

**MINUTES OF A MEETING OF THE LICENSING SUB-COMMITTEE HELD AT
FOLLATON HOUSE, TOTNES, THURSDAY 26 FEBRUARY 2009**

Present: Councillors Blackler, Saltern and Squire
Colin Miles – Legal Executive
Graham Munson – Licensing Manager
Darryl White – Member Support Services Manager

Also in attendance and participating:

Keith James – Police Licensing Officer
Inspector Paul Morgan – Devon and Cornwall Police
Rob Newman – Applicant's Solicitor
Robert Westlake – Applicant

LSC.20/08 **APPOINTMENT OF CHAIRMAN**

RESOLVED

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

LSC.21/08 **DECLARATIONS OF INTEREST**

Members were invited to declare any interests in the items of business to be considered during the course of the meeting but none were made.

LSC.22/08 **DETERMINATION OF AN APPLICATION FOR A VARIATION OF A
PREMISES LICENCE UNDER THE LICENSING ACT 2003:
DARTMOUTH INN, 28 WARLANDS, TOTNES**

1. **Licensing Officer's Report**

In noting that this application had been previously considered (with a decision being deferred) at the Sub-Committee meeting on 5 February 2009, the Licensing Manager presented his report and made particular reference to:-

- the application being received by the Council on 22 December 2008 and consequently being advertised according to the Licensing Regulations;
- the only representation received during the 28 day consultation period being from the Police;

- the Police and applicant agreeing to certain amendments being made to the original application. If these amendments were included in the operating schedule, it had been deemed that a full hearing was not necessary;
- correspondence submitted by the Police being included in the circulated agenda papers;
- the recent case law involving Mrs Justice Black, which had stressed the importance of any determination of licensing applications being 'evidence based.'

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

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

- (a) the application seeking a relatively modest extension of licensing hours;
- (b) the premises being a well run establishment. In highlighting the range of facilities (e.g. function room) contained within the Dartmouth Inn, the Solicitor also stated that the applicant was well regarded and experienced in the local licensing trade;
- (c) the applicant willingly agreeing to some amendments to his original application from the Police. The Sub-Committee was informed that the applicant had embraced the suggested amendments relating to: the consumption of alcohol on the outside terrace area; the requirement for two door supervisors; and the implementation of an upgraded CCTV system;
- (d) the views stated by the Police that a full hearing was not necessary. The Solicitor reminded the Sub-Committee that the Police had raised no concerns on the application. Furthermore, it was noted that there had been no other representations received from any other parties during the 28 day consultation period and therefore, there was no legitimate basis to refuse this application.

3. **Questions and Answers from the Police**

In welcoming the Police representatives to this meeting, the Chairman advised that the deferral of this application at the previous Sub-Committee meeting had arisen due to the wish for Police representatives to attend and clarify certain points.

In discussion, the following points were raised:-

- (i) Members were informed that there were policing issues around the Plains area in Totnes, but these were not solely attributable to one premise. In addition, whilst late night Police resources tended to be focused upon this area of Totnes, assurances were given that they did not revolve around this premise, which was deemed to be a well run business;

- (ii) In response to a question, the representatives felt that the recommended extension of hours would not impact upon the level of resource allocated in this area. To support this view, the Sub-Committee was advised that a Police presence was already in this area until 3.00am on a Friday and Saturday night. Assurances were also given that if there was a significant issue arising from this extension of hours, the licence could be reviewed at any given time;
- (iii) The representatives advised that there were a number of factors which resulted in the Plains area being a focal point. These were largely linked to the concentration of a number of late night premises in close proximity and the collection of bus stops, taxi ranks and late night takeaways. However, it was the belief of the Police that this application would have a minimal additional impact on the area;
- (iv) It was confirmed to the Sub-Committee that the amendments, as recommended by the Police, were suggested for a number of reasons. These included: to provide clarity to the wording on the operating schedule; to make it easier for both the door supervisors and the licensee to control and monitor customer flow; and to ensure that door supervisors were always present on a Friday and Saturday night;
- (v) In terms of door supervision on the two entrance points into the establishment, Members were informed that one door supervisor was located on each of the access areas. Furthermore, the back door was closed on a Friday and Saturday night after 9.30pm, with entry therefore only being permitted through the main door, which was assisted by a sophisticated entry and exit CCTV System;
- (vi) The representatives confirmed that they did not recall any local residents directly contacting the Police with regard to this application. Moreover, assurances were also given to Members that no crime related incidents had been committed as a direct consequence to this application and the Police had not therefore made representations on this application;
- (vii) Whilst the Police had consulted with the applicant and agreed to certain minor amendments to the application, it was noted that the representatives had sought legal advice regarding whether this constituted a formal representation. The Police Barrister had concluded that this did not constitute a formal representation and therefore, the Police had not made a submission to the Council. In accepting that this matter was a legal point, Members were of the view that this did constitute a representation and this matter required clarification.

The Police representatives expressed concern that should such a matter be classified as a formal representation, the number of Licensing Hearings would significantly increase. Whilst acknowledging the point, Members stressed that the Council had a duty of care to the public to be aware of the extent of any discussions or concerns raised. This had been a major contributory factor as to why a decision on the licence was adjourned at the Sub-Committee meeting on 5 February 2009;

(viii) For future Sub-Committee meetings, a Member felt it would be beneficial for such information and correspondence between parties to be presented with the circulated agenda papers. This would enable Members to be in possession of all related information and could also speed up the determination process;

(ix) The Licensing Manager extended his gratitude to the work of the Police who considered every licensing application in detail and were often the only consultee who submitted any representations to the Council. It was felt that such a robust stance helped to strengthen the licensing system in the South Hams.

4. **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.

5. **The Decision**

The Chairman announced the decision as follows:

"We have considered the application to vary the existing premises licence.

We have considered the Statement of Licensing Policy, the Government Guidance, and the Local Authority's obligations which relate to the promotion of the licensing objectives.

We have noted the amendments to the original application that revised the submitted operating schedule.

Our decision is to grant this application for variation, subject to the agreed amendments."

Chairman