

**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”.

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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)**



<b>Activity</b>	<b>Description</b>	<b>Time from</b>	<b>Time to</b>	<b>Notes</b>
<b>B. Films</b> <b>F. Recorded music</b> <b>H. Entertainment of a similar description to that falling within (E), (F) or (G)</b> <b>K. Provision of facilities for entertainment of a similar description to that falling within (I) or (J)</b>	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
<b>E. Live music</b> <b>I. Provision of facilities for making music</b>	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
<b>L. Late night refreshment</b>	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

<b>M. Sale by retail of alcohol for consumption on the premises only</b>	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
<b>O. Opening hours</b>	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.*