

**LICENSING COMMITTEE HELD AT 6.30 PM AT COUNCIL OFFICES
LONDON ROAD SAFFRON WALDEN ON 14 JULY 2005**

Present:- Councillor V J T Lelliott– Chairman
Councillors H D Baker, J P Murphy.

Also present Councillor C A Bayley.

Officers in attendance: - V Borges, M Hardy, A Lee-Moore, M Perry and
A Turner.

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**TO CONSIDER AN APPLICATION FOR A PRIVATE HIRE DRIVER'S
LICENCE**

(This matter was considered in the absence of the press and public because some of the information considered was prohibited from being published by the combined effect of section 100A subsection 2 of the Local Government Act 1972 and the Data Protection Act 1998)

The Committee considered an application for a Private Hire Driver's Licence referred to it because of information recently made available to the Council and to the Driver, which was confidential information as set out above. The Council's Legal Officer had referred the application to the Licensing Committee and a report had been circulated prior to the meeting.

The Chairman welcomed the Driver and explained the procedure to be followed.

The Council's Licensing Officer circulated further confidential written information at the meeting and explained the reasons for the matter being placed before the Licensing Committee. The Driver confirmed that he understood the Licensing Officer's report and did not wish to ask any questions about it.

In answer to questions from Members the Driver confirmed that the Licensing Officer's report was accurate, and gave a detailed account of his personal circumstances, what he knew about the circumstances referred to in the further confidential information, an explanation of events at the time, the advice he had received then, and the domestic situation at the time and since.

The Applicant was invited to make a final statement and did so. Members were made aware of the Driver's long good driving record and of his cooperation with his application.

The Applicant and the Licensing Officers then left the meeting and the Committee considered its decision. They were later re-admitted and informed of the decision

RESOLVED that the Committee is satisfied that the Applicant remains a fit and proper person to hold a private hire vehicle driver's licence and that no action should therefore be taken with regard to revocation or suspension of his licence.

36 **APPLICATION TO CONVERT EXISTING PREMISES LICENSE UNDER THE LICENSING ACT 2003 AND SIMULTANEOUSLY VARY THE LICENCE AT THE STAR INN, MILL END, THAXTED**

Members considered the report of the Licensing Officer for an application to convert the existing premises license under the Licensing act 2003 and simultaneously to vary the licence. The variations applied for related to the extension of hours and the addition of various forms of regulated entertainment outlined below. Representations were received from Essex Police, the Principle Environmental Health Officer and local residents, which were based on the grounds that crime and disorder may result and that a public nuisance may be caused by noise emitted from the premises.

Following those representations and in consultation with Essex Police the applicant had revised their original request and now requested that the following regulated entertainment be included in the licence:

1. Live music to be confined to inside the premises from 20.00 hours to 22.30 hours on Sundays with an hour extension if Christmas Eve fell on a Sunday.
2. Recorded music (indoors) from 11:00 to 00:00 on Monday - Thursday, 11:00 to 00:30 on Fridays and Saturdays, 11:00 to 00:00 on Sundays.
3. Karaoke on alternate Sundays between the hours of 20:00 – 22:30, with an hour extension if Christmas Eve falls on a Sunday.

The supply of alcohol from 11.00 hours to 00.00 Mondays – Thursdays, 11.00 hours to 12.30 hours on Fridays and Saturdays and 11.00 hours to 00.00 hours on Sundays with an hour extension for non-standard timings and if Christmas Eve falls between a Sunday and a Thursday.

The hours the premise would be open to the public would be from 11.00 hours to 01.00 hours Mondays to Thursdays, 11.00 hours to 01.30 hours Fridays and Saturdays and 11.00 to 01.00 on Sundays with an hour extension for non-standard timings if Christmas Eve fell between Sunday and a Thursday.

The Council's Legal Officer described the procedure to be adopted and guidance notes were circulated at the meeting.

The applicant Adnams Brewery was represented by Jeff Lewis the Adnams PLC Southwold Tied Estate Manager.

The local residents were represented by Mr J Park and Mrs K Park who were present. The Environmental Health Officer was also present.

The Licensing Officer presented his report and explained the details of the application. He stated that during the 10 day processing period the Environmental Health Officer and the applicant had agreed to insert the following conditions within the premise license:

- a. Prominent and clear notices will be displayed at all exits requesting Customers to respect the needs of local residents and the leave the premises and the area quietly. Staff to ensure customers leave quickly and quietly.
- b. No drinking shall be permitted outside the public house, other than in the external seating area between the hours of 11:00 to 23:00.
- c. A designated premises supervisor shall regularly assess the noise from the premises during live entertainment events, karaoke events and, whilst background music is being played. Steps shall be taken to reduce the level of noise where it is likely to cause disturbance to local residents. A logbook shall be kept with records of any complaints and the remedial action taken.
- d. The external door at the front of the premises shall be kept closed other than for access and egress whilst live entertainment and karaoke events are taking place. All ground floor front and side windows shall be kept closed for a minimum of the last 30 minutes of these events.

The Councils Legal Officer informed the Committee that condition b was not correct and needed to be amended to read

- b. No drinking shall be permitted outside the public hose, other than in the external seating area and in any event between the hours of 23:00 and 11:00.

The Chairman invited the Environmental Health Officer to speak. She explained that the pub was situated in the middle of a residential area and was surrounded on all four sides by private dwellings. She explained that in the past they had received complaints about amplified music and when people left the pub. However there had been no complaints recently. She explained the recommended conditions, which would act as a control to the variations of the license and impose responsibilities on the landlord. The Councils Legal Officer informed Mr and Mrs Park that if the landlord were to breach the conditions the licence could be reviewed and he could eventually have his license revoked.

The Chairman then invited Mr J Park to speak. He explained that both Mrs Park and himself were representing the surrounding residents who had some concerns. He questioned the reasonableness of the notification of the change of the license in the press and notification on the building. He then informed Members of the situation of the pub and explained that the narrow streets acted as a funnel for the sound from the pub. He said that the landlord had tried soundproofing but despite his efforts in the summer customers would sit outside and the doors and windows would be open, which had been creating a lot of noise and was causing a nuisance.

The Councils Legal Officer responded to Mr Park's question of reasonableness and informed the Committee that the legislation did not provide a definition of the type of local newspaper paper in which notification

should be given. He explained that notification had been provided in the Braintree and Witham Times, which was circulated to Dunmow and surrounding areas of Thaxted and this was in compliance with the legislative requirements. He said that the display of the notice in the pub window again complied with the regulations.

He added that if they experienced any nuisance they should report it to the Environmental Health Officer and if the problems continued after the new license became effective they could then apply for a review of the license. Councillor Murphy asked Mr Park if he was able to suggest any conditions to limit the noise nuisance. Mr Park informed the Committee that there were no conditions that he could suggest. He said that they only sought to ensure that the local residents concerns were considered.

Mr Lewis then presented the case for the applicant. He detailed the variations and explained that they did not represent a significant change to current activities at the premises and believed that they were all reasonable requests. He said that as a brewery they were constantly looking at ways to ensure the tenants followed all conditions, he explained that a designated premises supervisor was a key way to ensure the conditions would be met. He added that the tenants were self-employed and under the new Act the brewery would have more powers to penalise the tenant if conditions were not met.

He added that the pub was well managed and that there was no history of nuisance disturbances and they had not received directly any noise complaints.

The Members and the representatives then asked questions of Mr Jeff's.

In response to a question from Councillor Murphy, Mr Lewis explained that they had either live music or karaoke on alternate Sundays and that they would not be altering this. He also confirmed that on the other days of the week there would only be amplified background music.

Mr Park explained that in the past when he had complained directly to the landlord he had been met with abuse and the volume of the music would be increased. In response the Councils Legal Officer reiterated that any complaints should be made to Environmental Health. Mr Lewis provided Mr Park with a telephone number to use if he had a complaint to make.

The Environmental Health Officer then reiterated the comments and the agreed conditions detailed above. She also explained that when a complaint was received they dealt directly with the landlord and not the brewery.

The applicant made a final statement stressing that the brewery aimed to give greater freedom to meet customer's expectations, which was the principal aim of the Licensing Act.

whilst the Committee considered their decision on the ground that it was in the public interest so to do to permit a free and frank exchange of views between Members.

The applicant, representatives, Environmental Health Officer and the Licensing Officers then left the meeting to enable Members to consider their decision.

38 **APPLICATION TO CONVERT EXISTING PREMISES LICENSE UNDER THE LICENSING ACT 2003 AND SIMULTANEOUSLY VARY THE LICENCE AT THE STAR INN, MILL END, THAXTED**

The public were readmitted to the meeting

RESOLVED that the Committee are satisfied that the conditions contained in the operating schedule as amended by the conditions agreed with the Police and the Council's Environmental Health Department together with the amendment of condition b discussed during the hearing are sufficient to meet the licensing objectives.

The Committee therefore granted the license subject to the conditions referred to in the Officers report and the conditions agreed with the Police and the Environmental Health Officer as amended.

The applicant and the objector were advised of the right to appeal and Councillor Baker was appointed to represent the Council at any appeal hearing.

39 **APPLICATION TO CONVERT EXISTING PREMISES LICENSE UNDER THE LICENSING ACT 2003 AND SIMULTANEOUSLY VARY THE LICENCE AT THE ROSE AND CROWN PUBLIC HOUSE, CROWN HILL, ASHDON**

Members considered the report of the Licensing Officer for an application to convert the existing premises licence under the Licensing act 2003 and simultaneously to vary the licence. The variations applied for related to the extension of hours for the sale of alcohol, the inclusion of late night refreshment and the addition of various forms of regulated entertainment. The only representation received related to the possible cause of public nuisance only.

The applicant Punch Taverns Plc was represented by Tom Henderson of counsel who was present along with the Council's Environmental Health Officer.

The applicant had requested the following regulated entertainment be included in the licence:

1. Live music (indoors) from 11:00hrs to 23:00hrs Monday to Wednesdays, 11:00hrs to 00:00hrs Thursdays, 11:00hrs to 01:30hrs Fridays and Saturdays, and 12:00hrs to 22:30hrs on Sundays.

Not more than 2 entertainers will perform amplified and/or unamplified music. Bank holiday and Christmas Eve extensions of 1 hour on the above finishing times.

2. Recorded music (indoors) from 11:00hrs to 23:00hrs Monday to Wednesdays, 11:00hrs to 00:00hrs on Thursdays, 11:00hrs to 01:30hrs Fridays and Saturdays and 12:00hrs to 22:30hrs on Sundays. Bank holiday Christmas Eve extensions of 1 hour on the above finishing times.

The hours that the premises would be open to the public would be 11:00hrs to 23:30hrs Monday to Wednesdays, 11:00hrs to 00:30hrs Thursdays, 11:00hrs to 02:00hrs Fridays and Saturdays, and 12:00hrs to 23:00hrs Sunday. Extension of 1 hour on the above finishing times for Bank Holidays plus Christmas Eve.

The Licensing Officer reported that a representation had been made by the Council's Environmental Health Department on the grounds of public nuisance. He explained that they were concerned that the applicants operating schedule failed to demonstrate that suitable and sufficient measures had been identified and would be implemented and maintained to ensure noise from live and amplified music along with late noise from customers would not disturb nearby residents. He said that in the applicants operating schedule they had indicated that they would take the following steps to promote the prevention of public nuisance as defined in the Licensing Act 2003 objectives:

- a. All the windows are lockable is required,
- b. The fabric of the building retains sound,
- c. Customers to be requested to leave the premises quietly,
- d. A kitchen extractor system is installed in the premises.

However discussions had been held with the applicant and he had agreed to insert the following conditions within the licence:

1. Amplified sound from the licensed premises shall not be clearly audible at the boundary of any noise sensitive premises so as to cause a nuisance.
2. The garden area shall not be used by customers between the hours of 23:30hrs and 07:00hrs.
3. Clear and prominent notices shall be displayed within the car park requesting the public to leave the premises and area quietly.

The Chairman asked the Environmental Health Officer if they wished to impose any further objections. The Environmental Health Officer confirmed that this condition satisfied the representation. Therefore as there were no further outstanding objections the Committee had no discretion other than to resolve to grant the license. The Committee so resolved.

The meeting ended at 8:30