

# **APPENDIX A**

## **WAVERLEY BOROUGH COUNCIL**

### **LICENSING SUB-COMMITTEE 'A'** **22 DECEMBER 2008**

#### **LICENSING ACT 2003 - APPLICATION FOR REVIEW OF A CLUB PREMISES CERTIFICATE - HALE AND HEATH END SOCIAL CLUB, 114 UPPER HALE ROAD, FARNHAM**

[Wards Affected: Farnham Hale and Heath End ward]

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Note Pursuant to Section 100B(5) of the Local Government Act 1972

(Exempt) Annexe 7 to this report contains exempt information by virtue of which the public is likely to be excluded during the item to which the report relates as specified in paragraph 7 of the revised Part I of Schedule 12A to the Local Government Act 1972, namely:

Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

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#### **Summary and Purpose**

1. The purpose of the report is to enable the Sub-Committee to consider an application from Surrey Police for a review of the Club Premises Certificate for the Hale and Heath End Social Club, which until recently was known as Hale and Heath End Working Men's Club.

#### **Current Licensed activities**

2. The premises was the subject of a conversion application in the transitional period, under the 2003 Licensing Act. Accordingly, the Club was granted a Club Premises Certificate.
3. The Certificate was reviewed, on an application for a review from Surrey Police, on 22nd September 2008. As a result of that hearing by Licensing Sub-Committee 'C', the hours were reduced and conditions added to the Certificate. A copy of the latest Club Premises Certificate is attached (Annexe 1) and summarised below. This revised certificate came into effect upon re-opening of the Club after a one-month suspension. The Club re-opened under the provisions of this new certificate on 27th November 2008. There is no provision for dancing in the Certificate:

1. Supply of alcohol:  
Monday - Saturday                      10.30 - 23.00  
Sunday                                        11.00 - 23.00
2. Indoor Sports Events  
Monday to Friday                        10.30 - 23.00

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|----|--|--------------------------------|
| 3. | <u>Live music:</u><br>Friday & Saturday  | 10.30 - 23.00                  |
| 4. | <u>Recorded Music</u><br>Friday<br>Saturday  | 20.00 - 23.00<br>12.00 - 14.00 |
| 5. | <u>Hours of opening:</u><br>As for the sale of alcohol, closing 30 minutes after the supply of alcohol ceases. |                                |

### **Application for a Review of the Licence**

4. A fresh application from Surrey Police seeks a review of the existing Club Premises Certificate, which was amended following the previous review of the Certificate, also requested by Surrey Police. The latest application has been advertised at the premises by the Licensing Authority, and elsewhere as required for this procedure. A copy of the review notice is attached at Annexe 2, giving a deadline date of 28th November 2008 for any representations to be submitted to the Licensing Authority. The application for a review is set out in full at Annexe 3. The Police and the Club Committee may call witnesses in support of any evidence they may give, having first notified the Licensing Authority of their intention to do so.

### **Other Responsible Authorities - Responses to the Notice Procedure**

5. The other responsible authorities have not made representations in respect of the application on this occasion.

### **Interested Parties - Responses to the Notice Procedure - 'vicinity'**

6. A total of eleven (11) representations have been included in this agenda. Ten of these representations are in support of the Club, and all have been received from local residents as a result of the advertising by notice of the review. Representation No 11 is in support of the application for the review. Three further letters of support for the Club have been rejected by the officers as they are from residents who cannot be accepted as living close enough to be described as 'in the vicinity' of the Club premises. Of those letters of support for the Club that have been accepted by the officers, one is from a Club Trustee (the club has two trustees), and five are from members of the Club's Committee according to the latest list of Committee members provided.
7. This Sub-Committee may need to consider whether these letters are from properties which are acceptable as being 'in the vicinity' of the Club premises, to decide whether they are, in the words of the Act, 'interested parties'. The addresses of the writers are in the following roads:-

- Alma Lane (two from same address)
- Grasmere Road
- Wings Road (nearby)
- Gravel Road (nearby)

- Brougham Place (Sandy Hill)
  - Sandy Hill Road (three from one address)
  - Queens Lane (adjacent to the Club)
  - Upper Hale Road (adjacent to the Club)
8. The Licensing Act 2003 (Section 13) says that a person or a business may be an interested party if they live in the vicinity of the premises, or are a body representing such persons. Such interested parties are entitled to make representations on application for grant, variation or review of a premises licence/certificate. The word 'vicinity' can mean an area or a neighbourhood, but is not defined. At some point, it is expected that case law will establish a more clear definition.
9. The Sub-Committee is asked to consider whether it will accept the attached representations from the above roads in Upper Hale as being from interested parties. The writers have been asked to confirm that the addresses given are their home addresses, and have been invited to attend the meeting. Three other representations from members of the Club (in support of the Club) have been rejected as the writers were considered not to live in the vicinity of the Club. These letters came from addresses in Old Park Close, Woodside Road and Weybourne Road, Farnham.
10. The 11 accepted representations are reproduced at Annexe 4. Some of them have been retyped verbatim to assist the hearing. Attached at Annexe 5 are plans, showing the premises and surrounding area, including the roads mentioned above, and a plan of the premises itself.
11. Annexe 6 to the agenda is an extract from the statutory Guidance issued under Section 182 of the 2003 Act, published in June 2007, regarding determining a Review (Paragraphs 11.1 - 11.28). (Exempt) Annexe 7 contains statements from the Police which have been submitted for consideration in conjunction with their application for the review.

### **Licensing Objectives**

12. The four Licensing Objectives of the Licensing Act 2003 are set out below. It is for the Licensing Sub-Committee to promote the Licensing Objectives in making any decision on the Application for Review.
- Prevention of Crime and Disorder
  - Public Safety
  - Prevention of Nuisance
  - Protection of Children from Harm

### **The Purpose of the Hearing**

13. Having regard to the application for review and the relevant representations submitted as a result of the notice of review (see Annexes 3 and 4), the Sub-Committee must take such of the steps mentioned below (if any) as it considers necessary for the promotion of the licensing objectives. It may hear from the applicant (the Police), responsible authorities and the other interested parties who have made representations on this occasion, and from

the representative(s) of the Hale and Heath End Working Men's Club. The Sub-Committee may take steps as a result of a review hearing, as follows:

- Modify or add conditions to the certificate
- Exclude a licensable activity from the certificate
- Suspend the certificate for not more than three months
- Revoke the certificate
- Allow the certificate to continue in its present form

### **Procedure at the Hearing**

14. The applicant for the review (Surrey Police) and the subject of the review (Hale and Heath End Working Men's Club) may call witnesses to support their respective cases. Each side has been asked to inform the Council if they intend to do so. The meeting will be advised further at the introduction to the hearing on this matter. Others making representations as part of the review (interested parties and responsible authorities) may do the same.
15. In determining the application for review, the Sub-Committee must focus on the steps needed to promote the Licensing Objectives. It must have regard to the Guidance issued under Section 182 of the Act (Paragraphs 11.1 - 11.28 in Annexe 6 attached), as well as to its own Statement of Licensing Policy.

### **Human Rights considerations**

16. The Human Rights Act 1998 makes it unlawful for a local authority to act in a way that is incompatible with the European Convention on Human Rights. The Council will have particular regard to the following Convention rights:

#### **Article 6 - Right to a Fair Trial/Hearing:**

In the determination of civil rights and obligations, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.

#### **Article 8 - Right to Respect for Private and Family Life**

1. Everyone has the right to respect for his private and family life, his home and his correspondence.
2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others.

#### **Article 1 of the First Protocol - Protection of Property**

Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No-one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

### **Subsequent Developments in this Application Procedure**

17. Any subsequent developments in the procedure for the Review will be reported at the meeting.

### **Recommendation**

**It is recommended that the Application for Review of the Club Premises Certificate for the Hale and Heath End Social Club be determined by the Sub-Committee in light of and having regard to:**

- **the steps that are necessary to promote the Licensing Objectives;**
- **the representations made by all interested parties;**
- **the Guidance issued under Section 182 of the Licensing Act 2003;**  
**and**
- **the Council's Statement of Licensing Policy.**

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### **Background Papers (DCS)**

Application referred to above, representations referred to above.

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### **CONTACT OFFICER:**

**Name:** Mrs R Hughes      **Telephone :** 01483 523225  
**E-mail:** [rosemary.hughes@waverley.gov.uk](mailto:rosemary.hughes@waverley.gov.uk)