

BOROUGH OF REIGATE AND BANSTEAD

LICENSING SUB-COMMITTEE

Minutes of a meeting of the Licensing Sub-Committee held at the Town Hall, Reigate on Thursday, 22nd November 2012 at 2 pm.

Present: Councillor S.T. Bramhall (Chairman); Councillors S. Finch and F. Kelly.

Also present: Councillors S.N. Farrer and C.T.H. Whinney

10. **APOLOGIES FOR ABSENCE AND RECONSTITUTION OF THE SUB-COMMITTEE**

There were no apologies for absence and membership of the Sub-Committee was as set out in the agenda.

11. **DECLARATIONS OF INTEREST**

There were no declarations of interest.

12. **LICENSING SUB-COMMITTEE PROCEDURE RULES**

RESOLVED that the Procedure Rules to be followed in respect of agenda items 4 and 5 be noted.

13. **APPLICATION FOR A TRANSFER OF A PREMISES LICENCE - ADMIRAL INN PUBLIC HOUSE, 109A NUTLEY LANE, REIGATE**

The Sub-Committee considered an application for a transfer of the premises licence at the above location.

The report before the Sub-Committee set out full details of the application and included a copy of the representation from Surrey Police objecting to the transfer on the grounds of crime prevention.

Representatives for the applicant licence holder and for Surrey Police, the responsible authority making representations, attended the hearing, which followed the Licensing Sub-Committee Procedure Rules as attached at item 3(i) to the agenda.

The licensing officer presented the application for a transfer of the premises licence from Swift Inns Limited to Rippingale Promotions Ltd.

It was noted that the police representation was based on the grounds that it was currently undertaking an investigation into complaints from local residents about crime and disorder at the premises. This was likely to culminate in an application for a review hearing. In the view of Surrey Police, a transfer of the licence may undermine the outcome of any future review process.

Counsel for the applicant confirmed that the current licence holder was a director in both Swift Inns and Rippingale Promotions Ltd, and that the transfer was requested on purely administrative grounds.

Mr Halliday, licence-holder for the premises, confirmed that he was a director of both companies. One of the partners in Swift Inns had recently died and his wife did not wish to make any future investment in the company.

Improvement works had recently been undertaken at the Admiral Inn, for a value of several thousands pounds and the transfer of the licence would facilitate accounting practice. The works had been undertaken at the request of the Council's environmental services team.

Counsel for the applicant suggested that the Sub-Committee may wish to defer making a decision until it had considered the next item on the agenda, which was the review hearing in response to the serving of a section 161 closure notice by Surrey Police.

Counsel for Surrey Police confirmed that he would have no objection if the Sub-Committee was so minded.

The Chairman advised that additional representations had been received in respect of item 5 on the agenda, for a review of the licence at the Admiral Inn.

Members of the Sub-Committee had already read these papers before the hearing, and copies were now tabled for those present.

The Sub-Committee was minded to consider the two applications in parallel, and to defer taking a decision on the transfer application until it had heard all the evidence for the review application.

In these circumstances, the Sub-Committee would adjourn to consider the evidence presented so far, and those present were requested to take this opportunity to familiarise themselves with the additional representations.

Counsel for the applicant asked the Sub-Committee for permission to introduce a further statement, from Lesley Teasdale, the licence holder. The Sub-Committee confirmed that it would read the statement and consider this request during its adjournment.

The Sub-Committee adjourned to deliberate at 2.11 pm and resumed at 2.31 pm. It then proceeded to consider agenda item 5. The below decision was announced following its final adjournment, at 6 pm.

MATTERS CONSIDERED

1. The Sub Committee had reviewed all the papers contained in the report circulated with the agenda including additional written representations circulated at the hearing.
2. It paid careful attention to all the submissions made orally during the hearing, by the applicant (Surrey Police), the licence-holder and his representative.
3. It paid careful attention to and all those members of the public making representations in person or in writing.
4. The Sub-Committee had full regard to the concerns raised about crime and disorder by all parties.
5. The Sub Committee took into account the Council's own Statement of Licensing Policy, the Guidance issued by the Secretary of State under s.182 of the Licensing Act 2003, the individual merits of the case, Human Rights legislation in particular article 8 and article 1 First Protocol and the rules of natural justice. The Chairman advised those present that the Sub-Committee had considered the application for a review of the premises licence in respect of the Admiral Inn Public House, Reigate.

DECISION

The Chairman advised those present that the Sub-Committee had considered the application for a transfer of the premises licence in respect of the Admiral Inn Public House, Reigate and

RESOLVED to GRANT the application for a transfer of the licence, from Swift Inns Ltd to Ripplingale Promotions Ltd.

Reasons for the Decision

Having regard to this application and the representations made by the licence-holder representative, namely that the transfer was for financial reasons, it found the rejection of the application was not necessary for the promotion of the licensing objective.

Whilst all submitted evidence was considered, the Sub Committee considered that the following evidence was particularly persuasive insofar as they related to their decision to grant the transfer

- Annex 3- Application to transfer premises licence
- Annex 4 – Surrey Police representations and reasons
- Oral representations of premises licence holder

before coming to its decision.

It was noted that the written decision issued would take precedence over the drafted decision released verbally at the close of the hearing.

14. APPLICATION FOR A REVIEW HEARING: ADMIRAL INN PUBLIC HOUSE, 109A NUTLEY LANE, REIGATE

The Sub-Committee considered an application for a review of the premises licence at the Admiral Inn Public House.

The report before the Sub-Committee set out the application in full. Additional representations, both against and in support of the premises, were tabled at the meeting. The Sub-Committee had received and read these prior to the meeting. Those present were given the opportunity to read the papers during an earlier adjournment in respect of agenda item 4.

Surrey Police was represented by legal counsel with two police officers in attendance.

Councillors S Farrer and C Whinney, local Ward councillors, and one local resident made oral representations at the hearing in support of the police representations.

The licenceholders, Mr Halliday and Ms Teasdale attended and were represented by legal counsel. Two residents made representations in support of the licence holder.

The hearing followed the Licensing Sub Committee procedure rules, operated at the discretion of the Chairman.

The Licensing Officer presented the review application.

The Chairman announced that during its previous adjournment, the Sub Committee had read Ms Teasdale's statement and that it would be happy for her to read it out at the hearing.

Ms Teasdale read out her statement, a copy of which was also tabled to the parties.

Counsel for Surrey Police made his oral submission, during the course of which the following points were noted:

- It is the obligation of the licenceholder to take steps to promote the licensing objectives. The two of relevance here were public nuisance and crime and disorder and it was the applicant's assertion that the pub was teetering on the brink between public nuisance spreading into crime and disorder.
- The policy assertion was supported by complaints from local residents about noise, vomiting and littering outside and police witness

statements about recent incidents. A number of visits had been made by the Police recently and no improvements were seen.

- Emphasis was given to various recent incidents involving loud music, unlicensed gaming machines on the premises, an inebriated group of travellers causing a disturbance outside, assault on a minor, a public disturbance at a Halloween party, and serving drinks to people who were clearly drunk. The pub had been reminded on more than one occasion about the noise condition on its licence.
- It had also been noted that the pub manager herself was under the influence of alcohol on a number of visits, although she had stated that she was not on duty at the time. The manageress had also denied that people were leaving with bottles when this had clearly been witnessed.
- Various quotes were taken from Sgt Sinclair's statement relating to the Halloween evening event, about people outside with cans and bottles and females shouting out, and his concern that events were escalating towards a fight.
- There was no evidence of the DPS having been on the premises at any of the incidents recorded and this was why the Police were saying that action needs to be taken.
- The police were asking for a revocation of the licence. Should the Sub Committee decide not to revoke the licence, it would wish to see additional conditions attached to the licence, as set out in its written representation.

Counsel for the licence holder made his oral submissions, during the course of which the following points were noted:

- The apology made by Ms Teasdale in reading out her statement was a genuine acknowledgement and recognition that changes were needed in view of recent events and the complaints from local residents.
- The licenceholder was offering a number of concessions, including a renouncement of its late night licence on Fridays and Saturdays with a reversion to a closing time of 23h00. It also proposed to remove live music from its licence and a raft of other measures.
- This was an expedited review hearing in response to the serving of a section 161 notice. The closure order was requested on 3 November to prevent nuisance. The notice was served at 01h04 on 4 November to a virtually empty pub when there was no nuisance.
- Counsel submitted that the Police had not used its powers appropriately with the result of a review hearing having to be called at very short notice before the licence holder had had any opportunity to introduce new measures to ensure it complied with the licensing objectives.
- An avalanche of additional representations had been received supporting the pub following the closure order.
- It should be borne in mind that Ms Teasdale was not present at the Magistrates Court when the closure order was heard so she had no opportunity to question the legality of the order.

- The Police are custodians of the law in respect of crime and disorder. A distinction needs to be made between nuisance issues, where concessions can be made and crime and disorder which merits police involvement.
- Only a small minority of the representations are asking for closure of the pub and there are as many additional representations supporting the pub as there are against it. Not all local residents are objecting to the premises, as is evidenced by the written statements.
- The licenceholders acknowledge that there have been recent incidents of crime and disorder associated with the premises but not such as to justify revocation of the licence.
- Steps taken must be proportionate to the aims of the licensing objectives.
- In counter balance to the police account of recent incidents referred to by counsel:
 - the gaming machines were removed as soon as the licence holder was made aware that they were illegal;
 - The travellers involved in the assault incident on 14 September had been going from pub to pub in the town. The police had been following their movements and they were only actually at the Admiral for 40 minutes;
 - Late night activity recorded on 14 October was not proof of a pattern of after-hours drinking;
 - The fight at Halloween had been blown out of proportion, and specific reference was made to the statement of Mr Savage, former MP for Sheffield. It was a fact that fights did sometimes happen in pubs, however well managed.
- The pub was not veering towards chaos and the police statements and submissions should be kept in perspective.
- As stated earlier, the licence holders were willing to make a number of changes to the licence, including
 - no late hours on Friday or Saturday nights,
 - removal of live music and dance,
 - installation of a noise limiter to control noise from the jukebox
 - introduction of a Challenge 25 policy
 - a new training regime for all staff
 - quote for £1900 obtained to install additional glazing
 - installation of CCTV to meet requirements of the police
- Ms Teasdale had offered a sincere apology recognising recent failures and the decline in management, but there were extenuating circumstances. She was intent upon introducing new management processes but the speed at which the review had to be called had meant little time to put this into practice before the hearing.
- The licenceholders were keen for the licence not to be revoked and for action taken to be commensurate with the recent problems. In particular no late night opening on Fridays and Saturdays should make a difference.

- The evidence should be gauged and account taken of the licenceholders' own acknowledgement and recognition of recent problems.

Councillor Whinney spoke and the following points were noted:

- Whilst he was extremely pleased to hear about the changes being implemented and proposed, local residents had suffered unbelievably as evidenced by the statements.
- He was representing a local family who wished to remain anonymous. They had witnessed vomiting and drunkenness, public exposure and were worried about being in the house alone.
- The representations against the premises cover a wide area spreading from Nutley Lane along North Albert Lane. This is a residential area with many families, who would be keen to see the licenceholder returning to normal standard opening hours.
- The licenceholder is invited to consider closing at 10 pm on a Sunday in respect for local residents, and special events should be limited to Christmas and the New Year.
- Local residents are not happy with the current local management of the premises.

A local resident made the following comments:

- He was grateful for the apology from Ms Teasdale.
- He was not inherently against pubs and is a member of CAMRA.
- The first complaint made was in September 2010, to which Mr Halliday responded, but there have been problems off and on since then.
- The residents have the right to live without significant nuisance and the enjoyment of patrons should not be at the expense of residents.
- There are always taxis pulling up outside late at night and many of the statements in support of the premises seem to come from people who do not live locally.
- Today is the first time that any real signs of remorse have been shown and there are concerns that the terms of the current licence cannot be met. What evidence is there to say that it will be any different in the future under any new conditions.
- The pub itself has not been reporting incidents, such as the fight at Halloween which spilled outside the pub, and it is local residents who are having to do so.

Councillor Farrer then spoke on behalf of local residents who wished to have their views represented but were unable to attend the hearing.

- Some noise was expected from living close to a pub but the noise and nuisance was beyond reasonable. Before today the pub did not appear to acknowledge this and showed only contempt and disrespect for the fact that it was a residential area.

- Many families lived in the area and their young children were being subjected to continual tirades of foul language, shouting and disturbance.
- One of the additional statements in support of the premises came from an employee of the drinks company supplying the Admiral.
- A lot of noise emanated from people outside in the beer garden late at night.

A local resident who frequented the premises then spoke in general support of the premises, saying that what had been stated today bore no resemblance to the pub that he knew. He had known the owners for some time and the premises had a loyal clientele. Many of the problems identified had only occurred in recent months over a short period of time.

Cllr Finch referred to the timescale of the problems and asked how long the current DPS had been in post.

Ms Teasdale confirmed that she had been in post since 2009 and that she recognised her role was to ensure clients were not a nuisance, that there was no under-age drinking, and to liaise with residents to solve any issues.

Ms Teasdale stated that she did not wish to see the problems continuing. The new closure times for Friday and Saturday nights had already been introduced and over the past two weeks a marked improvement had already been seen.

One other local resident then spoke in support of the Admiral. He was not a local resident and clarified that Swift Inns was one of his clients. That said, he had been drinking at the premises regularly over the past 12 years and often stayed with friends who had a young family, living in North Albert Road. Neither he nor his friends had ever witnessed any noise or disturbance.

The Chairman announced that the Sub-Committee would now adjourn to consider the submissions made so far, before returning to ask any final questions and to allow the parties to make their closing statements.

The Sub-Committee adjourned at 3.55 pm and resumed at 4.28 pm

The Sub Committee put questions to both the applicant and the licenceholders as noted below:

The Sub Committee asked whether the licence holder would consider closing at 6 pm on a Sunday evening.

Counsel responded that, based upon the papers presented, Sunday did not appear to be a particular problem.

Any steps taken must be reasonable and many sporting events were held on Sunday afternoons continuing beyond 18h00. Closing at this time could be considered as disproportionate and unreasonable.

The premises would, however, volunteer a closing time of 22h00 with the premises to be closed by 22h30.

In response to the Sub Committee's suggestion that the Police may be able to advise the licenceholder on the installation of CCTV, counsel confirmed that the owners would be happy to comply with any police requirements.

The Sub Committee asked the applicant whether closing at 23h00 on Friday and Saturday over the past two weeks had made any difference and it was noted that the level of reported incidents had dropped.

The Sub Committee asked Ms Teasdale what her future intentions were and how much time she would be spending at the Admiral in the future.

Ms Teasdale reported that she was now at the premises most of the time and had every intention of introducing new management practices so that there was no repeat of the problems recently seen and the nuisance caused to local residents.

All parties having addressed the Sub Committee were then invited to make closing statements.

Counsel for Surrey Police stated that the fundamental question was about the inability of the premises to comply with the terms of the current licence, and whether the Sub Committee could have confidence that, moving forward, it would be able to comply with the terms of any new conditions.

The gestures made by the licenceholder were welcomed but it would be for the Sub Committee to determine whether they were sufficient.

In response to the suggestion by counsel for the licenceholder that most of the problems related to nuisance more than crime and disorder, whilst it was accepted that this was a grey area the Police contention was that recent events and incidents raised serious concerns about crime and disorder.

Counsel for the licenceholder reiterated the licenceholders' willingness to work with local residents to resolve their complaints and concerns. They would be happy to give their telephone numbers and emails to residents, so that they could be contacted as soon as there was a problem.

The steps taken should be proportionate to meet the aims of the licensing objectives, and offering any further compromises would affect the viability of the premises.

The Sub-Committee adjourned to deliberate at 4.51 pm and resumed at 6.00 pm

MATTERS CONSIDERED

1. The Sub Committee had reviewed all the papers contained in the report circulated with the agenda including additional written representations circulated at the hearing.

2. It paid careful attention to all the submissions made orally during the hearing, by the applicant (Surrey Police), the licence-holder and his representative. Also the Designated Premise Supervisor (DPS), Lesley Teasdale, who read out a written statement submitted on the day of hearing.
3. It paid careful attention to and all those members of the public making representations in person or in writing and those who made representations through Cllr Farrer and Cllr Whinney.
4. The Sub-Committee had full regard to the concerns raised about crime and disorder by all parties.
5. The Sub Committee noted the determination of Redhill Magistrates Court received 8th November 2012.
6. The Sub Committee was deeply concerned at the lack of clarity or of any expressed concern of the DPS in the period leading up to the closure order, particularly as to the need to comply with licence conditions and specifically where responsibility lay on achieving compliance.
7. The Sub Committee considered that the Police had demonstrated to their satisfaction that their representations relating to the promotion of the crime and disorder licensing objective was persuasive.
8. The reduction in Police notified incidents since the closure order was noted. It was accepted that the representations expressed did not warrant the revocation of the premise licence.
9. The Sub Committee noted the concerns of several members of the public that the permanent loss of the premises would have an adverse effect on the local community.
10. The Sub Committee took into account the Council's own Statement of Licensing Policy, the Guidance issued by the Secretary of State under s.182 of the Licensing Act 2003, the individual merits of the case, Human Rights legislation in particular article 8 and article 1 First Protocol and the rules of natural justice.
11. The Sub Committee considered that the suspension of the premises licence and the removal of the DPS licence on the evidence before them and based on their experience as trained Licensing Sub Committee Members met the licensing objectives.

DECISION

Upon considering the committee report, the written and oral relevant representations including Lesley Teasdale's written statement; the Licensing Sub Committee **RESOLVED**:

A) To remove the designated premise supervisor, Lesley Teasdale, from the licence

Reason:

The Licensing Sub Committee determined low confidence in the current designated premise supervisor's ability to effectively identify and manage problems at the premises and that there is a need for improvement in this aspect of the premise licence by the new designated premise supervisor once appointed. The Sub Committee noted the personal circumstances explained by the DPS for the various acknowledged failures to achieve compliance with licensing conditions and were of the view that the DPS had failed to take hold of the issues to achieve compliance and considered that the DPS was ultimately culpable for the failures. The Sub Committee considers that the problems at the premises are due to poor management.

Whilst all submitted evidence was considered, the Sub Committee considered that the following evidence was particularly persuasive insofar as they related to their decision to remove the DPS

- Statement of Lesley Teasdale
- Oral representations by local residents (some of these communicated through local councillors)
- Annex 5 - Closure Order (s161 Licensing Act 2003)
- Annex 6 - police representations, reasons and incident log

B) Part 1 premise licence - premise details

Licensable activities authorised by the licence to be excluded from the scope of the licence as follows:

Dancing to be excluded
 Making music to be excluded
 Late Night refreshment to be excluded
 Live music to be excluded

Times the licence authorises the carrying out of licensable activities to be modified as follows:

Dancing to be excluded
 Making music to be excluded
 Late night refreshment to be excluded
 Live music to be excluded

Recorded Music

Monday to Saturday	11:00 - 22.30
Sunday	12:00 - 21.30

Sale of alcohol

Monday to Thursday	11:00 – 22.30
Friday and Saturday	11:00 – 22.30
Sunday	11:00 – 21.30

The opening hours of the premises to be modified as follows:

Friday	11:00 – 23:00
Saturday	11:00 – 23:00
Sunday	11:00 – 22:00

Reason:

The Licensing Sub Committee determined that modifications to the licensable activities and the times they are authorised to be carried out are required in order to promote the licensing objective of the prevention of crime and disorder and/or the prevention of a public nuisance. It was determined that certain licensable activities taking place either late into the evenings or after midnight was a considerable factor in the nuisance/disorder taking place in and around the premises.

The Sub-Committee noted the following evidence in coming to its decision

- Annex 2 – premises licence
- Statement of Lesley Teasdale
- All written and oral representations
- Annex 6 – police representations, reasons and incident log

C) Part 2, Annex 2 – Conditions consistent with the Operating Schedule**Seasonal and Non-standard timings for all licensable activities to be modified as follows**

2.00am to be replaced with 12.00am

The following words to be deleted:

“and the Saturday and Sunday immediately preceding each Bank Holiday that falls on a Monday”

“Summer Time. To extend by one hour the standard finish time for any authorised period ending between 00.59 and 04.00 on the day on which a period of Summer Time starts.”

On every day of the year – Sale of alcohol by retail only to be modified as follows

- a. Monday to Thursday, 11:00 to 22.30
- b. Friday and Saturday, 11:00 to 22.30
- c. Sunday, 11:00 to 21.30

Reason:

The Licensing Sub Committee determined that modifications to the timings of licensable activities and the times of sale of alcohol by retail are required in order to promote the licensing objective of the prevention of crime and disorder and/or the prevention of a public nuisance. It was determined that certain licensable activities and the sale of alcohol taking place either late into the evenings or after midnight was a considerable factor in the nuisance/disorder taking place in and around the premises.

The Sub-Committee noted the following evidence in coming to its decision

- Annex 2 - premises licence
- Statement of Lesley Teasdale
- All written and oral representations
- Annex 6 - police representations, reasons and incident log

D) Part 2 Annex 3 - Conditions attached after a hearing by the licensing authority to be modified as follows

- Conditions (i) to (v) to be deleted
- Condition (vi) to become Condition (i) and to read :
The hours permitted for activities under Section M Supply of Alcohol are as follows

Monday - Thursday	11:00 hours to 22:30
Friday - Saturday	11:00 hours to 22:30
Sunday	11:00 hours to 21:30
- Condition (vii) to become Condition (ii) and to read:
The hours permitted for activities under Section O hours premises are Open to the Public are as follows

Monday - Thursday	11:00 hours to 23:00
Friday - Saturday	11:00 hours to 23:00
Sunday	11:00 hours to 22:30
- Condition (viii) to become Condition (iii) and to read:
No more than 14 events per calendar year
- Condition (ix) to become Condition (iv)
- Condition (x) to become Condition (v)
- Condition (xi) to be deleted
- Condition (xii) to become Condition(vi)
- Condition (xiii) to become Condition (vii)

Reason:

The Licensing Sub Committee determined the conditions currently attached to the premise licence required modification in order to implement the modifications to the licensable activities and operating times determined at A) to C). It was determined that the modification to these conditions further promoted the licensing objective of the prevention of crime and disorder

and/or the prevention of a public nuisance. The Sub Committee considered carefully whether amended conditions were necessary or helpful and considered that they were.

The Sub-Committee noted the following evidence in coming to its decision

- Annex 2 – premises licence
- Statement of Lesley Teasdale
- All written and oral representations
- Annex 6 – police representations, reasons and incident log

E) Conditions to be imposed on the Licence following those already attached:

viii. To appoint a new Designated Premise supervisor

ix. The newly appointed Designated Premise Supervisor and his/her deputy shall at all times maintain regular contact with the police through the neighbourhood beat officers and shall respond to any complaint/issues raised by residents via the police.

x. The installation and maintenance of clear quality closed-circuit television system to be operated at all trading times. Images to be maintained for 28 days and made available to local authorities and police on demand.

xi. All customers attempting to purchase alcohol who appear to be under the age of 25 shall be required to produce a valid form of identification. Acceptable forms of identification are a proof of age card bearing the PASS hologram logo, an EU photo card, full driving licence or a passport.

xii. The Challenge 25 scheme shall be operated and a refusal register shall be maintained and made available to local authorities and police on demand.

xiii. Save in emergency, a personal licence holder must be on the premises on Friday and Saturday nights from 18:00 hours until 23:00 hours

xiv. To erect, within 28 days and maintain thereafter, signs at each exit from premises that are easily visible to customers and which request customers to leave quietly. The size, lettering, wording and location of such signs to be agreed in writing with the licensing authority before being erected.

xv. To implement additional glazing to the windows

Reason:

The Licensing Sub Committee determined that new conditions to the premise licence are required in order to promote the licensing objective of the prevention of crime and disorder and/or the prevention of a public nuisance. The Sub Committee considered carefully whether new conditions were

necessary or helpful and considered that they were. Condition xv was advanced by the premise licence holder in their submissions during the hearing.

The Sub-Committee noted the following evidence in coming to its decision

- Annex 2 – premises licence
- Statement of Lesley Teasdale
- All written and oral representations
- Annex 6 – police representations, reasons and incident log

F) To suspend the premises licence for a period of six weeks.

Reason:

This period being chosen as that which is necessary to comply with the conditions which are imposed at A) to E) above.

NOTE: The Sub Committee would be content for the suspension period to finish sooner if conditions A) to E) above are fully complied with to the satisfaction of the Police and Licensing Authority.

Additional observations from the Sub-Committee

- Industry approved training for all staff to be introduced

It was noted that the written decision issued would take precedence over the drafted decision released verbally at the close of the hearing.

15. **MEDIATION CASES**

RESOLVED, that the application for a variation of the licence in respect of the Abbot Public House be **GRANTED** as set out in the agenda.

The meeting closed at 6.21 pm