

**MINUTES OF A MEETING OF THE LICENSING SUB-COMMITTEE HELD  
AT FOLLATON HOUSE, TOTNES ON MONDAY, 19 SEPTEMBER 2005**

Present: Councillors Saltern (Chairman), Fairman and Carson  
Mr Harbans Singh-Matto, Applicant, The Barrel House  
Ms Suzi Moss, Applicants Representative, The Barrel House  
Ms A Jones, Interested Party, The Barrel House  
Mr G Munson, Licensing Officer, SHDC  
Ms F Smith, Corporate Services/Legal, SHDC  
Mrs Rossiter, Applicant, Barton Farm  
Mr Rossiter  
Mr Chesterton, Applicants Legal Representative, Barton Farm  
Mr Wimpenny, Interested Party, Barton Farm  
Mr White, Interested Party, Barton Farm  
Mr P Smith, Environmental Health Officer, SHDC

**LSC. 31/05 APPOINTMENT OF CHAIRMAN**

**RESOLVED**

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

**LSC.32/05 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.33/05 CONSIDERATION OF AN APPLICATION FOR THE  
CONVERSION OF EXISTING JUSTICES' LICENCE AND  
SIMULTANEOUS VARIATION DURING THE TRANSITIONAL  
PERIOD UNDER SCHEDULE 8 OF THE LICENSING ACT  
2003: THE BARREL HOUSE, TOTNES**

**1. Introduction**

The Chairman introduced the Members of the Sub-Committee, the Licensing Officer and Legal Officer. The applicants, their representatives and interested parties 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 no relevant representations from the Chief of Police but 3 relevant representations from local residents had been received.

## **4. Address by Applicant's Representative**

The applicants' representative read a letter previously sent to the Licensing Officer, which detailed the applicants response to points raised in letters of representation from interested parties. Issues raised included:

- claims that interested parties had links to a neighbouring public house and therefore the letters of representation could be deemed prejudicial;
- contract cleaners which had been employed for mornings to prevent late night noise from cleaning after closing;
- conversations with neighbouring residents had shown the major concern was people outside after closing, which would apply to patrons of both The Barrel House and The Castle;
- the applicants agreeing to minimize noise nuisance by closing windows when music was playing;
- the applicants would agree to compromise but felt that all like businesses should be dealt with similarly.

## **5. Address by Interested Party**

The interested party explained that her bedroom was adjacent to the Barrel House and was therefore concerned about any music playing after midnight. It was noted that although she worked for The Castle, Totnes, she had no interest in their business and had previously enjoyed visiting The Barrel House although she had experienced hostility from the staff and had since ceased going.

A Member of the Hearing enquired whether the applicants had done everything possible with the internal layout e.g. siting of speakers and sound equipment, to minimize noise disturbance. The applicant confirmed this had been addressed but they would reassess to assure it was the best option.

There was further discussion to try and clarify the acceptability of music, standard and non standard days and extended hours. In addition the applicants' representative apologised to the interested party for the alleged rudeness of the staff towards her.

## **6. Committee Adjourned**

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

## **7. The Decision**

On returning the Chairman announced the decision:

"We have considered the application to convert the existing licence and in the absence of any relevant representations from the Chief of Police we grant under the "grandfathering rights" pursuant to the terms of the Licensing Act 2003 and the regulations that govern the transitional period.

With the regards to the application for variation of the existing licence, in our deliberations, we have noted the representations of the applicant and those who have lodged relevant representations. Also, we have taken into account the proposed amendments of the applicants as detailed in Appendix B.

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.

*In reaching our decision, we have taken account of the possible additional nuisance posed by both live and recorded music and the noise that may be caused by customers both at and leaving the premises.*

*It is our decision therefore to grant the variation as below with the following conditions attached to the licence:"*

## **Permitted hours of operation for Licenseable Activities**

### Opening Hours

Permitted as stated in the application to vary

Non standard timings:-

Recognised Bank Holidays only - premises to close at 01.00hrs

New Years' Eve – premises to close at 02.30hrs

### For the supply of alcohol:

Permitted as stated in the application to vary

Non standard timings:-

Recognised Bank Holidays only – sale of alcohol to cease at 12.30am

New Year's Eve – sale of alcohol to cease at 02.00hrs

### Provision of Amplified and Unamplified Live Music

Monday to Sunday – 09.00hrs to 11.00hrs

No additional non-standard times apart from New Years' Eve when live music shall cease at 00.30hrs

### Provision of Amplified and Unamplified Recorded Music

As on the application to vary

Recognised Bank Holidays only – to cease at 00.30hrs

New Year's Eve – to cease at 02.00hrs

### Provision of Plays/Films/Dance and anything of a similar nature

As on the application to vary

### Provision of Facilities for Music and Dancing

As on the application to vary

### Provision of Late Night Refreshment

As on the application to vary

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CONVERSION OF EXISTING JUSTICES' LICENCE AND  
SIMULTANEOUS VARIATION DURING THE TRANSITIONAL  
PERIOD UNDER SCHEDULE 8 OF THE LICENSING ACT  
2003: BARTON FARM, GALMPTON**

**1. Introduction**

The Chairman introduced the Members of the Sub-Committee, the Licensing Officer and Legal Officer. The applicant and interested parties were then asked to identify themselves and were invited to come forward.

**2. Licensing Officer's Report**

The Licensing Officer presented his report and outlined the application before the Sub-Committee. It was noted that the applicants intended to revise their original Operating Schedule. In addition, he asked for a correction to the timings detailed on the agenda at p. 2. Members were also advised that there had been no relevant representations from the Chief of Police but 6 relevant representations from local residents had been received, along with representation from both the Planning department and the Environmental Health department. The Planning department concerns had subsequently been allayed. Discussions had taken place this morning between the applicant and the interested parties, and the applicant's representative had a revised package to offer.

**3. Address by the Applicant's Representative**

The applicant's representative began by outlining the history of Barton Farm. He then went on to say that the applicant was seeking to delink the alcohol/food condition ie. currently alcohol could only be served to patrons who were residents or who were eating at the restaurant. By delinking, functions could take place such as weddings and birthday parties with buffets or canapés. The intention was not to serve alcohol to anyone who may be passing, but rather to be able to serve alcohol at pre-planned functions without having to sit at a table and have a restaurant meal. It was therefore proposed that an additional limitation be included within the licence application at page 5 as follows:

'Persons attending pre-booked functions'

The interested parties agreed that this was acceptable.

The second issue was one of access. A second driveway had been constructed away from the village however people who knew the

farm continued to use the original farm lane which went past neighbouring properties. The applicant had done as much as possible to encourage the second access way to be used, she had agreed to and paid for a brown sign but was waiting for permission from the Highways department site it. In addition, she would seek the help of the District Council to improve signage.

The interested parties agreed that this was acceptable.

The third issue was one of noise. Barton Farm had a garden room and also a marquee. From the events diary it was evident that music was required 25 – 30 times per year. The applicant's representative then went on to explain the history of noise problems at Barton Farm, including the involvement of Environmental Health. He also detailed a problem on the evening of 3<sup>rd</sup> September and explained that the problems on this particular night had been outside of the applicant's control. Prior to 3<sup>rd</sup> September the applicant's representative had written to the interested parties as follows:

- a. In relation to regulated unamplified music this would take place only in the marquee
- b. Discos and amplified music would only take place indoors
- c. No large rock bands dependent on drums/strong beat would be allowed
- d. Bands were to be provided by the premises supervisor only

The applicant's representative completed his address by explaining that the planning department had held the position under review for 6 months and there had been no further feedback.

A Member asked for clarification on the opening hours.

The Chairman then asked the interested parties for their views.

#### **4. Address by Interested Parties**

An interested party explained that his concern had been the noise, but following informal discussions held this morning he felt a reasonable compromise had been reached. The problem had been management of the noise and the applicant accepted that.

Another interested party had concerns over traffic – the applicant gave assurance to the Committee that she would do her best to address these. With regard to noise, a compromise has been reached and if problems persisted then Environmental Health would be informed.

## **5. Address by Environmental Health Officer (EHO)**

The EHO began by clarifying that Barton Farm did not have planning permission for outdoor entertainment. The outside curfew was the only condition in the Operating Schedule to allay public nuisance and in his professional opinion this was not enough. The EHO then gave a detailed explanation of his concerns.

## **6. Response by Applicant's Representative**

The applicant's representative responded that Environmental Health had supplied a list of measures that could be taken, many of which would be impractical. The noise concerns had been addressed at length, and the interested parties would contact Environmental Health if problems persisted.

## **7. Response by EHO**

The EHO explained that the list of measures was a standard list sent to every applicant; not all measures would be appropriate.

At this point the Licensing Officer circulated a letter sent by the applicant's representative which detailed a response by the applicant to each point of concern raised by the Environmental Health department.

A Member requested clarification of the planning permission issue. It was reported that, at present, there was no permission for outside entertainment; a marquee would be allowed but no music. The intention was to apply for planning permission once the licence had been granted as it would be more cost effective than the other way around. An interested party explained his disappointment that the earlier discussions held with the applicant had been on the understanding that planning permission had been granted for outside entertainment; had they realized this was not the case they may not have so readily agreed to the compromise. The applicant's representative apologized if the interested parties felt misled which had not been the intention.

## **8. Committee Adjourned**

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

## 9. The Decision

On returning the Chairman announced the decision:

“We have considered the application to convert the existing licence and in the absence of any relevant representations from the Chief of Police we grant under the “grandfathering rights” pursuant to the terms of the Licensing Act 2003 and the regulations that govern the transitional period.

With the regards to the application for variation of the existing licence, in our deliberations, we have noted the representations of the Applicant and those who have lodged relevant representations. Also, we have taken into account the proposed amendments of the Applicant as detailed in Appendix B and of the Environmental Health Officer at Appendix C.

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.

*In reaching our decision, we have taken account of the possible additional nuisance posed by both live and recorded music, the noise that may be caused by customers both at and leaving the premises and the possible increased traffic, if and when extended licensing hours will take effect.*

*It is our decision therefore to grant the variation as applied with the following amendments:- “*

## **Permitted hours of operation for Licenseable Activities**

### Opening Hours

Monday to Sunday from 11.00am to 00.30hrs – for residents, their guests and to those attending bona fide functions pre-booked functions only

### For the supply of alcohol:

Permitted as stated in the application to vary

### Provision of amplified and unamplified live music

Permitted as stated on the application to vary with the exception that no music is to be played outside of any building

### Provision of amplified and unamplified recorded music

Permitted as stated on the application to vary with the exception that no music is to be played outside of any building

### Provision of Facilities for making music and for dancing

Permitted as stated on the application to vary with the exception that no facilities are to be provided outside of any building

### Provision of Late Night Refreshment

Permitted as stated in the application to vary