

**MINUTES OF A MEETING OF THE LICENSING SUB-COMMITTEE HELD AT  
FOLLATON HOUSE, TOTNES ON TUESDAY, 20 JULY 2010**

Present: Councillors Baverstock, Carter and Squire  
Tony Johnson, Solicitor, SHDC  
Graham Munson, Licensing and Administration Manager SHDC  
Darryl White, Member Support Services Manager, SHDC  
Naomi Wopling, Licensing Officer, SHDC

Also present and participating:

Cllr H D Bastone (In his capacity as the General Manager of Dartside  
Holidays)  
Mr Birss (the Applicant)  
Mr Hart (Solicitor representing the Applicant)  
Mr and Mrs Holland (objectors who own Dartside Holidays).

Also present but not participating: Cllrs M J Hicks and R J Tucker

**LSC.1/10 APPOINTMENT OF CHAIRMAN**

**RESOLVED**

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

**LSC.2/10 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.3/10 DETERMINATION OF AN APPLICATION RECEIVED UNDER THE  
LICENSING ACT 2003 FOR THE VARIATION OF A PREMISES  
LICENCE: BIRSSY'S BAR, 6 SOUTH EMBANKMENT,  
DARTMOUTH, TQ6 9BH**

**1. Licensing and Administration Manager's Report**

The Licensing and Administration Manager presented the report and  
outlined the application before the Sub-Committee.

During his presentation, a document was also tabled to those present  
which outlined each specific amendment for which the application  
sought approval.

It was noted that two representations had been received which had been attached at Appendix D to the presented agenda report.

## **2. Address by the Applicant's Solicitor**

In his address, the Applicant's Solicitor made particular reference to:-

- (a) a proposed additional condition. Following discussions with the Environmental Health service during the consultation period, the applicant had volunteered an additional condition as follows:

*'That no music or speech would be relayed via external speakers.'*

- (b) the applicant having run the business for the past eight years;
- (c) live music being for occasional use only and limited to two musicians at any one time;
- (d) the extension for late night refreshments being for hot drinks only and not food. On the subject of the request to sell alcohol from 8.00am, this was for very occasional use (e.g. during the 2011 Rugby World Cup, which was taking place in New Zealand);
- (e) the levels of consultation with the Police and County Highways Authority. In noting that all statutory consultees were content with the proposal and there had been no representations submitted from the Town Council or neighbouring premises, the solicitor felt that it constituted a sensible and proportionate application;
- (f) the indications that a street cafe licence was imminently to be granted by Devon County Council;
- (g) the letters of objection. To counter some of the comments raised, the solicitor stated that if there had been a track record of police complaints and problems, then there would have been a greater number of objections raised from neighbouring residents and businesses. Furthermore, the police had informed him that there was only one complaint on their records in relation to the premises. This complaint dated back to December 2008, which was commendable when considering the town centre location.

It was felt that any problems which were referred to by the objection letters could have arisen from alcohol being purchased from other nearby premises and supermarkets. To add weight to this contention, the solicitor highlighted that patrons of Birssy's Bar were currently not permitted to take alcohol outside of the premises;

- (h) the intention to increase daytime custom. Members were advised that the Applicant wished to increase income by selling hot drinks and sandwiches to maximise the potential of the site location. In addition, the applicant was mindful that the proposed street café area was small (maximum area for 4 small tables and 8 chairs). Nonetheless, this aspect of the application was critical to the viability of the business, yet it would have a minimal impact upon the neighbouring premises. It was also a proposed condition that persons must be seated in the café area and no alcohol would be consumed there after 9.00pm (or 10.00pm on special occasions);
- (i) the proposal to improve the positioning of the Closed Circuit Television and the line of site from the bar to the café area; and
- (j) the external windows being shut during any live entertainment at the premises.

### **3. Address by the General Manager of Dartside Holidays**

In his presentation, the General Manager disputed a number of the points raised by the Applicants' solicitor (as above). In particular, reference was made to:-

- the working practices of the premise being detrimental to neighbouring businesses;
- the potential for live music to be played every day if the applicant was so minded;
- concerns regarding the preparation of food on site;
- the solicitor's statement regarding complaints to the police being untrue. The General Manager proceeded to cite specific examples in which the police had been called to the premises;
- the applicant not always being on site to monitor what was happening in his premises;
- alcohol being served and taken away from the premises;
- the necessity for the objectors to keep their own incident log. In emphasising the number of incidents which had affected the business and his astonishment at the lack of police records, the General Manager advised that his employers would now keep their own recorded incident log;
- his main concern being the noise emanating from the premises. Members were informed that holiday guests sought peace and quiet and not all day and night disturbance; and

- his view that until the applicant was able to manage his existing license, then he should not be granted these additional conditions.

#### **4. Address by Mrs Holland**

In her address, Mrs Holland highlighted:-

- (i) the numerous complaints arising from the premises, primarily in relation to late night noise;
- (ii) her sympathy with the applicant in his efforts to improve his business viability. Nonetheless, Mrs Holland felt that the applicant needed to control his customers before seeking to expand through this application;
- (iii) her exasperation at the lack of police records;
- (iv) the subsequent insurance problems which were being incurred on her properties arising from anti-social behaviour (i.e. the throwing of a barrel through a plate glass window).

#### **5. Sub-Committee Questions**

The Chairman invited Member questions, during which the following points were raised:-

- (a) On the subject of monitoring outside alcohol consumption to ensure customers were staying seated within the café area, the applicant advised that 2 CCTV cameras would be positioned onto the area and the windows were located only approximately six feet away from the bar. It was intended that these cameras would be monitored by the person working behind the bar;
- (b) It was noted that the intention was for outside tables and chairs to be positioned at the front of the premises only;
- (c) Due to the size of the premises, a Member queried whether it was necessary to have live amplified music. In reply, the Applicant stated that live music would take place only very rarely, including on special occasions, such as the Dartmouth Music Festival. As an update, it was noted that the applicant was content for it to be specified by virtue of a condition that live music be limited to a maximum of two times per calendar month;

(d) It was queried whether crime and disorder could be reduced if alcohol was served outside by waiter/waitress service. In response, the Applicant's solicitor informed that the Applicant would comply if the Sub-Committee imposed such a condition. However, ideally the Applicant would not support this due to the size of the premises, which often resulted in only one member of staff working at any given time. In addition, it was reiterated that the application only sought a maximum of four tables, which would seat two customers each. These tables would be clearly visible from the bar area and use of them was heavily dependant on good weather.

(Once all parties were satisfied that they had no further issues which they wished to raise, the Sub-Committee retired to deliberate the proposals, in the presence of the Council Solicitor, the Member Support Services Manager, and the lead Executive Member for Environmental Health (who sat in for observational purposes only and took no part in the discussions).

## **6. The Decision**

On behalf of the Sub-Committee, the Member Support Services Manager then announced the decision as follows:

"The Sub-Committee has fully considered the application and the representations made by both parties and decide as follows:-

- Alcoholic drinks must be only consumed in the bar area and not outside;
- Live music can play two times per calendar month between the hours of 11.00am and 11.00pm. In addition, the Committee wishes to reaffirm that no music or speech be relayed via external speakers and that such performances be limited to a maximum of two entertainers;
- The playing of recorded music can be brought forward from 12 noon to 11.00am;
- The sale by retail of alcohol can be brought forward from 11.00am to 10.00am (but 11.00am on Sunday);
- The premises opening hours on a Sunday can be brought forward from 10.00am to 8.00am.

The Sub-Committee also advises the Applicant that in the event of other matters arising (such as the Rugby World Cup in 2011) such issues can be covered through a Temporary Events Notice".

---

Chairman