

Crawley Borough Council



Minutes of Licensing Sub Committee 10 June 2015 at 11.00am

Present:

Councillors B J Burgess, C C Lloyd and C J Mullins

Officers Present:

Tony Baldock	Environmental Health Officer
Kirstie Leighton	Legal Clerk
Mike Lyons	Senior Licensing Officer
Heather Girling	Democratic Services Officer (observing)
Mez Matthews	Democratic Services Officer

Also in Attendance:

Councillors	B MeCrow (Observing)
	B J Quinn (Observing)
Applicant	Denise Holland-Brown (Company Director)
	Ahmad-Reza Darvishi (Designated Premises Supervisor)
Interested Parties	David Ashton (Objector)
	Kim Ashton (Objector)
	Tony Atkins (Objector)

19. Appointment of Chair

RESOLVED

That Councillor Lloyd be appointed Chair for the meeting.

20. Members' Disclosure of Interests

The following disclosures of interests were made by Members:-

Member	Minute Number	Subject	Type and Nature of Disclosure
Councillor B J Burgess	Minutes 21, 22 and 23	Application for a Grant of a Premises Licence to 'Beautiful Nails and Body Salon Ltd', South Lodge, Worth Park Avenue, Pound Hill, Crawley	Personal interest as she was acquainted with Mr Ashton as they had both attended the Crawley Pensioners Active Group.

21. Application for the Grant of a Premises Licence to 'Beautiful Nails and Body Salon Ltd', South Lodge, Worth Park Avenue, Pound Hill, Crawley

The Sub Committee considered an application to grant a premises licence in respect of 'Beautiful Nails and Body Salon Ltd', South Lodge, Worth Park Avenue, Pound Hill, Crawley.

Following the introduction of those present at the meeting, the Chair advised that the Sub Committee would follow the hearing procedure, a copy of which had accompanied the letters of invitation.

The Legal Clerk then asked all parties present, if they wished to make any relevant applications, for example additional information or to cross-examine any party. No applications were made. Mr Lyons, Senior Licensing Officer, informed the Sub Committee that the plan/layout of the premises should have been included on page 26 of the report, but had been omitted. Mr Lyons clarified that it was not classed as new evidence, but was relevant to the application. Mr Lyons confirmed that both the applicant and the interested parties had received a copy of the plan. The Chair confirmed that all members of the Sub Committee had also received a copy of the plan.

The Chair informed all parties that the Sub Committee had requested a briefing meeting with the Legal Clerk and Democratic Services Officer prior to the commencement of the Sub Committee, to confirm the procedure that would be followed during the meeting.

Report PES/191 of the Council's Environmental Health Manager 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 14 June 2015 'Beautiful Nails and Body Salon Ltd', submitted an application to the Council as the Licensing Authority for the Borough of Crawley for the grant of premises licence in respect of South Lodge, Worth Park Avenue, Pound Hill, Crawley. The application was detailed in Appendix 1 to the report and sought the supply of alcohol 'on' the premises (only) to be supplied to customers that are booked into the Salon and Nail

Spa for beauty treatments. 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 that the application had been advertised in accordance with legislation. As a result of the consultation process, Environmental Services and West Sussex Fire and Rescue had stated that they had no objection to the application. Sussex Police had submitted a relevant representation against the grant of the application and had proposed the following two conditions to resolve the matter:

- (i) "Staff will request to see photographic identification from anyone who appears to be under the age of 25 prior to selling them or supplying them with any alcohol."
- (ii) "Staff who sell/ supply alcohol will be trained to request ID and to refuse the service of alcohol to anyone who is drunk or on drugs. Staff will sign to say they have received this training".

Following mediation, the applicant had agreed to accept both proposed conditions. Those conditions now formed part of the operating schedule and could be considered in any determination of the application. Mr Lyons informed the Sub Committee that whilst Sussex Police had resolved its representation, the representation had not been withdrawn.

The Licensing Authority had also received two relevant representations raising objection to the application, one from Tony and Ann Atkins (attached as Appendix 3 to the report) and the other from David and Kim Ashton (attached as Appendix 4 to the report). The applicant had informed the licensing Authority that a letter dated 21 April 2015, outlining the proposed activities had been delivered to both sets of objectors, a copy of the letter was attached as Appendix 5 to the report. Two other representations had also been received, although one had subsequently been withdrawn and the other had been determined not to be '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 dealing with the application, including the relevant sections of the Guidance issued by Government pursuant of Section 182 of the Licensing Act 2003, and the Council's policy considerations.

Mr Lyons 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 authority considered appropriate for the promotion of the licensing objectives, and
 - (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 Sub Committee confirmed that it did not have any questions in relation to the report.

The Applicant

Denise Holland-Brown, Company Director of Beautiful Nails and Body Salon Ltd, addressed the Sub Committee and made the following submissions:

- Mrs Holland-Brown had applied for a premises licence to enable the company to supply alcoholic drinks alongside specific treatments;
- There was no intention for the business to become a bar or a pub;
- Mrs Holland-Brown had 18 years' experience in the business and owned other premises;
- The licence would allow the business to supply one complimentary drink per client, for spa or pedicure bookings;
- The alcohol would not be consumed outside;
- The concerns relating to car parking a litter, which had been raised by the neighbouring properties, were irrelevant and had only become an issue since the licensing application had been submitted to the Council;
- Kim Ashton was a client at the premises;
- The objectors had misunderstood the intention of the application;
- Mrs Holland-Brown was a business owner who ensured that her businesses were both managed legally and above board;

Questions asked by the Sub Committee of the Applicant

The Sub Committee then asked the following questions of the Applicant:

Questions by the Sub Committee	Response <i>(respondent in brackets)</i>
Had the premises served alcohol in the past?	A promotional event had taken place in the past. Six clients had attended and a glass of complimentary 'bubbly' had been supplied. The matter had been reported to the Senior Licensing Officer. As a result, the Senior Licensing Officer had visited the premises and explained the legislative requirements. The premises had not supplied alcohol since. <i>(Denise Holland-Brown)</i>
Section M(e) of the application described the steps that would be taken to promote the protection of children from harm. Were children permitted into the salon, as Section M(e) of the application was ambiguous?	If a child accompanied an adult who was receiving a treatment, that child would need another adult to supervise them. A treatment would not be provided without the child being supervised. <i>(Denise Holland-Brown)</i>
Sussex Police had proposed a condition relating to a check 25 policy. Did the premises intend to maintain an incidents log, and were all staff over the age of 18?	All staff were over the age of 18. There would be a formal incidents log. CCTV was installed throughout the premises, apart from the treatment rooms which were carefully monitored. All appointments were pre-booked, and the computer booking system required a

Questions by the Sub Committee	Response (<i>respondent in brackets</i>)
	client's full name and date of birth before it would accept a booking. <i>(Denise Holland-Brown)</i>
Was Denise Holland-Brown happy to refuse to supply a treatment or alcohol to a client if necessary?	If the client could not prove that they were over the age of 25 years, they would not be supplied alcohol. Denise Holland-Brown would not risk her licence. <i>Denise Holland-Brown)</i>

Tony Baldock, Environmental Health Manager, referred the Sub Committee to section M(e) of the application and informed the Sub Committee that although the application stated that children could not enter the spa due to health and safety regulations, no health and safety regulation would restrict children from entering the premises. Denise Holland-Brown responded by stating that the spa created a relaxed atmosphere where clients could enjoy the experience without disruption.

Mr Lyons, Senior Licensing Officer, informed the Sub Committee that following the complaint mentioned by Denise Holland-Brown, Mr Lyons had spoken to Denise Holland-Brown and had explained the legislation and provided advice. Mr Lyons confirmed that the supply of alcohol had ceased following that meeting. Mr Lyons advised the Sub Committee that he had visited similar premises on parades throughout the Borough and had provided advice regarding the supply of complimentary drinks. Mr Lyons stated that a lot of those premises had also been unaware that a premises licence was required for such an activity.

Interested Party (Tony Atkins)

Tony Atkins addressed the Sub Committee in objection to the application and made the following submissions:

- The management of Beautiful Nail and Beauty Salon Ltd had paid little regard to its neighbours;
- Mr Atkins believed that granting the premises licence would only worsen the situation;
- Mr Atkins requested that an additional condition be included to only allow alcohol to be consumed on the premises and not in the garden or car park of the premises.

In response to Mr Atkins submissions, Denise Holland-Brown stated that alcohol was only consumed inside the premises and not outside. Following a question from Mr Atkins, Denise Holland-Brown confirmed that she would not raise objection to the inclusion of an additional condition which restricted the consumption of alcohol to inside the premises.

Questions asked by the Sub Committee of Tony Atkins

The Sub Committee then asked the following questions of Tony Atkins:

Questions by the Sub Committee	Response (<i>respondent in brackets</i>)
<p>Why had Mr Atkins asked Denise Holland-Brown whether she would object to the additional condition relating to the restriction of alcohol consumption to inside the premises?</p>	<p>There were tables and chairs outside the building. During an event a marquee had been erected outside the premises and alcohol had been served. Aggravation had occurred since the business had opened and Mr Atkins did not want any further issues. <i>(Tony Atkins)</i></p> <p>NB. Mr Lyons informed the Sub Committee that the plan of the premises which had been submitted with the application included the car park and the waiting area. The 'premises' in licensing terms would therefore include the outside area.</p>
<p>What aggravation had occurred since the business had opened?</p>	<p>Cars related to the premises had often blocked the access to Mr Atkins' property. Litter from the premises had also blown onto Mr Atkins' garden. Sussex Police had dealt with the issues. Those issues were caused by the staff at the business as well as the business' clients. Less problems had occurred during the last week. <i>(Tony Atkins)</i></p> <p>NB. The Sub Committee reminded Mr Atkins that litter and car parking issues were not a licensing matter and therefore the Sub Committee could not take those issues into consideration.</p>

Interested Party (David Ashton)

David Ashton addressed the Sub Committee in objection to the application and made the following submissions:

- Mr Ashton was not Denise Holland-Brown's enemy;
- If Denise Holland-Brown ceased to be the owner of the premises in the future, the licence could transfer to another owner;
- Mr Ashton wanted the licence to include clear conditions and to know who he should contact if those conditions were breached;

The Sub Committee informed Mr Ashton that parking issues were a matter for Sussex Police unless it was a local enforcement matter.

Mr Lyons, Senior Licensing Officer, advised Mr Ashton that it was the responsibility of the premises licence holder to uphold the conditions of the licence and that it was illegal to breach any conditions of a licence. Mr Lyons continued by stating that, should the conditions of a licence be breached, Sussex Police or the Licensing Authority should be contacted in the first instance. Mr Lyons informed Mr Ashton that a review of a licence could be called if the conditions of a licence were breached.

Mr Ashton confirmed that, should there be any problems in the future, he would speak to Denise Holland-Brown in the first instance. Should he not be able to resolve the matter directly with Denise Holland-Brown he would contact Mr Lyons or Sussex Police.

Questions asked by the Sub Committee of David Ashton

The Sub Committee confirmed that it did not have any questions for David Ashton.

Questions asked by the Applicant (Denise Holland-Brown) of the Interested Parties

Denise Holland-Brown, the applicant, then asked the following questions of the interested parties:

Questions by the Applicant	Response (respondent in brackets)
Tony Atkins had mentioned the event where a marquee was erected at the premises. The event had taken place after Denise Holland-Brown had spoken to Mr Lyons and had ceased to supply alcohol, and only non-alcoholic beverages were served at the event. Both Mr Lyons and Sussex Police had visited the premises during that event. What proof did Mr Atkins have that alcohol had been served?	It had appeared to Mr Atkins that alcohol had been served, although he had not attended the event nor consumed any of the drink at the event. <i>(Tony Atkins)</i>

Questions asked by the Interested Parties of the Applicant (Denise Holland-Brown)

Denise Holland-Brown, the applicant, then asked the following questions of the interested parties:

Questions by the Interested Parties (questioner in brackets)	Response (respondent in brackets)
The majority of the staff on the premises were young. If there was a problem on the premises, such as the need to refuse to supply alcohol, would the staff be able to diffuse the situation? <i>(Kim Ashton)</i>	Two Managers were employed on the premises, one was 37 years old and the other was 46 years old. Denise Holland-Brown was 42 years old and was on the premises full-time except when she dropped/collected her children from school. Two full time Receptionists were employed. All the staff were responsible people and were capable of dealing with

Questions by the Interested Parties <i>(questioner in brackets)</i>	Response <i>(respondent in brackets)</i>
	any issues. <i>(Denise Holland-Brown)</i>
Would a senior member of staff always be on the premises? <i>(Kim Ashton)</i>	One Manager was always on the premises. All staff serving alcohol would be trained by either Denise Holland-Brown or Ahmad-Reza Darvishi. Denise Holland-Brown would not put her licence at risk. <i>(Denise Holland-Brown)</i>

Further Questions asked by the Sub Committee of the Applicant

The Sub Committee then asked the following further questions of the applicant:

Questions by the Sub Committee	Response <i>(respondent in brackets)</i>
How many clients were usually on the premises at any one time? <i>(asked by Mr Lyons, Senior Licensing Officer)</i>	16 members of staff were employed on the premises and usually 10 members of staff were on the premises at any one time. There were 10 clients at any one time. A maximum of 50 people were invited to special events, but only 3 promotion events were held each year. <i>(Denise Holland-Brown)</i>
How many clients were invited for a promotional event?	A maximum of 50 clients would be invited. The appointment times were usually staggered in groups of 10. The premises was limited for space and so it was only possible to have 10 clients at one time. Clients were only provided with one glass of alcohol each. <i>(Denise Holland-Brown)</i>

Closing Statement by the Applicant (Denise Holland-Brown)

Denise Holland-Brown made the following points in her closing statement:

- Ms Holland-Brown's company organised and hosted events during the year to raise money for charity.
- The business also provided work placements for Crawley College and work experience placements for local schools.
- The business was a 'top end' nail bar/beauty salon and boutique spa, which was on par with Alexander House Hotel.
- Ms Holland-Brown was a proud business owner, the premises' staff were dedicated and the business had loyal clientele.
- Although Ms Holland-Brown had taken on board the objections made by the interested parties, she felt that the objections were irrelevant.
- Ms Holland-Brown asked her neighbours to bring any future parking or litter issues to her attention or that of Crawley Borough Council.

Closing Statement by the Interested Party (Tony Atkins)

Tony Atkins made the following points in his closing statement:

- Mr Atkins reiterated his request that an additional condition be included that the consumption of alcohol only be permitted within the building.
- Mr Atkins was very concerned about the promotional events run by the business as they were attended by a large number of people.

The Senior Licensing Officer, Mike Lyons, informed those present that one of the options open to the Sub Committee was to grant the application with an additional condition relating to the consumption of alcohol within the building only. Mr Lyons also advised that, should the Sub Committee be minded to grant a licence which prohibited the consumption of alcohol outside the building, the applicant could apply for a temporary event notice (TEN) for special events where less than 499 people were in attendance so that alcohol could be served outside the building. The present Sub Committee however, would only consider the current application before it.

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.

22. Application for the Grant of a Premises Licence to 'Beautiful Nails and Body Salon Ltd', South Lodge, Worth Park Avenue, Pound Hill, Crawley

The Sub Committee gave further consideration to the application and to the matters raised at the meeting. 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 actions as detailed in **Appendix A** to these minutes, because it was considered appropriate to promote the licensing objectives.

23. Re-admission of the Public

The Chair declared the meeting re-open for consideration of business in public session. The Chair 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.

24. Closure of Meeting

With the business of the Sub Committee concluded, the Chair declared the meeting closed at 1.25pm.

COUNCILLOR C C LLOYD
Chair

Appendix A

Determination of the Licensing Sub Committee sitting at Crawley Borough Council

10th June 2015

Decision in relation to the application for the grant of a Premises Licence at 'Beautiful Nails & Body Salon Ltd', Worth Park Avenue, Pound Hill, Crawley, West Sussex, RH10 3DE

The hearing of Denise Holland-Brown's application (as the Company Director for Beautiful Nails & Body Salon Limited) for the grant of a premises licence in respect of the premises located at Worth Park Avenue, Pound Hill, Crawley, West Sussex, RH10 3DE was heard by a Licensing Sub Committee of Crawley Borough Council on 10th June 2015.

The application sought to supply alcohol on the premises during the hours of 09:30 – 20.30 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 Denise Holland-Brown.
- Relevant representations made by the interested parties and the submissions 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 noted that the task of a licensing authority on an application for the grant of a premises licence is to consider the application and representation(s) 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 the meeting, 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 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;

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 (pages 21 & 22 of the bundle) in the application, including those conditions proposed by the Police and agreed by the applicant, namely:

- 1 Staff will request to see photographic identification from anyone who appears to be under the age of 25 prior to selling them or supplying them with any alcohol.
- 2 Staff who sell/supply alcohol will be trained to request ID and to refuse the service of alcohol to anyone who is drunk or on drugs. Staff will sign to say that they have received this training.

The Sub Committee noted that the layout/plan which forms part of the application (Appendix 1) identifies the "premises" as the car park as well as the building. The Sub Committee listened to the interested party's request that an additional condition be added to restrict the consumption of alcohol to within the building. The Sub Committee considered it appropriate for the promotion of the licensing objectives to add the following condition:

- Alcohol will only be supplied and consumed within the building.

Although the Sub Committee acknowledged the concerns raised by the interested parties relating to car parking and litter, those issues of concern fall outside the remit of the licensing objectives and were therefore the responsibility of the Police and not of the Sub Committee.

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.