



WEST LINDSEY DISTRICT COUNCIL

MINUTES of a Meeting of the Licensing Sub-Committee held in the Council Chamber at The Guildhall, Gainsborough on Monday 18 March 2013 at 1.00pm

Present:
Councillor Owen Bierley
Councillor Jessie Milne
Councillor Irmgard Parrott

In Attendance :
Jo Furness Legal Adviser
Phil Hinch Licensing and Support Team Leader
Tracey Gavins Licensing and Enforcement Officer
Katie Coughlan Governance and Civic Officer
Dinah Lilley Governance and Civic Officer

Also in Attendance :
In support of the Application:
Mr Michael Kheng Applicant's Agent
Mr William Hobson Applicant

Objectors:
Mr Tony Robinson
Mr Joe Henderson

1 ELECTION OF CHAIRMAN

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

Councillor Jessie Milne took the Chair for the remainder of the meeting and round the table introductions were made.

2 MEMBERS' DECLARATIONS OF INTEREST

Councillor Jessie Milne stated that she had met Mr William Hobson at a function previously but confirmed that she did not know him in either a personal or professional capacity.

**3 LICENCE HEARING RE:
APPLICATION FOR THE VARIATION OF A PREMISES LICENCE AT
SOMERBY VINEYARD, MAIN ROAD, SOMERBY, DN38 6EX
APPLICANT – MR WILLIAM HOBSON
REF NO:- 32UHB11007**

The procedure circulated with the agenda was followed and the Licensing and Support Team Leader presented the report and summarised the purpose of the Hearing, this being an application for a variation to the premises licence at Somerby Vineyard, Main Road, Somerby, in light of objections having been raised.

Members noted the nature of the objections received from interested persons, the licensing objectives to which they related and the options available to the Sub-Committee in determining this matter. It was noted that no objections had been received from responsible authorities.

Mr Kheng presented the Applicant's Case, and in opening outlined the two conditions his Client was seeking to have removed from his current licence and the reasons for this. Mr Kheng was of the view that the conditions were not necessary in order to promote the licensing objectives, furthermore they created logistical issues for the business, which he outlined at length, and were difficult, if not impossible, to both adhere to and enforce.

Mr Kheng was of the view that all of those objections received related to issues around access and thus were not a matter of concern for the Sub-Committee and made reference to land registry documents which clearly showed three rights of way to the vineyard. He commented that the guidance and law was very clear in areas such as this. In concluding, he made reference to the previous hearing held in June 2011 at which the original licence had been granted, and at which the Sub-Committee had stated they were satisfied there was no evidence of Public Nuisance or Crime and Disorder. He was of the view, the Objectors had still provided no evidence of such and he again made reference to the fact that no objections had been received from the responsible authorities.

The Objector's were then invited to question the Applicant and his Agent, after which Members were afforded the same opportunity.

No questions were forthcoming from the former; however, in responding to Members' questions the Applicant outlined the number and nature of visitors to the vineyard, commenting that these were mainly seasonal visitors and organised group visits. In responding to further questions regarding sales of alcohol, Mr Hobson confirmed that most sales were made on-line, site sales remained small and a large percentage of visits were made for educational or tourism purposes.

The Objectors were then invited to present their case and in opening stated it had in fact been the Applicant who had offered up the conditions he was now seeking to remove. The Objectors made reference to the small nature of

Somerby, the lack of parking on offer and the damage this has caused to the verges. They confirmed that they did not dispute there was a right of way for the Applicant, however stressed that this was across other people's properties and their needs had not been taken into consideration or respected.

Mr Robinson went on to state that he had never seen visitors accompanied and thus the conditions had been breached on a regular basis. Furthermore access to the vineyard was via a coded electronic gate and therefore he was of the view that visitors simply calling in was not a reality. In concluding, he stated he felt nothing had changed since the original application, however all previous agreements and conditions were being continually disregarded.

Mr Henderson then addressed the Sub-Committee and raised a number of issues relating to planning and highways matters, including the siting of some sheds, environmental issues regarding rubbish on the site, issues regarding non payment of NNDR and that there had been 3 break-ins in neighbouring properties recently.

Mr Kheng interjected, questioning the relevance of these issues to the day's proceedings.

Mr Henderson then questioned the accuracy of the representation response received from the Fire Authority, stating it cited the wrong address. The Licensing and Support Team Leader clarified the administration process for seeking and receiving representations and stated that this was *the* registered business address of the Vineyard and did not affect the accuracy in any way whatsoever.

The Applicant and his Agent were then invited to question the Objectors, after which Members were afforded the same opportunity.

In responding to the questions posed, the objectors confirmed that there were three access routes to the vineyard but did not accept that the sounding of burglar alarms in neighbouring properties could have been caused by any other means than visitors to the site.

Objection was raised by the Objectors regarding Mr Kheng's reference and reliance on land registry documents, documents they stated they had not been privy to in advance of the hearing. The Licensing and Support Team Leader, advised of issues which had been encountered in trying to process these electronic documents and stated these had been distributed as far as was reasonably possible, and Mr Kheng had been made aware of the issues. Mr Kheng confirmed the same documents had been used at the hearing in June 2011. However, in light of this the Chairman extended an offer to adjourn the proceedings to allow the Objectors to peruse the documentation; however this offer was quickly declined.

Each party confirmed they had no further questions.

The Applicant was afforded the opportunity to amend the application in light of the objections but declined to do so.

Both parties were afforded the opportunity to sum up their cases and each in turn re-stated the salient points of their cases.

The Sub-Committee, the Legal Adviser and the Governance and Civic Officers then withdrew to consider the application at 2.08 pm.

They subsequently returned at 2.45 pm and at the request of the Chairman, the Legal Adviser outlined the advice she had given to Members, namely to confirm that such matters as highway issues, planning issues and environmental issues were not matters of relevance or something that the Committee could take into consideration during their deliberations, following which the decision was announced, as follows:

“The Committee have listened to and reviewed all the submissions and documents presented by all the parties. The Committee sympathise that there may be real concerns for the Objectors, however, the Committee are only entitled to take into account matters which relate to the licensing objectives. They cannot consider matters relating to planning, or seek to impose conditions or restrictions where there is other legislation or procedures that can deal with that, ie highways or environmental matters. It may be that these concerns can be addressed through other avenues, but they fall outside of the remit of the Licensing Committee.

Furthermore, the Committee consider the two conditions in relation to prior appointments and accompanied visitors are unenforceable and ambiguous, and they are further persuaded by the Objectors’ comments that “nothing has changed since the original application”, and therefore consider the conditions are unworkable.

The guidance requires conditions be clear, enforceable, essential and not over burdensome. The Committee do not feel these conditions meet these requirements and so are content that they be removed.

They further do not propose to impose any further conditions since they have heard no evidence that the licensing objectives are being undermined by the sale of alcohol at the premises.

Accordingly, the application is granted as applied for.”

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.

RESOLVED that the premises licence for Somerby Vineyards Limited, Main Road, Somerby be granted as applied for.

The meeting closed at 2.50 pm

Chairman