

**LICENSING COMMITTEE held at 10.00 am at COUNCIL OFFICES
LONDON ROAD SAFFRON WALDEN on 9 SEPTEMBER 2005**

Present:- Councillor J I Loughlin – Chairman
Councillors C A Bayley, R F Freeman and E W Hicks

Officers in attendance:- W Cockerell, M Hardy, J Jones, C Nicholson and P
Snow

L66

**APPLICATION TO CONVERT THE EXISTING PREMISES LICENCE
UNDER THE LICENSING ACT 2003 AND SIMULTANEOUSLY TO VARY
THE LICENCE AT THE CROSS KEYS HOTEL HIGH STREET SAFFRON
WALDEN**

The Council's Legal Officer outlined the procedure for the hearing and drew attention to the opportunities for all parties to have their say and to ask questions. She said that all representations would be taken into account and if any party was aggrieved by the decision they could appeal to the magistrates court within 21 days.

A number of people who had made written representations were in attendance and indicated that they wished to speak. They were as follows:

Mr Gerald Lucy
Mrs Ruth Lucy
Mrs Janet Noble

The following additional activities were included in the licence application:

- a) Live music as currently permitted by their Music and Dancing Licence but to extend the hours as indicated

Sundays – Thursdays 7am – 1am
Fridays – Saturdays 7am – 2am

For the non standard timings on the Saints Days an extra hour is sought provided that 7 days notice has been given to the Chief Officer of Police and no objections have been made.

On all Bank Holidays, Maundy Thursday and Christmas Eve again an extra hour is sought. Where international, national and local events take place which are significant then an extra hour is sought provided that 14 days notice has been given to the Chief Officer of Police and no objections have been made.

- b) For amplified recorded music of all descriptions then the hours and non-standard timings with seasonal variations are identical to paragraph (a) above.
- c) For anything of a similar description to that mentioned in paragraphs (a) and (b) above then the hours and non-standard timings with seasonal variations are identical to that as previously stated. All of

these types of licensable activity will be confined to inside the premises.

- d) The provision of facilities for dancing then the hours and non-standard timings with seasonal variations are identical to those contained in paragraph (a) above. This licensable activity will be confined to inside the premises.

- e) For late night refreshment then the hours sought are

Sundays – Thursdays	11pm – 2am
Fridays – Saturdays	11pm – 3am

For the non standard timings on the Saints Days an extra hour is sought provided that 7 days notice has been given to the Chief Officer of Police and no objections have been made. On all Bank Holidays, Maundy Thursday and Christmas Eve an extra hour is sought. Where international, national and local events take place which are significant then an extra hour is sought provided that 7 days notice has been given to the Chief Officer of Police and no objections have been made.

- f) For the supply of alcohol for consumption either on or off the premises then the hours sought are

Sundays – Thursdays	7am – 1am
Fridays – Saturdays	7am – 2am

For the non standard timings on the Saints Days an extra hour is sought provided that 7 days notice has been given to the Chief Officer of Police and no objections have been made. On all Bank Holidays, Maundy Thursday and Christmas Eve an extra hour is sought. Where international, national and local events take place which are significant then an extra hour is sought provided that 14 days notice has been given to the Chief Officer of Police and no objections have been made.

- g) The hours which the premises are open to the public would be

Sundays – Thursdays	6am – 2am
Fridays – Saturdays	6am – 3am

For the non-standard timings and seasonal variations then the hours sought with the embedded notices to the Police are identical to that in paragraph (f) above.

Members then 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 application was made by the Spirit Group Limited who owned the premises and were acting on behalf of the licensees Christine Louise Vincent and David Allen Reynolds.

The Licensing Officer advised Members that the letter of representation from Essex Police had now been withdrawn. He said that Mr Richard Glover who

had submitted a written representation was unable to attend this hearing but had indicated that he wished his representations to be recorded.

The Principal Environmental Health Officer said that after consultation between both parties the applicant had amended the application by agreeing to the insertion of the following conditions:

- (i) Prominent and clear notices will be displayed at all exits requesting customers to leave quickly and quietly.
- (ii) No drinking to be permitted outside the premises other than in the external seating area and in no event between the hours of 11.20pm and 7.00am.
- (iii) A responsible member of staff shall regularly assess noise from the premises during amplified music events. Steps shall be taken to reduce the level of noise where it is likely to cause a disturbance to local residents.
- (iv) External doors shall be kept closed other than for access and egress whilst amplified music events are taking place.
- (v) Windows shall be kept fully closed from at least 10pm onwards whilst amplified music events are taking place.

Mr Lucy said that the Committee's decision was very important to his wife and himself and they were worried sick about the possible consequences. Their address at Barnards Court was situated at the back of the Cross Keys and he said they were unable to sleep when music events were taking place. He was concerned that music events would be increased from 2 to 26 a year and that, as a result, his family would not be able to continue their current way of life. He emphasised that it was chiefly music events that they were concerned about and questioned the need to extend the licensing hours beyond what was presently permitted. He said that they had been disturbed until 1am on the night of 28 August and again on the following night. Noise from the Cross Keys was reflected off their neighbour's gable wall and any extension to existing hours of operation was likely to cause a disturbance.

Mrs Noble expressed concerns about the use of the barn located immediately behind her property at Barnards Court, particularly the prospect that it could be converted for music and dancing events.

Mr Matthew Butt spoke on behalf of the owners and the current licensee. He said that the current licensees had been at the premises since October last year and that they had continued to run The Cross Keys with no disturbance occurring to neighbours and with infrequent live music entertainment. This was broadly in line with two entertainers in the bar as permitted under existing licensing arrangements and occasional karaoke events. There was no existing intention to extend live music events beyond current practice and it was expected there would be no significant demand for longer drinking hours and no intention to attract a different clientele to the premises. On behalf of his clients he was prepared to reduce the period known as the "winding down" time by half an hour each day.

Mr Butt said there was no history of a high volume of complaints about noise emanating from the premises and he was aware of only one such complaint since October 2004. This was in relation to a beach party and the music had been reduced in volume before the Police arrived at the premises. Conditions had been agreed with Environmental Health Officers to ensure that the disruption caused to neighbouring residents would be kept to a minimum. He said that the proposed conditions in letters submitted were broadly similar to the conditions now agreed and that these substantially met the matters raised by Mr and Mrs Lucy.

He also clarified that the barn area mentioned by Mrs Noble was not part of the licensed premises area and could not therefore be used for licensed events. A separate application would need to be made in respect of the barn before this building could be used.

Christine Vincent, one of the licensees, spoke briefly about the occasion when the Police had been called to the premises, as mentioned earlier in the meeting.

In response to a question from Councillor Bayley, Ms Vincent said that a karaoke was held every other week and a discotheque once a month. She confirmed that she had a young child who lived on the premises and that she was conscious of the need to avoid undue noise nuisance.

In response to a question from Councillor Freeman, Mr Butt repeated his offer to reduce the wind down period by half an hour each day and said that it was intended that alcohol could be served on the premises until 2am on Fridays and Saturdays. It was not the intention to open until that time regularly but it was necessary to apply for the licence on that basis so that occasional extended hours would be permitted. He said that it was unfair to speculate what would happen if a new licensee were to take over and the Committee could consider only the merits of the case based on evidence of what was happening now. The Licensing Officer confirmed that Members should examine the application strictly on its merits and were there in a quasi-judicial role to consider the facts of the case as presented.

Mrs Lucy said that she was really concerned because of her previous experience of noise emissions from the premises when music was played there whether live or recorded. She said that she had spoken to one of the Environmental Health Officers about the possibility of incorporating secondary glazing into the conditions to be agreed but this had not been included in the conditions set out in the report. She asked the applicants whether they were prepared to install additional glazing and keep the premises shut after 11.00pm. She also hoped that the applicants would accept a limit on the number of occasions when loud noise would be permitted.

Mr Butt said that the applicants would not accept the condition about glazing and that complaints about noise were a matter for the Noise Nuisance Team of the District Council to investigate. He pointed out that the new Act included a right of review which obliged the Council to review the licence granted in the event of a complaint being received and, in extreme circumstances, even revoke it. The applicants were not prepared to limit the number of occasions when music would be played.

L67

EXCLUSION OF THE PUBLIC

RESOLVED that under Regulation 14 (2) of the Licensing Act 2003 (Hearings) Regulations 2005, the press and public be excluded from the meeting whilst the Committee considered their decision on the grounds that it was in the public interest to do to permit a free and frank exchange of views between Members.

Members then left the Council Chamber to consider their decision.

L68

APPLICATION TO CONVERT THE EXISTING PREMISES LICENCE UNDER THE LICENSING ACT 2003 AND SIMULTANEOUSLY TO VARY THE LICENCE AT THE CROSS KEYS HOTEL HIGH STREET SAFFRON WALDEN

Members then returned to the Council Chamber to announce their decision.

RESOLVED that

- 1 The licence be granted subject to the conditions contained in the operating schedule and as agreed with the Principal Environmental Health Officer, and subject to the following additional conditions:
 - No use of the balcony area after 11.20pm and before 7.00am by patrons and/or staff.
 - No music to be played outside after 11.30pm.
 - In the event of ventilation being installed that it be acoustically insulated to appropriate standards.
 - The hours that the premises are open to the public be reduced by half an hour on every day.
- 2 The Committee considered that these conditions were necessary and proportionate to deal with the issues raised by the interested parties in relation to the licensing objective of prevention of public nuisance and considered that together with the matters already provided for in the application, satisfied that licensing objective; and
- 3 The decision was also in line with the Council's own licensing policy and in particular paragraphs 5.3, 5.5, 5.6 and 5.7.

The applicant and objectors were reminded of the right of appeal and Councillor Freeman was appointed to represent the Council at any appeal hearing.

In response to a question about the condition restricting the use of the balcony area after 11.20pm, the Council's Solicitor clarified that the condition could not apply to staff living at The Cross Keys and Members agreed to amend the

resolution to delete the words 'and/or staff'. The Licensing Officer confirmed that he would write to all interested parties with details of the decision made.

RESOLVED that the conditions be amended as indicated above.

L69

APPLICATION TO CONVERT THE EXISTING PREMISES LICENCE UNDER THE LICENSING ACT 2003 AND SIMULTANEOUSLY VARY THE LICENCE AT THE CROWN INN ELSENHAM

The Council's Solicitor outlined the procedure for the hearing and emphasised the opportunities for all parties to state their case and to ask questions. She said that all representations would be taken into account and if any party was aggrieved by the decision they could appeal to the magistrates court within 21 days.

The Licensing Officer then outlined the basis of the application to convert the existing premises licence under the Licensing Act 2003 and simultaneously to vary the licence. The application was made by Punch Taverns Plc on behalf of the joint licensees Eunice Avril Fisher and Avril Jeffrey Mason. They were seeking to remove the restrictions relating to permitted hours as set out in Section 60 of the Licensing Act 1964 so as to extend the sale of alcohol and to include other forms of a licensable activity. The operating schedule in the application included the following activities:

- a) Live music which would consist of not more than two entertainers with amplified or non amplified music.

Sundays – Thursdays	10am – 11.00pm
Fridays – Saturdays	10am – 12 midnight
Sundays	12 midday – 11pm

For the non-standard timings then an additional hour is sought at night for Christmas Eve and Boxing Day.

- b) For recorded music which is described as being ancillary to the sale of alcohol then the times sought are

Sundays – Thursdays	10am – 12 midnight
Fridays – Saturdays	10am – 1am

For the non-standard timings permission is being sought to mirror that as indicated at paragraph (a) above.

- c) For the provision of facilities similar to that described in paragraphs (a) and (b) above then the applicants are looking to provide karaoke sessions as follows:

Mondays – Thursdays	10am – 11pm
Fridays – Saturdays	10am – 12 midnight
Sundays	12 midday – 11pm

For the non-standard timings permission is being sought to mirror that as indicated in paragraph (a) above.

- d) For the supply of alcohol both on and off the premises the hours sought are:

Mondays – Thursdays	10am – 12 midnight
Fridays – Saturdays	10am – 1am
Sundays	12 midday – 12 midnight

For the non standard timings permission is being sought to mirror that as indicated in paragraph (a) above.

- e) The hours that the premises are to remain open are

Mondays – Thursdays	10am – 12.30am
Fridays – Saturdays	10am – 1.30am
Sundays	12 midday – 12.30am

For the non-standard timings permission is being sought to mirror that as indicated in paragraph (a) above.

The Council's Legal Officer asked for the names of those who would be speaking against the application and Mr Chris Baxter and Mr John Wayers indicated that they wished to address the Committee and ask questions.

The Principal Environmental Health Officer confirmed that the following condition had been agreed following consultation with the applicant:

“Windows to be kept closed at least from 10pm onwards, and external doors to be kept closed other than for access and egress whilst amplified music events are in progress”.

Mr Baxter said that The Crown Inn was surrounded by approximately a hundred residential properties. There had been a recent increase in anti-social behaviour including alcohol abuse and the use of foul language. His view was the level of disturbance caused had increased since the present landlords had been at the premises.

He referred to an incident last Saturday evening when there were three separate reports of disturbance in the village. These disturbances continued until at least 2.30 in the morning at the other end of the High Street where damage had been caused to flower pots and road signs. He was concerned about persistent episodes of drunkenness and anti-social behaviour in Elsenham generally and asked whether the present licensees considered whether they were responsible for their customers' actions. He sought a promise that the licensees would not seek to open the premises during the additional hours requested.

Mr Wayers said that he lived opposite The Crown Inn. He felt that the application had not been advertised sufficiently as he had seen it by accident and felt that no one else had been aware of the application at that time. He said that he had had to call the Police on at least one occasion and was unable to sleep with his windows open. He had organised a petition of local

residents and had been told by the Licensing Officer to confine this to residential properties within half a mile of The Crown Inn.

He was concerned about an increase in anti-social behaviour in the village and about the consequences for nearby residents. He said that many older people felt intimidated by these activities and he had collected many broken and unbroken glasses from residential areas surrounding the premises. He considered that there was an insufficient Police presence in Elsenham to control the incidents that were occurring on a regular basis.

Mike Taylor spoke for the applicants as Business Relations Manager for Punch Taverns Plc. He said he was aware of problems resulting from young people drinking in playing fields and other areas in Elsenham. However, The Crown Inn was a local community pub and was unconnected with these activities. It was not the intention of the licensees to utilise all of the hours requested all of the time but it was necessary for additional permitted hours to be available for use where necessary. The pub carried out a service to the community by providing bottle banks in the car park area. He felt that the description used of youthful activities in the village as "anarchy" was an exaggeration.

As far as live music entertainment was concerned there had been five events in the last sixteen months. It was intended that these would finish by 11pm on Sunday to Thursday and by 12 midnight on Friday and Saturday. There would be no change to the way the pub presently operated and it would not operate as a disco venue nor as a place for young people to drive to use as a late drinking venue.

Of approximately a hundred nearby residents, some fifty had expressed opposition to the proposed licence extension and he considered that opinion in the village was fairly evenly split. Some local residents were patrons at The Crown Inn and others clearly were not. He said that the garden would be cleared and closed by 11.30pm and that doors and windows would be closed throughout live music events, not just from 10pm as had been agreed in conjunction with Environmental Health Officers.

In response to a question from a Member, the landlady said that it was her practice to remove outside benches from the back garden to the side of the building at 9pm. Some problems had been experienced with drunken youths sitting in the garden drinking but they had not obtained their alcohol from The Crown Inn.

Mr Baxter asked for a definition of what constituted a musical event. Mr Taylor confirmed that karaoke events were covered by the application and would be subject to the same hours as any live music event.

Mr Wayers referred to benches at the front of the premises and the licensee confirmed that these had been in location for at least 26 years and were mainly used by older customers. She confirmed that only 18 year olds were served with alcohol in the premises and that youths had been prevented from entering the premises with alcohol purchased elsewhere.

L70

EXCLUSION OF THE PUBLIC

RESOLVED that under Regulation 14 (2) of the Licensing Act 2003 (Hearings) Regulations 2005, the press and public be excluded from the meeting whilst the Committee considered their decision on the grounds that it was in the public interest to do so to permit a free and frank exchange of views between Members.

Members then left the Council Chamber to consider their decision.

L71

APPLICATION TO CONVERT THE EXISTING PREMISES LICENCE UNDER THE LICENSING ACT 2003 AND SIMULTANEOUSLY VARY THE LICENCE AT THE CROWN INN ELSENHAM

Members returned to the meeting and the Chairman read out the terms of the resolution below.

RESOLVED that

- 1 The Committee had carefully considered everything it had heard and the written representations made and within the limitations of the Licensing Act 2003 considered that they would grant the licence subject to the imposition of the following conditions:
 - That all windows and doors be closed during live music
 - In the event that any ventilation system is modified it should be acoustically insulated to appropriate standards
 - No drinking shall be permitted outside the premises between the hours of 11.30pm and 7am
- 2 The Committee considered that these conditions were necessary and proportionate to deal with the issues raised by interested parties, and were within the control of the applicants in relation to the licensing objectives of public nuisance and crime and disorder and considered that together with the matters already provided for in the application satisfied these licensing objectives.

The Chairman reminded interested parties that there was a right of appeal against the licensing authority's decision and that any appeal should be submitted within 21 days of written notification of the decision. Councillor Bayley was nominated to represent the Council at any appeal hearing.

L72

APPLICATION TO CONVERT THE EXISTING PREMISES LICENCE UNDER THE LICENSING ACT 2003 AND SIMULTANEOUSLY VARY THE LICENCE AT TESCO STORES RADWINTER ROAD SAFFRON WALDEN

The Council's Legal Officer outlined the procedure to be adopted at this hearing and drew attention to the opportunities for all parties to have their say and to ask questions. One written representation had been received from a

resident in Radwinter Road but nobody was present to speak against the application at this meeting.

The Licensing Officer said that the existing licence was for the sale of alcohol for consumption off the premises with the usual statutory limitations and that the application requested that a licence be granted for off sales of alcohol for 24 hours a day during the hours when the store was open for sales to the public.

Kerry Jordan was present to represent the applicants and Paul Jocelyn the Store Manager was present to answer any relevant questions.

The applicant's representative said that the application sought to vary the licence to permit 24 hours a day sales of alcohol when the store was open to the public. She emphasised that no representations had been received from statutory bodies. She referred to Government guidance which said that hours for the sale of alcohol should match hours of opening except there were exceptional reasons why this should not be so. She referred to the security measures in place at Tesco stores and to the training procedures available to staff. She said that the company's policy was to challenge anybody who did not look 21 years old, to prove their age and identity before purchasing alcohol and that there had been no convictions in relation to sales of alcohol at the store. It was also the company's policy not to sell alcohol to people who appeared to be intoxicated and that policy was enforced through staff training.

She referred to Mr Cox's letter of representation and said that all necessary advertising requirements had been complied with. She urged Members to take into consideration that only one objection had been received and said that problems caused by drunken behaviour in Radwinter Road were unrelated to Tesco and were likely to be connected to people leaving pubs in the town centre. She referred to paragraph 1.25 of the Council's Licensing Policy and said that the control of anti-social behaviour was not relevant to the licensing function. Any increase in the number of people walking back from Tesco stores late in the evening was likely to be due to well behaved customers going to family functions.

In conclusion she referred to the wide powers for review in the legislation and the Government's guidance on the Licensing Act which said that one of the purposes of the legislation was to promote greater choice and flexibility. Tesco Stores was a responsible licence holder seeking to take advantage of the greater flexibility allowed by the Act.

In response to a question from a Member the applicant's representative clarified the company's policy on selling alcohol to customers who appeared to be under the age of 21. The Store Manager said that he had not seen anything produced by Tesco corporately to promote the new times for sale of alcohol. In response to another question, the applicant's representative said she would object to any limitation on the sale of alcohol on Friday and Saturday.

L73

EXCLUSION OF THE PUBLIC

RESOLVED that under Regulation 14 (2) of the Licensing Act 2003 (Hearings) Regulations 2005, the press and public be excluded from the meeting whilst the Committee considered their decision on the grounds that it was in the public interest to do so to permit a free and frank exchange of views between Members.

The applicant's representatives and the licensing officers then left the meeting to enable Members to consider their decision.

L74

APPLICATION TO CONVERT THE EXISTING PREMISES LICENCE UNDER THE LICENSING ACT 2003 AND SIMULTANEOUSLY VARY THE LICENCE AT TESCO STORES RADWINTER ROAD SAFFRON WALDEN

The applicant's representatives and the licensing officers returned to the meeting and the Chairman read out the terms of the resolution below.

RESOLVED that:

- 1 The Committee had carefully considered everything it had heard and the written representations received and considered they would grant the licence as applied for as all the licensing objectives had been met; and
- 2 This decision was in line with the Council's own licensing policy and the Secretary of State's guidance.

The applicant's representatives were advised of the right of appeal and Councillor Hicks was appointed to represent the Council at any appeal hearing.

Members agreed that a number of copies of the Secretary of State's guidance should be purchased for use at hearings for applications under the Licensing Act 2003.

The meeting ended at 12.30pm