

LICENSING COMMITTEE held at 2.30pm at COUNCIL OFFICES LONDON ROAD SAFFRON WALDEN on 26 SEPTEMBER 2005

Present:- Councillor R F Freeman – Vice Chairman in the Chair
Councillors C A Bayley, R M Lemon and J P Murphy
Officers in attendance:- M Atkins, W Cockerill, M Hardy, A Lee-Moore, M J Perry, M T Purkiss and A Turner

L101

APPLICATION TO CONVERT THE EXISTING LICENCE UNDER THE LICENSING ACT 2003 AND SIMULTANEOUSLY TO VARY THE LICENCE AT THE AXE PUBLIC HOUSE ASHDON ROAD SAFFRON WALDEN

The Council's Legal Officer outlined the procedure for the hearings which would take the form of structured discussions 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 and the only speaker was Ms M Flint.

The applicants, Greene King Retailing Limited were represented by Ms Rabaiotti and the licensees Mr and Mrs Poore.

The Licensing Officer then outlined the report for Members. He said that the applicants were applying for a conversion with simultaneous variation. The existing Justices Licence allowed the sale of all intoxicating liquor of all descriptions by retail both on and off the premises within the standard hours of the Licensing Act 1964 and the premises currently held events under the two in a bar rule which would be abolished under the 2003 Act.

He explained that the applicants had applied for the following regulated entertainment to be included in a licence:

- a) Live music indoors and outdoors from 19:00 hours to 00:00 hours Mondays through to Sundays. Bank Holidays and New Years Eve from 12:00 hours until 00:00 hours.
- b) Recorded music (indoors and outdoors) from 19:00 hours to 00:00 hours Mondays through to Sundays. Bank Holidays and New Years Eve from 12:00 hours until 00:00 hours.

The hours that the premises would be open to the public would be 10:00 hours to 00:30 hours Sundays to Wednesdays, and 00:00 hours to 01:30 hours Thursday to Saturday. All Bank Holidays plus Christmas Eve to be open from 10:00 hours to 01:30 hours.

The Licensing Officer said that in their operating schedule the applicant had indicated the measures that would be taken to promote the licensing objectives regarding the prevention of public nuisance. He reported that a representation had been received from an interested party on the grounds of noise nuisance. In addition representations had been made by the Environmental Health Officer but he understood that since the report had been prepared the following conditions had been agreed between the applicant and the Environmental Health Officer:

- 1 Performance of live music and the playing of recorded music outdoors is to end at 23:00 hours
- 2 Prominent and clear notices will be displayed at all exits requesting customers to leave the premises and area quietly
- 3 A responsible member of staff shall regularly assess noise from the premises during amplified and live music events. Steps shall be taken to reduce the level of noise where it is likely to cause disturbance to local residents.

Ms Babaiotti, on behalf of the applicant, confirmed that the conditions were acceptable and had been agreed.

Ms M Flint said that she had submitted a letter of representation and was also speaking on behalf of the owner of 1a Mill Lane who had also made representations. She said that her property projected east and all windows faced southwards onto the pub and its car park. She said that she slept with the windows open and was concerned at the combined impact of noise from the Stansted flight path and the public house which would harm her amenities and quality of life. She asked whether the garden was included within the licence and said that if it was lit it would increase the level of light pollution in the area. She also questioned how the applicant would monitor the conditions relating to the prevention of public nuisance. She concluded that she was a pensioner and felt that she had a right to a full and peaceful nights sleep. In response to a question from Councillor Murphy she said that amplified voice from the premises and noise from the car park did cause some disturbance but there had been no particular problems in the past.

In response to a further question from Councillor Murphy, the Environmental Health Officer confirmed that there had been no complaints about the premises in the past and agreed that the opening of windows would have an impact on noise levels if music was being played.

Ms Rabaiotti on behalf of the applicant explained that the premises were in a residential area and its customers were drawn from that locality. She said that she had received a petition and letters of support for the application. She added that the applicant would be happy for conditions to be imposed that all doors and windows should be closed when amplified music was being played. She also confirmed that every evening a member of staff would monitor noise from the car park area. Mr Poore, the licensee, said that the Axe was not a young persons venue and the later hours being applied for would assist the current customers who often arrived at 9-9.30pm. He also confirmed that live music would not be played outside and he would be satisfied for the garden to be closed at 11pm to ensure that neighbours were not disturbed. Ms Rabaiotti concluded that this was a modest application for a public house in a residential area and the licensees respected the views of neighbours and also lived on the premises and wanted to maintain a well-run public house.

In answer to a question from Councillor Freeman the licensees confirmed that music had not been played in the patio area since they had been running the pub and they would accept a condition that the area should be closed at

11.20pm to coincide with their grandfather rights. Ms Flint confirmed that there had been no music outside of the premises during the 18 years she had lived there.

In response to questions from Councillor Lemon, the licensee confirmed that whilst there was not air-conditioning, there was an air cooler and in addition to notices customers were asked to leave the premises quietly.

L102 **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 Committee Room to consider their decision.

L103 **APPLICATION TO CONVERT THE EXISTING LICENCE UNDER THE LICENSING ACT 2003 AND SIMULTANEOUSLY TO VARY THE LICENCE AT THE AXE PUBLIC HOUSE ASHDON ROAD SAFFRON WALDEN**

Members returned to the meeting. The Chairman said that having heard from the interested party and the applicant the Committee was satisfied that the licensing objective of the prevention of public nuisance was fulfilled by the conditions contained the operating schedule modified as agreed with the Environmental Health Officer and the following conditions:

- 1 Doors and windows will be kept closed save for access and egress when live or recorded music is being performed.
- 2 A designated member of staff shall monitor the car park for congestion and noise
- 3 Drinks shall not be consumed outside the premises save for in the designated area and in no case between the hours of 23:20 – 10:00.

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

The Council's Legal Officer outlined the right of appeal and the process for the licence to be reviewed and Councillor Lemon was appointed to represent the Council at any appeal hearing.

L104 **APPLICATION TO CONVERT THE EXISTING LICENCE UNDER THE LICENSING ACT 2003 AND SIMULTANEOUSLY TO VARY THE LICENCE AT THE YEW TREE PUBLIC HOUSE MANUDEN**

The Council's Legal Officer asked for the names of those who would be speaking against the application and Ms C Parker confirmed that she would be speaking. The applicants, Greene King Retailing Limited, were represented by the licensees Mr L Ackaman and Mr T Kavanagh.

The Licensing Officer then outlined the report for Members. He said that the applicants were applying for a conversion with simultaneous variation. 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 outlined below. He said that representations had been received relating to the provision of the regulated entertainment and noise disturbance.

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

- a) Live music indoors and outdoors from 18:00 hours to 01:30 hours Fridays and Saturday evenings only. All Bank Holidays and Christmas Eve from 18:00 hours to 01:30 hours. Special occasions e.g. birthdays and weddings from 12:00 hours until 01:30 hours.
- b) Recorded music indoors and outdoors from 18:00 hours to 01:30 hours Fridays and Saturday evenings only. All Bank Holidays and Christmas Eve from 18:00 hours to 01:30 hours. Special occasions e.g. birthdays and weddings from 12:00 hours until 01:30 hours.
- c) Provision of facilities for dancing (dancing for live and recorded music) both indoors and outdoors hours are from 18:00 hours to 01:30 hours Fridays and Saturday evenings only. All Bank Holidays and Christmas Eve from 18:00 hours to 01:30 hours. Special occasions e.g. birthdays and weddings from 12:00 hours until 01:30 hours.

The hours that the premises would be open to the public would be 08:00 hours to 02:00 hours Mondays through to Sundays. With the supply of alcohol ceasing at 01:30 hours.

The following requests had been made under non-standard timings:

- All Bank Holiday and Christmas Eve from 08:00 hours to 02:00 hours
- All sporting and non-sporting events show live of local, national and international significance

The Licensing Officer said that representations had been received from the Environmental Health Officer on the grounds of public nuisance. However, since the preparation of the report the following conditions had been agreed with the applicant which would overcome this objection:

- 1 The external seating area must not be used by customers between the hours of 23:30 – 07:00
- 2 External doors and windows on the southern façade of the bar area must be kept closed, other than for access and egress, when events involving amplified sound are taking place.

- 3 All other external doors and windows of the bar area must be kept closed after 23:00, other than for access and egress, when events involving amplified sounds are taking place.
- 4 No live or recorded music is to be played in the open air (including temporary structures such as marquees and tents) other than for events with the prior approval of the Environmental Health Department.
- 5 The licence-holder or his representative shall conduct regular assessments of the noise coming from the premises on every occasion the premises are used for regulated entertainment and shall take steps to reduce the level of noise where it is likely to cause a disturbance to local residents. A written record shall be made of these checks in a log book kept for that purpose and shall include, the time and date of the checks, the person making them and the results including remedial action.
- 6 Amplified sound from the licensed premises shall not be clearly audible at the boundary of any noise sensitive premises.

He concluded that if any party was aggrieved by the decision they could appeal to the magistrates court.

Ms C Parker then addressed the Committee. She said that her property adjoined the public house and had poor insulation, as the wall was only lath and plaster. She said that she had some concerns with the existing hours but the problems would be worse with the longer hours proposed. She claimed that loud music would come directly through the wall and acknowledged that if windows and doors were kept closed this would help alleviate noise problems. She also said that there were problems when people left the pub in the early hours and vehicles were parked outside her windows with engines running. In relation to the crime and disorder objective she said that there had been damage to trees and hanging baskets at her property and litter was also a problem. In response to a question from Councillor Murphy she said that the problems of vehicles leaving their engines running was usually when music events were taking place.

Mr Kavanagh then addressed the Committee. He said that he and Mr Ackaman had been joint licensees since 15 November 2004 and said that most of the complaints related to incidents prior to this date. He said that they ran the public house responsibly and had asked taxi drivers to use the car park rather than park in the street. He said that they would reiterate this request. He said that the damage to the hanging basket was about 2-3 years ago and he said that regular checks were made around the perimeter of the building and any litter was cleared up. Mr Ackaman added that there were residential bedrooms above the bar area and they would not run music late at night as this would affect the comfort of guests.

Ms Parker confirmed that the damage to the hanging basket had been some time ago but said that the trees had been damaged over the Christmas period. She confirmed that her concerns had generally been met with a positive response.

In answer to a question from Councillor Freeman, the licensees said they would accept a condition concerning the use of taxis and ask them to wait in the car park area. In answer to a question from Councillor Lemon, the licensee said that they regularly check the perimeter to monitor noise levels and ensured that doors and windows were closed during music events. They added that air conditioning was to be installed in the near future. In answer to a question from Councillor Freeman they confirmed that the proposed air conditioning unit would be directed towards the car park and should not cause problems to the neighbour.

Councillor Lemon asked whether it was possible for the area between the public house and the neighbouring property to be soundproofed and the licensees said that they would look at this matter. The Environmental Health Officer said that it was difficult to impose conditions as the impact on a single property did not constitute a public nuisance, but other provisions existed to deal with any problems as a statutory nuisance. He added that it was not reasonable to expect the licensees to go into a private property to assess noise levels.

Ms Parker then summed up her representations and said that her main concern was the noise through the adjoining wall and added that asking bands to move to the other side of the premises would help. She also said that a condition requiring windows and doors to be closed would assist, as would a condition about the operation of taxis. Mr Kavanagh concluded that they did supervise the leaving of customers and asked them to respect neighbours. He said that appropriate signs were being made up and the front and side doors were locked so that customers had to leave through the courtyard area which caused less disturbance to neighbours.

L105

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 Committee Room to consider their decision.

L106

APPLICATION TO CONVERT THE EXISTING LICENCE UNDER THE LICENSING ACT 2003 AND SIMULTANEOUSLY TO VARY THE LICENCE AT THE YEW TREE PUBLIC HOUSE MANUDEN

Members returned to the meeting. The Chairman said that the Committee having considered the representations made are satisfied that the licensing objective of the prevention of public nuisance is fulfilled by the conditions contained in the operating schedule, amended as agreed with Environmental Health and the following conditions:

The licensees will display the number of taxi firms in the bar and request the firms advertised to instruct their drivers to behave considerately, not to leave engines running and not to sound horns to attract the attention of passengers, to collect passengers from the car

park area only and not to play in car entertainment whilst waiting at the premises.

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

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

L107

APPLICATION TO CONVERT THE EXISTING CLUB REGISTRATION CERTIFICATE UNDER THE LICENSING ACT 2003 AND SIMULTANEOUSLY VARY THE LICENCE AT THE NEWPORT CLUB ELEPHANT GREEN NEWPORT

The Council's Legal Officer asked for the names of those who would be speaking against the application and Mr R Johnson said that he would be speaking at the hearing.

The applicants, The Newport Club, were represented by Ms E Affleck, the secretary of the club.

The Licensing Officer then outlined the report for Members. He said that the applicants were applying for a conversion of the existing Club Registration Certificate under the Licensing Act 2003 with a simultaneous variation of the licence. He said that the applicants had applied for a licence in respect of the following activities:

- a) Live music for inside the premises only on Fridays and Saturdays between the hours of 8pm to 12.30am. This would be in the form of a karaoke and the non-standard times also includes Bank Holidays and Christmas Eve.
- b) Recorded music for inside the premises only which is not amplified during the evenings when the bar is open. For the non-standard timings an extension is sought to cover Bank Holidays.
- c) For anything of a similar description to paragraphs (a) and (b) above including performance of dance the times sought are 8pm to 12.30am on Fridays and Saturdays.
- d) The hours sought for the supply of alcohol for consumption on the premises only are

Thursdays 5pm – 12.30am

Fridays and Saturdays 11am – 12.30am

For the non-standard timings which include Bank Holidays, weekends, Christmas Eve, Boxing Day, New Years Eve and New Years Day then an extra 30 minutes is sought until 1am.

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, the prevention of public nuisance and the protection of children from harm.

Mr Johnson said that he lived opposite the club and his main concerns were about late night noise particularly when windows were open. He said that he had no problems up to the present but was concerned at the proposal of recorded music on Thursdays up to 12.30am and for live music at weekends. He said that there had been problems with parking and noise as people left the premises and he suggested that customers should be encouraged to leave quietly.

Ms Affleck, the secretary said that the club had had music every two weeks but had reduced this to every four weeks to protect the amenities of neighbours and had no intention of changing this. She said that notices were already in place asking members to leave quietly and whilst she acknowledged that there were parking problems in the street this was due mainly to the fact that there was no parking at The White Horse. She said that The Newport Club was a family club and it did not encourage noise. Windows were closed at 10.30pm regardless of whether music was being played. She said that the club had more control over its members than a pub would have over its customers and said that it wished to live in harmony with its neighbours. She concluded that The White Horse had asked for an extension to 1am whereas the club had asked for 12.30am in order to prevent an influx of people into the street at the same time. In response to a question from Councillor Murphy the secretary said that the club would accept conditions requiring notices to be displayed, for windows to be closed and with a limit on the number of live music events to 20 occasions.

L109

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 Committee Room to consider their decision.

L110

APPLICATION TO CONVERT THE EXISTING CLUB REGISTRATION CERTIFICATE UNDER THE LICENSING ACT 2003 AND SIMULTANEOUSLY VARY THE LICENCE AT THE NEWPORT CLUB ELEPHANT GREEN NEWPORT

Members returned to the meeting. The Chairman said that the Committee having considered the representations were satisfied that the licensing objective of the prevention of public nuisance was fulfilled by the conditions contained in the operating schedule with the following additional conditions:

- 1 Windows and doors shall be kept closed except for access and egress between the hours of 22.30 – 10.30 when regulated entertainment is taking place.

- 2 Signs shall be clearly displayed asking members and their guests to respect neighbours and leave the premises quietly.
- 3 Performance of amplified music shall be limited to 20 occasions in any 12 month period.

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

The Council's Legal Officer explained the right of appeal and the process for a review of the licence and Councillor Bayley was appointed to represent the Council at any appeal hearing.

L111

APPLICATION TO CONVERT THE EXISTING PREMISES LICENCE UNDER THE LICENSING ACT 2003 AND SIMULTANEOUSLY VARY THE LICENCE AT MAIDENS BARN HIGH EASTER

The Council's Legal Officer asked for the names of those who would be speaking against the application. These were Mr K Hoy and Mr J Richards.

The applicants, Mr C Matthews and Ms K Little represented themselves.

The Licensing Officer then outlined the report for Members and said that the applicant was seeking a conversion with simultaneous variation. He said that the operating schedule indicated that they were applying for the following activities:

- a) Live music as requested by clients in connection with weddings and other similar functions. It would include both amplified and un-amplified music:

| | |
|---------------------|-------------------------|
| Mondays – Thursdays | 12 midday – 11.30pm |
| Fridays – Saturdays | 12 midday – 12 midnight |

This would take place both inside and outside the premises mostly at weekends.

- b) For recorded music the times sought are

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|---------------------|-------------------------|
| Mondays – Thursdays | 12 midday – 11.30pm |
| Fridays – Saturdays | 12 midday – 12 midnight |
| Sundays | 12 midday – 11.30pm |

- c) For the provision of facilities for dancing to either live or recorded music inside the premises only the times sought are:

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|---------------------|-----------------------|
| Mondays – Thursdays | 7.00 pm – 11.30 pm |
| Fridays – Saturdays | 7.00 pm – 12 midnight |
| Sundays | 7.00 pm – 11.30 pm |

- d) Late night refreshment which would consist of a buffet served by guests mostly at weekends the times sought are:

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|---------------------|----------------------|
| Mondays – Thursdays | 7.00 pm – 11.30pm |
| Fridays – Saturdays | 7.00pm – 12 midnight |
| Sundays | 7.00 pm – 11.30pm |

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

| | |
|---------------------|-----------------------|
| Mondays – Thursdays | 9.00 am – 11.30pm |
| Fridays – Saturdays | 9.00 am – 12 midnight |
| Sundays | 9.00 am – 11.30 pm |

During these times the barn is not open to the public per se but for potential clients to view the premises with a view to making a booking.

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 concluded that if any party was aggrieved by the decision they could apply to the magistrates court.

Mr Richards said that he lived opposite Maidens Barn and had concerns over noise which had been a problem when guests were outside the barn. However, he said that the applicant had satisfied his concerns and had undertaken to erect a structure to shield noise and fringe the car park with a permanent solid structure. In the circumstances he had withdrawn his objection.

The Council's Legal Officer said that these undertakings could not be included within the conditions as they might require planning permission but the Committee would have regard to them.

Mr Hoy said that he lived south of Maidens Barn and was also speaking on behalf of his son. He said that he had discussed his concerns with the applicant who had confirmed that he had no intention of extending the hours. He also had concerns over traffic generated from events at the barn and understood that the applicant had asked customers to use the access to the north. He added that the lane was narrow with dangerous bends and there had also been three incidents involving drunken behaviour. He said that the applicant had undertaken to deal with any such matters if complaints were made. He said that his main concern was future development and extension and he had doubts about the future situation if the current owner sold up and asked if reviews of the licence could be undertaken. The Council's Legal Officer said that the premises licence was permanent and there was no provision for periodic review but an interested party could apply for a review if they had genuine concerns.

The applicant, Mr Matthews, said that Maidens Barn had received planning permission to hold functions in the autumn of 2002 and since that time over 140 events had been held. He said that the majority of these had been for weddings and he confirmed that the barn was not hired out for 18th or 21st birthday parties. As a result of previous complaints he had placed straw bales and planted hedges around the car park area. There had also been

complaints about fireworks and these had now been prohibited with the exception of events around 5 November. He said that the application was for an extra hour on Friday, Saturday and Sunday and half an hour on other days and it would enable the premises to operate safely within the law. He said that there had been no complaints about activities at the barn. He accepted that there had been one occasion when traffic had been signposted to use the road from High Easter Church and he apologised for this problem. He said that in the Contract of Hire music could only be played up to midnight and he said that if any resident was concerned then they could always call him. He said that he was not aware of the three incidents referred to by Mr Hoy but was aware of his responsibilities. He concluded that Maidens Barn was also his home and he valued the friendship of his neighbours and would always respond to complaints. In response to a question from Councillor Lemon he said that music had been played outside the barn on only 8-10 occasions each year and this tended to be string quartets and not dance music. Councillor Murphy asked whether the applicant would accept a condition limiting the number of events each year. However, Mr Matthews pointed out that the planning consent did not restrict the number of events.

In conclusion Mr Richards said that the undertaking had overcome his concerns and Mr Hoy said that whilst he was still concerned about traffic he was satisfied that the applicant would do what he could about future problems.

L112 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 Committee Room to consider their decision.

L113 APPLICATION TO CONVERT THE EXISTING PREMISES LICENCE UNDER THE LICENSING ACT 2003 AND SIMULTANEOUSLY VARY THE LICENCE AT MAIDENS BARN HIGH EASTER

Members returned to the meeting. The Chairman said that the Committee having heard the representations are satisfied that the licensing objective of the prevention of public nuisance is fulfilled by the conditions contained in the operating schedule.

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

The Council's Legal Officer explained the right of appeal and the process for the licence to be reviewed and Councillor Freeman was appointed to represent the Council at any appeal hearing.

The meeting ended at 4.50pm

