

**EXTRAORDINARY LICENSING COMMITTEE held at 2.30 pm at COUNCIL OFFICES LONDON ROAD SAFFRON WALDEN on 12 DECEMBER 2006**

Present:- Councillor J I Loughlin – Chairman.  
Councillors H D Baker, R M Lemon and A R Row.

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

LC40

**APPLICATION FOR THE REVIEW OF CLUB PREMISES CERTIFICATE IN RESPECT OF THE CONSERVATIVE CLUB SAFFRON WALDEN**

The Committee considered an application to review the club premises certificate for the Conservative Club, Saffron Walden. The Licensing Officer explained that an application for a review could be made by a responsible authority or an interested party and in this case the application was being made by the Council's Principal Environmental Health Officer. The review was being sought in respect of the licensing objective that dealt with the prevention of public nuisance.

An application for the conversion and simultaneous variation of the club premises licence had been made in 2005. Representations had been received from residents and the Environmental Health Officer. When the certificate had been issued at the Licensing hearing on 5 July 2005 a number of conditions had been attached, Four of those conditions had resulted from representations made by the Principal Environmental Health Officer based on the licensing objective relating the prevention of public nuisance. Since the commencement of the certificate noise and nuisance complaints in relation to the club had been received. There was evidence that the club had failed to comply with the conditions attached to the licence.

The Council's Legal Officer explained the procedure to be adopted for the hearing. He clarified the decisions that the Committee had the power to make in respect of this application.

The Principal Environmental Health Officer said he was making this application because the licensing objective in relation to public nuisance had been breached when events with amplified music had taken place. There was a possibility of this nuisance reoccurring. He said that the licensing condition in respect of noise insulation had not been complied with. He referred to paragraph 7.4 of the guidance issued by the Secretary of State under S182 of the Licensing Act 2003, which related to the objective of public nuisance. This stated that if low level noise affected a few people locally in terms of a reduction in their living or working conditions, then it could be regarded as a public nuisance.

He gave a synopsis of evidence received in writing and in person. Objections had been received from Colin Matthews and Rosemary Fitzgibbon, who were present at the meeting and had requested to speak. A representation had also been received from Mr Richard Freeman. He had referred to an event held at the premises on 12 August 2006 when the party had gone on past 11.30 pm and windows and doors had remained open.

Anne Lee-Moore, the Council's Environmental Health Officer explained why the noise insulation works were so important. The Club was situated in a residential area, one dwelling was attached to the Club and there were 15 properties in the close proximity. The background noise levels were low so any additional noise was noticeable. The complaints had first been received in March 2004 and she had liaised with the Club committee to suggest time limits and insulation works. This had continued during 2004 and in February 2005 the Club had said that the insulation would not be possible due to lack of funds. In the summer of 2005 the licence was granted with the conditions requested by the Principal Environmental Health Officer. The conditions had still not been complied with by February 2006 and in July 2006 she had met again with the Secretary of the Club and had been told that funding was being applied for and work would shortly be carried out.

Miss Fitzgibbon then outlined events that had occurred at the Club on 12 August 2006. She said there was no sound proofing to the function room so the noise could be clearly heard from her house. As far as she was aware no nominated steward had ever assessed the seriousness of the impact of the noise. She said that the noise penetrated her house and distracted normal activities in the home. She was an academic who worked at home and needed quiet in which to work. She also quoted comments from experts on the impact of low frequency sound. She said she had written six letters in the last two years but no action had been taken. She stressed that it was very unpleasant to be subjected to unwanted noise.

Mr Matthews then spoke to the Committee. He had moved to Museum Street two years ago. Within the first couple of weeks there had been loud music at the premises and he had to change the room arrangements of the house. He had a son who had Asberger's Syndrome and it had been necessary to move his bed away from the noise. When the premises had applied for the licence in May 2005 he raised an objection, and when the new licence had been approved with the conditions it seemed to have addressed the problems.

However, on 27 August 2005 there had been a noisy event with windows and doors kept open until 1.30 pm. This happened again at New Year which was against the conditions of the licence. Also line dancers had hired the premises between 9.00 and 10.00 on Monday nights and the patio doors had been left open. He had contacted the Club asking that the doors be shut. He had complained again a few times in June and July of that year but the Club had only taken reactive action. There had been no visit by a steward to check on the noise levels. He had met with representatives of the Club but a few days later the doors had been left open to the function room again. He said that his children had suffered because the premises had not complied with the conditions of the licence. He said the Club had a bad track record and was not to be trusted. He hoped the Committee would take the appropriate action.

The Principal Environmental Health Officer summed up that there had been ample evidence that the licence had been breached and he asked that the regulated entertainment be excluded from the licence for a period of three months while the noise insulation works were carried out.

Councillor Row asked if the Environmental Health Officers had assessed the noise levels of the music first hand. He was advised that measurements had

been taken during the event on one Saturday evening and monitored on other occasions. He asked if the Police had ever been informed. However, he was told that this was not a matter for the police and complaints would have been referred to the Environmental Services Department.

Councillor Loughlin asked Mr Matthews if he had ever been aware of a steward checking the noise in the area. He replied that he had never seen anyone apart from when he had phoned and complained. Miss Fitzgibbon added that noise could be heard from the Museum grounds.

Mr Paul Cammiss, the solicitor for the Conservative Club then spoke to the Committee. He said that the Club had been having financial problems which had meant that the works had gone on longer than necessary. The Club had been having financial discussions with an organisation for the past 18 months but this had come to nothing, and it was now looking for other ways of funding the works. He said it was now time to look forward and outlined what the Club was aiming to do and what had already been done.

Three major problems with the function room had been addressed. The air outlet vents to Mr Matthew's and Mrs Fitzgibbon's properties had now been blocked up. The fire exit to the side of Mr Mathew's house only had a single pane of glass. This would be replaced by the end of next week with a double glazed door. He would also take steps to lock a toilet door during functions. The Club had taken on board the need for a noise limiter and a quotation had been received and it would be installed before Christmas.

He explained the circumstances surrounding the evening of 12 August and said an unfortunate sequence of events had led to the problems on that night. The line dancers had been private hirers of the hall and they no longer used it. He referred to the letter from Councillor Freeman about problems with taxis picking up from the club and said that only two companies were advertised in the premises. He concluded that the Club was aware of the steps that could be taken and asked Members to bear in mind that a number of issues would be resolved by the end of next week so it was inappropriate to suspend the licence. He asked that the Committee modify the condition of the certificate to allow the club to deal with the sound insulation issue within 2 months.

Councillor Loughlin asked if the club was breaching the license by holding line dancing sessions every week. Mr Raine, the Club Steward, said that he had been advised that if the event was being held for private use and blocked off from the club, then it would be a private function and would not require a licence. Councillor Loughlin asked why the doors and windows had been left open. He replied that he could not see the door from the bar and it had been opened when it was particularly hot weather. During the summer period when the doors had been closed he had recorded the temperature at 84°. Councillor Baker asked whether air conditioning was being considered. He said yes, but this was a major expense to the Club which was at present losing £1,000 a month.

Councillor Lemon questioned why it had taken since 30 August to block up the air vents. He questioned the cost of the proposed work and was advised that the sound limiter was £1385.60 and the new door would be in the region of £1300. The Club had not yet obtained a quotation for the other sound

insulation work which would include dry wall walling and an acoustic ceiling. It was intending to see whether the initial measures made sufficient difference before obtaining quotes for the other work.

Councillor Lemon questioned whether the Club had sufficient funds to undertake the required insulation works. Mr Gerrard, the Secretary, explained that the Club was currently in dispute with the British Legion over funds. It was expecting £10,000 from the Association of Conservative Clubs of Great Britain and it had applied to borrow the money to continue the renovation. Mrs Lee-Moore asked the applicant if he was implying that the noise insulation measures to the ceiling and the wall linings were dependent on a large amount of funding. Mr Gerrard replied that the measures formed part of the overall refurbishment scheme which would go ahead.

Coucillor Loughlin asked why the Club had agreed to the condition at the time of the licence if they did not have the funds available. Mr Gerrard replied that at the time they were in negotiation with the British Legion and expected to receive the funds within three months. She asked when the sound proofing works were likely to be finished and Mr Gerard said that he could not say. The Chairman then asked Mrs Lee Moore whether the initial works proposed by the Club would be adequate to prevent public nuisance. She said that they were unlikely be sufficient as this was a very large room and the acoustic ceiling was needed at the very least. In her opinion dry lining of the walls was also likely to be necessary but tests could be done in respect of the walls once the ceiling had been completed.

The Council's solicitor explained the legal advice given by Mr Hardy in respect of the function hall. He said that if the room was self contained and not used for public entertainment then it was not required to have a licence under the Act.

#### LC41 **EXCLUSION OF THE PUBLIC**

RESOLVED 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 Council Chamber to consider their decision.

#### LC42 **TO CONSIDER AN APPLICATION TO REVIEW A CLUB PREMISES CERTIFICATE IN RESPECT OF THE CONSERVATIVE CLUB SAFFRON WALDEN**

Members returned to the meeting and the Chairman read the following decision.

In May 2005 the Licensing Authority received an application for the Conservative Club in Saffron Walden for a club premises certificate during the transitional period under the Licensing Act 2003. Representations were received from the Council's Environmental Health Department as a

responsible authority and from interested parties based upon the objective of the prevention of public nuisance. At a hearing on 5 July 2005, the Committee had been persuaded that certain conditions were necessary to meet this licensing objective. In particular, a condition was imposed for a scheme of sound proofing for the function room, to be agreed and implemented to the authority's satisfaction within three months of the licence coming into force. Notwithstanding this condition, no works had been carried out until very recently and these were of limited impact.

The Committee had heard from Mrs Anne Lee-Moore that prior to the certificate taking effect she had taken certain noise readings. Whilst she had not carried out any readings since the appointed day she considered this unnecessary as the sound proofing works have not been carried out. Clearly, the readings she did take informed her decision to make representations and seek the sound proofing condition and nothing had happened since which would improve the situation. The Committee had heard evidence of disturbances from Miss Fitzgibbon and Mr Matthews and considered a letter from Mr Freeman.

Having regard to the Government guidance that low level nuisance affecting the amenity and living conditions of a few local residents the Committee found as a fact that the provision of regulated entertainment at the club had caused public nuisance within the meaning of the Act. Indeed, Mr Cammas, the solicitor for the club, had not sought to persuade the Committee otherwise. Instead he asked the Committee to look to the future rather than the past. To date the club had blocked two air vents which had allowed noise to escape. It has also taken steps to lock a toilet door during functions to prevent noise escaping. It had ordered a replacement fire door which would be double glazed and offer greater sound attenuation than the present door. A sound limiting device had also been ordered and should be delivered in the course of the next two weeks. In the circumstances Mr Cammas asked for the conditions to be modified to require these works to be carried out within two months. In the longer term, the Committee heard that it was the intention of the Club to carry out a full refurbishment which would include the installation of an acoustic ceiling and the dry lining of the walls.

In the professional opinion of Mrs Lee-Moore the works proposed in the immediate future would not of themselves be sufficient to prevent public nuisance. The acoustic ceiling was a minimum requirement and on balance Mrs Lee-Moore considered that dry lining of the walls would also be required. The Committee was charged with the duty of ensuring that the licensing objectives were met and was satisfied that the prevention of public nuisance could not be achieved without adequate sound proofing. It followed that without sound proofing in place, regulated entertainment should not be permitted at the premises. The Committee considered excluding this activity from the certificate for a period of three months to enable all necessary works to be done. However, the Club was unable to satisfy the Committee that it had access to sufficient funds for the work to be done, nor could the Club provide a time frame for the work to be carried out.

Although the Committee was told that £10,000 was available from the Association of Conservative Clubs of Great Britain, further funding for the refurbishment would need to be raised by borrowing. Whilst the Committee

heard that a broker had promised the funds would be available, the fact that no quote had yet been obtained for the work and that the Club stated that it was currently losing £1,000 per month left the Committee to regard this promise with a high degree of scepticism.

As the Committee could not be satisfied that all the works required by Environmental Health Officers would be completed within the maximum period, the Committee could effectively suspend licensable activity, the Committee felt it has no alternative other than to remove the provision of regulated entertainment from the club premises certificate. In the event that works were carried out which satisfy the objectives of the prevention of public nuisance it was open to the club to apply for the certificate to be varied to reincorporate that activity.

The Council's Solicitor advised the applicant of his right to appeal to the Magistrates' Court within 21 days. The decision of the Committee would not take effect during that period and if an appeal was lodged the certificate would stay in the same form until such time as the appeal was disposed of or abandoned.

The meeting ended at 5.30 pm.