

**Minutes of a Meeting of the Licensing
Sub Committee held at Council
Chamber, Surrey Heath House on 2
March 2015**

+ Cllr Liane Gibson
+ Cllr Paul Ilnicki

+ Cllr Pat Tedder
+ Cllr Valerie White

+ Present
- Apologies for absence presented

Substitutes: Cllr Pat Tedder

In Attendance:

Legal Advisor to Sub Committee

Mrs Laura James

Democratic Services Officer

Mrs Lee Brewin

Surrey Heath Borough Council
as Licensing Authority

Mr Derek Seekings (Licensing Officer)
Mrs Paula Barnshaw (Licensing
Administration Officer)

Surrey Police

Mr Rab Carnie
Special Constable Nicholas Pile
Miss C Hodge (Legal Representative for
Surrey Police).

Aryana Express

Mr Faraidoun Mohammadi (Premises
Licence Holder)
Mr Zakaria Nasib
Miss S Taite (Westgate Chambers – legal
representative for Aryana Express)

17/LS Election of Chairman

RESOLVED that Cllr Valerie White be elected as Chairman for this meeting.

18/LS Licensing Act 2003 - Aryana Express, Frimley High Street, Camberley

The Sub-Committee considered an application for a review of a Premises Licence relating to Aryana Express, 46 Frimley High Street, Camberley, Surrey GU16 7JF.

The Licensing Officer presented his report to the Sub-Committee and notified representatives of the parties who had a right to speak at the meeting. He referred Members to the Licensing Objectives.

All relevant parties present introduced themselves and stated their reason for attending the Sub-Committee.

The Licensing Officer noted that the application was for the review of the premises licence relating to Aryana Express, 46 High Street, Camberley, Surrey GU16 7JF.

The Licensing Officer reported that an additional document had been circulated to relevant parties which illustrated the refusals register and customer testimonials. CCTV footage of the test purchase was also shown.

The Licensing Officer also reported that Surrey Police contended that the carrying on of licensable activities at the premises could breach the following licensing objectives:

- (i) The prevention of crime and disorder;
- (ii) Protection of children from harm.

The Licensing Officer confirmed that Miss Hodge had been asked to address the Sub-Committee on behalf of Surrey Police and Miss Taite on behalf of Aryana Express. The Sub Committee was advised that both parties had had discussions and had agreed a resolution for the Sub Committee to consider.

Miss Hodge addressed the Committee and stated the following:

- Acting on intelligence, a test purchase was carried out on 17 December 2014;
- Two 15 year old girls purchased some alcohol and was not asked her age or for any ID;
- Mr Nasib admitted serving the alcohol and was given a fixed penalty notice;
- Surrey Police felt that there should be a proportionate approach because of previous non-compliance;
- A review hearing had been called because Mr Mohammadi had not agreed to speak to the Police to resolve issues;
- It was proposed that the licence be suspended for 48 hours;
- The licence conditions had also been updated to include that a premises licence holder would always be on site when alcohol was sold.

The Sub Committee considered the refusal register currently used by Aryana Express and asked the Police if they considered whether it was robust. Surrey Police confirmed that the refusal register and times were checked against CCTV.

Concerns were raised by the Sub Committee about the intelligence used (detailed on page 16 of the agenda), which was in dispute by Aryana Express. Miss Hodge confirmed that the intelligence was background information to the review application and should be given some weight when considering the review.

The Sub Committee was advised that the inclusion of the objective 'prevention of crime and disorder' in the review was to illustrate that selling alcohol to minors was in fact a criminal offence and could lead to crime and disorder.

Miss Taite addressed the Committee and stated the following:

- Mr Mohammadi took the review seriously as the business was his livelihood;
- Mr Mohammadi refutes that he wouldn't speak to the Police; he had requested that the Police visit him to discuss issues as it would be difficult to discuss on the telephone;
- The representation on page 44 of the agenda supported the premises licence holder and the various questionnaires held positive comments;
- That little weight should be given to the intelligence used as Mr Mohammadi stated that he did not sell alcohol to the girls;
- The upkeep of the refusal register demonstrated good practise;
- Further training would be provided for Mr Nasib and he would also be applying for a personal licence;
- It was requested that the 48 hour suspension not be a Friday or Saturday;
- A personal licence holder would always be at the premises when alcohol was sold and this would be in place by 27 April 2015. If there were unforeseen circumstances which would alter this, the Police would be contacted within 24 hours so no enforcement action would be taken;

Miss Hodge and Miss Taite left the Chamber at 12.05 to finalise wording of the draft operating schedule. They returned at 12.15.

The Sub Committee was advised that the schedule would include conditions related to public nuisance.

The Sub-Committee adjourned from 12.25 p.m. until 14.25 a.m. for deliberation.

Following deliberations on the application, Mrs James reported on the advice she had given to the Sub-Committee and that Members had taken into account:

- Section 18 of the Licensing Act 2003 and the Secretary of State's Guidance under section 182 of the Act.
- The Council's Statement of Licensing Policy; and
- The written and oral evidence presented at the hearing.

The Sub-Committee had heard evidence from the Licensing Officer and legal representatives from both parties.

Members recognised that the imposed sanctions would not be punitive but a deterrent in the interests of the wider community. They were satisfied to modify the existing conditions of the licence. The agreement between the two parties was noted.

The Sub Committee was mindful of the wider public interest. In addition the Sub Committee felt that the intelligence report could not be tested and therefore felt

that no weight could be put on this to say there was a wider issue with underage sales at these premises.

It was noted that Mrs James had spoken with the legal representatives for both parties during the Sub Committee's deliberations, only to ensure the wording for any agreed conditions was clear and enforceable.

The Sub-Committee had concluded that the premises licence should be suspended for a 48 hour period during hours of operation taken on a Monday and Tuesday after the 21 day deadline for appeal rights. It was noted that the 27 April date for condition 1 to be put in place may slip due to the appeals deadline. The public nuisance and safety conditions should be removed from the draft operating schedule as this review hearing was not an opportunity to tidy up conditions. This would have to be dealt with by variation.

RESOLVED, that the Premises Licence for Aryana Express, 46 Frimley High Street, Camberley, GU16 7JF be suspended for the hours of 0600 to 2300 on a Monday and Tuesday, to be identified after the appeals deadline, subject to the amended conditions in the operating schedule attached in the Decision Notice at Annex A.

Note: The Sub Committee hearing did not commence until 11.00am as the legal representatives for Surrey Police and Aryana Express had requested further time to undertake negotiations.

Chairman