

MINUTES OF THE MEETING OF THE LICENSING SUB-COMMITTEE 'A'  
30 JANUARY 2012

SUBMITTED TO THE LICENSING AND REGULATORY COMMITTEE MEETING  
2 APRIL 2012

(To be read in conjunction with the Agenda for the Meeting)

- \* Cllr Gillian Beel
- \* Cllr Elizabeth Cable
- \* Cllr Brett Vorley

\* Present

11. ELECTION OF CHAIRMAN (Agenda Item 1)

Cllr Elizabeth Cable was elected Chairman for this meeting of Sub-Committee A.

12. MINUTES

The minutes of the meeting held on 19 December 2011 were confirmed and signed.

13. DISCLOSURE OF INTERESTS (Agenda Item 2)

No interests were declared under this heading.

**PART I – RECOMMENDATIONS TO THE COMMITTEE**

There were no matters falling within this category.

**PARTS II AND III – MATTERS OF REPORT**

Background Papers

The background papers relating to the following report in Parts II and III are as specified in the Agenda for the meeting of Licensing Sub-Committee 'A'.

**PART II – Matters reported in detail for the information of the Committee**

14. LICENSING ACT 2003 - APPLICATION FOR REVIEW OF A PREMISES LICENCE – THE WINE HOUSE, 5 FARNCOMBE STREET, GODALMING, SURREY GU7 3BA (Appendix A)

14.1 The Licensing Manager introduced the application and outlined the matter that the Sub-Committee was being asked to decide.

14.2 The application for review of the premises licence had been made by Surrey Police as responsible authority and a representation in support had been received from Surrey Trading Standards.

- 14.3 The reasons for Surrey Police calling for a review were then detailed by the Police representative who had visited the premises with the Waverley Licensing Manager on a number of occasions, starting in December 2010 shortly after the Designated Premises Supervisor (DPS) had started trading.
- 14.4 The DPS had been given advice regarding the display of the summary of the premises licence and the necessity of having their detailed licence available to be produced. He was also given advice regarding the authority to sell alcohol, staff training records, a refusal book and due diligence.
- 14.5 In February 2011 and November 2011 Surrey Police visited with Trading Standards and carried out test purchase operations which led to underage sales on both occasions. Between those dates the premises had been visited on several occasions by the Police Licensing Officer and Waverley Licensing Manager both to follow up the failed test purchases with advice on under-age selling, and to ensure that the summary licence was on display and the detailed licence available, and that all records were up to date. On each occasion there were found to be some incomplete and missing or unsatisfactory records.
- 14.6 For the above reasons Surrey Police had applied for the review on the basis that the Premises Licence Holder and Designated Premises Supervisor had failed to exercise proper management and control over the day to day running of the premises and were failing to promote the Licensing Objectives.
- 14.7 Surrey Trading Standards then advised the Sub-Committee that they supported the application for review and confirmed the events regarding two failed test purchases and the failure of the DPS to produce up to date and satisfactory documentation regarding staff training. It was the view of Surrey Trading Standards that the premises had not been run or managed properly and the DPS was not promoting the Licensing Objective of protecting children from harm.
- 14.8 The legal representative for the DPS was then asked to make their representation. Through his legal representative the DPS accepted that the premises had not been managed properly and that he had failed to promote the Licensing Objectives. The DPS said he lived some distance from the premises which prevented him running it properly. He had also experienced some personal problems which had lead to him not being able to focus his attention on the day to day running of the business.
- 14.9 The legal representative for the DPS then explained that the business was currently up for sale and that a new owner had been found. However, should the licence be revoked at the hearing it was likely that the prospective purchaser may not continue with the purchase as he would want to have an on-going licence. On behalf of the DPS the legal representative therefore sought to request a suspension of the licence for one month to allow the lease on the business to be transferred.

14.10 The Head of Democratic and Legal Services drew attention to suggested conditions proposed by Surrey Police should the Sub-Committee be minded to suspend the licence and the Licence Holder's representative confirmed that the Licence Holder would accept these. The Waverley Borough Solicitor said that conditioning a suspension would ensure that any new owner would be subject to more stringent rules of operating and help to ensure the proper running of the business. However, there was no case law for a conditional suspension and Surrey Police and Surrey Trading Standards had concerns over its effectiveness should the sale of the business not take place.

14.11 Following questions and final submissions the Sub-Committee then withdrew at 11.34 a.m.

Following the Sub-Committee's deliberation the meeting resumed at 1.00 p.m.

During the deliberations the Borough Solicitor was asked to advise the Sub-Committee on suitable wording for their decision and conditions.

The Sub-Committee considered that the licence holder had not complied with the Licensing Objectives relating to:

- Prevention of Crime and Disorder (LO1)
- Protection of Children from Harm (LO4)

The Sub-Committee therefore decided to:

- Remove the Designated Premises Supervisor
  - Suspend the licence until 23 March 2012
  - Modify the conditions of the licence as follows:-
1. Any new DPS must have completed and obtained the BIIAB Level 2 Award for Designated Premises Supervisors before any sales of alcohol are made while he or she is named as DPS on the premises licence;
  2. All existing staff to be retrained, and any new staff to be trained, and required to obtain the BIIAB Level 1 Award in Responsible Alcohol Retailing before that staff member is permitted to sell alcohol; and
  3. There shall be no telephone or internet sales, or home deliveries, of alcohol from the premises, and alcohol will only be sold to persons attending the premises and taking it away in person.

Conditions 1&2. must be shown to be in place and to the satisfaction of the relevant authorities – Licensing Authority, Surrey Police and Surrey Trading Standards, by the end of the period of suspension.

The above decision had been made as the Sub-Committee consider the current DPS has failed to operate proper management and control of the day to day running of the premises and failed to promote the Licensing Objectives.

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The concerns raised had been taken into account and the Sub-Committee wished to remind those present that should there be any cause for concern in the future, legislation allowed for members of the community and responsible authorities to contact their licensing authority with complaints over the operation of the premises, leading to a possible further review of the licence.

The licence holder or applicant has a right of appeal to the Magistrates' Court against the Sub-Committee's decision within 21 days of receipt of the written decision, and further information can be obtained from the Licensing Officer. This decision will come into effect when the period for appeal has expired, or any appeal has been determined.

**The meeting commenced at 10.21 am and concluded at 1.04 pm.**

Chairman