

The Licencing Review Committee
West Berkshire Council
Council Offices,
Market Street,
Newbury. RG14 5LD

14th November 2016

Dear Sirs,

Trunkwell House 16/01550/LQN

The Parish of Beech Hill is the Parish in which Trunkwell House is situated and for which the Beech Hill Parish Council "BHPC" is responsible. The BHPC has received a copy of the application for the Review of a Premises Licence "RPL" submitted by Ms Susan McLaughlin on behalf of West Berkshire Council's Environmental ("WBC") Quality Team dated 17th October 2016, and takes this opportunity of commenting further.

There can be no doubt that a number of residents of Beech Hill have, for a number of years, registered their complaints with the BHPC relating to noise issues emanating from the Trunkwell site.

It is noted that within the RPL, Ms McLaughlin has set out numerous individual instances when complaints were received by her department and the subsequent failings over time of either the previous or current licence holder to address these complaints. BHPC would confirm that it would have received the same complaints and indeed more, being either in writing via email or by way of telephone or personal representation made to individual Councillors.

BHPC has tried, within its limited powers, to resolve the noise issues with the current licence holder, including attending with a complainant villager an event which was causing concern to try to reason with those in control, but their attendance was 'impolitely' turned away. Telephone calls have also been made and voice messages left whilst noisy events were taking place, but the calls have not been answered nor returned. The BHPC has also invited the licence holder to a BHPC meeting for an open discussion, but this invitation has not been taken up. Written communications from the Licence holder concerning the noise issues have not been constructive, with the Licence Holder, (despite the noise issue being raised once more) stating on the 8th August 2016 that "there are private functions going on and it is our concern to look after our guests" (Appendix 1)

In summary the BHPC endorses the concerns raised within the RPL relating to the level and frequency of unsatisfactory noise issues which cause a great deal of public nuisance to certain villagers.

BHPC in its position of representing the whole of the Parish considers that it would be remiss if we were not to also record that other villagers have made it known that they do not consider the operations of Trunkwell to be of concern to them. In this regard it should be noted that, not unsurprisingly, those which seem to have a justified and proven need to

regularly complain tend to live closer in proximity to Trunkwell than those who do not have any cause to complain.

As it is the opinion of the BHPC that the noisier events which cause the public nuisance are those which take place within what is described within the RPL as the Grand Marquee, BHPC would ask the Licence Review Committee to consider and decide upon whether any current or future licence is applicable to the area in which it is situated.

BHPC would explain the following:-

The current licence holder, Parsons Leisure Limited, received the benefit of the licence as a result of a transfer from the previous licence holder Trunkwell Leisure Limited 'TLL' on the 18th January 2016. (Appendix 2) Although it would seem that the ownership of these two companies is different, it is noted that Mr Robert Walton, the owner of the TLL is still recorded as being the designated premises supervisor.

As Mr Walton is also noted as a party in Trunkwell's ongoing Planning Enforcement Appeal, relating to the West Berkshire Council refusal to grant any planning permission in respect of the Grand Marquee and was a recent attendee at a meeting requested by the licence holder with Ward councillor Graham Bridgeman to discuss the future of Trunkwell, BHPC is unclear as to the extent of any change in the ultimate ownership or management. The Committee is therefore requested to consider very carefully the history of the site, inclusive of the issue of the previous Noise Abatement Notice, to a party who is evidently still very much involved with the current operations.

Notwithstanding the above TLL obtained its licence from a transfer from the original licence holder Trunkwell Mansion House Limited 'TMH' on the 3rd April 2008, with Mr Walton being the designated premises officer and (the BHPC understands) also the principal director and proprietor of both companies.

TMH/Mr Walton was granted the original licence following an application, including the requisite 1:100 plan, which was submitted by Karen Kirk, Solicitor, with a covering letter dated 28th July 2005 (appendix 3) on behalf of her clients.

BHPC is confident that Ms Kirk ensured that the application and all appertaining documents were fully compliant with the Licensing requirements at the time, inclusive of the need to advertise the application as well as to provide copies to all relevant authorities.

Unfortunately BHPC is advised by Mr Brian Leahy of WBC's licencing department that a full copy of the submitted 1:100 plan does not appear to be on record, a part copy of it is and is attached (Appendix 4) which in the minimal extent that it does exist appears to demonstrate that in its fullness it would, as was required, included details of all accesses and external area 'The Lawn' to be used as part of the of the licensed premises.

The Licence application itself however describes the premises and repeats on several occasions including within the very first paragraph that it includes 'a', being in the singular, function room. This is what is referred to within the RPL as the Garden Marquee and is situated to the right of The Lawn area referred to on the 1:100 plan.

The description also makes reference to the car parking area, kitchen, toilets as well as the seating capacity of both the function room and the restaurant. It further clarifies that the function room is adjacent to the garden which would appear to be the Lawn Area shown on plan 1:100).

BHPC believes that all of the documentation, references, descriptions etc included with the application would have been extremely relevant and persuasive in the decision to grant a Licence.

Mr Leahy has confirmed that WBC does not have any record of any other correspondence concerning the licence application, either prior or subsequent to Ms Kirk's 28th July 2005 letter.

BHPC understands that the prevailing statutory position concerning licence applications at the time of the application was covered by the Licensing Act 2003 ("the Act"), The Licensing Act 2003 (Transitional provisions) Order 2005 ("the Provisions") and The Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005 ("the Regulations").

BHPC's analysis of the position is as follows:-

Licensing Act 2003 , Schedule 8, Part 1

2 (2) A person may, within the period of six months beginning with the first appointed day, apply to the relevant licensing authority for the grant of a licence under paragraph 4 to succeed one or more of those existing licences

(5) The application must also be in the specified form and accompanied by—

(a) the relevant documents, and

(6) The relevant documents are—

(b) a plan in the specified form of the premises to which the relevant existing licence or licences relate,

The Licensing Act 2003 (Transitional provisions) Order 2005

(2) In this Order—

"standard scale" means that 1 millimetre represents 100 millimetres

3. (1) The plan of the premises which, in accordance with paragraphs 2(5)(a) and (6)(b) of Schedule 8, must accompany the application shall comply with the remaining paragraphs of this article.

(2) Unless the relevant licensing authority **has previously agreed in writing** with the applicant following a request by the applicant that an alternative scale plan is acceptable to it, in which case the plan shall be drawn to that alternative scale, the plan shall be drawn in standard scale.

The Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005

2. (1) In these Regulations, unless the context requires otherwise—

“standard scale” means that 1 millimetre represents 100 millimetres.

23. (1) An application for a premises licence under section 17, or a club premises certificate under section 71, shall be accompanied by a plan of the premises to which the application relates and which shall comply with the following paragraphs of this regulation.

(2) Unless the relevant licensing authority has previously agreed in writing with the applicant following a request by the applicant that an alternative scale plan is acceptable to it, in which case the plan shall be drawn in that alternative scale, the plan shall be drawn in standard scale.

The BHPC's reading of these provisions is that any application, whether to “grandfather in” (only) an existing licence, or to do so with variations, or to apply for a brand new licence, has to be in a similar format and accompanied by a plan. Presumably the idea of all of this was to get all licences, existing and new, into the same format, the difference being that for existing justices licences (etc) there was a presumption to entitlement in favour of the licence holder (or, as in this case, his & her successor limited company).

In summary therefore the Trunkwell licence application had to be accompanied by a plan and that plan had to be in 1:100 scale, unless WBC as the licensing authority had previously agreed in writing with the applicant to accept a different scale. The undeniable fact that this did not happen as is so demonstrably clear from Ms Kirk's letter and the enclosures which were submitted with it.

Furthermore there was a need to describe the premises within the application and identify the area of any external land to be included within the licensed premises. As mentioned above the BHPC is satisfied that Ms Kirk was a capable and conscientious solicitor who ensured her client's application was fully compliant with all legal requirements and by use of both the 1:100 plan together with the comments in the application form she ensured that all required areas was correctly identified.

Notwithstanding the above and in absence of any legally required correspondence confirming a variation to a plan other than that of the standard scale or any amendment to the description of the premises, Mr Leahy has contended that the use of a 1:500 plan (Appendix 5) is appropriate to administering the area of licensed premises.

This much smaller scale, but larger area, plan does not in any way conform to the legally required details which are to be included on plans accompanying licence applications, it is not referenced within the planning application nor stamped as being received in any respect to do with a licence application. It is in the opinion of the BHPC simply a 'rogue' plan which by some form of accident has found its way onto the licence file. As such it has no relevance to either the application or the licence which was granted.

Without the use of the area of enlarged land covered by the 1:500 plan Trunkwell would not have a useable license available to hold events within the Grand Marquee. It would instead be restricted to the area of the Hotel, the adjacent Garden Marquee and the Lawn Area, which BHPC believes were the only areas originally applied for. The BHPC opinion is further supported by the fact that the only planning consent which was granted in respect of the Grand Marquee was a temporary consent, lasting two years only, and in respect of the relocation of the Garden Marquee to the site of the Grand Marquee, whilst supposedly building works to the Hotel were being carried out. The works were never actually done, but the relevance is that the consent was only granted in January 2008, some 2 ½ years after the licence was applied for. Consequently BHPC does not believe it was even perceived by the applicant at the time of the application that there would be a need for further marquees in adjacent fields.

Mr Leahy's view based upon the 1:500 plan being the relevant plan is that as the Grand Marquee has a foothold within area covered by the 1:500 plan it also gains full benefit of being a licensed area.

BHPC being staffed by volunteers does not readily have within its Councillors a licensing expert to challenge the view of Mr Leahy, however, approaching the matter from a common sense point of view it cannot reconcile why the Government would require applications to both describe in precise detail the intended licensed premises as well as requiring the submission of a detailed 1:100 plan, if, once a licence has been granted, the licence holder could then apply the use of it to not only to the whole of the described/declared estate (including areas previously advised to be used for other purposes, such as car parking) but also to adjacent lands (as a result of the Mr Leahy's alleged foot hold rule) which were never part of the application process.

To assist with the Committees consideration two aerial photographs of the site is attached (Appendix 6). The first shows the full use of the site. BHPC Contention is that the licence granted in accordance with the application related to the Hotel building, the Lawn Area immediately behind the Hotel, and the Garden Marquee (Function Room) to the right hand side of the Lawn Area.

Mr Leahy contends that as the 1:500 plan covers the whole of the immediate site including the land to left hand side of the Lawn Area up to the tree line and because a foot hold is established as a result of the existence of the covered walk ways, the area of the Grand Marquee, despite having never been included in the Licence application nor having any planning consent, is covered by the existing Licence.

The second photograph merely emphasises the two different sites and distances between them

It is the opinion of the BHPC that should such a restriction or reinstatement of the intended licence area be imposed by the Committee the issues concerning the larger events held at Trunkwell (in the Grand Marquee/Bumper Cars etc) would be extinguished, as would the public nuisance concerns which arise from them. Any decision in support of this would of course be consistent with WBC's planning refusal of the Grand Marquee.

Should the Committee be minded to decide that the licensed area never did or no longer relate to the 1:500 plan area, BHPC would wish to record that as it is aware that both Christmas and New Year events have been booked and in view of the short period of time now available to cancel these, as well as not having the wish to upset any individual's planned celebrations, it would not protest against any decision which perhaps deferred the effect of a change or clarification of the licensed areas, until after the 31st January 2017.

If it is the Committee's decision to restrict, but nonetheless continue with the licensed area being the Hotel, Garden Marquee and Lawn Area, BHPC would also have no objection against this provided if it was felt that a workable noise management plan could be put into force, inclusive it is suggested with the use of additional noise insulation materials (say a sound proofing wall) to the internal structure of the Garden Marquee, as opposed to simply noise limiters which either do not appear to work or are inadequately managed to ensure that they do.

In summary the BHPC is concerned about the frequency with which villagers regularly complain of a public nuisance and wishes to bring an end to these. However it is also desirable to see the continuation of the Trunkwell business. BHPC considers an appropriate way of dealing with this could be achieved firstly by clarification that the Grand Marquee area is outside the licensed area and that secondly genuine efforts are made by the Licence holder, to the satisfaction and a time table to be approved by West Berkshire Council's Environmental Quality Team, to restrict the noise from the remaining facilities.

The BHPC looks forward to hearing from you.

Yours sincerely,

Helen Malyn

Clerk

For and on behalf of the Beech Hill Parish Council