

**South Somerset District Council**

**Minutes** of a meeting of the **Licensing Sub-Committee** held on **Friday 22nd August 2008** in the Main Committee Room, Council Offices, Brympton Way, Yeovil

(10.00am – 10.50am)

**Present:** Cllr Martin Wale (In the Chair)

Cllr Dave Bulmer

Cllr Keith Ronaldson

**Also Present:**

Cllr Nigel Mermagen

**Officers:**

Anita Legg	-	Licensing Officer
Lynda Creek	-	Legal Officer
Jo Morris	-	Committee Administrator

**Applicants**

Valerie Greene  
Barry Holder

**Applicants' Representative:**

Adrian Poole, Porter Dodson Solicitors

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**1. Declarations of Interest (Agenda Item 1)**

There were no declarations of interest.

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**2. Procedure to be followed when considering Licensing Applications (Agenda Item 2)**

The Committee noted the agreed procedure to be followed when considering licensing applications as outlined in the agenda.

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**3. Application for a New Premises Licence for East Street Bistro, West Coker (Agenda Item 3)**

In accordance with the agreed procedure the Chairman confirmed the following points:

- That no representations had been withdrawn;
- 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.

It was also confirmed that additional information received from two of the Interested Parties had been circulated to members of the Sub-Committee and the applicant prior to the hearing.

The Licensing Officer presented the report and drew Members' attention to the following points:-

- Details of what licensable activities had been applied for including Live Music, Recorded Music, Performance of Dance, Anything of a similar description to that falling within (e), (f), or (g) and the Supply of Alcohol;
- An amendment to the opening times for Saturdays from 10.00 until 23.00 hours;
- An amendment to the hours for the supply of alcohol for Saturday night until 22.45;
- The requirements relating to advertising the application and the serving of notices had been met;
- Four relevant letters of representation had been received which represented five Interested Parties;
- The Interested Parties had been written to and advised that issues relating to parking, traffic flow and the number of licensed premises already in West Coker were not deemed 'relevant' under the Licensing Act 2003;
- One letter of representation had been deemed not relevant, as it related to parking issues only;
- No representations had been received from Responsible Authorities.

The Chairman invited the applicant's representative Adrian Poole of Porter Dobson Solicitors, to address the Sub-Committee. Members were informed of the following:

- He was disappointed that the application had resulted in a licensing hearing, as he believed that the issues raised by the Interested Parties were not relevant under the Licensing Act 2003;
- He considered the application to be extremely reasonable;
- The issue regarding the flow of people going from and to the premise would still be the case even if the premise did not have a licence as the bistro could still operate;
- There was no evidence behind the objections raised by the Interested Parties, indeed, they were speculative;
- The bistro was subject to tight planning restrictions;
- The number of other premises within the vicinity and the types of licensable activities offered by those premises, for the most part, exceeded what was being applied for in this case;
- The Court of Appeal Decision in relation to Daniel Thwaites Plc reiterating the need for real evidence to support anticipated problems and not be based upon speculation alone.

Members of the Sub-Committee were then asked if there were any points they wished to have clarified. In response to Members' questions, the following points were noted:-

- The property was a listed building and therefore planning restrictions were imposed on the style of the frontage of the Bistro;
- It was not envisaged that music would be a regular activity at the Bistro and that its use by private parties would be very limited;
- It was hoped that the Bistro would be operational by the end of November.

The Chairman asked all parties to confirm that they were satisfied with the conduct of the hearing so far; which they did.

The Chairman asked the Sub-Committee to withdraw to consider its decision on the application. He requested that the Committee Administrator and Legal Representative accompany them in an advisory capacity only.

In considering their decision in private session, Members took into consideration the points raised by the Interested Parties in their representations, the Council's Statement of Licensing Policy, the Licensing Objectives and the latest Guidance issued by the Secretary of State. They were also mindful of the advice given to them by the Legal Officer.

The meeting was reconvened with all parties present and before declaring the decision reached by the Sub-Committee, the Chairman asked the Legal Officer to give a summary of the advice that had been given during the private session.

The Legal Officer indicated that members of the Sub-Committee had been given guidance on the following points:

- The relevance of the High Court decision in relation to speculative evidence. Although this case was based on the original Statutory Guidance, rather than the current one which adopted a less liberal tone, the underlying message was that representations from an Interested Party should have some foundation, and not be purely speculative;
- SSDC had not adopted a Cumulative Impact Policy so the number of existing licensed premises was not relevant and each application should be considered on a case by case basis;
- There were extensive powers to review the licence if problems arise after the licence was granted and amendments could then be made to deal with any issues;
- Conditions should only be attached that were necessary to promote the Licensing objectives and must be a proportionate response to the issues raised.
- It was the Council's decision to consider whether representations were relevant. The Guidance stated that in borderline cases the benefit of the doubt should be given to the Interested Party so that there was an opportunity to put the issues of concern before the committee

The Chairman informed all parties present of the decision.

The Sub-Committee **RESOLVED** that:

In respect of the application to grant a Premises Licence under Section 17 of the Licensing Act 2003, the Licensing Sub Committee has determined to grant the premises licence in accordance with the application as amended, namely, hours for the supply of alcohol for Saturday night until 22.45 and the hours the premises are open to the public on Saturday night until 23.00 hours.

The Mandatory Conditions under S19 of the Licensing Act 2003 in relation to the supply of alcohol and the voluntary conditions set out in the Operating Schedule will also apply.

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