisance licensing objective. There are currently no conditions which specifically relate to controlling noise and disturbance arising from customers standing outside and leaving the premises.
- 1.9 It has not been possible for the Licensing Department to mediate with all parties; therefore a satisfactory conclusion has not been possible.

(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 As mentioned above, representations have been received from seventeen Interested Parties, in objection to this application. The main cause for concern is that noise from music and from customers will be a nuisance to those living nearby. The representations (**Appendix 'B'**) received specifically mention noise and anti-social behaviour demonstrated by customers while standing outside the premises. While the applicant has attempted to address the noise nuisance caused by music playing in the bar, it is not clear how noise and disturbance from customers will be controlled.
- 2.2 Environmental Health have considered the application and have made suggestions for further conditions to be included on the premises licence, if granted (**Appendix 'C'**). In addition to conditions addressing noise from music, the EHO also suggests that customers are not encouraged to congregate outside the bar and that 'consumption of drink' should not be permitted outside the premises.
- 2.3 The Police have discussed their concerns with the applicant and have proposed additional conditions and also a reduction in the hours permitted for licensable activities/opening hours – see **Appendix 'D'**. The applicant has agreed to these amendments.
- 2.4 The Sub Committee will now need to consider this application.

3. STATUTORY BODIES' RESPONSE

- 3.1 Devon & Cornwall Constabulary
Comments have been received and agreed amendments.
- 3.2 Devon & Somerset Fire & Rescue Service
No representations have been received.
- 3.3 Area Child Protection Committee and Local Safeguarding Children Board
No representations have been received.
- 3.4 Devon Trading Standards
No representations have been received.
- 3.5 South Hams District Council, Environmental Health Department (Pollution)
Comments have been received with suggested conditions.
- 3.6 South Hams District Council, Environmental Health Department (Health & Safety)
No representations have been received.

- 3.7 South Hams District Council, Planning Department
No representations have been received.

4. RELEVANT LICENSING POLICY CONSIDERATIONS

Licensing Objectives

- 4.1 Section 2.1 of the Policy states: The Licensing Authority has a duty under the Act to carry out its licensing functions with a view to promoting the four licensing objectives.
(These objectives are the only matters to be taken into account in determining the application and any conditions attached must be necessary to achieve the licensing objectives).
- 4.2 Section 2.2 of the Policy states: A licence will only be granted where the Licensing Authority is satisfied that these objectives have been met.
- 4.3 Section 2.3 of the Policy lists the kind of measures the Licensing Authority will be expecting to see taken into account to promote the objectives.

Conditions

- 4.4 Sections 2.5 & 2.6 of the Policy sets out additional legislation, strategies, policies and guidance that the Licensing Authority will have regard to and Section 4 of the policy sets out what the Sub-Committee should consider before imposing conditions on a licence.
- 4.5 The Guidance issued under Section 182 Licensing Act 2003 which was revised and re-published in April 2012 also states:
- 4.6 The Licensing Authority may not impose conditions unless its discretion has been engaged following receipt of relevant representations and it is satisfied as a result of a hearing (unless all parties agree a hearing is not necessary) that is appropriate to impose to promote one or more of the four licensing objectives (paragraph 10.12 of the guidance).
- 4.7 Where applications have given rise to representations, any appropriate conditions should normally focus on the most sensitive periods. For example, music noise from premises usually occurs from mid-evening until either late-evening or early-morning when residents in adjacent properties may be attempting to go to sleep or are sleeping. In certain circumstances conditions relating to noise in the immediate vicinity of the premises may also prove appropriate to address any disturbance anticipated as customers enter and leave (paragraph 2.37 of the guidance).

- 4.8 Conditions relating to public nuisance caused by anti-social behaviour of customers once they are beyond the control of the licence holder, club or premises management cannot be justified and will not serve to promote the licensing objectives. However, premises should have adequate dispersal policies (where appropriate) in place to ensure that customers leave the premises promptly and with minimal disruption to those in the surrounding area (paragraph 2.40 of the guidance).

Licensing Hours

- 4.9 Section 6.1 & 6.2 of the Policy states: The Licensing Authority will deal with the issue of licensing hours on the individual merits of each application. When the Authority's discretion is engaged, consideration will be given to the individual merits of an application but the presumption will be to grant the hours requested unless there are objections to those hours raised by Responsible Authorities or other persons on the basis of the licensing objectives. However, when dealing with licensing hours beyond midnight it is more likely that relevant representations will be made unless there are higher standards of control within operating schedules to promote the licensing objectives, especially for premises which are situated near residential areas or in areas where anti-social disorder takes place.
There is no presumption within the legislation for longer opening hours.
- 4.10 Section 6.3 of the Policy states: When relevant representations are made to the Licensing Authority by Interested Parties or Responsible Authorities, concerning the prevention of crime and disorder licensing objective, the discretion of the Licensing Authority will be engaged. When considering the representations the Licensing Authority will give due weight to the alcohol related violence statistics, especially on a Friday and Saturday evening and generally expect premises used for the sale or supply of alcohol or the supply of hot food or hot drinks that wish to operate after midnight, to have CCTV installed inside and outside the premises included in their operating schedule.
- 4.11 Section 6.4 of the Policy states: In considering relevant representations, the Licensing Authority will consider the adequacy of measures proposed to deal with the potential for nuisance and/or public disorder having regard to all the circumstances of the case.
- 4.12 Section 6.5 of the Policy states: The terminal hours will normally be approved where the Applicant can show that the proposal would not adversely affect the licensing objectives unless, after hearing relevant representation the Licensing Authority believe it necessary, proportionate and reasonable to restrict the hours required. The Licensing Authority may set an earlier terminal hour where it considers this is appropriate to the nature of the activities and the amenity of the area. The Licensing Authority will generally require there to be a greater time gap between the terminal hour for the sale or supply of alcohol in premises used primarily for the consumption of alcohol on the premises such as nightclubs and pubs, than those premises where alcohol is very much ancillary to a substantial meal, and the closing time stated on the Premises Licence or Club Premises Certificate.

Children

- 4.13 Section 7.1 of the Policy states: The Licensing Authority recognises the great variety of premises for which licences may be sought. These will include theatres, cinemas, restaurants, pubs, nightclubs, cafes, takeaways, community halls and schools. Access by children to all types of premises will not be limited unless it is considered necessary to do so in order to protect them from harm.
- 4.14 Section 7.2 of the Policy states: When deciding whether or not to limit access to children the Licensing Authority will judge each application on its own individual merits. Examples which may give rise to concern in respect of children include premises: -
- where entertainment of an adult or sexual nature is provided
 - where there is a strong element of gambling taking place
 - with a known association with drug taking or dealing
 - where there have been convictions of the current management for serving alcohol to those under 18
 - with a reputation for allowing underage drinking
 - where the supply of alcohol for consumption on the premises is exclusive or primary purpose of the services provided at the premises.

5. LEGAL IMPLICATIONS

- 5.1 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 licence holder.

(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

- (1) 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.
- (2) 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.

- 5.2 As there have been relevant representations in respect of the new premises application and parties consider a hearing is necessary, this hearing must be held. (Relevant representations are about the likely effect of the grant of the application on the promotion of the licensing objectives, by interested parties or responsible authorities). The sub-committee must disregard any information or evidence not relevant to the licensing objectives.

- 5.3 The sub-committee must consider this application in accordance with Section 4 of the Licensing Act 2003, which requires that licensing functions must be carried out with a view to promoting the four licensing objectives. The Licensing Authority must also have regard to its own licensing policy and the Secretary of State's guidance, but may depart from both if it has good reason to do so. Those reasons should be stated.
- 5.4 The Act requires (Section 18) that in dealing with a new application, the committee takes any of the following steps which are necessary for the promotion of the licensing objectives:
- (a) To grant the Licence subject to:-
 - i any Mandatory Conditions required;
 - ii modifying the conditions which have been specified in the operating schedule;
 - (b) to exclude any of the licensable activities to which the application relates;
 - (c) to refuse to specify a person in the licence as the premises supervisor;
 - (d) to reject the application

The Sub-Committee must give its reasons for its decision to take any of these steps. Similarly, if the application is rejected, the Sub-Committee must give its reasons.

- 5.5 The committee will need to consider the hours of operation proposed, the effectiveness of the operating schedule proposed by the applicant, the representations received, the location of the premises in relation to residential properties, the history of the management of the premises, the evidence produced of any problems in the past, and the likely impact of any extension of hours and activities, public transport, taxi availability, the right the applicant has to operate a business and balancing the rights of residents to the quiet enjoyment and privacy of family life. That South Hams relies on tourism, with the population in the district doubling in the Summer months with holidaymakers both from this country and international visitors who are, in the main, families with young children and retired people – the very segment of society who would perhaps be deterred by anti-social behaviour. These issues, and any other relevant ones, may be explored at the hearing in so far as it reflects the four licensing objectives.
- 5.6 If the Sub-Committee rejects the application, or modifies the conditions of the licence, the applicant or Interested Parties or Responsible Authorities may appeal within 21 days of notification of the decision to the Magistrates' Court. Those making relevant representations may also appeal if they believe that the licence should not have been varied, or that, when varying the licence, the Licensing Authority ought not to have modified the conditions, or ought to have modified them in a different way. The Magistrates' Court may dismiss the appeal, or substitute its own decision, or send back the case to the Licensing Authority with directions as to how the case is to be dealt with. The Magistrates' Court may make any costs order it thinks fit.

5.7 If the licence is granted, the Licensing Act contains review provisions which enable those living or running businesses in the vicinity of the premises, bodies representing them or any of the responsible authorities to apply to this Licensing Authority for a review of the licence. A hearing follows which enables the sub-committee to use the normal powers at a hearing (set out above) but also to suspend the licence for a period of up to three months or to revoke it.

6. FINANCIAL IMPLICATIONS

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

7. RISK MANAGEMENT

7.1 The risk management implications are:

Corporate priorities engaged:	There is a link to the Council's priority of improving Community Life and developing the local Economy.
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>Responses to Notices of Hearing from Interested Parties</p> <p>Summary of Key Points</p> <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 – revised 25 April 2012</p> <p>The District Council's Statement of Licensing Policy</p> <p>Agreement from the applicant to the suggested Police amendments.</p>

Appendices attached:	Appendix A – application for new premises licence Appendix B – representations Appendix C – comments and suggested conditions from Environmental Health Appendix D – comments and agreed amendments with Police
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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>					

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AGENDA
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SOUTH HAMS DISTRICT COUNCIL

AGENDA
ITEM

5

NAME OF COMMITTEE	Licensing Sub-Committee
DATE	Wednesday 13 June 2012
REPORT TITLE	Application to vary a Premises Licence
Report of	The Licensing Manager
WARDS AFFECTED	Westville and Alvington

Summary of report:

To determine an application for the variation of the Premises Licence at **Morrisons, Redford Meadow, Cookworthy Road, Kingsbridge, TQ7 1TP**, 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:

Naomi Wopling

naomi.wopling@southhams.gov.uk

01803 861336

1. BACKGROUND

- 1.1 The Licensing Authority has received an application for a variation to the premises licence for **Morrisons, Redford Meadow, Cookworthy Road, Kingsbridge, TQ7 1TP**. A copy of the application is attached (**Appendix 'B'**).
- 1.2 The application is to permit the sale of alcohol for consumption off the premises from 6am to midnight, Monday to Sunday. Also to remove all embedded conditions from the licence. The existing licence can be found in **Appendix 'A'**.
- 1.3 The current premises licence permits alcohol to be sold for consumption off the premises, Monday to Saturday from 8am to 11pm; Sundays from 10am to 10.30pm; Christmas Day from 12pm to 3pm and 7pm to 10.30pm; Good Friday from 8am to 10.30pm. There are currently no set opening hours.
- 1.4 We received one representation from the Police 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 one hour to finish at 11pm. They have also requested the following additional conditions:
- CCTV system installed and operative at all times while the premises are trading and the equipment to be maintained to the satisfaction of the chief of police. Recorded images to be retained for 14 days and made available to Police Officer on request, at any reasonable time.
 - A 25 proof of age policy to be in place.
- 1.5 Both parties have agreed, subject to these amendments being implemented on the licence that a hearing is unnecessary.
- 1.6 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 had concerns in relation to the Prevention of Crime and Disorder. 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 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 licence holder.

(b) 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.

(c) 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 and developing the local Economy.
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 – Police agreed amendments</p>

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>					

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MINUTES OF A MEETING OF THE LICENSING SUB-COMMITTEE HELD AT FOLLATON HOUSE, TOTNES ON WEDNESDAY, 13 JUNE 2012

Present: Cllrs B E Carson, P K Cuthbert and J W Squire
G Munson, Business Support Manager
T Johnson, Solicitor

Miss Lorna Churchill - Applicant
Mr Gent - representative of residents at Churchill Court
Mrs J May – Neighbour
Mr Bosworth - Neighbour

LSC.01/12 **APPOINTMENT OF CHAIRMAN**

RESOLVED

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

LSC.02/12 **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.03/12 **TO DETERMINE AN APPLICATION FOR A NEW PREMISES LICENCE- BAKERS BAR, 37 VICTORIA ROAD, DARTMOUTH TQ6 9RT**

Business Support Manager's Report

The Licensing Officer introduced the report and drew Members attention to the key points. He noted that 17 representations had been received relating to this application, and that the main cause for concern was the prevention of public disorder and noise nuisance. In view of the number of representations, the Business Support Manager and Licensing Officer had attended the premises for discussions with the Applicant who was advised that further conditions may be required in the operating schedule to fully address the Prevention of Public Nuisance licensing objective.

Address by the Applicant

The Applicant advised that she was local to Dartmouth and was keen to undertake this new business venture. The Bar would be refurbished and orientated towards a high quality clientele and would serve exotic wines, beers and champagne. Draught beer would not be available. The intention was for the Bar to be an upmarket venue like a lounge bar rather than a pub, with plenty of seating provided. A number of improvements had been volunteered to help address issues raised, for example a good quality sound system would be in place so that the volume would not need to be high to be heard.

Prices would not be cheap and the Bar would specialise in high end drinks which would not attract youth and the previous clientele. The Bar was not large enough to provide food and responsible drinks promotions would be undertaken. In terms of the complaints, the Bar is situated in a commercial area, not isolated within a residential area. The Applicant stated that she would like to run the Bar responsibly, and had applied for certain operating hours but this could be negotiated if the Sub-Committee felt appropriate.

At this point the Chairman confirmed that the Police Authority had requested amendments and these had been accepted, and that conditions suggested by the Environmental Health Officer had also been agreed.

In response to a question on how drinking outside would be controlled, the applicant stated that no drinks would be allowed outside, and that taxi numbers would be provided, along with a free dial service, to aid with dispersal. In addition, dispersal could be staggered to prevent people congregating.

The Chairman also asked if a doorman would be employed. In response, the Applicant stated that a full time doorman would not be possible as this would affect the viability of the business. It was later confirmed that on busy occasions additional staff and a doorman would be used.

A Member asked how the Applicant would control entry to the premises to ensure that undesirable customers did not enter. The Applicant responded that the look of the Bar and the marketing would be targeted to the right clientele. Another Member asked about the amount of seating, as the target market was more likely to want to sit and enjoy a drink rather than stand. He also asked how customers would be attracted to the Bar if food was not available. In response, the Applicant advised that the minimum number of seats would be 12, and on quieter occasions more seating would be provided. The Applicant had another business which was a Bed and Breakfast, and it was hoped there would be a crossover of customers. In addition, friends and family, and customers of other Bed and Breakfast establishments would be encouraged. Coffee and tea would be served at all times, and it was hoped that High Tea could be offered in the afternoons. As a new business there was a requirement to be as flexible as possible. There was an intention to recruit an experienced Bar Manager, who specialised in mixing soft drink cocktails and these would also be available.

In response to a question on what experience the Applicant had, she stated that she had studied hotel and catering and had also run a restaurant for 4 years. She had no specific bar experience which is why an experienced Bar Manager would be employed.

Address by Mrs Jean May

Mrs May advised the Sub-Committee that she was a neighbour of the premises. The original idea for Bakers Bar had been similar to this current application, but unfortunately it was not viable without music.

She stated that since the Bar had closed in February 2011 the level of noise and nuisance had fallen. Customers used to go out into the street to smoke and talk.

There are other bars down the road and this property is sandwiched between a residential house and a doctor's surgery. A neighbour is an elderly lady who lives in a downstairs flat and feels intimidated by people outside late at night. Customers sit on the wall, and once a window was broken. There was an issue of people urinating in doorways. A young team of bar staff will not be able to control what goes on outside.

Address by Mr Gent

Mr Gent advised that he was a Town Councillor and also a resident of Churchill Court. He was speaking today on behalf of a number of residents, many of whom were elderly and some were vulnerable. Mr Gent accepted that there had been some noise and nuisance in the time that Bakers Bar had been closed, and that he was concerned about the ability of staff to disperse their customers; on this point he did not support what had been said by Mrs May in respect of noise reduction during the period of closure. There were a number of licensed premises in the vicinity, and the Police seemed to operate a policy of containment rather than dispersal. Customers come out of all premises and meet in the middle as a mass. They would sit on the wall of Churchill Court, make their way into the garden area, sit on the bench in the garden and use the doorways as urinals.

It was interesting to note the proposed clientele, but how would a stag party of 15 or 20 youths be prevented from entering? Dartmouth was attracting more and more stag parties which was a considerable concern for the residents. Ultimately the concern was for the elderly people who felt intimidated.

Address by Mr Bosworth

Mr Bosworth advised the Committee that a number of his points had already been raised however he felt that there was no need for further licensed premises in Dartmouth. At the point the Business Support Manager advised that the Government had removed reference to 'need' from Licensing matters however he accepted that Mr Bosworth's point was that another Licensed premise opening could undermine the Licensing objective. Mr Bosworth was also concerned about the lack of experience of the Applicant.

Finally Mr Bosworth raised concerns at only 12 seats being available. The Business Support Manager stated that this matter had been discussed and that 12 seats was the minimum that would be provided and this was felt to be a realistic number.

Committee's Deliberations

Following a further brief discussion the Sub Committee was adjourned to enable the Committee to deliberate the application.

The Decision

The Sub Committee reconvened and the Chairman then proceeded to announce 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 related to the promotion of the four licensing objectives.

Upon hearing all relevant representations, examining all the evidence submitted for all the relevant authorities and representors, it is our decision to grant the licence subject to the amendments and conditions as set out in the decision notice and schedule at Appendix A to the minutes. This information will be sent out to all interested parties".

LSC.04/12 TO DETERMINE AN APPLICATION TO VARY A PREMISES LICENCE – MORRISONS, REDFORD MEADOW, COOKWORTHY ROAD, KINGSBRIDGE TQ7 1TP

Licensing Officer's Report

The Licensing Officer introduced the report to the Sub Committee and advised that appendix B to the presented agenda report outlined the variation application and Appendix C set out the representations and agreed amendments. Since these amendments had been agreed by all parties it had therefore been deemed that a formal hearing would not be necessary.

Committee's Deliberations

The Sub-Committee discussed the application between themselves and the Chairman then announced the decision of the Sub-Committee.

The Decision

The Chairman announced the decision as follows:

“We have considered the application for a variation to a 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 the variations to this license subject to the agreed amendments being incorporated into the operating schedule”.

Chairman

Appendix A

NOTIFICATION OF THE DECISION OF THE LICENSING SUB-COMMITTEE OF SOUTH HAMS DISTRICT COUNCIL

APPLICATION FOR A PREMISES LICENCE UNDER THE LICENSING ACT 2003

Date of Hearing: Wednesday 13 June 2012

Premises: Bakers Bar, 37 Victoria Road, Dartmouth TQ6 9DR

Applicant: Lorna Jane Churchill

1. The Licensing Sub-Committee was convened on 13 June 2012 to determine an application by the Applicant for a Premises License under the Licensing Act 2003.
2. The Sub-Committee GRANTS the Application subject to conditions consistent with the Schedule as attached, and any mandatory conditions that may apply by virtue of sections 19, 19A, 20 and 21 the 2003 Act, and as more specifically detailed in the Schedule.
3. The hours permitted for the licensed activities are contained in the Schedule attached.

REASONS FOR DECISION

4. The Sub-Committee considered the application form together with representations from the interested parties received in writing and made personally at the Hearing, the Licensing Manager's report, and the representations of the Applicant.
5. The evidence was weighted accordingly and it was noted that this was a new application and no evidence of a current nature was presented to persuade the Sub-Committee that the licensing objectives would not be upheld. Much of the evidence presented in the representations was historical and applied to the premises and surrounding area before it was closed in February 2011.
6. The representations were mainly concerned with noise nuisance emanating from the premises especially the outside area and public disorder within the localised area. It was felt that some of the evidence related to other licensed premises and not to the premises of the Applicant.

7. The Sub-Committee considered the application in line with the Licensing Objectives, mainly the Prevention of Public Nuisance and with Crime and Disorder. Consideration was also given to the Government Guidance issued under Section 182 of the Licensing Act 2003, the submitted Operating Schedule and the Council's Statement of Licensing Policy.
8. The Sub-Committee decided that to support the licensing objectives, particularly in respect of the prevention of public nuisance that a further reduction of hours was necessary from those previously amended by the police; these are set out in the attached Schedule.
9. Additionally, to prevent any form of crime and disorder or public nuisance arising out of localised drinking outside of the premises, no drinks were to be removed from the bar, and off sales were not to be permitted.
10. The Sub-Committee specifically accepted that in the event that any public nuisance did occur, then legislation was available for the licence to be reviewed in the future.

RIGHT OF APPEAL

11. The Applicant has a right of appeal to the Magistrates' Court by virtue of Section 181 and Schedule 5 of the Act against any decision:
 - a) to impose conditions on the premises licence
 - b) to exclude from the scope of the licence any of the licensable activities to which the application relates;
 - c) to refuse to specify a person in the licence as the premises supervisor
12. Any person who made relevant representations in relation to the application has a right of appeal to the Magistrates' Court by virtue of Section 181 and Schedule 5 of the Act if they desire to contend:
 - a) that the licence ought not to have been granted, or
 - b) that, on granting the licence, the licensing authority ought to have imposed different or additional conditions, or to have taken a step in 11b) or 11c) above.
12. In all cases an appeal is by Notice which must be made in writing to the Clerk of the Justices, South Devon Magistrates' Court, First Floor, Riviera House, Nicholson Road, Torquay, TQ2 7TT, within 21 days of receipt of this Notice.

13. On Appeal, the Magistrates' Court may:

- a) dismiss the appeal; or,
- b) substitute for the decision appealed against another decision which could have been made by the Licensing Authority; or
- c) remit the case to the Licensing Authority to dispose of it in accordance with the direction of the court

and may make such order as to costs as it thinks fit.

The Council accepts service of documents at:
Follaton House, Plymouth Road, Totnes, TQ9 5NE

A handwritten signature in black ink, appearing to read 'A M Johnson' with a stylized flourish at the end.

**A M JOHNSON
SOLICITOR**

**South Hams District Council & West Devon Borough Council
Corporate Affairs (Legal)**

Activity	Description	Time from	Time to	Notes
B. Films F. Recorded music H. Entertainment of a similar description to that falling within (E), (F) or (G) K. Provision of facilities for entertainment of a similar description to that falling within (I) or (J)	Monday to Wednesday	0900	2300	
	Thursday to Saturday	0900	2330	
	Sunday	0900	2300	
	New Year's Eve			From the end of Licensing Hours on New Year's Eve to the commencement of Licensing Hours on New Year's Day.
	Dartmouth Regatta days; Dartmouth Music Festival days			One additional hour
E. Live music I. Provision of facilities for making music	Monday to Wednesday	0900	2300	
	Thursday to Saturday	0900	2330	
	Sunday	0900	2230	
	New Year's Eve			From the end of Licensing Hours on New Year's Eve to the commencement of Licensing Hours on New Year's Day.
	Dartmouth Regatta days; Dartmouth Music Festival days			One additional hour
L. Late night refreshment	Monday to Wednesday	2300	0000	
	Thursday to Saturday	2300	0030	
	Sunday	2300	2330	
	New Year's Eve			From the end of Licensing Hours on New Year's Eve to the commencement of Licensing Hours on New Year's Day.
	Dartmouth Regatta days; Dartmouth Music Festival days			One additional hour

M. Sale by retail of alcohol for consumption on the premises only	Monday to Wednesday	1100	2330	
	Thursday to Saturday	1100	0000	
	Sunday	1200	2300	
	Christmas Day	1200	1500	
		1900	2230	
	New Year's Eve			From the end of Licensing Hours on New Year's Eve to the commencement of Licensing Hours on New Year's Day.
	Dartmouth Regatta days; Dartmouth Music Festival days			One additional hour
O. Opening hours	Monday to Wednesday	0900	0000	
	Thursday to Saturday	0900	0030	
	Sunday	0900	2330	
	Christmas Day	1200	1530	
		1900	2300	
	New Year's Eve			From the end of Opening Hours on New Year's Eve to the commencement of Opening Hours on New Year's Day.
	Dartmouth Regatta days; Dartmouth Music Festival days			One additional hour

Additional conditions

1. No open drinking vessels to be removed from the premises
2. No off-sales permitted
3. Seating for no less than twelve people to be provided at all times
4. CCTV system installed and operative at all times while the premises are trading and the equipment to be maintained to the satisfaction of the chief of police. Recorded images to be retained for 30 days and made available to Police Officer on request, at any reasonable time. If the CCTV equipment is inoperative the Police and Licensing Authority will be informed as soon as possible and immediate steps will be taken to put the equipment back into action.
5. Glasses and bottles to be collected and removed from public areas as soon as they are finished or empty
6. Noise or vibration from activities at the premises must not emanate from the premises to cause persons in the neighbourhood to be unreasonably disturbed.
7. The volume of amplified sound used in connection with the entertainment must at all times be under the control of the DPS
8. All works and recommendations contained within the document entitled 'Effective noise reduction measures for Bakers Bar, Dartmouth' submitted

with the premises licence application namely:

- Installation of entrance lobby;
- Installation of secondary glazing to front of premises;
- Isolation of speakers from structure of the building;
- Installation of high quality sound system with numerous speakers throughout licensed premises to minimise need for increased volume;
- Installation of automatic door closers;

shall be implemented and approved in writing by the licensing authority prior to use of the premises for licensable activities.

9. Noise control measures should meet the following criteria:

a) Where the premises does not share the same building or is not structurally attached to noise sensitive premises:

- Between 07:00 and 23:00 hrs music noise shall cause no more than a 2 dB increase in the LAeq (5 min) or a 3 dB increase in the Leq (5min) at the 63 Hz or 125 Hz Octave bands 1 metre from the nearest noise sensitive facade.
- Between 23:00 and 07:00 hrs music noise shall cause no increase in the LAeq (5 min) or the Leq (5min) at the 63 Hz or 125 Hz Octave bands 1 metre from the nearest noise sensitive facade.

b) Where the premises does share the same building or is structurally attached to noise sensitive premises:

- At all times music noise shall cause no increase in the measured or predicted LAeq (5 min) or the Leq (5min) at the 50Hz, 63 Hz, 80 Hz, 100Hz, 125 or 160Hz 1/3 Octave bands within the nearest noise sensitive premises.

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Measurements are to be taken one metre from the façade or within the nearest noise sensitive premises as appropriate. Where access to the façade or inside non-associated noise sensitive premises is not available then the above music levels will need to be predicted by calculation rather than measured.

10. All windows and doors must be kept closed during the hours of operation of the premises when amplified or live music is being produced in the premises. *Sufficient ventilation will be provided so that doors and windows can be kept closed.*

11. *The sound insulation properties of the premises shall be monitored, maintained and adapted as necessary to ensure that amplified sound played within the premises does not cause nuisance or undue disturbance to occupiers to nearby premises.*