

Crawley Borough Council



Minutes of Licensing Sub Committee 13 October 2014 at 6.30pm

Present:

Councillors B K Blake, C J Mullins and B J Quinn

Officers Present:

Tony Baldock	Environmental Health Manager
Mike Lyons	Senior Licensing Officer
Sharon Rana	Legal Clerk - Solicitor
Mez Matthews	Democratic Services Officer

Also in Attendance:

Objector	Miss Emma Collins (Solicitor for Mr and Mrs Warner – Best One)
	Mr Syed Naqvi (Manager – Best One)
	Mr Ray Warner (Owner – Best One)
	Mrs Sue Warner (Owner – Best One)

1. Appointment of Chair

RESOLVED

That Councillor B K Blake be appointed Chair for the meeting.

2. Members' Disclosure of Interests

Councillor B K Blake, C J Mullins and B J Quinn declared that they had been directly sent a representation in relation to the application, but that the representation had been received outside the public notice period. Councillors B K Blake, C J Mullins and B J Quinn stated that they had not opened the document and would not take the representation into account when taking a decision on the application.

3. Application for the Grant of a Premises Licence: '13 Southgate Parade', Southgate, Crawley

The Sub Committee considered an application to grant a premises licence in respect of 13 Southgate Parade, Southgate, Crawley.

Following the introduction of those present at the meeting, the Legal Clerk outlined the procedure for the meeting. The Legal Clerk informed all parties that the Sub Committee had requested a briefing meeting with the Legal Clerk prior to the commencement of the Sub Committee, to confirm the procedure that would be followed during the meeting. It was confirmed that the Sub Committee had not asked for clarification of any aspect of the application or on the representations received from any party. The Legal Clerk informed those present that the Applicant had informed the Council earlier that day that he would not be able to attend the Hearing, and therefore the application would be taken as read.

The Legal Clerk then informed all parties present, that should they wished to make any relevant applications, for example applications for adjournment, additional information or to cross-examine any party, any such applications should be made directly to the Chair. No applications were made.

Report PES/160 of the Council's Head of Planning and Environmental Services was presented by Mike Lyons, a Senior Licensing Officer for Crawley Borough Council.

The Application

The Senior Licensing Officer, Mr Lyons, informed the Sub Committee that on 18 August 2014 Mr Sunny Singh submitted an application to the Council as the Licensing Authority for the Borough of Crawley for the grant of a premises licence in respect of 13 Southgate Parade, Southgate, Crawley. The application was detailed in Appendix A to the report and sought for the supply of alcohol off the premises. The Applicant had stated in the application that the premises intended to promote the four licensing objectives with the steps set out in the operating schedule.

It was confirmed by Mr Lyons that the application had been advertised in accordance with legislation. As a result of the consultation process, the Council had received a response citing no objection from Sussex Police (Appendix B to the report). The Council had also received 15 individual relevant representations from local residents / business which made reference to the licensing objectives (Appendices C1-C15 to the report). Three anonymous representations had been received which could not be considered relevant. Mr Lyons informed those present that since the publication of the report an additional representation had been received outside of the public notice period and therefore the number of representations referred to in paragraph 2.4(ii) of the report should now read "two". None of the representations cited in paragraph 2.4 of the report could be considered relevant.

The Sub Committee was then guided through the remainder of the report which set out the reasons for the Hearing and the matters which the Sub Committee should take into consideration when determining the application, including the relevant statutory provisions, sections of the Guidance issued by Government pursuant of Section 182 of the Licensing Act 2003, and the Council's policy considerations. Mr Lyons stated that the Section 182 Statutory Guidance had been amended by the Secretary of State earlier that morning and therefore the sections of the Guidance referred to in the

report paragraphs should be amended to read as follows:

Paragraph	Revised Section of the 182 Guidance
4.29	9.37
4.30	9.38
4.31	9.39
4.32	9.41
4.33	9.42
4.34	9.43

The Senior Licensing Officer then proceeded to inform the Hearing of the options available to it in respect of the application, and reminded the Sub Committee that any decision must be appropriate for the promotion of the four licensing objectives. The options were to:

1. Grant the application subject to:
 - (i) Conditions which are consistent with the operating schedule modified to such extent as the licensing authority considers appropriate for the promotion of the licensing objectives.
 - (ii) Any relevant mandatory conditions.
2. Exclude from the scope of the licence any of the licensable activities to which the application relates.
3. Refuse to specify a person in the licence as the premises supervisor
4. Reject the application.

The Chair addressed Mr Lyons following his presentation and stated that the addresses of both the Applicant and the Objectors had been redacted from the report. The Sub Committee was of the view that the addresses should have been included in the report as the information was required for the Sub Committee to make a decision. Mr Lyons answered by saying that a decision had been taken to include the names in the report but to redact the addresses. Mr Lyons confirmed that all the addresses were in the vicinity of the premises and that the Applicant had received a copy of the addresses. The Chair affirmed that the Sub Committee required the address of the Applicant to ascertain whether he lived locally. Mr Lyons confirmed that the Applicant lived locally and stated that he had the addresses of the Applicant and Objector on file should the Sub Committee wish to see them. The Sub Committee requested that the Sub Committee's copy of the report include addresses in future.

The Sub Committee drew the attention of all those present to the objection detailed in Appendix C1. Although the Sub Committee understood that the Council was obliged to publish the letter as it referred to the undermining of the licensing objectives, the Sub Committee was of the view that the objection included language which bordered on racism. The Sub Committee confirmed that although it took objection to the language used, that would not sway its decision. It was also noted that three other objections (cited as Appendices C12-C14) had been received from the same household.

Objector

Miss Emma Collins addressed the Committee on the behalf of Mr and Mrs Warner who had objected to the application.

Miss Collins stated that Mr and Mrs Warner held the licence for Best One which was situated in the same parade as the application premises and that their objection was included as Appendix C11 to the report. Miss Collins stated that Mr and Mrs Warner had owned Best One since 1983 and that their premises allowed for the sale of alcohol off the premises. She stated that Mr and Mrs Warner operated an excellent premises and that Mr Naqvi, the Manager of Best One, had also submitted an objection to the application (included as Appendix C3 to the report).

Miss Collins raised a preliminary matter concerning the application. She stated that she understood through a conversation with Crawley Borough Council's Asset Surveyor that the lease of 13 Southgate Parade was currently advertised for sale. She informed the Sub Committee that Section 16 of the Licensing Act 2003 stated that a person could only apply for a premises license if they had a legal interest in the premises and if they carried on, or proposed to carry on, a business which involved the use of the premises for the licensable activities to which the application related (page 307 of Paterson's Licensing Acts 2014 also referred). She questioned whether the Applicant had the intention of carrying on the business as he was not in attendance at the meeting and the lease was for sale.

Miss Collins then continued to make the following submissions:

- Mr and Mrs Warner's objections had been echoed by the other representations detailed as Appendix C2-11 of the report;
- Granting a second licence in such a small parade would undermine the prevention of crime and disorder and prevention of public nuisance licensing objectives;
- Granting a second licence in the area would lead to competitive pricing which would in turn lead to an increase in crime and disorder and littering;
- Southgate Parade consisted of a small section of shops;
- There was concern about anti-social drinking in the area;
- Best One was a small supermarket, and not an off-licence, and did not sell cheap alcohol;
- The application in question was for an off-licence;
- There was no need for a second licenced premises in the area;
- Although the Police had not objected to the application, they had only briefly considered the application and had provided their response within ten days of receiving notification of the application;
- The Police had accepted the application on face value and had not addressed local concerns as they had not consulted with local businesses before submitting their response to the consultation;

Miss Collins therefore asked the Sub Committee to refuse the application as it undermined the licensing objectives of prevention of crime and disorder and prevention of public nuisance.

Questions and Statements of the Sub Committee

The Sub Committee questioned Miss Collins' submission that having more than one licensed premises on a parade would increase crime and disorder and public nuisance. The Sub Committee stated that several other small parades within the Borough currently had more than one premises which sold alcohol and that they had not suffered the issues proposed by Miss Collins. Miss Collins responded that there

had been a history of such difficulties in the area in the past which had been subsidised with the introduction of the new Asda and Tesco. Miss Collins stated that each application should be considered on its merits and the concerns relating to each application should also be considered in relation to each individual application.

The Senior Licensing Officer, Mr Lyons, reminded the Sub Committee that the issue surrounding the sale of the lease was not a matter of licensing law and was therefore not a consideration for the Sub Committee. Miss Collins stated that her preliminary point relating to the sale of the lease asked the Sub Committee to consider whether it was satisfied that the Applicant intended to continue the business when he submitted his application, as the email from Crawley Borough Council's Asset Surveyor stated that Applicant tried to readdress the lease on 26 September 2014. Mr Lyons drew the Sub Committee's attention to page 2 of the application form where the Applicant had ticked the box stating that he was carrying on, or proposing to carry on a business which involved the use of the premises for licensable activities.

The Sub Committee then asked the following questions:

Questions by the Sub Committee	Response <i>(respondent in brackets)</i>
Was Best One part of the "Know Your Strength" Campaign?	No. There had never been any issues with the Best One Premises and Mr and Mrs Warner had never been asked to join the campaign <i>(Miss Collins)</i>
Part 4 (signatures) of the application suggested that the Applicant lived in Dorset but that he held a personal licence with Reigate and Banstead Council. Did he live locally?	The Applicant lived locally, it was the Licensing Agent who was situated in Dorset. The Applicant held a personal licence with Reigate and Banstead Council and could therefore act as a designated Premises Supervisor <i>(Mr Lyons)</i>
Did Mr Naqvi, Manager of Best One, wish to make any submissions in addition to those already made by Miss Collins on behalf of the owners of Best One?	Mr Naqvi confirmed that he did not wish to make any additional submissions <i>(Mr Naqvi)</i>

The Sub Committee was disappointed that the Applicant had not attended the Sub Committee hearing as it would have liked to have asked him questions concerning staffing levels at various times of the day as well as staff training. The Senior Licensing Officer confirmed that the application did not provide that information and that it was the first time he could recollect that an Applicant had not attended a hearing which was determining their application.

RESOLVED

In accordance with Regulation 14(2) of the Licensing Act 2003 (Hearings) Regulations 2005, the public be excluded from the following part of the Hearing. The Sub Committee considered that the public interest in taking such action outweighed the public interest in the Hearing taking place in public.

4. Application for the Grant of a Premises Licence: '13 Southgate Parade', Southgate, Crawley

The Sub Committee gave further consideration to the application and to the matters raised at the meeting. During the closed session the Sub Committee asked a supplemental question relating to the current hours of opening and the current hours for the supply of alcohol in relation to the Best One premises. The Senior Licensing Officer, Mr Lyons, provided the following details:

	Day	Time
Opening	Mon-Sun	0700hrs – 2245hrs
Sale of Alcohol		
	Mon-Sat (other than Christmas Day)	0800hrs – 2300hrs
	Sun (other than Christmas Day)	1000hrs – 2230hrs
	Christmas Day	1200hrs – 1500hrs and 1900hrs – 2230hrs
	Good Friday	0800hrs – 2230 hrs

In formulating its decision, the Sub Committee took into account the options that were available to it and considered what was appropriate to ensure that the licensing objectives were promoted.

RESOLVED

The Sub Committee, having considered the application and the relevant representations in detail, resolved to take the action as detailed in **Appendix A** to these minutes, because it was considered appropriate to promote the licensing objectives.

5. Re-admission of the Public

The Chair declared the meeting re-open for consideration of business in public session. Councillor Mullins read out the Sub Committee's decision as detailed in **Appendix A** to these minutes. It was also announced that all parties would receive a copy of the decision notice within five days of the Hearing.

Miss Collins stated that she had wished to raise concerns about the conditions contained within the application, but the Chair informed her that the decision had been dealt with and that the decision notice included conditions.

6. Closure of Meeting

With the business of the Sub Committee concluded, the Chair declared the meeting closed at 9.50pm.

B K BLAKE
Chair

Appendix A

Determination of the Licensing Sub Committee sitting at Crawley Borough Council in relation to the application for the grant of a premises licence at premises located at 13 Southgate Parade

The hearing of Sunny Singh's application for the grant of a premises licence in respect of the premises located at 13 Southgate Parade, Southgate, Crawley was heard by a Licensing Sub Committee of Crawley Borough Council on 13 October 2014.

The application sought to supply alcohol off the premises during the hours of 08:00 – 23:00 hours Monday to Sunday.

The Sub Committee, in determining the application, carefully considered the following:

- The application and all the material provided in support of it by Sunny Singh.
- Relevant representation made by the interested parties and the submission made by those parties.
- The guidance issued by the Secretary of State pursuant to s182 of the Licensing Act 2003.
- The Council's own Licensing Policy.

The Sub Committee then moved on to consider the determination of the application for the grant of a premises licence.

The Sub Committee wanted to express their disappointment that the Applicant failed to appear at today's hearing to be able to personally respond to their concerns and to alleviate the concerns of the neighbouring residents.

The Sub Committee noted that the task of a licensing authority on an application for the grant of a premises licence is to consider the applications and representations made and thereafter a duty falls upon the authority to impose such steps as set out in S18(4) of the Licensing Act as the licensing authority considers appropriate to promote the licensing objectives.

The Sub Committee listened carefully to the submissions made by the interested parties who attended this evening particularly that they were concerned that the supply of alcohol at these premises would lead to an increase in the level of crime and disorder and public nuisance. The Sub Committee wanted to express that they attached weight to the fact that many of the interested parties were local residents from the vicinity of the premises and that their concerns were based on their personal experience and knowledge of the area.

The Sub Committee paid regard to the Section 182 Guidance and its own policy, particularly that:

- Licensing authorities should look to the police as the main source of advice on matters of crime and disorder;
- The fact that the Council does not have a cumulative impact policy with regards to the number of premises within a location.

In making its decision the Sub Committee took into account that there were no relevant representations made by any of the responsible authorities, including the Police, which suggested that not any of the four licensing objectives would be undermined in the event that the premises licence were granted. Instead the Sub Committee attached weight to the

Police's representation that they were of the opinion that "the application offers steps which satisfies Sussex Police that the licensing objectives will be effectively promoted and match those previously agreed with a very similar licensed establishment in Crawley."

Having heard and carefully considered the submissions made by the interested parties the Sub Committee was of the view that it had no real evidence before it that the granting of the premises licence would directly lead to an increase in crime and disorder and public nuisance, and that any expected increase was purely speculative and an assumption at this stage.

Further the Sub Committee paid regard to its own policy which reiterates that the overall philosophy of the licensing regime is that there is a presumption that the licence will be granted unless there are compelling reasons to refuse the licence.

Therefore the decision of the Sub Committee was to grant the premises licence subject to the conditions which were consistent with the operating schedule in the application. To be clear the premises licence is granted and the steps set out on page 29 (of the bundle) are to be imposed as conditions to that licence.

The Sub Committee would like to express that it sympathised with the concerns of the local residents. However it is satisfied that there are adequate measures in place protecting those living in the vicinity of the premises under existing laws. It would like to reiterate that there is always the option of a review of this, or any other premises licence, open to the interested parties in the event that evidence materialised to suggest that the licensing objectives were no longer being promoted and the Sub Committee encourages residents to keep in touch with the Police and the Licensing Authority should any such problem arise.

Finally the Sub Committee also considered the preliminary issue raised by the representative of Mr and Mrs Warner about whether the applicant has the requisite intention to carry on a business which involves the use of the premises.

Even though the Sub Committee has been regrettably unable to ascertain the true position about the lease with the applicant it still cannot conclude that it is not a possibility that further negotiations may not be resurrected in the future despite that they are currently at a stand still. There is no requirement to establish a legal interest in the land therefore the Sub Committee concluded the applicant was a valid one for the purposes of the Licensing Act.