

**LICENSING AND ENVIRONMENTAL HEALTH COMMITTEE held at
COUNCIL OFFICES LONDON ROAD SAFFRON WALDEN at 10.30AM ON 28
JUNE 2011**

Present: Councillor D Perry – Chairman.
Councillors M Lemon, D Morson and A Walters.

Officers in attendance: W Cockerell (Principal Environmental Health Officer), M Hardy (Licensing Officer), C Nicholson (Solicitor), J O'Boyle (Environmental Health Officer), R Procter (Democratic Services Officer).

LC5 APOLOGIES FOR ABSENCE AND DECLARATIONS OF INTEREST

There were no apologies for absence or declarations of interest.

**LC6 DETERMINATION OF AN APPLICATION FOR THE GRANT OF A
PREMISES LICENCE**

The Chairman welcomed all those attending. The Solicitor referred to the current public interest in the planning application relating to Linden House, and asked that those intending to speak should confine their arguments to the licensing application which was the subject of this hearing.

The Chairman said that this Committee dealt with the four licensing objectives, and asked that those speaking address these objectives, and that any conditions suggested should be proportionate and realistic.

The Licensing Officer then presented his report on the application of Karl and Sarah Foster, which was for the grant of a premises licence in respect of a restaurant and bar and guest accommodation at 1-3 Silver Street, Stansted. He said he was not able to guide Members on the history of the premises, as they were still under renovation. He drew to Members' attention the fact that the designated premises supervisor was to be the applicant, Karl Foster. He said the applicants must demonstrate that their application was in accordance with the four licensing objectives, and he submitted that anything outside such arguments would be irrelevant.

The applicants sought the following categories of regulated entertainment:

(a) Live Music (Indoors Only)

Monday to Thursday	9am to 12midnight
Friday and Saturday	9am to 1am
Sunday	9am to 12 midnight

(b) Recorded Music (Indoors Only)

Monday to Thursday	9am to 12midnight
Friday and Saturday	9am to 1am
Sunday	9am to 12 midnight

- (c) Performance of dance (Indoors Only)
- | | | |
|---------------------|--------------------|--|
| Monday to Thursday | 9am to 12 midnight | |
| Friday and Saturday | 9am to 1 am | |
| Sunday | 9am to 12 midnight | |
- (d) Provision of facilities for dancing (Indoors Only)
- | | | |
|---------------------|--------------------|--|
| Monday to Thursday | 9am to 12 midnight | |
| Friday and Saturday | 9am to 1am | |
| Sunday | 9am to 12 midnight | |
- (e) Late Night Refreshment (Indoors Only)
- | | | |
|---------------------|---------------------|--------|
| Monday to Thursday | 11pm to 12.midnight | |
| Friday and Saturday | 11pm to 1am | Sunday |
| | 11pm to 12midnight | |
- (f) The sale by retail of alcohol for consumption both on and off the premises
- | | | |
|---------------------|--------------------|--|
| Monday to Thursday | 9am to 12 midnight | |
| Friday and Saturday | 9am to 1am | |
| Sunday | 9am to 12 midnight | |
- (g) The hours the premises are open to the public
- | | | |
|---------------------|--------------------|--|
| Monday to Thursday | 9am to 12 midnight | |
| Friday and Thursday | 9am to 1am | |
| Sunday | 9am to 12 midnight | |

The Licensing Officer referred Members to the measures set out in the application which would be taken to promote the four licensing objectives regarding the prevention of crime and disorder, public safety, prevention of public nuisance and protection of children from harm. .

He said representations had been received from two statutory consultees, Environmental Health officers and Essex Police, as set out in the report. There were also a number of representations by interested parties, some of whom intended to speak.

The Chairman thanked the Licensing Officer and invited the Essex Police representative, Mr Sparrow, to make representations. Mr Sparrow said he had on two occasions met the Applicants, and had found them very co-operative. The conditions sought by the police were those they considered necessary and proportionate to promote the licensing objectives. He referred to the nature and style of the premises, and to the activities being licensing. It had been agreed to change the wording of a condition relating to the areas covered by CCTV to exclude the guest accommodation. The only sticking point was the employment of door staff, as the police sought a minimum of two staff to be employed from 2100 to close of trading if beyond midnight. Such a condition was sought on the grounds that the police considered it would prevent late night revellers being drawn from other parts of Stansted and would protect staff and

customers. The applicant had not found this condition acceptable, and it would therefore be for the committee to make a decision in this regard. He could not offer any history of crime and disorder with regard to the premises, which had not yet traded.

The Chairman asked how many other premises in the area had licensed door staff.

Mr Sparrow replied that very few other licensed premises in the area had door staff. There was one venue which employed door staff as a voluntary measure, and not as a condition of the premises licence.

The Principal Environmental Health Officer said the application included a licence for regulated entertainment, indoors only. From the environmental health perspective, two conditions were suggested. The first was that windows and doors should be closed when music was being played, except for access and egress; and second that the noise level should be set at 45dB(A). If, once the business was in operation, any complaints were received, there would be an opportunity to seek a review of the licence.

In reply to a question from the Chairman, the Principal Environmental Health Officer said the period during which the suggested noise limit should be set would be from 9pm, and from 11pm there should not be any activity outside the building. There was a terrace which could be used for outdoor dining, but he understood this would be cleared from 11pm.

Members asked questions on how noise would be monitored and whether data would be supplied regularly to Environmental Health. The Principal Environmental Health Officer said the applicant would be asked to undertake monitoring and to keep a log, which would be open to inspection by Environmental Health officers.

The Chairman invited Mr Hepher to speak on behalf of the applicants.

Referring to the conditions proposed by the Principal Environmental Health Officer, Mr Hepher said only one condition had been submitted by that department, but that in the hearing the officer had suggested two conditions.

The Principal Environmental Health Officer said that the further condition was proposed in light of the noise management plan which had since become available. The Chairman said this matter would be for the Committee to decide.

The Licensing Officer confirmed the council had received only one condition from environmental health.

The Chairman then invited members of the public to speak.

Avril Branch

Mrs Branch said her main concern was the fact that Linden House was on the junction of four roads, where youths often congregated. It was her view that the licence conditions should ensure no one would remain outside the front of the premises with alcohol after 11pm, to avoid public disorder. She was also concerned about noise, as she lived opposite the premises. She said if she heard music at night she would complain.

John Sibthorp

Mr Sibthorp spoke in favour of the application. He said he knew Mr and Mrs Foster well. He referred to the investment and care which the applicants had invested in effecting the transformation of the premises. He was he was sure they would not allow the venture to fail, and their core values meant they would tolerate no bad behaviour. There was a need for a quality bar and restaurant in Stansted and it seemed unfair to the applicants not to allow them similar conditions as other businesses.

Eric Harkins

Mr Harkins' statement was read out by Mr Hopher. Mr Harkins expressed support for the application on the grounds that he had confidence that the business would be successfully managed by Mr and Mrs Foster, as shown by their successful renovation of Linden House. He felt as this project would be an upmarket venture, with only a limited capacity, it would not attract crowds. There was keen anticipation in Stansted to sample a new dining experience, and even The Cock public house would benefit as people would drift across the road. The project would not cause litter or congestion as was the case with the new Tesco store.

Ralph Philips

Mr Philips expressed concern about potential noise disturbance resulting from licensable activities at Linden House, in particular his concerns at the prospect of a 'club' premises licence being granted.

The Chairman said it was not the intention that a nightclub would be opening in Stansted.

Ken MacDonald

Mr MacDonald said whilst he was delighted with the renovation works that had been done he was concerned about the potential noise nuisance from the premises. His concerns in particular related to the playing of music outside the premises in the evenings. He was concerned also about late-night supply of alcohol and the possibility of disturbance associated with people returning to cars parked elsewhere, as there was limited parking at the premises.

P Smyth

Mr Smyth said Stansted would benefit from having a restaurant. He questioned the objections being raised regarding noise disturbance, as other establishments such as the public houses in the village sometimes had late-night music. He also questioned the objections relating to crossing the roads outside the premises, as he felt it was unlikely people would be particularly at risk in doing so. If noise or parking problems were being raised, then this could just as well be said of the new Tesco's store. The licence for Linden House for the playing of live music would only be for weddings, and the premises were not intended to be a nightclub. He was aware of the other establishments in the area also having permission to play music.

Ray Woodcock

Mr Woodcock referred to differences between the licensing application and the application before the Development Control Committee. The Chairman asked that he confine his comments to matters relating to the licensing application. Mr Woodcock expressed his concern regarding the use of outside terraces at the rear and front of the premises; the measures staff would take to check noise levels, including the training staff would receive to be able to do this; the signage to be displayed regarding having respect for neighbours when guests

left the premises; the potential disturbance he felt could arise from the location of the nearest public car park at Crafton Green being used by patrons; the impact of noise on services held in the nearby Quaker Meeting House; and the argument that other establishments had been granted licences with similar opening hours, whereas he felt it was important to assess each application on its own merits. He went on to say that in his view the inexperience of the applicants meant their decision-making could be questioned. The Chairman asked Mr Woodcock to address only his concerns and not to make observations.

Mr Woodcock described the conditions he would wish to see imposed on the licence.

Mr Woodcock read out the statement of Jim Sollars, who was not able to attend the hearing, and who wished to make suggestions for conditions to be attached to the licence if granted.

Mr Sollars had expressed his concern that whilst the applicants had a flexible approach, the licence could subsequently be operated by those who might not share their high ideals. Mr Sollars' representations referred in detail to the Council's licensing guidance notes, and concluded that he did not believe the applicants were capable of addressing the licensing objectives as they had no experience of such activity; and that the conditions he had proposed in his written submission to the Committee were fair and proportionate.

The Chairman thanked all those who had made representations and invited the applicant and his legal representative Mr Hopher to speak.

Mr Hopher said he welcomed the comments of the police regarding close monitoring of licensed premises, but took issue with the condition sought by the police for door supervisors. It was not likely that revellers would come to Linden House, as almost every other public house in the village had later drinking hours, and the size of the bar would be the smallest in the village.

There were a number of matters in the application which he wished to clarify: regarding late night refreshment, his clients would submit to a condition that there should be no sale of hot food or drink off the premises after 11pm. Regarding the reference in the application to seasonal variations in timing, he accepted there was a degree of confusion in the application in that no reference should have been made to seasonal variation. Also regarding non standard timings, again, his clients had no general requirement for non standard timings except for New Year's Eve, and it would only be fair to allow his clients the same regime as other local establishments.

He confirmed the statement of the police that the applicants were in agreement with the other police conditions, subject to amending the CCTV coverage to exclude guest bedrooms.

The applicants could not agree with the police condition proposed in relation to door supervisors, and he asked that the committee consider whether this condition was proportionate in view of the scale of this operation and its nature. Were door supervisors really necessary in premises which were primarily a hotel and restaurant, with a small bar area? It was clear this application was not intended to licence a nightclub, and this condition was not appropriate for this style of operation.

He agreed with the noise limitation conditions and suggestions made by Environmental Health officers, and asked the Committee to note that unusually, this hearing had attracted representations supporting the application. There had also been a substantial number of letters of support, in the region of about 75 such representations. There was a clear majority of feeling in Stansted in favour of the application.

Mr Hepher then spoke about the licensing objectives. There had been no issues raised regarding concerns about the licensing objective in relation to protecting children from harm. Regarding safety, he submitted that it was far-fetched to suggest people would be endangered by crossing Chapel Hill to Crafton Green car park. Regarding prevention of crime and disorder, his clients had immediately agreed to all the conditions required of them by the police, subject to the amendment referred to already in the area to be covered by CCTV.

The main licensing objective to be considered in this case was that of public nuisance, which could arise in the following ways: through music, and through people sitting outside the premises. Regarding music, the experts were the environmental health officers, whose suggestions were sensible, and to which his clients had agreed. Regarding people sitting outside the premises, his clients had agreed this should not happen after 11pm.

Mr Hepher said as the designated premises supervisor, Mr Foster had a good working knowledge of licensing law. Mr Foster said he would ensure staff were aware of their obligations under the licence and received appropriate training. In reply to questions Mr Foster confirmed this was his first venture running a business of this nature. He said he would ensure all soundproofing measures

were undertaken in collaboration with Environmental Health, such as installation of soundproof boards, double-glazed windows and so forth.

In reply to a question about the capacity of the bar, Mr Foster said the bar itself could hold about 30 people.

Councillor Morson asked the applicant to explain why he was seeking a change to the original conditions.

Mr Foster said since the planning decision he had carried out extensive research, from which it had become apparent that the type of licence he was now applying for was best suited to what he required. In reply to a further question about plans for dancing to take place at the premises, Mr Foster said it would only be very occasionally that dancing would be taking place, in connection with a wedding, but it was not his intention to do weddings often, because the business was primarily a restaurant.

Regarding safety concerns, the Licensing Officer said one of the statutory consultees, the Essex Fire and Rescue Service, had made no representations.

Regarding music and dancing, Councillor Morson referred to representations from the Society of Friends, and asked whether there was any scope for taking into account the times of their services on a Sunday.

Mr Foster said weddings did not take place on Sundays, and any music being played would be background music for diners, which should not affect services in the Meeting House.

In reply to a question from Councillor Lemon, the applicant said asked whether air conditioning would be installed, in order to facilitate the closing of doors and windows in summer, for noise prevention purposes. The applicant said he currently had no plans to do so, but confirmed double-glazing had been installed. In response to further questions, the applicant said he would be more than happy to purchase noise measuring equipment; and that he would be understanding about the potential impact of noise on neighbours.

The Committee withdrew at 11.55am to consider the application.

At 12.50pm the Committee returned to give its decision.

The Chairman read out the Committee's decision as follows:

The Committee have today considered the application for a premises licence for Linden House, Stansted. The premises are being converted to a bed and breakfast with a bar and restaurant. The application seeks a licence for live music, recorded music, performance of dance, facilities for dancing, late night refreshment, and sale of alcohol. The proposed hours are 9am to midnight Sunday to Thursday and until 1 am on Friday and Saturday.

The application attracted representations from the Council's Environmental Health Department, the Police and local residents. These concerned the licensing objectives of prevention of public nuisance and the prevention of crime and disorder.

Members have considered the representations made by the Police in relation to the licensing objective of the prevention of crime and disorder, and also considered Government guidance at paragraphs 10.13 which reminds Members that any conditions attached should be tailored to the size, style, characteristics and activities taken place at the premises concerned and Members are not satisfied on the evidence that the promotion of the this licensing objective required the application to be refused.

Members are mindful of the agreement reached between the Police and applicant with regards the first 7 of the proposed conditions in the representation letter submitted by the Police, with the amendment relating to the private rooms, and consider that their imposition would be relevant, proportionate and necessary to promote the licensing objective. However, Members are not satisfied that it is necessary to include a condition regarding the employment of door staff as they are not satisfied that it is proportionate or necessary bearing in mind the premises, its nature and style, and the proposed activities.

The objective relating to the prevention of public nuisance is more relevant with regards to the premises and potential noise nuisance, given that there are residential premises in the vicinity. The proposed hours for licensable activities extend beyond 11 pm to Midnight in the week and 1 am on Friday and Saturday. The licensable activities of regulated entertainment and noise from members of the public leaving the premises after having attended the bar could adversely impact on the local community. The Committee has to balance the benefits of musical events and the advantages the business brings to the community, as pointed out by the applicants and the letters and speakers in support of the application, against the rights of residents to not to suffer noise nuisance.

Mr Cockerell and Mrs O'Boyle on behalf of the Environmental Health Department proposed a condition which would meet their concerns. This is that music from the premises measured as a 5 minute Leq shall not exceed 45dB(A) at a point 1 metre from the façade of the Coach House as indicated on the plan.

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 were too high.

Members have considered the concerns of local residents and appreciate that there is a risk of public nuisance from the regulated entertainment and late night leavers of the premises, and take guidance from the licensing policy at paragraphs 1.16, 5.1-5.3 and 5.5 – 5.7. Government guidance at paragraphs 2.32, 2.36, 10.7, 10.13 and 10.14 have also been taken into account.

The Committee are of the view that the promotion of the licensing objective of the prevention of public nuisance can be met by conditions, and a slight reduction in the proposed hours for licensable activities and on that basis the licence is granted. In determining what is necessary and proportionate to promote the licensing objective, the Committee has taken into account the representations made in writing and received today, and the information provided by the applicant.

Members have considered the conditions suggested by local residents, and do not believe it is necessary or proportionate to impose all those suggested. However, the Committee considers the imposition of the following conditions are those necessary and proportionate to deal with the prevention of public nuisance at the premises.

1. The noise emitted from the premises after 2100 hours measured as a 5 minute Leq, shall not exceed 45dB(A) at a point 1 metre from the façade of the Coach House as indicated on the plan attached to the Licence
2. The premises licence holder shall keep a log detailing the date and times that noise measurements are taken, along with the noise level measured which shall be available for inspection by the Licensing Authority or the Principal Environmental Health Officer
3. The premises licence holder will use appropriate equipment to take the noise level measurement and the equipment to be available for inspection and calibration by the Principal Environmental Health Officer
4. No hot food or drink shall be sold for consumption off the premises after 2300 hours

With regards to the hours proposed for the activities, Members have been mindful of the residents' concerns and of their own licensing policy at 5.3 and 5.7 and consider that it is not appropriate to have live music running as early as applied for and consider that in order to meet the licensing objective, it is necessary to amend the time to midday, and the same would apply to performance of dance and facilities for dancing.

Members note the comments made by the Applicant's legal advisor with regards to non-standard hours and reasonable variations, and the request for

longer hours on New Year's Eve, but this Committee is unable to agree to longer hours than those consulted upon and that formed part of the application.

Members also would ask the Applicant to consider the installation of air conditioning for the benefit of its patrons in the event that in order to manage the noise from the premises, doors and windows are closed.

Parties are reminded of the right to appeal against the Licensing Authority's decision within 21 days of written notification of the decision to the Magistrates Court, for which there is a fee.

For information, once the new licence is in effect, if it becomes apparent that there are issues occurring related to the use of the premises which is affecting the licensing objectives, parties are entitled to ask for a review of the licence, whereby the matter will come back to the Licensing Authority who can reconsider the licence.

The meeting ended at 1pm.