

**DEVELOPMENT CONTROL AND LICENSING COMMITTEE HELD AT
7.30 PM AT COUNCIL OFFICES LONDON ROAD SAFFRON WALDEN
ON 20 MARCH 2002**

Present:- Councillor R B Tyler – Chairman.
Councillors E C Abrahams, Mrs C A Cant, P G F Lewis,
D M Miller and A R Thawley.

Officers in attendance:- Miss J Harrison, Mrs C Roberts, R Secker and
G Smith.

DCL143 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors R A E Clifford, Mrs
C M Dean and R D Green.

DCL144 DECLARATIONS OF INTEREST

Councillor A R Thawley declared a non-pecuniary interest in item number 5
on the agenda, the application for a full annual music and dancing licence at
Temple Buildings, Braintree Road, Felsted, insofar as he was a member of
the Felsted Parish Council. The Legal Officer advised the meeting that the
Parish Council was objecting to the Application and it was necessary to
approach hearings with a completely open mind.

DCL145 MINUTES

The Minutes of the meeting of the Development Control and Licensing
Committee held on 16 January 2002 were agreed as a correct record and
signed.

DCL146 BUSINESS ARISING

**Minute DCL101 – Change of Licensing Conditions for Private Hire
Vehicles**

The meeting was informed that the wording of the Licensing condition to allow
the use of left hand drive stretch limousines had been settled and the first
application was being processed.

**DCL147 RENEWAL OF A FULL ANNUAL MUSIC AND DANCING LICENCE – THE
QUEENS HEAD INN LITTLEBURY**

Members were advised that Mr Martin Housden, the Landlord of the Queens
Head in Littlebury, had applied to renew a full annual weekday public
entertainment licence. He had also requested a variation in the conditions to
permit three outside events per month and extend the hours from 7.30 to
11.00 pm.

Objections had been received from Littlebury Parish Council, three neighbouring residents and Councillor Mrs J E Menell. A note of objection had also been received from Penny Hubbard. The main reason for the objections was concern about noise nuisance to surrounding neighbours. Mr and Mrs Tipton, Mr Rust, Dr Sanders and Councillor Mrs Menell, attended the meeting and objected to the application.

The Applicant was unable to be present and in his absence the Head of Environmental Services outlined his application. Members were informed that in a further note the Applicant had changed his request from three to two outside events per month. The Applicant had submitted 30 signatures from residents of 18 properties in Littlebury and a letter of support from Mr and Mrs L Ward, who lived in a neighbouring property to the Queens Head Inn.

In response to questions from Members the Head of Environmental Services stated that the Applicant was prepared to forego his right to hold events which do not require any licence in the garden area (events of this type could normally only be controlled by noise nuisance procedures). The Applicant had been operating the pub for the past 16 months, and musical events were less likely to occur inside the pub on Saturday nights due to the need for space because food was being served.

In response to questions from the objectors the Head of Environmental Services confirmed that he considered the suggested conditions to be more onerous than those imposed elsewhere in the District where pubs were surrounded by residential premises.

The objectors were then invited to present their cases in turn and to call witnesses.

Mr V R Rust explained that his main concern was the increase in numbers from one to two garden events per month and the time extension from 10.30 to 11.00pm. He considered two garden events per month to be unacceptable because the noise made it difficult to continue a conversation in the neighbouring gardens. He had no objection to one event per month or to playing music inside the bar.

Dr Sanders agreed with the points made by Mr Rust, adding that the noise from the music made it difficult for him to watch the bats that he looked after. He also stated that an extension in hours from 10.30 to 11.00 was unacceptable for him as a parent with young children.

Mr Tipton stated that residents had reached a compromise with the Applicant in the previous year but had been unable to do so on this occasion. His main concern was the frequency of the outside events.

Members then questioned the Objectors. Mr Rust confirmed that he had lived in premises neighbouring the Queens Head, Littlebury for 2½ years. Mr Rust and Dr Sanders also confirmed that they had no objection to one garden event a month running to 11.00 pm if the finishing time was known and adhered to. Councillor Mrs J E Menell confirmed that several events a month were acceptable if they took place in the bar.

It was noted that neither the applicant nor a representative was present to question the objectors and that there was no police representation.

The Head of Environmental Services described the process of negotiation whereby attempts had been made to reach a compromise on this occasion. Members of the Committee and the objectors were invited to question the Head of Environmental Services.

All of the objectors were given an opportunity to make a final statement. The Chairman asked each objector whether they had said all they wished to say, whether they had anything to add and whether they felt that they had had a fair hearing. All of the objectors confirmed that this was so.

DCL148 EXCLUSION OF THE PUBLIC

RESOLVED that under Section 100A(4) of the Local Government Act 1972, the public and press be excluded from the meeting on the grounds that the business to be transacted involves the likely disclosure of Exempt Information as defined in paragraphs 4 and 7 of Part 1 of the Schedule 12(A) of the Act.

The applicant's representatives and the licensing officers then left the room whilst Members considered their decision.

DCL149 RENEWAL OF A FULL ANNUAL MUSIC AND DANCING LICENCE AT THE QUEENS HEAD LITTLEBURY

The public were readmitted to the meeting. The Chairman of the Committee stated that a full debate had been held upon the matter and members had taken into consideration both the amenity of residents and the current difficulty in successfully running a village pub. The decision which was felt to be a compromise between the conflicting interests had been unanimous and was as follows:-

RESOLVED

- 1 that renewal of the licence be granted on the same terms and conditions as the previous licence except for conditions 3 and 4 which are deleted and replaced with the following conditions (with consequential renumbering of original conditions 5 to 11 inclusive):-

Condition 3 A maximum of three events in any one calendar month from 7.30 pm to 11.00 pm.

Condition 4 No events are to take place outside/in the garden other than a maximum of three events in any period of two calendar months from April to

September

Condition 5 Events that take place outside/in the garden must not take place in consecutive weeks.

- 2 that Councillor P G F Lewis and in his absence Councillor D Miller be nominated to give evidence on behalf of the Committee in the event of the applicant appealing against a decision of the Committee.

DCL150

APPLICATION FOR FULL ANNUAL MUSIC AND DANCING LICENCE AT “RAJMAHAL” INDIAN RESTAURANT TEMPLE BUILDINGS BRAINTREE ROAD FELSTED

Councillor Thawley declared a non-pecuniary interest in this application, in his capacity as a member of the Felsted Parish Council. He left the room and took no further part in the hearing or in the discussions and the vote thereon.

Councillor R B Tyler informed the meeting that he would be handing over the chair to Councillor P G F Lewis, the Vice Chairman, for the remainder of the meeting. He left the room and took no further part in the hearing or in the discussions and the vote thereon.

The Head of Environmental Services informed the meeting that in this case an allegation had been made that the relevant notice advertising the application had not been displayed for the full period of 28 days. The requirement to display the notice was imposed by the Uttlesford District Council, not a statutory requirement. Members decision in respect of the matter might be open to challenge if the notice had not been displayed for the required period and someone, who was not aware of the Application, had been prejudiced by this. The Applicant’s Solicitors had lodged a certificate confirming that the relevant notice had been displayed for the requisite period. The Council had also received a substantial number of objections, which indicated that the Application had been widely publicised. In the circumstances Officers felt that it was reasonable for Members to rely on the certificate that had been lodged by the Applicant’s Solicitors.

In answer to a question from his representative, Mr Miah confirmed that the notice had been on display for the full 28 days.

The Committee then considered the application by Mr Miah for a full annual weekday public entertainment licence on Wednesday, Friday and Saturday evenings between the hours of 6.00 pm and 11.00 pm at “Rajmahal” Indian Restaurant, Temple Buildings, Braintree Road, Felsted. Objections had been received from local residents, Felsted Parish Council, Essex Police and the local Environmental Health Officer.

The applicant was represented by Ms Bustani of Counsel who addressed the Committee and called Mr Miah to explain the type of entertainment contemplated and the positioning of the music and amplification equipment.

Members of the Committee questioned the applicant about the nature of Indian classical music and its volume. Mr Miah assured the Committee that

he did not plan to have speakers in the front of the building and that concerts of the Elvis look-alike variety would not be a regular occurrence. The objectors were invited to question the applicant and Mr Child asked about an advertisement for a concert on 18 April which did not appear to relate to Indian classical music. Mr Miah confirmed that the advertisement related to the opening ceremony in which Elvis Presley type music would be played.

The objectors were then invited to present their case. Mr Child said that no notice had been displayed on the door on 3 January and 5 January. He also pointed out the proximity of the almshouses, the residents of which were in the main between 85 and 90 years of age and were not used to Indian music. He pointed out that two of the almshouses backed onto the boundary wall of the restaurant and expressed the fear that on a hot summer evening windows would be open emitting noise.

Objectors were then questioned by Members of the Committee and the Applicant's representative about the layout of the area surrounding the restaurant and whether any complaints had been made, the answer to which was none.

Mr Clark, the Clerk of Felsted Parish Council, was then invited to present his objections. He said that a limit of 6.00 pm had been imposed as a condition when the Felsted School made an application to use the premises as a music room. He explained that the Parish Council was concerned about ongoing uncontrolled music in the wrong place and about adverts placed on a listed building for an Elvis-look-alike concert before even then licence was granted. Members of the Committee and the applicant's representative were the invited to question Mr Clark.

Mr Sparrow, the Police Licensing Officer, was invited to present his case. He informed the meeting that the Police were concerned about a possible increase in noise nuisance complaints if the Licence were granted. The Police were also concerned that noise might disturb the residents of the almshouses and they considered this to be unacceptable. In response to questions from Members and the Applicant's representative Mr Sparrow confirmed that the Police had not been called out to investigate any noise nuisance complaints. He went on to say that there was a local feeling that the restaurant was not desirable for the Felsted area and the Police view reflected public opinion.

The Principal Environmental Health Officer was invited to give evidence. He said that the Council's Environmental Services Department was concerned about the potential for escalation in the noise levels of the music and that the conditions that he was recommending were intended to control the noise at a level set by agreement with the District Council's Environmental Services Officers. He gave details of the noise control device, which cuts off the power supply if the noise exceeds a preset level. Objectors were given an opportunity of questioning the Principal Environmental Health Officer.

Objectors were then invited to make a final statement following which they were asked whether they had said everything that they wanted to say, whether they had anything to add and whether they felt that they had had a fair hearing. The Objectors gave an affirmative answer to all three questions.

The Applicant's representative made a final statement on his behalf following which she confirmed that she had said everything she wished to say, she had nothing further to add and that she considered Mr Miah had had a fair hearing.

DCL151 EXCLUSION OF THE PUBLIC

RESOLVED that under Section 100A(4) of the Local Government Act 1972, the public be excluded from the meeting for the following item of business on the grounds that it involved the likely disclosure of exempt information as defined in paragraphs 4 and 7 of Part 1 of Schedule 12A of the Act.

The applicant, his representative, the objectors and the licensing officers then left the room whilst Members considered their decision.

DCL152 APPLICATION FOR FULL ANNUAL MUSIC AND DANCING LICENCE AT "RAJMAHAL" INDIAN RESTAURANT TEMPLE BUILDINGS BRAINTREE ROAD FELSTED – DECISION

The public were readmitted to the meeting.

The Acting Chairman of the Committee, Councillor P G F Lewis, explained that the Committee had taken into consideration the representations made by the Applicant and his representative, the Police representative and the objectors and had decided to grant the application subject to conditions which the Committee felt would control the potential for noise nuisance having regard to the Committee's concern about the potential effect upon the almshouses.

RESOLVED that

- 1 the Application be granted for a licence between the hours of 6.00 pm and 11.00 pm on Wednesday, Friday and Saturday nights subject to conditions that:-
 - (a) An appropriate noise control device must be used for any amplified sound. The device must be set so that the volume of any amplified sound emanating from the premises does not cause a nuisance to the occupiers of any noise sensitive premises. The device must be installed and set at a level agreed with the local authority before any functions are held.
 - (b) Windows and doors, other than those required for the public to enter or exit the premises, shall be kept closed at all times that entertainment permitted by this licence is provided.
 - (c) A prominent notice shall be displayed at the exits from the premises requesting customers to leave the premises quietly.

- 2 that Councillor P G F Lewis and in his absence Councillor Mrs Cant be nominated to give evidence on behalf of the Committee in the event of the Applicant appealing against the Committee's decision.

The meeting ended at 9.35 pm.