

**EXTRAORDINARY LICENSING COMMITTEE held at COUNCIL  
OFFICES LONDON ROAD SAFFRON WALDEN at 2pm on 1  
NOVEMBER 2010**

Present: Councillor E W Hicks – Chairman.  
Councillors R M Lemon, J I Loughlin and D G Perry.

Officers in attendance: A Bonham (District Environmental Health Officer), W Cockerell (Principal Environmental Health Officer), M Hardy (Licensing Officer), M Perry (Assistant Chief Executive - Legal) and R Procter (Democratic Services Officer).

Also attending: G Hill (interested party); D Mooney (supporting the application) and R Robertson (applicant); S Sparrow (Essex Police Licensing Officer).

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**VARIATION OF A PREMISES LICENCE**

The Chairman welcomed all parties to the meeting and introduced members of the Committee.

The Licensing Officer asked the applicant whether he had received a copy of the report, which set out an application for variation of the premises licence in respect of Traffic Bar Ltd, 39 High Street, Great Dunmow. Mr Robertson confirmed he had received a copy. The Licensing Officer referred the Committee to the report which set out details of the licensable activities permitted at Traffic Bar Ltd under the current premises licence; a plan showing the location of the premises; the extension of time sought under the application; and the operating schedule indicating the measures which would be taken to promote the licensing objectives.

The Licensing Officer said no formal representations had been received from the seven statutory bodies, on whom copies of the application had been served. He said the applicant had agreed with Essex Police that a condition should apply to any licence that might be granted that door supervisors would be used from 9pm until the end of trading on any day that the supply of alcohol was provided past midnight.

The Licensing Officer said representations had been received from four interested parties, who were local residents. These representations had been included in the papers before the Committee, and one of the interested parties, Miss G Hill, was in attendance.

The Licensing Officer said the Principal Environmental Health Officer had requested that the provisions regarding public nuisance should apply. He noted the guidance under section 182 of the Licensing Act had been revised, and that members would be guided by the Assistant Chief Executive. He reminded Members that any conditions that they imposed must be proportionate in promoting the licensing objectives. He concluded by inviting questions.

The Assistant Chief Executive asked for clarification of the extension of time which was being sought in relation to licensing activities. The applicant confirmed an extension of time of one and a half hours was sought for licensable activities on Mondays to Thursdays, and for one hour on Fridays, Saturdays and Sundays.

The Assistant Chief Executive proposed amending the wording of the condition regarding door supervisors, as registration of door staff was covered by other legislation and the legislation was in any event being reviewed. Mr Sparrow confirmed he accepted this suggestion.

At the invitation of the Chairman Miss Hill made representations. She said she had concerns about the extension of hours being sought at, as she lived in a flat located very near to the premises, at the rear of Traffic's smoking area. She experienced disturbance from noise from the garden area, particularly as she had to open her window in the summer months. She accepted there would be a degree of noise during the existing permitted hours, as she had bought the flat in knowledge of this fact, but she was concerned that an extension of time would cause further disruption to her during week nights, and that such an extension would have an adverse effect on the saleability of her flat.

Members asked a number of questions, including the effect on Miss Hill of noise from live music events. She replied she was not able to sleep until such events had finished, as the noise was very loud, particularly when the window had to be kept open during the summer. She said whilst she accepted there would be an amount of noise from Traffic's premises, it was the lateness of the extension on week nights that she wished to object to.

In reply to a question about the noise of general clearing up, Miss Hill said she heard people leaving the premises, and heard the weekly glass collection early in the morning.

The Chairman thanked Miss Hill and asked whether environmental health officers were satisfied that the noise levels were reasonable.

The District Environmental Health Officer said the premises were historically the subject of approximately one noise complaint a year. However, complainants had not completed diary records, and officers were therefore unable to progress a case. The last occasion when such a complaint had been made had been in March 2010, but when the views of that individual had subsequently been sought, she had reported the noise levels were acceptable, and the case had been closed.

The Chairman invited Mr Robertson to speak on behalf of the applicant. Mr Robertson said he had taken ownership of Traffic Bar last year. It was his aim to be considerate towards neighbouring residents whilst developing the business. He responded to the points raised, stating he had taken steps to prevent noise disturbance from customers leaving by the back gates by locking the gates; he also ensured staff emptied bins only in the daytime, as he was conscious of potential disturbance to the

neighbours; however he was not responsible for when the weekly glass recycling collection took place.

Regarding noise at the rear of the premises, Mr Robertson said there was no amplified music outside, and he had taken measures to reduce noise disturbance by installing double doors at the front and sliding doors at the back of the premises. He had not installed heaters in the smoking area, as this could encourage people to remain outside.

Mr Robertson added that Miss Hill's flat overlooked another bar. In applying for an extension he said he wished to operate his business on a 'level playing field' with other similar businesses in the vicinity.

Members asked further questions, including what steps would be taken in summer when live music was played to avoid opening the windows at the premises. Mr Robertson replied there was air conditioning in the centre bar.

There was further discussion of the competition from other similar licensed premises to Traffic Bar, some of which it was asserted had longer opening hours during weeknights.

The Licensing Officer drew Members' attention to the request for an amendment to the condition on the premises' current operating schedule which stated children were not permitted in the bar area after 6pm. The amendment sought to permit children to be in the bar to 9pm, to be supervised by an adult.

The Assistant Chief Executive then read out to Members revised guidance on licensing policy.

The Committee withdrew to consider the application at 2.45pm; and at 3.15pm returned to seek further information.

The Committee asked for details of the premises licences of other comparable premises in the vicinity of Traffic Bar. It was agreed that suitable comparators would be The Boar's Head and Bar 7. Mr Robertson suggested including as a comparator the Snooker Club. The Committee did not consider this venue to be in the vicinity of the premises under discussion, and noted it was situated in an industrial estate, rather than a residential area. The Licensing Officer then obtained details of the two premises licences which had been identified as suitable comparators. Councillor Perry asked a further question regarding the noise complaint received, and officers confirmed they had last spoken to the complainant on 23 April 2010.

At 3.25pm the Committee again withdrew, and returned at 4.20pm to deliver its decision.

## **Decision**

The Chairman read out the decision of the Committee as follows:

'This afternoon the Committee has considered an application to vary the premises licence for Traffic Bar in Great Dunmow essentially to increase the hours of its licensable activities by 1½ hours from Monday to Thursday and by 1 hour from Friday to Sunday. In addition the applicant seeks to vary the condition relating to children by deleting the existing condition which does not permit children in the bar after 6pm and requiring them to be supervised by an adult at all times with a condition which permits children in the premises prior to 9.00pm providing they are dining and accompanied by an adult. The application also seeks permission for late night refreshment. A hearing has been necessary as four representations have been received from interested parties based upon the licensing objective of the prevention of public nuisance. Prior to the hearing the licence holder agreed a condition with the police that when alcohol is being provided after midnight door supervisors will be used from 9.00pm onwards.

The Committee heard from one of the interested parties who made representations, Miss Gemma Hill. Miss Hill said that she already experiences a degree of noise nuisance from the premises. She accepts this within the existing hours as she was aware of the location of the premises and the licensed hours when she purchased her flat and accepts that in the circumstances she must expect a degree of noise from the premises during those hours. However the level of noise she experiences is such that she is unable to have her window open during the summer. Other interested parties who made written representations but who did not attend the hearing expressed similar concerns.

Mr Robertson on behalf of the premises licence holder explained that he took steps to minimise the noise nuisance caused. He has air conditioning in the premises to ensure that customers are not uncomfortable in the summer when windows are closed to comply with a noise abatement condition. He has taken steps to try and ensure that the rear door is kept closed except when people are entering and leaving the patio area. However notwithstanding these steps Miss Hill still experiences noise nuisance and another interested party has made a complaint regarding noise to the Council's environmental health department, although this was not proceeded with.

The Committee is required to have regard to its licensing policy and guidance issued by the government. The Council's licensing policy at paragraph 5.1 sets out that the licensing authority wishes to proactively maintain and protect the amenity of residents and that it may apply stricter conditions, including controls on licensing hours, where licensed premises are in or near residential areas. The government guidance states that for the purpose of the Licensing Act 2003 the expression "public nuisance" is not narrowly defined and could include low level nuisance perhaps affecting a few people living locally. The Committee find that the premises is causing that level of nuisance at present and has no reason to believe that this would abate if the variation were granted in the terms of the application.

Mr Robertson says that the application is designed to put the premises on an equal playing field with competitors in the area. In the light of that

submission members interrupted their deliberations to seek further information from the Licensing Officer regarding opening times in the vicinity. It appears that there is no uniformity across the premises the subject of this application and two other premises nearby regarded as being competitors. (Mr Robertson cited other premises he regards as being in competition, namely the snooker club in Dunmow. Members disregarded these premises as not being a comparator as they were not in a residential area). It is right to say that Bar 7 has generally shorter licensed hours and the Boar's Head has slightly longer. There is of course no requirement on the part of the Committee to equalise licensing hours in an area although the Committee have had regard to the hours for these premises by way of comparison.

Members are mindful of the need to balance the interests of interested parties against the cultural, social and business importance of licensed premises. In this case the Committee takes the view that the balance is best struck by granting the application in part only. For the days Sunday to Thursday therefore the licensing hours will remain unchanged. For Friday and Saturday nights however the Committee approve a variation to extend the hours for all licensable activities to 1.00am with closing time for the premises to be at 1.30am on those evenings. In addition the Committee grant the application for late night refreshment until 11.30pm Sunday to Thursday and until 1.00am Friday and Saturday. The variation with regard to children is also granted. The condition regarding door supervisors agreed with the police will be imposed with the deletion of the requirement for supervisors to be registered as this is covered by other legislation.'

The meeting ended at 4.30pm.