

**South Somerset District Council**

**Minutes** of a meeting of the **Licensing Sub-Committee** held on **Friday 24th October 2008** in the Council Chamber, Council Offices, Brympton Way, Yeovil

(10.00am – 12.40pm)

**Present:** Cllr Nigel Mermagen (In the Chair)

Cllr John Hann

Cllr Keith Ronaldson

**Officers:**

Anita Legg	-	Licensing Officer
Lynda Creek	-	Legal Officer
Vicki Dawson	-	Principal Environmental Protection Officer
Bob Evans	-	Environmental Health Officer
Jo Morris	-	Committee Administrator

**Applicant**

Amanda Godden, The Warehouse Trust

**Responsible Bodies:**

Nicola King, Police

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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 Great Bow Wharf, Bow Street, Langport (Agenda Item 3)**

In accordance with the agreed procedure 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.

The Licensing Officer reported that the representation submitted by the Police had been withdrawn and that the applicant had agreed to amend the application to include the following conditions:

- A Challenge 21 Policy will be adopted;

- The sale of alcohol shall cease at 22.00hrs save for Christmas Eve, New Year's Eve and other Bank/Public Holidays;
- Outside music to cease at 19.00hrs Monday – Thursday and 21.30hrs Friday – Sunday;
- Live music will be acoustic music only and un-amplified;
- When the premises is to be hired out the following conditions shall apply;
  - All hirers will be given a copy of the licence re: terms and conditions shall apply;
  - A risk assessment will be required by the Warehouse Trust from hirers of the premises for the following:

Events involving the outside area of the premises

Events, which are intended to be of more than 24 hours duration

Events designed for children

- The Warehouse Trust will ensure that the risk assessment is copied to Health and Safety, Licensing and a copy will also be sent to the Police.
- The premises licence holder will require CRB checks from hirers, where appropriate, for persons who will be responsible for children during the period of hire and will require a child protection policy from the hirer (if appropriate).
- Clear signage of available car parks will be given to persons hiring the premises for any events to promote the prevention of public nuisance to the immediate neighbours.
- A fence will be placed (if permitted) alongside the outside drinking areas, to promote public safety as this is very close to the riverbank, and will help reduce the risk of dangerous incidents taking place i.e. drowning.

A copy of the above conditions were circulated to members at the meeting for information.

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

- The application had been submitted from the Warehouse Trust;
- The licensable activities applied for included regulated entertainment for indoors and outdoors, the supply of alcohol and late night refreshment as outlined in the application;
- Other steps put forward by the applicant as outlined in the application would become conditions of the licence;
- There had been an initial problem with the display of notices at the premises but since this was brought to the attention of the Licensing Officer further notices had been displayed correctly;
- Twelve relevant letters of representation, which represented seventeen Interested Parties had been received in relation to the application;
- References to the inadequacy of the parking provision should not be taken into consideration as these issues could arise even where no licensable activities were taking place;
- Clarification had been sought from some of the Interested Parties on an individual basis regarding some of the matters raised in their letters of representation;
- The applicant had been asked for clarification as to how they would address the matters raised in the letters of representation.

The Chairman invited the Interested Parties present at the meeting to address the Sub-Committee.

The comments received from Mr Powell, Margaret Huzzey, Mr Robertson, Nina Ayres and Mr Clarke are summarised as follows:

- The application was supported as a community resource but there were concerns about the impact it would have on the residents living within the Great Bow Yard complex. The residents were not anticipating that a multi entertainment facility would be provided at the site when they purchased their properties. A noisy pub environment would be at odds with the environmental ethos of the Great Bow Yard scheme;
- There would be increased pollution including light pollution from the activities proposed;
- Some of the apartments directly overlook the Great Bow Wharf buildings and the road serving the Great Bow Yard was a private road with extremely limited parking. The disabled parking areas were constantly being abused;
- The proposals for live music would cause a great disturbance to nearby residents and could be a nuisance if the noise was heard outside of the building, particularly for those living directly opposite the building who would experience the full effects. In addition, there would be an increase in noise from people leaving the building and from cars dropping people off at events;
- There was potential for noisy groups gathering around the building increasing the possibility of trespass onto neighbouring properties and general anti-social behaviour e.g. there was likely to be an increase of litter including broken glasses within the vicinity
- Crowds of people consuming alcohol was frightening for elderly people living on the site causing them to feel to feel like prisoners in their own home;
- Door staff, qualified to SRA standard, should be required for events at the site;
- The outside area alongside the riverbank was unfenced and therefore unsuitable for groups of people particularly adults under the consumption of excess alcohol or children.

One of the Interested Parties stated that she felt disadvantaged by the late changes made to the application as part of the negotiation with the Police. These changes had led to the withdrawal of the Police representation as certain conditions had been added to the application to address the Police's concerns. In response, the Chairman sympathised with the Interested Party but explained that the Police conditions had been agreed at a late stage. The licensing legislation encouraged negotiations to resolve concerns that a party might have about an application and that this could mean that conditions could be agreed at a very late stage.

Mr Robertson, one of the Interested Parties provided members with a powerpoint presentation. He drew members' attention to a photograph illustrating the communal areas on the site and the close proximity of the building with the local residents properties. He said that he failed to see from the application the areas for licensable activities and suggested the need for the boundaries of the site to be made clearer.

The following proposals were put forward to address the concerns of the local residents, which were based on the original application:

- Music at the back of the building only
- Noise limiters on amplifiers
- No all day events

- Outdoor events to one per category
- Access through GBW main door only
- Premises to be cleared by 22.00hrs
- No alcohol to be consumed outside particularly on the river bank
- Restriction of the access to the river bank
- SIA qualified security staff to be used at evening events
- Alcohol to be sold with food only
- Barriers to demarcate the outdoor licensable area

The Chairman invited the applicant to address the Sub-Committee. Members were informed of the following:

- Signage had been erected asking people to leave quietly and use of the site would be managed to ensure noise was minimised;
- It had been made clear on posters advertising events that parking was not available on site;
- There were controls in place for cars dropping people off at the premises;
- There was only a limited range of beers and wines sold at the site which would be less attractive to adult parties/heavier drinkers;
- The Warehouse Trust had the right to refuse any bookings that were inappropriate for the facilities;
- The aim of the Trust was to develop the building for community events such as film clubs and the focus would be upon encouraging cultural events;
- The Trust was willing to look at the feasibility of erecting a barrier to the river – in fact the site was still being developed.

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 applicant would need to take advice from the Planning Service as to whether fencing was permitted alongside the outside drinking area, and, if so, as to the most appropriate form;
- Clear signage indicating the lack of available car parking would be erected. The road would also be manned when there were exceptionally big daytime and evening events to direct any traffic to park away from the site;
- The applicant would not expect there to be more than 70-80 people attending one function. She also considered this to be the maximum safety number for the premises.

The Chairman clarified the position with regard to planning issues still to be resolved at the premises. He reminded members of the Sub-Committee that they were only responsible for determining the licence and had no control over any planning matters as this was subject to separate legislation.

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:

- There were lots of activities taking place at the premises that were not covered by the Licensing Act. The Sub-Committee should only focus upon the licensable activities;
- Conditions could only be attached where these were necessary to promote the Licensing Objectives and must be, also a proportionate and reasonable response to the issues raised in the representation;
- The applicant would still be able to apply for Temporary Event Notices to hold events. Only the Police would be able to object to any of these events although additional limits applied to these type of events;
- The new licensing regime anticipated a 'lighter' touch because the provisions relating to review of the licence could be used if problems arise after the licence was been granted and amendments could be made to deal with any issues arising;
- Conditions should not be imposed to duplicate other legal powers available and the licensing legislation was not the primary route for dealing with nuisance and anti-social behaviour;
- Consideration should be given to the potential for nuisance associated with the style, characteristics and activities of the Premises and also any history of nuisance. A condition requiring SIA door staff was not likely to be necessary in view of the nature of the Premises and the type of events planned.
- The Committee had to balance the concerns of nearby residents with the wider role in promoting a diverse cultural and community events;
- The Council's policy on outside areas allowed for a stricter line to be taken on events taking place outside in the evening;
- Whether a fence could be installed alongside the riverbank would depend upon planning consent being available (there were some unresolved rights of way issues too) but any risks arising from the river's proximity would apply at times when no licensable activities were taking place too.

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 submitted but subject to the following conditions to promote the licensing objective(s) of the prevention of crime and disorder/public safety/the prevention of public nuisance/the protection of children from harm.

1. That access and egress to the Great Bow Wharf premises for events covered by the Licence will be through the main doors only (excepting emergencies). This condition is necessary to minimise the noise nuisance to residents caused by the close proximity of their homes to the Premises and accords with the Council's Licensing Policy.
2. That the standard hours that the Premises are open to the public be amended to 7:00am to 10:30pm each standard day. This will then accord with the condition agreed with the Police that the sale of alcohol ends at 10:00pm on standard

hours days. This condition is necessary to allow 30 minutes to clear the premises after the sale of alcohol has ceased. This condition will not apply to Christmas Eve and New Year's Eve and other Public/Bank Holidays.

3. That the outside area be cleared of people by 10:00pm every day (including Christmas Eve and New Year's Eve and other Public/Bank Holidays). This condition is necessary to minimise the noise nuisance to residents caused by the close proximity of their homes to the Premises and accords with the Council's Licensing Policy in respect of outside areas.
4. That appropriate barriers be installed, subject to planning and other statutory consent being obtainable, to demarcate, clearly, the outside area covered by the licence. This is necessary to promote the prevention of public nuisance from trespass on the residents' property, which is more likely because of the open nature of the site. It will also make compliance for the licensee and any necessary enforcement action, if needed, easier because the extent of the licensable area will be clear.
5. The total number of events (involving licensable activities) allowable outside will be limited to 12 per year. This condition is necessary to minimise the noise nuisance to residents caused by the close proximity of their homes to the Premises and accords with the Council's Licensing Policy in respect to outside areas.

In addition to the above conditions, those matters detailed in the applicant's Operating Schedule, the relevant mandatory conditions under the Licensing Act 2003, and the conditions agreed with the Police will form part of the licence to be issued.

The Licensing Officer, in consultation with the Legal Officer, will ensure the conditions drawn from the Operating Schedule are clear and enforceable

The Committee considers that the conditions attached are necessary to address the issues raised by the written representations and are both reasonable and proportionate.

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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