

**MINUTES OF A MEETING OF THE LICENSING SUB-COMMITTEE HELD IN THE
REPTON ROOM, FOLLATON HOUSE, TOTNES, ON WEDNESDAY, 4 AUGUST 2021,
10:00 am**

Present: Cllrs Dan Brown (Chair), Rosemary Rowe, and Bernard Taylor
David Fairbairn, Monitoring Officer & Solicitor
Naomi Stacey, Specialist – Licensing
Tara O’Keefe, Senior Case Manager – Licensing
Janice Young, Specialist – Democratic Services
Anna Gribble, Senior Case Manager – Democratic Services
Steve Gardiner, Specialist – IT

Also in attendance and participating:

Mr R Mitchell, Mr P Bulraff, Mr R Moreley, Mr R and Mrs P Sargent, Mr J Salkins and Ms H Carter

LSC.14/21 DECLARATIONS OF INTEREST

Members and officers were invited to declare any interests in the items of business to be considered during the course of the meeting. There were none.

LSC.15/21 TO DETERMINE THE VARIATION TO THE PREMISES LICENCE AT THE ALBERT INN, TOTNES

The Sub-Committee considered a report that sought to determine an application for a variation to the premises licence at The Albert Inn, Totnes

The Licensing Specialist introduced the report and outlined the details of the application (as stated in the application form at Appendices A(i), A(ii), B(i), B(ii), C, D, E, F, G, and H of the presented agenda report). The Licensing Specialist reminded the Sub-Committee that its decision had to be based upon the four licensing objectives.

Following clarification, sale of alcohol four times a year to set up a little bar outside, with sitting anytime.

1. Address by the Applicant

Two Letters of Representation had been withdrawn on clarification of the parking lot, and another one had been received in support from CamRA. It was confirmed that the sale of alcohol in the bar outside would be for four times per year when the pub would be having beer festivals. These events had occurred in the past but had previously been covered by applying for TEN (Temporary Event Notice) applications.

A smoking area in the garden had been constructed to stop people standing and smoking on the public pathways. Covid impact would continue to result in the increased use of the garden, however, no heaters had been placed out in the garden so that drinkers would not be encouraged to remain outside when it got cold. It was confirmed that the fence and smoking area already had signage asking patrons to show respect for the neighbours. Any noisy disruptive customers would be asked to be quieter, noted in the diary, and if continued the customer would be refused service.

The applicant clarified that he had to check with the internet to discern when dusk was each day and he would prefer therefore consistent time defined as part of the license.

2. Address by objectors

The objector highlighted that noise was an issue for him as his living room was positioned at the same level as the outside space. He maintained that no real action was taken when the noise had been previously complained about and, such was the close proximity of his living space, that it sometimes appeared as if there were physical confrontations taking place in his living room.

3. Address by supporters

The supporters maintained that the applicant had been amenable to solving issues raised with him and that any transgressions in the beer garden were quickly resolved. Most in the vicinity were in support of the application and concurred that the noise was not excessive.

A question was asked of the applicant to ascertain if he would be willing to compromise and close the garden at 10:00 pm. The applicant agreed this would be acceptable for the winter months, but would prefer 11:00pm for the summer months. The applicant suggested summer months as being 1st April to 31st October as his Halloween beer festival was on 31st October.

(The Sub Committee then adjourned, in the presence of the Lawyer, at 10:48 am to consider the application and reconvened at 11:07am.)

4. The Decision

In announcing the Sub-Committee decision, the following statement was read:

- “1. The aim of the Licensing Act 2003 is to provide a more flexible licensing system, by reducing the burden of unnecessary regulation, but still maintaining public order and safety. The 2003 Act makes it clear that licensable activities are to be restricted only where it is necessary to promote the four Licensing Objectives.

- “2. In determining an application with a view to promoting the Licensing Objectives in the overall interests of the local community, the Sub-Committee is required to give appropriate weight to:
 - the steps that are appropriate to promote the Licensing Objectives;
 - the representations (including supporting information) presented by all the parties;
 - the Guidance issued under section 182 of the 2003 Act; and
 - our own statement of licensing policy.
- “3. The statutory guidance provides that it is imperative that our decision is evidence-based and that in reaching a decision the factors which are to be taken into account are limited to a consideration of the promotion of the licensing objectives and nothing outside those parameters.
- “4. The Licensing Specialist’s report has also highlighted relevant provisions of the statutory guidance and our own statement of licensing policy.
- “5. Finally, by way of setting the scene for our decision, the Licensing Sub-Committee is mindful that an application that must be considered on its own merits. Our function is to take such steps as we consider appropriate for the promotion of the licensing objectives having regard to the representations we have received and heard.
- “6. It is against this background that the Sub-Committee has considered the application to vary to the Premises Licence at The Albert Inn, Totnes. The proposal seeks to extend the premises licence plan to include an area used previously for private parking so that it can be used for the sale and consumption of alcohol. In addition, the application proposes the replacement of the conditions currently included at Annex 2 of the premises licence with a new set of conditions that are said to be more up-to-date and enforceable.
- “7. During the public consultation on the application, seven representations were received from members of the public. Those representations objecting to the proposal were mainly concerned about the extension of the hours during which licensable activities were permitted in the beer garden from dusk to 11pm and the potential for public nuisance due to noise.
- “8. The Sub-Committee recognised that due to changes in the law since the premises licence was granted originally, there were conditions in Annex 2 that duplicated the mandatory conditions in Annex 1 and it was quite right that these should not be carried over. The Sub-Committee also recognised that again due to changes in the law there were further conditions that were unenforceable and likewise should not remain on the premises licence. However, the Sub-Committee was concerned that the proposed variation did not include all of the conditions that were neither irrelevant nor unenforceable.

- “9. On the principal concern of those objecting to the proposed variation on the basis of noise and disturbance we noted that there had been no representations from Environmental Health raising concerns about the potential for noise and disturbance. This does not mean that the concerns of those objecting were not genuinely held. However, the Sub-Committee noted that “Dusk” was an imprecise term capable of producing at least three different timings. The suggestion of setting a time is something that the Sub-Committee therefore considered to be sensible and appropriate. During the hearing it was suggested a potential compromise would be for 10pm, Having heard the further representations, we consider that the time for closure of the outside area for the consumption of alcohol should be 10pm between 1 November to 31 March; and 11pm between 1 April to 31 October.
- “10. So, having considered what had been said and written by the various parties, and having regard to the statutory guidance, and the adopted Statement of Licensing Policy, the Sub-Committee considered that the application should be granted, but with the additional condition suggested by the Police requiring a refusals register to be kept and those existing conditions for which no direct replacement had been proposed added to those proposed by the Applicant. The details will be included in the formal decision.
- “11. All parties have the right to appeal to the Magistrates’ Court within 21 days of receipt of written notification of the Licensing Sub-committee’s decision.
- “12. Finally, at any stage, following the grant of a premises licence a responsible authority, or any other person, may ask the licensing authority to review the licence because of a matter arising at the premises in connection with any of the four licensing objectives.”

It was clarified that the conditions for which there was no direct replacement and therefore were to be carried over were:

3, 7, 8, 10, 12, 20, 24, 28, 30 – 36, 42, 43 and 47.

The full written decision would be sent out within five working days.

(meeting closed at 11:11 am)

Chairman