

Please reply to:

Contact: Gill Hobbs
Service: Corporate Governance (Committees)
Direct line: 01784 444243
Fax: 01784 446333
E-mail: g.hobbs@spelthorne.gov.uk
Our ref:
Date: 24 January 2011

**SPELTHORNE BOROUGH COUNCIL
DECISION NOTICE**

in accordance with the LICENSING ACT 2003 s.23

Date of Licensing Sub-Committee: 24 January 2011
Application of: D.J. Squire & Company Ltd.
In respect of: Squires Garden Centre,
Halliford Road, Shepperton, TW17
8SG

REASON(S) FOR HEARING: Relevant representations received from local residents concerning: -
1) Crime and Disorder – Anti-social behaviour.
2) Public Nuisance – noise from cars, disturbance later at night and light pollution.

DECISION

GRANTED with modification by addition of conditions

With effect from 24 January 2011

Licensable activities	Sale and supply of alcohol Provision of regulated entertainment: - live & recorded music
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	Provision of facilities for making music
Licensable Hours:	
Sale of alcohol	Monday to Saturday: 09.00 to 18.00 Sunday: 10.30 to 16.30
Seasonal variations and non standard hours	Wednesday to Saturday (during March to June): 9.00 to 20.00 On no more than 8 occasions a calendar year, the finish time for sale of alcohol is extended to 22.00
Regulated entertainment	On no more than 8 occasions a calendar year, live and recorded music: 11.00 to 22.00.
Opening Hours	Premises to close at the same time as finish of sale of alcohol on the above occasions with an additional 30 minutes "drinking up" time to allow for the premises to be cleared.
Conditions For the sake of clarity, the steps set out in the Applicant's Operating Schedule, which they intend to take to promote the four licensing objectives, will become conditions on the licence and are reproduced here.	<p>General</p> <p>The premises will have the appropriate number of staff holding personal licences under the Licensing Act 2003. The premises will provide appropriate training in relation to discharge of responsibilities under the Licensing Act 2003.</p> <p>The sale of alcohol for consumption on the premises is limited to the area edged green on the deposited plan.</p> <p>The premises will operate as a garden centre with a small range of alcoholic products for sale by way of off sales and also a small range for consumption in area edged green (café/restaurant).</p> <p>Entertainment by way of regulated entertainment (live music and recorded music only) on no more than 8 occasions a calendar year in a variety of forms (for example a pianist, a choir or small band or ensemble) will be provided at events organised by the applicant. The earliest start time for entertainment is 1100 and latest finish time is 2200. These events will be ones arranged by the applicant and will not be private parties whether for weddings or other celebrations. The regulated entertainment is restricted to the indoor part of the area edged green on the plan.</p>

<p>Additional conditions agreed following Licensing Hearing</p>	<p><u>Crime and Disorder</u> The premises have appropriate CCTV coverage. The premises shall install and maintain a comprehensive CCTV system to cover the licensed area of the premises in accordance with minimum requirements agreed with a Surrey Police Crime Reduction Officer. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises is open for licensable activities and during times when customers remain on the premises. Recordings shall be made available immediately to the Police upon request.</p> <p>A log shall be kept detailing all refused sales of alcohol. The log should include the date and time of the refused sale and the name of the member of staff who refused the sale on a bound book. The log shall be available for inspection at the premises by all responsible authorities at all times whilst the premises are open.</p> <p><u>Public Safety</u> Risk assessments take place regularly and all systems relating to public safety will be maintained.</p> <p><u>Public Nuisance</u> The nature of the premises are such that public nuisance will not be caused either by the core activities or by the licensable activities requested.</p> <p><u>Child Protection</u> A Challenge 21 proof of age scheme shall be operated at the premises under which the only acceptable forms of identification are those with photographs namely PASS approved cards, driving licences or passports.</p> <ol style="list-style-type: none"> 1. There will be no private lettings for the purposes of regulated entertainment or sale of alcohol. 2. Squires will send an informative to the interested parties in advance of the 8 occasions per year where they are permitted regulated entertainment.
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REASONS FOR DECISION

1. The Sub-Committee has before it an application for a premises licence in respect of Squires Garden Centre, Halliford Road, Upper Halliford, Shepperton.

Attendance

2. Seven people attended the Sub-Committee hearing this morning to make representations. They are:
 - a. Tim Davies, Solicitor, Bond Pearce LLP, representing the applicant
 - b. Sarah Squire, Director of D.J. Squire and Co. Ltd
 - c. John Hart, Squires Garden Centre manager and the proposed Designated Premises Supervisor
 - d. Mr Stephen Palmer, Company Secretary and Finance Director of D.J. Squire and Co. Ltd
 - e. Of the twenty-four interested parties who objected in writing to the application, Mr Dixon, Mr Dowsett and Mr Janes appeared and spoke before the Sub-Committee this morning.

Evidence

3. The Licensing Sub-Committee has considered all of the relevant evidence made available to it this morning, and in doing so has taken into account the regulations and national guidance, under the Licensing Act 2003 and Spelthorne Borough Council's Statement of Licensing Policy.

Responsible Authorities

4. Representations were received from Surrey Police, seeking to modify wording of the conditions to satisfy them in terms of the prevention of crime and disorder. The applicant modified the application in this respect so Police representations were withdrawn.

Interested parties

5. The Sub-Committee received written representations from twenty-four interested parties. In summary the relevant concerns are as follows:

Crime and Disorder

- Potential for anti-social behaviour.

Public Nuisance

- Noise nuisance from music events
- Noise from cars coming and going later at night
- Disturbance later at night from customers coming and going
- Nuisance from lighting

Application

6. The applicant originally submitted an application in November 2010 requesting the sale of alcohol for consumption both on and off the premises and provision of regulated entertainment (indoors only) from 09.00 to 22.30 daily. This application resulted in twenty-four representations from people living in the vicinity of the premises who were concerned about noise nuisance from music

and anti-social behaviour from customers leaving the premises at a late hour on every day of the week.

7. In response to these representations, the applicant submitted a modified application to address the concerns of the residents as follows:
8. The Applicant applies:

Sale of Alcohol

The proposed times for sale of alcohol have been amended to:

**Monday to Saturday 09.00 to 18.00 and
Sundays 10.30 to 16.30**

with seasonal variations and non standard hours as follows:

Wednesday to Saturday (during March to June) 09.00 to 20.00.

On no more than 8 occasions a calendar year, the finish time for sale of alcohol is extended to 22.00.

Any relevant Sunday Trading legislation will be adhered to.

Regulated Entertainment

On no more than 8 occasions a calendar year live music in a variety of forms (for example a pianist, a choir or small band or ensemble) will be provided at events organised by the applicant. The earliest start time is 11.00 and latest finish time is 22.00. Recorded music may sometimes form part of the live music entertainment.

The “hours premises are open to the public” as applied for, are the same as the times for sale of alcohol with an additional 30 minutes for “drinking up time” to allow the premises to be vacated.

Evidence

9. The Sub-Committee has considered all of the evidence in the bundle and presented at the meeting this morning. In particular we note as follows:
10. Mr Dowsett asked us to consider that the application was not properly notified as it did not contain the hours of the proposed operations. Mr Davies indicated that the application was notified correctly as set out in the legislation, notwithstanding what the guidance may say on the point. Mr Dowsett also proposed that the premises were more likely to be a target for break-ins as a result of storing alcohol on the premises.
11. Mr Janes was not content with the modifications put forward by the applicant and asked the Sub-Committee to refuse the application on the basis of anticipated noise and light pollution.
12. Mr Dixon accepted that many of his concerns had been allayed by the modified application, however, he still had some outstanding concerns about

the premises. Mr Dixon wanted to know details of the events which might be taking place at the garden centre.

13. Residents' main concerns centre on the fear that if the premises sell alcohol and provide music entertainment until a late hour there is likely to be anti-social behaviour, noise from customers and cars entering and leaving the car park and floodlighting in the car park and the main shop.
14. The Sub-Committee explained to the residents the position that it was in as regards evidence and referred to recent case law in the High Court which directed Sub-Committees to ignore perceived or speculative concerns.

Findings

15. The Sub-Committee has considered the representations made by the applicant and the interested parties and finds as follows:
16. The Sub-Committee makes no specific findings about the form of notice, however it finds that sufficient notice has been given to allow many residents to bring forward their concerns to the attention of the Sub-Committee. We have been able to have a fair hearing this morning and all of the residents' concerns have been addressed.
17. The premises is an established garden centre with a café/restaurant facility together with gift retail areas, which is currently being re-furnished. It is located on the Halliford Road, Shepperton in a residential area.
18. Sarah Squire Director of D.J. Squire Co. Ltd explained to the Sub-Committee that in common with many garden centres in the UK, Squires already had licences to sell alcohol on and off the premises at its Twickenham and Badshot Lea garden centres. She was not aware of any consequent adverse affects on the local areas. At those centres Squires sold a small selection of speciality beers and wines, for example beers from the local Hogs Back Brewery and some wines from Lyme Bay and some other English suppliers. It was a minor but complementary addition to their ranges. This was what Squires intended to do at the Halliford Road garden centre. There was no intention of selling the sort of alcohol usually found in off licences and supermarkets and their ranges were not those that generally appealed to the younger market. However an off licence was required to permit this, hence the application.
19. Squires were able to offer wine and beer in their restaurants at the Twickenham and Badshot Lea garden centres and they would like to be able to offer the same to customers at Shepperton.
20. Squires opening hours would remain basically the same. The reason they asked for the additional hours for the licence was for the purpose of their Christmas evenings and popular summer themed evenings – and she recalled their Mediterranean evenings comprising a plant talk, meal and wine tasting. There were only a handful of these each year. At those events there was

sometimes a choir, small band or pianist. Squires had absolutely no intention of holding weddings or letting space for parties all of which would be contrary to their business philosophy and would not fall under the terms of the planning permission.

21. The licensing application related only to the main shop and the restaurant and its adjacent terrace. The Orangery building would no longer be the cafe and was outside the licensing application as it would not be used for any licensable purpose. Squires was aware of the limitations on its use in the planning permission.
22. Squires emphasis would remain very much on plants and gardening products, but they hoped to be able to offer customers a far better shopping experience with much improved restaurant and toilet facilities all inside the main shop. The new building is designed to modern standards and would be much more environmentally friendly than the old shop. It includes the space taken up by the old concession buildings so the site will be much tidier and more attractive.
23. Mr Davies told the Sub-Committee that Squires wanted to hold up to eight special events during the year organised by the garden centre and often with a horticultural theme. These events might involve a plant talk, a meal and wine tasting. At some of these events there may be a choir, a small band or a pianist. There might also be charitable or similar fundraising events. He said it was not intended to let the premises for private functions such as birthday parties, wedding parties or any other similar celebration and offered a condition to that effect.
24. The hours for regulated entertainment were purely for these eight occasions a calendar year of 11.00 to 22.00. Such events would be limited to indoors only and would not take place on the terrace outside the restaurant or elsewhere on the site. No regulated entertainment other than live and recorded music for the events already described was requested.

Licensing Objectives

25. The Sub-Committee carefully considered each of the representations made by the interested parties to ensure that they were relevant and related to the four licensing objectives. Those representations concerning light and noise pollution emanating from the garden centre generally as opposed to the licensable activity have to be disregarded.
26. The concerns of residents are directed mainly towards the operation of Squires as a garden centre. The hours of trading, the impact on residents amenity from traffic and from nearby light pollution are essentially Development Control matters which are dealt with under different legislation. This Sub-Committee is only entitled to intervene in such matters if there is a direct link between the unwanted consequences and the licensable activities. In this case, the effects are already apparent without the sale of alcohol. This demonstrates to the Sub-Committee that it is unable to intervene in these circumstances. If the sale of alcohol tends to exacerbate the difficulties faced

by residents, then it may be something which a future Sub-Committee could consider, using its powers of review.

27. Taking each of the licensing objectives in turn, the Sub-Committee makes the following decisions on each of the four licensing objectives.

Crime and disorder

28. The interested parties described in their representations their perception of potential for anti-social behaviour in the car park.
29. The Sub-Committee considered the representations made by the interested parties on this issue and found that these concerns were merely speculative and there was no evidence to suggest that the concerns will be realised by this premises holding a premises licence. Therefore, it is not necessary for the Sub-Committee to consider the imposition of any conditions.

Public safety

30. This was not referred to by the interested parties. It is not necessary for the Sub-Committee to consider any conditions.

Public nuisance

31. National Guidance states that “Measures to control light pollution will require careful thought. Bright lighting outside premises considered necessary to prevent crime and disorder may itself give rise to light pollution for some neighbours. Applicants, licensing authorities and responsible authorities will need to balance these issues”.
32. It should be noted that provisions of the Environmental Protection Act 1990 provide some protection to the general public from the effects of nuisance caused by light pollution. However, in premises where existing legislation does not provide adequately for the prevention of public nuisance, consideration may be given to a condition whereby bright lights on or outside licensed premises do not cause a nuisance to nearby properties.
33. The Sub-Committee has considered the representations of the residents against the purpose for which the floodlighting has been provided. On balance the Sub-Committee finds that the lighting is not directly related to a licensable activity. If residents have concerns in the future they can, in the first instance, direct complaints to the management of Squires or failing that to the Council’s Environmental Health Department.

Child protection

34. No interested party made representations in this regard. It is not necessary for the Sub-Committee to consider any conditions. The Sub-Committee is happy with the arrangements for the Challenge 21 policy.

Agreed Conditions

35. In coming to its decision the Sub-Committee notes the conditions suggested in the Applicant's operating schedule. These are the conditions set out in the Report of the Head of Environmental Health and Building Control to the meeting.
36. Additionally, the Applicant offered two other conditions which were:
 - a. There will be no private lettings for the purposes of regulated entertainment or sale of alcohol.
 - b. Squires will send informatives to the interested parties in advance of the 8 occasions per year where they are permitted regulated entertainment.

Decision

37. The Sub-Committee confirms that the application for a Premises Licence is granted subject to modification by addition of conditions.

Conclusion

38. That is the decision of the Sub-Committee.
39. In addition the Sub-Committee would like to remind interested parties that if they have concerns about the running of the premises then these ought to be brought promptly to the attention of the designated premises supervisor, and the responsible authorities (Police and Environmental Health), since otherwise it is impossible for resident's concerns to be properly considered and dealt with.
40. The Sub-Committee would suggest that, whilst it is unable to impose any conditions in this regard, it would foster good community relations if Mr Hart met with residents on an "as required" basis to discuss and determine their complaints.

Councillor R.W. Sider - Chairman
Councillor K.E. Flurry
Councillor M.T. Royer

Date of Decision: 24 January 2011
Date of Issue: 24 January 2011

RIGHT TO APPEAL

You have a right to appeal against this decision, which must be made to the Justices Chief Executive at the Magistrates Court for the area in which the premises concerned are situated and within 21 days of receipt of this decision notice.

Extract from Licensing Act 2003 (Full text of the Act is available at <http://www.legislation.gov.uk/ukpga/2003?page=2>)

Appeals against decisions of licensing authorities

1. Schedule 5 (which makes provision for appeals against decisions of licensing authorities) has effect.
2. On an appeal in accordance with that Schedule against a decision of a licensing authority, a magistrates' court may –
 - (a) dismiss the appeal,
 - (b) substitute for the decision appealed against any other decision which could have been made by the licensing authority, or
 - (c) remit the case to the licensing authority to dispose of it in accordance with the direction of the court,

and may make such order as to costs as it thinks fit.