

**EXTRAORDINARY LICENSING COMMITTEE held at 10.30 am at the
COUNCIL OFFICES SAFFRON WALDEN on 3 JUNE 2011**

Present: Councillor D G Perry – Chairman.
Councillors R M Lemon and A D Walters.

Also present : Councillors J Freeman, V Ranger, J Redfern and J Rose.

Officers in attendance: M Hardy (Licensing Officer), M Perry (Assistant Chief Executive-Legal) and C Roberts (Democratic Services Officer).

LC1 APOLOGIES FOR ABSENCE AND DECLARATIONS OF INTEREST

An apology for absence was received from Councillor E W Hicks.

**LC2 APPLICATION TO VARY A PREMISES LICENCE - THE CROWN HOUSE,
GREAT CHESTERFORD**

The Chairman welcomed all parties to the meeting and introduced the Members of the Panel and officers to the applicant and objectors, having first established that no-one objected to the presence of additional councillors for the sole purpose of observation.

The Licensing Officer then presented his report. The case had been brought before the Committee following objections received to an application to vary the premises licence for The Crown House, Great Chesterford which had first been issued for the premises under the Licensing Act 2003 following an application to convert the previous Justices Licence on 15 July 2005.

The premises licence had hitherto permitted the following licensable activities

(a) Playing of recorded music (indoors only)

Monday to Saturday	11.00am to 12 midnight
Sunday	12 noon to 11.30pm

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

Monday to Saturday	11.00am to 12 midnight
Sunday	12 noon to 11 30pm

(c) The hours the premises were open to the public

Monday to Saturday	11.00am to 12 .30am
Sunday	12 noon to 12 midnight

The current mandatory conditions were attached to the licence at Annexe 1.

The proprietor of the premises sought a variation to the current licence by increasing the licensable activities in respect of regulated entertainment, adding late night refreshment and extending the times permitted involving the sale of alcohol by retail.

The Licensing Act 2003 required the application to be supported by an operating schedule showing how the licensing objectives would be met and what licensable activities were sought.

The licensable activities being sought were :

(a) Live Music (Indoors and Outdoors)

Monday to Saturday	12 noon to 12 midnight
Sunday	12 noon to 11.30pm

(b) Recorded Music (Indoors Only)

Monday to Saturday	11am to 12 midnight
Sunday	12 noon to 11.30pm

(c) Performance of dance (Indoors and Outdoors)

Monday to Saturday	12 noon to 12 midnight
Sunday	12 noon to 11.30pm

(d) Provision of facilities for dancing (Indoors Only)

Monday to Saturday	12 noon to 12 midnight
Sunday	12 noon to 11.30pm

(e) Late Night Refreshment (Indoors Only)

Monday to Saturday	11pm to 12.30am
Sunday	11pm to 12 midnight

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

Monday to Saturday	11am to 12.30am
Sunday	11am to 12 midnight

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

Monday to Saturday	11am to 12.30am
Sunday	11am to 12 midnight

The operating schedule indicated the following measures would be taken to promote the licensing objective regarding the prevention of crime and disorder

Keep adequate checks to prevent under age drinking

Liaise with the local Police in order to maintain a good relationship and support if required

Keep the premises secure and minimise cash kept on site.

The operating schedule indicated the following measures would be taken to promote the licensing objective regarding public safety

Ensure that health and hygiene requirements are met.

Ensure that the premises meet the Fire Service requirements, Fire Alarms, Emergency Lighting and Extinguishers are routinely checked as required by law.

Ensure that electrical appliances are PAT Tested according to the assessment risk of The Crown House.

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

Ensure that guests' behaviour and drinking is acceptable.

The staff must not continue to provide alcohol to any guests where their behaviour is likely to become a nuisance.

Ensure that staff have clear instructions on how to deal with guests who become a public nuisance and if necessary request police assistance.

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

Ensure that under age drinking is not permitted on the premises.

Ensure that staff are aware of the restrictions of their age when serving alcohol (Members of staff who are aged 16 to 18 years).

Ensure that children are not exposed to unacceptable behaviour on the premises.

Copies of the application had been served on all of the seven statutory bodies concerned and had attracted representations from the Principal Environmental Health Officer only.

Representations had been received from interested parties based on the licensing objective prevention of public nuisance. It was feared that additional noise and disturbance would be created by permitting live or recorded music to be played at the premises and the application for late night refreshment and the extension of permitted hours for the sale of alcohol would increase that disturbance.

The Principal Environmental Health Officer had suggested to the applicant that there should be conditions relating to noise levels as follows:-

Music from the premises measured as a 5 minute Leq at the nearest point on the boundary with The Close will not exceed the following levels.

Before 9pm 60 dB (A)

Between 9pm and 11pm 53 dB (A)

After 11pm 45 dB (A)

These levels were higher than the default option of 34 decibels being consulted on as a suggested revision to the Council's licensing policy. The applicant had not agreed the proposed levels at the time of the preparation of this report, nor had the applicant produced a noise survey indicating that alternative levels would meet the licensing objective of the prevention of public nuisance.

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

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

The Committee could grant the application, modify the application by inserting conditions, remove a licensable activity from the application or reject the application. Due regard should be given to the Council's licensing policy and the Secretary of State's Guidance issued in accordance of the Act.

If the Committee wished to impose conditions, they must be necessary and proportionate to promote the licensing objective in view of the representations received. Equally, the Committee should not impose conditions that duplicate the effect of existing legislation.

There were no questions asked about the Licensing Officer's report.

Mr W Cockerell, the Principal Environmental Health Officer, explained the objections which had been raised in the context of prevention of noise nuisance and of public safety (car parking) and outlined the history of noise complaints about use of a marquee in the garden of the Crown House.

The Principal Environmental Health Officer and his colleague Mrs O'Boyle, on behalf of the Environmental Health Department had suggested to the manager of the Crown House conditions as to the times and decibel levels of music which would meet the concerns of the Department, and the applicant had agreed to accept these. Mrs O'Boyle also confirmed that the applicant was prepared to accept a condition that no music should be played outside the premises after 9 pm.

In answer to a question from Councillor Lemon the Principal Environmental Health Officer explained that the Crown House had its own noise meter. If complaints arose, however, the Environmental Health Department would take noise measurements.

Objectors to the application were then invited to speak.

Mr David Hall, a local resident and immediate neighbour to the Crown House spoke on his own behalf and for neighbours who had sent the Committee written representations. The Chairman assured him that the Panel had read these letters and the Assistant Chief Executive-Legal added that the Panel was able to take representations into account only if written representations had been received.

Mr Hall said he wished to raise the issues of public safety (car parking) and public nuisance, and to point out a possible legal anomaly regarding the garden at the Crown House, which had been taken from a separate estate and hence might not benefit from the same planning permissions as the Crown House. He recounted the history of complaints made by neighbours of the Crown House in the 1990's and more recently. It had been necessary for him and other residents to approach the Crown House to ask them to turn

music down. Whilst he understood that a condition would be agreed of no music outside after 9 pm, he thought a band outside in the afternoon was possible. Residents with small children and those who had to work in the morning needed to have sleep. Further, there was no indication of the frequency of events or of how the Crown House would monitor noise.

In view of unhappy experience in the past he felt that stringent controls were necessary. There should be an obligation on the licensee to control noise fully or lose the licence. He suggested that all activities should take place in the main building, not the grounds. There should be a maximum number (about 6) of jazz concerts if these were allowed, that in addition to the noise level conditions stipulated in Mrs O'Boyle's letter of 11 April 2011 the applicant be required at all times to have a working decibel meter and to make regular checks with it to ensure that the stipulated levels were not exceeded. The licence should last only two years before needing to be renewed and it should be liable to immediate rescission on breach of any of these conditions.

Mr Hall went on to describe traffic noise congestion and parking problems in the village which he felt were exacerbated by the cars of patrons of The Crown House, and he referred to a letter from Doctor Jackson voicing concerns about noise and parking.

Doctor Jackson spoke describing the proximity of the Crown House to his house. He was up at 6 am because of his work so needed to have a period of undisturbed sleep. In his experience music was quietened only for a short time following a request. He questioned whether the noise problem would be effectively policed and he therefore suggested that there should be a limit on the number of events per annum.

In answer to a question from the Chairman the Licensing Officer confirmed that the papers in the case had been served on all seven statutory authorities but only the Environmental Health Officer had made representations.

The Applicant Ms Szajewski then put her case and answered questions, explaining that she had worked at the Crown House for three years, having succeeded Mr Egdon as Manager. The complaints referred to went back twenty years when facilities were licensed which would not be provided at present. The restaurant was for a maximum of 60 people and a marquee would not be used now. The purpose of the variations was to enable dancing to music at weddings and birthday parties and live music mainly at week-ends on a Friday or Saturday.

She added that she had made a note of the noise levels and would take measurements.

She continued that guests stayed overnight at the hotel and their cars were accommodated on the site; there had been no recent complaints. Proof of age was requested if any customer appeared under age. During the week there was a lot of business from business conferences, with some private functions at the weekend over which the hotel had control.

As regards parking she re-iterated that there had been no complaints. When asked, the hotel saw to it that cars were moved, but there were also events organised by the local Church and the area was not restricted for parking purposes. She said there was not much change in contemplation; they did not want mid-week weddings or happy hours.

The Chairman of the Panel asked whether the Hotel had any soundproofing, and Ms Szajewski said no but that the disco had now been moved to a position in the middle of the hotel, there was plug in air conditioning and they tried to keep the doors closed.

In answer to a question from the Chairman of the Panel the Assistant Chief Executive-Legal explained that, on the basis of the application plan, the licence under the 2003 Act covered only the building of Crown House, not adjacent land. .

The Assistant Chief Executive-Legal advised the Panel that a licence should not be refused merely because of lack of a necessary planning permission. He referred to the request of Mr Hall earlier in the meeting for a condition limiting the length of licence to two years. This did not promote any of the licensing objectives, hence was inappropriate to be adopted. Breach of licensing conditions would be met with an application for review which could lead to additional conditions or even revocation in reaching its decision the Committee should have regard to its licensing policy and in particular to paragraphs 1.16, 2.1 – 2.4, 5.1 – 5.3 and 5.5 – 5.7. It should also have regard to the appropriate Government Guidance including paragraphs 2.32 – 2.34, 2.36 10.7, 10.13 and 10.14. He also drew their attention to the suggested conditions in the Government Guidance to abate noise nuisance, and advised that in this case it was open to the Committee to promote the licensing objective of the prevention of public nuisance by use of conditions.

LC90

EXCLUSION OF PRESS AND 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 interest so to do to permit a free and frank exchange of views between Members.

The Panel of Members then withdrew from the room and began to consider their decision at 11.40 pm.

LC91

DETERMINATION OF AN APPLICATION TO VARY A PREMISES LICENCE - THE CROWN HOUSE, GREAT CHESTERFORD

Members returned to announce their decision at 1.15 pm.

Councillor D G Perry announced the decision as follows:

“The committee have today considered an application for a variation of the premises licence for the Crown House Hotel Great Chesterford. The premises have been licensed for a number of years and the licence was converted from a magistrates licence to one issued by this authority under the Licensing Act 2003 during the transitional period. The current licensable activities are the playing of recorded music and the sale of alcohol by retail. The permitted hours for both licensable activities are 11.00 am to midnight Monday to Saturday and noon to 11.30 pm on Sunday. The closing time for the premises is stated as being 12.30 am Monday to Saturday and midnight on Sunday.

The variation sought would include live music, the performance of dance, the provision of facilities for dancing and late night refreshment. The proposed hours for those activities would be from noon until midnight Monday to Saturday and noon until 11.30 pm on Sunday with the exception of late night refreshment which would be from 11.00 pm to 12.30 am Monday to Saturday and to midnight on Sunday. The variation also seeks an extension of the permitted time for the sale of alcohol by retail by 30 minutes throughout the week but not an extension of the time at which the premises should close to the public.

The application attracted representations from the Council's Environmental Health Department as a responsible authority and also from some local residents as interested parties. These concerned the licensing objectives of the prevention of public nuisance and in the case of the interested parties' public safety.

Having considered the submissions on the issue of public safety the Committee were not satisfied on the evidence that vehicles driven by patrons of the premises are regularly parked in surrounding roads and note in any event that there are no parking restrictions locally. The Committee did not therefore give substantial weight to these representations and did not consider that the promotion of this licensing objective required the application to be refused or for conditions to be imposed.

The objective of the prevention of public nuisance is however far more relevant in particular with regard to potential noise nuisance from the premises. The Committee note that the premises are in a residential area. The proposed hours for licensable activities extend beyond 11.00 pm and on week days the premises will not close until 12.30 am, midnight on Sundays. Given the nature of the premises there is little sound proofing. Licensable activities (particularly the provision of regulated entertainment) may therefore adversely impact upon the local community. The Committee has to balance the benefits of musical events and the advantages the business brings to the community, reflected by some of the comments made by some interested parties, against the rights of residents to peace and quiet.

Mr Cockerell and Mrs O'Boyle on behalf of the Environmental Health Department proposed certain conditions which would meet their concerns. These were that there should be no music outside the premises after 9.00 pm and that music from the premises measured as a 5 minute Leq at the nearest point on the boundary with the Close will not exceed the following levels:-
Before 9.00 pm 60 dB (A)
Between 9.00 pm and 11 pm 53 dB (A)
After 11.00 pm 45 dB (A)

The interested parties made representations to the committee as to how such a condition may be monitored and enforced but did not submit that the noise levels proposed were too high.

In reaching its decision the Committee has had regard to its licensing policy and in particular to paragraphs 1.16, 2.1 – 2.4, 5.1 – 5.3 and 5.5 – 5.7. It has also had regard to the government guidance including paragraphs 2.32 – 2.34, 2.36 10.7, 10.13 and 10.14. It has also considered the suggested conditions in the government guidance to abate noise nuisance.

The Committee are of the view that the promotion of the licensing objective of the prevention of public nuisance can be met by conditions. Such conditions should normally flow from a risk assessment carried out by the applicant as is reflected by the Council's policy and government guidance. These documents are there not only as a reference point for the Licensing Committee but also as a guide to applicants to assist them in making applications which are more likely to succeed. In this case it would appear that the applicant either did not carry out a risk assessment or if she did she chose not to submit it with the application. In the circumstances in determining what is necessary to promote the licensing objectives the committee has had to rely upon representations made in writing and received today.

Mr Cockerell and Mrs O'Boyle have stated that the applicant accepts the conditions that they have proposed. The Licensing Committee are therefore prepared to agree to the addition of the provision of live music, the

performance of dance and the making of facilities available for dancing to the description of regulated entertainment permitted from the premises subject to those conditions and subject also to the caveat referred to below.

The permitted hours for regulated entertainment shall be as applied for subject to those conditions and the licence will also be subject to the conditions proposed by the applicant in the application for the variation.

There have been no objections to the application to vary the licence to include the provision of late night refreshment and in that respect the application is granted as applied for.

With regard to the application to vary the hours for the sale of alcohol for consumption on and off the premises to 12.30 am Monday to Saturday and to midnight on Sunday, the application is refused. The times proposed coincide with the proposed closing time for the premises. The absence of a drinking up period could in the view of the Committee cause greater disturbance by customers leaving the premises. Interested parties have commented on this disturbance. The Committee may have been prepared to grant the application if the closing time was also amended to allow for an orderly period of drinking up time. However as a variation in the closing time was not part of the application it was not subject to consultation and the Committee decided therefore it would not be appropriate for it to amend the closing time without a fresh application being made.

As applied for, the variation referred to regulated entertainment being indoors only or indoors and outdoors. That is not an appropriate form of application as the nature of the licensable activity remains the same and any restrictions on where the activity is to be carried out is a matter for conditions. However during the course of the hearing it transpired that the premises licence may in any event be limited to the interior of the building. If that is the case then any licensable activities carried on outside would not be covered by the licence and would be illegal. The Committee strongly urge the applicant to investigate this matter and if this proves to be the case to make an application for a new premises licence to rectify the situation. The condition referred to previously regarding the provision of entertainment outside the premises is inserted in case the Committee's understanding as to the effect of the current licence is incorrect and should not be taken as an indication that the licence permits outside regulated entertainment."

The meeting ended at 1.25 pm