

LICENSING SUB-COMMITTEE

MINUTES OF THE MEETING HELD ON WEDNESDAY, 29 SEPTEMBER 2021

Councillors Present: Adrian Abbs, Graham Bridgman (Chairman) and Claire Rowles

Also Present: Beth Varcoe (Solicitor), Jo Watt (Member Services Officer)

PART I

4 Election of Chairman

Following a vote, Councillor Graham Bridgman was elected as Chairman of the Sub-Committee.

5 Declarations of Interest

There were no declarations of interest received.

6 Application No. 21/00611/LQN - The Breeze, Hawkridge House, Hawkridge Hill, Frilsham, RG18 9XA

Councillor Graham Bridgman, Chairman of the Sub-Committee, welcomed everyone to the meeting and explained the hybrid meeting process. Those participants who had joined the meeting via Zoom confirmed they had heard and understood the introduction. Councillor Bridgman went on to explain the order in which parties would be asked to speak and when there would be an opportunity to ask questions of the parties.

Councillor Bridgman introduced the Sub-Committee and explained that there would be no substitute member in attendance at this meeting.

The Sub-Committee considered a report (Agenda Item 2(1)) concerning Licensing Application 21/00611/LQN in respect of The Breeze Drinks Company, Hawkridge House, Hawkridge Hill, Frilsham, RG18 9XA.

Before the commencement of the Sub-Committee, Beth Varcoe, Solicitor, West Berkshire Council, informed all parties that following discussions between the applicant and Thames Valley Police regarding additional conditions to the licence, further written material was available for consideration by the Sub-Committee.

The Chairman of the Sub-Committee, Councillor Graham Bridgman confirmed that Mrs Breeze was to be treated as being the applicant in requesting the additional written material to be considered by the Sub-Committee.

The Chairman explained that the additional written material could only be accepted for consideration if all parties agreed to the acceptance of the material.

All parties agreed to take the additional information into account and the Sub-Committee adjourned at 13:21 to consider the document. The Sub-Committee re-commenced at 13:30.

Following a question from the Sub-Committee Chairman, all parties confirmed that there were no further documents to be submitted.

In accordance with the Council's Constitution, Emilia Matheou (Licensing Officer, West Berkshire Council), Mrs Elena Breeze (Applicant), Mr Joe Szopa (Applicant's company representative) and Councillor Andrea Arnold (Objector on behalf of Frilsham Parish Council) addressed the Sub-Committee on this application.

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Ms Matheou, in addressing the Sub-Committee, raised the following points:

- West Berkshire Council received an application on 9th August 2021 for the grant of a premises licence under Section 17 of the Licensing Act 2003 for the premises at Hawkridge House, Hawkridge Hill, Frilsham, Thatcham.
- The application was for the supply of alcohol (on and off the premises) from 00:00 to 24:00.
- The application related to the online sale of alcoholic beverages with occasional private (by invitation only) promotional events for up to 100 people to be held in the garden and or the ground floor of the house.
- The 28 day consultation period ran from 10th August 2021 to 6th September 2021. The Responsible Authorities, Ward Member and Parish Council had been advised by email on 10th August 2021.
- The application had been advertised in accordance with the Regulations, with the required blue notices being placed at the premises and checked by an officer from the Public Protection Partnership on the 13 August 2021 and 02 September 2021, and an advert had been placed in the Newbury Weekly News on the 12 August 2021.
- During the consultation period, one objection had been received from Frilsham Parish Council. In terms of the online sales, the Parish Council accepted that by the nature of this activity it was necessary that it could be undertaken 24 hours a day for 365 days a year but queried if restrictions could be applied relating to deliveries to and from the site at antisocial hours of the day.
- The Parish Council was also concerned that the promotional events could in theory take place for 24 hours a day every day of the year. They therefore requested that the number of events be restricted to 12 per year and the hours they could take place be restricted to 12h00 to 23h00
- No representations had been received from the Responsible Authorities. However, Thames Valley Police and the applicant had since corresponded and agreed conditions to be added to the operating schedule. These conditions had been circulated to all parties at the start of the Sub-Committee and considered during the adjournment.
- The Licensing Authority had been asked to facilitate dialogue between the applicant and Frilsham Parish Council. The applicant provided more detail about the application and how the premises were to be operated and the applicants emails of 9th and 17th September 2021 had been send to Frilsham Parish Council on 21st September 2021. The Licensing Authority did not receive a response from the Parish Council by 28th September 2021 and therefore it had been necessary for the Sub-Committee to go ahead.

Councillor Graham Bridgman, Chairman of the Sub-Committee, thanked Ms Matheou for her presentation. For the benefit of those not present in the room and watching via YouTube, Councillor Bridgman explained that the additional conditions agreed between the applicant and Thames Valley Police were standard conditions.

In response to a question from Councillor Bridgman, Ms Matheou said that the conditions agreed with Thames Valley Police did not include the requirement for those receiving deliveries of alcohol (via delivery couriers) to provide proof of age identification.

In response to a question from Councillor Adrian Abbs, Ms Matheou confirmed that Frilsham Parish Council had only been given a very short window of opportunity to respond to the request for mediation. The lack of response from the Parish Council was

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therefore as a result of time constraints rather than an unwillingness to participate in mediation.

Councillor Bridgman said that he had a number of questions regarding the 'sale' of alcohol online. Ms Matheou confirmed that the actual sale took place at the point of appropriation. For online sales the time of the sale could be in the middle of the night, if for example a customer was ordering from Australia. With regard to the detail of the alcohol sales proposed, Ms Matheou said that the applicant would provide further information when she addressed the Sub-Committee.

There were no questions from the applicant or the Parish Council representative.

Mrs Elena Breeze the applicant and Mr Joe Szopa the applicant's representative in addressing the Sub-Committee, raised the following points:

- Mrs Breeze said she was the founder and director of the Breeze Drinks Company which operated under the trading name of Swish Cocktails selling both alcoholic and non-alcoholic cocktails.
- Mrs Breeze thanked the Sub-Committee for the opportunity to address the concerns that had been raised by the Parish Council and said she was disappointed that mediation had not taken place.
- The main base for the packing and distribution of the drinks was in Leicestershire and all online sales would be dealt with from this location.
- It was anticipated that only a small number of deliveries would be made to and from the premises at Hawkridge House and these would be carried out by reputable courier companies who would be required to carry out age verification upon delivery.
- Mrs Breeze said that Hawkridge House had been her family home for almost 12 years during which time she had held a number of private events which had not received any complaints.
- Mrs Breeze said that it would be detrimental to the business to have restrictions in place on the number of events that could be held during the year. It was noted that these events would be small scale and by invitation only. Hawkridge House was positioned in a large gated estate with substantial grounds which would mitigate any noise from the events held and make it difficult for anyone to arrive without invitation.
- Mr Szopa the applicant's representative confirmed that most of the operational aspects of the business would take place in Leicestershire but that this licence would allow for ad hoc items to be packaged and sent from Hawkridge House if required.

Following a question from the Chairman of the Sub-Committee, Councillor Graham Bridgman, Mrs Breeze the applicant confirmed that 24 hours a day aspect of the licence was only required for the online sales as it was her understanding that 'open to the public' referred to online sales as well as physical sales.

In response to a further question from Councillor Bridgman, Mrs Breeze said that she anticipated that any ad hoc deliveries to and from Hawkridge House would be carried out during business hours and would not for example be in the middle of the night when noise disturbance could be produced.

Councillor Claire Rowles noted that the bulk of the packing and shipping would take place in Leicestershire and therefore asked for clarification of the activities that would be taking place at Hawkridge House. Mrs Breeze the applicant said that whilst the physical supply of the drinks would take place in Leicestershire, the server where the online purchase occurred was registered to Hawkridge House. In terms of events to be held at the house and in the grounds, these would be small scale tasting sessions and perhaps

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charity events with the opportunity to purchase alcohol from the premises. It was noted that these physical sales would only be related to any events that were held.

Following a supplementary question from Councillor Rowles, Mrs Breeze said that the premises had a 17 acre garden around the house with only four neighbours who might be able to hear activity on the site. Only one of these properties could be considered 'immediate' neighbours. Mrs Breeze and her family had lived in the property for almost 12 years and were very considerate neighbours.

In response to a question from Councillor Adrian Abbs, Mrs Breeze confirmed that the red line shown on the plan in the agenda (pages 28 and 29) marked the area that would be used for outdoor events. The boundary of the property extended far beyond the red line.

Mrs Breeze confirmed that the online store was open and the set up in Leicestershire was waiting to trade. Mrs Breeze said that as the company was registered to Hawkridge House then the premises was required to have a licence.

The Sub-Committee noted that the 24 hours a day, seven days a week part of the licence application was required purely to cover the online sales part of the business.

Councillor Bridgman went on ask for further clarification regarding the nature of the events that would be held at Hawkridge House and said that whilst it may have been the intention at this stage to restrict numbers in attendance and only hold the events infrequently, there was nothing to say that would happen if a licence was granted with no restrictions in place.

Mrs Breeze said that as the Breeze Drinks Company was a start-up company and at this stage she had no idea how many events they would realistically hold. Mrs Breeze went on to emphasise that Hawkridge House was her family home and she did not intend to have large scale events there. However, if that was ever the case, Mrs Breeze would be happy to apply for a Temporary Event Notice (TEN) which would allow up to 500 people to attend.

There were no questions from the Parish Council representative.

Councillor Andrea Arnold, representing the Objector, Frilsham Parish Council in addressing the Sub-Committee, raised the following points:

- Frilsham Parish Council's main concern was the timing and frequency of the events that would be held at Hawkridge House in terms of the impact on the residents of Frilsham.
- With a Premises Licence, it was noted that up to 5k people could be invited to one of the 100 invitation only promotional events. That could create a significant issue from noise created from vehicles travelling through the village on some single track roads in the early hours of the morning.
- There was also concern around if music would be played at the promotional events and the possible noise disturbance created as a result.
- Councillor Arnold said that Frilsham was a small village and people did have concerns regarding vehicles on the roads at all hours. If no timings were applied to the licence then vehicles could be leaving the promotional events at all hours of the night and most vehicles would travel past residential properties on their way from the premise.
- Councillor Arnold added that the Parish Council did not wish to put restrictions on Mrs Breeze's business but they did have a duty of care to the residents of the village.

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- Councillor Arnold concluded by asking if it was common for a residential property to have a premises licence for 365 days of the year, seven days a week, 24 hours a day for such events.

Councillor Bridgman, Chairman of the Sub-Committee said that as Mrs Breeze held a Personal Licence, she would be entitled to apply for many more TENs than a member of the public and these TENs would not be subject to the same level of scrutiny as this premises licence. Ms Matheou, Licensing Officer confirmed that this was the case but it was hoped that the Responsible Authorities would take any concerns raised into consideration.

Councillor Bridgman, Chairman of the Sub-Committee said that the roads that people would be travelling on were public roads and anyone could be making journeys at any time of the day or night. Councillor Arnold said that it was the concentration of a large number of cars that the Parish Council was concerned about.

Councillor Claire Rowles noted that there were a number of other licensed establishments in the area and asked how the impact of events held at Hawkridge House was any different to those premises especially given the remote location of the house and grounds. In response, Councillor Arnold said that the Parish Council was asking the Sub-Committee to view this application in the same way as any other premises application and consider the potential risks before they happen to avoid the need for a review of the licence if granted.

Councillor Arnold said that the Parish Council no longer had concerns regarding the deliveries to and from Hawkridge House. The only concern was now the end time of events to be held at the premises.

In response to a question from the Sub-Committee Chairman, Ms Matheou, Licensing Officer confirmed that 'open to the public' referred to the physical supply of alcohol. By placing time restrictions on the physical supply of alcohol, the online sales (which required the 24 hour part of the licence) would not be affected.

Following a question from Councillor Rowles, Ms Matheou, Licensing Officer confirmed that the applicant had not applied to hold regulated entertainment and therefore she would only be permitted to play background music.

The Chairman of the Sub-Committee invited the applicant, Mrs Breeze to sum up her application.

Mrs Breeze said that as a newcomer to the process it had been difficult to complete the licence application given the different aspects of the business. Mrs Breeze confirmed that it was her intention to play background music at the events that would be held. As Mrs Breeze held a Personal Licence, she said that if she wished to hold an event with a band for example, she would apply for a TEN.

Mrs Breeze asked the Sub-Committee to consider the points that had been discussed particularly that the only part of the business that would require a licence 24 hours a day, seven days a week was the online sales and that any deliveries to and from Hawkridge House would be ad hoc.

Mrs Breeze concluded by saying she would like not to be restricted to the number of events that could be held in a year and did not see why her business should be discriminated against in comparison to other licensed establishments in the area.

In response to a question from Councillor Graham Bridgman, all parties confirmed that they had heard the whole meeting.

The Sub-Committee retired at 2.31pm to make its decision.

NOTICE OF DECISION

The Licensing Sub-Committee of West Berkshire Council met on 29th September 2021 and resolved to approve **Application 21/00611/LQN** for a premises licence in respect of **The Breeze Drinks Company, Hawkridge House, Hawkridge Hill, Frilsham, RG18 9XA** subject to a number of conditions which are set out below.

In coming to their decision, the Sub-Committee had regard to the four licensing objectives, which are:

1. the prevention of crime and disorder;
2. public safety;
3. the prevention of public nuisance; and
4. the protection of children from harm.

They also considered the Home Office Revised Guidance issued under section 182 of the Licensing Act 2003 and West Berkshire Council's Statement of Licensing Policy.

The Sub-Committee considered the Application submitted by the Applicant and heard oral representations made by:

1. **The Applicant:** Mrs Elena Breeze (Applicant) Mr Joe Szopa (company representative)
2. **The Objector:** Councillor Andrea Arnold, Frilsham Parish Council

The Sub-Committee also considered the written representations made by Frilsham Parish Council.

The Sub-Committee further considered the proposed conditions which were submitted as being agreed between Thames Valley Police and the Applicant. This material was admitted into the evidence on the day of the hearing with the agreement of all participants.

Having taken those representations into account, the Licensing Sub-Committee **RESOLVED** that Application **21/00611/LQN** be granted subject to the conditions as set out in the operating schedule as modified below, as well as the relevant mandatory conditions pursuant to the Licensing Act 2003 and secondary legislation.

Operating Schedule

Box J: Supply of Alcohol (On and Off the premises)

Online Sales

Monday to Sunday 00:00 – 24:00

Events

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Monday to Sunday 10:00 – 00:00

Box L: Hours premises are open to the public

Monday to Sunday 00:00 – 24:00

Not open to public, by invitation only and online sales.

Conditions:

Refusal Register

1. A refusal register, whether written or electronic, shall be used, kept and maintained at the premises. The refusal register shall record the time and date of the refusal, which age restricted product was refused, details of the staff member refusing service and a description of the person refused. The refusal log shall be produced to authorised officers of West Berkshire District Council and Thames Valley Police upon request.

Challenge 25

2. The premises shall at all times operate a Challenge 25 age verification policy to prevent any customers who attempt to purchase alcohol and who appear to the staff member to be under the age of 25 years from making such a purchase without having first provided identification. Only a valid driver's licence showing a photograph of the person, a valid passport, Military ID or proof of age card showing the "Pass" hologram (or any other nationally accredited scheme as set down within the mandatory conditions) are to be accepted as identification.
3. The premises age verification policy shall be in a written form and displayed in a prominent position on the premises.
4. Notices advertising the premises' Challenge 25 scheme shall be displayed in prominent positions on the premises.

Training

5. Staff employed to undergo training upon induction before they are allowed to work. This shall include, but not be limited to:-
 - a. Dealing with refusal of sales
 - b. Knowledge of the four Licensing Objectives
 - c. Identifying signs of intoxication
 - d. Conflict management
 - e. How to identify and safeguard vulnerable persons who attend and leave the premises
 - f. Proxy purchasing and identifying attempts by intoxicated persons to purchase alcohol

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6. Such training sessions are to be documented and refreshed every six months and shall be kept for a minimum of two years and be made available to an authorised officer of West Berkshire District Council or Thames Valley Police upon request.

Deliveries

7. Deliveries shall only be made to a full and proper residential or commercial postal address.
8. Deliveries shall not take place to car parks, bus shelters, recreation grounds, fields etc.
9. On all occasions for whatever reason, it has not been possible to deliver an order, full details will be recorded in the refusal register.
10. Any deliveries from the premises which involve a supply of alcohol are to be via a courier or delivery Company who shall operate a Challenge 25 Policy as identified at Condition 2.

Reasons

The Licensing Sub-Committee took into account the written and oral representations made and considered the Application which related to a 24 hour supply of alcohol and involved online sales and occasional events which would be by invitation only.

The Sub-Committee noted that the objector, Frilsham Parish Council, did not have any objection to the part of the Application which dealt with the online sale of alcohol. The element of the Application which was opposed related to events and the end hour that those events could take place in relation to the supply of alcohol. This related to a concern around the number of people accessing and leaving the premises at an early hour of the morning and the impact this would have in terms of noise on the residents and roads in a small village. These concerns related to the licensing objective of the prevention of public nuisance. The written objection submitted by Frilsham Parish Council put forward the suggested hour of 12 noon to 11pm in relation to those events. The position put forward by the Applicant was that it did not want to limit the number of events or the hours where the supply of alcohol could be offered although it was expected that around 100 people would attend and they would be occasional.

After considering the representations made, the Licensing Sub-Committee decided to grant the premises licence subject to conditions. The Licensing Sub-Committee decided that it was necessary to make a distinction in the operating schedule in relation to the online sale of alcohol and events and the hours of operation in order to promote the licensing objectives, namely the prevention of public nuisance. This involved a 24 hour operation of the supply of alcohol in relation to online sales and the hours of 10.00am to 00:00 Monday to Sunday in relation to events which were by invitation only. The Licensing Sub-Committee were also satisfied that the additional conditions which had been agreed between Thames Valley Police and the Applicant, as amended, should be added to the licence. No objection had been made to the application by a responsible authority.

In reaching its decision, the Sub-Committee noted the Council as Licensing Authority must determine each application under the Licensing Act 2003 on its own merits, and every decision must be both justified and proportionate based on the available evidence

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in accordance with Statutory Guidance and the Council's Licensing Policy. The Sub-Committee decided the promotion of the licensing objectives could be achieved through conditions. The Sub-Committee considered the conditions proportionate, reasonable and appropriate.

(The meeting commenced 1.00 pm and closed 2.31 pm)