

SOUTHERN AREA LICENSING SUB-COMMITTEE

MINUTES OF THE SOUTHERN AREA LICENSING SUB-COMMITTEE MEETING HELD ON TUESDAY 3RD NOVEMBER 2009 AT 11:00 AM, AT CITY HALL, SALISBURY

Present:

Councillor J Hubbard
Councillor G Jeans
Councillor W Moss

Mrs S Colley – Licensing South and East Team Manager, Wiltshire
Council

Miss J Green – Democratic Services Officer, Wiltshire Council

Mr R Hodgkinson – Solicitor, Wiltshire Council

Mrs D Mulvey – Licensing Officer, Wiltshire Council

Mr L McEwan - Applicant

Mrs J Hawkins – Interested Party

Mrs A Midgley – Interested Party

C Randall – Interested Party

Councillor J Smale – Unitary Member for Bulford, Allington and Figcheldean

PART 1

Items considered whilst the meeting was open to the public

1. ELECTION OF CHAIRMAN

It was proposed, seconded and

RESOLVED that Councillor W Moss be elected Chairman of the Southern Area Licensing Sub-Committee for the meeting dated 3rd November 2009.

COUNCILLOR W MOSS - IN THE CHAIR

2. MINUTES OF THE PREVIOUS MEETING

The minutes of the previous meeting of the Southern Area Licensing Sub-Committee, held on 18th September 2009, were confirmed as a correct record and signed by the Chairman.

3. PROCEDURE FOR THE MEETING

The Chairman explained the procedure to be followed at the hearing, as contained within the "Wiltshire Licensing Committee Procedural Rules for the Hearing of Licensing Act 2003 Applications".

4. CHAIRMAN'S ANNOUNCEMENTS

There were none.

5. MEMBERS' INTERESTS

There were none.

6. APPLICATION FOR PREMISES LICENCE IN RESPECT OF CHOLDERTON CHARLIE'S FARM AND YOUTH HOSTEL, CHOLDERTON RARE BREEDS FARM PARK, AMESBURY ROAD, CHOLDERTON, WILTSHIRE, SP4 0EW

The Licensing Officer introduced her report.

In accordance with the procedure detailed in the Agenda the applicant and the interested parties present were given the opportunity to address the Sub-Committee and through the Chairman, to question one another about the detail of the application and representations. Sub-Committee members had the opportunity to question all parties.

Councillor Smale expressed his intention to speak on the application, however, legal advice was issued to the effect that as Councillor Smale had not made personal representations to the Licensing Authority within the 28 day objection period, nor had he been requested to represent parties who had made representations, he was not entitled to speak. The Sub-Committee did have a broad discretion to admit further evidence where relevant, however this should be the exception and not the rule. Due to the quasi-judicial nature of the process, the Sub-Committee considered that they should hear only relevant representations. Councillor Hubbard wished the minutes to reflect his disappointment that he was unable to hear the views of the local member who may have a constructive input and local knowledge.

Following summaries made by both the applicant and the interested parties, the Sub-Committee retired to consider the application.

During their deliberations the Sub-Committee was accompanied by the Solicitor for Wiltshire Council and the Democratic Services Officer.

Following the deliberations of the Sub-Committee the Solicitor for the Council made a statement of the material legal advice given in closed session, as follows:

The Sub-Committee must decide if there is a real possibility that one or more of the licensing objectives will be undermined, based on the evidence presented to it. If it is concluded that any of the licensing objectives will be undermined, Section 18(4) of the Licensing Act 2003 enables the Sub-Committee to impose conditions, exclude certain parts of the application or reject the application in full.

The Sub-Committee RESOLVED:

To grant the licence, subject to the following conditions and exclusions:

- 1) The showing of films under Section B to cease at 18:00hrs when outdoors.
- 2) Live music under Section E to take place indoors only and to cease at 23:00hrs.
- 3) Recorded music under Section F to be permitted indoors only and to cease at 23:00hrs.
- 4) Performance of dance under Section G to be permitted indoors only and permitting one special Christmas dance during the festive season to cease at midnight.
- 5) The provision of facilities for dancing under Section J to be permitted indoors only.
- 6) Provision for entertainment under Section K limited to 18:00hrs outside.
- 7) Late night refreshment from 23:00hrs to midnight is refused.
- 8) A prominent notice to be displayed at the premises containing the name and contact number of a suitable individual who can be contacted in the event of problems whilst licensable activities are taking place.
- 9) All doors and windows to be closed after 22:00hrs during the performance of any music under Section E or F.

Reasons:

The Sub-Committee considered the relevant provisions of the Licensing Act 2003 (in particular Sections 4 and 18); the guidance issued under Section 182 of the Act and the licensing Policy of the former Salisbury District Council.

The Sub-Committee considered the written evidence presented in the agenda, together with the oral evidence given at the hearing from Mr McEwan, Mrs Hawkins and Mrs Midgley.

The principal objection from those making representations against the grant of the licence was in respect of a regulated entertainment taking place in the open fields and grounds and as a result causing a nuisance to those living in the vicinity. Both interested parties referred to an incident involving noise from a loud activity involving the use of a drum kit which persisted throughout the afternoon and early evening. Whilst the Sub-Committee acknowledged that this event was some time ago the Sub-Committee were satisfied that there was a nuisance and were further

satisfied that there was a real possibility of further nuisance occurring if the licence for regulated entertainment was granted in the form applied for. In reaching this decision the Sub-Committee took particular note of the fact that the applicant appeared to have given little or no thought to what actions or measures might be taken to reduce the risk of nuisance from events being held in the open.

As regards the sale of alcohol the Sub-Committee did not feel that the licence applied for would undermine any of the licensing objectives. Whilst the Sub-Committee in no way condoned drunken behaviour or drink driving, the Sub-Committee had to bear in mind the statutory guidance to the effect that the conduct of persons when away from the immediate vicinity of the premises was a matter for their own responsibility before the law. Although Mrs Midgley expressed her concerns about drunkenness and drink driving there was no evidence presented to the Sub-Committee from which they could reasonably conclude that this was a real possibility.

The Sub-Committee remained concerned at the apparent lack of detailed consideration by the applicant with regard to those activities for which the licence was sought. For this reason the Sub-Committee attached the condition that a prominent notice be displayed at the premises containing the name and contact number of a suitable individual who could be contacted in the event of problems whilst licensable activities were taking place.

Further the Sub-Committee refused the late night refreshment licence from 23:00hrs to midnight. The Sub-Committee felt that the provision of food until midnight would result in persons failing to disperse over a longer period and quite possibly remain on the premises up until or beyond the stipulated closing time.

All parties have the right to appeal to the Magistrates Court within 21 days of this decision. A Responsible Authority or interested party has the right to request the Local Authority to review the licence. Such an application may be made at any time, but it is in the discretion of the Local Authority to hold the review and a review will not normally be held within the first twelve months of a licence, save for the most compelling reasons.

PART 2

Items considered whilst the meeting was closed to the public

None

Chairman
2009

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