

**EXTRAORDINARY LICENSING AND ENVIRONMENTAL HEALTH
COMMITTEE held in the COUNCIL OFFICES LONDON ROAD SAFFRON
WALDEN at 10.30am on 13 MARCH 2018**

Present: Councillor R Chambers (Chairman)
Councillors G Barker, J Davey and A Gerard

Officers in
Attendance: A Bochel (Democratic Services Officer), E Smith (Solicitor) and A
Turner (Licensing Team Leader).

Also Present: Councillor B Light, S Barron, J Clarke, H Eden, R Garvey, R
Jones, J Rowe, P Warne

LIC43

APPLICATION FOR THE VARIATION OF A PREMISES LICENCE

The Chairman introduced members of the panel to the applicants and public speakers.

The procedure for determining an application for the variation of a premises licence was read to the applicants.

The Licensing Team Leader read out a summary of the report.

The Chairman invited public speakers to give statements to the panel.

R Jones said he had good relations with the hotel but the change in policy was concerning. There had been a particularly loud disturbance on the previous Friday. Smoking and drinking had occurred outside the hotel and was inconsiderate to neighbours. He said his wife was disabled, which meant that they found it difficult to leave the house and lack of parking space meant that cars blocked up the street.

R Garvey said R Jones had summarised many of his points. He had already experienced disturbance from outside the hotel, including noise and debris. A change in the hotel's licencing policy would provide the potential for further future disturbance.

J Rowe said he agreed with points made by the two previous speakers. He would like to see the hotel succeed, but he had experienced disturbance over the past few nights. One particular issue would appear to be the application to serve alcohol to bona fide guests at times when the hotel was not permitted to sell alcohol to the public.

Councillor Light said she had received representations from three residents of Saffron Walden who were not in favour of varying the premises licence. It could create more potential for public nuisance and was not consistent with the quiet and tranquil atmosphere of Saffron Walden. There could also be increased

traffic problems. She welcomed a good venue in Saffron Walden but would not like to see the licence extended.

In response to a question from members, P Warne said that licensing hours were outlined within hotel operating procedures and part of this advised respect for residents. A set of housekeeping rules was a work in progress.

P Warne clarified the meaning of bona fide guests. Legally, they were defined as a guest vouched for by the resident of the hotel. The Solicitor confirmed that this was a correct legal definition of bona fide guests.

P Warne said the point of the application to vary the licence was to give residents the opportunity to come in late and have a drink with a friend, rather than with a large group of people. It would be good for the hotel to offer such a facility.

In response to a question from members, P Warne said Greene King was the owner of the Saffron Hotel, but Messrs Clarke and Eden managed the property on a day to day basis.

Members emphasised that public safety and the potential for public nuisance were very important.

Members and P Warne, on behalf of the applicant, agreed to amend the proposed application to ensure that only hotel residents could purchase alcohol outside of ordinary hours, although their bona fide guests would still be able to consume the alcohol that residents bought for them.

On behalf of the applicant, P Warne proposed that a new condition be added to the application which would ensure that the Saffron Hotel created a Dispersal Management Policy.

At 12.10, the Committee adjourned so applicant could draft proposed changes to the application. At 12:30 the Committee returned.

At 12:32, the Committee retired to make its decision. At 12:50, the Committee returned.

Decision:

The application before the Panel today is for a variation in the terms of the premises licence of the Saffron Hotel extending the non-standard timings for the sale of alcohol to permit hotel residents and their bona fide guests to purchase and consume alcohol at times other than when the premises is licensed to sell alcohol to the general public, currently 12.00noon to 1.00 AM, the premises remaining open till 1.30AM. It is stated clearly within the application that the cost of the alcohol must be debited to the resident's room account.

The application has been served upon the statutory bodies none of which have any comments. However, representations have been received from eight interested parties raising concerns based upon licensing objective number three, namely the prevention of public nuisance, especially noise nuisance, should residents step outside onto the pavement to take the air.

We have had sight of a detailed report and have considered the extensive background papers, including:-

- Variation application form (Appendix A)
- Current premises licence (Appendix B)
- Plan of premises (Appendix C)
- Location map of premises (Appendix D)
- Representations from interested parties (Appendix E)

We have also been provided with some supplementary documentation this morning, including a copy of a letter written by Greene King's solicitors to the interested parties.

In carrying out the statutory function, the Licensing Authority must promote the licensing objectives as set out in the 2003 Act, namely:-

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm

The decisions that are available to this Committee are to

- Grant the application
- Modify the application by inserting conditions
- Reject the whole or part of the application

When determining an application due regard should be given to the Council's licensing policy and to guidance issued by the Secretary of State under the Act. UDC's policy provides as follows:-

5.1 Licensed premises have a significant potential to adversely impact on communities through public nuisances that might arise from their operation. The Licensing Authority wishes to proactively maintain and protect the amenity of residents and other businesses from the potential consequence of the operation of licensed premises whilst recognising the valuable cultural, social and business importance that such premises provide.

5.2 The Licensing Authority intends to interpret "public nuisance" in its widest sense, and takes it to include such issues as noise, light, odour, litter and anti-social behaviour, where these matters impact on those living, working or otherwise engaged in normal activity in an area.

5.3 Applicants need to be clear that the Licensing Authority may apply stricter conditions, including controls on licensing hours, where licensed premises are in or near residential areas and where relevant representations have been received. Conversely, premises which can demonstrate that they have effective

controls and measures in place or proposed to prevent public nuisance, may be suitable for 24-hour opening.

5.6 If representations are made applicants will be expected to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to prevent public nuisance, relevant to the individual style and characteristics of their premises and events.

5.7 When addressing the issue of prevention of public nuisance, the applicant should consider those factors that impact on the likelihood of public nuisance. These may include:

the location of premises and proximity to residential and other noise sensitive premises, such as hospitals, hospices and places of worship

the hours during which the licensable activities will be carried out particularly between 23.00 and 07.00

A “wind down period” between the end of the licensable activities and closure of the premises the nature of activities to be provided, including whether those activities are of a temporary or permanent nature and whether they are to be held inside or outside premises

the design and layout of premises and in particular the presence of noise limiting features

the occupancy capacity of the premises

the availability of public transport

A last admission time

The relevant sections of the guidance issued by the Secretary of State are:-

2.7 It will normally be the responsibility of the premises licence holder as an employee, and not the licensing authority, to ensure that the managers appointed at the premises are competent and appropriately trained. However, licensing authorities must ensure that they do not stray outside their powers and duties under the 2003 Act. This is important to ensure the portability of the personal licence and the offences set out in the 2003 Act and to ensure, for example, that the prevention of disorder is in sharp focus for all managers, licence holders and clubs.

2.19 Public nuisance is given a statutory meaning in many pieces of legislation. It is however not narrowly defined in the 2003 Act and retains its broad common law meaning. It is important to remember that the prevention of public nuisance could therefore include low-level nuisance, perhaps affecting a few people living locally, as well as major disturbance affecting the whole community. It may also include in appropriate circumstances the reduction of the living and working amenity and environment of other persons living and working in the area of the licensed premises. Public nuisance may also arise as a result of the adverse effects of artificial light, dust, odour and insects or where its effect is prejudicial to health.

2.20 Conditions relating to noise nuisance will usually concern steps appropriate to control the levels of noise emanating from the premises. This might be achieved by a simple measure such as ensuring that doors and windows are kept closed after a particular time, or more sophisticated

measures like the installation of acoustic curtains or rubber speaker mounts. Any conditions appropriate to promote the prevention of public nuisance should be tailored to the type, nature and characteristics of specific premises. Licensing authorities should be aware of the need to avoid inappropriate or disproportionate measures that could deter events that are valuable to the community, such as live music. Noise limiters, for example, are very expensive to purchase and install and are likely to be a considerable burden on smaller venues.

2.22 Where applications have given rise to representations, any appropriate conditions should normally focus on the most sensitive periods. For example, music noise from premises usually occurs from mid-evening until either late-evening or early morning when residents in adjacent properties may be attempting to go to sleep or are sleeping. In certain circumstances, conditions relating to noise immediately surrounding the premises may also prove appropriate to address and disturbance anticipated as customers enter and leave.

2.24 Beyond the immediate area surrounding the premises, these are matters for the personal responsibility of individuals under the law. An individual who engages in anti-social behaviour is accountable in their own right. However, it would be perfectly reasonable for a licensing authority to impose a condition, following relevant representations, that requires the licence holder or club to place signs at the exits from the building encouraging patrons to be quiet until they leave the area and to respect the rights of people living nearby to a peaceful night.

16 If the Committee in their discretion wishes to impose conditions, the only conditions that can be imposed are those that are appropriate and proportionate to promote the licensing objective relative to the presentations received. Equally, the Committee cannot impose conditions that duplicate the effect of existing legislation.

We have heard from Mr Warne on behalf of Greene King Ltd and from the tenants of the premises, Messrs Clarke and Eden. We have also heard from Cllr Light and from Messrs Jones, Garvie and Rowe who are local residents. There was some dialogue during the course of the hearing before us and the applicant has amended the proposed condition to read as follows:-

“Hotel residents will be able to purchase alcohol and they and their bona fide guests will be able to consume alcohol on the premises during times outside of the ordinary hours for sale of alcohol on the basis that payment for any alcohol is debited to the room number if a guest residing there and paid as part of their bill on checkout”

The applicant has also agreed to submit to a further condition, and this will read as follows:-

“A Dispersal Management Policy (“the Policy”) will be drawn up and implemented. The Policy will cover the following:-

Dispersal from the hotel entrance onto the High Street
House rules for residents and their bona fide guests.
Ensuring bona fide guests are vouched for by a resident.
A complaints system is implemented for neighbours.

The Policy will be available for inspection by responsible authorities and will be revisited and amended from time to time in accordance with best practice: it will further be open to review by the responsible authorities if necessary”

On the basis of these amended and additional conditions, the application is granted.