

South Somerset District Council

Minutes of a meeting of the **Licensing Sub Committee** held at the **Council Chamber B, Council Offices, Brympton Way, Yeovil BA20 2HT on Wednesday 16 December 2015.**

(11.00 am - 12.20 pm)

Present:

Members: David Norris (Chairman)

Alan Smith

Linda Vijeh

Officers

Anita Legg

Licensing Officer

Ann Chislett

Legal Executive

Jo Morris

Democratic Services Officer

Note: All decisions were approved without dissent unless shown otherwise.

13. Declarations of Interests (Agenda Item 1)

There were no declarations of interest.

14. Procedure to be followed when considering licensing applications under the Licensing Act 2003 (Agenda Item 2)

The Committee noted the procedure to be followed when considering Licensing Applications under the Licensing Act 2003. The Chairman introduced the members of the Sub-Committee and the Officers present.

The Chairman confirmed that the Officer's report relating to the case, the procedure to be adopted during the hearing and the documents which the authority is required to provide under the Regulations had been received by all Parties in advance of the meeting.

15. Representation following the Application for a New Premises Licence at Something Else Fishy, 1 The High Street, Milborne Port DT9 5DG (Agenda Item 3)

The Licensing Officer presented the report as detailed on page 8 of the agenda and drew members' attention to the following:

- An application had been received from Mrs Nicola Else, for a premises licence to be granted under the Licensing Act 2003 for Something Else Fishy, 1 The High Street, Milborne Port;
- The licensable activities applied for related to supply of alcohol – on sales only;

- She explained that clarification was required as there was an anomaly in the application form which refers to Tuesday and Wednesday the week before Christmas Day in the seasonal variations box and with Tuesday and Wednesday being given in the non-standard timings box, which later refers to 7 days in the run up to Christmas as it could include Sunday. The applicant confirmed that the premises would not be open on the Sunday or Monday before Christmas Day;
- The hours open to the public as outlined in the agenda report;
- The additional steps put forward by the applicant to comply with the licensing objectives where appropriate would become conditions of the licence;
- The applicant had confirmed that a notice had been displayed at the premises for the requisite period; the Licensing Manager had visited the premises and confirmed the notice was in place. A further notice was also placed in the Blackmore Vale Magazine but the Licensing Officer was still waiting for a copy.

At this point in the proceedings, the hearing was adjourned to allow the applicant to obtain a copy of the notice placed in the Blackmore Vale Magazine as the Licensing Act 2003 required evidence of the notice being publicised within ten working days of the premises application being submitted.

When the meeting was reconvened the Licensing Officer continued with presenting her report as follows:

- One letter of representation representing two persons was received which concerned the potential issues of noise and anti-social behaviour from patrons and security;
- There was an existing restaurant at the premises, which is already open during the hours requested where patrons can bring their own alcohol for consumption as this is not a licensable activity;
- The persons making representations have been asked whether they have made any complaints about the activities currently taking place at the premises and if so, to provide details of dates and to which body they were made. No information had been received therefore the Licensing Officer assumed that no complaints had been made;
- The options available to the Committee;
- The Right of Appeal as outlined in the agenda.

The Legal Executive advised that the notice had been advertised a day late and that it would be at member's discretion to decide whether they felt this had caused harm.

The Chairman invited the Applicants to address the Sub-Committee. Points mentioned during the representations included the following:

- The premise was a small family run business which had been purchased five years ago;
- The business employed between ten and twelve local people;
- The business had been very successful so far and had been placed in the final ten best Fish & Chip Restaurants in the country;
- The majority of customers at the restaurant were elderly;
- They didn't see any young people in the restaurant by themselves;
- The next logical step was to apply for a premises licence as they wanted to keep pushing forward as a business particularly as the pub opposite the premises had now closed;
- They had no issues with the neighbours and had never received any letters from them;

- The business was growing and getting a good following of people;
- They wished to sell locally sourced wines, beers and ciders and would not be selling any liquors or spirits;
- With regard to the issues outlined in the letter of representation, members were informed that they had never had any intoxicated people at the premises or hanging about outside for a considerable amount of time;
- They had no intention of staying open any later;
- There had never been any issues in the past and people had always drunk in the premises.

In response to questions, members were informed of the following:

- The licensed area would be the first floor only which was the restaurant;
- The restaurant was waitress service only;
- The takeaway was downstairs and run separately;
- The applicant also held a personal licence;
- The applicant confirmed that CCTV would be installed on the premises and that she would be happy for this to become a condition of the licence;
- The premises would operate a Challenge 25 policy and staff at the premises would be trained on the policy.

In response to a question from the Legal Executive, the Applicant confirmed that the ground floor of the premises was not part of the Application.

The Licensing Officer and Applicant withdrew from the meeting. Members of the Sub-Committee considered their decision in private. The Legal Executive and Democratic Services Officer attended in an advisory capacity only.

Members of the Sub-Committee considered their decision in private session and were mindful of the advice given to them during the private session.

When the meeting was reconvened, the Chairman asked the Legal Executive to give a summary of the advice given to them during the private session. She advised that the Sub-Committee had been asked to take into account the following points:

- Members were asked to consider whether any harm had been caused by the notice being advertised a day late;
- Conditions could be attached to the licence if members felt that it was necessary;
- That the licence would not include the ground floor of the premises as this was not part of the Application.

The Chairman informed those present at the hearing of the decision of the Licensing Sub-Committee.

In respect of the application for a New Premises Licence for Something Else Fishy, 1 The High Street, Milborne Port, DT9 5DG under Section 18 of the Licensing Act 2003, the Licensing Sub-Committee has determined to GRANT the Premises Licence, in accordance with the application as submitted, but subject to the following conditions to promote the licensing objectives.

1. The relevant mandatory conditions under the Licensing Act 2003;
2. Conditions consistent with the applicant's Operating Schedule;

3. The voluntary condition agreed during the hearing in relation to CCTV being installed on the premises.

In reaching this decision, the Sub-Committee took account of the representation made by the Interested Party in relation to crime & disorder and the response received by the Applicant but felt that no further conditions were necessary.

The Committee took note that the licence would not include the ground floor of the premises as this is not part of the Application.

The Parties should note that they will receive the Committee's official decision in full in the written Notice of Decision which will follow shortly.

All parties are reminded that there is a right of appeal against the decision of the Licensing Authority. Such an appeal is to be made within 21 days of the date of receipt of the formal Notice of Determination, and should be made to the South Somerset Magistrates Court.

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Chairman

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Date