

**MINUTES OF A MEETING OF THE LICENSING SUB-COMMITTEE HELD AT
FOLLATON HOUSE, TOTNES, THURSDAY 7 MAY 2009**

Present: Councillors J H Baverstock, J I G Blackler and J W Squire
Colin Miles – Legal Officer
Graham Munson – Licensing Manager
Jo Doney– Member Support Officer

Also in attendance and participating:

For application:

**Salam Nomosthe Restaurant,
The Warehouse, Prince of Wales Road,
Kingsbridge, TQ7 1DX**

(Minute LSC.32/08 below refers)

Mr K M Zakaria – Applicant
Mr Shahid Miah – Representative of Applicant

Interested Parties:

Mrs C Hall
Mr R Trembath

LSC.30/08 **APPOINTMENT OF CHAIRMAN**

RESOLVED

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

LSC.31/08 **DECLARATIONS OF INTEREST**

Members were invited to declare any interests in the items of business to be considered during the course of the meeting.

Cllr Baverstock declared a personal interest by virtue of the fact that he had known Mr R Trembath (interested party) for a number of years but stated that they had not met in the last twelve months. As a result, he remained in the meeting and took part in the discussion on this item.

LSC.32/08 **DETERMINATION OF AN APPLICATION FOR A PREMISES LICENCE UNDER THE LICENSING ACT 2003: Salam Nomosthe Restaurant, The Warehouse, Prince of Wales Road, Kingsbridge, TQ7 1DX**

1. **Address by Licensing Manager**

The Officer advised the Committee that the main points of concern raised by those who had made representations were:-

- The sale of alcohol with take away food;
- Use of the pavement for seating to serve food;
- Access to the courtyard from the pavement; and
- Low wall – seating

He informed that all the relevant authorities had been consulted but no representations had been made. He was aware that there were concerns in Kingsbridge about the availability of alcohol in this vicinity and he informed the Committee that the Applicant wished to amend the application so that the pavement area would be a non licensed area for the consumption of alcohol. They also wanted the facility to serve food (ie ice creams) from the pavement area during daytime hours only.

He further informed that the access from the pavement to the courtyard would be gated and not accessible by the public, and access would be via the main entrance doors through the restaurant.

Regarding the concerns about the sale of alcohol with takeaway meals, the Officer informed that the business was primarily a restaurant and if the take away element of the business was to grow, the Applicant would need planning consent for a change of use. A condition of the application was that alcohol should only be sold when ancillary to a main meal. The Applicant acknowledged the concerns of residents and he was willing to restrict the sale of alcohol with takeaway meals to 11.00pm

The Officer went on to say that Mr Miah, the representative for the Applicant, had worked and operated a business in Kingsbridge for over seven and a half years and as a result had knowledge of customers with a reputation for causing trouble.

2. **Address by Chairman**

The Chairman expressed the Committee's concern that there had been no representations from the Police. The Committee was, he said, guided by the licensing objectives, one of which was the Prevention of Crime and Disorder. Kingsbridge Quay was well known for being an area for public disorder late in the evening and during the night, which was linked to alcohol. A second licensing objective was public safety, and the provision of free standing seating and planters etc (as requested by the Applicant), had the potential to be used in an inappropriate manner by intoxicated members of the public in that area, and again the Chairman expressed concern that the Police had not commented on this issue. Another licensing objective was that children must be protected from harm, and the Authority had to make sure there was no risk to children from the increased availability of alcohol, and again, the Chairman expressed considerable disappointment that the Police had not made a representation.

In response, the Licensing Officer informed the Committee that he was aware that the Police had visited the premises, but he was not aware of any issues being raised with the application.

He concurred with the Chairman that criminal damage and anti-social behaviour was a problem in that area, noting the public toilets had been damaged after a recent extensive and expensive refurbishment. Children were drinking but it had not yet been established where they were obtaining their alcohol, and under Section 17 Crime and Disorder Act (1988), the Authority had a duty to do all it reasonably could to prevent crime and disorder in the area.

A second Member of the Committee echoed the concerns of the Chairman that there had been no comment from the Police. The Chairman stated that they were not seeking an objection but representations.

3. **Address Interested Parties**

Mrs C Hall expressed her concerns about noise and general disturbance. She lived in a first floor flat very near to the location of the restaurant and did not want the provision of outside seating, particularly in the evening, which would allow people to further congregate. Mrs Hall already experienced the sound of loud voices particularly at night from intoxicated individuals.

Mr Trembath stated that he was expressing his comments both from the perspective of Managing Director of Abbots Quay and as a representative of his tenants. He felt strongly that Kingsbridge Quay was drifting towards becoming like Union Street in Plymouth. He was concerned that there was no control of alcohol once it had been sold with takeaway meals and could be passed on to others. The application would increase noise and contribute further to general disturbance. The free standing seating could be used in an inappropriate manner and he felt that if the Council saw fit to close the public toilets at 6.30pm to protect them from wanton vandalism then the same consideration should be given to local residents.

He further expressed concerns that the granting of this application could lead to a flood of others, as currently no other takeaway in that area had a licence to sell alcohol. He emphasised that he would have had no objection to the application if the sale of alcohol had been restricted to the restaurant.

4. **Address by Representative of the Applicant**

The Chairman then invited the representative of the Applicant to respond to the concerns that had been expressed. Mr Miah informed the Sub-Committee that he was a business partner of the applicant and that they were both experienced in running restaurants. They had got to know many local residents over the years and respected Kingsbridge as a town. They were also responsible proprietors and knew how to manage potential problems. He explained that they wanted the facility to sell alcohol with takeaway meals on a discretionary basis.

5. **Committee Adjourned**

At this stage the Committee adjourned to deliberate. It was joined by the Council's Legal Officer, who gave advice on legal matters and wording only, but did not take an active role in the deliberations.

6. **The Decision**

The Chairman announced the decision as follows:

"We have considered the application for a new premises licence under the licensing act 2003"

“We have considered:

- The representations made in writing and those presented to us today;
- Our own Statement of Licensing Policy;
- The Government guidance issued under the Act;
- The promotion of the licensing objectives.

It is our decision therefore to grant this application subject to the following conditions:

- The area to the front and side of the premises from the entrance to the waste storage area will not be licensed. Only portable tables and chairs to be available for customers in this area as offered.
- The external courtyard area will be gated to facilitate access from within the restaurant only.
- Alcohol to be sold as ancillary to a main meal only.
- For takeaway meals, no alcohol to be sold after 2300 hours as offered.

In conclusion, the Chairman stated that the Sub-Committee had granted the application but that it had not received representation from the Police that it felt was necessary. He further stated that licensing laws made provision for the review of a licence if complaints were received and if the conditions applied for were being abused. He emphasised to the applicant and his representative, that it was their responsibility to make sure that their business did not contribute to public disorder in the vicinity.

Chairman