

APPENDIX A

WAVERLEY BOROUGH COUNCIL

LICENSING SUB-COMMITTEE 'A' 7TH SEPTEMBER 2009

LICENSING ACT 2003 - APPLICATION FOR REVIEW OF A PREMISES LICENCE - HOUSE OF BLUES 5 WHARF STREET GODALMING GU71NN

[Wards Affected: All Godalming wards]

Summary and Purpose

1. The purpose of the report is to enable the Sub-Committee to consider an application from Waverley Environmental Health Service for a review of the Premises Licence for the House of Blues, 5 Wharf Street, Godalming GU7 1NN.

Current Licensed activities

2. The premises was the subject of conversion and variation in the transitional period, under the 2003 Licensing Act. Accordingly, the House of Blues was granted a Premises Licence.
3. The licence was varied in December 2008. A copy of the latest Premises Licence is attached (Annexe 1) and summarised below:

1. Provision of regulated entertainment:-

Live music, Performance of dance, Making Music and Facilities for dancing:

Sunday - Wednesday	11.00 - 23.00
Thursday	11.00 - 00.30
Friday and Saturday	11.00 - 02.00

Recorded Music:

Thursday	12.00 - 00.00
Friday and Saturday	12.00 - 02.00

2. Late Night Refreshment

Thursday	23.00 - 00.30
Friday and Saturday	23.00 - 02.00

3. Sale by Retail of Alcohol

Sunday - Wednesday	11.00 - 23.00
Thursday	11.00 - 00.30
Friday and Saturday	11.00 - 02.00

4. Hours of opening:

As for the sale of alcohol, closing 30 minutes after the sale of alcohol ceases.

Application for a Review of the Licence

4. An application for review of this premises licence has been made by Environmental Health as a responsible authority. The 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 11th August 2009 for any representations to be submitted to the Licensing Authority. The application for a review is set out in full at Annexe 3. Environmental Health Officers 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. Representations have been received from Surrey Trading Standards and Surrey Police in support of the review application, attached at Annexe 4. There have been no other responsible authorities' representations in respect of the application.

Interested Parties - Responses to the Notice Procedure

6. A total of four representations have been received. Three of these are from persons who live in the vicinity of the House of Blues and the fourth is from the freehold owners of the premises. The officers are satisfied that they are all interested parties to the review. The four representations are reproduced at Annexe 5
7. Attached at Annexe 6 is the plan, showing the premises and surrounding area.
8. Annexe 7 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).

Licensing Objectives

9. 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

10. Having regard to the application for review at Annexe 3, and the relevant representations submitted as a result of notice of the review (see Annexes 4 and 5), 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 (Environmental Health Officers), responsible

authorities and the other interested parties who have made representations on this occasion, and from the representative(s) of the premises, the House of Blues. Should it consider action is necessary, the Sub-Committee may take steps as a result of a review hearing, which are also set out at paragraph 11.17 of the Government Guidance at Annexe 7, as follows:

- Modify or add conditions to the premises licence
- Exclude one or more licensable activity from the premises licence
- Remove the Designated Premises Supervisor
- Suspend the premises licence for not more than three months
- Revoke the premises licence
- Allow the licence to continue in its present form

Procedure at the Hearing

14. The applicant for the review (Environmental Health) and the subject of the review (the House of Blues, with Mr Nicholas McCann as both the owner of the business and the Designated Premises Supervisor) 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 7 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 Premises Licence for the House of Blues, 5 Wharf Street, Godalming GU7 1NN 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 responsible authorities and interested parties;**
- **the Guidance issued under Section 182 of the Licensing Act 2003;**
- **and**
- **the Council's Statement of Licensing Policy.**

Background Papers (CEX)

Application referred to above, representations referred to above.

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