

LICENSING ACT 2003

NOTICE OF DETERMINATION

Date of Hearing:	Tuesday 9 th July 2024
Application:	Variation of a Premises Licence
Name of Premises:	Quayside Distillery
Address:	60A Haven Road Exeter
Licensing Sub-Committee:	Cllr Snow (Chair) Cllr Harding Cllr Holland
Committee Legal Advisor:	Matthew Hall Max Murphy
Principal Licensing Officer:	Nigel Marston Julie Bennett
Democratic Services Officer:	Liz Smith
The Applicant:	Quayside Distilling Limited (George Nightingale Director & Jonty Barlow Manager)
Representations:	In attendance: Environmental Health Alice Hasted Environmental Health Officer Lisa Cocks Environmental Health & Community Safety Manager Bethan Vincent William Hill (via telephone)
Hearing Duration:	1005hrs – 1225hrs

TAKE NOTICE:

That the Licensing Sub-Committee convened on 9th July 2024 to determine the application for a variation to the premises licence has unanimously resolved to grant the variation subject to conditions in accordance with section 35 of the Licensing Act 2003.

THE SUB-COMMITTEE'S DECISION:

In determining this application, the Licensing Sub-Committee took into account all the relevant evidence and information presented to it both written and oral, and took account of all the matters it is bound to take account of, in particular the following:

- Licensing Act 2003
- Statutory Guidance
- Exeter City Council Statement of Licensing Policy
- Human Rights Act 1998
- Any equality and diversity considerations

Conditions

The Application is granted subject to the conditions submitted by the Applicant and set out in Section 18 of the Operating Schedule of the Application as modified by the Licensing Authority.

In addition the following conditions were imposed by the Licensing Sub-Committee:

All outside areas must be closed and cleared of customers by 2300 hours on a Friday and Saturday and 2200 hours between a Sunday and Thursday. Adequate notices shall be displayed to inform patrons of this requirement.

Noise levels in outside areas will be monitored and controlled to minimise any potential impact on local residents. Customers will be advised of the need to respect local residents where appropriate. Any patrons continuing to cause any disturbance or disorder will be asked to leave the Premises.

A telephone number shall be made available and displayed in a prominent location where it can be conveniently read from the exterior of the premises for local residents to contact the premises in the case of noise-nuisance or anti-social behaviour by persons or activities associated with the premises. The telephone number will be a direct number to the management who are in control of the premises during opening hours. An incident log shall be kept and maintained at the premises which will include a log of pertinent details of any phone calls or complaints received. Records must be completed within 24 hours of any complaint, and will contain the time and date, the nature of the complaint, the people involved, the action taken and details of the person responsible for the management of the premises at the time of the complaint. The logs shall be kept for at least 12 months following the date of entry and be made available for inspection and copying upon request of an authorised officer of a responsible authority.

Clear and legible notices shall be prominently displayed at all exits and in the outside licensed area for patrons to respect the needs of local residents and businesses.

Prior to carrying out licensable activities in the outside area provide the following to the Licensing Authority:

1. A detailed Health and Safety Risk Assessment of the proposed Pontoon. This assessment to include the maximum permitted numbers allowed onto the pontoon allowing for furniture layout.

REASONS FOR DECISION

Having carefully considered all the written and oral submissions the Licensing Sub-Committee resolved to grant the application subject to conditions as it was satisfied that the use of the proposed outside area if properly managed would promote the Licensing Objectives.

The Licensing Sub-Committee was mindful of its Statement of Licensing Policy which states at paragraph 9.2 that residents have a reasonable expectation that their sleep will not be unduly disturbed between the hours of 23:00 and 07:00 and paragraph 9.3 which states that it is the policy of the Licensing Authority to strike a fair balance between the benefits to a community of a licensed venue, and the risk of disturbance to local residents and workers. Notwithstanding that all applications will be determined on their merits.

The representations from environmental health were given careful consideration. Actual readings and decibel levels of noise recorded were not provided in evidence. The incidents logged related to music emanating from inside the premises and noise from patrons outside the premises. Apart from one incident in June 2023 all incidents took place after 2300hrs. Following the issue of a written warning to the Applicant by Environmental Health in December 2023 further incidents were logged relating to music being played inside the Premises after 2300 hours. The Applicant was in this regard operating within the remit of the existing licence and indicated he wished to work with Environmental Health and residents to avoid future complaints. The proposed variation did not include the playing of live or recorded music, would move patrons away from the residential properties and be closed at 2300 hrs. Therefore the Licensing Sub-Committee took the view that the Application with conditions imposed promoted the Licensing Objectives.

In reaching their decision, the Licensing Sub-Committee had careful regard to the representations from the residents and in particular the location of the Premises and the residential flats in the building next door. The relationship between the Applicant and the residents had clearly fractured. The Licensing Sub-Committee noted that both the Applicant and the residents had raised a number of other factors in their representations but found these either to be outside the remit of the Licensing Authority to determine or irrelevant to this application and the Licensing Objectives. The matters raised by the residents closest to the Premises in respect of the operation of the existing licence raised genuine concerns. However it was the view of the Licensing Sub-Committee that overall the variation would relieve and not add to the issues being raised by the residents in respect of the operation of the existing licence. It was noted that it was not for the Licensing Sub-Committee to impose conditions on the existing licence as it could only consider the variation put before it. The representations did raise concerns in respect of the Applicants handling of complaints and management of the Premises which the Applicant stated would be addressed. The Licensing Sub-Committee were also concerned about the Applicants' approach to compliance concerning the conditions on the existing licence but accepted his apologies for this and the explanation that an incident in June 2023 was attributable to a previous member of staff that had been dismissed as a result.

The representations made were balanced against the development of the area and increasing 'the offer' to visitors in the area. The Licensing Sub-Committee considered that the operation of the premises with a regulated outside space would be positive for the area. The Applicant assured the Licensing Sub-Committee that neither live nor recorded music would be played in the outside area. Additional conditions were added to ensure that outside areas would be cleared by the terminal hour, would close an hour earlier on a Sunday to Thursday, residents had a clear method of contacting the premises and that all complaints made would be properly logged and available for inspection.

The evidence received in response to the Application focused primarily on the Licensing Objective of the Prevention of Public Nuisance. When considering the other three Licensing Objectives which had been raised in the representations the Licensing Sub-Committee were mindful that the Licensing Authority should look to the police as the main source of advice in respect of the Prevention of Crime and Disorder and no representation had been made by Devon and Cornwall Police in respect of this application. In respect of the Protection of Children from Harm the Licensing Sub-Committee noted there had been no representations from responsible authorities in this regard and considered this objective would be promoted. In addition, in respect of Public Safety again no representations have been received from health and safety authorities in respect of this application. The installation of the Pontoon will require additional statutory consents outside the Licensing regime. The Licensing Sub-Committee noted that the Applicant intended to take specialist advise in respect of a health and safety risk assessment and therefore imposed a condition on the licence to provide this assessment prior to the outside area being used for licensable activities.

Should any issues arise as a result of this grant, the Licensing Sub-Committee noted that a Review of the Premises Licence can be sought by any person or a Responsible Authority.

RIGHT OF REVIEW

At any stage, a responsible authority or any other person may ask the Licensing Authority to review the licence or certificate because of a matter arising at the premises in connection with any of the four licensing objectives; the prevention of crime and disorder, Public Safety, the prevention of public nuisance and the protection of children from harm.

RIGHT OF APPEAL

All parties are reminded of their right to appeal against this decision to the Magistrates' Court by virtue of Section 181 and Schedule 5 Part 1 of the Licensing Act 2003. Any appeal must be made within the period of 21 days beginning with the date on which you are notified of the decision.

Any Appeal is commenced by a notice addressed to:

The Clerk to the Justices, North and East Devon Magistrates' Court Office, Southernhay Gardens, Exeter, EX1 1UH Telephone 01392 415300.

Parties are advised to contact the court office to check the form of notice required and the fee payable.

The Chair of Licensing Sub Committee

A handwritten signature in black ink, consisting of a series of loops and a long horizontal stroke extending to the right.

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