

Unconfirmed



Minutes of a Meeting of the **Licensing Sub-Committee** held remotely via Zoom , on **Tuesday, 2 June 2020 at 10:00 am**

Members of the Sub-Committee present:

Councillor Jocelyn Bond, Councillor Linda Coulam, Councillor Colin Hedgley, Councillor Mark Newton, Councillor Steve Wiles

Other Members present:

Councillor Mary Rudd

Officers present:

Katherine Abbott (Democratic Services Officer), Teresa Bailey (Senior Licensing Officer), Chris Bing (Legal and Licensing Services Manager), Leonie Houtt (Licensing Officer), Matt Makin (Democratic Services Officer)

Others present:

Sarah Oliver (General Manager, Kesgrave Hall), Ian Seeley (Applicant's Solicitor), Mr Barry and Mrs Penny Wayne (Objectors)

1 Election of a Chairman

The Sub-Committee was comprised of Councillor Coulam, Councillor Hedgley and Councillor Wiles. The two Reserve members were Councillor Bond and Councillor Newton.

It was proposed by Councillor Wiles, seconded by Councillor Coulam and, there being no other nominations, unanimously

RESOLVED

That Councillor Hedgley be elected as Chairman for this Meeting of the Licensing Sub-Committee

2 Apologies for Absence

There were no apologies for absence.

3 Declarations of Interest

Councillor Hedgley declared a Local Non-Pecuniary Interest as the Ward Member for Carlford and Fynn Valley, which was the ward adjacent to Kesgrave (the location of the applicant site).

4 Declarations of Lobbying and Responses to Lobbying

Councillor Hedgley declared that he had been lobbied. He had been copied in to one email regarding the application. Mr Seeley asked if the email had been from someone other than Mr and Mrs Wayne. Councillor Hedgley confirmed this was the case.

5 Application for a new premises licence: Kesgrave Hall, Kesgrave

The Chairman invited all those present to introduce themselves. All parties confirmed they had received the formal report and any additional papers which had been circulated.

The Legal Adviser advised that two relevant representations by residents had been received; one representation had been withdrawn. The remaining representation of objection had been submitted by Mr and Mrs Wayne, who were present at the meeting. The Sub-Committee was further advised that no representation had been submitted by a Responsible Authority.

The Chairman asked Ms Oliver, on behalf of the Applicant, and Mr and Mrs Wayne if they wished to proceed or withdraw their application or representation. Both parties confirmed their wish to proceed.

The Chairman asked the Licensing Officer if there had been a request received for witnesses or additional documentary evidence. The Licensing Officer confirmed that no such request had been received.

At the invitation of the Chairman, the Licensing Officer summarised the formal Committee report **ES/0381**. The application before the Sub-Committee sought permission for the following licensable activities: Sale of alcohol on and off the premises, live and recorded music, performances of dance, entertainment of a similar description to live and recorded music and dance, plays, films, indoor sporting events and late night refreshment. The Licensing Officer said Kesgrave Hall currently had an existing Premises Licence (PREM0602) which allowed all these licensable activities.

The Chairman invited questions from the Sub-Committee to the Licensing Officer. There were no questions for the Licensing Officer.

The Chairman invited Mr Seeley, the Applicant's Solicitor, to address the Sub-Committee. Before making his statement, Mr Seeley asked the members of the Sub-Committee to indicate if they were familiar with Kesgrave Hall, or Milsoms establishments generally. Councillor Hedgley said he had visited Kesgrave Hall on numerous occasions for a meal or a family celebration etc. Councillor Coulam said she had stayed at Kesgrave Hall for a weekend approximately five years previously. Councillor Wiles said he was familiar with Kesgrave Hall and other Milsoms establishments. Mr Seeley thanked the Sub-Committee. He added that it was useful to

have an indication of the familiarity with the location, the quality of Kesgrave Hall and the type of clientele it attracted.

Mr Seeley said Kesgrave Hall had held its current premises licence since 2008 when the licensable activities granted had included outside live and recorded music until 11pm. In 2010, the licence had been amended to include the indoor performance of plays or dance. Mr Seeley said that the main driver for the new application was directly with the construction of the new spa which was within the grounds of the Hall but not within the area covered by the existing licence and therefore a new licence application had been submitted. Mr Seeley said the spa was purpose built and would offer day packages and treatments in luxurious surroundings. Mr Seeley said the spa's menu of treatments and prices reflected the quality of the offer and the *modus operandi* of Milsoms. Mr Seeley said the spa would be open between 9am and 6pm, except on a Thursday when the hours would be 9am until 8pm. Mr Seeley restated that this was the main change to the current licence but with the addition of outside performances of plays and dance. Mr Seeley referred to the two representations which had been received objecting to the application; one representation had been withdrawn following mediation with the applicant to reduce the 'cut off' time from 1am to 11pm.

Mr Seeley said that both representations were from residents in Playford Road which was some two miles from Kesgrave Hall. Mr Seeley stated that between Kesgrave Hall and Playford Road there was a woodland, the grounds of Kesgrave Hall, a hill, a quarry, a field, a stable-block and a couple of houses. Mr Seeley stated that Mr and Mrs Wayne's representation related to potential issues which might arise from the changes to the licence. Mr Seeley said these potential issues included the extent of extra noise as a result of the performance of plays and dance outside; he said that any sound from such performances would be negligible, that there was already music outside the Hall and that the hours had been reduced to 11pm. Mr Seeley said, in practice, the outside performance of dance would be infrequent and had been included in the application to allow some degree of flexibility. There was, he said, no intention to have daily performances nor to alter the general *modus operandi* of Kesgrave Hall. Mr Seeley said Mr and Mrs Wayne's other issue had been the potential impact on the location of their residence through increased traffic, because of visitors to the spa, and concerns with the access/egress at the Hall. Mr Seeley said this perceived risk could be mitigated by the installation of stop signs at junction of Kesgrave Hall's premises with Hall Road and that this could, he suggested, be a condition if the application was approved.

Mr Seeley emphasised that the application was for a new licence and not a variation of the current licence. He said he would not comment on Mr and Mrs Wayne's generic concerns because the Hall had held a licence since 2008 with no significant incidents or complaints received from Mr and Mrs Wayne. Therefore, he suggested, the fears about excessive noise and drunken behaviour were overstated and were not borne out by the evidence. He added that the likelihood of excessive noise and drunken behaviour was low and it was, he said, pertinent to point out that their home was some 1/2 mile away.

The Chairman invited the Sub-Committee to ask questions of Mr Seeley and Ms Oliver. Councillor Hedgley asked if any complaints had been received regarding the indoor music and dance performances at Kesgrave Hall. Ms Oliver said that, in the past, a couple of telephone calls had been received. Councillor Hedgley asked if music would

be played on the lawn. Ms Oliver said this did not happen currently and was not planned. Councillor Hedgley asked if Kesgrave Hall would be happy to install and maintain stop signs at the junction with the road. Ms Oliver said that the directors of Milsoms were already considering this. Councillor Coulam asked if Kesgrave Hall had off licence sales of alcohol; Ms Oliver said it did not and that alcohol was sold on site only. The Senior Licensing Officer said the application before the Sub-Committee was for on and off sales and that the current licence did also permit off sales. Councillor Coulam asked if there was a specific reason why performances were moving outside. Ms Oliver said that when the new application, to include the spa, was being compiled it was felt to be sensible to seek more flexibility; she repeated that there were no firm plans to hold outside performances at the moment. Councillor Wiles referred to weddings held at Kesgrave Hall which, he said, could be a little loud but he welcomed the fact that there had been very few complaints which he felt indicated due diligence and control by the venue's management. Ms Oliver said the main focus of Kesgrave Hall would continue to be food and drink.

There were no questions from the Licensing Officers, Mr and Mrs Wayne or the Legal Adviser. The Chairman invited Mr and Mrs Wayne to address the Sub-Committee.

Mr Wayne welcomed the chance to respond to some of the points which had been made. Mr Wayne said he and Mrs Wayne often visited Kesgrave Hall socially and had also attended business meetings held in the Hangar. Mr Wayne suggested that there had been few objections to the application because it had been made at the early stage of the Covid-19 lockdown and, he felt, not many residents would have seen the notice or been made aware of the application. Mr Wayne welcomed the suggestion of stop signs at the junction which, he said, he had sought a year ago. Mr Wayne said that Mr Seeley had explained that the main reason for the new application was to enable alcohol to be served in the spa; however, Mr Wayne said that the addition of performance of music outdoors seven days a week would adversely impact on their leisure time. Mr Wayne acknowledged that it was not the intention to make use of the ability to have outside performances frequently, he still considered that such events would spoil the enjoyment of their home because, potentially, there could be loud music every night. Mr Wayne said that they did currently hear noise from Kesgrave Hall on occasion but had not made a complaint, preferring to adopt a "live and let live" approach. Mr Wayne referred to Mr Seeley description of the area between his home and Kesgrave Hall which he felt had been misleading. He said that the woodland was at the lowest point between the two locations and did not reduce noise, he also stated that it was not so much a woodland as a cluster of a small number of trees. Mr Wayne said there was a gentle hill and the quarry was to the west and also did not form any barrier to noise. Mr Wayne said there was a disused waste site but this was flat and was the only piece of land between their home and Kesgrave Hall. He added that the field and stables Mr Seeley had referred to were part of his home. Mr Wayne said that they spent time at the stable block and this location formed part of the boundary between their residence and Kesgrave Hall. Mr Wayne said they supported Kesgrave Hall but in the current emergency it was likely that the Hall might need to change its offer and become a venue for entertainment in order to remain in business and that that, potentially, could mean music outside until 11pm every day.

The Chairman invited the Sub-Committee to ask Mr and Mrs Wayne questions.

Councillor Hedgley asked for clarity about the distance between the Waynes' home and Kesgrave Hall; Mr Wayne confirmed this was less than 1/2 a mile. In response to questions from Councillor Hedgley, Mr Wayne repeated that he welcomed the installation of stop signs and had not complained in the past because he preferred to 'live and let live'. Councillor Coulam suggested that there had been limited evidence of previous public nuisance from Kesgrave Hall and that, as late night refreshments were restricted to residents only and outdoor performances would be infrequent, it was unlikely that Mr And Mrs Wayne would be disturbed. Mr Wayne replied that the licence, if approved, would allow it to happen and that therefore his statement had detailed what it might entail. Councillor Coulam said that, when the current restrictions on the hospitality industry were lifted, Kesgrave Hall might wish to increase outside dining to help them recoup lost income. Mr Wayne asked Councillor Coulam if she was suggesting he drop his objection. Councillor Coulam said she was not seeking that but could see that increased outside activity over the summer might help the business. Mr Wayne replied that the Hall did not seek a temporary licence but a permanent change to licensable activities outdoors; he emphasised that he and Mrs Wayne must protect their own interests. Councillor Wiles was pleased that very few complaints had been received since 2008; he added that the Sub-Committee could only consider the application before it and, whilst he acknowledged the Waynes' concerns, it was not possible to reach a decision based on what might happen.

There were no questions from the Licensing Officers.

The Chairman invited questions from Mr Seeley and Ms Oliver.

Mr Seeley asked Mr Wayne if he was aware that if the scenario he feared became fact he could seek a review of the licence by the Council. Mr Wayne thanked Mr Seeley for advising them of this; he added that he wished to protect their enjoyment of their home and had no wish to be difficult. Mr Seeley accepted that the application was somewhat different to the current licence, but he said that the record of the management of Kesgrave Hall was a good indicator of how the establishment would approach such events. Mr Wayne said he understood that a business needed to move forward but he did not think this was a viable reason to withdraw their objection. Mr Wayne said he considered his objection to be valid and not unreasonable.

The Chairman invited the Legal Adviser to ask any questions. The Legal Adviser asked if the applicant had considered temporary event notices (TENs) for the outdoor performances rather than their permanent inclusion in the licence. Mr Seeley said he had suggested that the applicant include outdoor plays and music performances in the application to provide more flexibility; he agreed that TENs might provide an alternative option.

The Chairman adjourned the Meeting and the Sub-Committee retired to consider their Decision. The Meeting reconvened at 1pm and the Chairman delivered the following **Decision Notice**.

"Kesgrave Hall Ltd. (Milsoms) has applied for a premises licence at Kesgrave Hall, Hall Road, Kesgrave.

This Sub-Committee meeting has been held as representations were received against the application by Mr and Mrs Barry Wayne.

In arriving at this decision, the Sub-Committee has taken into consideration the oral and written representations submitted by all parties, the guidance under Section 182 of the Licensing Act 2003 and the Council's Statement of Licensing Policy.

The Applicant's submission

- Kesgrave Hall Ltd. has held a premises licence since 2008. This application has been made after the construction of a spa within the grounds of Kesgrave Hall. The spa is not currently within the area covered by the premises licence. The applicant is also seeking permission for performances of plays and dance outdoors. Mr Seeley also stated that the disturbance from such performances would be negligible and the option would be unlikely to be used very often. In response to a representation which was withdrawn, the hours of outside performances outdoors had been reduced by the applicant to 11pm and, in response to the representation by Mr and Mrs Wayne, the applicant has agreed to erect stop signs to mitigate the risk of increased traffic.

Kesgrave Hall Ltd has held a premises licence since 2008 without incident and Mr and Mrs Wayne have never needed to formally complain. Mr Seeley also stated that Mr and Mrs Wayne also lived half a mile away.

The Objectors' submission

- Mr and Mrs Wayne are frequent visitors to Milsoms. They support the licensing of the spa. Their worry is the licensing for outdoors performance of plays and dance. They stated that if the licence were to be granted there would be the potential for outside plays and dance to be performed every day of the week. They said that they had heard noise from Milsoms before but had adopted a 'live and let live' attitude. They explained that their property and land holding was south of Playford Road and that the only land between them is Council land (a now defunct landfill site) and that there was also a small wooded area. They are concerned about what the future holds but do not wish to cause difficulty, rather to protect their home.

We considered Mr and Mrs Wayne to have been very reasonable and their 'live and let live' approach was admirable. We would hope that Milsoms' management will take note of that and seek to continue to maintain good neighbourly relations.

Sub-Committee's decision

- In arriving at our decision, we have given due consideration to the possibility of temporary event notices as an alternative to licensing the outdoor space for the performance of plays and dance. However, we are mindful that, were the premises to rely on temporary event notices, local residents would not be able to object whereas, if the outdoor space was licenced for the performance of plays and dance, and problems were to occur in the future, residents could trigger a review of the premises licence.

The Sub-Committee has decided to grant the application, as applied for, subject to the

performance of plays and dance outside being licensed until 11pm, as offered by the applicant. We consider that the conditions offered by the applicant are sufficient and appropriate to promote the licensing objectives. We are mindful that the applicant has offered to erect and maintain stop signs at the junction of the exits from Kesgrave Hall and Hall Road – we seek this to be undertaken at the earliest opportunity.

We remind all parties that Mr and Mrs Wayne have the option of triggering a review of the premises licence if the noise nuisance they fear were to arise because of the granting of this application.

Anyone affected by this decision has the right to appeal to the Magistrates' Court within 21 days of receiving notice of the decision.

Date: 2 June 2020"

The meeting concluded at 1:05 pm

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Chairman