

**MINUTES OF THE MEETING OF THE LICENSING COMMITTEE HELD AT
FOLLATON HOUSE, TOTNES ON TUESDAY 13 DECEMBER 2005**

MEMBERS

* Cllr J S Beer - Chairman

* Cllr B E Carson - Vice-Chairman

∅ Cllr R J Carter

* Cllr P H Cook

* Cllr S M Fairman

∅ Cllr D W May

∅ Cllr C M Pannell

* Cllr M C Ramsay

* Cllr S L Rankin

* Cllr G Rothwell

* Cllr M F Saltern

* Cllr J W Squire

* Denotes attendance

∅ Denotes apology for absence

L.1/05

MINUTES

The minutes of the meeting of the Licensing Committee held on 28 November 2004, and the minutes of the meetings the Licensing Sub Committees held during the period 17 August 2005 and 16 November 2005 were confirmed as a correct record and signed by the Chairman.

(Note: Subsequent to the meeting it was confirmed that the minutes for the meeting of the Licensing Sub-Committee for 28 September 2005, had been omitted from the bundle circulated with the agenda. The Chairman would be asked to sign the omitted minutes without recourse to a further meeting of the Committee.)

L.2/05

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 was declared.

L.3/05

HACKNEY CARRIAGES: TABLE OF FARES FOR 2006/2007

A report was considered which sought Members' approval to amend the Table of Fares for Hackney Carriages for 2006/2007. The report reminded Members that Hackney Carriage fares were generally reviewed annually to enable the trade to keep pace with operating costs.

The report highlighted the factors that had contributed to the proposed increases in fares as set out in the appendix to the report, which included:

- Allowances for normal inflation; and
- The considerable increase in fuel costs during the preceding year of approximately 20% and the rising cost of insurance.

Members were advised that all Hackney Carriage operators had been consulted on the proposed interests and that no objections had been received. In addition, comparisons with other Local Authorities, even with the proposed increases, demonstrated that the South Hams would still have one of the lowest taxi tariffs in Devon and Cornwall.

RESOLVED

That:-

- 1. in respect of Hackney Carriages operating within the South Hams District Council, the maximum fares which may be charged be set in accordance with the Table of Fares as attached to these minutes as Appendix A;**
- 2. the Table of Fares be advertised and come into effect in accordance with the provisions of Section 65 of the Local Government (Miscellaneous Provisions) Act 1976.**

L.4/05

LICENSING COMMITTEE: REVIEW OF ACTIVITIES

Consideration was given to a report which updated Members on the 'transitional period' for the processing of existing holders of a Justices' licence prior to full implementation of the provisions of the Licensing Act 2003 on the 24 November 2005.

The report reminded the meeting of the seventeen applications for simultaneous conversion and variation that attracted relevant representations between 15 August 2005 and 28 September 2005, thereby triggering the requirement for formal sub-committee hearings. Many of these hearings had to be convened at very short notice and involved as substantial amount of documentation for Members and officers to assimilate.

Of the seventeen applications heard, only one applicant had challenged the decision of the Sub-Committee with an appeal to the Magistrates' Court. This matter was still ongoing, although it was understood that it would be heard by the Magistrates' on 4 January 2006.

The report concluded by informing Members that in the near future it would be necessary to convene the Sub-Committees to hear matters ranging from applications to grant new premises and personal licenses, temporary event notices, and to determine licence reviews.

During discussion, particular reference was made to:-

- (a) the Chairman's view supported by the rest of the meeting, that all Members of Council should be made aware of the importance of the Licensing Committee's role because it could have significant implications for the livelihoods of applicants. This could result in the need for tough decisions to be taken;
- (b) the appeal process and the possibility of an applicant implementing measures to satisfy the Magistrates' Court. It was noted that in such circumstances the Council should regard this as a success as the appellant would have taken on board the Licensing Sub-Committee's concerns. It was further confirmed that the officers of the Council would seek to advertise as such;
- (c) the difficulty experienced by the Council's Member Support Service in identifying Members able to sit on hearings because of the short notice involved. A Member enquired whether it was felt that this problem could be alleviated for the future by increasing the size of the Committee and/or the introduction of evening meetings.

In response, Members were reminded that the size of the Committee was limited by statute to fifteen. With regard to evening meetings, Members were advised that this was not favoured by licensees or their representatives;

- (d) confirmation that before a review was instigated because objections had been received, attempts would be made to try to reach an amicable solution through mediation.

RESOLVED

That the Licensing Committee notes the report and extends its gratitude to all the officers involved for their hard work and commitment in ensuring the success of the Committee in undertaking the new duties placed on the Council by the Licensing Act 2003.

(Meeting commenced at 9.30 am and concluded at 10.00 am).

Chairman

**MINUTES OF A MEETING OF THE LICENSING SUB-COMMITTEE HELD AT
FOLLATON HOUSE, TOTNES, TUESDAY 13 DECEMBER 2005**

Present: Councillors, Fairman, May (Chairman) and Rothwell
Mr C Miles, Legal Officer, SHDC
Mr G Munson, Licensing Officer, SHDC
Mr Akbulut, Applicant
Mr Newman, Applicant's Solicitor
16 interested parties (both supporting and objecting to the application)

LSC.57/05 APPOINTMENT OF CHAIRMAN

RESOLVED

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

LSC.58/05 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 was made.

**LSC.59/05 CONSIDERATION OF AN APPLICATION FOR THE NEW STYLE
PREMISES LICENCE UNDER THE LICENSING ACT 2003: KING
ROOSTER, TOTNES**

1. Introduction

The Chairman introduced the Members of the Sub-Committee, the Licensing Officer and Legal Officer. The interested parties who were in attendance for this application were then asked to identify themselves and were invited to come forward.

2. Procedure to be followed

The Legal Officer outlined the procedure to be followed at the hearing, which had previously been circulated to interested parties as part of the Notice of Hearing.

3. Licensing Officer's Report

The Licensing Officer presented his report and outlined the application before the Sub-Committee. He also indicated that the Applicants intended to revise their original Operating Schedule. Members were also advised that there had been a number of representations received, including 36 from residents living in the vicinity and one from the Environmental Health Department. The Environmental Health Department and the licensee had reached a provisional

agreement to address the concerns about the licensing objectives. If accepted by the applicant the amendments would reduce the potential for public nuisance with more controls over litter. Furthermore, it was noted that a provisional agreement had been reached with the Devon and Cornwall Constabulary and the applicant to prevent crime and disorder, which involved the installation of CCTV which was to be monitored and maintained by the applicant.

At this point during the hearing, the Licensing Officer informed the hearing of photographs he had received from an interested party illustrating litter which perceivably had originated from the King Rooster. Following discussion, it was agreed that the photographs be circulated and it was confirmed that they were taken over a period of a year.

Prior to an address by the applicants solicitor, the hearing was reminded that the application was for a licence to sell hot food after 11.00pm and that they had no control over cold food or the sale of any food before 11.00pm.

4. Address in support of the application by Rob Newman

In his speech, Mr Newman stated that his client had been at the premises for two years now and had built up a good relationship with the local police and that CCTV was already in operation inside the premises. His client was aware of the litter issue and was willing to provide additional wheeled bins outside the premises which could be easily moved inside when the premises was closed. In relation to the noise nuisance concerns it was noted that, although his client was aware of the issue and would do his utmost to control it, the King Rooster was located in a gathering point location and therefore the nuisance could not solely be attributed to King Rooster customers.

5. Address by the representative of all the interested parties, Mr Bennett.

A representative was nominated to highlight the concerns of the interested parties. In his address to the sub-committee he reiterated the concerns he had submitted in a letter to the Licencing department. These were highlighted as follows:-

- litter;
- noise nuisance;
- young people congregating;
- access to garages being used as a toilet.

Mr Bennett then requested agreement to circulate a statement of objection which reiterated the concerns of interested parties. The sub-committee agreed to accept the statement and the hearing was adjourned for 10 minutes in order that all parties had the opportunity to address the issues noted in the statement.

Interested parties also aired their disappointment at the lack of Police representation in attendance at the hearing.

6. Committee Adjourned

At this stage the Committee adjourned to deliberate. They were joined by Mr Miles who gave advice on legal matters and wording only and did not take an active role in the deliberations

7. Decision

We have considered the application for a premises licence under section 18 of the Licensing Act.

We have considered our own Statement of Licensing Policy, the guidance and the statutory obligations contained within that relate to the promotion of the Licensing Objectives in question, those being The Prevention of Crime and Disorder and The Prevention of Public Nuisance. We have also been advised on and considered the Human Rights issues for both the Applicants and those who object to this application.

In reaching our decision, we have taken account of the possible additional noise nuisance posed by customers arriving and leaving the premises later than currently permitted and the noise of those customers who will gather to eat their purchases outside the premises if and when extended licensing hours will take effect.

We have also considered the residents' concerns about a possible increase in noise, litter and other anti social activities which may be caused by an increase in the licensing hours.

It is our decision therefore to grant this application with the following operating times and conditions to be attached to the licence:

Permitted time for the licensable activity of the Provision of Late Night

Refreshment shall cease at:

Monday	12 Midnight
Tuesday	12 Midnight
Wednesday	12 Midnight
Thursday	12 Midnight
Friday	0100hrs into the following day
Saturday	0100 hrs into the following day
Sunday	12 Midnight

Recognised and official bank holidays and New Year's Eve 0100hrs into the following day

Bank holiday Mondays 0030hrs into the following day

Under the Licensing Objective of The Prevention of Crime and Disorder, the following conditions shall apply:

1. CCTV to be installed both inside and outside of the premises, subject to any required planning permission and restraints, such equipment to be operative during the hours of 2100hrs until closing time and the tapes or recording media to be kept for 28 days.

2. Signage to be displayed in a prominent position requesting customers to leave the vicinity quickly and quietly and to use the bins provided for litter and waste food.

Under the Licensing Objective of The prevention of Public Nuisance, the following conditions shall apply:

1. Suitable and secure waste containers to be supplied by the Applicant and to be positioned immediately outside the premises and that such containers to be taken in at closing time and to be kept in reasonable condition in line with their designed usage.
2. Members of staff to ensure that immediately outside the premises, all litter and waste food be collected and disposed of and that regular checks be conducted by the staff to enable this to be done.
3. Deliveries are received between the hours of 0800hrs and 1800hrs only.

LSC.60/05 **CONSIDERATION OF VARIOUS APPLICATIONS UNDER THE LICENSING ACT 2003 FOR A NEW PREMISES LICENCE**

1. Legal Officer's Report

The Legal Officer presented the report and outlined the applications before the Sub-Committee. There was no representation from the police in respect to the new licence. The operating schedules had been amended after mediation with those that had lodged relevant representations and all parties had agreed that there should not be a hearing.

The following applications were considered:

Ashprington Farm and Stores, 1 Rose Cottage, Ashprington;
Kings Kebab, 7A Mill Street, Kingsbridge;
Staverton Playing Fields and Pavaillion.

2. Committee's Deliberations

The Sub-Committee asked the Legal Officer if all those who had originally objected to the new licence being granted were now content with the proposed amendments to the operating schedules and whether they all agreed that there should not be a formal hearing. The Legal Officer confirmed that this was the case.

3. The Decision

The Chairman announced the decision:

“We have considered the application for a new premises licence.

We have considered our own Statement of Licensing Policy, the guidance and the statutory obligations contained within that relate to the promotion of the four Licensing Objectives.

We note the revised operating schedules submitted as amended and that all parties are in agreement that a hearing is not necessary.

It is our decision therefore to grant the new premises licence subject to the amended operating schedules”

Chairman