

Committee: Licensing Committee

Agenda Item

Date: 06 October 2104

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Title: Application for a review of a Premises Licence – The Axe, Saffron Walden.

Author: Sonia Williams, Enforcement Team Leader. Item for decision

Summary

1. This report sets out an application for the review of the premises licence in respect of Axe Pub Ltd (known as The Axe), 60 Ashdon Road, Saffron Walden, Essex, CB10 2AT. The application is being made by the Environmental Health Department of Uttlesford District Council as a responsible authority.
2. The Licensing Act 2003 places an obligation on a Licensing Authority to promote the licensing objectives which are:
 - The prevention of crime and disorder
 - Public safety
 - The prevention of public nuisance
 - The protection of children from harm

Recommendations

1. The review is determined.
2. In the event of an appeal against the decision of the Licensing Authority, then a member is nominated to represent the Authority at Court.

Financial Implications

None arising from this report.

Background Papers

The following papers were referred to by the author in the preparation of this report and are available for inspection from the author of the report.

- a) Premises Licence
- b) Representations from interested parties
- c) Report of Uttlesford District Council's Environmental Health Officer (Appendix 1)
- d) Plan of premises

Impact

Communication/Consultation	Details of the application review were conveyed to Members of Uttlesford District Council, The Parish Council, and adjoining residents
Community Safety	None
Equalities	None
Health and Safety	None
Human Rights/Legal Implications	<p>Under Article 1 First Protocol to the European Convention on Human Rights everyone is entitled to peaceful enjoyment of their possessions which includes property. This right may be interfered with if necessary to control the use of property in accordance with the general interest. The imposition of conditions under the Licensing Act 2003 is a legitimate interference with this right in this context.</p> <p>In the event that the licence holder or anyone who made relevant representations is dissatisfied with the decision of the committee there is a right of appeal to the Magistrates Court.</p>
Sustainability	None
Ward-specific impacts	Saffron Walden (Castle ward) being the ward within which the premises are situated
Workforce/Workplace	None

Situation

1. The Axe is located on the northern side and facing Ashdon Road Saffron Walden. It is a two storey building with a single storey range to the rear. Access is taken onto Ashdon Road adjacent to Mill Lane with the pub garden and parking to the rear. There is a brick and flint wall adjoining the eastern boundary with Mill Lane.
2. The original application for licence was submitted for The Axe on 23 August 2005 during the transitional period with variations. Representations were received which required a hearing and the licence was granted subject to conditions on 26 September 2005.

3. The licence allows for the following licensable activities to take place:
 - a) The sale by retail of alcohol for consumption on or off the premises – Monday to Wednesday from 10:00hrs to 12 midnight, Thursday 10:00hrs to 01:00hrs, Friday and Saturday 10:00hrs to 01:00 hrs, Sunday 10:00 hrs to 12 midnight.
 - b) An indoor sporting event – 19:00hrs start for finals to 12 midnight finish.
 - c) A performance of live music (indoors and outdoors) – Monday to Sunday 19.00hrs to 12 midnight. 12 noon start on all Bank Holidays and New Year's Eve to 12 midnight finish.
 - d) Any playing of recorded music (indoors and outdoors) – Monday to Sunday 19:00 hrs to 12 Midnight. 12 noon start on all Bank Holidays and New Year's Eve to 12 midnight finish.

4. The licence contains conditions as follows:
 - a) Strong management controls to be in place.
 - b) Effective staff training to cover under-age drinking, anti-social behaviour, drunkenness on and off the premises, use of drugs and the protection of children from harm.
 - c) Responsible management of the premises to be in place.
 - d) Capacity limits to be identified and adhered to.
 - e) Proof of identification scheme to be in place.
 - f) Litter bins to be available outside the premises for use.
 - g) Car park and entrances to be well lit.
 - h) Staffing levels to be adequate for capacity and trade.
 - i) Effective management checks on all internal and external trading areas in and outside of service times to take place.
 - j) All services, appliances and equipment to be checked and certified.
 - k) Training and supervision of staff to ensure strong visible management during all service times.
 - l) Loitering on the premises to be actively discouraged.
 - m) Management of staff and customers arriving and leaving the premises.
 - n) Sufficient staff to secure the protection of children to be on duty.

- o) Children allowed only in the dining area until 10.00pm.
 - p) Children must be accompanied by an adult.
 - q) Table service to be provided in the dining area to ensure children do not need to leave the table.
 - r) The performance of live music and the playing of recorded music outdoors to end at 23:00hrs.
 - s) Prominent and clear notices to be displayed at all exits requesting customers to leave the premises and area quietly.
 - t) A responsible member of staff shall assess regularly 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.
 - u) Doors and windows to be kept closed except for access and egress when live or recorded music is being played or performed.
 - v) Drinks shall not be consumed outside the premises except for in designated areas and in no event between the hours of 23:20hrs and 10:00hrs.
5. On 20 March 2013 the licence was transferred to Axe Pub Ltd of Unit 3 Ashdon Road Commercial Centre, Saffron Walden, Essex, CB10 2NH. Mr Christopher Ian Stringer was noted as the Designated Premises Supervisor and the business was trading as The Axe at that time. Prior to Axe Pub Ltd taking over the business, it was owned by Greene King Ltd. At the time of preparing this report Mr Stringer remains Designated Premises Supervisor.
6. Since Mr Stringer took over the running of these premises a number of complaints have been made to the Council by members of the public; the complaints made to the Council centre around noise nuisance from the premises and customers and anti-social behaviour from customers whilst on the premises and when leaving the premises. Some of the complaints logged by the Council's Environmental Health Department are as follows:
- a) 23:40hrs on 11 December 2013 – shouting, swearing and drunken behaviour at the premises.
 - b) Saturday 24 August 2013 until 00:30hrs – excessive music noise levels.
 - c) Sunday 25 August 2013 until 01:45hrs – excessive music noise levels.
 - d) Monday 26 August 2013 until 00:20 hrs – excessive customer noise in the garden area.
 - e) Saturday 31 August 2013 – loud music until midnight with the doors and windows being left open.

- f) Friday 20 September 2013 – excessive music noise levels until 00:30hrs and rowdiness in the street until 02:00hrs.
 - g) Saturday 21 September 2013– excessive music noise levels until 00:30hrs and rowdiness in the street until 02:00hrs.
 - h) Tuesday 31 December 2013 – excessive music noise levels until 01:15hrs.
 - i) Wednesday 01 January 2014 between 00:30hrs and 01:30hrs – fight in the premises car park.
 - j) Saturday 04 January 2014 – excessive music noise levels until 01:15hrs.
 - k) Saturday 18 January 2014 until 00:30hrs – excessive customer noise in the garden area.
 - l) Saturday 25 January 2014 until 00:30 hrs – excessive customer noise in the garden area.
 - m) Sunday 30 March 2014 until 01:45hrs – customers outside the premises being rowdy.
 - n) Saturday 24 May 2014 until 00:30hrs – customer singing in the street at midnight followed by further disturbance.
 - o) Sunday 25 May 2014 – excessive music noise levels until 23:30hrs.
 - p) Sunday 01 June 2014 – customers shouting, singing in the street and rolling beer barrels on the pavement (time unknown).
 - q) 23:00hrs to 01:30hrs on Saturday 14 June 2014 – reports of shouting outside the premises.
 - r) Saturday 28 June 2014 until past 22:30hrs – excessive customer noise in the garden area.
 - s) Sunday 29 June 2014 until past 22:30 hrs – excessive customer noise in the garden area.
 - t) Thursday 03 July 2014 until past 22:30 hrs – excessive customer noise in the garden area.
 - u) Monday 07 July 2014 between 00:30hrs and 01:20hrs – customers outside shouting.
 - v) Sunday 20 July 2014 until 00:10hrs – music being played by customers, shouting and foul language.
7. The Council's Environmental Health Department made the decision to set up noise monitoring equipment which obtained the following reports:
- a) On Friday 18 April 2014 noise monitoring equipment recorded an excessive volume of music played until 23:41hrs.

- b) On Saturday 19 April 2014 noise monitoring equipment recorded an excessive volume of music played until 23:50hrs.
 - c) On Saturday 26 July 2014 noise monitoring equipment recorded an excessive volume of music played until 23:27hrs and customer noise until 01:17hrs. Further details of the monitoring for this day are given in the report of Ms A Lee-Moore.
 - d) On Monday 27 July 2014 noise monitoring equipment recorded noise from people outside the premises including loud laughter, shouting and car doors slamming until 01:17hrs.
8. The Council's Environmental Health Department and representatives from Essex Police made contact with the licence holder both in writing and in meetings on a number of occasions to discuss the issues surrounding the complaints and to request that the conditions attached to the premises licence be adhered to.
 9. A new manager (Mr S Kienlen) was appointed at the end of April 2014 and was given responsibility for the running of the premises. Prior to taking up his post at The Axe Mr Kienlen was the Designated Premises Supervisor at The White Horse, Newport, Essex. Mr Kienlen currently holds a personal alcohol licence with the Council, number 649, which was granted on 31 March 2010 for a duration of 10 years.
 10. On 09 June 2014 representatives from Uttlesford District Council and Essex Police met with Mr Kienlan and it is recorded that they discussed the proposed installation of CCTV, closer supervision of patrons leaving the premises, the volume of music and bass sensitivity, the number of planned events and noise from the garden area including a bouncy castle.
 11. A Notice of Review was issued by Uttlesford District Council's Environmental Health Department on 19 August 2014. The Notice was displayed outside the premises and on the Council's website. The Notice advised of the grounds for the review and requested representations should be made in writing between Tuesday 19 August 2014 and Monday 15 September 2014 to Uttlesford District Council in writing. Two responses to the Notice were received by Uttlesford District Council.
 12. The decision that the Committee can make for this review is to:
 - Allow the licence to continue unmodified
 - Modify the conditions of the licence
 - Modify the conditions of the licence for a period not exceeding 3 months
 - Exclude a licensable activity from the scope of the licence
 - Exclude a licensable activity from the scope of the licence for a period not exceeding 3 months
 - Suspend a licence for a period not exceeding 3 months
 - Revoke a licence
 - Remove the Designated Premises Supervisor

13. When carrying out a review of a licence, due regard should be given to the Council's licensing policy and the Secretary of State's Guidance issued under Section 182 Licensing Act 2003.

14. The relevant sections of the Council's licensing policy are:

5.0 PREVENTION OF PUBLIC NUISANCE

5.1 Licensed premises have a significant potential to adversely impact on communities through public nuisances that arise from their operation. The Licensing Authority wishes to proactively maintain and protect the amenity of residents and other businesses from the potential consequence of the operation of licensed premises whilst recognising the valuable cultural, social and business importance that such premises provide.

5.2 The Licensing Authority intends to interpret "public nuisance" in its widest sense, and takes it to include such issues as noise, light, odour, litter and anti-social behaviour, where these matters impact on those living, working or otherwise engaged in normal activity in an area.

5.3 Applicants need to be clear that the Licensing Authority may apply stricter conditions, including controls on licensing hours, where licensed premises are in or near residential areas and where relevant representations have been received. Conversely, premises which can demonstrate that they have effective measures planned to prevent public nuisance, may be suitable for 24-hour opening.

5.5 The Licensing Authority does recognise that in some circumstances flexible licensing hours may help to avoid concentrations of customers leaving premises simultaneously and could reduce the potential for disorder. It also recognises that licensing hours should not inhibit the development of safe evening and night-time local economies. However, the Authority will always seek to balance their decisions with the duty to promote the four licensing objectives and the rights of residents to peace and quiet.

5.6 If representations are made applicants will be expected to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to prevent public nuisance, relevant to the individual style and characteristics of their premises and events.

5.7 Applicants for licences which include regulated entertainment will be aware of the potential of such entertainment to cause a public nuisance by reason of noise from the premises. If representations are made or a review is called for, the authority may consider imposing a condition to the effect that the licensee shall take measures to ensure that music will not exceed a prescribed decibel limit at the boundaries of certain properties or within a location

described in the condition. What may be an acceptable level of noise may vary from location to location or depending on the time of day as perception of noise from a particular source is affected by background noise levels. Directions given under the Noise Act 1996 provide that the permitted level for the purposes of that Act is 34 decibels where the underlying noise level does not exceed 24 decibels or 10 decibels above underlying noise levels in any other case. In the event that representations are received and the authority concludes that a noise limiting condition is required, the starting point for such a condition would be 34 decibels. If an applicant wishes to contend that a higher limit is appropriate then the authority would expect the applicant to provide a noise survey to support such a contention

5.8 When addressing the issue of prevention of public nuisance, the applicant should consider those factors that impact on the likelihood of public nuisance. These may include:

- the location of premises and proximity to residential and other noise sensitive premises, such as hospitals, hospices and places of worship
- the hours during which the licensable activities will be carried out particularly between 23.00 and 07.00
- the closing time of the premises
- the nature of activities to be provided, including whether those activities are of a temporary or permanent nature and whether they are to be held inside or outside premises
- the design and layout of premises and in particular the presence of noise limiting features
- the occupancy capacity of the premises
- the availability of public transport

5.9 The following examples of control measures are given to assist applicants who may need to take account of them in their operating schedule, in the event that representations are received, having regard to their particular type of premises and/or activities:

- Effective and responsible management of premises
- Appropriate instruction, training and supervision of those employed or engaged to prevent incidents of public nuisance, e.g. to ensure customers leave quietly

- Control of operating hours for all or parts (e.g. garden areas) of premises, including such matters as deliveries and clearing up
- Provision of effective CCTV in and around the premises
- Adoption of best practice guidance (e.g. Good Practice Guide on the Control of Noise from Pubs and Clubs, produced by Institute of Acoustics, Licensed Property: Noise, published by BBPA)
- Installation of soundproofing, air conditioning, acoustic lobbies and sound limitation devices
- Management of people, including staff, and traffic (and resulting queues) arriving and leaving premises
- Liaison with public transport providers
- Siting of external lighting, including security lighting
- Management arrangements for collection and disposal of litter
- Effective ventilation systems to prevent nuisance from odour

15. The relevant sections of the guidance issued by the Secretary of State for the purposes of this review are paragraphs 2.18 – 2.24; 9.38 – 9.40; 10.10 – 10.13; 11.16 – 11.23 and 15.12 – 15.28, copies of which are attached

Risk Analysis

Risk	Likelihood	Impact	Mitigating actions
Either no conditions are attached to the licence on variation or the conditions do not satisfactorily achieve the licensing objectives the prevention of crime and disorder and the prevention of public nuisance.	3 There is a possibility that local residents will suffer from crime and disorder and public nuisance even if what appears to be appropriate conditions are imposed.	3 Due to the availability of the review procedure any inconvenience which may be suffered by local residents would be relatively short lived.	In the light of complaints received the Council surrounding this licensed premises members must consider whether the premises still meet the licensing objectives.

1 = Little or no risk or impact

2 = Some risk or impact – action may be necessary.

3 = Significant risk or impact – action required

4 = Near certainty of risk occurring, catastrophic effect or failure of project.