

WAVERLEY BOROUGH COUNCIL

MINUTES OF THE LICENSING SUB-COMMITTEE A - 17 OCTOBER 2022

SUBMITTED TO THE LICENSING AND REGULATORY COMMITTEE MEETING – 14
NOVEMBER 2022

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

Present

Cllr Jerome Davidson
Cllr Patricia Ellis

Cllr Robert Knowles

66. ELECTION OF CHAIRMAN (Agenda item 1.)

Cllr Robert Knowles was elected Chairman for the purpose of this meeting.

67. DISCLOSURE OF INTERESTS (Agenda item 2.)

There were no declarations of interest submitted for this meeting.

68. EXCLUSION OF PRESS AND PUBLIC (Agenda item)

Following legal advice the Committee

RESOLVED that, pursuant to Procedure Rule 20, and in accordance with Section 100A (4) of the Local Government Act 1972, the press and public be excluded from the meeting during consideration of the following items on the grounds that it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the public were present during the item, there would be disclosure to them of exempt information (as defined by Section 100I of the Act) of the description specified in paragraph 1 of the revised Part 1 of Schedule 12A to the Act in respect of the following item:

Information relating to any individual (paragraph 1)

69. LICENSING ACT 2003 - APPLICATION APPLICATION TO VARY A PREMISES LICENCE FOR THE LEATHERN BOTTLE, 77 MEADROW, FARNCOMBE, GODALMING, SURREY GU7 3JG (Agenda item 3.)

This decision notice refers to the application to vary a premises licence to specify a DPS.

The Licensing Act 2003 permits the Chief Officer of Police to object to the transfer if exceptional circumstances of the case are such that granting the application would undermine the crime prevention objective.

The short facts are:

Police raised concerns in their representation of 7 July 2022 in relation to the appointment of Mr Hirons in light of the facts which have given rise to the separate review process, including a number of incidents warranting the attention of, and investigation by, the police during a period of approximately 18 months.

The Committee took into consideration the committee report, application form together with supporting evidence and the objection received from Surrey Police.

The sub-committee heard in person from
The representative of and Mr Scott of Surrey Police
The representative of and Mr Hirons – Premises Licence Holder

The sub-committee noted the personal character references provided, and mention within the hearing of an enhanced DBS report and additional qualifications obtained in order to undertake the DPS role.

The sub-committee, however, took a dim view of the lack of proactive response demonstrated over the relevant period as premises licence holder, and was particularly concerned to note the multiple and persistent breaches of licence conditions which were accepted and not previously actioned by the applicant.

The sub-committee was pleased to note that some recent improvements had been made. However, the sub-committee remained seriously concerned at the application given the record of inaction and poor management at the premises demonstrated by the multiple incidents taking place and efforts to engage by the Police not being taken up and persistent breach of numerous licensing conditions. Accordingly, the Committee did not feel that this appointment would result in the promotion of the licensing objective of prevention of crime and disorder.

In reaching the decision, the sub-committee had regard to all the relevant considerations and the licensing objectives and considered that this decision was appropriate and proportionate.

The sub-committee believed that there did exist exceptional circumstances. The sub-committee did not believe that transferring the licence to the transferee would promote the licensing objective of prevention of crime and disorder, and having taken up the post as DPS in the interim period, decided that Mr Hirons should be removed from this post.

Therefore the sub-committee refused the transfer as applied for.

The Committee resolved to **REFUSE** the application for the variation of the Designated Premises Supervisor to Mr Peter Hirons as they did not feel he is a fit and proper person, as he took no action regarding the historical incidents despite being the premises licence holder and co-owner and felt being a 'silent partner' was not an adequate excuse and displayed poor management.

- THE LEATHERN BOTTLE, 77 MEADOW, FARNCOMBE, GODALMING, GU7 3JG (Agenda item 4.)

This decision notice refers to the review of the above premises licence. The review was submitted by Surrey Police and was brought under the licensing objectives of the prevention of crime and public safety. The police were recommending revocation of the licence.

The sub-committee had read the papers before them and considered the material shown during the hearing.

The sub-committee heard in person from:

The representative of and Mr Scott of Surrey Police

The representative of and Mr Hirons – Premises Licence Holder

Mr Boyd – Patron of the Leathern Bottle and witness

The business operates as a licensed premises, licensed to sell alcohol Monday through to Saturday 10am to midnight and on Sunday to 11pm.

The premises licence holder is Mr Peter Hirons and the Designated Premises Supervisor was Mr Kevin Young, but in the interim and whilst the review hearing had been awaited, Mr Hirons had carried out this role.

A series of six distinct incidents occurred at or in the immediate vicinity of the premises which required the attendance of the Surrey Police and other emergency services. The incidents referred to in detail were incidents which took place on 4 July 2021, 30 July 2021, 3 September 2021, 18 December 2021 and 30 May 2022.

It was noted that there had been several documented meetings with Surrey Police to address concerns and offer support. However, the sub-committee was not satisfied with the adequacy of the response of the DPS, senior management and those working at the establishment and considered that events recorded demonstrated poor management. In addition, the sub-committee was concerned that licence conditions in relation to incident management did not always appear to have been complied with, on the basis of the available evidence. The sub-committee agreed that the principles of the licensing objectives of prevention of crime and disorder and public safety were not instilled in staff. Further, the committee was disappointed that the Premises Licence Holder had not taken a more active or adequate role when serious issues of crime and disorder had arisen at the establishment. It was felt that poor management was a direct reflection of poor company practice or policy, and the persistent breach of licence conditions re CCTV and incident management was also a significant concern to the sub-committee.

In particular the sub-committee noted that assurances were provided over a particularly lengthy period including in September 2021 that the inadequate CCTV system would be improved to ensure compliance with licence conditions. The sub-committee was concerned to note that rectification arrangements and other related training did not take place until the review process was instigated.

The sub-committee noted that the failure to comply with various licensing conditions concerning CCTV had significantly hindered police investigations and were

concerned to note from statements and video footage that staff present at the licensed premises had been in some cases obstructive, unwilling and in relation to CCTV unable to assist Police with their enquiries.

In support of retaining the licence, Mr Hirons and/or his representative said:

- events referenced had been concerning and it was accepted that the review was correctly brought by Surrey Police, however, a new a management structure had been put in place and key members of staff including DPS and chef removed;
- CCTV had been remedied to the satisfaction of the Surrey Police representative's action plan including training for all staff;
- incident books and logbooks had been introduced (a suite of training and policy arrangements) in order to promote and support the licensing objectives;
- all save one member of staff had undertaken the personal licence holder qualification

The sub-committee considered revocation given their determination that the crime prevention objective was being undermined, as recommended by the Home Office guidance (para 11.28).

The sub-committee considered what steps, if any, could be taken to promote the objectives in question, in order to promote the licensing objectives in the interests of the wider community and not simply those of the individual licence holder. The Sub-Committee took a dim view of events overall and especially the accepted non-compliance with multiple licence conditions regarding CCTV and recorded evidence in relation to incident management. The sub-committee felt that issues had arisen at the premises generally as a result of poor management and that remedial action requiring door supervisor at particular times in order was a necessary and proportionate response to matters identified during the review.

The Sub-committee considered lesser sanctions, however, in line with the Home Office guidance (para 11.18) it was noted that there had already been significant engagement by Surrey Police and the authority's licensing officer and that formal action was required and considered appropriate in light of the highlighted incidents of concern and in order to promote the licensing objectives.

The Committee resolved to **SUSPEND** the licence for a period of 1 calendar month to allow for staff training in the areas of: dealing with intoxication, confrontation within the premises and curtilage and incident management. The committee also impose a condition to have a trained door supervisor from 7pm to closing time on every day the property is serving customers.

71. LEGAL ADVICE (Agenda item 5.)

The Sub-Committee received legal advice during their deliberations.

The meeting commenced at 10.00 am and concluded at 2.28 pm

Chairman