

EXTRAORDINARY LICENSING COMMITTEE held at 2.30pm at SAFFRON WALDEN TOWN HALL SAFFRON WALDEN on 22 DECEMBER 2005

Present:- Councillor J I Loughlin – Chairman.
Councillors K R Artus, E W Hicks, and R M Lemon.

Officers in attendance:- M Hardy, A Lee-Moore, W Moodie, C Nicholson, C Roberts and G Smith.

L151

APPLICATION FOR A PREMISES LICENCE UNDER THE LICENSING ACT 2003 AT AUDLEY END HOUSE, SAFFRON WALDEN

Members considered the report of the Licensing Officer on an application by English Heritage for a premises licence at Audley End House, under the Licensing Act 2003. Representations had been made to the Licensing Authority concerning this application which had therefore been referred to the Committee for consideration.

The Council's Legal Officer gave a detailed description of the procedure to be adopted for the hearing, requested that, given the number of people attending and wishing to speak, repetition be kept to a minimum, and outlined the rights of and steps for appeal should any party be unhappy with the outcome.

At the invitation of the Legal Officer the applicant for the premises licence and representatives identified themselves.

The Chairman noted the identity of interested parties who wished to address the committee having previously submitted written representations to the Licensing Authority within the statutory time limits.

The Licensing Officer explained the rationale behind the Licensing Act 2003 and how it took account of activities that were not subject to any regulation but now formed part of what is described as regulated entertainment, with the safeguards that were built in to allow local residents amongst others to have their say on applications. He made clear that this application did not relate to the normal summer concerts at Audley End House and that they would be subject to a different application.

He outlined that English Heritage had applied for:

Plays (historical re-enactments and theatre performances) both inside the house and in the grounds

Mondays – Sundays 10am – 12 midnight

Films to be shown both inside the house and in the grounds

Mondays – Sundays 10am – midnight

Live music for historical re-enactments, theatre, plays, weddings, private functions and other events both inside the house and in the grounds

Mondays – Sundays 10am – 12 midnight

For non-standard timings extension of the hours until 1.30am for weddings, private functions and other unspecified events.

The same standard and non-standard timings for:-

recorded music to be played both inside the house and in the grounds

performance of dance both inside the house and in the grounds

anything similar to live music, recorded music or performance of dance used to promote the historical site either inside the house or in the grounds.

provision of facilities for making music both inside the house and in the grounds for musical workshops attended by the local community, schools and visitors

provision of facilities for dancing both inside the house and in the grounds

provision of facilities for entertainment similar to music or dancing either in the house or grounds for an unspecified event or activity to promote the historical site

late night refreshment both inside the house and in the grounds

the supply of alcohol both on and off the premises

the hours that the premises are to remain open to the public (corresponding to the hours for the supply of alcohol).

The Licensing Officer indicated that the applicant wished to amend the application to reduce the non- standard hours and that the applicant would confirm the details in due course. He confirmed that a copy of the application had been served on all the statutory bodies which had attracted representations from the Principal Environmental Health Officer based on the Licensing objective of the prevention of public nuisance and the Principal Health and Safety Officer on the grounds of public safety. In addition to those formal representations he confirmed that representations had been received from local residents but nothing had been received from the Police.

The Licensing Officer explained that the new Act created the Licensing Authority which had to be considered as independent from Uttlesford District Council when dealing with applications under this particular piece of legislation. He outlined that every applicant in their operating schedule must demonstrate how they intend to meet the four licensing objectives of the prevention of crime and disorder, the promotion of public safety, the prevention of public nuisance and the protection of children from harm. He reminded Members of the Committee of their decision making powers and to

take account of the Council's own licensing policy and the Secretary of State's guidance notes.

The District Environmental Health Officer was then invited to explain the nature of her representation. She explained that her concerns arose from the nearness of residential properties on three sides of the site, the relatively low background noise level which made the introduction of any new noise inappropriate for the area, the fact that events applied for could happen seven days a week and that a similar event in September had given rise to a large number of complaints about late night amplified music. There was a level of tolerance to the summer concerts in the knowledge that the series is limited to five in number and the music ended at 10pm. The level of disturbance from events under the licence application would depend on their frequency, duration, end time and volume.

The District Environmental Health Officer therefore strongly recommended the imposition of a condition to prevent public nuisance that amplified sound not be clearly audible at the boundary of any noise sensitive premises. Such a condition did not need equipment to assess the noise, nor would it be affected by weather conditions. Alternatively she suggested limits on the hours when amplified music could be played outdoors, the number of events per annum, the duration of each event and the decibel level of the music above background. She listed the relative disadvantages of this alternative and pointed out that English Heritage might well be able to contain noise within its site by appropriate siting and layout of the amplifiers.

The Principal Environmental Health Officer gave details of his representations made on Health and Safety grounds. He explained that he had concerns over how the applicant was proposing to meet the licensing objective of public safety as there was no clear information in the application about the nature and type of events contemplated or any steps to be taken to ensure public safety. He stated however that the applicants had agreed with him subsequently that risk assessments would be carried out and therefore suggested the imposition of a condition that 'all events which were outdoors or in marquees should comply with the Health and Safety Executive's document "Event Safety Management"'. It was noted that the requested licence did not include fireworks which affected the amount of Health and Safety Executive input to the situation

In answer to questions from Members the Licensing Officer explained that no application had as yet been received for the 2006 summer concerts.

The District Environmental Health Officer informed the meeting, in answer to a question from a Member, that the September event at Audley End House which had caused much disturbance to the neighbourhood had been a corporate event not requiring a licence at the time and the Council had therefore no prior notification. There had been complaints about amplified music going on long after midnight outside. She added that the expression "noise sensitive premises" included habitable premises, hospitals and schools. She confirmed that traffic noise might be a possible ancillary source of disturbance arising from the activities for which the licence was requested. In response to a question from Members regarding the additional information

the Applicant had provided prior to the hearing that gave details of how events were managed at other English Heritage sites and in particular a noise survey at Walmer Castle, she considered the survey was of limited relevance to the application as the site layout and background noise levels would be different.

Members of the public present being Interested Parties that had already written to the Licensing Authority with their representations were given the opportunity to speak and make a number of points.

One resident made the point that application timings did not include time for clearing the site after the event and that the Audley End brochure, which had been circulated by the applicant to all parties before the hearing, stated a different capacity for the premises than did the licence application. The Council's Legal Officer, explained that the brochure referred to capacity for outside events but that the application under consideration was for less than 5,000 people.

Mr Gray asked that the Council consider awarding any licence only for a trial monitored period with a later review and that English Heritage pay for the monitoring of the activities pending the review. He explained that he lived within earshot of the fireworks.

In answer to a question from Mr Martin, the Council's Legal Officer confirmed that the Council could make a condition that music had to be unamplified.

Mr Anstead of Gibson Close said that the Audley End facilities and summer concerts were acceptable only if they were infrequent. Residents in Gibson Close were concerned that there would be more disturbance in which case the situation would be intolerable.

Dr and Mrs Sanders of Littlebury stressed that there was no precedent for such a broad licence in their area. On the 24 September the Audley End noise had been so loud that the Littlebury residents had thought it was from some party in their own village. The English Heritage staff had shown no interest or control over the events which had lasted ten and a half hours, or over their clients and so there were the possibilities of drownings in the large expanses of water and damage to the fabric of the historical site. Dr and Mrs Sanders asked that the application be refused and the applicant asked to apply for hours and facilities they said they actually intended to use, not a permission for amplified sound every day till 12.30 am. They spoke also for Mrs Thomas and for Mr Haggett, both of Littlebury, who felt that entertainment had been provided at Audley End before the days of amplification, and that amplified music/sound was out of keeping with the site.

Mr Everitt, who lived in Gibson Way on the boundary with Audley End, voiced regret at having to object to the application. He found however that during Estate activities it was impossible to listen to the television or to use the phone which was on the opposite side of the house from the Estate noise. He calculated that the events caused 1,500,000 extra traffic movements pa which must substantially raise carbon monoxide levels within a five mile radius of Saffron Walden and threaten the historic landscape at Audley End which had been given to the Nation. Many of the events in marquees were much nearer

to his house and higher up so that there was less shelter from topography. A licence allowing this every night would mean there was no real warning or recourse at the time of the disturbance. He therefore asked that the applicant be invited to submit a more reasonable application.

Mrs Everitt added to the representations: she explained that they had got used to events at the Estate over a period of about 30 years and had either endured them or gone out when they were to happen. Recently however the stress was aggravated because activities seemed to be not policed, checked or supervised. Occasional events might be acceptable but frequent ones were an unacceptable outrage. It had been impossible to use the phone or radio even with the windows shut and related traffic had parked in their drive and had prevented emergency access to Gibson Gardens. She felt they had been treated in an arrogant disrespectful way by the applicant and she had suffered blood pressure illness as a result of the activities at the Estate.

Tracy Coston, clerk of Littlebury Parish Council read a letter of protest from Miss Guell, a resident of Littlebury on whose behalf she had been asked to make representations, in which she said that she objected to the possibility of events every night of the week, that sound levels had increased lately from Audley End House, that an increase in coaches and cars caused a disturbance and that sales of alcohol in close proximity to large expanses of water created a public safety issue.

Mr Rhodes of Gibson Close added that on 24 September the noise had been unbearable and the stewards couldn't help. This sort of private event sometimes involved aerobatics which endangered the whole village. The paying patrons of some events were excluded from an area to the east of the Estate and this arrangement was to the noise disadvantage of residents. He asked for sanctions or a different application.

Mr McArthur of Freshwell Street stressed the significantly loud noise which the Estate had caused to a quiet residential street during nine or ten days of public events. He felt noise should be resisted in quiet areas and the heritage of quiet countryside and respect for others should be protected. The threat of loud disco music every night was a horrific one and it seemed English Heritage would do whatever they could to exploit/commercialise Audley End.

Mr Evans of Saxon Way had put forward a petition of 66 residents signatures from his road. He said they had put up with fewer and earlier events in the past but they could not face more noise. He had been unable to listen to the St Mary's Church organ due to being deafened by one of the events. Mr Osborne of Saxon Way agreed that enough was enough. He had enjoyed the fireworks but he felt extensions every day of the year would alienate the local residents.

Mr Wayper, Warden of St Marks College, Audley End village, explained that he ran a youth and residential conference centre to which patrons came seeking quiet. He had a licence to hold discos but in deference to neighbours these were no later than 11 pm. The young people at his establishment had no adverse impact on the area. If he could achieve this, others should have similar standards. The organisers of the September event had been unable to

inform him when the event would finish after he had contacted them on the night in question because a number of the youth leaders staying at the College were being disturbed by the noise

Mr Lethbridge, who lived in Littlebury overlooking the Audley End Estate said he thought decibel limits would be too technical a method of control. He asked that a condition be made prohibiting any noise audible outside the Estate.

There were no questions from the Members of the Committee or from the Applicant's solicitor Mr Graham of Ward Hadaway, who then addressed the Committee.

Mr Graham stressed that the application did not include the summer concerts or fireworks and confirmed that on the basis of representations received the non-scheduled events finish timings applied for had been changed from 1.30 am to 12.30 am.

He described the rest of the activities for which a licence was requested and explained that long hours had been applied for to cover all possibilities but that it did not mean these hours would be used. He felt this was appropriate to the Government's guidance on the Act which he thought envisaged that restrictions in hours should not apply, the whole idea of the Act being to prevent separate applications for extraordinary events.

The type of event envisaged was re-enactments of the type done in the summer of 2005, the purpose of which was to raise funds for English Heritage to maintain buildings. 24 such events had been held in the past year which would now require to be licensed. He hoped the Applicant had learned from the event complained of in September. Weddings and events in marquees were envisaged but not vertical drinking occasions.

The concerts were to be included in separate applications because they were very different so it would be wrong to include them in the same application. He took the view that the residents' letters of concern had been written by people whose real concern was the concerts. *(At this point there was a loud chorus of dissent from the group of about 30 residents in the room listening to the application.)* Mr Graham continued that he had marked half the objections as mainly to do with the concerts and some as concerned with a motor accident on the Estate when a car had hit a wall at 8.00am, which was nothing to do with the licensing activity, and/or an event when a man and his son had climbed the railings and the son had fallen and been injured.

He felt there were two main issues, prevention of public nuisance and public safety. As regards prevention of public nuisance, he thought all the letters were of similar content and he had invited English Heritage to address them. He thought some of the letters were not specific to the application in as much as it was a new application. English Heritage had looked at the complaints and felt the way to respond was to commission a report from Capita Simmons (as they had done in the Walmer Castle case) who would advise English Heritage how to limit noise and see how it could be reduced. It would be necessary for Capita Simmons to see how the applicant approached its

licence objective, however before they could report. English Heritage would commission a similar report and had arranged to meet the consultant in January and intended to have the steps proposed in the report in place before the majority of the events began. They would also accept a condition that any noise should be within the Noise Council (a consultative body) Code of Practice on Environmental Noise Control at Concerts with an event management plan prepared with areas of responsibility set out in it.

Mr Graham put forward the event safety plan and a memorandum of hospitality understanding prepared in respect of Walmer Castle as examples of how English Heritage organised and conducted itself, and assured the meeting that the organisation understood its responsibilities under the new Act. He explained that English Heritage had obtained planning permission in respect of the carrying out of civil wedding ceremonies and for the erection of a marquee which had required the creation of a travel plan that had to be followed, and offered to provide a copy of the travel plan and information pertaining to the planning application to the Committee as he felt it might be of some assistance in this case. He explained that the use of the marquee was limited to 56 days per year which included erection and removal time. He also offered a list of the events held in 2005 excluding the concerts and a list of bookings for 2006.

Finally in the context of the written representations received from residents, he felt that it was not representative of the view of the whole area, as Saffron Walden has a population of 16,000 and Littlebury 2,000, yet proportionally few had objected, and commented that no complaints had been received from the staff of Lord Braybrooke of Audley End House.

Members then asked questions. The Chairman asked, as regards section P(d) of the application, whether noise levels would be monitored only in evenings when music was included or also in the “daylight opening hours” when the schedule said most events would take place. Mr Graham said the Applicant would monitor daytime noise in response to being told what the levels of noise were but would not exclude daytime noise from the schedule.

When asked how noise would be monitored Mr Graham answered that it would be done with a noise measuring device. One of these had been bought but training was necessary about its use. He had advised the Applicant that readings should be taken regularly and a record kept as a defence tactic in the case of any complaints or reviews of the licence.

In answer to a question the District Environmental Health Officer confirmed that no decibel limits would need to be specified if the licence contained the suggested condition that sound from the licensed premises should not be clearly audible at the boundary of any noise sensitive premises.

A Member referred to Mr Graham’s description of the events that were “envisaged” as licensed activities as compared with the hours applied for which were up to 12.30 am on all days. He asked whether Mr Graham was modifying the application and Mr Graham replied that he was not modifying it at all, because the Act did not envisage that the Applicant should be tied down

to a series of events as indeed the Council was not tied down to a series of events in its use of the Town Hall.

Mr Graham considered that the condition recommended by the District Environmental Health Officer that amplified sound not be audible at the boundary of noise sensitive premises was not in accordance with published guidelines and questioned how anyone could prove what would be audible at the edge of the Estate. Mr Graham added that guidelines could be registered by the Applicant once the noise survey had been carried out.

A Member referred to the Memorandum of Understanding as to Hospitality which described the desired conduct at "High Risk Events". Mr Graham confirmed that the event held on 24 September had been an event held under this Memorandum and he agreed that there were lessons to be learned from that.

A Member asked how concerned the applicant was with local residents and whether the noise levels had been monitored for the 24 September event or not. Mr Graham said that no monitoring was going on because there was no monitoring facility but the applicant was aware that there had been concerns about the event, and agreed it had been badly managed.

A Member commented that the application was a controversial one and asked whether the Applicant's representative would consider withdrawing the present application and submitting a fresh one after negotiations with the District Environmental Health Officer. Mr Graham stated that he would not do this and added that he had provided the Environmental Health Department with all the documents they had asked for.

A Member asked how the five concert events were to be excluded from the application. The Licensing Officer assured the meeting that the summer concerts would be a totally fresh matter and he did not know whether they would be doing them in 2006. Mr Graham said that the current application had been kept separate from the concerts on his advice. There was no scope for using temporary events for the concerts because of the limits on numbers. The meeting was then opened to questions from the floor:-

Mrs Everett stressed that whilst Mr Graham thought the residents were confused between events, they were not confused and they judged the applicants on their previous behaviour. She asked what the applicant meant precisely by "corporate events" and asked whether her views would carry more weight if she organised the signing of a mass petition.

The Council's Legal Officer explained that each application was considered on its merits. The number of objectors was not the only consideration in a decision and representations could only be accepted from people who were to be affected by the proposed licence.

Mr Graham said that "corporate event" meant an event organised by a company or organisation e.g. an annual dinner. Mrs Everett suggested that this term could include events for 4,999 drunk young men.

Mr Everett questioned the propriety of the tribunal accepting documents from Mr Graham to consider when the tribunal had retired and, therefore, after the objectors would be able to see or comment on them. The Chairman assured him that late documents were not going to be accepted.

Questions were asked about the noise survey in January the applicant's representative had alluded to. Mr Graham answered that the applicant would commission a report as they had done for Walmer Castle with the intention of discovering how the applicants could keep within the limits for the particular licence application. Mr Graham did not know where monitoring equipment would be sited.

The Chairman explained, in answer to a question from Mr Everittt, that the applicant's financial reasons for making the application were irrelevant to the decision and would not form part of the Panel's considerations.

Mrs E Sanders questioned the population figures given by Mr Graham for Littlebury and Saffron Walden.

(Figures obtained from 2001 census after the meeting:-

<i>Saffron Walden</i>	<i>15095 persons</i>	<i>6,297 households</i>
<i>Littlebury</i>	<i>802 persons</i>	<i>311 households)</i>

The Chairman explained, in answer to a question from Mrs Sanders, that matters relating to traffic were irrelevant to the decision and could not form part of the Panel's considerations

Mr Graham was asked whether the results of monitoring would be submitted direct to the Council as well as to the objectors. He replied that the Council officer could be there when monitoring took place.

Mr Lethbridge asked whether the applicant would accept a condition of no audible noise beyond the borders of the Audley End Estate. Mr Graham said "No".

Questions and comments were also made about the reasons the applicant might have for wanting a licence for 365 days a year when only 17 events were contemplated. Mr Graham answered that it was the ethos of the Act that one did not have to come back to vary the licence: there were review powers if the nature of the events changed.

Mrs Herrell, employed by English Heritage, stressed that the primary objective was to protect the historic building and landscape. They had reviewed their systems as a response to lessons learned from the September event and that it would not happen again. They would be happy to have an open day sometime in the summer to listen to residents' concerns.

Mr Everett pointed out that English Heritage had been granted an additional access to the grounds and he asked what safeguards there were against them contracting out events to an entertainment corporation as had been done with the September event. Mr Graham said that third party events had

to be a possibility but that English Heritage could not contract out of its responsibility under the licence.

A question was asked why it was not possible to do without amplified music. Mrs Herrell replied that the concerns were taken seriously and they wished to get an acceptable Decibel and time limit. She stressed that the grounds needed to recover in August after the summer concerts anyway, and the questioner asked why English Heritage would not agree to this being put in a condition

L152 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 its 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 at 4.50 pm.

L153 APPLICATION FOR A PREMISES LICENCE UNDER THE LICENSING ACT 2003

Members returned to announce their decision at 6.00 pm.

RESOLVED that the Committee having carefully considered everything that had been presented by the Applicant, all the written and oral representations of interested parties and having heard from the Principal Environmental Health Officer and the District Environmental Health Officer would grant the licence subject to

1. the reduction to the times for the sale of alcohol to 11.30 pm for Standard Timings every day of the week, and 12 midnight for non-standard timings
2. the amendment proposed by the applicant that all licensable activities to finish at 12.30 am on non-standard timings
3. the imposition of the following conditions
 - a. No more than 12 events with amplified sound to be held outdoors in total per annum including in a marquee, with all amplified sound ending at 11.00 pm
 - b. Amplified sound from the premises shall not be clearly audible at the boundary of any noise sensitive premises
 - c. The Licence holder or 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 and made available to the Licensing Authority

- d. The Licence holder shall notify the Environmental Health Officer in writing 7 days in advance of any event to be held outside involving amplified sound
- e. Events that are held outdoors including in marquees shall comply with the Health and Safety Executive's guidance document 'Event Safety Management'.

The Committee considered that the conditions were necessary and proportionate to deal with the issues raised by the Interested Parties and Responsible Authorities in relation to the Licensing Objective of the prevention of public nuisance and the promotion of public safety, and felt that together with the matters already provided for in the application, were satisfied that the licensing objectives would be met.

The Chairman added that the decision was in line with the Council's own licensing policy and the Secretary of State's guidance.

The applicant and objectors were advised of the right to appeal and Councillor Hicks was appointed to represent the Council at any appeal hearing. The parties were also reminded of the right to review the licence.

The meeting ended at 6.05 pm