

# **Representation following the Application for a New Premises Licence at Something Else Fishy, 1 The High Street, Milborne Port DT9 5DG**

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## **Purpose of the Report**

To inform members that an application has 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 DT9 5DG.

## **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 have been received from two Other Persons, necessitating the convening of a hearing.

## **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; it does not however include a copy of the plan of the premises, which is available for inspection at the Council offices, Brympton Way, Yeovil.

The details of the application are summarised as follows:

- Applicant: Mrs Nicola Else

Licensable activity applied for:

**Supply of Alcohol (J) – On Sales Only**

Day	Start Time	Finish Time	Start Time	Finish Time
Thursday	12:00	14:00	17:00	22:00
Friday	12:00	14:00	17:00	22:00
Saturday	12:00	14:00	17:00	22:00

Seasonal Variations:

Day	Start Time	Finish Time	Start Time	Finish Time
Tuesday immediately preceding Christmas Day	12:00	14:00	17:00	22:00
Wednesday immediately preceding Christmas Day	12:00	14:00	17:00	22:00

Non-Standard Timings: As above.

Clarification is required as there is an anomaly in the application form which refers to Tuesday and Wednesday the week before Christmas Day in 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 a Sunday.

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)**

None stated.

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

Day	Start Time	Finish Time	Start Time	Finish Time
Thursday	12:00	14:00	17:00	22:00
Friday	12:00	14:00	17:00	22:00
Saturday	12:00	14:00	17:00	22:00

Seasonal Variations

Day	Start Time	Finish Time	Start Time	Finish Time
Tuesday immediately preceding Christmas Day	12:00	14:00	17:00	22:00
Wednesday immediately preceding Christmas Day	12:00	14:00	17:00	22:00

Again clarification is required with regard to 7 days in the run up to Christmas as it could include a Sunday.

Non-Standard Timings:

None

Additional steps put forward by the applicant to comply with licensing objectives. Please see Section M (page 16) of the application form (these where appropriate, 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 has confirmed that notice(s) were displayed at the premises for the requisite period; the Licensing Manager has visited the premises and confirmed the notice was in place at the time of his visit. A further notice was placed in the Blackmore Vale Magazine for which we are waiting for a copy.

### **Representation – Responsible Authorities**

None

### **Representations – Other Persons**

One letter of representation representing two persons was received which concerned the potential issues of noise and anti-social behaviour from patrons and security.

### **Relevant Observations**

There is 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.

### **Further Information**

None

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.

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