

Minutes of the Licensing Sub-Committee

8 July 2021

-: Present :-

Councillors Ellery, Douglas-Dunbar and Mills

11. Election of Chairman/woman

Councillor Ellery was elected as Chairman for the meeting.

12. Apologies

It was reported that the membership of the Sub-Committee had been amended for this meeting by including Councillor Douglas-Dunbar instead of Councillor Dart.

13. Urgent items

The Committee considered the items in Minutes 15 and not included on the agenda, the Chairman being of the opinion that they were urgent by reason of special circumstances i.e. the matter having arisen since the agenda was prepared.

14. Licensing Act 2003 - An application for a Premises Licence in respect of Crab and Hammer South Quay, Paignton Harbour, TQ4 6DU

Members considered a report on an application for a Premises Licence in respect of the Crab and Hammer, South Quay, Paignton Harbour, TQ4 6DU.

Written Representations received from:

Name	Details	Date of Representation
Public Protection Officer	Representation objecting to the application on the grounds of 'Prevention of Public Nuisance'.	15 June 2021
Member of the Public	Representation objecting to the application on the grounds of 'Prevention of Public Nuisance'	Received 24 May 2021
Member of the Public	Representation objecting to the application on the grounds of 'Prevention of Public Nuisance'	24 May 2021
Member of the Public	Representation objecting to the application on the grounds of 'Prevention of Public Nuisance'	25 May 2021
Applicant	Representation responding to	Undated

	Community Safety's representation	
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Additional Information:

Prior to the Hearing additional information was received and circulated from a Member of the Public in respect of covenants on the building the proposed Premises would be located in, however, the Legal Advisor informed members this was not relevant to the promotion of the Licensing Objectives and should be disregarded.

Prior to the Hearing, further representation from the Public Prevention Officer dated 5 July 2021 was requested. All parties agreed this could be considered.

At the hearing, a Noise Management Plan from the Applicant was requested to be circulated. All parties agreed this could be considered.

Oral Representations received from:

Name	Details
Applicant	The Applicant outlined their application and responded to Members questions.
Public Protection Officer (via Zoom)	The Public Protection Officer presented their representation in respect of the application and responded to Members questions.
Members of the Public (3 in person, 1 via Zoom)	Four members of the public presented their objections to the application.

Decision:

That the application for Crab and Hammer, South Quay, Paignton Harbour be granted as applied for, subject to the following conditions:

1. No more than 10 patrons shall be permitted to use the premises designated smoking area after 9pm.
2. The premises designated smoking area shall be monitored by staff after 9pm, to ensure noise nuisance does not emanate from this area so as to unreasonably disturb nearby residents.
3. No drinks shall be permitted In the premises designated smoking area after 9pm.
4. No more than 16 patrons at any one time, shall be permitted to use the premises outside licensed area, during opening times.
5. The premises outside licensed area shall only be permitted to be used between 8am and 9.30pm
6. The outside licensed area shall be clearly defined by the use of portable barriers, to ensure public safety.

7. Patrons using the outside area shall be seated at all times, except for access and egress.
8. The supply of alcohol shall only be permitted to persons consuming a table meal and that those persons shall be seated.
9. The supply of alcohol, inside and outside of the premises licensed areas, shall only be permitted by way of table service.
10. The premises plan shall be amended to accurately reflect the current authorisation of use.
11. The provisions outlined in the premises Noise Management Plan shall be adhered to throughout the premises opening times.
12. No recorded music shall be permitted in the premises outside area.

Reason for Decision:

Having carefully considered all the written and oral representations, Members were satisfied to grant the application as applied for, subject to the additional conditions which in their opinion, would ensure that the premises operation did not undermine the Licensing Objectives. Namely, Public Safety and The Prevention of Public Nuisance.

In coming to that decision, Members noted that set out in the operating schedule, the noise management plan circulated at the hearing and the submissions of the Public Protection Officer in respect of noise emanating from inside the premises and were satisfied that this premises internal operations, would not cause nearby residents to be unreasonably disturbed.

Members could not however, be as assured by the premises intended external operations, given the immediate proximity of residential properties, the absence of any detailed plan to manage or monitor this area and the proposed ratio of staffing during operating hours. In forming this view, Members had careful regard to the written and oral submissions by the residents living immediately above the premises and the responses given by the Applicant which in Member's opinion, was based on what he expected, rather than carefully considered mitigating measures required of a premises located in the immediate vicinity of residential properties which intended to operate until 11.30pm.

In determining this opinion, Members noted that whilst the Applicant had gone to lengths to carry out the necessary refurbishments to open this premises, they were concerned to hear from interested parties that during these works, there had been a complete lack of engagement with them, by the Applicant. This coupled with the Applicants own submission, that he had never operated a licensed premises before, caused Members serious concern in what regard the Applicant would have to his immediate neighbours, if granted the application as applied..

Noting that the premises is located within a working harbour and in the absence of any mitigating measures, Members considered restricting use of the premises outside area beyond 6pm to ensure immediate residents were not unreasonably disturbed after this time but noting the willingness of the Applicant to engage with the Licensing Authority's Public Protection Officer, post application, Members resolved to permit use of the premises outside area from 8am – 9.30pm, with the

imposition of the additional conditions which they determined were both necessary and proportionate to promote the Licensing Objectives.

Being familiar with the area in which the premises are located, Members determined it appropriate to restrict the number of patrons using the premises outside area. Notwithstanding the intended changes to the area by the Harbour Authority, as submitted by the Applicant, in its current state, Members determined that the number of patrons proposed by the Applicant would not ensure patrons safety, given the size of the area on the premises plan and location in which it is situated. Members also determined a condition to install portable boundaries to delineate the premises outside area, from that of the activities of the working harbour and access and egress of vehicles using the through road which directly abuts the proposed area, would ensure patrons safety.

Noting that the premises internal proposed capacity was for fifty patrons, Members pointed out to the Applicant that he had not identified a designated smoking area for the premises use. Following discussions in this regard, the Applicant identified an area slightly away from the premises so that patrons did not congregate directly outside the front of the premises which is located directly under the windows of residential properties. Members determined that imposing conditions and restricting the use of this designated area would ensure that it did not become an extension of the premises after 9pm and cause unreasonable disturbance to residents in the immediate proximity.

In concluding, it was noted by Members that the Applicant could apply for a variation to his premises licence to increase the use of the premises outside area, once he was able to demonstrate that the premises could be managed in a responsible manner which was harmonious with its immediate neighbours and would ensure future operations of an extended use, would not undermine the Licensing Objectives.

15. Licensing Act 2003 - An application for a Premises License in respect of Zakopane, 16 Market Street, Torquay, TQ1 3AQ

Members considered a report on an application for a Premises Licence in respect of Zakopane, 16 Market Street, Torquay, TQ1 3AQ. The Premises do fall within the Cumulative Impact Area.

Written Representations received from:

Name	Details	Date of Representation
Police	Representation requesting a slight alteration to one condition.	Unknown

Applicant's response to Representations:

Written representation confirming agreement to this condition.

Decision:

The application for Zakopane, 16 Market Street, Torquay, TQ1 3AQ be granted as applied for subject to the amended condition proposed by the Police and agreed by the Applicant.

Reason for Decision:

Having carefully considered all the written and oral representations, Members of the Sub-Committee were satisfied that with the amendment to the condition, the Licensing Objectives would not be undermined.

Chairman