

EXTRAORDINARY LICENSING COMMITTEE held at 2.30 pm at COUNCIL OFFICES LONDON ROAD SAFFRON WALDEN on 7 FEBRUARY 2007

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

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

LC49

APPLICATION TO VARY THE CURRENT PREMISES LICENSE AT THE FEATHERS PUBLIC HOUSE, STANSTED MOUNTFITCHET

The Committee considered an application to vary the current premises license in respect of the Feathers Public House, Stansted Mountfitchet. The applicants had submitted a new operating schedule that sought to increase the hours of the licensable activities, by an additional hour on each evening.

The revised operating schedule sought the following:

- (a) Performance of Live Music (Indoors only).

Monday – Wednesday	11.00 am – 12.00 midnight
Thursday – Saturday	11.00 am – 1.00 am
Sunday	12 noon – 11.30 pm

- (b) Recorded Music (Indoors only)

Monday – Wednesday	11.00 am – 12.00 midnight
Thursday – Saturday	11.00 am – 1.00 am
Sunday	12 noon – 11.30 pm

- (c) Provision of facilities for entertainment of a similar description to that for making music and dancing (indoors only).

Monday – Wednesday	11.00 am – 12.00 midnight
Thursday – Saturday	11.00 am – 1.00 am
Sunday	12 noon – 11.30 pm

- (d) For the sale of alcohol by retail for consumption both on and off the premises

Monday – Wednesday	11.00 am – 12.00 midnight
Thursday – Saturday	11.00 am – 1.00 am
Sunday	12 noon – 11.30 pm

- (e) The opening hours for the premises

Monday – Wednesday	11.00 am – 12.30 am
Thursday – Saturday	11.00 am – 1.30 am
Sunday	12 noon – 12.00 midnight

For the non standard timings one further hour was sought on all of the activities. There were no changes to the conditions imposed on the license granted on 4 July 2005.

The Licensing Officer explained that the matter had been brought to the committee because representations had been received from interested parties based on the licensing objectives that related to the prevention of crime and

the prevention of public nuisance. The three local residents that had made representations were concerned that there might be additional noise and disturbance if the hours were extended.

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

Mr Sandiford from Cambridge Road, Stansted attended the hearing. He said that people that lived in close proximity to the public house had not been aware of the application to extend the hours. He had only heard from a neighbour. The Council's Solicitor explained that the regulations only required an A4 notice to be placed in the window of the premises and advertised in one local newspaper. The Council went further than this and also notified the Parish Council and any properties next door, behind or opposite the premises. Mr Sandiford also asked if it was common procedure for details of his objection to be passed to the applicant. He was advised that in the interest of natural justice the applicant should be aware of the objections and have the opportunity to mediate, if possible.

Mr Sandiford said his concerns were based on the noise levels at the pub when music was played. He lived 60 yards away from the premises, had double glazing but the noise was sufficient to drown out the television. It was particularly noticeable when the windows were open. He said that the events had been held rarely and usually at the weekend, which was why he had not complained.

He asked how the noise levels would be monitored if the application was approved. The Council's Solicitor explained that if the noise was significant it would be a public nuisance and a complaint to Environmental Health could result in an noise abatement notice. Under the Licensing Act there were different ways of monitoring. In the first instance, people in the vicinity could ask for a review of the license. If the noise was significant and affected a large number of people, Environmental Health could ask the local authority to conduct a review. The authority could also take action against the premises if it was proved that it had breached its conditions. He said that noise could not be defined in terms of levels because of the difference in ambient noise.

Mr Alesbury, the Counsel for the applicant, asked Mr Sandiford to confirm that he lived on the other side of the road to the premises and that this was the main road through the village. He also asked him to confirm that he had not complained to the Police or Environmental Health. He was surprised at the complaint about loud music and asked when this had occurred. Mr Sandiford said it was when live music was being played.

Mr Alesbury asked Mr Sandiford about his concerns, given that the content of the licence was not to change and only one additional hour was proposed. Mr Sandiford said he was concerned that there could be noise until 1.30am. Although there were few events at the moment there was nothing to stop this number increasing. He said he had no objection to the increased opening hours, he was just concerned about the possible noise implications.

Mr Hogg had been landlord of the premises for 17 years. He said that he held occasional music evenings but tried to be thoughtful to his neighbours. He expected to continue with a similar level of events, the increased hours would just give more opportunity to do things. He was shocked at the complaints about noise, as he had been outside to monitor the noise, and did not think that there was a problem. He had only ever had one complaint and in response he had closed the windows and curtains.

Mr Alesbury said that the pub was on a main road in a mixed area. He was surprised at the observations about noise. This was a long established landlord who was concerned with good relations with the neighbourhood. It was acknowledged that the events were held rarely and it was intended to carry on in the same vein. Mr Sandiford had no objection to the extension of the hours of alcohol sales and there was no history of complaints.

The Chairman asked what was envisaged by live music. Mr Hogg replied that he might put on small bands or duets. Mr Sandiford said that it was not the type of band that was important but the level of sound that came out of the speakers.

The Council's Solicitor advised Members that when making their decision they should have regard to Para 5 of the Council's Licensing Policy, Para 7.4 of the Secretary of State's guidance in respect of public nuisance and recently issued guidance on noise nuisance. The decision to convert the license should be driven by the evidence available.

LC50

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.

LC51

APPLICATION TO VARY THE CURRENT PREMISES LICENSE IN RESPECT OF THE FEATHERS PUBLIC HOUSE, STANSTED MOUNTFITCHET

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

The Committee had considered written representations from the interested parties and had also heard from Mr Sandiford this afternoon. Whilst there was evidence of some disturbance, on Mr Sandiford's evidence this occurred very rarely. The Committee considered therefore that there was no breach of the licensing objective of the prevention of public nuisance. Having heard that the method of operation of the premises would not change there was nothing to suggest that extending the opening hours by one hour would lead to public nuisance being caused and the committee therefore granted the application.

The Council's Solicitor advised the interested parties of the right to appeal to the Magistrates' Court within 21 days of receiving notification of the decision.

LC52 EXCLUSION OF THE PUBLIC

RESOLVED that under Section 100A of the Local Government Act 1972 the public be excluded for the following items of business on the grounds that they involved the likely disclosure of exempt information as defined in paragraph 1 of part 1 of Schedule 12A of the Act.

LC53 CONSIDERATION OF A PRIVATE HIRE DRIVERS LICENSE

The Committee considered a case where a licensed driver had failed to comply with the conditions attached to the licence and no longer met the Council's licensing standard. The condition that was breached was that the driver failed to notify the authority of a caution within 7 days of it being imposed.

The Chairman welcomed the driver and his representative to the meeting and explained the procedure to be followed. The Council's Licensing Officer gave details of the case and explained the reasons for the matter being placed before the Licensing Committee. The driver made a statement as to the circumstance of the case and answered members questions. The driver, his representative and the Licensing Officers then left the meeting and the Committee considered its decision. They were later re-admitted and informed of the decision

RESOLVED that the Committee having heard evidence of the circumstances leading to the driver receiving a caution for the offence of harassment, was satisfied that he remained a fit and proper person to hold a private hire drivers license. The Committee was however concerned that despite clear messages being given to the trade that drivers needed to be aware of and abide by the conditions of their license, the caution was had not been reported. In the circumstances the Committee felt that a sanction was necessary and the driver would be suspended from driving for a period of one day.

The driver was informed of his right of appeal.

LC54 CONSIDERATION OF A PRIVATE HIRE DRIVERS LICENSE

The Committee considered a case where a licensed driver had failed to comply with the conditions attached to the licence and no longer met the Council's licensing standard. The condition that was breached was that the driver failed to notify the authority of a caution within 7 days of it being imposed.

The Chairman welcomed the driver to the meeting and explained the procedure to be followed. The Council's Licensing Officer gave details of the case and explained the reasons for the matter being placed before the

Licensing Committee. The driver made a statement as to the circumstance of the case and answered members questions. The driver and the Licensing Officers then left the meeting and the Committee considered its decision. They were later re-admitted and informed of the decision

RESOLVED that the Committee having heard evidence of the circumstances leading to the driver receiving a caution for the offence of resisting arrest was satisfied that he remained a fit and proper person to hold a private hire drivers license. The Committee was however concerned that despite having only held a license for approximately 6 weeks, so that the conditions should be fresh in his mind, the caution was not reported. In the circumstances the committee felt that a sanction was necessary and the driver would be suspended from driving for a period of one day.

The driver was advised as to his right of appeal.

The meeting ended at 5.05 pm.