

EXTRAORDINARY LICENSING COMMITTEE held at 11.00 am at LONDON ROAD SAFFRON WALDEN on 19 DECEMBER 2007

Present:- Councillors E W Hicks, R M Lemon and D J Morson.

Also present:- Councillor G Sell.

Officers in attendance:- M Hardy, W Cockerell, C Nicholson and C Roberts.

LC38

APPLICATION FOR THE GRANT OF PREMISES LICENCE UNDER THE LICENSING ACT 2003 – STORAGE ROOM ATTACHED TO THE ROSE AND CROWN PUBLIC HOUSE IN BENTFIELD GREEN STANSTED

The Chairman welcomed the applicants, Messrs R Marks and J Fordham and the objectors, Mr M Avery, Mrs J McCulloch and Mrs D Hibbert and Councillor Sell, representing residents of Stansted. He introduced the members of the panel. Mrs Nicholson, the Council's non-contentious Solicitor, explained the procedure to be adopted stressing that all would have the opportunity to express their thoughts. She informed the Chairman that a list had been taken of those present who wished to speak. The Council's Licensing Officer then presented his report.

Councillor A Walters arrived at 11.07 am and remained in the meeting as a spectator only taking no part in the debate or the decision.

The Licensing Officer explained the facts of the application as follows.

"1 This report sets out an application for the grant of a Premises Licence in respect of the above. Representations have been made to this application so therefore this matter has been referred to the Committee for deliberation.

2 The Storage Room is attached to the Rose and Crown Public House situated in Bentfield Green, Stansted. The Public House does have a Premises Licence for regulated entertainment, late night refreshment and the sale of alcohol by retail for consumption both on and off the premises.

3 The times for these licensable activities are listed below

(a) Regulated Entertainment and the Sale of Alcohol by Retail

Monday to Thursday	11 am – 12 midnight
Friday and Saturday	11 am – 1 am
Sunday	11 am – 12 midnight

(b) Late Night Refreshment

Monday to Thursday	11 pm – 12 midnight
Friday, Saturday and Sunday	11 pm – 1 am

- 4 The applicant is Richard Marks who resides at the Rose and Crown and is seeking to licence the Storage Room which would be used as a facility for the sale of alcohol by retail for consumption off the premises only.
- 5 In accordance with the Licensing Act 2003 when an applicant submits documentation for the grant of a licence then included must be an operating schedule. This demonstrates how the licensing objectives will be met and also seeks to outline what licensable activities are sought.
- 6 In respect of these premises the applicant seeks the following.
 - (a) The sale of alcohol by retail for consumption off the premises
Monday – Sunday 10 pm – 8 am
- 7 These premises would not be open to the public as the service being provided would be pre-booked and delivered by the applicant or his staff to the home address of the customer.
- 8 The operating schedule indicates the following measures will be taken to promote the licensing objective regarding the prevention of crime and disorder.
 - Delivery to a postal address of the customer which will reduce the number of persons in a public place.
- 9 The operating schedule indicates the following measures will be taken to promote the licensing objective regarding public safety.
 - The prevention of persons drinking in public places.
- 10 The operating schedule indicates that the following measures will be taken to promote the licensing objective regarding the prevention of public nuisance.
 - Keeping residents in their houses
- 11 The operating schedule indicates that the following measures will be taken to promote the licensing objective regarding the protection of children from harm.
 - No sale of alcohol to persons under 18. If in doubt proof of age will be sought from the purchaser.
- 12 Copies of this application have been served on the statutory bodies which have attracted representations from the Principal Environmental Health Officer. This is based on the licensing objective that refers to the prevention of public nuisance.

- 13 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.
- 14 Negotiations between the applicant and The Child Protection Unit of Essex County Council have resulted in both parties agreeing to the following conditions on any licence that might be granted.
- Proof of age established when placing an order
 - Proof of age requested on delivery
 - Deliveries will be made only to persons over 18
- 15 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
- 16 The decision that the Committee can make for this application is to:-
- Grant the application
 - Modify the application by inserting conditions
 - Remove a licensable activity from the application
 - Reject the application
- 17 When determining an application then due regard should be given to the Council's Licensing Policy and the Secretary of State's Guidance.
- 18 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."

In answer to a question from the Chairman, Mr Hardy confirmed that the Principal Environmental Health Officer was the only statutory consultee with representations to make. The Principal Environmental Health Officer explained that his concerns were about the loading and unloading of goods such as bottles onto the delivery vehicles in the hours 10pm-8.00 am within a residential area, which was likely to cause disturbance due to noise and lights. He suggested that there should be a restriction on vehicle movements between 12 midnight and 7.00 am. He understood from the applicant that the vehicle would be preloaded in the early evening and would not normally require to be reloaded before the next day. Representations were then heard from Mrs D Hibbert who had written to the Council and recommended the condition suggested by the Principal Environmental Health Officer to prevent further disturbance to residents from the Rose and Crown.

Mr M Avey asked for a restriction on loading between 11.00 pm and 7.00 am as he felt there would be noise from engines and loading as well as the usual pub noise. He also mentioned a possible problem of parking in the street as a knock on effect of crowding in the pub car park.

Mrs J McCulloch had similar reservations about the application. She explained that the forecourt of the pub was small and noise was a big factor there. She was concerned that there was nothing to restrict the applicant to one load only in 24 hours. Mrs Hibbert added that the Quadrant echoed and she was concerned that requests for supplies would not be refused even if this required a further load.

Councillor G Sell, the ward member for Stansted North, speaking on behalf of residents who had approached him, explained that residents of Bentfield Green objected to the application on the grounds of public nuisance. Bentfield Green was a residential area with cottages adjacent and opposite to the public house. He would be concerned about noise at that time of night.

There were no questions from the members or the applicant in connection with the representations made.

The applicant, Mr Richard Marks sympathised with the comments from the objectors. He said that he lived in the pub and did not want to be distributed at 4.00 am either. He would expect restrictions on the licence. Further, no public would be coming to the store room to buy from it direct. In answer to a question from the Chairman he said that if any person did come to the store room it would be explained that they could not be served.

In answer to a question from Councillor Morson, he said the range of delivery would be around Stansted and Stortford, no more than a five mile radius. If the business thrived he would expand to different premises, renting an industrial unit would cost a lot and he was not yet sure whether the venture would be profitable. Therefore, he was operating it from the building he owned. If it became apparent that two vehicles were needed there would be enough profit for separate premises. He intended to load the vehicles between 9 and 11pm finishing at 12 at the latest. The driver would then go on deliveries and then go home and come back the next morning.

In answer to a question from Councillor Lemon he said that client's age was assessed by the fact that they did or did not have credit cards. There was no cash business undertaken. In addition they could ask for ID. It was possible therefore that undelivered orders might remain on the vehicle at the driver's house overnight.

The Licensing Officer drew the attention of the meeting to paragraph 14 of his report and said that the delivery was the point at which a challenge could be made. Questions were invited from the objectors.

In answer to Mr Avey, the applicant explained that the business was a separate one from the Rose and Crown business and advertising would be by flyers and the internet. He gave an indication of the size of the vehicle and confirmed again that residents could not pick up deliveries there. If a customer rang at 1.00 am, there would be extra supplies on the van for

emergencies; the Applicant would not expect the driver to come back to reload.

LC39 **EXCLUSION OF THE PUBLIC**

RESOLVED that under Regulation 14(2) of the 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 permit a free and frank exchange of views between members. The panel left the room to deliberate on their decision at 11.40 am.

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Members returned to announce their decision at 11.57 am.

RESOLVED the Committee has listened carefully to all they have heard this morning and also the written comments that have been received by the Licensing Authority. The Committee acknowledges the concerns raised in respect of public nuisance and the protection of children from harm. The Committee believes that the imposition of the following conditions will satisfactorily deal with the licensing objective of the prevention of public nuisance and protection of children from harm.

- 1 No vehicle movements associated with the supply of alcohol from the premises between 12 midnight and 07.00 am each day.
- 2 Proof of age established when placing an order.
- 3 Proof of age requested on delivery.
- 4 Deliveries will be made only to persons over 18.

All parties were reminded of their right to appeal to the Magistrates Court within 21 days if they were aggrieved by the decision.

The meeting ended at 12 noon.