

**EXTRAORDINARY LICENSING COMMITTEE held at 2.30 pm at COUNCIL OFFICES LONDON ROAD SAFFRON WALDEN on 22 SEPTEMBER 2005**

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

Officers in attendance:- W Cockerell, R Dorney, M Hardy, A Lee-Moore,  
M J Perry, M T Purkiss and A Turner.

L93

**APPLICATION TO CONVERT THE EXISTING LICENCE UNDER THE LICENSING ACT 2003 AND SIMULTANEOUSLY TO VARY THE LICENCE AT THE KINGS ARMS PUBLIC HOUSE MARKET HILL SAFFRON WALDEN**

The Council's Legal Officer outlined the procedure for the hearing which would take the form of a structured discussion and drew attention to the opportunity for all parties to have their say. He then asked for the names of those who would be speaking against the application. These were as follows:- P Garland, S Palmer, A Sanders and P Sanders.

The applicants, Market Hill Taverns Ltd, were represented by Mr J Webster who was the licensee of the premises.

The Licensing Officer then outlined the report for Members. He said that the applicants were applying for a conversion with a simultaneous variation and were seeking to remove the restrictions relating to permitted hours as set out in Section 60 Licensing Act 1964, so as to extend the hours for the sale of alcohol and to include other forms of licensable activities. He explained that the applicants had applied for a licence in respect of the following at the times stated:-

- a) Live music for both indoors and outdoors  
Every day of the week 11am – 1am
- b) For recorded music of all descriptions to be confined to indoors only  
Every day of the week 11am – 1am
- c) For the provision of facilities for making music which will consist of compact discs or something similar the times sought are  
Every day of the week 11am – 1am
- d) The provision of facilities for dancing which consists of a discothèque at a dinner/dance function the times sought are  
Every day of the week 11am – 1 am
- e) For the supply of alcohol for consumption on the premises only then the hours sought are

Every day of the week 11am – 1am

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

Every day of the week 11am – 1.30am

He added that, since making the application, the applicant had offered not to have live or recorded music in the garden after 12 midnight. He explained that in their operating schedule, the applicant had indicated the measures that would be taken to promote the licensing objectives regarding the prevention of crime and disorder, public safety and the prevention of public nuisance, but said that the applicants in their operating schedule had not demonstrated how they would promote the licensing objective regarding the protection of children from harm. He concluded that if any party was aggrieved by the decision, they could appeal to the magistrates court.

The Environmental Health Officer stated that he had not been able to agree the suggested conditions with the applicant. He also pointed out that the current entertainment licence only related to the long room. He said that any amplified music outside the premises would cause disturbance to residential properties. However, if acoustic music was played up to 8.00 pm, he did not feel that this would cause a noise nuisance. In answer to a question from the Council's Legal Officer, he agreed that the term "designated premises supervisor" should be amended to "a responsible person" who would monitor noise levels. In answer to a question from Councillor Murphy, the Environmental Health Officer confirmed that there had been previous complaints concerning amplified music outside the premises.

Mr Garland said that letters of complaint had been sent on three other occasions in addition to those mentioned by the Environmental Health Officer. He said that he was speaking on behalf of ten residents and said that when he had moved into the property, six years ago, there was only occasional music outside in the patio area. These events had now increased in frequency and the music was amplified. He said that he had supplied the Environmental Health Officer with a tape recording of noise from the premises which had been taken from his home and, with the consent of the applicant, he circulated photographs taken from number 31A Church Street which showed the premises and its proximity to residential properties. He added that the hard surfaces in the patio area reflected and amplified the noise. He had tried to reach an amicable settlement with the licensee, but had not been successful in resolving the issue. He said that music in the garden from 11.00 am to midnight would be an intolerable situation. He added that there was no mention in the application of how noise levels would be controlled or what type of music was proposed. He said that he had no objection to music indoors on the hours applied for. He asked for clarification of the Environmental Health Officer's condition concerning "amplified voice", whether it was intended that music would take place in the garden every Sunday during the summer and what authority the "responsible person" would have. He also asked how usual it was for conditions not to be accepted by the applicant. In answer to a question from Councillor Murphy, Mr Garland confirmed that he had no objection to music being played within the building as long as doors and windows were kept closed.

Mr Webster, the licensee said that the Kings Arms had been a public house for five hundred years and the objections had come from houses which were only built six years ago. He said that he was surprised that the objectors had purchased these properties in the knowledge that they were in close proximity to a public house. He said that, generally, he got on well with his neighbours and was satisfied with the conditions suggested by the Environmental Health Officer and offered to restrict music in the outside area to no more than ten occasions each year of no more than four hours duration. He also gave an assurance that noise would be kept to a minimum. In response to a question from Councillor Murphy, he also confirmed that he would be satisfied with music events in the patio area finishing at no later than 20.00 hours.

Mr Garland said that one of the problems was that music events in the patio area tended to be on every Sunday during the summer months. He asked the applicant if he would turn music down if complaints were received and Mr Webster confirmed that he would do his level best to keep noise to a level which did not cause disturbance. In answer to a question from Councillor Murphy, he also confirmed that he would accept a condition that the music in the patio area should not be on any two consecutive Sundays.

Mr Sanders said that he objected to outdoor music at any time as it was not possible to lead a normal life. He also said that the past record of the applicant showed that his promises could not be relied upon. Mrs Goddard added that she had lived opposite a pub in Widdington for 12 years and no similar problems had been experienced. Mr Webster replied that a town centre pub was a very different environment to a village pub and emphasised that he only wished to have music in the patio area on a few occasions each year.

Mrs Palmer endorsed the comments which had been made by Mr Garland and said that the nature and degree of amplification had changed over the years and the close proximity of the premises to residential properties needed to be taken into account.

L94

#### **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 interest so to do to permit a free and frank exchange of views between Members.

Members then left the Council Chamber to consider their decision.

L95

#### **APPLICATION TO CONVERT THE EXISTING LICENCE UNDER THE LICENSING ACT 2003 AND SIMULTANEOUSLY TO VARY THE LICENCE AT THE KINGS ARMS PUBLIC HOUSE MARKET HILL SAFFRON WALDEN**

Members returned to the meeting. The Chairman said that the Committee had heard representations from the Environmental Health Officer and

interested parties and had also heard from the applicant. The Committee also had regard to the guidance issued by the Secretary of State and the Council's Licensing Policy. Where representations had been made, the Licensing Policy required the applicant to demonstrate that those factors that impact on the likelihood of public nuisance had been considered. Examples are given in the policy which include the location of the premises and proximity to residential properties, the nature of activities to be provided including whether they are to be held inside or outside the premises and the design and layout of premises. In particular, the presence of noise limiting features. The Kings Arms was very close to a number of residential properties. The applicant wished to provide regulated entertainment in the patio area which would include amplified music. The patio, far from having noise limiting features, was of solid construction and therefore magnified sound. The Committee was of the view that amplified sound outside of the building would cause a public nuisance. The Committee was also of the view that unrestricted regulated entertainment outside the building would cause a public nuisance. The applicant, by a letter dated 16 August 2005, had amended the application to reduce the capacity of the premises to 100 people. In order to meet the objective of the prevention of public nuisance, the Committee grant the licence on the terms set out in the application as amended with the following conditions:-

- 1 Amplified sound shall not be permitted outside the building.
- 2 Live music shall not be permitted outside the building more than 10 times in any 12 month period and for no longer than four hours in any seven day period and shall end no later than 20.00 hours and shall not take place on two consecutive Sundays.
- 3 A responsible person shall regularly assess noise from the premises during music events. Steps shall be taken to reduce the level of noise when advised to do so by an officer of the Council.

RESOLVED that the licence be granted subject to the conditions referred to above.

The Council's Legal Officer explained the right of appeal and Councillor Row was appointed to represent the Council at any appeal hearing.

#### 4 **APPLICATION TO CONVERT THE EXISTING LICENCE UNDER THE LICENSING ACT 2003 AND SIMULTANEOUSLY TO VARY THE LICENCE AT THE WHITE HART PUBLIC HOUSE STEBBING**

The Council's Legal Officer had previously outlined the procedure for the hearing. He then asked for the names of those who would be speaking against the application. These were as follows:- Mr E Towler.

The applicant, Nicholas Mark Eldred, was represented by Ms J Plumb.

The Licensing Officer then outlined the report for Members and said that the applicant was applying for a conversion with a simultaneous variation and was seeking to remove the restrictions relating to permitted hours as set out in

Section 60 Licensing Act 1964 so as to extend the hours for the sale of alcohol and to include licensable activities which had not been previously licensed. He said that the operating schedule indicated that the following activities were being applied for:-

- a) Live music which will be confined to inside the premises

Fridays – Saturdays	7pm – 11.30pm
Sundays	2pm – 7.30pm

The non-standard timings indicate that these are to be on a regular basis with an interval of approximately 6 to 7 weeks between each event.

- b) Recorded music which will be confined to inside the premises and be comprised of amplified background music

Sundays – Thursdays	10am – 12 midnight
Fridays – Saturdays	10am – 12.30am

- c) Provision of facilities for dancing which will be confined to inside the premises and be comprised of live music and background amplified music

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

For the non-standard timings the applicant is seeking to extend these times to 1am on Christmas and New Years Eve all the relevant Bank Holidays, Saints Days, Halloween and Burns night.

- d) The hours sought for the supply of alcohol for on the premises only are

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

For the non-standard timings the applicant is seeking to extend these times to 1am on Christmas and New Years Eve, all Public Holidays except when they fall on a Monday, Saints Days, Halloween, Burns night and Valentines Day.

- e) The hours the premises are to open to the public are

Mondays – Thursdays	10am – 12.30am
Fridays – Saturdays	10am – 1am
Sundays	12 midday – 12.30am

For the non-standard timings the applicant is seeking an extra 30 minutes to the above times which is described as a “wind down” period

on Christmas Eve, all Public Holidays, Saints Days, Halloween, Burns night and Valentines Day.

The Licensing Officer explained that in their operating schedule, the applicant had indicated the measures that would be taken to promote the licensing objectives regarding the prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm. He said that whilst representations had been received from the Environmental Health Officer, he understood that the applicant might be willing to accept conditions which would overcome this objection. He concluded that if any party was aggrieved by the decision, they could apply to the magistrates court.

The Environmental Health Officer said that only one complaint had been received concerning the premises in the past six years. He said that he had spoken to the licensee and discussed concerns about the prevention of public nuisance and the applicant had agreed to all conditions which had been suggested by him.

Mr Towler said that he was also speaking on behalf of Mr and Mrs Gilbert. He said that his principal concerns were about anti-social behaviour likely to follow late night closing and the noise from entertainment. He said that the High Street was almost entirely residential with very few gaps between the properties. He said that there were already problems with groups leaving the public house and waiting for taxis and lifts which was bad at 11.30pm but if this was extended to 1.30am it would be intolerable. He said that he was particularly concerned about events on Fridays and Saturdays.

He had noted the conditions in the operating schedule which were intended to minimise disturbance but could not see how the landlord could control behaviour outside the premises. He said that the proposal would change the nature of the public house to a late night entertainment centre. Secondly, he said that the door had not been closed when live entertainment had taken place and this had caused problems as he lived opposite the pub. He said that if agreement could be reached to close the door and windows it would help but there would still be problems with the noise from bass sound. In answer to a question from Councillor Row, Mr Towler said that disturbance did not happen on a regular basis and was intermittent. Councillor Murphy asked whether current problems were attributable to the public house and whether they might be connected to events at the Cricket Club which one objector had suggested caused problems. Mr Towler said that the White Hart was the only premises open late at night and the Cricket Club only had functions about once a year.

Ms Plumb then addressed the Committee on behalf of the applicant. She said that the White Hart was a community based village public house and the application was important to its viability. She considered that the application was sensible and fair and felt that the objectors did not fully understand that no major changes were intended to the running of the public house. She explained that live music had been held on seven or eight occasions each year for the past 14 years and that during the past 12 months eight live music events had been held with only two of these being in the evening. She added that there were many late night functions in the village including those at the

village halls, the Cricket Club and Priors Hall Barn. She said that the area around the public house was often used as a late night drop off point from other premises and the noise was not attributable to the use of the White Hart. She gave a reassurance that the premises would not become a late night drinking club or entertainment centre and would remain a community village pub. She added that visitors to events at the Cricket Club did cause parking problems and there had recently been a jazz band at the club which caused noise problems. In response to a question from Councillor Murphy, she said that signs were in place asking customers to leave quietly and customers were directed to the rear exit in order to reduce disturbance at night times. She also said that in the last two years noise had lessened in the village as the Saling Oak had changed ownership and the White Hart was not now used as a drop-off point. She concluded that the applicant would make best endeavours to ensure that noise was kept to a minimum and that customers used the rear door when leaving late at night.

Mr Towler asked whether doors and windows were open during music events in the summer. Ms Plumb said that these were always shut at the start of the events but customers often opened them during the evening.

**L96 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 interest so to do to permit a free and frank exchange of views between Members.

Members then left the Council Chamber to consider their decision.

**L97 APPLICATION TO CONVERT THE EXISTING LICENCE UNDER THE LICENSING ACT 2003 AND SIMULTANEOUSLY TO VARY THE LICENCE AT THE WHITE HART PUBLIC HOUSE STEBBING**

Members returned to the meeting. The Chairman said that having heard the representations from Mr Towler and Ms Plumb and having considered written representations from Mr and Mrs Kerr, Mr Stillman and Mr and Mrs Gilbert, the Committee are satisfied that the objective of preventing nuisance will be met by the conditions contained in the operating schedule with the addition of those conditions referred to in the officer's report and the Committee grant the licence subject to these conditions.

RESOLVED that the licence be granted subject to the conditions referred to above.

The Council's Legal Officer explained the right of appeal and Councillor Murphy was appointed to represent the Council at any appeal hearing.

L98

**APPLICATION TO CONVERT THE EXISTING PREMISES LICENCE UNDER THE LICENSING ACT 2003 AND SIMULTANEOUSLY TO VARY THE LICENCE AT THE HOP POLES GREAT HALLINGBURY**

The Council's Legal Officer had previously outlined the procedure for the hearing.

The Licensing Officer then outlined the report for Members. He said that the application had been made by Mr P Cullen and he explained that the applicant was applying for a conversion with a simultaneous variation. The applicant was seeking to remove the restrictions relating to permitted hours as set out in Section 60 Licensing Act 1964 so as to extend the hours for the sale of alcohol and to include licensable activities which had not been previously licensed.

He explained that the applicant had applied for a licence in respect of the following activities:

- a) Plays for both inside and outside the premises  
Every day of the week for 24 hours per day
- b) Films for both inside and outside the premises  
Every day of the week for 24 hours per day
- c) Indoor sporting events  
Every day of the week for 24 hours per day
- d) Boxing or wrestling entertainment for both inside and outside the premises  
Every day of the week for 24 hours per day
- e) Live music for both inside and outside the premises  
Every day of the week for 24 hours per day
- f) Recorded music for both inside and outside the premises  
Every day of the week for 24 hours per day
- g) Performance of dance for both inside and outside the premises  
Every day of the week for 24 hours per day
- h) Anything of a similar description to that falling within (e) (f) or (g) above for both inside and outside of the premises  
Every day of the week for 24 hours per day



- i) Provision of facilities for making music for both inside and outside the premises  
Every day of the week for 24 hours per day
- j) Provision of facilities for dancing both inside and outside the premises  
Every day of the week for 24 hours per day
- k) Provision of facilities for entertainment of a similar description to that falling within (i) or (j) above  
Every day of the week for 24 hours per day
- l) Late night refreshments for both inside and outside the premises  
Every day of the week for 24 hours per day
- m) Supply of alcohol for consumption both on and off the premises  
Every day of the week for 24 hours per day
- n) Hours premises are open to the public  
Every day of the week for 24 hours per day

He said that representations had been received from the Police and the Environmental Health Officer and from interested parties. He said that the applicant had amended the application to include a condition that no films or videos of an adult nature shall be shown on the premises

Mr Sparrow from Essex Police said that the Hop Poles was a well run country pub and had not caused problems in the past. The Police were bound to make representations as it was not suitable for all night drinking and there was no indication of how the licensing objectives regarding the prevention of crime and disorder would be met. He said that this was the only premises in the Braintree Division which had applied for 24 hour seven day drinking. He had written to the licensee informing him of the Police objections and the requirements for the prevention of crime and disorder. He had held a telephone conversation with the licensee but no written response had been received. He said that the latest hours granted in the division were 2am and these were town centre establishments with door staff, CCTV and security lighting. He did not believe this to be a serious application. The Police believed that a reasonable closing time for the Hop Poles would be 12.30am with one hour wind down period but this could be reviewed.

The Environmental Health Officer said that he had similar difficulties with the application and had concerns over the possibility of public nuisance. He said that there had been three complaints in the recent past and he suggested five conditions which would help prevent public nuisance.

Mrs S Richards then addressed the Committee, she said that four of her neighbours had been unable to attend the hearing. She said that Bedlers

Green was a very small hamlet and there had been confusion over the application as people were unsure what to do. Whilst they enjoyed having a pub in the village no one had expressed a need for longer hours or entertainment. She was concerned that if the pub changed hands things could get worse. The proposed hours of opening would also draw young people into the village and lead to drink driving. She added that it would take the Police a long time to reach the village in the event of any disturbance. There would also be an increase in the number of taxis coming to the village and noise nuisance would occur. She asked that local people should be protected from potential anti-social behaviour and asked whether the Police had resources to deal with such problems. She said that noise in the village travelled easily because of the open nature of the area but only close neighbours had been able to object. She added that there was limited parking at the public house and there had been problems with parking in the road. She endorsed the Police view that the premises did not generally cause problems but there had been problems over the recent Bank Holiday period. She also questioned whether the toilet facilities and septic tank were adequate to deal with increased number of customers. She concluded that the proposed hours would increase the risk of danger to walkers and riders in the village.

Councillor Artus spoke on behalf of Mr and Mrs Coultrup. He said that the application was disproportionate to the needs of the village and noise nuisance would increase. He said that the conditions suggested by the Environmental Health Officer would help but there would still be problems and if the application could not be rejected it should be tightly controlled.

Councillor Row asked whether the applicant had accepted the conditions suggested by the Environmental Health Officer and the Environmental Health Officer said that he understood that this was the case. Councillor Murphy asked what Police resources were available to deal with any disturbance and whether the location and proposed hours would be likely to have an impact on drink driving. Mr Sparrow confirmed that with current manning levels it would be almost impossible to deal with any disturbance at the premises within a reasonable time and agreed that the location of the premises and the proposed hours would increase the risk of drink driving.

Councillor Artus questioned whether it was intended to have just three or four events a year but Mr Cullen said that this was not his intention and that he wished to respond to requests and have many events. Mr Cullen continued that he supported the licensing objectives and he wanted the pub to succeed. He claimed that parking problems were often caused by local residents and said that the restaurant at Hatfield Forest sold twice as much alcohol as his premises and had music events where visitors parked at the Hop Poles as they had to pay for parking at Hatfield Forest. He also claimed that residents used the pub car park for their own purposes and said that his wife had been threatened. He also claimed that noise in the village was from other premises and not from the Hop Poles. He said that he would like to have more freedom over the opening hours of the public house and confirmed that it was a serious application responding to the needs of visitors. He concluded that a management plan was in place and that he regularly supervised activities.

Councillor Loughlin asked what provision would be made for the prevention of public nuisance. Mr Cullen replied that he had two staff and would call in others as required. Councillor Murphy asked whether he would be prepared to add a condition to deal with crime and disorder. Mr Cullen replied that problems were caused by youths in the village and the Police did not assist. Councillor Murphy then added that the Police had suggested 12.30am closing with a one hour wind down period and asked whether the applicant would agree to such a condition. The applicant said that he would not agree to this as he wanted to open when there was demand. Mrs Richards asked where the information had come from regarding the residents using the parking area at the pub and Mr Cullen said that this was from his own observations and he explained how he dealt with such problems. In answer to further question from Mrs Richards he said that he had been at the Hop Poles for 18 years.

Councillor Artus asked if the applicant was confusing the need for longer hours with the provision for events and Mr Cullen confirmed that he was not confused. Mr McMurdo also questioned how he would ensure that public nuisance was not caused during the early hours of the morning.

L99

#### **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 interest so to do to permit a free and frank exchange of views between Members.

Members then left the Council Chamber to consider their decision.

L100

#### **APPLICATION TO CONVERT THE EXISTING PREMISES LICENCE UNDER THE LICENSING ACT 2003 AND SIMULTANEOUSLY TO VARY THE LICENCE AT THE HOP POLES GREAT HALLINGBURY**

Members returned to the meeting. The Chairman said that the Committee had considered representations from responsible authorities and interested parties. It had also had regard to guidance issued by the Secretary of State and the Council's Licensing Policy. The Committee were satisfied that the conditions negotiated with Environmental Health met the objective of preventing public nuisance and that the condition negotiated with the Child Protection Unit met the objective of the protection of children from harm.

However, the applicant had not demonstrated in his operating schedule what steps he proposed for the prevention of crime and disorder contrary to paragraph 3.3 of the Council's Licensing Policy. The Committee accepted the evidence of Mr Sparrow that with absent provision for proper supervision, CCTV cameras and similar preventative measures, there is significant probability that if the licence is granted in the terms of the application, crime and disorder would occur. The Committee also accepted the evidence that if a 24 hours licence was granted there was a significant risk that customers using private transport would be attracted to the premises thereby increasing

the risk of drink driving contrary to both the crime and disorder and public safety objectives.

Councillor Murphy had invited the applicant to suggest amendments to the application to address the Police concerns but he had declined to do so. The Committee was therefore not satisfied that the objectives of prevention of crime and disorder and public safety had been met.

RESOLVED that the Committee grant a conversion of the licence but refuse the application for a variation.

The Council's Legal Officer explained the right of appeal and Councillor Loughlin was appointed to represent the Council at any appeal hearing.

The meeting ended at 6.10pm.