

BOROUGH OF REIGATE AND BANSTEAD

LICENSING SUB-COMMITTEE

Minutes of a meeting of the Licensing Sub-Committee held at the Town Hall, Reigate on Friday 15 February 2013.

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

Also present: Councillor C.T.H. Whinney.

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

Apologies for absence were received from Councillor M. Vivona and the membership of the Sub-Committee was therefore as set out above.

27. MINUTES

RESOLVED that the Minutes of the Sub Committee meeting held on 7 January 2013 be confirmed as a correct record.

28. DECLARATIONS OF INTEREST

There were no declarations of interest.

29. LICENSING HEARING PROCEDURE NOTE

RESOLVED, that it be noted that the hearing would follow the procedure as set out in the procedure note, and at the discretion of the Chairman.

30. APPLICATION FOR A CLUB PREMISES CERTIFICATE: JUBILEE CLUB, 25-27 CHURCH STREET, REIGATE

The Sub-Committee considered an application for a Club Premises Certificate in respect of the above club.

The application was as set out in the agenda papers and summarised below:

The supply of alcohol (Section I)

Sunday to Thursday	12:00 hrs to 02:00 hrs
Friday to Saturday	12:00 hrs to 05:00 hrs

Live & recorded music, dance and similar activities (Sections E, F, G, H)

Monday to Saturday	12:00 hrs to 02:00 hrs
Sunday	12:00 hrs to midnight

Plays and indoor sporting events (Sections A, C)

Monday to Sunday 12:00 hrs to midnight

Films (Section B)

Monday to Sunday 12:00 hrs to 08:00 hrs

Opening Hours (Section J)

Monday to Sunday 12:00 hrs to 08:00 hrs

The applicant also submitted the Club Declaration and Club Rules to support their application together with the steps the club intended to put in place to promote the licensing objectives.

The premises were on the site of the former Reigate Town Club and the report made reference, that on 27 November 2012 the Sub Committee had withdrawn the Club Premises Certificate and Club Gaming Permit following an investigation into illegal gambling activities in conjunction with the Police and Gambling Commission.

The premises had no current permission for the sale or supply of alcohol, the provision of regulated entertainment, late night refreshment or gaming.

The Licensing Officer presented the application to the Sub Committee following which the parties were invited to make their submissions.

Representations had been received from the Police, the Responsible Authority for Environmental Protection, the Responsible Authority for Licensing and interested parties as set out in the Annexes to the report.

The Chairman invited all interested parties to introduce themselves and indicate if they wished to address the Sub Committee.

The Sub Committee noted that the Licensing Authority acting as a responsible authority had submitted a request to call two witnesses from the Gambling Commission, to support its representations regarding the specialist nature of gambling issues that the Authority considered relevant to the consideration of the application. Notice of the request to call witnesses had been submitted in accordance with paragraph 8 of the Licensing Act 2003 (Hearings) Regulations 2005.

The applicant's barrister addressed the Sub Committee seeking its confirmation that:

- it recognised the Jubilee Club as being a bone fide club within the requirements of the Licensing Act 2003; and that
- the Licensing Authority's Statement of Licensing Policy dated 2011 was the Authority's current policy and not the subject of review.

The Sub Committee confirmed that they were content that the Jubilee Club was bone fide and noted that the Statement of Licensing Policy dated 2011 was the current policy and was not the subject of review.

The applicant's barrister referred to the representations submitted and put forward proposals to mediate some of these as follows:

1. That licensable activities and regulated entertainment to be scaled back to the hours of:

	Opening Hours	Alcohol	Film	Other Regulated Entertainment
Monday	12.00 – 04.00	12.00 – 02.00	12.00 – 02.00	12.00 – 00.00
Tuesday	12.00 – 04.00	12.00 – 02.00	12.00 – 02.00	12.00 – 00.00
Wednesday	12.00 – 04.00	12.00 – 02.00	12.00 – 02.00	12.00 – 00.00
Thursday	12.00 – 04.00	12.00 – 02.00	12.00 – 02.00	12.00 – 00.00
Friday	12.00 – 04.00	12.00 – 04.00	12.00 – 04.00	12.00 – 00.00
Saturday	12.00 – 04.00	12.00 – 04.00	12.00 – 04.00	12.00 – 00.00
Sunday	12.00 – 04.00	12.00 – 02.00	12.00 – 02.00	12.00 – 00.00

2. A maximum of no more than 12 members and/or guests will be permitted to occupy the designated smoking area shown on the attached plan that forms a part of this condition (supplied at the meeting).
3. No member or guest will be permitted to take drinks with them into the designated smoking area.
4. The areas immediately adjacent to the premises shall be regularly monitored and kept clear of litter.
5. Any club member or guest found to be urinating outside of the premises or found causing a nuisance to nearby premises shall be subject to the disciplinary proceedings of the Club. Clear signage will remind members that anti-social behaviour, nuisance and public urination could lead to the termination of their membership.
6. At all times any regulated entertainment shall be inaudible in any residential property, the test of which is that it shall be no more than barely audible at the boundary of any residential property.

The applicant's barrister then made representations objecting to the request made by the Licensing Authority (in relation to gambling issues) to allow representatives from the Gambling Commission to speak and asserting that those issues should be inadmissible. The reason given was that the application before the Sub Committee was for a club premises certificate and not for a gaming permit. It was therefore contended that to take these points into account at this hearing could be considered to be ultra vires to this application.

The Sub-Committee adjourned to consider the barrister's objection at 10.48 a.m. and resumed at 11.42 a.m.

On return from the adjournment the Chairman indicated that the evidence

from the Gambling Commission would not be heard and that the Licensing Authority should contain their representations to those that related to meeting the objectives of the Licensing Policy.

This ruling was challenged by the Licensing Authority acting as the responsible authority, however the objections were overruled and the Chairman reiterated his decision that the Gambling Commission should not speak. However he indicated that evidence submitted to support the prevention of crime and disorder would be admissible as it was one of the Authority's licensing objectives.

During the course of the hearing the following submissions/points were made:

On behalf of the Responsible Authority for Licensing

- Contending that the club had and would continue to be used for unlawful poker activity;
- That the club was seeking to obtain a Club Premises Certificate so that it could subsequently seek a fast track gambling permit, with narrow grounds for refusal;
- Contending that the risk to the community from illegal poker playing presented a significant issue in relation to the prevention of crime and disorder which was one of the four key objectives within the licensing statement of policy;
- Should the club obtain a gambling permit they would be able to operate with unlimited stakes and prizes which would change the nature of the club and its potential to impact upon the Licensing Authority's ability to prevent crime and disorder activities which was one of the core principles of its Statement of Licensing Objectives;
- Once illegal gambling activities started it would become difficult to police those activities;
- That the previous club had had their gaming licence removed following a review that demonstrated that it was operating as an illegal poker club;
- That there was evidence to show that illegal poker clubs became venues for money laundering activity;
- That high volume cash environments within poker clubs could provide a genuine risk to community safety as criminal links were common place in such establishments;
- These concerns had been discussed with representatives of the club, who had given assurances that it would operate differently from the Reigate Town Club. However these discussions only heightened concerns as the applicant had made it clear that it was the club's intention to apply for a gaming permit;
- These concerns led the Licensing Authority to contact the Gambling Commission to provide evidence at this hearing to 'prevent history repeating itself';
- That the Statement of Licensing Policy was broad in its nature and did not cover every eventuality and needed a degree of flexibility in its operation to be effective;
- A request had been made to see the club's Business Plan as part of the evidence to demonstrate that it was a viable operation without the need for income being received from illegal poker activities (at that time the

Business Plan was not available – but a copy was provided at the hearing);

(Note: During the submission of this evidence the applicant's barrister sought a point of order as the evidence being submitted was more associated to a gambling permit application and was not relevant to this hearing for a club premises certificate.

The Chairman indicated that the Sub Committee would allow the evidence to continue and that it would decide how much weight to apply to the evidence as was relevant to the Authority's licensing objectives).

- The need to regulate smoking activity outside of the club;
- Reference to a guaranteed prize pot of £10,000 that had been advertised on the Full House website and why this was necessary if it was not one of the main activities for the club. The contention was that this was a way of attracting people to play poker at the club;
- A map showing the location of the 42 members of the club demonstrated that they lived in various locations within the South East area with only a small number living within the Borough;
- It was contended that the reason why members would travel long distances was the attraction to play high stakes poker;
- That 80% of the current membership of the Committee were former members of the Reigate Town Club;
- That licensing legislation prevented a premises from applying for a permit, if it had been removed within a 10 year period, and that the reconstitution of the club under a new name was a way of circumventing this requirement of the law;
- That overall should a club premises certificate be issued then it was likely to result in illegal gambling taking place that would undermine the prevention of crime and disorder licensing objectives;

On behalf of the Surrey Police:

- The representative from Surrey Police indicated that following the receipt of an email, confirming that the club were happy to mediate reduced opening hours, their concerns in relation to public order were mostly satisfied. The Police also requested that a drinking up period of 30 minutes be introduced to manage the consumption of alcohol.
- They also requested that control measures be put in place for the smoking areas and that SIA door supervisors should be employed to manage the entry and re-entry to the club. This should include a ban on entry after 1am and providing police and licensing staff to have extended rights of entry to the premises.

On behalf of the Responsible Authority for Environmental Protection

It was noted that the representations in relation to public nuisance from noise had been mediated through the offer of conditions.

On behalf of the freehold owner of 21 Church Street (the property immediately opposite the Jubilee Club entrance)

Concerns were expressed about the following issues:

- the opening hours proposed for the club that would add to the noise and mess in the early hours of the morning both at weekends and during the week;
- the proposal to have a music licence until 2am because of noise issues and potential for damage and mess to be caused by people hanging around smoking and urinating outside the club;
- that these problems would exacerbate those already thought to arise from the JJ Whispers night club.

On behalf of the Applicant

Counsel for the applicant responded to the issues raised and submitted the following evidence/comments:

- The applicant had offered a number of changes to the application that could be added as conditions to the premises club certificate to alleviate the concerns arising from the representations;
- A proposal to introduce a drinking up period of 30 minutes would be put to the Jubilee Club's Committee, as requested by the Police and this could be added as a condition to the certificate;
- Employing a SIA registered door supervisor between the hours of 10.30pm and close of the club to enforce the entry/re-entry requirements and to ensure that the limit of people utilising the designated smoking area was maintained;
- The club's rules required a 48 hour period to expire before proposed new members could be admitted to the premises which would prevent entry on the night issues;
- That the club had been established in good faith and that it met the requirements of the Licensing Act 2003 and was therefore a bone fide club for those purposes;
- That the current application should not be damned by the activities of the former Reigate Town Club;
- Concern that the hearing was being conducted by some of the same Councillors who presided over the Reigate Town Club hearing in November 2012;
- Concern that the Licensing Authority representative introduced issues that referred to the Gambling Commission and that this application should be considered under the legislative framework for Club Premises Certificates;
- Should an appeal be in favour of the applicant then costs may have to be borne by the Council;
- The proposed activities at the club included offering a variety of services to club members including poker and bingo.
- Should the club, in the future, apply for a gambling permit it would be considered by the Licensing Authority. Such an application was not currently with the authority to consider. Representations on such a proposal could be made at that stage but were inappropriate to be considered before then;
- It was confirmed that it was the applicant's intention to apply, at the appropriate time, for a gaming licence;
- That although a Business Plan was not a matter relevant to the application one had been prepared and provided to the Authority's legal representative. It identified that income would be derived from a number

of sources;

- In response to the concern that the club might be a magnet for late night drinkers, poker or other activities that they were prepared to include a condition that placed a limit of 100 people within the premises at any one time. This could be enforced by the SIA door supervisor.
- That the distance that members travel to attend the club was not a relevant consideration.
- Concern that the representations submitted by the Licensing Authority were not matters identified within the Council's Statement of Policy on the Licensing Objectives and that they should therefore be set aside.

On behalf of the Chairman of the Jubilee Club

- The Chairman of the Jubilee Club stated that he was concerned that the Members of the old club (Reigate Town Club) had lost control and that the rescinding of their licence had given the club an opportunity to apply for a new licence by the newly constituted Jubilee Club;
- They wanted to introduce some new activities for the club including chess and pool to provide an opportunity for their Members to drink amongst friends whilst having the opportunity to undertake other activities such as watching late night sport on TV (streamed from overseas e.g. USA).
- That the club would be a friendly, relaxing place where members could hold various events to support the local community. It would not be run in the way that the previous club had been.
- It was considered that there was a crusade against the club because of the problems associated with the former Reigate Town Club and the Jubilee Club would not operate in this way.
- In response to Member questions about the distance that Members travel to come to the club the Chairman indicated that it provided a venue for friends to meet and that it was intended to increase the number of members including more local ones.

*The Sub-Committee adjourned to deliberate at 1.18pm
and resumed at 2.56pm to give its decision.)*

Decision

RESOLVED, that the application for a Club Premises Certificate for the Jubilee Club at 25-29 Church Street Reigate be rejected.

Reasons for the decision

In determining the application the Sub Committee:

- (i) paid close attention to all the evidence submitted, both in the written application and representations and during the oral submissions at the hearing;
- (ii) noted that mediated agreement had been reached with the responsible authority for Environmental Health and Surrey Police, both of which had made representations, subject to conditions;
- (iii) paid particular attention to the promotion of the four licensing objectives as set out in the Council's statement of licensing policy;
- (iv) recognised that every licensing application should be considered on

its merits, with due regard to the amended Section 182 Guidance of the Licensing Act 2003, but considered that it was not possible for such guidance to recognise every circumstance and that therefore a licensing authority may choose to depart from the guidance if circumstances merited it. Following on from this, it considered that:

- a. the following are important factors which should be given due weight as relevant considerations:
 - i. the history of the premises
 - ii. the evidence linking the current application to the former Reigate Town Club, including duplication of membership and website material linking the two clubs,
 - iii. the removal of the Reigate Town Club's club premises certificate and gaming licence at a review hearing in November 2012
 - b. considered that the use of the premises historically and recently for illegal gaming was therefore an important factor to be taken into account, particularly in relation to fulfilling the crime and disorder objectives of the licensing policy.
- (v) gave particular weight to paragraphs 2.19 and 12.8 of Section 182 Guidance, namely:
- a. public nuisance considerations
 - b. the individual and particular circumstances relevant to the current application
- (vi) considered the individual merits of the case, Human Rights legislation and the rules of natural justice;
- (vii) concluded that the prevention of illegal gaming fell under the prevention of crime and disorder licensing objective and that this was the overriding factor to be applied in the protection of the public interest, how it might affect individuals and the wider community.

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 2.58pm