

WEST LINDSEY DISTRICT COUNCIL

MINUTES of a Meeting of the Licensing Sub-Committee held in the Chamber,
Guildhall, Marshalls Yard, Gainsborough on Tuesday, 14 June 2011 at
10.00am.

Present: Councillor Mrs Jessie Milne
Councillor Mrs Irmgard Parrott
Councillor Owen Bierley

In Attendance: Kim Newbould-Robertson (Legal Advisor)
Licensing & Support Team Leader
Licensing Enforcement Officer
Support Officer

Also in Attendance: Andrew Grimsey (Poppleston Allen Solicitors)
Michael Kheng (Agent for Applicant)
Mr J Henderson
Mr G Jackson
Mr M Allen
Mr A Robinson
Ms R Dunn

1 ELECTION OF CHAIRMAN

RESOLVED that Councillor Mrs Jessie Milne be elected Chairman of
the Licensing Sub-Committee for this meeting.

Councillor Milne took the Chair for the remainder of the meeting.

2 APOLOGIES

Apologies received from Councillor Lewis Strange.
Substitution of Councillor Mrs Irmgard Parrott in place of Councillor David
Cotton.

3 MEMBERS' DECLARATIONS OF INTEREST

Councillor Mrs Jessie Milne declared a personal interest, having met Mr
Hobson at the Cathedral.

4 LICENCE HEARING

(1) The Chair welcomed everyone to the Meeting and round the table introductions were made.

The procedure circulated with the Agenda was followed, and Kim Newbould-Robertson outlined the procedure for the Hearing.

Applicant – Somerby Vineyard Ltd, Manor House, 7 Somerby Green, Somerby DN38 6EY

Premises – Somerby Vineyard Limited, Main Road, Somerby, DN38 6EX

The Licensing & Support Team Leader, Phil Hinch, presented his Report to the Hearing concerning the application to sell alcohol off the premises. A brief outline was given that the Vineyard was established in 2006 and had been providing wine to trade, which did not necessitate a premises licence.

No representations had been received from any of the responsible Authorities. However, eight representations had been received from nearby neighbours.

It was for the Members' of the Sub-Committee's consideration whether or not a Licence be granted as applied for; granted with conditions attached; or rejected.

(2) The Agent for the Applicant Presented their Case on Behalf of Somerby Vineyard Limited

Mr Kheng presented the Applicant's case and advised that the application would involve the sale of wine from the premises along with selling via the internet, email and by telephone. Mr Kheng underlined that there had been no representations received from the Police, Fire or Environmental Health.

The Applicant had a right of way to the site with or without a vehicle. There were three gates to the Vineyard – the first of which was electronically operated for access. Mr Kheng confirmed that the Applicant would agree to a condition on the licence that visitors to the Vineyard would be by prior appointment only. Blue Notices had been correctly displayed by the Applicant. A vineyard was classed as agricultural and not industrial/commercial, (citing Millington vs Secretary of State).

Questions were then put to the Applicant's Agent by Objectors

Questions were invited to be put to the Applicant; however, only questions which addressed licensing objectives were relevant and could be considered by the Sub-Committee:

Questions included queries regarding production and quantity of wine; times of access for the public; increased traffic volume; parking; toilets and lack of consultation.

Mr Kheng confirmed that the Vineyard did not have a press and that this process was not done on the premises; the quantity of wine was envisaged to be 8k bottles once the vines reached peak maturity (at present the number of bottles produced was approximately 2k bottles (ie) 335 cases, half of which went to trade). Access would be by prior appointment only. Traffic volume was unknown – it may be that the trade would buy more wine. There was some parking available at Mr Hobson’s house.

There were no toilets on site at present.

With regard to consultation with residents, there was litigation ongoing at present with a resident.

Questions were then put to the Applicant’s Agent by Members of the Sub-Committee

Councillor Milne asked for clarification as to how the wine which was currently being sold to trade was being delivered.

Mr Kheng confirmed that Mr Hobson was delivering this himself.

(3) The Objectors Presented their Case

Andrew Grimsey (Poppleston Allen) directed the meeting to the Plan of the site contained within the bundle of papers supplied to the Meeting, showing the right of way across Ms Dunn’s property/garden.

Safety was of particular importance and protecting children from harm.

Ms Dunn then guided the Meeting through a series of photographs of the area in discussion. Ms Dunn advised Members that she had concerns regarding her children’s safety at the site from moving vehicles. Access to the Vineyard was by right of way across her property – which was her garden where her children played. Ms Dunn was also concerned about a problem with urination on her property.

Questions were then put to the Objectors by the Applicants’ Agent:

Questions included whether the right of way was now a track, and Police incident 370 occurring in May 2011.

Replies advised that Guardmesh had been put down on the right of way across the garden to protect the grass, which would enable grass to grow through it. Ms Dunn confirmed that the Police had visited her at her own request.

Questions were then put to the Objectors by Members of the Sub-Committee

Councillor Parrott looked for clarification as to whether the lane was Ms Dunn’s garden or an adopted road.

Ms Dunn confirmed that it was indeed her garden, which she maintained. Mr Hobson was required to leave it in a good condition after use. Mr Robinson repaired it and sent on the bill to Mr Hobson for this.

Councillor Milne enquired that when the property was purchased, whether Ms Dunn was aware that there was a right of way across the garden.

Ms Dunn replied that she was aware but that the previous owners had stated that it was hardly used.

(4) The Chairman asked the Applicant's Agent whether, in the light of objections raised, the Applicant wished to amend the application.

Councillor Milne asked if there was a reason why Mr Hobson would not be able to put in another road to lead to the Vineyard.

Mr Kheng confirmed that there were litigation matters to be overcome.

Mr Kheng confirmed that the Applicant was not prepared to reduce the hours which were within the hours of 9am – 10pm of the licence. But the Applicant was prepared to say that any visitors to the Vineyard would be by prior appointment only.

(5) Closing Statements or Summaries

Objectors:

The area of Somerby was regarded as a walking area – if traffic should increase, it would make a huge difference to people. The infra-structure of Somerby could not cope with the traffic.

Applicant's Agent

The concerns raised regarding the road is a Highways matter.

Clearly there was a legal right of way through and that should not be an issue to be addressed.

The Sub-Committee, Legal Advisor and Support Officer then withdrew to consider the Application at 11.20am.

They subsequently returned at 12.12pm and the Chairman announced the decision as follows:

“Having given due consideration to all of the issues raised by both the Applicants and the Objectors, the Sub-Committee have decided to grant the Licence subject to the following conditions:

1. Any visitors to the premises will be by prior appointment only.

2. Any visitor to the premises will be accompanied through any land owned by anyone other than the premise licence holder by an employee of Somerby Vineyards Limited.

Reasons:

The Sub-Committee have listened to the evidence of the interested parties and the premises licence holder. The Sub-Committee have noted the concerns regarding public safety, prevention of crime and disorder, prevention of public nuisance and protection of children from harm. There has been no evidence produced to satisfy the Committee that there is a real risk of crime and disorder which would occur from the issue of a premise licence. With regards to public safety, prevention of public nuisance and protection of children from harm, the Committee have heard from the residents over their concerns regarding access to the premises. The Sub-Committee have heard and received documentary evidence regarding the right of way to the premises.

The Committee have conditioned the licence to include appointments only and a requirement to accompany visitors over any third party land to address the concerns of residents. We have implemented these conditions because we have heard evidence of the intended sales and production at the premises and heard evidence of perceived problems that visitors may have when visiting the site and using the access road – such as the bends in the road and in our view, these conditions will address these concerns.”

The Chairman advised that all parties would be notified of the decision in writing within five working days of today’s Hearing and reminded those present of the right to appeal to the magistrates’ court within 21 days of receiving such notice.

For the avoidance of doubt, the Sub-Committee view a person as visiting the land as a person who attends the land to purchase alcohol.

RESOLVED that the premises licence for Somerby Vineyards Limited, Main Road, Somerby be granted as applied for subject to the agreed conditions set out at 1 – 2 above.

The Meeting concluded at 12.30pm

Chairman