

PREMISES LICENCE APPLICATION

MV MARGARITTA

RESPONSE TO REPRESENTATIONS

Introduction

This is an unusual but by no means unique application for a number of reasons:

It seeks to licence a relatively small boat for the supply of alcohol on board;
It has attracted a huge number of representations, both in favour and against; and
The Council have had to contend with an argument that it should have regard the Conservation of Habitats and Species Regulations 2017 and in particular regulation 63 (1) of the same in making its decision.

The latter has led to long exchanges of emails with Licensing Officers, Legal Advisers and the Council's Bio-Biodiversity officer about whether the representation is relevant but the upshot is that the officer concerned (and Natural England) have concluded that granting the application would not have an adverse effect under the regulations and the representation has therefore been withdrawn. Given that a large number of the representations against the application have raised the issue of the effect of the grant of the licence to a greater or lesser extent on this issue, it may assist the Committee to see the final response from Mr Martin – the relevant officer as follows:

Dear Mr Day

Having passed on current information to Natural England have agreed that application does not have a likely significant effect on features of Solent and Dorset Coast Special Protection Area under the Habitat Regulations

So no objection to this licence being granted if committee so wishes.

No further information is required



Jez Martin CEnv MCIEEM

Biodiversity Officer
Environmental Development Team
tel. 01202 127559

jez.martin@bcpcouncil.gov.uk

bcpcouncil.gov.uk

Other Responsible Authority Representations.

There have been none and the Sub-Committee will no doubt take comfort from that as both the Secretary of State's Guidance and the Council's own policy make it clear that it should take its lead on matters such as crime and disorder, nuisance and the other licensing objectives from the relevant responsible authorities.

The sub-committee will of course be aware that its decision must be based on evidence (and I mention that through no disrespect to members but to highlight the point to those who have objected). Much of what is said by way of objections is not supported evidentially).

A suggested approach to the application.

It is suggested that the sub-committee approach this application in two stages:

Firstly to determine whether the vessel should be licensed to supply alcohol on board and, if so

Whether to restrict the supply of alcohol when the vessel is moored (i.e. whether to prevent or restrict "off-sales")

Some representations have queried the location of the vessel. This is a technical issue – the Licensing Act requires that any application to licence a boat/ship/sailing vessel etc has to be made to the Licensing Authority where the vessel is normally moored. If the mooring changes, all that is required is that a notification of what would in effect be a change of address is made to the Licensing Authority.

Should the vessel be licensed at all?

Any "premises" that seeks to sell or supply alcohol has to contend with a host of other regulations e.g. planning, building control, fire safety and the like.

A vessel such as this is no different – it needs to comply with maritime and a host of other regulations (including Habitat Regulations). Specifically, before the vessel is able to take passengers, it will need to be "fully coded" (which it previously was before the refit). The necessary surveys are already underway. Further, the skipper in control of the vessel will also have to hold a full commercially endorsed skippers ticket to operate.

The sub-committee will only be concerned with the four licensing objectives.

In brief summary, the vessel can (subject to obtaining all other necessary consents/licences/permissions etc) operate as a fishing and/or charter boat and those on board cannot be prevented from taking their own alcohol on board and consuming it to their heart's content. By granting a licence the supply of alcohol on board can and would be controlled and conditioned.

A number of those objecting seem to be under the impression that the vessel will become some sort of "party boat" reminiscent perhaps of the replica pirate boats that

operate out of Mediterranean and other resorts. Nothing could be further from the reality – this is a small vessel that would have a maximum capacity of 12 passengers and 2 crew and would not be licensed for any form of regulated entertainment. An important element of the offering will be food – please see the photographs of the cooking facilities on board.

Assuming that the Vessel is licensed, should it be permitted to supply alcohol for consumption “off” the premises?

The application includes “off sales” in very limited circumstances. The applicant (Mr Malone) is a keen supporter of local charities, including in particular the RNLI.

It is not his intention that the vessel become some sort of floating off-licensed bar wherever it might be moored but that it could be used to support events along the Christchurch River quay.

Again, note should be taken of the fact that none of the responsible authorities have raised any issue regarding the conditions suggested with regard to this aspect of the application which conditions also limit the times and occasions upon which off-sales might be permitted.

Summary

Personally, I find it surprising that this application has attracted the interest that it has and I have a concern that a number of those who have made representations have either not fully understood nature of the application (this is not an application for a “Party Boat” nor a floating off-licence), the grounds on which objections can be properly be made, the need to support proper objections with evidence and perhaps more to the point, precisely what is being applied for here.

Those who have made representations to the application need also perhaps to be both reminded and re-assured that if their worst fears are realised, they have the absolute right (at no expense to themselves) to seek a review of the licence which could ultimately result in the revocation of the same.

Philip J Day
Laceys Solicitors LLP
9 Poole Road
Bournemouth
BH2 5QR
p.day@laceyssolicitors.co.uk
01202 377687