

South Hams Licensing Committee



Title:	Agenda										
Date:	Thursday, 25th May, 2017										
Time:	10.00 am										
Venue:	Cary Room - Follaton House										
Full Members:	<p style="text-align: center;">Chairman Cllr May Vice Chairman Cllr Holway</p> <p><i>Members:</i></p> <table style="margin-left: auto; margin-right: auto;"> <tr> <td>Cllr Baldry</td> <td>Cllr Foss</td> </tr> <tr> <td>Cllr Blackler</td> <td>Cllr Hitchins</td> </tr> <tr> <td>Cllr Brown</td> <td>Cllr Hopwood</td> </tr> <tr> <td>Cllr Cane</td> <td>Cllr Pringle</td> </tr> <tr> <td>Cllr Cuthbert</td> <td>Cllr Rowe</td> </tr> </table>	Cllr Baldry	Cllr Foss	Cllr Blackler	Cllr Hitchins	Cllr Brown	Cllr Hopwood	Cllr Cane	Cllr Pringle	Cllr Cuthbert	Cllr Rowe
Cllr Baldry	Cllr Foss										
Cllr Blackler	Cllr Hitchins										
Cllr Brown	Cllr Hopwood										
Cllr Cane	Cllr Pringle										
Cllr Cuthbert	Cllr Rowe										
Interests – Declaration and Restriction on Participation:	Members are reminded of their responsibility to declare any disclosable pecuniary interest not entered in the Authority's register or local non pecuniary interest which they have in any item of business on the agenda (subject to the exception for sensitive information) and to leave the meeting prior to discussion and voting on an item in which they have a disclosable pecuniary interest.										
Committee administrator:	Member.Services@swdevon.gov.uk										

1. Minutes

1 - 16

to approve as a correct record and authorise the Chairman to sign the minutes of the meeting of the Licensing Committee held on 24 November 2016 and the Licensing Sub-Committee meetings held during the period 22 March 2017 to 15 May 2017

2. Urgent Business

brought forward at the discretion of the Chairman;

3. Division of Agenda

to consider whether the discussion of any item of business is likely to lead to the disclosure of exempt information;

4. Declarations of interest

Members are invited to declare any personal or disclosable pecuniary interests, including the nature and extent of such interests; they may have in any items to be considered at this meeting;

5. Exclusion of Public and Press

to consider the following resolution to exclude the public and press:-

“That in accordance with Section 100(A)(4) of the Local Government Act 1972, the public and press be excluded from the meeting during consideration of the following item of business in order to avoid the likely disclosure to them of exempt information as defined in paragraph 1 of Part 1 of Schedule 12A to the Act”;

6. Determination of a Joint Driver Licence, in effect to determine whether the licence holder can be deemed a 'fit and proper person' in light of a recent criminal conviction

17 - 34

MINUTES OF THE MEETING OF THE LICENSING COMMITTEE HELD AT FOLLATON HOUSE, TOTNES ON THURSDAY 24 NOVEMBER 2016

MEMBERS

* Cllr D W May - Chairman

* Cllr T R Holway - Vice-Chairman

* Cllr K Baldry

* Cllr J I G Blackler

* Cllr D Brown

* Cllr B F Cane

∅ Cllr P K Cuthbert

* Cllr R J Foss

∅ Cllr P W Hitchins

* Cllr N A Hopwood

* Cllr K Pringle

* Cllr R Rowe

* Denotes attendance

∅ Denotes apology for absence

Officers in attendance and participating:

All Agenda Items: Senior Specialist – Environmental Health; Licensing Specialist, Monitoring Officer and Senior Specialist – Democratic Services

L.05/16 **MINUTES**

The minutes of the meeting of the Licensing Committee held on 26 May 2016 and the Licensing Sub-Committee meetings held during the period 25 April 2016 to 5 October 2016 were all confirmed as a correct record and signed by the Chairman.

L.06/16 **DECLARATIONS OF INTEREST**

Members were invited to declare any interests in the items of business to be considered during the course of the meeting. These were recorded as follows:

Cllr D W May declared a personal interest in Item 9: 'Summary of Licences Issued Between 1 October 2015 and 30 September 2016' (Minute L.11/16 below refers) by virtue of knowing the applicant for the Trehill Arms, Ivybridge licence and remained in the meeting during the debate on this item.

L.07/16 **LICENSING OF TAXI DRIVERS POLICY**

Consideration was given to a report that informed that the Council (as the Licensing Authority) had the power to issue licences to drivers of Hackney Carriages and Private Hire Vehicles.

Since there was no legal definition of what made a driver a 'fit and proper person', it was therefore a matter for the Licensing Authority to determine what qualifications they required an applicant to meet in order to be licensed. As a consequence, the report presented a policy that sought to set the minimum requirements that the Council would seek from new and existing drivers.

It was then:

RECOMMENDED

That Council be **RECOMMENDED** that the draft Taxi Driver Licensing Policy (as outlined at Appendix B of the presented agenda report) be adopted to come into effect from 1 January 2017.

L.08/16

TAXI FARE SETTING FORMULA AND POLICY

The Committee considered a report that advised that, in accordance with the Local Government (Miscellaneous Provisions) Act 1976 Section 65, the Council had the power to set the fares charged within its area by Hackney Carriage (taxi) drivers.

The report noted that these fares were last revisited in 2012 and it was now considered timely to undertake a review. This review was further prompted by drivers regularly making requests for the cost of fares to be increased. However, the report also recognised that too large an increase could adversely impact the ability of vulnerable users to be able to afford this essential service.

In discussion, reference was made to:-

- (a) variations in the cost of fuel. Whilst acknowledging that there were national (and regional) variations in the cost of fuel, it was noted that the proposed policy sought to apply the national average (as calculated by the AA) for the cost of fuel;
- (b) general support for the proposals. Some Members were of the view that the proposals were reasonable and therefore stated their support for the recommendations.

It was then:

RECOMMENDED

That Council be **RECOMMENDED** that:

1. the policy and associated formula for setting taxi fares in the South Hams be approved and that approval also be given to the use of the South Hams average annual wage as the basis for this formula;

2. the draft Maximum Chargeable Fare Setting Policy be adopted; and
3. the Constitution be amended to delegate to the Community of Practice Lead for Environmental Health authority to use the approved formula to set the cost per mile for taxi fares.

L.09/16

DELEGATION OF POWERS FOR DETERMINATIONS OF CERTAIN LICENSING FUNCTIONS

Members considered a report that sought to make some minor amendments to the Council Constitution.

In introducing this item, the Senior Specialist – Environmental Health asked Members to consider a slight revision to Appendix A of the presented agenda report whereby an additional responsibility for the Committee be included as follows:-

‘To determine to revoke or suspend a Hackney Carriage / Private Hire Driver or Private Hire Operator Licence.’

In the ensuing debate, the Committee confirmed its support for the addition and noted that the Monitoring Officer was wholly supportive of each of the suggested amendments.

It was then:

RECOMMENDED

That Council be **RECOMMENDED** to adopt the amendments proposed to the Constitution in relation to the delegation of powers for the determination of licensing decisions, as attached at Appendix A, subject to inclusion of the following additional responsibility:

‘To determine to revoke or suspend a Hackney Carriage / Private Hire Driver or Private Hire Operator Licence.’

L.10/16

LICENSING OF PLEASURE BOATS AND PLEASURE BOATMEN

The Committee considered a report that highlighted that the Council had the power to grant licences for the operation of Pleasure Boats and for Pleasure Boatmen.

In discussion, some Members expressed their surprise that it was a requirement for operators of Canoes and Stand Up Paddleboards required a licence.

It was then:

RECOMMENDED

That Council be **RECOMMENDED**:

1. to adopt the South West Regional Ports Associations guidelines for the licensing of Pleasure Boats and Pleasure Boatmen licences; and
2. to amend the Constitution whereby the power to grant, withhold, revoke or suspend Pleasure Boat and Pleasure Boatmen Licences be delegated to the Marine Officer.

L.11/16 **SUMMARY OF LICENCES ISSUED BETWEEN 1 OCTOBER 2015 AND 30 SEPTEMBER 2016**

Members were presented with a paper that provided them with a summary of the licences that had been issued between 1 October 2015 and 30 September 2016.

The Committee welcomed the fact that all Members and town and parish councils were consulted on every application and the view was expressed that this working practice was well received.

It was then:

RESOLVED

That the summary of licences issued between 1 October 2015 and 30 September 2016 be noted.

L.12/16 **EXCLUSION OF THE PUBLIC AND PRESS**

RESOLVED

“That in accordance with Section 100(A)(4) of the Local Government Act 1972, the public and press be excluded from the meeting during consideration of the following item of business in order to avoid the likely disclosure to them of exempt information as defined in paragraph 1 of Part 1 of Schedule 12A to the Act”

L.13/16

REPORT THE FACTS REGARDING THE SUSPENSION OF A DRIVER LICENCE, AS AUTHORISED BY THE COMMUNITY OF PRACTICE LEAD FOR ENVIRONMENTAL HEALTH, IN A MATTER OF URGENCY

Consideration was given to an exempt report that informed of the suspension of a Driver Licence in a matter of urgency.

The report noted that this action had been taken in accordance with Section 61 of the Local Government (Miscellaneous Provision) Act 1976 as amended by Section 52 Road Safety Act 2006.

It was then:

RESOLVED

1. That the facts in relation to the immediate suspension of a Hackney Carriage Driver licence due to failing to meet the minimum standards by no longer being a licensed driver by the DVSA nor meeting the minimum health requirements of the Licensing Authority be noted; and
2. That the action taken by the Community of Practice Lead for Environmental Health in determining to suspend the Hackney Carriage Driver Licence be noted.

(Meeting commenced at 2.00 pm and concluded at 2.35 pm).

Chairman

MINUTES OF A MEETING OF THE LICENSING SUB-COMMITTEE HELD AT FOLLATON HOUSE, TOTNES ON WEDNESDAY 22 MARCH 2017

Present: Cllrs Tom Holway, David May and Karen Pringle
Sue Nightingale, Solicitor
Tara O'Keefe, Senior Case Manager – Licensing
Darryl White, Senior Specialist – Democratic Services
Naomi Wopling, Specialist – Licensing

Also in attendance and participating:

Cllr Richard Foss – local Ward Member
Cllr Bob Fretton – Buckland-tout-Saints Parish Council
Mr Gavin Hogg – Managing Director (Salcombe Brewery Co. Ltd)
Lt Col (retired) Paul Holmes – local resident
Mrs Beverley Holmes – local resident
Mr John Tiner – Chairman (Salcombe Brewery Co. Ltd)

LSC.07/16 **APPOINTMENT OF CHAIRMAN**

RESOLVED

That Cllr May be appointed Chairman for the duration of the meeting.

LSC.08/16 **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. These were recorded as follows:-

Cllr D W May declared a personal interest in Item 4: 'To Determine an Application for a New Premises Licence for Salcombe Brewery, Estuary View, Ledstone Cross, Kingsbridge TQ7 4BL' (Minute LSC.09/16 below refers) by virtue of his son having previously written national press articles on microbreweries and remained in the meeting and took part in the debate thereon.

LSC.09/16 **TO DETERMINE AN APPLICATION FOR A NEW PREMISES LICENCE FOR SALCOMBE BREWERY, ESTUARY VIEW, LEDSTONE CROSS, KINGSBRIDGE TQ7 4BL**

The Sub-Committee considered a report that sought to determine an application for a new premises licence at Salcombe Brewery, Estuary View, Ledstone Cross; Kingsbridge.

The Licensing Specialist introduced the report and outlined the details of the application (as stated in the application form at Appendix A of the presented agenda report). In addition, the Licensing Specialist specifically outlined the amendments that were illustrated at Appendix B of the presented agenda report that had been agreed between the applicant and the Police.

1. Address by the Chairman of Salcombe Brewery Co. Ltd

In his address, the Chairman made reference to:-

- his acceptance that, in hindsight, the wording contained on the application form could have been improved to have overcome some misunderstandings;
- his reasons for investing in the business and his belief that a successful local brewery would be a real asset to the local economy. Furthermore, the Chairman reiterated his intention to work with local residents to keep any impact on them to an absolute minimum;
- the core business being the manufacture of beer, with the business plan including provision for a minor proportion (less than 5%) of sales being made directly to the public from the brewery;
- a new website being launched that would include the ability to make purchases online; and
- the intention for (pre-booked) tours to be held only at times when brewing was not taking place. It was noted that typically these would be held either during the late afternoon / early evening or on Saturdays and would be fully supervised by members of staff.

2. Address by the Managing Director of Salcombe Brewery Co. Ltd

The Managing Director proceeded to focus on the four licensing objectives and made the following comments:

The Prevention of Crime and Disorder

The Sub-Committee was reminded that amendments had been agreed with the Police in order to mitigate against Crime and Disorder implications. Furthermore, Members were informed that High Definition CCTV would be installed and operative on site at all times while the premises were trading, with recorded images being retained for 30 days.

Public Safety

Those in attendance were given assurances that the business plan was focused on online (rather than retail) sales and the business would not be operating a fleet of vehicles from this site. In addition, it was anticipated that only one delivery van would be used between the hours of 9.00am and 4.30pm.

The Managing Director acknowledged the local concerns regarding the 60mph speed limits in this area and confirmed that he was happy to look at traffic calming measures being implemented. To mitigate public safety concerns, it was noted that the site entrance had been moved further down the highway and the height of adjoining verges had been reduced in order to improve visibility.

With regard to the pre-planned brewery tours, the Sub-Committee was advised that all possible measures would be taken to ensure that the number of vehicles that were on site at any one time were kept to an absolute minimum.

The Prevention of Public Nuisance

It was noted that the applicants were particularly mindful of the rural location of the site and were confident that all noise would be contained within the building and all customers would be asked to leave quietly and safely.

It was intended that low level lighting would be installed on site and the only external lighting would be for the fire exits.

The Protection of Children from Harm

The Managing Director confirmed that Children would only be allowed on site if they were accompanied by an adult. Furthermore, the business was committed to operating the 'Challenge 25' Policy.

In conclusion, the Managing Director gave assurances that the applicants were trying hard to alleviate all of the concerns that had been raised.

In reply to a question, the applicants informed that they were hoping to sell a few other local products (e.g. Heron Valley cider and soft drinks) from the site.

3. Address by Cllr Bob Fretton, Buckland-tout-Saints Parish Council

In his introduction, Cllr Fretton advised that he was speaking on behalf of the Parish Council and some neighbouring residents and he proceeded to make particular reference to:-

- the background of this application. Cllr Fretton detailed to the Sub-Committee the background and explained why, as a consequence, the Parish Council had felt misled and had unanimously objected to this application;

- the Development Management issues on site. Cllr Fretton made a number of points that were related to the Development Management function (notably that that site would be in breach of the planning permission for which consent had been initially granted) that he also felt were directly linked to this licensing application. Indeed, such were the close linkages that the Parish Council was of the view that this application should be deferred until the outcome of the Development Management process was known. In reply, the Council Solicitor emphasised on a number of occasions that the licensing application had to be determined today on its own merits and the Development Management related issues would have to be addressed through separate channels;
- significant public safety concerns. It was noted that one of the main causes of concern was that the site was located on a five point junction and a bend on a 60mph road, which was particularly dangerous for drivers, cyclists and pedestrians. In addition, these concerns were magnified in light of the on-site retail aspect of this application.

A further safety issue was the sizeable campsite that was located across the road. Since the road was unlit and without any footpaths, the likelihood of people walking from the campsite to the premises was considered to be a major risk, particularly if they had been drinking alcohol.

In summary, Cllr Fretton commented that the Parish Council wished to see a local business prosper and was supportive of the manufacturing aspect of the application. However, such were the safety concerns associated with the retail element of the proposals that they could not support the granting of this license as it was currently presented.

4. Address by Lt Col (retired) Philip Holmes

In raising his concerns, Mr Holmes wished to add to Cllr Fretton's points as follows:

- The site was on an elevated site that was particularly prone to hill mist that resulted in reduced visibility around the site;
- It was felt to be inevitable that ill-disciplined parking would ensue on this site and that this would be in contradiction to the public safety and public nuisance licensing objectives;
- Mr Holmes considered that a proper highways traffic safety assessment was required for this application and a decision on whether or not to grant a license should be deferred until the outcome of this survey was known.

5. Address by Cllr Foss, local Ward Member

Whilst fully supportive of local business expansion, Cllr Foss stressed that he also had concerns regarding public safety and felt that his concerns in this respect had not been sufficiently mitigated for him to be able to support this application. Cllr Foss also made the further point that the volume of traffic using the main road outside the site was continually on the increase.

6. Address by Mrs Beverley Holmes, local resident

Mrs Holmes highlighted that this rural site was particularly susceptible to excessive noise and light pollution and the lack of screening resulted in noise and light that emanated from this site travelling a long way, particularly at night time.

(At 10.55am, the Sub-Committee then adjourned in the presence of Mrs Nightingale to consider the application and reconvened at 11.30am).

7. The Decision

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

"We have considered the application for a new premises licence.

We have considered the Statement of Licensing Policy, the government guidance and our obligations that relate to the promotion of the licensing objectives.

We have read carefully the written representations from all parties, plus additional statements from persons here today. We have also considered the additional conditions proposed by the Police and accepted by the Applicant.

It is our decision to grant this application, subject to the following changes being incorporated into the operating schedule and to include the additional conditions requested by the Police. We have determined the changes to be appropriate to achieve the licensing objectives:

- *The sales for consumption on the premises are restricted to reservations and pre-booked visitors. This condition is deemed necessary to improve traffic management for public safety;*
- *That all of the conditions proposed by the suppliant as set out in the Response to the Hearing received by the Council on 16 March 2017.*

In addition to being appropriate, the Committee also believe the amendments to be necessary."

8. Chairman's Concluding Remarks

The Chairman regretted that this application had driven a wedge between the applicants, Parish Council and local residents. It was his hope that, through the comments raised at this Sub-Committee meeting, there was a genuine offer by the applicant to try and address the concerns raised.

Chairman

**MINUTES OF A MEETING OF THE LICENSING SUB-COMMITTEE HELD AT
FOLLATON HOUSE, TOTNES ON MONDAY 15 MAY 2017**

Present: Cllrs Daniel Brown, Tom Holway and David May
Sue Nightingale, Solicitor
Naomi Stacey – Specialist, Licensing
Darryl White, Senior Specialist – Democratic Services

Also in attendance and participating:

Kirsty McDonald – on behalf of KSM (Dartmoor Union) Ltd

Also in attendance and not participating:

Cllr Keith Baldry – local Ward Member

LSC.01/17 **APPOINTMENT OF CHAIRMAN**

RESOLVED

That Cllr May be appointed Chairman for the duration of the meeting.

LSC.02/17 **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. These were recorded as follows:-

Cllr D W May declared a personal interest in Item 4: 'To Determine an Application for a New Premises Licence for the Dartmoor Union Inn, Fore Street, Holbeton PL8 1NE' (Minute LSC.03/17 below refers) by virtue of his cousin being married to one of the objectors and remained in the meeting and took part in the debate thereon.

LSC.03/17 **TO DETERMINE AN APPLICATION FOR A NEW PREMISES LICENCE FOR THE DARTMOOR UNION INN, FORE STREET, HOLBETON PL8 1NE**

The Sub-Committee considered a report that sought to determine an application for a new premises licence at the Dartmoor Union Inn, Fore Street, Holbeton.

The Licensing Specialist introduced the report and outlined the details of the application (as stated in the application form at Appendix A of the presented agenda report). In addition, the Licensing Specialist specifically outlined the amendments that were illustrated at Appendix B of the presented agenda report that had been agreed between the applicant and the Police.

The attention of the Committee was also drawn to the letters of objection (as outlined at Appendix C of the presented agenda report) and the additional information that had been received since the meeting agenda had been published. In so doing, the Licensing Specialist reminded the Sub-Committee that its decision must be based upon the four licensing objectives and it could not consider reasons such as the need for the application in light of there being another pub in Holbeton as being a potential reason for refusing this application. Nonetheless, a Member was of the personal view that, as a principle, opening hours should be consistent for each of those licensed premises that were located within the same village.

With regard to the opening hours, it was noted that there had been some contradictory information contained within the additional papers circulated and the Sub-Committee was specifically asked to take this into account during its deliberations.

1. Address by the Representative of KSM (Dartmoor Union) Ltd

In her address, the representative made specific reference to:-

- the intention being that the core business of the premises would be food (and not alcohol) related;
- clarifying the proposed opening and licensing hours;
- the premises intending to embrace and enforce the Challenge 25 Policy;
- the culture of unsupervised children at the premises. Whilst the Police had raised no comments in response to the allegations that had been raised in some of the letters of objection, the representative highlighted the condition relating to the supervision of children. In addition, the representative gave a personal commitment that, after 6.00pm, children under the age of 8 would only be permitted within the eating area of the premises.

(At 10.20am, the Sub-Committee then adjourned in the presence of Mrs Nightingale to consider the application and reconvened at 10.30am).

2. The Decision

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

"We have considered the application for a new premises licence.

We have considered the Statement of Licensing Policy, the government guidance and our obligations that relate to the promotion of the licensing objectives.

We have read carefully the written representations from all parties, plus additional statements from persons here today. We have also considered the additional conditions proposed by the Police and accepted by the Applicant.

It is our decision to grant this application, subject to the following changes being incorporated into the operating schedule and to include the additional conditions requested by the Police. We have determined the changes to be appropriate to achieve the licensing objectives:

- *The opening hours being from 12 noon to 11.00pm on Monday to Saturday; and 12 noon to 10.30pm on Sundays, with the sale of alcohol to terminate 15 minutes before closing for prevention of public nuisance..*

In addition to being appropriate, the Committee also believe the amendments to be necessary.”

Chairman

This page is intentionally left blank

Document is Restricted

This page is intentionally left blank

Document is Restricted

This page is intentionally left blank

Document is Restricted

This page is intentionally left blank

Document is Restricted

This page is intentionally left blank

Document is Restricted

This page is intentionally left blank

Document is Restricted

This page is intentionally left blank