LICENSING HEARING

Minutes of the meeting held on 20 July 2015 commencing at 10.30 am

Present: Cllrs. McArthur, Parkin and Raikes

Also present
- Mr. P. Cornwell - Applicant
- Mr. S. Thomas - Applicant's Solicitor
- Mr. R. Blake - Applicant's proposed DPS
- Mr. C. Beale - Applicant's Noise Consultant
- Mr. N. McCann - Objector (Representing Mr. Dennard)
- Mr. D. Horner - Objector
- Mr. J. Hewitt - Objector
- Mrs. J. Care - Objector
- Mrs. M. Ballard - Objector
- Mr. B. Beamish - Objector
- Cllr. Firth - Observer
- Cllr. Lake - Observer
- Mrs. L. Leeds - Licensing Officer
- Mr. D. Lagzdins - Legal Advisory
- Mrs. C. Sinclair - Assistant Democratic Services Officer

1. **Appointment of Chairman**

   Resolved: That Cllr. Raikes be appointed Chairman of the meeting.

2. **Declarations of Interest**

   Cllr. Raikes declared that he knew of Douglas Horner, one of the objectors, but that it
   would not affect his consideration of the matter.

3. **Application for a Premises License under the Licensing Act 2003 from Mr Peter Cornwell for Treetops, Grove Road, Penshurst, Kent, TN11 8DU**

   The Hearing gave consideration to a report by the Chief Officer Environmental and
   Operational Services giving details of an application for a premises licence under the
   Licensing Act 2003. It was noted that objections had been received and accordingly the
   application had been referred to the Sub-Committee for determination.

   The Hearing heard from the applicant’s representative who advised that renovations
   including sound proofing would take place to the clubhouse. He advised that on
   consideration of the objections raised by the objectors, the applicant was amending the
   application which had been included in the tabled supplementary agenda. Licensable
   activities would finish at 23:00 hours Sundays to Thursdays and the public would leave
   by 23:30 hours. On Fridays, Saturdays, Bank Holiday Sundays and New Year’s Eve for
   sales of alcohol and late night refreshment to be until 00:00 and the premises to be
   closed at 00:30.
Conditions had also been discussed with Environmental Health and additional information including a noise management plan had also been submitted. To use the clubhouse the applicant’s representative informed the hearing that events had to be pre-booked by Members of the British Cycling Association and the clientele they were aiming for was families.

In response to questions the applicant’s representative responded that the site had planning permission for 24 hours use and that traffic concerns had been addressed within the noise management plan. The applicant was not aware of the problems surrounding the previous ownership of the site until it had been purchased but he was aware the site previously had un regulated activities and by applying for a premises licence controls were in place to address the concerns of neighbours. The applicant’s representative confirmed that Treetops could only be used by Members of the British Cycling Association and their guests only.

At the discretion of the Chairman he allowed the objectors to ask questions of the applicants.

The Hearing heard from the objectors who raised concerns that the site was not suitable for a premises license due to public safety concerns. Concerns were also raised with the planning permission of the site. Even though hours had been shortened with conditions some of the objectors believed it was still excessive and there were no details about the number of pre-booked events at the clubhouse. Other objectors raised concerns that the setting was in an Area of Outstanding Natural Beauty and additional traffic would cause disturbance to the area, as well as light pollution. Concerns were raised at how the site had been previously used.

In response to further questions of the applicants the applicant’s representative advised that staff would work shifts and therefore not all staff would be on site at one time. The only location where alcohol consumption off the site was permitted would be in the area behind the clubhouse which was the designated smoking area.

At 11.55 a.m. the Chairman allowed for a short adjournment.

At 12.05 p.m. the hearing reconvened.

In summing up the applicant’s representative reiterated that the site had been separated and sold. The owner of the adjoining land, although a stakeholder had no rights in the operation of the Treetops Premises. Mr. Cornwell wanted to improve the safety of the site and following a visit from the Environmental Health Officer and the Health and Safety Officer last week, who advised that their previous safety concerns could be adequately dealt with under alterative legislations. He advised that the clientele they were trying to attract were different to the previous users of the site and the clubhouse would be an enhanced facility similar to a golf club. The lighting effect would be minimal not to cause an impact and that no concerns had been raised by the Police or against protecting children from harm.

At 12.15 p.m. the Hearing Members withdrew to consider the issues raised, with the Council’s Legal Advisor and Assistant Democratic Officer in attendance.

At 1.20 p.m. the Hearing Members, Council’s legal Advisory and Assistant Democratic Services Officer returned to the Council Chamber.
The Chairman informed the Hearing that the Sub-Committee had had regard to the representations made by the Applicant and interest parties and the Licensing Act 2003, Secretary of State’s Amended Guidance issued under Section 182 of the Act and the Council’s Statement of Licensing Policy under the Licensing Act 2003. The Sub Committee was satisfied that granting the application subject to conditions were appropriate to address potential undermining of the licensing objective of preventing public nuisance.

It was therefore unanimously,

Resolved: That a Premises Licence in respect of Treetops, Grove Road, Penshurst, Kent. TN11 8DU, subject to mandatory conditions and additional conditions contained in the notice of determination attached as an appendix to these minutes, be granted.

THE MEETING WAS CONCLUDED AT 1.25 pm

Chairman
Sevenoaks District Council being the licensing authority, on the 1 June 2015 received an application for a premises licence in respect of premises known as Treetops, Grove Road, Penshurst, Kent. TN11 8DU.

On the 20 July 2015 there being valid representations which were received had not been withdrawn, a hearing was held to consider these representations, and having considered them the Licensing Sub-Committee determined as follows:

To grant the Premises Licence subject to mandatory conditions, and following amendments to licensable activities, operating schedule and additional conditions:

Section I: To allow the provision of late night refreshment Fridays, Saturdays, Bank Holiday Sundays and New Years Eve both indoors and outdoors from 23:00 hours until 00:00 hours

Section J: To allow the sale of alcohol for consumption both on and off the premises from Sunday to Thursday from 10:00 hours until 23:00 hours and on Fridays, Saturdays, Bank Holiday Sundays and New Years Eve from 10:00 hours until 00:00 hours.

Section: L Hours premises are open to the public from Sunday to Thursday from 08:00 hours until 23:30 hours and on Fridays, Saturdays, Bank Holiday Sundays and New Years Eve from 08:00 hours until 00:30 hours.

To add the conditions on the Licence as follows:

- The Upper Level Terrace and Roof Terrace will be supervised after 19.00 hours
- The Upper Level Terrace and Roof Terrace will be closed at 22.00 hours
- Beverages are only sold or supplied to persons seated at table on the Roof Terrace
- Only the rear of the premises will be used for consumption of alcohol off the premises and as the smoking area.
- No Music will be provided in the Upper Level Terrace and Roof Terrace Area
- Deliveries will take place after 09:00 hours and before 18:00 hours.
- Disposal of waste bottles into external receptacles must not occur between 22:00 and 08:00 hours.
- Waste collection will take place after 09:00 and before 18:00 hours.
- Notices to be displayed requesting customers be quiet and considerate when
leaving the premises.

- All lighting shall be designed to limit sky glow and minimise visual impact on neighbours.
- All lighting shall be switched off when the premises is not in use.
- There will be no new admissions to the premises after 23:00 hours.
- There will be no more than 15 pre booked events a year.
- The premises will only be used by Members of the British Cycling Association with a maximum of 4 guests per member, with the exception of pre booked events. To maintain a register of guests signed in. A current list of members of the British Cycling Association to be made available upon request to enforcement officers.

The supply of alcohol

Where a premises licence authorises the supply of alcohol, the licence must include the following conditions:

No supply of alcohol may be made under the premises licence -

(a) at a time where there is no designated premises supervisor in respect of the premises licence, or

(b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.

Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

Mandatory Conditions in force from 6 April 2010

1. The responsible person shall take all reasonable steps to ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

Irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises in a manner which carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance, or harm to children -

(a) games or other activities which require or encourage, or are designed to require or encourage, individuals to -

(i) Drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or

(ii) Drink as much alcohol as possible (whether within a time limit or otherwise);

(b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic (other than any promotion or discount available to an individual in respect of alcohol for consumption at a table meal, as defined in section 159 of the Act);
(c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less;

(d) provision of free or discounted alcohol in relation to the viewing on the premises of a sporting event, where that provision is dependent on -
   (i) the outcome of a race, competition or other event or process, or
   (ii) the likelihood of anything occurring or not occurring;

(e) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner.

2. The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).

3. The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.

4. The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol. The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark.

5. The responsible person shall ensure that -
   (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures -
      (i) beer or cider: ½ pint;
      (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
      (iii) still wine in a glass: 125 ml; and
   (b) customers are made aware of the availability of these measures.

**Mandatory conditions in force from 28 May 2014**

1. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

2. For the purposes of the condition set out in paragraph 1-
   (a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979
   (b) "permitted price" is the price found by applying the formula—  \( P = D + (D \times V) \) where -
      (i) \( P \) is the permitted price,
      (ii) \( D \) is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;

"relevant person" means, in relation to premises in respect of which there is in force a premises licence -

(i) the holder of the premises licence,

(ii) the designated premises supervisor (if any) in respect of such a licence, or

(iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;

"relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and

"value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.

3. Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

4. (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.

(2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

Conditions consistent with the Operating Schedule

A CCTV system will be installed and maintained at the premises in accordance with the recommendations of the Kent Police in line with Home Office guidelines.

Recordings will be kept for a minimum of 28 days and images made available on reasonable request to the Police or other authorised officer.

All staff will receive relevant training and endorse the Challenge 25 scheme in order to prevent any underage sales of alcohol taking place.

Having had regard to the Licensing Act 2003, Secretary of State’s Amended Guidance issued under Section 182, the Licensing Objectives and the Council’s Statement of Licensing Policy. The conditions are appropriate to address potential undermining of the licensing objectives or preventing public nuisance.
This licence granted at the Hearing is effective from the 20 July 2015.

Dated: 20 July 2015
Signed
Chair – Licensing Hearing
Signed
Designation – Licensing Officer

Please address any communications to:
Licensing Partnership
Sevenoaks District Council
Council Offices
PO Box 182
Argyle Road
Sevenoaks
Kent TN13 1GP

Note: Pursuant to Part 1 of Schedule 5 of the Licensing Act 2003 as amended, any party eligible to appeal must appeal to a magistrates' court within 21 days beginning with the day on which the appellant was notified by the licensing authority of the decision appealed against.