Public Agenda

Minutes of the Licensing Sub-Committee
26 October 2016

Present:
Councillor R.W. Sider BEM (Chairman)

Councillor S.M. Doran and S.A. Dunn

In attendance for the applicant:
Keith Holmes – Sunbury Conservative Club Secretary
Colin Hodgetts - Sunbury Conservative Club Chairman

Interested Parties in attendance:
Mrs Susan Orchard
Mr James McFarlane

Responsible Authorities in attendance:
Leslie Spearpoint – Senior Environmental Health Officer

In attendance for the local licensing authority:
Dawn Morrison – Licensing Manager

251/16 Disclosures of Interest

There were none. Councillor R.W. Sider clarified that whilst he was a member of the Conservative Party he had never previously visited the Sunbury Conservative Club nor was he in any way associated with it.

252/16 To consider an application for a variation of the Premises Licence at the Sunbury Conservative Club, Green Street, Sunbury on Thames, TW16 6RA, in the light of representations

The Chairman introduced members and officers present and welcomed everyone to the meeting.

The Chairman asked the applicant and the other parties present to introduce themselves. He then explained the procedure to be followed at the hearing.

The Council's Licensing Manager summarised the application which was set out in full in the report of the Deputy Chief Executive.

The hearing continued in accordance with the procedure.

Having heard the evidence presented, the Sub-Committee retired to consider and determine the application, having regard to the licensing objective on prevention of public nuisance.

Upon reconvening, the Chairman gave the Sub-Committee's summary decision.

The full decision with reasons would be notified to the applicant and other parties within five working days of the hearing.

Resolved that the application for variation to the Club Premises Certificate at Sunbury Conservative Club, Green Street, Sunbury-on-Thames TW16 6RA be rejected in part and the remainder granted subject to modification to hours of licensable activities and additional conditions as set out in full in the attached Decision Notice

Please reply to:
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Our ref: GH
Date: 1 November 2016

SPELTHORNE BOROUGH COUNCIL

DECISION NOTICE

In accordance with the LICENSING ACT 2003 s.23

Date of Licensing Sub-Committee: 26 October 2016

Applicant: Keith Holmes

Premises: Sunbury Conservative Club
Green Street
Sunbury-on-Thames
TW16 6RA

REASON(S) FOR HEARING: Relevant representations received from interested parties concerning Prevention of Public Nuisance:-

- Increase in noise later in the evening from licensable activities taking place at the premises and people leaving

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DECISION

Reject part of the application and Grant the remaining subject to modification to hours of licensable activities and addition of conditions

With effect from 26 October 2016

REASONS FOR DECISION

1. The application is for variation to a premises licence for Sunbury Conservative Club, Green Street, Sunbury-on-Thames, TW16 6RA.

Attendance

2. Five people attended the Sub-Committee hearing to make representations. They were:
   - Mr Keith Holmes, Secretary, Sunbury Conservative Club
   - Mr Colin Hodgetts, Chairman of Sunbury Conservative Club
   - Mrs Susan Orchard, Resident
   - Mr James McFarlane, Resident
   - Mr Leslie Spearpoint, Senior Environmental Health Officer (EHO)

3. The Licensing Sub-Committee considered all of the relevant evidence made available to it at the hearing including:

   - the report of the Deputy Chief Executive outlining the matter to be considered;
   - written representations from 10 interested parties and oral evidence at the hearing from two of these; and
   - written and oral representation from an Environmental Health Officer.

   In addition the following documents were circulated prior to the hearing:

   - a plan showing the internal layout of the building;

   In considering all of this evidence, the Sub-Committee has taken into account the Regulations and National Guidance under the Licensing Act 2003 and Spelthorne Borough Council's Statement of Licensing Policy.

Application

4. The Club secretary made an application on behalf of Sunbury Conservative Club to vary the licence on 30 August 2016:

   (1) to vary the permitted hours for the supply of alcohol and the provision of regulated entertainment of live and recorded music and performances of dance on Thursdays, Fridays and Saturdays from the current 10.00 to 00.00 (midnight) to 12.00 to 01.00.

   (2) to permit seasonal variations as follows: 01.30 finish on Christmas Eve (currently 01.00) and 02.00 finish on New Year's Eve (currently 02.30) for the supply of alcohol and the provision of regulated entertainment of live

and recorded music and performances of dance; and Christmas Day 12.00 to 15.00 and 19.00 to 01.30 (currently not specified on the CPC).

5. The required notices were displayed and published in a local newspaper (The Surrey Advertiser, dated 9 September 2016).

6. The application generated 10 representations from interested parties and one from a Responsible Authority, Environmental Health.

EVIDENCE

Background

7. The premises was issued a Club Premises Certificate (CPC) under the Licensing Act 2003 when the Act came into force in 2005.

8. The current licence permits the supply of alcohol Monday to Saturday: 10.00 to 00.00 (midnight), and regulated entertainment of live and recorded music Monday to Saturday 19.00 to 00.00 (midnight) and Sunday: 19.00 to 23.00. The current licence also permits a terminal hour of 01.00 on Christmas Eve and Boxing Day and 02.30 on New Year's Eve.

9. Routine visits to the premises had not highlighted any licensing issues or concerns. There was no record of any complaints made to Environmental Health or Licensing in relation to the premises.

Applicant

10. Mr Holmes said the Club had been on the site for 107 years and was run by elected members. Club members had an average age of 60 plus. He believed the music played at the club was fairly well suppressed due to the design of the building – there were no windows along the wall adjacent to neighbour's gardens and the skylight was double glazed and fixed closed. Holly Close was a fairly new development next door and the residents would have known when they moved in that as well as the Club there was a pub, a fish and chip shop and a bus stop opposite.

11. He said the Club had a clean record and wanted to keep it that way. In the last year they had held functions with ten live bands and two discos for anniversaries and parties including 80th birthdays. He had applied for an extension to the licence to be able to cater for occasions where members asked for a later time for a function they were booking. He had considered the option of applying for TENS but because some bookings were made up to a year in advance was concerned that making the application for the TENS could get overlooked and if they held a late function without the proper

licence it would put the Club licence in jeopardy. He said the Club was not intending to hold a function using the hours applied for every week of every month.

12. He explained that the Club had stewards with personal licenses who made part-time staff aware of their responsibilities under the Licensing Act 2003. He believed the Club met all the Licensing Objectives.

13. Mr Holmes said that he understood the concerns of their neighbours and that they had no intention of playing music until 1.30am. Music would stop at the latest by 11.45pm. Having the extended hours applied for would allow people who had come a long way to attend the function, to have a drink and talk to people after the music had finished. However, the Club would mainly keep to normal hours. Additionally he said they intended to monitor the noise levels from music using a DV meter to ensure they were not too high and causing a nuisance.

14. Mr Holmes referred to the incident on 10 September 2016 saying that the last payment was taken at the till at 11.16pm and the music was finished by 11.40pm. He said the Three Fishes pub across the road had a live disco that night with their doors open and because the Club doesn't have music often, people thought it was coming from their Club.

15. In response to questions from the Sub-Committee Mr Holmes said that the Club had not had a lot of communication with the residents as it was a gated community. He explained that upcoming events were displayed on the board outside the Club and detailed on their website. He said he would be happy to speak to residents and notify them of a whole year's events in advance.

16. Mr Holmes explained that most functions were held on Fridays and Saturdays and that Thursday evening was mainly for bingo, but he had applied for Thursday to give them flexibility for occasions when bingo didn't take place. Mr Holmes conceded that he would be happy to have the extension applied for just on Friday and Saturday, as it would be rare for them to need to use an extended licence on a Thursday.

Representations

17. Written representations were received from ten interested parties and a responsible authority: Environmental Health. The representations raised objections to the variation application under the licensing objectives as follows:

Prevention of public nuisance

- An extension of ours for regulated entertainment would lead to an increase in:
  - noise from the premises

- late night noise from dispersing customers

Other Licensing Objectives

- There were no concerns raised specifically in relation to any of the other three Licensing Objectives of prevention of crime and disorder, public safety or protection of children from harm.

18. Leslie Spearpoint, a senior EHO and two residents who had submitted written representations, Susan Orchard of 1 Holly Close and James McFarlane of 7 Holly Close, made oral representations at the hearing.

19. Mr Spearpoint said that Environmental Health had no history in respect of noise complaints made from amplified music coming from the premises, nor any in relation to persons leaving the premises. If it were not for the representations from interested parties made to this application, Environmental Health would not be making any representations.

20. He commented on the representations which referred to one event held on the 10th September 2016. Residents said that due to a live band at the Club they could not get to sleep until after the event finished between 11:00 – 11:30. In addition, they had to turn up the sound on the television, raise voices when outside in their garden and felt the noise was overpowering. Mr Spearpoint said it was possible the noise had come from a disco held on the same night at the Three Fishes Pub, Green Street which was located opposite Sunbury Conservative Club. Mr Spearpoint set out a number of conditions he proposed in order to protect the residents from noise due to loud amplified music.

21. Susan Orchard said that she had bought her house in a quiet residential area six years ago when it was a new development. They were aware of the Club next door but as reasonable people and being neighbourly they accepted there would be a little noise and did not complain. The issue for them was with the application for extended hours which meant there was the possibility of noise even later on a weekend night. She said they knew the noise they had complained of on 10 September 2016 was from an event at the Conservative Club because they could hear it in their garden, which backs on to the Club, and could even hear it inside their house. At times they can even hear the bingo caller. She said they put up with the nuisance caused by the noise they experienced at present because they knew it would end by 11pm to 11.30pm and they could get to sleep but if this were going to go on till a later time the loss of sleep due to noise would be unacceptable; such a disruption would be a detriment to her family's health and wellbeing.

22. James McFarlane said he was objecting because of the direct noise from the Club and the pedestrian noise on the exit from the Club which was likely to have a considerable detrimental effect on his normal sleep pattern. He

queried the applicant's motive for an extension to a later hour. He said the fact the residents hadn't made complaints did not mean they hadn't been disturbed. As reasonable neighbours they had accepted some disturbance.

Applicant's response to representations

23. Mr Holmes said that the Club had taken on board the conditions put forward by Mr Spearpoint and he was happy to agree to all but the last one regarding a noise limiter. Noise limiters could cut out music when it reached a certain level which would annoy the customers. The Club would monitor the noise themselves and if it looked like they were going over the levels they would consider a noise limiter.

24. Mr Holmes explained that out of consideration for the resident of the bungalow located in the corner of the Club car park, they had moved the bottle bank to a location adjacent to the park behind a wooden barrier. He offered to empty bottles in the morning but said they could not do anything about the bingo calling.

25. Mr Holmes said he would be happy to have the extension of hours granted to 12.30am on just Fridays and Saturdays but in any case music would finish at 11.45pm. The Club would not play music or serve alcohol until 1.30am. He was happy to dismiss the request for an extension on a Thursday. He invited residents to come and speak to the Club if they had a complaint; they would ask people to turn down music if necessary.

Findings

26. The Licensing Sub-Committee has considered the representations made by the applicant and other parties and finds as follows: -

27. The Sub-Committee has considered all of the relevant evidence made available to it at this hearing and in doing so has taken into account the regulations and national guidance issued under the Licensing Act 2003 and Spelthorne Borough Council's Statement of Licensing Policy.

28. The Sub-Committee is mindful of Spelthorne's Statement of Licensing Policy which states that providing consumers with greater choice and flexibility must always be balanced carefully against the rights of local residents to peace and quiet.

29. The Sub-Committee notes the residents' concerns that the late opening hours applied for meant there was the possibility of noise from the premises and car park at a later hour than at present. Additionally, it notes residents' claims that they are currently suffering noise nuisance from activities taking place under the current licence.

30. The Sub-Committee is persuaded by the residents that there is a real threat of the fears described in their representations occurring if the hours applied for are granted due to the proximity of the residents to the Club premises and the likelihood of noise from licensable activities and people leaving the premises at a later hour.

31. The Sub-Committee welcomes the amendment to the application proposed by the applicant at this hearing and finds that this goes a long way to addressing the residents' concerns. Namely, that the application is for a Friday and Saturday night only until 12.30am and that music would cease at 11.45pm.

32. The Sub-Committee finds that the modified hours applied for are still likely to result in noise from regulated entertainment later at night and that this may impact on the residents' ability to get to sleep thereby not promoting the prevention of public nuisance objective. The Sub-Committee was mindful that in any case the applicant had confirmed that music would be turned off by 11.45pm at the latest.

33. The Sub-Committee therefore considers on the basis of the evidence that it has heard and the findings of fact that it has made, that it needs to take steps to control the level of noise from the premises late in the evening in order to address the promotion of the licensing objectives.

34. The Sub-Committee has decided in order to promote the licensing objective of prevention of public nuisance that:

    - It rejects the application for the extension of hours in respect of regulated entertainment. To be clear – the existing hours for regulated entertainment remain unchanged.

    - It grants the application for the extension to hours for supply of alcohol subject to modification to those hours and addition of conditions as follows:
        - Supply of alcohol to be varied for Fridays and Saturdays from 12 midday until 12.30am. Application to extend hours for supply of alcohol on a Thursday is rejected, as offered by the applicant.

        - And seasonal variations to be varied for Christmas Eve from 12.00 midday to 1am and Christmas Day from 12.00 to 3pm and 7pm to 1am.

- It imposes the following additional conditions:

    1. Staff will check prior to the commencement of regulated entertainment, and periodically during the regulated entertainment, that all windows and doors are shut.

    2. A contact telephone number should be made available to residents that they can use to report noise disturbances to a responsible person at the venue as and when they occur.

    3. Storage /disposal of waste and recyclables in outside areas must take place between the hours of 8am and 6pm.

Conditions consistent with the operating schedule to be included on the Club premises certificate.

The Sub-Committee wishes to make the following suggestions which do not form part of its decision:

Informatives

- Advice should be sought by the licence holder from an Environmental Health officer to assess the decibel levels from different locations and at different times such that they are reasonable at the nearest noise sensitive premises. All reasonable advice from the Environmental Health Officer to be heeded.
- The Sub-Committee notes that the applicant has agreed to notify residents of upcoming events and recommends that this be done on a quarterly basis. However, the Sub-Committee encourages regular dialogue in any case.
- The Sub-Committee also recommends that if residents have any concerns about the operation of the premises that they should direct these to the Club in the first instance and in any event complaints can be made to the Local Authority if required.

Decision

35. For the reasons stated above, the Sub-Committee has decided to reject a part of the application and grant the remaining parts of the application to vary the licence subject to modified of hours and additional conditions as stated above.

36. The full decision with reasons has been communicated to all concerned within 5 working days of the date of this hearing.

Conclusion

37. That is the decision of the Sub-Committee. You have the right to appeal against this decision to the Magistrates Court within 21 days of receipt of this decision notice.

Cllr Robin Sider - Chairman
Cllr Susan Doran
Cllr Sandra Dunn

Date of Decision: 26 October 2016
Date of Issue: 1 November 2016

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