

MINUTES OF THE MEETING OF THE LICENSING SUB-COMMITTEE 'A'
13 MAY 2013
SUBMITTED TO THE LICENSING AND REGULATORY COMMITTEE MEETING
25 JULY 2013

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

Cllr Gillian Beel * Cllr Brett Vorley
* Cllr Elizabeth Cable
* Present
*Cllr Simon Inchbald

Under delegated authority Cllr Simon Inchbald attended in place of
Cllr Gillian Beel who was unable to attend.

9. ELECTION OF CHAIRMAN (Agenda Item 1)

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

10. MINUTES (Agenda Item 2)

The Minutes of the Meeting held on 7 January 2013 were agreed and signed.

11. DISCLOSURE OF INTERESTS (Agenda Item 3)

Cllr Elizabeth Cable, Cllr Brett Vorley, Mr Robin Pellow (Head of Corporate Governance) and Mrs Maureen Brown (Democratic Services Officer) declared interests in Agenda Item 5 as members of The National Trust.

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

12. LICENSING ACT 2003 – APPLICATION FOR A NEW PREMISES LICENCE – 55-56 WILLOW WAY, FARNHAM, SURREY GU9 0NT (Appendix A)(Agenda Item 4)

12.1 The Chairman introduced the Sub-Committee and officers present and explained the intention of the hearing.

- 12.2 The Licensing Manager introduced the application and outlined the matter that the Sub-Committee was being asked to decide. The Licensing Manager said that the applicant had been in discussion with Surrey Police and Environmental Health which had resulted in amendments to the application and the withdrawal of the Environmental Health objection.
- 12.3 A late objection from the Ward Councillor and a letter attached to an objection which had been omitted from the agenda papers were allowed by the applicant's representative.
- 12.4 The applicant and his representative then introduced themselves and identified on a plan of the proposed premises the area where alcohol would be on sale. The applicant's representative said that following discussion with Surrey Police agreement had been made to include proposed conditions into the application. However, Surrey Police had not asked for the hours for the sale of alcohol to be restricted. The applicant did propose that if a condition was imposed to restrict the hours for the sale of alcohol they would consider 0700hrs-1200hrs; 1300hrs-1500hrs; 1600hrs-2200/2300hrs. These hours corresponded in part to those imposed on a neighbouring premise in order to limit the sale of alcohol when school children might be passing.
- 12.5 The applicant's representative was sympathetic to the objectors concerns regarding parking and traffic but advised that these were not relevant matters for discussion and related to planning issues. There had also been no evidence received from Surrey Police of anti-social behaviour in the immediate area and considered that the conditions proposed by Surrey Police were appropriate and proportionate to allay concerns of local residents.
- 12.6 The objectors to the application then outlined their concerns and gave their reasons for objecting to the application. The objectors were concerned that anti-social behaviour could be increased due to extended hours for the sale of alcohol. There was already a newsagent licensed to sell alcohol a couple of shops away, and within a relatively short distance other supermarkets and a garage selling alcohol. The residents did not consider there was a need for another shop at this location. It was in a residential area and would detrimentally affect their quality of life and value of their properties as it would create anti-social behaviour, noise and litter.
- 12.6 The Head of Corporate Governance advised those present that demand or need for a particular commodity could not be taken into account in the matter, nor was viability and strength of feeling issues the Sub-Committee were able to take into consideration.
- 12.7 Following questions from the Sub-Committee they then withdrew at 11.41 a.m.

Following the Sub-Committee's deliberation the meeting resumed at 13.09 p.m.

During the deliberations the Council's Solicitor was asked to advise the Sub-Committee on the suitable wording of their decision.

The Sub-Committee carefully considered the application for a new premises licence, taking into account the representations, statutory guidance and the Council's Statement of Licensing Policy 2011-2013.

The Sub-Committee noted that discussion had taken place between the applicant and Surrey Police which had resulted in an amendment to the application. They also noted discussion had taken place with Environmental Health which had resulted in a further amendment to the application and the withdrawal of their objection.

The Sub-Committee had heard from the objectors present, and considered the representation received from the Ward Councillor and their submissions that the granting of the licence would, in their opinion, have an adverse effect on the promotion of the licensing objectives relating to crime and disorder, anti-social behaviour, public safety and protection of children from harm.

However, the Sub-Committee had not heard any evidence from the Police of any anti-social behaviour or issues of under-age drinking in the immediate area. The Sub-Committee heard of some incidents and recognised the fears of the local residents that these problems could arise, but the Sub-Committee would need sufficient evidence of anti-social behaviour to refuse the application. The Guidance states that licensing authorities should look to the police as the main source of advice on crime and disorder.

The Sub-Committee also recognised fears regarding traffic and parking issues. However, no representations had been received from relevant authorities and the size and tonnage of delivery vehicles were not a material consideration for the Licensing Authority.

The objectors were reminded of the Licensing Objectives and that demand or need and viability of a business could also not be taken into account when determining an application for an alcohol licence. Similarly, although sympathetic to concerns over the value of house properties this was not something that a Licensing Committee could consider.

On the balance of probabilities the Sub-Committee found that on the evidence before them there was no reason to refuse the application. The Sub-Committee therefore grant the application with the addition of the following conditions.

The addition of the conditions proposed by Surrey Police No.s 1-6 at Annexe 3 pages 19-20 of the agenda papers.

The addition of the condition that the hours for the sale of alcohol are as follows:

Monday - Friday
0700 – 1200 hours
1300 – 1500 hours
1600 – 2200 hours

Saturdays and Sundays
0700 – 2200 hours

No sale of alcohol on Christmas Day

By way of explanation, the Sub-Committee notes that the applicant, in an effort to meet the concerns of the residents, has offered to modify the hours applied for and has suggested two alternative schedules of times. The Sub-Committee has noted that the restrictions in respect of the nearby licensed premises appear to have mitigated harm to children and anti-social behaviour and therefore feels that similar restrictions should apply to this licence, and hence has opted for the second proposal offered by the applicant, but with no sale of alcohol on Christmas Day.

The Sub-Committee wishes 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 review of the licence.

The applicant and any person who made relevant representations may appeal against the decision within 21 days of the date of notification by the licensing authority of this decision.

13. LICENSING ACT 2003 – APPLICATION FOR A NEW PREMISES LICENCE – WINKWORTH ARBORETUM, HASCOMBE ROAD, GODALMING, SURREY GU8 4AD (Appendix B)(Agenda Item 5)
- 13.1 The Chairman introduced the Sub-Committee and officers present and explained the intention of the hearing.
- 13.2 The Licensing Manager introduced the application and outlined the matter that the Sub-Committee was being asked to decide. The Licensing Manager said that discussions had taken place between the applicant, Surrey Police and Waverley Environmental Health Department which had resulted in an amendment to the application.
- 13.3 The applicant's representative agreed to allow two late representations and one from Hascombe Parish Council.
- 13.4 The applicant's representative identified the modification to the application at Conditions 1-10 and tabled a revised layout plan that identified the 4 areas proposed for alcohol consumption. It was not the intention of The National Trust to allow the consumption of mainstream alcoholic drinks, only National Trust products.
- 13.5 The applicant's representative said that it was not the intention of The National Trust to operate any differently than they did at present, but a premises licence would give them the flexibility of holding events within the proposed operating schedule without having to make a Temporary Event Notice for every event. Each event would be limited to a maximum of 500 people.
- 13.6 Through the applicant's representative, the Winkworth Arboretum Manager explained the type of events that were planned and tabled a printed timetable of planned events for 2013. For 2013 this did not include any evening events,

but in the future evening events would be limited to 2/3 a year and operate during the hours of daylight only. There had been no complaints to Environmental Health since 2007 and in the view of the applicant the large number of complaints to the application had been due to a misconception of the type and number of events planned – no rock concerts with amplified music was planned, only unamplified music.

- 13.7 The objectors then outlined their concerns regarding noise generated by people and music in the open air, and litter and traffic generated by people attending the events. They were also concerned over public safety issues arising from late night events as the Arboretum was not lit and uneven, boggy ground could result in injury to members of the public.
- 13.8 The objectors had been in discussion with The National Trust and had suggested Conditions to the licence which had been acceptable to The National Trust. They were still concerned however that there would be more events than in previous years, especially light night events.
- 13.9 On the whole the objectors were more comfortable with the application with the addition of the proposed Conditions, but suggested that if The National Trust had given more thought to the completion of the application form and had approached their neighbours with a view to discussing their intentions the hearing may have been avoided.
- 13.10. The suggestion that The National Trust and local residents should meet on occasions to discuss any issues that may arise in the future was agreed by both parties. The Sub-Committee also noted that WBC Environmental Health Department had recommended that local residents should be given a National Trust contact number that they could ring in the event of any problems.
- 13.11 Following questions the Sub-Committee then withdrew at 15.01 p.m.

Following the Sub-Committee's deliberation the meeting resumed at 16.55 p.m.

During the deliberations the Council's Solicitor was asked to advise the Sub-Committee on the suitable wording of their decision.

The Sub-Committee carefully considered the application for a new premises licence, taking into account the representations (which relate to all four of the licensing objectives), statutory guidance and the Council's Statement of Licensing Policy 2011-2013.

The Sub-Committee noted that discussion had taken place between the applicant and Surrey Police and Waverley Environmental Health Department which had resulted in an amendment to the application.

The Sub-Committee had heard from the objectors present and their submission that the granting of the licence, in their opinion, would have an adverse effect on the promotion of the licensing objectives relating to public nuisance and public safety.

The applicant tabled a revised map of four highlighted areas of the Arboretum at which it was proposed that alcohol could be consumed.

The Sub-Committee heard that it was not the intention of the applicant to change the operation of Winkworth Arboretum nor the number of events held per year. However, they did want the flexibility of operating with a full premises licence rather than applying for Temporary Event Notice when required.

The Sub-Committee heard from the objectors that their main and overriding concern was the issue of noise from amplified/non-amplified music. There had also been some concern regarding traffic and parking issues. The applicant explained that monitoring of the car park would take place when events were planned when a larger number of vehicles were expected to arrive at the same time.

Following the advertisement of the licence application the objectors had been in discussion with the applicant which had resulted in proposed conditions to be applied to the licence.

The Sub-Committee also heard from two Ward Councillors who supported ongoing discussion between the applicant and residents in order to respond to any issues that may arise in the future.

On the balance of probabilities the Sub-Committee found that on the evidence before them there was no reason not to grant the licence. The Sub-Committee therefore agreed to grant the licence with the following conditions.

1. There shall be no off-sales of cider, beer, vodka and other spirits that are sold as mainstream brands through other outlets such as supermarkets.
2. There shall be no more than six outside events each year involving regulated entertainment that continue beyond 1800 hours and the maximum permitted attendance at any such event shall be limited to 500 persons at any one time.
3. No more than three licensable events involving regulated entertainment shall be held after 1800 in any one calendar month.
4. Any noise or light from licensable activities will be controlled so as not to cause a public nuisance.
5. Surrey Police conditions nos. 1-5 at Annexe 5 page 79 of the agenda papers dated 22 April 2013.
6. Waverley Borough Council Environmental Health condition 1 in the memorandum submitted to the meeting dated 29 April 2013.

The Sub-Committee welcomed the fact that the applicant and residents will arrange regular liaison meetings in order to discuss any concerns. The Sub-Committee suggests that discussion includes risk management plans, including traffic.

The Sub-Committee had regard to the objectors' concerns, particularly in terms of public nuisance. However, they heard that the activities which will be

run at the Arboretum will be very similar in nature to the low-key activities which have been run in the past. The Sub-Committee were satisfied that the conditions imposed are both appropriate and proportionate. The conditions would limit the incidence of evening noise and any daytime noise would end at a reasonable hour.

The applicant had convinced the Sub-Committee that they are experienced in responsibly dealing with issues relating to parking and would engage with residents in discussing traffic issues.

With regard to protection of children from harm and prevention of crime and disorder, the applicant's management of the premises and the conditions suggested by the Police together with the mandatory conditions are sufficient to allay any concerns.

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 review of the licence.

The applicant and any person who made relevant representations may appeal against the decision within 21 days of the date of notification by the licensing authority of this decision.

The meeting commenced at 10.00 am and concluded at 17.02 p.m.

Chairman