

DECISION NOTICE
RUNNYMEDE BOROUGH COUNCIL
LICENSING ACT 2003
LICENSING SUB-COMMITTEE

Applicant: John Battleday Waterski Limited
Premises: John Battleday Waterski, Thorpe Road, Chertsey
Sub-Committee: Councillors A J Davis, C Knight and Mrs M Roberts
Hearing Date: 30 September 2005

This was an application for:

1. Conversion of the existing Justices 'on' Licence and
2. Variation under the terms of Schedule 8 and Section 34 of the Licensing Act 2003.

The variation applied for was:

To extend hours for the supply of alcohol and the hours the premises are open to the public and for the provision of regulated entertainment being recorded music.

The applicant was represented by Mr Matthew Pascall of Counsel who was supported by Mr Andrew Cordery the Applicant's Licensee and a Director of John Battleday Waterski.

Representations were received from Environmental Health and there were six letters of representation from interested parties of whom Councillors Chris Norman and Mrs Judith Norman, Mr Mike Scobling and Mrs Scobling, Mrs **Bowden**, Mr Harris and Mrs Veakins spoke.

Mr Pascall at the outset advised amendments to the application as follows.

1. For the period 1 November to 31 March the hours for the provision of alcohol and recorded music to be limited to 11 p.m.
2. For the period 1 April to 31 October the hours for the provision of alcohol and recorded music be: Mondays - Thursdays to 11.00 p.m. and Friday, Saturday and Sundays - 1.00 a.m. within each case an additional hour for the premises to be open to the public.
3. In addition there would be a maximum of six events to be notified to the Licensing Authority at least four weeks prior to the taking place of the event, each of which was intended to mark a significant event in the waterski/wake board calendar and which would be promoted widely and involve an outside organiser who would bring in a sound system.

Mr Pascall explained to the Sub-Committee how the John Battleday Waterski site was a significant venue for waterski and wake board in the United Kingdom. National events were held there. It was conceded that being on a site surrounded by water did not help with the control of noise but measures had been put in place for the monitoring of noise.

The Sub-Committee heard that there were ongoing planning issues concerning the site and that as of 6 October 2005 an Enforcement Notice issued by the local planning authority required most of the structures on the site to be removed. John Battleday Waterski had submitted a further application for planning permission which would involve replacement of a number of the existing facilities.

The Environmental Protection representation referred to the past history of noise nuisance on the site and the fact that a Noise Abatement Notice had been served and was current. Further, Environmental Protection was concerned that given the nature of the facilities on the site it was not possible for them to be soundproofed to control noise. The interested parties referred to noise nuisance and in particular an event,

which had been licensed by the Licensing Authority which had taken place on 13 August 2005. This was an event which had been licensed to 2.00 a.m. and which had led to a number of complaints being made to the Licensing Authority as to noise nuisance.

It was alleged that the event had gone on beyond 2 o'clock although this was denied by the Applicant. A number of the interested parties confirmed that they had gone to the site and established for themselves the source of the noise. Other interested parties confirmed that they had been disturbed by the noise at varying distances up to 1 mile from the site. The Sub-Committee noted that this was not evidence that all persons within a radius of the same distance had or were likely to have been disturbed by the event but it was indicative of the level of noise and the distance it had travelled on the night in question and of the potential for disturbance, and the number disturbed were likely to have been considerably greater than those who chose to appear before them having made representations.

The Applicant contended that it had arranged with an independent events organiser for the conduct of the event and that he had employed an engineer to monitor noise. It was said that monitoring had been conducted and that no noise capable of nuisance had been found to exist. Further the Applicant argued that the local authority had not made any concerns known to the organiser on the night of the event and given assurances that the Local Authority would monitor noise had relied on that assurance.

The Sub-Committee was satisfied from what it had heard that on 13 August 2005 there had been an event at the site which had been the cause of a significant noise nuisance to persons at various distances from the site.

The Sub-Committee was also concerned that the premises comprised of open air spaces and that the bar area was an insubstantial tent like structure. The Sub-Committee noted that it was proposed that the live music would be focussed and situated in the bar area. It was said that dancing would take place within this structure but from what was said by the Applicant as to the numbers which could be accommodated in the structure the Sub-Committee did not accept that dancing would be restricted to the bar area alone. In any event dancing had not been requested as part of the application and was not approved.

The Sub-Committee was satisfied that there was a real potential for public nuisance and public safety issues arising out of the use of the site. The Sub-Committee was concerned that large numbers of people would be on a small area of open land surrounded by water later into the night with the only access being the bridge from the car park which had a limited capacity. The exit from the island in the event of an emergency was not clearly explained to the Sub-Committee and there were concerns as to how many people could be moved from the premises in an emergency.

The Sub-Committee, having carefully considered the application, having heard from Mr Pascall and Mr Cordery, having heard from the Environmental Health Protection Officer and from a number of interested parties and having considered the Council's policy and Guidance issued under Licensing Act 2003 determined the application as follows:

1. Application for conversion approved as there were no relevant representations from the Police.
2. Application for variation approved subject to the following conditions

- i) The terminal hour for the supply of alcohol to be as follows:

Monday to Thursday 11.00 p.m.

Friday and Saturday 1.00 a.m. and Sunday 11.00 p.m. with an additional one hour for the premises to be open to the public on each of the above days. On Bank Holiday weekends the terminal hour for Sundays to be 1.00 a.m. with an additional one hour for the premises to be open to the public.

- ii) The provision of recorded music to be limited as following:

Recorded music when provided as a background to waterskiing/wake boarding activities at the site – 9.30 p.m. but not at such a level as to cause a nuisance.

Fridays, Saturdays and Sundays to 11.00 p.m. **but not at such a level as to cause a nuisance** but subject to active monitoring from 9.30 p.m. it being the sole responsibility of the Applicant to determine and put in place a proper system of monitoring.

On not more than six **occasions to coincide with the hosting by the Applicant of waterskiing or wakeboarding events of national or international significance ("the six special events")** during the period 1 April to 31 October **only**, and such events to be notified to the Licensing Authority no later than the 31 March in **the** licensing year, **to 1.00 a.m. subject to active** monitoring of noise levels and that noise levels are maintained at such **a** level as to ensure that no noise is audible beyond the boundaries of the site after 11.00 p.m. **as shown edged in red on the attached plan.**

- iii) Public admission to the site on the occasion of the six special events not to be permitted after 9.30 p.m. (For the avoidance of doubt the public on the site on or before 9.30 p.m. are permitted to remain until the terminal hour for the premises to be open to the public but members of the public are not permitted to access the site after 9.30 p.m. or to return to it).
- iv) The Applicant to provide tea and coffee until the terminal hour for the supply of alcohol and for 30 minutes thereafter.
- v) The Applicant to produce to the Licensing Authority evidence sufficient in the reasonable opinion of the Licensing Authority to establish that a proper health and safety plan is in place for the use of the site both generally and on the occasion of special events and no special events are permitted unless such plan is submitted and agreed.
- vii) The supply of alcohol to be limited to the bar marked hatched red on the plan attached.

Advisory

1. The Sub-Committee heard that the Applicant was prepared to pay for the monitoring of the site. It was suggested that this would be arranged through the Licensing Authority in agreement with the Licensing Authority as appropriate. The Sub-Committee stresses, however, that the monitoring remains the sole responsibility of the Applicant and any arrangements which may be entered into between the Applicant and the Licensing Authority are matters for agreement between them. The Sub-Committee is not imposing any obligation on the Licensing Authority to monitor.
2. This decision and the licence to issue relates only to existing buildings and structures on the site. In the event of the grant of planning permission involving new or replacement buildings then an application for a new licence will be necessary.

Reasons for the Imposition of Conditions

The avoidance of public nuisance and public safety.

Appeals

If the Applicant or any person having made a relevant representation wishes to appeal against this decision then he should do so to the Magistrates' Court at Woking within 21 days of the date of receipt of this Notice.

Dated: 24 October 2005