

MINUTES OF THE MEETING OF THE LICENSING SUB-COMMITTEE 'B'
8 JULY 2013

SUBMITTED TO THE LICENSING AND REGULATORY COMMITTEE MEETING
26 SEPTEMBER 2013

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

- * Cllr Simon Inchbald
- * Cllr Andrew Wilson
- * Cllr Carole King

* Present

In attendance: Cllr Elizabeth Cable, Cllr Janet Somerville

1. ELECTION OF CHAIRMAN (Agenda Item 1)

Cllr Simon Inchbald was elected Chairman for this meeting of Sub-Committee B.

2. MINUTES (Agenda Item 2)

The minutes of the meeting held on 15 April 2013 were signed as a true record.

3. DISCLOSURE OF INTERESTS (Agenda Item 3)

There were no interests declared.

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

4. LICENSING ACT 2003 – APPLICATION FOR VARIATION TO AN EXISTING PREMISES LICENCE – THE WHITE HART HOTEL, EWHURST ROAD, CRANLEIGH GU6 7AE [Appendix A]

- 4.1 The applicant and objectors introduced themselves. Cllr Janet Somerville, Ward Councillor for Cranleigh East was present to object to the application.

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- 4.2 The Licensing Manager introduced the report and explained that no representations had been received from responsible authorities. However, Surrey Police and Environmental Health had been in discussion with the applicant and amendments to the application had been submitted.
- 4.3 The applicant then spoke in support of the application and told the Sub-Committee that he had recently purchased the premises and was refurbishing and upgrading it to bring it up-to-date in order to improve and encourage more business. The current licence allowed alcohol to be served up to 23.00 and the applicant wished to be able to serve alcohol to resident guests after this time and also to bring the licence in line with other premises in the village who could serve alcohol up until 01.00. Part of the refurbishment planned by the applicant was converting an existing garage into a restaurant and this would be soundproofed and have air-conditioning. At present the Courtyard garden could be used up until 11pm but the applicant proposed to close it at 10pm.
- 4.4 One of the objectors speaking on behalf of those residents of Mead Road who had made objections, said that in their opinion the application did not comply with the Licensing Objectives relating to Prevention of Crime and Disorder, Prevention of Nuisance, and Public Safety. It also contravened their Human Rights with regard to their private enjoyment of life.
- 4.5 The objector said that the premises was surrounded by residential properties and nuisance would be created by live and recorded music from the Courtyard garden, light pollution and cigarette smoke. A photograph was tabled showing the very close proximity of a neighbouring property which would suffer from noise from the kitchen extractor fan and cooking smells. The objector said if the application was granted it would diminish the value of their properties.
- 4.6 Another objector then spoke on behalf of those residents of Ewhurst Road and Dewlands Lane who had registered objections. In their opinion extended hours would increase noise nuisance late at night and increase the amount of litter scattered along the road. There would be a major impact on the quality of life for those residents living opposite the premises due to an increase in anti-social behaviour and as the premises had no car park vehicles would park in the side roads causing an increase in noise when patrons left late at night and present safety issues when cars pulled out onto a main road.
- 4.7 Following questions from the Sub-Committee to the applicant and objectors, the Chairman clarified that issues regarding car parking, value of properties and planning could not be considered by the Licensing Sub-Committee.
- 4.8 Cllr Janet Somerville, Ward Councillor, then spoke against the application. Cllr Somerville commended the applicant for wishing to improve his business, but said that the primary consideration was the effect an increase in hours and sale of alcohol would have on local residents in terms of noise.
- 4.9 Following final submissions the Waverley Solicitor reminded those present that the decision should be evidence-based, and that as the hearing was not a judicial hearing the sub-committee could take evidence into account which might not pass the strict rules of evidence applicable in a Court of Law.

4.10 The Sub-Committee then withdrew at 10.55 a.m.

Following the Sub-Committee's deliberation the meeting resumed at 1.09 p.m. to announce its decision:

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

The Sub-Committee carefully considered the application for a variation of a 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, Surrey Police and Waverley Environmental Health which had resulted in an amendment to the application.

The Sub-Committee had heard from the objectors present 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. The extension of hours and permission to play live and recorded music and serve food and drink in the outside area was of particular concern. The Sub-Committee heard that extending the current licence would, in the opinion of local residents, increase late night noise in the area, increase drunken behaviour in the road and therefore affect the quality of life of local residents

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 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 concerns regarding the building of a structure in the garden and parking issues. However, parking and planning issues were not a material consideration for the Licensing Authority. Similarly, the Sub-Committee heard concerns that extending the licence would have an adverse affect on the value of local properties, but 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 Nos 1-7 and 9 and 10 at Annexe 6 pages 33-35 of the agenda papers.

The addition of the condition proposed by Waverley Environmental Health at Annexe 7 pages 37-38 for additional control relating to the prevention of public nuisance.

The Sub-Committee felt there should be no licensable activities after midnight. As this premises is situated in such close proximity to several houses in a predominantly residential area it is reasonable and proportionate that all licensable activities should cease at midnight. The reason being that in bringing the times in line with other licensed premises in the immediate vicinity it would prevent movement of patrons who are already under the influence of alcohol to these premises causing nuisance to residents.

The Sub-Committee also agreed that to prevent nuisance to neighbouring residential premises the following conditions be applied to the license:

1. Air conditioning to be installed and maintained in the area to be converted, and all ground floor windows and doors to be kept closed while licensable activities are taking place (except for access and egress).
2. Noise insulation to be installed and maintained at all doors and windows where entertainment takes place to prevent noise escape;
3. The courtyard is not to be used after 10p.m.

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 Sub-Committee wish to encourage the licensee to liaise with his neighbours and Parish Council to ensure that noise and parking issues are managed effectively.

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 in writing.

The meeting commenced at 10.00 am and concluded at 1.15 p.m.

Chairman