

LICENSING COMMITTEE held at 10.00 am at COUNCIL OFFICES HIGH STREET GREAT DUNMOW on 15 SEPTEMBER 2005

Present:- Councillor J I Loughlin – Chairman.
Councillors E W Hicks, J P Murphy and A R Row.

Officers in attendance:- M Cox, J Jones, M Hardy and M J Perry.

L85

APPLICATION TO CONVERT THE EXISTING PREMISES LICENCE OF THE STAG PUBLIC HOUSE AT HATFIELD HEATH AND SIMULTANEOUSLY TO VARY THE LICENCE

Members considered the report of the Licensing Officer on an application to convert the existing premises licence under the Licensing Act 2003 and simultaneously vary the licence. The licence 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 as follows:-

- (a) film exhibitions to take place indoors from 11:00hrs to 00:00hrs Monday to Thursdays and 11:00hrs to 01:00hrs Friday and Saturday, and 12:00hrs to 00:00hrs on Sundays. When hours for the sale of alcohol are extended on Bank holiday weekends these hours are also extended until 02:00hrs
- (b) indoor sporting events between 11:00hrs to 00:00hrs Monday to Thursdays and 11:00hrs to 01:00hrs Friday and Saturday, and 12:00hrs to 00:00hrs on Sundays. When hours for the sale of alcohol are extended on Bank holiday weekends these hours are also extended until 02:00hrs
- (c) Live music indoors from 11:00hrs to 00:00hrs Monday to Thursdays and 11:00hrs to 01:00hrs Friday and Saturday, and 12:00hrs to 00:00hrs on Sundays. When hours for the sale of alcohol are extended on Bank holiday weekends these hours are also extended until 02:00hrs
- (d) Recorded music (indoors) 11:00hrs to 00:00hrs Monday to Thursdays and 11:00hrs to 01:00hrs Friday and Saturday, and 12:00hrs to 00:00hrs on Sundays. When hours for the sale of alcohol are extended on Bank holiday weekends these hours are also extended until 02:00hrs
- (e) For events of a similar description including Quiz nights, performance with voice amplification and comedians the hours will 11:00hrs to 00:00hrs Monday to Thursdays and 11:00hrs to 01:00hrs Friday and Saturday, and 12:00hrs to 00:00hrs on Sundays. When hours for the sale of alcohol are extended on Bank holiday weekends these hours are also extended until 02:00hrs

- (f) Provision of facilities for making music (an area set aside in the bar to accommodate musicians during their performance) hours are 11:00hrs to 00:00hrs Monday to Thursdays and 11:00hrs to 01:00hrs Friday and Saturday, and 12:00hrs to 00:00hrs on Sundays. When hours for the sale of alcohol are extended on Bank holiday weekends these hours are also extended until 02:00hrs.
- (g) Provision of facilities for dancing (an area in the bar will be set aside for customer participation) hours are 11:00hrs to 00:00hrs Monday to Thursdays and 11:00hrs to 01:00hrs Friday and Saturday, and 12:00hrs to 00:00hrs on Sundays. When hours for the sale of alcohol are extended on Bank holiday weekends these hours are also extended until 02:00hrs.

The hours that the premises would be open to the public would be 11:00hrs to 00:30hrs Mondays to Thursdays, 11:00hrs to 01:30hrs Fridays and Saturdays and 12:00hrs to 00:30hrs Sunday. Bank holiday weekends (to include Friday, Saturday, Sunday and Monday) extension until 02:00hrs. Additionally 20 times per year with 7 days notice to Police. Sporting events: unlimited occurrences, hours subject to prior written notice to police.

Representations had been received from the Uttlesford District Council's Environmental Health Section on the grounds that the premises was in a residential area and the use of the outside area after 23:00 could give rise to public nuisance. The applicant, in his operating schedule had indicated various steps that he would take to alleviate these concerns and these were set out in the report. These had been agreed by the Environmental Services Officer.

Representation had also been received from Essex County Council on the grounds of child protection. The applicant had agreed to the inclusion of the following condition "no films or videos of any description will be shown so that they can be viewed by persons under the age of any applicable BBSC/Local Authority Certification", and on that basis, the representation was withdrawn.

Representations had been received from interested parties on the grounds of noise nuisance. The representations were concerned about the extension of hours and the disturbance caused from patrons when leaving the premises. No objectors were present at the meeting.

RESOLVED that the licence be granted subject to the conditions contained in the operating schedule and amended as detailed in the officer's report.

L86

APPLICATION TO CONVERT THE EXISTING PREMISES LICENCE OF THE FARMHOUSE INN AT MONK STREET THAXTED AND SIMULTANEOUSLY TO VARY THE LICENCE

The Council's Legal Officer advised the Committee that the application had been made by a firm of solicitors acting for the licensee of the Farmhouse. Notice had been served in accordance with the statutory procedure, representations had been received and a date fixed for the hearing. The

applicant's solicitor had asked for the hearing to be deferred, as he was unable to attend on the proposed date. However, by that time, the date had been fixed and notices sent out. Members were asked to consider whether the hearing should be adjourned. However, the Council's Legal Officer advised that the convenience of the advocate was not considered by the courts to be an adequate reason for an adjournment. The Committee agreed that the hearing should continue in the absence of the applicant.

The Council's Legal Officer then outlined the procedure for the hearing. A number of people who had made written representations and had been notified of the hearing had not attended. The Committee decided to proceed in their absence and it was emphasised that Members would take all representations into account. The Council's Legal Officer asked for the names of those who would be speaking against the application. These were as follows:-

Mr L W Lappin
Mr K Symons
Mrs Thornton
Mr J D Wheeler

The 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 variation 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 as follows:-

- (a) Live music (indoors) from 11:00 hrs to 03:00 hrs Monday through to Sunday.
- (b) Recorded music (indoors) 11:00 hrs to 03:00 hrs Monday through to Sunday.
- (c) Provision of facilities for dancing (indoors) from 11:00 hrs to 03:00 hrs Monday through to Sunday.

The hours that the premises would be open to the public would be 11:00 hrs to 03:30 hrs Monday through to Sunday.

Representations had been received from Uttlesford District Council's Environmental Health Section on the grounds of public nuisance. It was concerned about the noise from live and amplified music inside, also the noise from customers leaving the premises. The applicant had included in his operating schedule an undertaking that he would ensure that all doors and windows were closed after 2300 hours. Further conditions had since been agreed with the Environmental Health Officer and could be attached to any licence that was granted. -

- (i) Prominent and clear notices will be displayed at all exits requesting customers to leave the premises and area quietly.

- (ii) Windows to the licensed area and external doors shall be kept closed other than for access and egress after 12 midnight whilst amplified music events are taking place.
- (iii) A designated premises supervisor 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 disturbance to local residents.

The Licensing Authority had received representations from interested parties on the grounds of noise nuisance. They concerned the extension of hours, noise from live or recorded music, and the disturbance caused from patrons when leaving the premises.

The Chairman then asked the objectors to address the meeting. Mr Lappin said that the condition to keep doors and windows closed was not practical, especially on a hot summer night, and it would be difficult to ask people to leave the premises quietly after they had been eating and drinking during the evening. There was no pathway or street lighting in Monk Street and the headlights of cars would shine into houses that faced onto the street. There was insufficient parking available in the premises car park, so there was likely to be an increase of on-street parking. The activities at the premises could not be controlled, as there were rarely any police patrols in the hamlet. He was not opposed to the existing activities at the premises, but objected to the 3.00pm extension.

Mr Symons referred to the extent of noise from music in the evenings and the problem of light pollution from the car park. He said this was an isolated location, where there were no CCTV or police controls. Mrs Thornton mentioned the karaoke night, which was clearly audible from her property. This was acceptable at 11.00 pm at night, but not until 3.00 am in the morning. Cars leaving the car park at 3.30 am would cause considerable disturbance to residents. Mr Wheeler added that the closed doors and windows would not stop the low frequency noise of the amplified music. He considered Monk Street to be an inappropriate place for a nightclub. There was no public transport to the hamlet, nor any taxi ranks based at Thaxted. It was therefore more likely that people would drive to the premises and this might encourage drink driving.

The Council's Legal Officer then advised the Committee of the licensing objectives, which were applicable in this case namely the prevention of crime and disorder, public safety and the prevention of public nuisance.

L87

EXCLUSION OF THE PUBLIC

RESOLVED that under Regulation 14 (2) 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 interests so to do to permit a free and frank exchange of views between Members. Members then left the Committee Room to consider their decision.

Members then returned to the Committee Room as the applicant had arrived at the meeting. The Council's Legal Officer said that he would summarise the concerns of the interested parties then ask the applicant to reply to the points raised. The applicant explained that his solicitor had been unable to attend the hearing. His solicitor had informed him that the hearing was at the Council Offices and he had attended at Saffron Walden in error. The Council's Legal Officer explained the Committee's decision to proceed with the hearing.

The applicant then replied to the objectors' comments. He did not consider that the extended hours would necessarily lead to drink driving. There had been no complaints, at any time, since he had been at the premises, apart from a complaint from a neighbour about an obtrusive light, which had been addressed. The increased use of Folly Mill Lane was because it was a rat run to Stansted Airport, so the thirty or so extra cars would not significantly increase its use. The primary reason for the extension was for weddings and functions and people would make their own transport arrangements.

Councillor Murphy asked whether the applicant would consider a variation to the application in order to meet some of the concerns of the residents. The applicant replied that he did not propose to be regularly serving alcohol at 3.00 am. Councillor Murphy asked if he would be prepared to modify his application to reflect what he actually intended to do, but the applicant was not willing to do this without his solicitor's advice. He stressed that he had no intention of causing nuisance to the residents of Monk Street.

The Council's Legal Officer then repeated his advice in relation to the licensing objectives to be considered in relation to this application.

L88

EXCLUSION OF THE PUBLIC

RESOLVED that under Regulation 14 (2) 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 interests so to do to permit a free and frank exchange of views between Members.

Members then left the Committee Room to consider their decision.

L89

APPLICATION TO CONVERT THE EXISTING PREMISES LICENCE OF THE FARM HOUSE INN AT MONK STREET THAXTED AND SIMULTANEOUSLY TO VARY THE LICENCE

Members then returned to announce their decision.

RESOLVED that

Having heard the objections from Mr Lappin, Mr Symons, Mr & Mrs Thornton and Mr Wheeler, and having considered the written representations of Ms Bye, the occupant of the Willows, Monk Street, Mr Rickwood and Mr Skinner and having heard from the applicant, the Committee was not satisfied that the application for a variation met the

licensing objections of the prevention of crime and disorder, public safety or the prevention of public nuisance. With regard to the first two of these objectives, the Committee had received evidence that there was no public transport serving the hamlet and that there was no availability of taxis within Thaxted. The Committee took the view that the hours proposed by the applicant, which were significantly later than any approved by the Committee to date, would attract trade from across the District and beyond. The probability was that most customers would arrive and leave the premises by privately driven vehicles. There was therefore a high degree of risk that customer would drive above the legal limit contrary to the crime prevention objective and risking public safety. With regard to the prevention of public nuisance, the Committee had regard to paragraph 5 of its Licensing Policy, in particular, paragraphs 5.1, 5.3 and 5.6. Monk Street is a quiet residential area. The hours requested would lead to a public nuisance for residents by way of noise and light. The Committee was of the opinion that the proposed conditions for doors and windows to be kept closed after midnight would not be sufficient to prevent nuisance. While such a measure might reduce the impact of high frequency sound, it would do little to mitigate against low frequency bass sounds. The application, if granted, would cause an increase in vehicular traffic on the applicants' case of between 20 and 30 cars. The noise of doors opening and closing and engines being started in a quiet rural residential area at 3.30 am in the morning would be an unacceptable public nuisance. Lights from vehicles, the lighting of the premises themselves, and the lighting in the car park would also cause a nuisance to residents. The applicant stated that he did not propose operating until 3.30 am, 365 days in the year, but if the licence were granted in the terms of the application that is what he would have permission to do. Councillor Murphy asked the applicant if he would be prepared to amend the application to address the concerns of local residents and to more accurately reflect how he intended to conduct the business. In the absence of legal advice, the applicant was not prepared to do so.

The Committee had to grant the application for a conversion, which it did. By having regard to its Licensing Policy and to guidance issued by the Secretary of State and not being satisfied that three of the four licensing objectives had been met, the application for a variation was refused.

It was open to the applicant, if so advised, to make a further application for a variation, which did illustrate his proposed methods of operation. Any such application would be considered on its merits against the Council's Licensing Policy and Statutory licence in the event that representations were received from responsible authorities or interested parties.

In the event of an appeal, Councillor J I Loughlin was nominated to represent the Licensing Authority.

The meeting ended at 12.25 pm.