

**EXTRAORDINARY LICENSING COMMITTEE held at 10.30 am at
COUNCIL OFFICES LONDON ROAD SAFFRON WALDEN on
20 NOVEMBER 2007**

Present:- Councillor E W Hicks – Chairman.
Councillors E L Bellingham-Smith, J E Hudson and J I Loughlin.

Officers in attendance:- W Cockerell, M Ford, M Hatwell, M Hardy,
A Lee-Moore, M Perry and C Roberts.

Also present: W Cochrane (applicant's solicitor), S Sparrow (Licensing
Officer, Essex Police), members of the public of whom six
wished to speak.

LC33

**APPLICATION FOR THE GRANT OF A PREMISES LICENCE UNDER THE
LICENSING ACT 2003 FOR THE SAFFRON WALDEN YOUTH HOSTEL**

The Chairman welcomed all to the hearing and introduced the members of the
Licensing Committee present.

The Assistant Chief Executive explained how the Hearing would proceed and
asked those who proposed to speak to estimate the length of time they
needed. In the light of the information received he advised the Committee
that it would not be necessary to impose a guillotine on the length of
speeches. The Council's Licensing Officer then presented his report which
described the relevant facts as follows.

"The Youth Hostel is situated in Myddylton Place, Saffron Walden at the
junction with Bridge Street and can be described as being in a totally
residential area. The nearest alcohol retail outlets are situated in Bridge
Street and High Street which are close by. These premises are The Eight
Bells Public House and The Saffron Hotel.

The applicant is the YHA (England and Wales) Ltd and at this particular
location, there is provision to accommodate up to 40 beds.

In accordance with the Licensing Act 2003 when an applicant submits
documentation for the grant of a licence then included in that documentation
must be an operating schedule. This demonstrates how the licensing
objectives will be met and also seeks to outline what licensing activities are
sought.

In respect of these premises, the applicant seeks the following:-

- (a) Plays (Indoors only)

Monday – Sunday inclusive from 12 midnight to 12 midnight.

- (b) Films (Indoors only)

Monday – Sunday inclusive from 12 midnight to 12 midnight.

- (c) Indoor Sporting Events
Monday – Sunday inclusive from 12 midnight to 12 midnight.
- (d) Live Music (Indoors only)
Monday – Sunday inclusive from 12 midnight to 12 midnight.
- (e) Recorded Music (Indoors only)
Monday – Sunday inclusive from 12 midnight to 12 midnight.
- (f) Performance of Dance (Indoors only)
Monday – Sunday inclusive from 12 midnight to 12 midnight.
- (g) Anything of a similar description to that falling within live music, recorded music or performance of dance (Indoors only)
Monday – Sunday inclusive from 12 midnight to 12 midnight.
- (h) Provision of facilities for making music (Indoors only)
Monday – Sunday inclusive from 12 midnight to 12 midnight.
- (i) Provision of facilities for dancing (Indoors only)
Monday – Sunday inclusive from 12 midnight to 12 midnight.
- (j) Provision of facilities for entertainment of a similar description for making music or dancing.
Monday – Sunday inclusive from 12 midnight to 12 midnight.
- (k) The provision of late night refreshment
Monday – Sunday inclusive from 11pm to 5am.
- (l) The sale of alcohol by retail for consumption both on and off the premises.
Monday – Sunday inclusive from 12 midnight to 12 midnight.
- (m) The hours the premises are open to the public
Monday – Sunday inclusive from 12 midnight to 12 midnight.

The operating schedule indicates the following measures will be taken to promote the licensing objective regarding the prevention of crime and disorder.

- To maintain and enforce a security manual for the premises.

The operating schedule indicates that the following measures will be taken to promote the licensing objective regarding public safety.

- To maintain and enforce a health and safety policy for the premises.

The operating schedule indicates that the following measures will be taken to promote the licensing objective regarding the prevention of public nuisance.

- Noise and vibration shall not emanate from the premises so as to cause a nuisance to nearby properties.

The operating schedule indicates that the following measures will be taken to promote the licensing objective regarding the protection of children from harm.

- Maintain and enforce a child protection policy to include a restricted policy relating to alcohol sales.

In general, the applicant has stated that no licensable activities will be provided between the hours of 11.00 pm and 10.00 am the following day other than to the following category of person.

- (i) Residents
- (ii) Bonafide guests of residents
- (iii) Persons attending a bonafide function booked at least 48 hours in advance

Copies of this application have been served on the statutory bodies which have attracted representations from the Chief Officer of Police and The Principle Environmental Health Officer. These are based on the licensing objectives that refer to the prevention of crime and disorder and the prevention of public nuisance.

Representations have been received from interested parties based on the licensing objectives that relate to the prevention of crime and disorder, and the prevention of a public nuisance. It is feared that additional noise may be created together with the potential of a disturbance if this application were granted.

In carrying out its statutory function, the Licensing Authority must promote the licensing objectives as defined in the Licensing Act 2003:-

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm

The decision that the Committee can make for this application is to:-

- Grant the application
- Modify the application by imposing conditions

- Remove a licensable activity from the application
- Reject the application

When determining an application then due regard should be given to the Council's Licensing Policy and the Secretary of State's Guidance.

If the Committee in their discretion wishes to impose conditions, the only conditions that can be imposed are those that are necessary and proportionate to promote the licensing objective relative to the representations received. Equally, the Committee cannot impose conditions that duplicate the effect of existing legislation."

Members had no questions of Mr Hardy.

Mr S Sparrow, the Licensing Officer for Essex Police, was then invited to speak and he explained that, following an inspection, conditions had been negotiated and agreed by the applicant's solicitor.

The Assistant Chief Executive expressed concern about the enforceability of a condition restraining the right to serve a temporary event notice. He went on to point out that any person could apply for such a notice. It was not confined to the licence holder, for example, if the building were rented out. In view of this, he considered that the condition restraining the right to serve a temporary event notice would be ultra vires the District Council. Following a short discussion the Assistant Chief Executive suggested that the third condition be deleted pending agreement of a condition regarding consumption of alcohol in the rear garden as sought by the Environmental Health Officer to prevent public nuisance.

Mr W Cockerell and Mrs A Lee-Moore, Principal and District Environmental Health Officers, informed the meeting about the concerns arising from the situation of the youth hostel in a residential and quiet area and from the timber framed construction of the building which would transmit sounds to other buildings, as well as the possibility of noise from customers going in and out of the building late into the night. They suggested conditions to mitigate the noise potential.

As regards one condition limiting special events to no more than 12 per annum the Assistant Chief Executive advised that the same problem would arise as with the condition suggested by Mr Sparrow the Police Licensing Officer. If, however, no reference was made on the understanding that if public nuisance was caused a review of the licence would follow, this might be adequate to prevent public nuisance.

Members had no questions of the Environmental Health Officers.

The Committee then received representations from interested members of the public as follows:

Mr J Ready stressed the historic nature of the surrounding buildings and the predominately elderly population thereabouts. He said that there were two other hotels some short distance away and that since the premises were not insulated for sound the introduction of a premises licence was inappropriate.

Mr Ready was concerned that the person named as the designated premises supervisor was based far away. He was concerned that there would not be anyone present who could enforce the promises made in the policy manuals. He expressed concern about possible noise, saying that the 'rent a hostel' weekends were already noisy. He added that no information had been provided about whether there would be enough toilets and whether occupancy numbers and fire escapes were adequate. He was concerned that the licence remained with the premises so that another purchaser could use it. He also complained that the application was vacuous and that the Applicant should be asked to go away and fill in detail. If the licence were granted conditions should be made to protect the public when it was known what the Applicant intended.

There were no questions for Mr Ready.

Charles Goldie said that his house shared a wall with the Youth Hostel. He feared lack of control and inability to control the sale of alcohol or supply of it and therefore damage to the neighbourhood. He added that he had experience of this from the public house down the road. In addition traffic in Myddylton Place would cause obstructions. Fire risk was increased if large numbers of people were to visit the hostel for entertainment. The application showed lack of supervision. It would be dangerous for people to be dropped off or to park by the hostel and the applicants had said nothing about the occupancy capacity. He stressed the importance of paragraphs 7, 8 and 9 of the report and said he felt that capacity should be restricted to reduce fire risk. He was concerned about public nuisance whilst making no criticism of the warden who had done his best to decrease nuisance. There was, however, regular nuisance at present and the concern was that this would increase and the age of the building made it difficult to noise insulate. As regards protection of children from harm, he felt there was lack of ability to control the sale of alcohol on or off the premises and that the operating schedule was vague. The policies seemed to be pious hopes and said nothing about what was going to be done.

Mr J Kelman explained that he lived at 7 Bridge Street which was about 13 foot from the hostel. He had been disturbed by the hostel at 3.30 am. Because of the nature of the house sound improvement could not be done. The recycling bin at the hostel made more noise and traffic to the hostel blocked traffic in Bridge Street. The building and its location were unsuitable for increased trade. The same considerations applied to deliveries to the hostel. He asked for the application to be totally rejected.

Mrs B Goldie had concerns about public safety and public nuisance. She explained that her house was a part of the same 15th Century structure as the youth hostel. There was no insulation to protect them from noise or fire risk the dividing structure being a single thickness lath and plaster wall. She thought the performance room would be on the other side of their party wall with the Youth Hostel and also the walls facing Myddylton Place were extremely thin. From the Rent a Hostel weekends, whilst the warden did his best, there was experience of rowdy and unacceptable behaviour and noise in the garden because smoking was not allowed inside. Myddylton Place itself was very narrow and the parties would spill out onto it. Music would increase the problem and fire risk was a constant fear. She asked how many people

they intended to attract and what the capacity was. She asked the Committee to insist on a fire and noise insulation survey being done and work completed before they considered the application.

Gordon Smith pointed out that there were seven garages and the access to the elderly people's home at Walden Place in Myddylton Place. Bridge Street houses used Myddylton Place as a car park despite notices of prohibition and because of the configuration of the double yellow lines it was possible for parking to happen both sides so that emergency access would be extremely bad. Any increase on this would make matters much worse.

Ray Jones said that he had 50 years knowledge of the Youth Hostel Association and was aware that it had financial problems. His objections were that the hostel was the best medieval house in Saffron Walden with internal features as well as external. Necessary modifications would not be allowed. Protection of children in a safe environment would be difficult since the environment was not safe if alcohol could be provided there. He was also concerned about drug culture and presence of sufficient staff to administer the licence for the protection of children. He thought it would be difficult to safeguard all the various needs if the supervisor were many counties away.

Members of the Committee and the applicant's solicitor had no questions to ask of the representatives of the public.

The Applicant then addressed the Committee. Mr Cochrane, the Applicant's solicitor pointed out that the Youth Hostel Association was a national charity of an educational sort and was eminently reputable. They were sorry they had caused such strength of feeling and hoped that it would be possible to reassure the residents. There was a degree of goodwill between the manager and residents which they wished to keep, but the organisation was changing. It was presenting 167 applications for licences and those applications were being done in a generic style because it was appreciated that each one would have to be tailored to the circumstances of the particular case and recognised that local conditions must be arrived at. He asked Mr Ready not to be dismissive of the risk assessments which had been made. These would have to be living documents with flexibility to update as circumstances arose. He pointed out that there was no responsible authority objection from a fire officer. Moreover whilst there was a named designated premises supervisor this was because some local authorities would not take an application for a licence without one. The licence would not be used until the hostel manager had obtained a licensing qualification and been granted a personal licence.

The Youth Hostel Association would prefer to have off-sales to obtain more funds, but would limit such sales to guests if the Council wanted this. Currently the hostel was unlicensed so members could buy a drink outside and drink it within the Hostel in an unregulated situation. If the Hostel was licensed the situation would become a regulated one with a personal licence holder who would be in a strong position to control and would not encourage the bringing of alcohol in from outside. The profit would go to the Youth Hostel Association which was better for people who wanted to stay there. The Hostel also attracted middle aged and middle class members and it was thought there would not be many off-sales.

He added that because of the 2005 legislation, private entertainment had become regulated. The Youth Hostel Association had to evolve as it could to cater here for a limited number of occasions. The dining room would limit numbers to no more than 40 and amplification would be requested for no more than 12 occasions per year. There was currently much goodwill towards the manager of the Hostel and it was arguable that, licence or no licence, some noise would take place at the Hostel. Overnight parking was directed to Swan Meadow Car Park and the conduct of the premises would be best controlled by the power of a licence review.

Members had questions for Mr Cochrane. In answer he said that the accommodation included dormitory and separate bedrooms. The staff were one full time and one in summer part time. Children were protected by the policies insofar as sales to residents and off-sales could be time limited. Sales to children would be prevented, eg by a Challenge 21 condition and it should be appreciated that the Youth Hostel Association was particularly aware of the needs of children. Under the current situation it was possible to bring alcohol in and give it to a child whereas that could not happen under a regulated establishment. As regards noise nuisance, he assured the Committee that if anyone complained the sound would be turned off and pointed out that if anything could not be done without causing public nuisance it would be in breach of a condition of the licence anyway and would trigger review. The organisation would encourage any consumption of alcohol to be away from sleeping areas and would not permit it in the garden after 10.00 pm which was the present rule.

In answer to questions about possible increase in demand Mr Cochrane said there might be increased function use, but the main point of the licence was to prevent potential purchasers going to outside alcohol sources. He added that the smoking ban had brought challenges, but those who smoked had to do so outside.

Further questions were then invited from the representatives. Mr Ready asked whether the fire authorities had had the opportunity to comment and the chairman of the Committee explained that they had. Mr Goldie asked how many staff there would be and was told that there would be no change to the numbers. Mrs Goldie asked whether there had been a fire risk assessment and was told that there had. She asked if the applicant would make sure that there was insulation in the building before performances took place and Mr Cochrane said that what was proposed was very low level and would not be allowed to happen if the public said it was a nuisance. In answer to Mr Jones' enquiries Mr Cochrane said that all the staff were and would be CRB checked.

The Licensing Officer explained that seven statutory bodies had been consulted and among them the fire service and the child protection unit had not made objections.

The Assistant Chief Executive then advised the Committee that the designated premises supervisor was not required by statute to be present at the premises or undertake any particular duties. The aspect of child safety and fire protection was governed by separate legislative regimes and it was not appropriate for the Committee to seek to replicate that regulation. The

Council did not have a cumulative impact policy so it was not appropriate to give weight to representations as to the cumulative impact. It would be possible for the Committee to delete a licensable activity for example regulated entertainment, but the Youth Hostel Association would be subject to conditions as to how it carried out its entertainment whereas if temporary events notices were used these could cover up to 96 hours and each event could accommodate 499 people. It was open to the police to object only for reasons related to crime not public nuisance in the case of such temporary events. In the circumstances, the Committee might feel that some control was better than none.

LC34 **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's interest so to do to permit a free and frank exchange of views between members. The panel left the room to deliberate on their decision at 12.30 pm.

LC35 **APPLICATION FOR THE GRANT OF A PREMISES LICENCE UNDER THE LICENSING ACT 2003 FOR THE SAFFRON WALDEN YOUTH HOSTEL**

Members returned to announce their decision.

RESOLVED the Committee has considered the written representations from a number of interested parties (attached to the Licensing Officer's report). The Committee has also heard verbal representations on behalf of the Police and Environmental Health, as responsible authorities, a number of residents, as interested parties and the solicitor on behalf of the applicant.

Members take a view that to grant a licence, subject to appropriate conditions, will meet the four licensing objectives.

Although the police objected on the grounds of prevention of crime and disorder and public nuisance there was no evidence to suggest that the premises would become a source of crime or disorder if a licence were granted. The Committee feels, therefore, that the condition offered in the operating schedule is sufficient.

With regard to public safety residents have expressed concern at the fire safety arrangements proposed and in particular the lack of restrictions on numbers. Mr Cochrane on behalf of the applicant offered a condition limiting the use of the premises to 40 people. The Committee accepts the offer and will impose such a condition.

Most of the representations were concerned with the objective of the prevention of public nuisance. The police and the Environmental Health Officers have agreed certain conditions to mitigate any nuisance which may be caused, in particular the police agreed

operating times between 10:00 hours and 24:00 hours. So far as regulated entertainment is concerned the Committee do not believe this goes far enough in what is a quiet residential area.

Paragraph 5.6 of the Council's licensing policy sets out factors which impact on the likelihood of public nuisance including the hours during which licensable activities will be carried out, particularly between 23:00 hours and 07:00 hours. The Committee will permit the sale of alcohol between 10:00 and 24:00 hours on seven days a week and will also permit late night refreshment until midnight on seven days a week.

With regard to regulated entertainment the hours will be 10:00 to 23:00, Sunday to Thursday and 10:00 to 24:00 hours on Friday and Saturday. The Committee will impose all of the conditions set out in a letter from the Council's Environmental Health Officer to the applicant's solicitors dated 18 October 2007 with an amendment to condition 2 providing that alcohol shall not be permitted to be consumed outside the building between the hours of 22:00 and 10:00.

Residents expressed concern at a possible nuisance arising from the public using the premises for off-sales. Mr Cochrane offered a condition that off-sales would be limited to residents. The Committee accepts that offer and will impose a condition that only persons staying at the premises may purchase the alcohol for consumption off the premises.

In dealing with the issue of prevention of public nuisance, the Committee have placed reliance on Mr Cochrane's assurance that the applicant intends to operate under the licence and not to use temporary events notices.

Finally with regard to the objective of the protection of children from harm the Committee accepts Mr Cochrane's offer of a condition to apply a 'Challenge 21' policy.

The Committee have also placed reliance on Mr Cochrane's assurance that alcohol will not be sold at the premises until the manager of the premises has obtained a personal licence. The licence will be granted upon the terms set out above.

The Assistant Chief Executive informed parties of their right to appeal to a magistrates court within 21 days subject to payment of a fee of £75.

The meeting ended at 1.38 pm.