

NORTH DEVON COUNCIL

Minutes of a meeting of the LICENSING SUB-COMMITTEE D of the LICENSING COMMITTEE held at the Civic Centre, Barnstaple on Tuesday 13th January 2015 at 11.30 a.m.

PRESENT: Members:

Councillor Lucas (Chairman)

Councillors Moore and J. Yabsley.

Substitute Member: Councillor Haywood.

Officers:

Assistant Solicitor, Regulatory Services Officer and Senior Member Services Officer (BT).

(a) APOLOGIES FOR ABSENCE

No apologies for absence were received.

(b) DECLARATIONS OF INTEREST

There were no declarations of interest announced.

(c) APPLICATION FOR THE GRANT OF A PREMISES LICENCE, BAGGY LODGE, CROYDE BAY, BRAUNTON, DEVON. EX33 1PA (REFERENCE NUMBER 040751)

Members of the Sub-Committee, Officers, the applicant and interested parties present introduced themselves. The Chairman outlined the nature of the hearing.

The Assistant Solicitor summarised the hearing process.

RESOLVED that the meeting proceed in the absence of Mr Noott, Hannah Bevan, Mr Gillespie, Mrs Smith, Mr Whitty, Mr and Mrs West and Mr Cooper (Interested Parties)

The Regulatory Services Officer outlined a report (circulated previously) regarding an application for the grant of a premises licence at Baggy Lodge, Croyde Bay, Braunton (reference number 040751). He advised the Sub-Committee that the original application for a premises licence had been amended following the applicant's discussions with the Council's Environmental Protection Team to remove the licensing activity of recorded or live music to be played outdoors of the premises and to reduce

the time for live music on the premises. A summary of the amended proposed licensing activity was detailed in paragraph 1.8 of the report.

Mr M. Cotton (applicant) confirmed he had amended the application as detailed in paragraph 1.8 of the report.

The Regulatory Services Officer advised that all interested parties had been notified following the amendment made to the application and had confirmed that they wished to continue with their representations.

Members of the Sub-Committee questioned the Regulatory Services Officer.

Mr M. Cotton (applicant) confirmed that in relation to licensing activity (J) Supply of alcohol (on the premises) that consumption of alcohol would be on the premises.

The Regulatory Services Officer showed the Sub-Committee photographs of the premises inside, outside and its location.

Mr Cotton (applicant) addressed the Sub-Committee and gave a powerpoint presentation. He outlined the following:

- Background to Licensed Activities at Baggy Point, Croyde Bay
 - Atlantis Lodge (opposite Baggy Lodge) had a full 24 hour licence for over 30 years for residents. He had been the designated premises supervisor at the Lodge for four years. There had been no issues during this period and two weddings had been held at the premises.
 - Croyde House Hotel held a full licence for over 20 years and there had been no issues.
 - Baggy Lodge had been a bed and breakfast for over 10 years and residential guests could bring and consume their own alcohol. The café had been established for 8 years and for the past year customers were able to bring their own alcohol to consume. There had been no issues.
- Overview of Proposed Activities
 - Existing trade of Baggy Lodge. It had been a Bed and Breakfast since 2004, café since 1982 which he had run since 2006, a surf hire since 2006 and a surf (and coastering) school since 2009. Planning consent had been granted in 2014 to separate the activities between the business and his dwelling.
 - As part of the premises licence, it was proposed to sell alcohol to evening Café customers, whereby customers could currently bring their own alcohol. It would allow for limited alcoholic drinks to be sold to Bed and Breakfast guests, who were currently able to bring their own alcohol. It would also allow for associated low key background music.

- Issues raised by objectors – he addressed each issue raised by the objectors as follows:
 - Concern of noise caused by live music and recorded music. Music would predominately be played inside. Recorded music was for background music in the café. Live music was predominately to allow guests to play guitars etc. Commissioned live music would be a rare event (no more than four times per year) and predominately inside. For anything else, he would apply for a Temporary Events Notice.
 - Disturbance and bad behaviour displayed by customers. During 10 years of operating as a Bed and Breakfast, any bad behaviour by customers had been very infrequent and minor. Only low alcohol consumption would be permitted. It was a small property based around his home and hence behaviour was closely monitored.
 - Alcohol as a contributory factor to increased crime and disorder and glasses being used as weapons. No persons shall be permitted to take open or unsealed containers of alcohol from the premises. Glasses shall only be permitted to be used on premises. Only low levels of consumption to be permitted commensurate with eating a meal for non-guests. Residential guests shall only be permitted to drink alcohol purchased on the premises and hence consumption will be controlled. There was no control of guests consumption of own alcohol currently, yet drunken behaviour had been successfully averted for the past 10 years. No crime or disorder fueled by alcohol had been experienced at Baggy Lodge in 10 years of operating as a Bed and breakfast with guests bringing their own alcohol. During Oceanfest an alcohol ban was operated at Baggy Lodge.
 - Geographical location of premises close to unfenced cliffs creates dangers to public. From the end of drive way the normal exit was towards the village and the car park was away from Baggy Point and the cliffs. Any cliffs were fenced by a stone wall for 100 meters towards Baggy Point. Between 100-200 meters cliffs were the other side of a thicket of gorse and bramble, which was extremely hard to walk through, impossible to fall through. All cliffs for 700 meters were a mixture of small drops and gradual slopes totaling no more than 15 meters high. Baggy Point and the higher cliffs were more than 700 meters away on the South West Coastal path beyond a gate.
 - Increased volume of traffic and associated risk to pedestrians. The licence would generate no more traffic as would only be serving the existing customer base. There was no parking on site except for residential guests. Only parking available was in the adjacent National Trust car park which closed at 9.00 pm in the summer and 6.00 pm in the winter and the café hours reflected these times.
 - Increase light pollution. The lighting scheme had been approved by the Planning department and Building Control. No additional lighting was proposed.
 - Degradation of the area by increased litter. No take away services would be offered. There would be no additional trade due to licensed activities

as would only be serving the existing customer base. He rented the lower slopes of Baggy Point and the Lime Kiln fields by the beach from the National Trust for sheep and therefore he undertook a daily litter pick to safeguard his animals.

- Children walking with their families would be exposed to alcohol consumption. Pedestrians walking along the lane that adjoined Baggy Lodge (part of the South West Coastal Path) were not exposed to the café as it was 20 meters from the front of the driveway and tucked back so it could not be seen from the path.
- The position of Baggy Lodge outside the village may attract underage drinkers as they feel it would be less policed than the village. A proof of age policy to the satisfaction of the police and the Local Authority would be in place. The regular police patrols that patrol Croyde Village included Baggy Point as their last call point on their regular rounds. As it was a quiet area with few attractions, it did not attract groups of young people to hang around the area.
- Planning Department comments – different approved business and licensed areas. Licensed activities would only apply to the areas shown which were within the defined business area. The only exception was the roof terrace for playing music which would be removed from the application and would not be used by the public.

Members of the Sub-Committee questioned the applicant.

In response to the questions, Mr Cotton (applicant) confirmed that he would amend the application in relation to Licensing Activity (I) Late night refreshment to indoor only.

The Regulatory Services Officer confirmed that the application did not permit off licence sales of alcohol.

Councillor Mrs Meek (Representing Georgeham Parish Council – Interested Party) addressed the Sub-Committee. She summarised the submitted representation to the Sub-Committee. In addition, she requested that the consumption of alcohol was limited to a defined area on the premises. Concern was also expressed that the application gave no indication of the number of people that could be accommodated on the premises. Concern was also raised regarding the playing of music which would be difficult to contain during the summer when windows and doors would be open.

The Regulatory Services Officer advised the Sub-Committee that the Fire Authority calculated occupancy numbers for licensed premises based on a number of factors in accordance with guidance unless the applicant volunteered an occupancy number. He read the section 182 guidance to the Sub-Committee. He advised that if the premises licence was granted and a statutory nuisance arose in relation to noise and disturbance, it would be investigated and monitored.

Mr Cotton (applicant) advised the Sub-Committee that in accordance with the planning consent obtained, the garden area was for dwelling house use only and it was monitored very carefully.

In response to concerns raised regarding the consumption of alcohol outside of the premises, Mr Cotton (applicant) offered the following condition to be placed on the licence if approved “no alcohol to be consumed past the eastern end of the driveway as indicated on a plan to be submitted and agreed with the Regulatory Services Officer”.

Mr Cotton (applicant) summed up and addressed issues raised by Councillor Mrs Meek (Representing Georgeham Parish Council – Interested Party) . He also volunteered two further conditions to be placed on this licence if approved “that all doors shall be kept closed at all times when regulated entertainment is taking place” and “that the numbers be restricted to 40 customers”.

In response to a question raised by the Regulatory Services Officer, Mr Cotton (applicant) confirmed that the capacity being restricted to 40 customers did not include staff.

Councillor Mrs Meek (Representing Georgeham Parish Council – Interested Party) summed up.

The Regulatory Services Officer summed up.

RESOLVED that everyone be excluded from the meeting with the exception of Members, the Legal representative and Committee Clerk in order for the Sub-Committee to receive legal advice in accordance with paragraph 5 of Schedule 12A of the Local Government Act 1972.

RESOLVED that everyone be re-admitted to the meeting.

The Chairman requested that the Senior Member Services Officer read the proposed decision, which was voted upon and agreed.

In considering the application, the Sub-Committee gave substantial weight to the additional conditions which have been proposed in response to the concerns of Georgeham Parish Council. The Sub-Committee had regard to the statutory framework, Council’s own Licensing Policy, relevant representations made by the various parties and that legislation exists to deal with statutory nuisance should they occur in the future.

RESOLVED that the application for the grant of a premises licence in respect of Baggy Lodge, Croyde Bay, Braunton, EX33 1PA (reference 040751) be approved as detailed in paragraph 1.8 of the report subject to the following:

- (i) Late Night Refreshment being amended to indoor only;
- (ii) No alcohol to be consumed past the eastern end of the driveway as indicated on a plan to be submitted and agreed by the Regulatory Services Officer;
- (iii) That all doors shall be kept closed at all times when regulated entertainment is taking place (except in so far as section 177A (2) of the Licensing Act 2003 applies);
- (iv) That the numbers be restricted to 40 customers or less if deemed appropriate by the Fire Authority.

Chairman

The meeting ended at 1.04 p.m.

NOTE: These minutes will be confirmed as a correct record at the next meeting of the Licensing Committee.