

Representation following the Application for a New Premises Licence at The Dolphin Hotel, 38 Fore Street, Chard, TA20 1PT

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Purpose of the Report

To inform members that an application has been received from Liliana Judith Glentworth and Robert David Glentworth for a premises licence to be granted under the Licensing Act 2003 at The Dolphin Hotel, 38 Fore Street, Chard, TA20 1PT.

Recommendation

To determine the granting of the premises licence in accordance with the options detailed later in the report.

Background

The Council is the authority responsible for the issue of Premises Licences issued under Section 18 of the Licensing Act 2003.

The Licensing Manager has delegated authority to determine a Premises Licence application, subject to no objections being received from a Responsible Authority or “Other Persons”. In this case, relevant representations were received from two Responsible Authorities (one of which has been subsequently withdrawn): as there is one representation still outstanding it is necessary to convene a hearing to determine the application.

Licensing Objectives

The licensing objectives are:

- Prevention of crime and disorder
- Public safety
- Prevention of public nuisance
- Protection of children from harm

The licensing objectives are to be considered paramount and the Council has a duty to promote them in its decision making process. An application will not be refused in whole or part or any conditions attached except those offered by the applicant or required by law except where appropriate to promote the licensing objectives.

Application

A copy of the application form is enclosed with the agenda.

The details of the application are summarised as follows:

- Applicant: Liliana Judith Glentworth and Robert David Glentworth

Licensable activity applied for:

Live Music (E) Indoors and Outdoors

Day	Start Time	Finish Time
Monday	10:00	Midnight
Tuesday	10:00	Midnight
Wednesday	10:00	Midnight
Thursday	10:00	02:00
Friday	10:00	02:00
Saturday	10:00	02:00
Sunday	10:00	Midnight

Further Details: Live music is practice only provided on an irregular basis.

References to 02:00 are to the day following.

Seasonal Variations: None

Non-Standard Timings: From 10:00 to 02:00 on Sundays falling on a Bank Holiday weekend and Christmas Eve and from 10:00 until 02:30 on New Year's Eve into New Year's Day.

Recorded Music (F) Indoors and Outdoors

Day	Start Time	Finish Time
Monday	10:00	Midnight
Tuesday	10:00	Midnight
Wednesday	10:00	Midnight
Thursday	10:00	02:00
Friday	10:00	02:00
Saturday	10:00	02:00
Sunday	10:00	Midnight

Further details: The hours sought are the same as for live music. The previous licence permitted recorded music until midnight on all days.

Seasonal Variations: None

Non-Standard Timings: From 10:00 to 02:00 on Sundays falling on a Bank Holiday weekend and Christmas Eve and from 10:00 until 02:30 on New Year's Eve into New Year's Day.

Performance of Dance (G) Indoors and Outdoors

Day	Start Time	Finish Time
Monday	10:00	Midnight
Tuesday	10:00	Midnight
Wednesday	10:00	Midnight
Thursday	10:00	02:00
Friday	10:00	02:00
Saturday	10:00	02:00
Sunday	10:00	Midnight

Further details: Performances of dance will feature only very rarely and usually in association with live music performances.

Seasonal Variations: None

Non-Standard Timings: From 10:00 to 02:00 on Sundays falling on a Bank Holiday weekend and Christmas Eve and from 10:00 until 02:30 on New Year's Eve into New Year's Day.

Late Night Refreshment (I) Indoors and Outdoors

Day	Start Time	Finish Time
Monday	23:00	00:30
Tuesday	23:00	00:30
Wednesday	23:00	00:00
Thursday	23:00	02:30
Friday	23:00	02:30
Saturday	23:00	02:30
Sunday	23:00	00:30

Further details: Hot food and (non-alcoholic) drink may be provided whenever the premises are open. References to 00:30 and to 02:30 are to the day following.

Seasonal Variations: None

Non-Standard Timings: From 23:00 to 02:00 on Sundays falling on a Bank Holiday weekend and Christmas Eve and from 23:00 until 02:30 on New Year's Eve into New Year's Day.

Supply of Alcohol (J) – Consumption On and Off The Premises

Day	Start Time	Finish Time
Monday	10:00	Midnight
Tuesday	10:00	Midnight
Wednesday	10:00	Midnight
Thursday	10:00	02:00
Friday	10:00	02:00
Saturday	10:00	02:00
Sunday	10:00	Midnight

Seasonal Variations: note- the hours sought are as previously, save for non-standard timings

Non-Standard Timings: From 10:00 to 02:00 on Sundays falling on a Bank Holiday weekend and Christmas Eve and from 10:00 until 02:30 on New Year's Eve into New Year's Day.

Please highlight any adult entertainment or services, activities, other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children. **(K)**

No adult entertainment, services, activities etc. will be provided.

Hours premises open to the public (L) – Not a licensable activity, but shown as part of the application.

Day	Start Time	Finish Time
Monday	10:00	00:30
Tuesday	10:00	00:30
Wednesday	10:00	00:30
Thursday	10:00	02:30
Friday	10:00	02:30
Saturday	10:00	02:30
Sunday	10:00	00:30

Non-Standard Timings: From 10:00 to 02:30 on Sundays falling on a Bank Holiday weekend and Christmas Eve and from 10:00 until 03:00 on New Year's Eve into New Year's Day.

Additional steps put forward by the applicant to comply with licensing objectives. Please see Section M (pages 16 - 21) of the application will become conditions of the licence, subject to the licence being granted, and are in addition to any further conditions imposed by the Licensing Committee).

Evidence that advertising/notice requirements have been complied with:

- The applicant's solicitor has confirmed that notice(s) were displayed at premises for the requisite period. A further notice was placed in the Chard and Ilminster News newspaper on 26 April of which we have a copy.

Representation – Responsible Authorities

A representation was received from Mrs King on behalf of the Chief of Police for Avon & Somerset.

A representation was received from Paul Sanders on behalf of the Environmental Protection team; this was withdrawn due to the applicant amending their operating schedule to contain the following steps to promote the licensing objectives:

- Music played outside after 2300 is limited to 2 events per year.

Representations – Other Persons

None.

Relevant Observations

Communication between the Police and the applicant's solicitor had taken place with agreement reached in part but the condition proposed by the Police "All drinks to be served in toughened/poly carbonated or /shatterproof glasses". This is similar to Public Safety condition 6 on the lapsed licence.

Further Information

The premises are situated in an area where the cumulative impact policy applies. The Council's Licensing Policy states that there is a presumption that applications for new licences, variations or material variations, will normally be refused if relevant representations are received unless it can be demonstrated that the operator will not add to the cumulative impact already being experienced¹.

The premises was previously subject to a premises licence, but it lapsed when one of previous holders died – it permitted the following:

Live Music - Indoors and Outdoors

Day	Start Time	Finish Time
Monday	10:00	00:00
Tuesday	10:00	00:00
Wednesday	10:00	00:00
Thursday	10:00	00:00
Friday	10:00	01:00
Saturday	10:00	01:00
Sunday	10:00	00:00

¹ Page 12, Paragraph 3.2.2 of the Council's Licensing Policy dated January 2014

Further Details: I would like to extend my hours for live music

Recorded Music - Indoors and Outdoors

Day	Start Time	Finish Time
Monday	10:00	00:00
Tuesday	10:00	00:00
Wednesday	10:00	00:00
Thursday	10:00	00:00
Friday	10:00	00:00
Saturday	10:00	00:00
Sunday	10:00	00:00

Further Details: I wish to extend my hours for recorded music.

Performance of Dance - Indoors

Day	Start Time	Finish Time
Monday	10:00	00:00
Tuesday	10:00	00:00
Wednesday	10:00	00:00
Thursday	10:00	00:00
Friday	10:00	01:00
Saturday	10:00	01:00
Sunday	10:00	00:00

Further Details: I wish to extend my hours for dance.

Supply of Alcohol – Consumption On and Off The Premises

Day	Start Time	Finish Time
Monday	10:00	00:00
Tuesday	10:00	00:00
Wednesday	10:00	00:00
Thursday	10:00	00:00
Friday	10:00	01:30
Saturday	10:00	01:30
Sunday	10:00	00:00

Non Standard Timings: On high days and holidays I would like to serve alcohol until 03.00

Hours premises open to the public

Day	Start Time	Finish Time
Monday	10:00	00:30
Tuesday	10:00	00:30
Wednesday	10:00	00:30
Thursday	10:00	00:30
Friday	10:00	02:00
Saturday	10:00	02:00
Sunday	10:00	00:30

Annex 2 – Conditions consistent with the operating Schedule

Public Safety

1. The applicant shall provide a satisfactory NICEIC or ECA periodic electrical installation report. The inspection to be carried out annually or as deemed necessary by the competent person completing the report, and a copy of the report provided to the Licensing Authority after each inspection.
2. The applicant shall provide a satisfactory NICEIC or ECA periodic emergency lighting report. The inspection to be carried out annually or as deemed necessary by the competent person completing the report, and a copy of the report provided to the Licensing Authority after each inspection.
3. The applicant shall provide a CORGI certificate of inspection in respect of any gas boiler, calorifier or appliance. The inspection will be carried out annually, or as deemed necessary by a competent CORGI registered engineer, and a copy of the report provided to the Licensing Authority after each inspection.
4. The use of special effects or mechanical installation will be arranged and stored so as to minimise any risk to the safety of the audience, performers and staff. Special effects including the following will only be used with prior notification to the Licensing and/or Fire authorities:-
dry ice machines and cryogenic fog,
smoke machines and fog generators,
pyrotechnics, including fireworks,
real flame firearms,
motor vehicles,
strobe lighting,
lasers, explosives and highly flammable substances.
5. The applicant shall make available on the premises an adequate and appropriate supply of first aid equipment and materials.
6. The applicant shall ensure that any glasses that are renewed are replaced with glasses made from toughened glass.

In determining the application with a view to promoting the licensing objectives in the overall interests of the community, the Committee must have regard to and give appropriate weight to the following considerations:

- Any relevant and valid representation (including supporting documentation received)
- The Latest Guidance issued under s182 of the Act
- The Statement of Licensing Policy issued in January 2014.
- The steps appropriate to promote the licensing objectives as set out in s18(4)
- Human Rights considerations in particular Article 6, Article 8 and Article 1 of Protocol 1

Options

The options available to the committee are stated at section 18 of the Licensing Act 2003 are as follows:

- Grant the licence subject to such conditions which are consistent with the operating schedule modified to such extent as the Authority considers appropriate for the promotion of the Licensing Objectives and any condition, which must under s19-21, be included in the licence s18(4)(a)(i)(ii) together with the current mandatory conditions.
- Exclude from the scope of the licence any of the licensable activities to which the application relates s18(4)(b)
- Refuse to specify a person in the licence as the premises supervisor s18(4)(c)

- Reject the application s18(4)(d).

Right of Appeal

Schedule 5 of the Licensing Act 2003 sets out the rights and procedures for making appeals against the decision of the Licensing Authority:

Where the Licensing Authority has rejected an application for a premises licence, the applicant may appeal to the Magistrates' Court against the decision to reject.

Where the Licensing Authority has granted the licence, the holder of the licence may appeal to the Magistrates Court against any decision to impose conditions on the licence that are consistent with the operating schedule or imposed where having regard to any relevant representations, are considered appropriate to promote the licensing objectives.

Where the Licensing Authority has granted the licence subject to the exclusion of any of the licensable activities or refused to specify a person as the premises supervisor, the holder of the licence may appeal to the Magistrates Court against the decision.

Where a person who made a relevant representation desires to contend that the licence ought not to have been granted, or that on granting the licence, the Licensing Authority ought to have imposed different or additional conditions, or ought to have taken a step to exclude a licensable activity or refused to have specified a person as the premises supervisor, he may appeal against the decision to the Magistrates Court.

The appellant commences the appeal by giving a notice of appeal to the designated officer for the Magistrates' court within 21 days beginning with the day on which the applicant was notified by the Licensing Authority of the decision appealed against.

On determining the appeal, the court may,

- Dismiss the appeal
- Substitute for the decision appealed against any other decision which could have been made by the Licensing Authority; or
- Remit the case to the Licensing Authority to dispose of it in accordance with the direction of the court.

and may make such order as to costs as it thinks fit.

Background Papers

Licensing Act 2003

SI 2005 No. 44 Licensing Act 2003 (Hearings) (Regulations) 2005

SI 2005 No. 42 Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005

SI 2010 No.860 Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010

The Latest Guidance issued under section 182 of the Licensing Act 2003

The Statement of Licensing Policy for South Somerset District Council January 2014
