

BOROUGH OF REIGATE AND BANSTEAD

LICENSING SUB-COMMITTEE

Minutes of a meeting of the Licensing Sub-Committee held at the Town Hall, Reigate on Tuesday 27 November 2012 at 2 pm

Present: Councillor S.T. Bramhall (Chairman); Councillors Mrs R. Turner and M. Vivona

Also present: Councillor C.T.H. Whinney

15. APOLOGIES FOR ABSENCE AND RECONSTITUTION OF THE SUB-COMMITTEE

Councillor Kelly sent apologies for absence in advance of the meeting. The Committee was therefore as set out above.

16. DECLARATIONS OF INTEREST

There were no declarations of interest.

17. LICENSING SUB-COMMITTEE PROCEDURE RULES

RESOLVED that the Licensing Procedure Note to be followed in determining applications before the Sub-Committee be **NOTED**.

18. EXEMPT BUSINESS

It was noted that under Regulation 14(2) of the Licensing Act 2003 (Hearings) Regulations provision is made for a meeting to be held in public or private.

Officers were recommending that the hearing should be held in private, because of the sensitive nature of many of the papers.

A group of persons, identifying themselves as members of the Reigate Town Club attended the meeting, together with legal counsel, Mr Charalambides. Mr Charalambides was invited to make submissions on their behalf.

Mr Charalambides sought permission for those he was representing to be a relevant party to the proceedings and thus entitled to remain in the meeting. If the Sub-Committee was minded to agree to his request, he contended that

the meeting should be adjourned to allow his clients a reasonable opportunity to see all relevant papers and to make full representations.

The external solicitor representing the Licensing Authority, Mr Day, submitted that only the persons cited in the papers served on the Reigate Town Club had a relevant interest in the proceedings. In his view, there were no grounds to justify anyone else being given a right of representation or to attend a private meeting.

The Chairman advised that the Sub-Committee would adjourn to deliberate on the request to introduce a further party with an interest in the proceedings.

It was noted that throughout the Licensing Authority's investigations, as asserted in all agenda papers and more recent correspondence, the Chairman of the Reigate Town Club maintained that she was the responsible officer for the Club and had the authority to act on the club's behalf.

The Sub Committee adjourned at 2.48 pm and resumed at 3.12 pm.

The Chairman advised that the Sub-Committee did not recognise those present in the public gallery, and being represented by Mr Charalambides, as being able to legitimately represent the Reigate Town Club in the following applications.

It was not the purpose of the Sub Committee to determine the authenticity of the Reigate Town Club's Constitution, and the hearing would be based upon the written representations received in the course of the investigation and notice of hearing.

The Sub Committee therefore:

RESOLVED that members of the Press and public be excluded from the meeting for the following items of business under Section 100A(4) of the Local Government Act 1972 on the grounds that:

(i) agenda items 5 (i) and (ii) involve the likely disclosure of exempt information as defined in paragraphs 1, 2 and 3 of Part 1 of Schedule 12A of the Act;

(ii) the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

19. **REIGATE TOWN CLUB, 25-29 CHURCH STREET, REIGATE**

The Sub-Committee considered two applications in respect of the above premises:

- i. **Application for a review of the club gaming certificate**
- ii **Application for the withdrawal of the club premises certificate**

The reports before the Sub-Committee set out both applications in full, and identified which annexes, within the set numbered 1 to 14, were relevant to each application.

The annexes to the reports were referred to in detail by Mr Day, the external legal adviser appointed to assist the Licensing Authority.

The following points were noted in the course of his presentation.

- Accompanying the club gaming permit issued to the club was a letter from the licensing authority setting out a definition of a members' club under Section 266 of the Gambling Act 2005. The letter made it clear that the club should be '*established and conducted wholly or mainly for purposes other than the provision of facilities for gaming*'.
- Five visits were made to the club, by licensing officers and Surrey Police. Each time the club was found to be operating solely as a poker club.
- Photographic evidence existed showing that only poker was being played at the club during all the visits.
- An officer from the Gambling Commission accompanied licensing officers and Surrey Police on the visit of 14 June 2012. In his written statement he set out a number of relevant questions to be asked in determining whether the club met the definition of a private members' club, and his response to these based upon his visit to the club. In summary, his view was that the club operated as a commercial poker club and not as a bona fide private members' club.
- The annexes included a letter from the Police Borough Commander for Reigate and Banstead, supporting the Licensing Authority's recommendation that the club gaming certificate should be cancelled and the club premises certificate withdrawn.
- In her written submissions, the Chairman of the Club asserted that '*Reigate Town Club/The Full House was granted a gambling permit in 2007 after it had already become an established poker club*'.
- The licensing authority refuted this claim. The club gaming permit had been issued under fast track legislation, applicable to private members' clubs holding a club premises certificate, and there were no grounds upon which the authority could have objected under this process.
- Accounts presented by the Reigate Town Club, showed that the income from poker games far exceeded what could be considered reasonable for a private members' club.
- Evidence that the Reigate Town Club's web site had recently been describing itself as being under new ownership, despite the fact that a private members' club cannot be owned. The website had been taken down in recent days and was now under reconstruction.

In summary, Mr Day reported that the statement of evidence included at annex 5, upon which the Licensing Authority based its case, set out clear and unequivocal grounds for believing that the club was operating solely as a poker club, and not as a private members' club within the terms of the definition.

The Sub-Committee adjourned to deliberate at 4.41 pm and resumed at 5.16 pm

Decision

The Chairman advised those present that the Sub-Committee had considered the application for a review of the club gaming certificate in respect of the Reigate Town Club and

RESOLVED that the Club Gaming Permit be **CANCELLED**.

Reasons for the Decision

1. The Sub Committee had reviewed all the papers contained in the report and annexes circulated with the agenda and listened carefully to the oral submissions of the legal adviser for the licensing authority.
 2. It was fully persuaded, based upon the evidence presented, and in particular the statements of the Chairman of the Club, that poker was the prime activity of the Club and that it was a commercial operation.
 3. 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, Human Rights legislation, in particular Article 8 and Article 1 of the First Protocol of the Human Rights Act, and the rules of natural justice.
 4. The Sub Committee took into account the Council's own Statement of Gambling Policy, being that they must have regard to duty of confidence, law relating to defamation and data protection.
- ii. **Application under section 90 of the Licensing Act 2003 for the withdrawal of the club premises certificate.**

Decision

The Chairman advised those present that the Sub-Committee had considered the application for the withdrawal of the club premises certificate in respect of the Reigate Town Club and

RESOLVED that the club premises certificate be **WITHDRAWN**.

Reasons for the Decision

1. The Sub Committee had reviewed all the papers contained in the report circulated with the agenda and listened carefully to the oral submissions of the legal adviser for the licensing authority.

2. It was fully persuaded, based upon the evidence presented, and in particular the statements of the Chairman of the Club, that poker was the prime activity of the Club and that it was a commercial operation.
3. 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, Human Rights legislation, in particular Article 8 and Article 1 of the First Protocol of the Human Rights Act, and the rules of natural justice.
4. The Sub Committee took into account the Council's own Statement of Gambling Policy, being that they must have regard to duty of confidence, law relating to defamation and data protection.

It was noted that the written decision, including detailed reasons, would take precedence over the drafted decision released verbally at the close of the hearing and noted for the minutes.

The meeting closed at 5.19 pm