

## EASTERN AREA LICENSING SUB COMMITTEE

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**DRAFT MINUTES OF THE EASTERN AREA LICENSING SUB COMMITTEE MEETING HELD ON 12 DECEMBER 2018 AT WEST WILTSHIRE ROOM - COUNTY HALL, BYTHESEA ROAD, TROWBRIDGE, BA14 8JN IN RESPECT OF Application for a Premises Licence - The George Narrowboat, Devizes Wharf, Devizes, Wilts**

**Present:**

Cllr Stewart Palmen, Cllr Peter Hutton and Cllr Ian Thorn

**Also Present:**

Wiltshire Council Officers

Sarah Marshall (Senior Solicitor)

Jemma Price (Public Protection Officer – Licensing)

Lisa Pullin (Democratic Services Officer)

Asifa Ashraf (Solicitor – Observing)

Kevin Fielding (Democratic Services Officer – Observing)

Relevant Representations

Mr Nigel Carter on behalf of Devizes Town Council

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**1 Election of Chairman**

Nominations for a Chairman of the Licensing Sub Committee were sought and it was

**Resolved:**

**To elect Councillor Peter Hutton as Chairman for this meeting only.**

**2 Apologies for Absence/Substitutions**

There were no apologies or substitutions.

**3 Procedure for the Meeting**

The Sub Committee decided to delay the start of this hearing as the Applicant was not present at the due start time of the meeting (10.15am). At 10.45am, the Applicant was still not present and during that period, three attempts to call

her had been made, two voicemail messages left and an email was also sent to the Applicant.

Jemma Price (Public Protection Officer – Licensing) reported that she had met with the Applicant on 11 December (day before the hearing) and all of arrangements for the hearing were discussed and the Applicant had confirmed to Jemma Price that she was intending to attend the hearing along with her representative.

Sarah Marshall (Senior Solicitor) referred the Sub Committee to paragraph 9 of the procedural rules for the hearing of Licensing Act applications (page 9 of the Agenda pack) and advised the Members that they were able to hold the hearing in a party's absence. The Sub Committee were confident that they had sufficient information within the Agenda and that the Applicant was fully aware of the date and time of the hearing and in accordance with Regulation 20 (2) (b) of the Licensing Act 2003 (Hearings) Regulations 2005 the Sub Committee resolved that it would hold the hearing in the absence of the Applicant and would make its determination based on consideration of the application and the written representations that had been received, together with any further oral representations that may be received on behalf of Devizes Town Council, of which a representative was present. If the Applicant were to arrive whilst the hearing was in progress, the Sub Committee would allow the Applicant the opportunity to address the Sub Committee should she wish.

The Chairman explained the procedure to be followed at the hearing, as contained within the "Wiltshire Licensing Committee Procedural Rules for the Hearing of Licensing Act 2003 Applications" (Pages 5 – 12 of the Agenda refers).

#### 4 **Chairman's Announcements**

The Chairman gave details of the exits to be used in the event of an emergency and asked all those present to introduce themselves.

#### 5 **Declarations of Interest**

There were no interests declared.

#### 6 **Licensing Application**

##### **Application made by Anna Baker for a Premises Licence in respect of The George Narrowboat, Devizes Wharf, Devizes**

Jemma Price (Public Protection Officer – Licensing) introduced the purpose and scope of the application, the premises to which it related and the key issues for consideration. Jemma highlighted the following:

- This was an application for a Premises Licence which sought to provide late night refreshment from Monday to Sunday from 23:00 to 23:30 and sale by retail of alcohol (off sales) from 11:00 to 23:30, Monday to Sunday;
- One relevant representation was received from Devizes Town Council in objection to the application. Their representations were made in relations to concerns about public safety and the prevention of public nuisance; and
- The Applicant had been trading for 21 days at Devizes Wharf under the permission of Temporary Event Notices with no issues reported to Wiltshire Council Licensing Team.

The Applicant nor any representative, were present at the meeting.

Key points raised by Mr Nigel Carter on behalf of Devizes Town Council who made a Relevant Representation were:

- That the Town Council were concerned that this appeared to be an application for a mobile licence for a winter mooring that was due to expire on 15 March 2019. At the Town Council's planning meeting, they had had a robust debate and objected to the application as they felt that the proposed location on the canal tow path was not appropriate for a licenced premises' both in terms of safety due to the lack of light and proximity to deep water and narrowness which would result in an unacceptable impact on other users of the tow path. They were also concerned that should a licence be granted it would be to the detriment of other boat users in the area and that the lack of toilet facility in the area would lead to acts of anti-social behaviour;
- The Town Council stated that a number of premises were believed to have licences to trade in a similar context for example with private events taking place on board (boats) using the canal;
- There was also a concern that the premises would be on the route (the tow path) which is transited by many children whilst walking to and from school.

The Sub Committee members noted at 11.03am that there was still no attendance by the Applicant and the Sub Committee asked the following questions of Mr Carter who was representing Devizes Town Council:

Q Who manages the tow path?

A It is managed by the Canal and River Trust.

*Mr Carter questioned the location of The George Narrowboat and according to the map on page 43 of the Agenda and felt that its usual location was near to the Wharf Theatre which was close to the number "5" indicated on the map.*

The Sub Committee wished to clarify that if the licence was to be granted would the Applicant be able to trade in any location within the Devizes Wharf. Jemma Price (Public Protection Officer – Licensing) clarified that she believed that the Applicant was trading on the opposite side of the tow path (which was hard to indicate on the plans within the agenda with the large dot). Mr Carter said he understood that with the mooring permit, boat owners would be allocated a certain berth for their boat.

Mr Carter on behalf of Devizes Town Council did not wish to make any points in summation.

The Sub Committee then adjourned at 11:05am and retired with the Senior Solicitor and the Democratic Services Officer to make a decision on the licensing application.

The Hearing reconvened at 11:25.

Sarah Marshall (Senior Solicitor) confirmed that she had advised the Sub Committee and had given the Sub Committee relevant legal advice to confirm that the Sub Committee were able to determine the application without the presence of the Applicant as they felt that had sufficient information with the application and the representations to make the decision.

The Sub Committee wished to record that they hoped the Applicant was safe and well as she had not arrived for the hearing.

Following the deliberations of the Sub Committee Members, it was

**Resolved:**

**The Eastern Area Licensing Sub Committee GRANT the application for a Premises Licence to 15 March 2019 which will only be permanently extended if the Applicant provides evidence to the satisfaction of Wiltshire Council as Licensing Authority of a permanent mooring licence within the Devizes Wharf by 15 March 2019.**

The Premises Licence is to include the activities and timings detailed below:

<b>Licensable Activity</b>	<b>Timings</b>	<b>Days</b>
Provision of late night refreshment	23.00 – 23.30	Mon - Sun
Sale by retail of alcohol (OFF sales)	11:00 – 23:30	Mon – Sun

Subject to the following condition:

1. That there be no public access onto The George Narrowboat whilst the premises are trading to the public.

Advisory:

That the Applicant is requested to inform the Canals and River Trust of the dates that she intends to trade from the Devizes Wharf.

### **Reasons**

As the Applicant was not present at the hearing, in accordance with Regulation 20 (2) (b) of the Licensing Act 2003 (Hearings) Regulations 2005 the Sub Committee resolved that it would hold the hearing in the absence of the Applicant and would make its determination based on consideration of the application and the written representations that had been received from the Devizes Town Council ('The Town Council') and the representations made by a representative of the Town Council at the hearing.

The Town Council had expressed concern about the potential for public nuisance and public safety and the protection of children from harm. The Town Council representative raised concerns for public safety due to the lack of light and proximity to deep water and narrowness of the tow path which could result in an unacceptable impact on other users of the tow path. The Town Council also highlighted the lack of toilet facilities in the Devizes Wharf area which could lead to anti-social behaviour and the potential for harm to children using the tow path as a school route.

The Sub Committee noted that the Applicant had been trading for 21 days in the Devizes Wharf area under the permission of Temporary Event Notices with no issues reported to Wiltshire Council Licensing Team.

In reaching its decision the Sub Committee also considered the relevant provisions of the Licensing Act 2003 (in particular Sections 4 and 18); the guidance issued under Section 182 of the Act, the Licensing Policy of Wiltshire Council and the conditions offered by the Applicant within the application.

### **Right to Appeal**

All parties have the right to appeal to the Magistrates Court within 21 days of receipt of the written decision. Any person has the right to request a Review of the Licence, in accordance with the provisions of section 51 of the Licensing Act 2003.

(Duration of meeting: 10.45 - 11.25 am)

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