

**David T Fisk**  
**Grimwade Close, Brantham, Suffolk CO11 1QY.**

[LicensingTeam@babberghmidsuffolk.gov.uk](mailto:LicensingTeam@babberghmidsuffolk.gov.uk)      Date 7<sup>th</sup> November 2018

Reference/Type: Section 17 – New Premises Licence

Premises: Sailing Barge Melissa, usually moored at Pin Mill, Ipswich IP9 1JW

Applicant: Mr J Webb

Public Consultation during which relevant representations can be received by the Licensing Authority ends on: **15 November 2018**

Application Detail: This application is for a Sailing Barge called Melissa. The proposal licensable activities are: Live & Recorded Music, Dane, Late night Refreshment and Sale of Alcohol between the hours of 11:00 to Midnight Monday to Sunday and 11:00- 02:00hrs for Christmas Eve, New Year's Eve, Public holidays and the Friday, Saturday and Sunday proceeding a public holiday.

**Please find herewith my representations and strong objections to the afore mentioned application for a new premises licence by Mr Jonathon Webb.**

My objections to this application are in the first instance relative to the failure of the applicant to conform to the legislation as set out within the Licensing Act 2003 Regulations 25 and 26 of the Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005.

The second part relates to Public safety issues that are relevant to this application and in particular to the use of a sailing vessel in tidal waters.

### **Section 1: The lawfulness of the vessel and the application**

First I wish to bring the following extract from the Home Office Revised Guidance issued under section 182 of the Licensing Act 2003 to your attention:- 1.10 Nothing in this Guidance should be taken as indicating that any requirement of licensing law or any other law may be overridden.

In this application which is unique as it refers to a vessel unlawfully moored within the Port of Ipswich and as such is subject to Riverian laws as set out herewith which as stated, cannot be overruled by the requirements of the Licensing act 2003.

This vessel is subject to statutory laws and byelaws agreed by the Secretary of State namely The Ipswich Dock Acts of 1950 and 1971 and the Port of Ipswich Byelaws which relate to vessels and do not apply to other premises that maybe licensed to sell alcohol.

Byelaw 94 states:- Unauthorised Trading Prohibited; No person shall engage by way of trade, in buying or selling any goods, services or property on the harbour premises/dock

estate without the written consent of the Authority. Mr Webb has no permission as required by law.

The Melissa is currently moored on an extended jetty built by Mr Webb without the permission of the Ipswich Harbour Master, the owners of the river Ipswich CBC, the Marine Management Organisation (M.M.O.) and without Planning permission from Babergh DC.

“moored” when used in relation to a vessel means a vessel secured: (a) to a mooring chain or mooring buoy either ahead or astern or both, or (b) alongside any vessel so secured, or (c) both ahead and astern by anchors, or d) alongside any quay.

“quay” shall mean any quay, pier, jetty, wharf, dolphin, landing stage or stairs, shore or other place at which vessels load or unload goods, embark or disembark passengers or other structure used for berthing or mooring vessels including any roll-on/roll-off facility or bridge.

All moorings within the Port and harbour require a licence from the Ipswich Harbour Master (ABP). The conditions of the mooring licence preclude the use of the mooring by a houseboat.

“houseboat” includes any pleasure boat which is not a launch and which is decked or otherwise structurally covered in and which is, or capable of, being used as a floating habitation (whether by day and night or one or the other) **or as a place of for accommodating or receiving persons for the purpose of shelter, recreation, entertainment or refreshment**, or of witnessing regattas or other events, or a club premises or as offices or as a kitchen, pantry or store place.

The Melissa should it be licensed as premises for the sale of alcohol will be by definition a houseboat and therefore subject to the Ipswich Dock Act 1950 Section 12 which states as follows:-

"It shall not be lawful without the written consent of the Commission to moor, place, keep or maintain in the port any houseboat, whether or not the same shall have been so placed or moored before the passing of this Act."

Byelaw 80 states: - Houseboats. No vessel moored in the Authority's area (other than a vessel bona fide used for navigation) shall be used for the purposes of residence unless it is berthed alongside a frontage where there is direct access from the shore by agreement with the owner of the frontage.

The Melissa is not moored alongside the shore it is as stated moored against an unlawful jetty.

The Melissa is by capacity a regulated vessel by virtue of the fact the capacity is greater than 50 tons. The master of a regulated vessel it is required to comply with the instructions of the Harbour Master before mooring in the Port of Ipswich. The Port of Ipswich extends from Stoke Bridge to Shotley Point.

“regulated vessel” means every vessel having a gross tonnage of more than 50 tonnes and every vessel licensed to carry passengers. “

As a regulated vessel the master of the vessel must comply at all times with instructions from the Harbour Master.

**I now turn to the issues of non-compliance with the licensing laws and the Home Office guidance which relate to the granting of this application.**

The address given in the application and in the advertisement in the newspaper is imprecise and fails to describe the exact location of the premises to be licensed. The law and HO guidelines 8.80 require sufficient description to enable the location to be identified by the public.

The plan of the premises submitted with the application does not include the jetty against which the vessel is berthed.

The Licensing Act and regulations require a brief summary of the application on A4 or larger notice in a prescribed format to be displayed **immediately on or outside the premises** in a prominent position where it can be conveniently read from the exterior of the premises and in the case of a premises covering an area of more than 50 metres square, a further notice in the same form and subject to the same requirements every fifty metres along the external perimeter of the premises abutting any highway. The notice(s) must be in such a position that they can be viewed by the public for at least 28 consecutive days starting on the day after the submission of the application.

The Melissa is located about 150 metres from the shore at the far end of an extended jetty to which the public have no access or knowledge and therefore they cannot have sight of any prescribed notice that may be displayed. This jetty cannot be accessed on foot or by vehicle for 1 to 2 hours (can be more on spring tides) before high tide and a similar time after the tide because the tidal water covers the foreshore over which access is gained at other times. High tide occurs twice daily.

On the morning of the 6<sup>th</sup> November 2018 at high tide the Melissa was lying against the posts on the east of the Hard, when it was visited by an officer of Suffolk Constabulary who is thought to be the licensing officer. He was collected from Harry King's pontoon by boat. If it was the licensing officer he did not see the vessel in situ at the jetty where it is normally berthed. It could be the visit was arranged by the applicant to co-incide with the high tide in order to avoid inspection of the jetty. The spring tide prevented access to the jetty by foot.

The vessel remained in the same position and was there at the High tide today when I photographed the starboard side of the vessel at 11.31am (as attached) No notices are displayed on the premises/vessel as required by law. The applicant Mr Webb is in breach of the requirements of the legislation and non-compliant with the law.

**The required conditions have not been complied with. The application is flawed and therefore invalid.**

The Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005, state:-

## Notice to responsible authority

**Section 27.** In the case of an application for a premises licence under section 17, the person making the application shall give notice of his application to each responsible authority by giving to each authority a copy of the application together with its accompanying documents, if any, **on the same day as the day on which the application is given to the relevant licensing authority.**

I understand that this mandatory requirement was not in this application adhered to, if I have been informed correctly by the licensing officer a copy of the application is to be sent to Planning and was not served on planning by the applicant as required at the time of the submission of the application. This means the application is flawed and invalid.

Revised Guidance issued under section 182 of the Licensing Act 2003, states:-

Responsible authorities 8.7, For all premises, responsible authorities include: • the relevant licensing authority and any other licensing authority in whose area part of the premises is situated; The Chief officer of police; • the local fire and rescue authority; • the relevant enforcing authority under the Health and Safety at Work etc Act 1974; • the local authority with responsibility for environmental health; • **the local planning authority;** •

8.5, In relation to vessels, authorised persons also include an inspector or a surveyor of ships appointed under section 256 of the Merchant Shipping Act 1995. These would normally be officers acting on behalf of the Maritime and Coastguard Agency.

8.9 In relation to a vessel, responsible authorities also include navigation authorities within the meaning of section 221(1) of the Water Resources Act 1991 that have statutory functions in relation to the waters where the vessel is usually moored or berthed, (In this case ABP) **or any waters** where it is proposed to be navigated when being used for licensable activities. This therefore must also include the Harwich Harbour Board as the navigating authority the vessel will have to navigate through to gain access to the sea. **In addition all navigating authorities on the east coast he may wish to operate in** as he has done in the past, the most recent was the Woodbridge Maritime festival where he advertised and operated as a floating pub. (Without a lawful licence).

8.10 The MCA is the lead responsible authority for public safety, including fire safety, affecting passenger ships small commercial vessels (carrying no more than 12 passengers) which go to sea. The safety regime for passenger ships is enforced under the Merchant Shipping Acts by the MCA which operates certification schemes for these vessels. Fire and rescue authorities, the Health and Safety Executive and local authority health and safety inspectors should normally be able to make “nil” returns in relation to such vessels and rely on the MCA to make any appropriate representations in respect of this licensing objective.

In this case the Melissa is classed as a small commercial ship licensed to carry no more than 12 passengers and 3 crew. The navigation authority is the Ipswich Harbour Master acting for and on behalf of Associated British Ports (ABP).

Only ABP can authorise the mooring of the Melissa in the River Orwell, only ABP can authorise the vessel to operate in the river as a floating Pub. Whilst in the Port and Harbour of Ipswich the master of the vessel is at all times required to comply with the Harbours Masters instructions.

I when viewing the application, was advised that the Planning Authority would be copied the application but ABP would not be.

It appears the applicant did not comply with Section 27 of The Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005 and failed to deliver copy to the Planning authority and ABP at the same time as he submitted the application. I doubt he served any notice on any navigation authority as is required. (8.9above)

**This application is flawed and therefore invalid.**

8.13 As well as responsible authorities, any other person can play a role in a number of licensing processes under the 2003 Act. This includes any individual, body or business entitled to make representations to licensing authorities in relation to applications for a Premises Licence.

I submit that this application is far more complex than those for existing buildings. In this case I suggest the Parish Council and the Pin Mill Bay Management Company who on behalf of Babergh DC manage the Pin Mill Hard and the land either side. Access to the Melissa will be over land which the PC and the PMBMC are responsible for.

In addition this vessel is within a conservation area, an Area of Outstanding Natural Beauty, a Site of Special Scientific Interest and a RAMSAR site. The Environment Agency and Natural England should be consulted as they are for planning applications. All these bodies should have the opportunity to comment on the application before it comes before the Licensing Committee.

I note the Babergh Planning website shows no application from the applicant for planning permission without which, the use of this vessel as licensed premises at Pin Mill is illegal.

**Section 2 Safety requirements:** I now turn to the most important subject which is that of Public Safety.

Public safety on water has been since the Marchioness disaster of paramount importance with many issues to be taken into consideration. The first of which is the maximum capacity of the vessel and the fixing of limits of the numbers of persons permitted on the vessel whilst moored in tidal waters as the Melissa is, at Pin Mill.

When I viewed the application at Endeavour House I did not see any risk assessment submitted by the applicant as is suggested in Revised Guidance issued under section 182 of the Licensing Act 2003 para 2.13 and no suggested limit of capacity.

The stability of the vessel v numbers on board in all weathers has to be taken into account as at Pin Mill the Melissa is subject to wind and tide, waves and wash, storm and tempest.

Vessels at Pin Mill are in particular, vulnerable to northerly winds and waves often exceed 2 feet high and in gale force winds they exceed 3 feet. If the barge is floating then it moves, up and down with the waves or wash, and if the tide is still low the vessel will bounce on the ground beneath. Given the strength of the wind and tide the vessel will at times pitch, toss and roll therefore in bad weather the vessel will not provide a stable platform for relaxation, drinking and enjoyment of alcohol. In fact for many it will cause sickness and vomiting.

Emergency exit from the vessel is limited to the side next to the jetty and is difficult in bad weather because any gangway would be restricted in width. It is well known that persons on vessels often panic and in panic will leap into the water, although they cannot swim, therefore increasing the danger to life

Access to and from the vessel from or to the pontoon will, in windy conditions, be difficult if not impossible for the old, infirm, disabled and wheel chair users to embark or disembark and can in fact be dangerous. Worse still is the fact that to get to the vessel or to leave it will mean using the pontoon which has no suitable safety barriers and no suitable lighting that would meet the safety standards required within health and safety legislation.

There are no facilities on the vessel for disabled users as required by law for licensed premises.

Access to the jetty and the Melissa is via the foreshore behind the Butt and Oyster Public house which is not possible at high tide as this part of the foreshore is covered by the tide for up to 2 hours either side of the time of high tide. Spring tides (higher tides) occur 14 days in 28. When the tides are at their highest, the longer the foreshore is not usable for access. High winds can also increase the time the foreshore remains covered. Those wishing to visit the vessel or leave the area will have wait until the tide has receded unless they wish to wade or swim through the water blocking the way. (Not recommended).

It is clear that applicant Mr Webb will if granted the licence wish to use his vessel as a floating pub at other harbours which could mean the problems of safety are much worse. For instance if moored at Halfpenny Pier, Harwich the vessel will lie in very powerful tides in much deeper water and subject to greater waves and wash in a position giving much greater exposure to weather. If there was a man over board situation the chances of survival would not be good in such waters, as opposed to Pin Mill, where there is greater chance of reaching the shore.

Within the application it is stated that the vessel will have staff on deck to assist any customer that requires help. Mr Webb does not have any staff in his employment so on occasions will have to find staff as and when required. I very much doubt there are any suitable trained persons available to hire as and when he gets a booked event on board his vessel and he will need a guaranteed number of customers to make hiring them as and when required worth the cost. In effect he would require fully trained lifeguards. I very much doubt there are any available in this area at short notice, if at all.

There is a requirement for access by emergency vehicles and personnel which is not possible at Pin Mill other than at high tide when the RNLI lifeboat could attend. Safety includes ensuring there are appropriate waste disposal and toilet facilities. The vessel has limited toilets and limited holding tanks for sewage and waste water which cannot lawfully be discharged into the river and there is no access for vehicles to attend to collect sewage or waste material.

There exists at Pin Mill over 30 vessels that daily discharge sewage onto and into the mud at Pin Mill with the result that all vessels there are surrounded by their own excrement and the excrement of others. The current situation is under investigation by the authorities but as yet there has been no positive action to stop this pollution. Granting a license to the Melissa to operate a floating pub at Pin Mill will add greatly to the existing pollution which is contrary to environment law, Riverian law and the Port of Ipswich byelaws.

I attach with this representation a photograph of an event which took place at Pin Mill in October last year which is worth more than further words from me. The owner of the vehicle in the photograph was so intoxicated he sat and watched the tide come in and the water rise around his vehicle. The photograph highlights some of the problems at Pin Mill I am attempting to describe including the fact that there are few parking areas in Pin Mill.

I ask that this application be refused for all the reasons stated within this representation which amount to a disregard of the law as I have set out within this document,

Yours sincerely

David Fisk

N.B. The Melissa was granted a licence by Ipswich Licensing commencing on the 1<sup>st</sup> August 2018 it was revoked on the 17<sup>th</sup> of October 2018 as I complained the licence issued by Ipswich was invalid as the Ipswich wet dock was not the usual berth of the vessel. I also complained that I had been informed that the licence was lawful because the relevant laws had been complied with and the Melissa had been in the wet dock for 28 consecutive days displaying the application which I knew to be completely false as was written statement that the Harbour Master could confirm it as I knew for at least 24 of the days the vessel was banned by the Harbour Master from entering the dock.

An investigation is being conducted to establish why an employee lied when he spoke to me and also lied to his manager.









Babergh District Council  
Licensing Team  
Endeavour House  
8 Russell Road  
Ipswich

\_\_\_\_\_  
Please ask for: \_\_\_\_\_  
Our email: \_\_\_\_\_  
Our direct line: \_\_\_\_\_  
Our fax number: \_\_\_\_\_  
Our reference: \_\_\_\_\_  
Your reference: \_\_\_\_\_

**Date: 13<sup>th</sup> November 2018**

Dear Licensing Team,

**Re: Representation on the application for the grant of a new premises licence for the Sailing Barge Melissa, Pin Mill, Ipswich**

I am part of a multi-agency group that includes Environment Agency, Maritime Coastguard Agency, AB Ports, National Trust, Marine Management Organisation and Pin Mill Bay Management Community Interest Company which manages the 'Hard' at Pin Mill.

As a multi-agency group, we wish to object to the grant of a new premises licence for the above premises due to concerns we have regarding the alleged actions of Jonathan Webb and how that may influence the general management of the vessel Melissa. We feel that the granting of a premises licence will impact on the four licensing objectives for the following reasons:

- Continued unauthorised supply of fuel to houseboats despite warnings from the MCA and the Environment Agency – Jonathan Webb has been warned by the MCA that he needs a licence to sell fuel from a vessel. He arranges for a delivery of fuel to be made into a bowser and then delivers to the houseboats by way of a small vessel. He has been informed he is unauthorised to carry out this practice. He continues to undertake this practice
- He has alleged links to Blacksmith Barge which is moored illegally at Pin Mill and has been the subject of many complaints of anti-social behaviour locally and he continues to provide them with water and electricity
- He has recently Moored his houseboat within the designated houseboat area at Pin Mill without any confirmed authorisation or planning permission after BDC had written to him informing him he would need to apply for permission
- Failed to declare and supply complete and accurate information of all of his moorings to ABP resulting in several being removed. He had allegedly not previously declared or paid for moorings in the River Orwell for a number of years
- No evidence of Food Hygiene Rating or certificate yet has previously been serving food to paying customers
- County Court case pending for non-payment of mooring fees to CIC

- Previously been denied access to Ipswich wet dock for outstanding money owed (Now paid)
- Warning served from EA regarding the burning of contaminated waste
- The vessel in question 'SB Melissa' is moored on an unauthorized jetty now being quoted as the address for the vessel
- Deliveries of supplies may need to be carried out using this jetty
- Discharge of waste from SB Melissa directly into the river
- The Orwell Estuary is an AONB as well as being designated a SSSI, SPA and Ramsar site. The EA is part of a management group that promotes the sustainable use of the Orwell estuary through the management of human activity, in a way which is compatible with the conservation of the estuarine landscape and wildlife. The current arrangements for the SB Melissa is to discharge raw untreated sewage directly onto the mudflats. This activity has the potential to cause harm and deterioration of this highly sensitive site. Before this application can be approved the owners of this vessel must look into an alternative method of disposal that does not impact on ecology.

From representatives of the Pin Mill Multi Agency Group  
Babergh DC  
Association of British Ports  
Environment Agency  
MCA  
National Trust

## **Maritime & Coastguard Agency Comments**

### **Email dated 18 November 2018**

It has been confirmed to us that Mr. Jonathan Webb is not the owner of SB Melissa. I have directed our certifying authority on 16<sup>th</sup> November 2018 to revoke the Thames sailing barge certificate issued to the SB Melissa.

The vessel currently does not hold MCA administered exemption certificate and MCA has no further interest in the premises licence application at this stage.

### **Email dated 8 November 2018**

Our remit in the process of licence application primarily relates to validating the effectiveness of fire-fighting capability of the premises on the basis of the passenger certification issued by us (or our behalf in this case.)

However please note that our office has recently received conflicting information / document relating to the ownership of the SB Melissa which may directly affect the relevance / validity of the Thames Sailing Barge certificate issued to the vessel by sailing barge association on our behalf.

At this stage we can't confirm the authenticity of the document submitted to us, so we have instructed the Sailing Barge Association to follow up the matter with the owner Jonathan Webb and are awaiting their response on the matter.

In case it is established that Mr. Jonathan Webb is the real owner of the vessel, we will consider to visit the vessel and verify their fire-fighting capability and report back to you.

However, in case if it is confirmed that Mr. Jonathan Webb is not the legal owner of the vessel, then SB Melissa's Thames Sailing Barge Certificate stands null and void and perhaps the licensing application as well.