

## GUILDFORD BOROUGH COUNCIL

<b>LICENSING ACT 2003</b> <b>RECORD OF HEARING AND DECISION TAKEN BY THE LICENSING SUB-COMMITTEE</b>	
<b>DATE OF HEARING</b>	Thursday 9 June 2016
<b>SUB-COMMITTEE MEMBERS PRESENT:</b>	Councillor David Elms (Chairman) Councillor Mike Hurdle Councillor Mike Parsons
<b>OFFICERS PRESENT:</b>	Sophie Butcher (Committee Manager) Raj Devandran (Litigation Solicitor) Justine Fuller (Environmental Health Manager) Geena-Mae Bucknall (Trainee Solicitor - observing) Ciara Swan (Democratic Services Assistant - observing)
<b>DISCLOSURES OF INTEREST BY MEMBERS PRESENT:</b>	None
<b>PREMISES:</b>	Little Ridings, Norrels Drive, East Horsley, KT24 5DL
<b>TYPE OF APPLICATION:</b>	The application is for a premises licence allowing the sale of alcohol for consumption OFF the premises, between the hours of 0900hrs and 1700hrs Monday to Friday.
<b>DETAILS OF APPLICATION SOUGHT:</b>	<p>The premises are a private residence and grounds, which is additionally being used as a small independent gin distillery with the gin stored on site. The applicant is permitted to manufacture, store and supply to wholesale without a licence.</p> <p>The public will not have access to the property; sales will be via telephone and or internet and sent to the customer.</p>
<b>APPLICANT:</b>	Mr Richard Mew
<b>OTHER PERSONS:</b>	(Present) Mr Michael Bruton Ms Clare Deatker Mr Adrian Holmes (speaking on behalf of the following persons: Ms Liz Clinton, Mr Graeme Ladds, Mr Hugh Soellart and Mr David Williams). Mr Roger Lindsay Mr Frank Milton

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	Mr Graeme Morrison Mr Colin Privett Mrs Hazel Privett  (Apologies) Mrs Liz Clinton Dr G C Forrest Mr Graeme Ladds Ms Lesley Milton Mr Adrian Smith Mr David Williams
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### DETAILS OF DECISION TAKEN:

The Sub-Committee considered the application for a new premises licence for the sale of alcohol for consumption OFF the premises, between the hours of 0900hrs and 1700 hrs Monday to Friday. The Sub-Committee also considered the relevant sections of the Council's Licensing Policy and the National Guidance issued by the Secretary of State under Section 182 of the Licensing Act 2003 (as amended).

The Environmental Health Manager informed the Sub-Committee that the premises was a private residence and grounds, which was being used as a small independent gin distillery with the gin stored on site. The applicant was permitted to manufacture, store and supply wholesale without a licence. The public would not have access to the property; sales would be via telephone and or internet and sent to the customer. The application was validated on 13 April 2016 and consulted on from 14 April until 11 May 2016. The consultation end date was extended to 13 May 2016. The applicant had given a consultation end date on notices, which exceeded the statutory required period; the period of consultation was extended to that date in order to be fair to all interested parties. A total of eighteen relevant representations had been received, mainly from local residents, on the grounds of the prevention of public nuisance. A number of issues had been raised which were outside the remit of the Sub-Committee, these included the safety of the public on the highway, and a concern over a possible increase in property crime, related planning issues and not being appropriate for the area in general. A petition had also been received detailing the names of 51 local residents who objected to this application. The petition had been received after the end of the consultation period and was attached as part of the late sheets for information only. The applicant had submitted a number of proposals and steps that he intended to take, in order to promote the four licensing objectives.

Mr Mew the applicant, made the following submissions in support of his application:

- Mews Gin Ltd was a private company with three Directors and five shareholders comprised of family members. Mr Mew was recently semi-retired and worked as a consultant. Mr Mew's wife had a part-time job and his son had a full-time job. Mr Mew had two licences from HMRC, one for the rectification of spirits, which was taking alcohol and re-distilling it. The second licence was for compounding

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spirits, which was a cold process and was how sloe gin was created. Alcohol was bought in with the duty paid for up-front. It was not possible to produce alcohol, as it was too large an operation requiring approval from customs and excise.

- He would like to sell craft gin online to members of the public for delivery in the local area.
- In relation to the potential for public nuisance objection, the applicant stated that his understanding was that this mainly applied to pubs and bars, and was not sure how it applied in this case.
- In relation to the potential increase in traffic, Mr Mew has previously discussed the possibility of setting a limit on the amount of production with the two Directors of the Road Association. A letter agreement was negotiated with limitations set. However, a clause was included which stated that if it was in the Road Association's opinion that Mews Gin Ltd had exceeded the limitations set they could require the company to close within 7 days. Mr Mew felt that the letter agreement was taking the powers away from the Licensing Authority and therefore asked the Sub-Committee to consider the additional conditions he had proposed, as detailed on page 2 of the agenda, in order to promote the four licensing objectives. One of those conditions allowed residents to have reasonable access to records to reassure compliance with these conditions. He was trying to be as open and honest as possible.
- He had contacted those neighbours who submitted representations via email to come and view the operations of Mews Gin Ltd in an effort to try and allay their concerns. Only two residents took Mr Mew up on this offer. Objections were therefore maintained without the benefit of this first-hand information.
- He had submitted a Schedule of Traffic Movements, which he considered was a true and fair reflection of the likely impact on the road at the maximum-capped level. It was anticipated that there would be two main deliveries in a vehicle the size of a Luton van. One pallet of bottles every 5 months and the delivery of alcohol every 6-12 weeks. He also suggested that as there was already some traffic being caused by virtue of his supply to wholesalers, the sub-committee should only consider the incremental increase in traffic caused by supplying to retail.
- Acknowledged that there would be a potential increase in traffic, however for a narrow, residential and private road, referred the Sub-Committee to his observations in relation to a large crane located nearby and a seven and a half tonne truck that had been used as part of nearby building works being carried out.
- Referred the Sub-Committee to the list of companies he had identified as being registered in Norrels Drive (included as part of the supplementary late sheets – Appendix 3). Mews Gin Ltd was therefore not the only business registered in Norrels Drive that may also cause an incremental increase in traffic.
- Explained that he had a gin still in the corner of his office that held 60 litres in total and was approximately half the size of water butt. The still was small by still standards. Each run took 6 hours and a further 4 hours before the gin was cool enough to take it apart again. Each run would take 10-12 hours and was not his intention to run such operations 24 hours a day.
- Submitted that delivery runs to the post office would generally be timed to coincide with Mr Mew carrying out personal errands.

Mr Holmes made the following submissions in support of his objection to the application:

- Was speaking on behalf of a number of residents who were unable to attend.
- Lived at the property Sevenoaks located next door to the proposed premises licence.
- Had sought legal representation from TWM but decided that it would be better to represent himself.

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- Norrels Drive was a quiet lane and the proposed business was located only a few feet away from his garden.
- Despite the comment made by Mr Mew that there was a lot of traffic down Norrels Drive, in the time that he had lived there, a total of thirty years, traffic was minimal. He was therefore concerned about the impact of a 9am – 5pm operation upon the potential to increase traffic levels in Norrels Drive.
- The proposed licence was a big concern for many residents. Referred the Sub-Committee to Appendix 1 of the supplementary late sheets, which showed screen shots of Mews Gin Ltd online marketing activities. It was Mr Holmes assertion that Mews Gin Ltd was not a retirement hobby but a commercial business operating Monday – Friday, 9am – 5pm, and potentially generating over £83,000 per annum as were the requirements of a VAT registered business.
- The concern was the opportunity for growth of the business via online marketing. Mr Mew had a very large barn and therefore had the capacity to store large quantities of gin if required.
- Concerned in relation to the noise generated by the bottling process, moving of bottles, packing arrangements, potential breakages, opening and shutting of the premises and the potential for employees coming and going.
- In relation to the number of businesses registered in Norrels Drive, which had been submitted by Mr Mew as part of the supplementary late sheets, the largest business, whilst being registered in Norrels Drive, was actually located in Guildford Business Park.
- A commercial building would also require external lighting and alarm systems, further causing a nuisance to local residents.
- Concerned in relation to safety and verges of roads.

The Chairman confirmed that representations made in relation to the potential increase in traffic per se were not a matter, which the Licensing Sub-Committee could consider. Traffic issues were a matter for the planning authority. The potential for public nuisance caused by additional traffic was only relevant to the premises and immediate area.

Mr Bruton made the following submissions in support of his objection to the application:

- Was a member of the High Park Avenue Residents Association. High Park Avenue joined Norrels Drive at its eastern end.
- Referred the Sub-Committee to the petition received and signed by local residents of Norrels Drive and High Park Avenue as well as the letter from Mr Holmes solicitor who considered that the application was invalid. Recommended that the application was deferred until it was corrected.
- Did not agree that Mews Gin Ltd was a retirement hobby when 2000 litres of gin per annum could be produced and therefore had the capability to become an expanding commercial enterprise. The proposed operations would be better suited for location on a separate business site rather than a residential road.
- Believed that the proposal would pose an increased risk to crime and disorder in the area.
- Residents were entitled to the quiet enjoyment of their property. This would not be the case with the proposed premises licence commercialising the road with the potential for employees.
- Would disturb local residents who worked from home.
- Inappropriate to have such a premises located in a residential road close to children.

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The Sub-Committee asked if the petition submitted in objection to the proposed application could be taken into consideration, given that it had been received after the consultation period ended. The Solicitor confirmed that if a petition were received late, then it would not normally be considered. [note: the petition had been appended to the supplementary late sheets as information only for the Licensing Sub-Committee members].

Mr Holmes confirmed that Mrs Liz Clinton had started the petition, as she wanted to make older residents aware of the proposal, who did not have access to email and might have otherwise been unaware. Mrs Clinton hid the petition in a magazine when knocking on local residents doors, until they expressed an interest in signing it. Mrs Clinton only invited people to sign the petition if they were in clear opposition to the proposal.

Mr Mew expressed his concern that those residents who signed the petition were not in full possession of the facts surrounding the application.

Mr Morrison stated that his written representation included concern in relation to traffic movements and was accepted as a valid objection by the Licensing Authority. He therefore queried why it fell outside of the remit of issues that the Licensing Sub-Committee could consider. He also advised that the Roads Association were mainly concerned with the safety of the road and its assets. He confirmed that Norrels Drive does get a lot of traffic. His objection was that if the business were to be successful, the increased production would create more of a nuisance.

Mrs Privett made the following submissions in support of her objection to this application:

- Need to be clear about the amount of incremental nuisance that could be caused by the proposed application.
- It was not commercially viable to relocate as the current site could accommodate the proposal. It was an astute business plan by contrast to a hobby.
- Lack of questions to the applicant to ascertain whether it was a hobby vs an entrepreneurial business.
- Owing to the lack of evidence, it was therefore not acceptable to grant the licence.

Mr Lyndsay made the following submissions in support of his objection to this application:

- Delivery trucks could potentially turn in neighbours driveways causing a public nuisance.
- The businesses registered in Norrel's Drive as identified by Mr Mew was a red herring given that it was not always where that business was based and operating from.
- There was a covenant on the land stating that the residential property must not be used for commercial purposes.

Mr Privett made the following submissions in support of his objection to this application:

- Spent his career working in the IT field and was therefore very familiar with the explosive growth of a business that could occur from online marketing. There was the clear potential for massive growth of Mews Gin Ltd.

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- It would be more appropriate to locate the business on an industrial site or a farmer's field but not a residential road. The limits suggested in terms of production will be exceeded.

Mr Mew, the applicant, confirmed that:

- The company was VAT registered, as it was commercially advantageous. A company did not need to turn over £83,000 to be VAT registered and was not associated with growth aspirations of the business. He also did not consider that it would turn over that figure.
- Confirmed that Mews Gin Ltd was a hobby. He wanted to travel with his wife and have time to see his children. There was a lot to the processing of gin and if it were to grow as a business would hand it over to his son.
- Confirmed that it was not his intention to take on employees; the only employees would be his family. The application form did not provide an appropriate place to state that he would not be taking on employees, so he felt it would be safer to cover both employees and directors.
- Confirmed that the barn already had security lights and alarms fitted and had been the case for the last 3-4 years.
- Driveways would not be used by members of the public, as it was an online business and therefore would not be coming to the property to purchase it.
- Not anticipating for Mews Gin Ltd to be a big industrial process.
- Had lived in the road for ten years, served on the Norrels Drive Residents Committee and acted as Chairman for 4 years. Had used his own monies to improve the welfare of the local residents via improvements undertaken to the road itself.
- Felt that his good intentions and actions taken as a neighbour over the last ten years had been ignored.

Mr Holmes commented that:

- Mews Gin Ltd was a commercial enterprise.
- Mr Mew had not denied the marketing effort undertaken so far.
- He had served on Norrels Drive Residents Committee in the 1990's and was not an exclusive activity to Mr Mew.

The Environmental Health Manager stated that the Sub-Committee must consider the application for the grant of a premises licence on its merits. If the Sub-Committee granted the licence, members of the public could call a review of that licence, should any of the conditions attached to the licence be breached. The Sub-Committee was reminded that any conditions attached to the licence, if granted, had to be enforceable.

The Council's Solicitor confirmed that the Sub-Committee had to consider whether the proposed licensable activities would have a disproportionate and unreasonable effect upon local residents during the period of 9am – 5pm, as specified for the operation of Mews Gin Ltd in order for the public nuisance criteria to be met. The Solicitor also advised the Sub-Committee that the number of business registered in the area was not a relevant consideration, as it did not engage the licensing objectives.

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Having considered the application and the submissions from the applicant as well as those made by other persons, the Sub-Committee;

RESOLVED: That the application for a new premises licence for Mews Gin Ltd, Little Ridings, Norrels Drive, East Horsley, KT24 5DL be granted in the following terms subject to the following conditions:

1. Limit of 2000 litres of sales strength gin per calendar year.
2. The size of vehicles used by delivery/collection contractors will be no bigger than Luton or van sized.
3. Training and monthly assessments will be provided to all current and future directors and employees to make them aware of the four licensing objectives.
4. The Designated Premises Supervisor will be present for all sales of alcohol.
5. The Premises will be locked at all times when not in use.
6. Access to the premises will be via two gates, one of which will be manually closed and electronically operated.
7. Public access will not be permitted, and access will only be provided for deliveries or collections.
8. No alcohol will be consumed on the premises.
9. To allow residents to have reasonable access to records to reassure compliance with these conditions.

Activities	Mon	Tues	Wed	Thurs	Fri		
Sale of alcohol							
For consumption on and off the premises	09:00 – 17:00	09:00 – 17:00	09:00 – 17:00	09:00 – 17:00	09:00 – 17:00		

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### REASON FOR DECISION:

In reaching their decision to grant the application subject to the above conditions, the Sub-Committee considered both written and oral representations from the applicant and the objectors.

The Sub-Committee was satisfied that Mews Gin Ltd had successfully demonstrated that adequate steps would be taken to promote the four licensing objectives. Those steps were outlined on page 2 of the agenda for this new premises licence and have been included as conditions on the licence as set out in this record of hearing. One of those conditions put a limit on the amount of gin that could be produced. This addressed the concerns raised by objectors in relation to the potential for public nuisance to local residents from the production and bottling methods. The issues raised in relation to public nuisance caused by the potential for additional traffic was only relevant to the premises and the immediate area. The Sub-Committee were satisfied that there would be no public access permitted to the premises given that sales were via telephone and or the internet and sent to the customer and access to the property was only permitted to allow for deliveries or collections. The Sub-Committee did not consider that the small-scale nature of the business would generate an excessive amount of traffic in terms of deliveries within the vicinity of the property that would be detrimental to the local residents. The Sub-Committee were satisfied that the applicant had no intention of employing people and wanted to run the business as a post-retirement hobby. The Sub-Committee did not consider that any of the other issues raised, were likely to lead to public nuisance, given the type of operation described by the applicant. The Sub-Committee considered that the applicant had no intention of causing problems in the local area and would discuss any concerns that the residents had. A further step the applicant had taken in an effort to reassure compliance with all conditions was to permit residents reasonable access to the records of the business. In these circumstances, the Sub-Committee considered it appropriate to grant the licence for the hours and licensable activities applied for. The Sub-Committee also confirmed that they could not consider the issue of increased traffic on its own, as this was a planning consideration and did not engage the licensing objectives.

The Sub-Committee agreed that the licence should be permitted to allow the sale of alcohol for consumption OFF the premises between the hours of 0900hrs and 1700hrs Monday to Friday.

The Sub-Committee reminded the parties that any person could apply for a review of the premises licence if the operation of the premises did cause problems.

Signature of Chairman: .....

Dated: .....



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