

EXTRAORDINARY LICENSING COMMITTEE held at 2.00 pm at COUNCIL OFFICES LONDON ROAD SAFFRON WALDEN on 19 DECEMBER 2007

Present:- Councillor E W Hicks – Chairman.
Councillors R M Lemon, D J Morson and A D Walters.

Officers in attendance:- A Bonham, W Cockerell, M Hardy, C Nicholson and P Snow.

LC41

APPLICATION TO VARY THE CURRENT PREMISES LICENCE UNDER THE LICENSING ACT 2003 – THE COCK INN HATFIELD BROAD OAK

The Chairman welcomed the applicant, Mr T Williams, and Mr N Yeo acting as Counsel for the applicant. He introduced the members of the Panel. Mrs Nicholson, the Council's Non-Contentious Solicitor, explained the procedure to be adopted and said that all parties would be given an opportunity to make a statement. A list had been taken of all those present who wished to speak.

The Council's Licensing Officer then presented his report, explaining the facts of the application as follows.

- 1 This report sets out an application to vary the current 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 Cock Inn Public House is situated on High Street, Hatfield Broad Oak and can be described as being a fairly central point for the village. It currently has a Premises Licence to sell alcohol by retail for consumption both on and off the premises.
- 3 The current timings for that licensable activity are listed below.

Monday to Saturday 11.am - 11 pm

Sunday 12 noon - 10.30 pm

For the non standard timings the hours are as follows:

a) Good Friday 12 noon - 10.50 pm

b) Christmas Day 12 noon - 3.20 pm
7 pm - 10.50 pm

c) New Years Eve 11.am - 11 pm
other than a Sunday

d) New Years Eve on a Sunday 12.noon – 10.30 pm

At the close of permitted hours on New Years Eve the embedded condition regarding a continuation of the sale of alcohol until the

commencement of permitted hours on New Years Day was transferred over during the transitional period.

4 The applicant for this variation has submitted a new operating schedule which seeks to amend the current licence by adding regulated entertainment and extending the current hours for the sale of alcohol by retail.

5 The revised Operating Schedule now seeks the following

(a) Live music (indoors only)

Friday – Saturday 7.30 pm – 12 midnight

For the non-standard timings on Christmas Eve and New Years Eve the hours sought are 7.30 pm – 1 am.

Christmas Day and New Years Day 7.30 pm – 12 midnight.

(b) Recorded Music (indoors only)

Friday – Saturday 7.30 pm – 12 midnight.

For the non-standard timings on Christmas Eve and New Years Eve the hours sought are 7.30 pm – 1 am

Christmas Day and New Years Day 7.30 pm – 12 midnight.

(c) Provision of facilities for making music (indoors only)

Friday – Saturday 7.30 pm – 12 midnight

For the non-standard timings on Christmas Eve and New Years Eve the hours sought are 7.30 pm – 1 am

Christmas Day and New Years Day 7.30 pm – 12 midnight.

(d) Provision of facilities for dancing (indoors only)

Friday – Saturday 7.30 pm – 12 midnight

For the non-standard timings on Christmas Eve and New Years Eve the hours sought are 7.30 pm – 1 am.

Christmas Day and New Years Day 7.30 pm – 12 midnight.

(e) The sale of alcohol by retail for both consumption on and off the premises.

Monday – Wednesday 11 am – 11 pm

Thursday – Saturday 11 am – 1 am

Sunday 12 noon – 10.30 pm

For the non-standard timings on Christmas Eve, Christmas Day, New Years Eve, New Years Day the hours sought are 11 am – 1 am.

(f) The hours the premises are open to the public are

Monday – Wednesday	11 am – 11.30 pm
Thursday – Saturday	11 am – 1 am
Sunday	12 noon – 11 pm

6 If this licence were to be granted as applied for then the applicant would ask that the current conditions which limit the sale of alcohol on Christmas Day, Good Friday, New Years Eve and New Years Day would be removed.

7 The Operating Schedule indicates the following measures that will be taken to promote the licensing objective regarding the prevention of crime and disorder.

The public house insists that its guests are respectful and responsible. The public house will not tolerate any evidence of disorder and the public house's reputation, were it to allow such action, would suffer serious decline.

Anyone who appears to be drunk and disorderly or shows signs of aggression will be asked to leave the premises.

8 The Operating Schedule indicates the following measures that will be taken to promote the licensing objective regarding public safety.

All relevant policies are in place to keep up to date. The staff are trained on a continual basis in all aspects of public safety. An accident book is kept and all regulatory requirements concerning public safety are treated with the utmost seriousness.

Anyone who appears to be drunk and disorderly or shows signs of aggression will be asked to leave the premises.

9 The Operating Schedule indicates the following measures that will be taken to promote the licensing objective regarding the prevention of public nuisance.

The public house takes measures to ensure that customers leave quietly and that due consideration is made to nearby residents.

The applicant is willing to put up inside the public house a notice prominently displayed requesting customers, when leaving the public house to consider the neighbours and to depart as quietly as possible

- 10 The Operating Schedule indicates the following measures that will be taken to promote the licensing objective regarding the protection of children from harm.

All staff who are involved in the sale and supply of alcohol are fully trained and ensures that children are not exposed to alcohol. If any member of the bar staff are unsure whether a customer purchasing alcohol is 18 years old or over they will request identification from the customer in the form of suitable photographic identification. In addition if any member of the bar staff believe that someone in the public house is consuming alcohol who appears to be under 18 years old, they will be asked to provide suitable photographic identification. If the person who is asked to provide suitable identification (to show they are 18 years old or over) fails to do so, that person will be asked to leave.

- 11 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.

- 12 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.

- 13 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

- 14 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

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

- 16 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.

Mr Hardy confirmed that the Principal Environmental Health Officer was the only consultee who wished to make representations.

Mr Yeo, Counsel for the applicant, said that paragraph 5 (e) in the report should refer to a finish time of 1.30 am for the sale of alcohol from Thursday to Saturday. This was referred to in paragraph (o) of the application.

The Principal Environmental Health Officer explained that his concerns were mainly in relation to noise and disturbance as the premises was situated close to a number of residential properties. As a result, a number of additional conditions had been suggested to the applicant and had been agreed. The District Environmental Health Officer then outlined these conditions as included in a letter from Cripps Harries Hall. The conditions were as follows:-

- 1 All external windows and doors in all rooms where events involving live or amplified sound are taking place must be kept closed other than when used for access and egress.
- 2 Prominent and clear notices shall be displayed at all exits requesting the public to respect the needs of local residents and to leave the premises and the area quietly.
- 3 Amplified sound from the licensed premises shall not be clearly audible at the boundary of any noise sensitive premises so as to cause a nuisance.
- 4 A responsible member of staff shall regularly assess noise from the premises during amplified and live music events. Steps shall be taken to reduce the level of noise where it is likely to cause disturbance to local residents.
- 5 Amplified and live music events shall end at midnight.
- 6 External collection or disposal of bottles or refuse not to be carried out between the hours of midnight and 7.00 am.

Mr M Dowell asked for clarification about the effect of the proposed condition relating to amplified sound not being clearly audible at the boundary of noise sensitive premises. In response, the Principal Environmental Health Officer said that this would be assessed in relation to hearing the amplified sound against normal background noises. The boundary of any noise sensitive premises referred to domestic properties in the vicinity of the licensed premises.

Mr M Dowell said that he was a resident of an adjoining property. Hatfield Broad Oak was a small community and it was of benefit to that community for The Cock to be commercially successful. He wished to adopt a reasonable approach but felt that there should be some constraint on live and recorded music. His preference was to restrict the number of occasions on which music could be played to about six per annum in addition to the Christmas period. He was particularly concerned about noise as The Cock was an old coaching inn and it would be difficult to install effective noise insulation. He also suggested that the applicant might be better advised to apply for temporary event notices instead of a variation on the current licence as this would allow him greater flexibility.

The Principal Environmental Health Officer commented that, in the event of a temporary event notice, no conditions could be imposed and only the police could object and only on the grounds of crime and disorder.

Mr J Walker said that he was concerned because the pub was at the heart of the residential area and his doors and windows directly overlooked the licensed premises. He was also concerned about customers congregating on the street and the noise and disturbance that would be caused by vehicles leaving the premises at 1.00 am. He was also concerned by the prospect of live entertainment taking place on every weekend and the consequent effect on his quality of life. He suggested that live music should be restricted to no later than 11.00 pm.

Mr D Knight said that he did not wish to be negative about the effect of the application on the community as he had chosen to live close to a licensed premises. However, he considered that the present application went too far and live music every weekend was too frequent. Once or twice a month would be more acceptable. He questioned how it would be possible to effectively manage dancing in the premises as the bar area was quite restricted in terms of space. There would be considerable noise caused by these events especially in hot weather. He urged the Committee to strengthen the conditions in accordance with the environmental health guidance for licensees. He was particularly concerned about the prospect of a persistent bass beat emanating from the premises and wondered whether it would be possible to provide for a lower bass output and for the playing of more mellow music towards the close of the evening.

Emma Hibbert said that her cottage was joined to the pub. She was happy to compromise as she understood that the licensee had a business to run. However, the recent ban on smoking in public places meant that many customers stood directly underneath her windows to smoke and hoped that it would be possible to place a restriction on this activity. She thought that a permanent licence for live music would cause a great deal of disturbance.

Louise Baker expressed her concern about the frequency of live music events. She had no objection to the licence application, but did not wish to hear music being played on every weekend.

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

Mr Yeo, appearing as Counsel for the applicant, referred to the letter sent by the applicant's solicitors to the Principal Environmental Health Officer. He confirmed that his client had agreed to accept all of the extra conditions suggested by the Environmental Health Department and had also agreed to amend the application restricting live and recorded music to no later than midnight.

He said that Mr Williams had taken over as licensee in May this year and the premises had become more desirable during that time. He now wished to increase the flexibility of the licensed conditions. The Cock was a traditional

English village pub and Mr Williams wanted to live in harmony with his neighbours.

He then explained the effect of the revised operating schedule insofar as it related to the increased hours requested for serving drinks and the proposals for regulated entertainment. He said it was not the intention to play music every weekend and this would be restricted to special events on an infrequent basis. He referred to the suggestion that Mr Williams could apply for temporary event notices. He said that the proper forum for considering licensed conditions was this Committee as the temporary event notice route would effectively shut out the opportunity for neighbours to submit objections. The additional condition referring to amplified sound being clearly audible at the boundary was the most important one as it would become the responsibility of the licensee to ensure that neighbours were not disturbed. He said that Mr Williams was agreeable to changing the times sought for live and recorded music from 12 midnight to 11.30 pm.

In answer to a question from Councillor Walters, Mr Yeo said that the licensee would have to choose whether to avoid the summer months for live entertainment or to install temporary air conditioning. In answer to a question from Councillor Lemon about limited parking spaces, Mr Williams said that most of his customers lived locally.

Councillor Morson asked how the condition requesting the public to leave the premises quietly would be enforced. Mr Williams said that the ultimate sanction was to consider barring customers who did not comply with this condition.

The Chairman asked about the possibility of installing suitable noise insulation measures. Mr Yeo replied that The Cock was a Grade 2 listed building and this restricted the nature of the measures that could be put in place.

In response to a question from Mr Knight, the Principal Environmental Health Officer agreed that lower frequency sound would pass through the structure of the building. He thought that automatic noise cut out equipment would not be appropriate and the best solution was for noise levels to be monitored by the licensee.

Emma Hibbert said that her party wall was prone to vibrate when music was played in the premises. The Principal Environmental Health Officer said that the effect of the proposed conditions was that the matter would be regulated if amplified sound was clearly audible in adjoining properties. No automatic noise checks would be carried out at The Cock and the onus would be on householders to complain in these circumstances.

Mr Dowell thought that the effect of condition 3 was that the level of noise emanating from the premises would be open to interpretation. He asked what the benchmark would be as the condition would not be controlled by objective measures.

The Chairman said that the Committee could only accept the advice of the Principal Environmental Health Officer and until the events had taken place, it would not be possible to judge how they should be monitored. The District

Environmental Health Officer said that condition 3 would act as a trigger point to start an investigation if required. At that point, it would be possible to install noise monitoring equipment.

Mr Rycroft felt that condition 3 was almost too onerous a condition for the licensee as it might be difficult for him to run live music events at all.

Louise Baker asked about the feasibility of installing a machine that would switch off the power source if the noise exceeded a certain level. The Principal Environmental Health Officer said that this type of equipment was more appropriate in a nightclub rather than a village pub.

LC42 **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 interest so to do to permit a free and frank exchange of views between Members.

The public left the room to allow Members to consider their decision.

LC43 **TO CONSIDER AN APPLICATION FOR A REVIEW OF AN EXISTING PREMISES LICENCE UNDER THE LICENSING ACT 2003 FOR THE COCK INN AT HATFIELD BROAD OAK**

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

RESOLVED that the Committee has listened carefully to everything it has heard this afternoon and has considered all the written comments that have been presented. The Committee is mindful of the comments that residents have made with regard to the issue of public nuisance and do consider that in order to protect local residents, it will be necessary to impose the following conditions:-

- 1 Hours for the provision of alcohol
Thursday – 11.00 pm
Friday and Saturday – 12.30 am
- 2 Hours of opening
Thursday to 11.30 pm
Friday and Saturday – 1.00 am
- 3 Hours for all regulated entertainment finish at 11.30 pm.
- 4 All external windows and doors in all rooms where events involving live or amplified sound are taking place must be kept closed other than when used for access and egress.

- 5 Prominent and clear notices shall be displayed at all exits requesting the public to respect the needs of local residents and to leave the premises and the area quietly.
- 6 Amplified sound from the licensed premises shall not be clearly audible at the boundary of any noise sensitive premises so as to cause a nuisance.
- 7 A responsible member of staff shall regularly assess noise from the premises during amplified and live music events. Steps shall be taken to reduce the level of noise where it is likely to cause a disturbance to local residents.
- 8 External collection or disposal of bottles or refuse not to be carried out between the hours of midnight and 7.00 am.

The Committee considers that these conditions will adequately address the licensing objective relating to the prevention of nuisance. The Committee considers that Thursday night should be considered separately from the weekend evenings, and that it is generally appropriate to reduce slightly the terminal hours for alcohol and opening hours to reduce the impact on neighbours.

The Committee would advise the applicant that it is his responsibility to ensure compliance with the conditions, the majority of which the applicant has agreed to.

The parties are reminded of their right to appeal to the magistrate's court if they wish to appeal against this decision; this must be done within 21 days.

The meeting ended at 4.00 pm.