

EXTRAORDINARY LICENSING COMMITTEE held at 2.30 pm at COUNCIL OFFICES LONDON ROAD SAFFRON WALDEN on 17 JANUARY 2007

Present:- Councillor J I Loughlin – Chairman
Councillors H Baker, M Lemon and A Row.

Officers in attendance:- M Hardy, C Nicholson, W Palmer, C Roberts and A Turner.

LC46

APPLICATION FOR A VARIATION TO AN EXISTING PREMISES LICENCE UNDER THE LICENSING ACT 2003 AT THE RESTAURANT 1893 STANSTED MOUNTFITCHET

The Chairman of the Committee introduced Members and Officers.

The application was to vary an existing premises licence under the Licensing Act 2003 for Restaurant 1893 Stansted Mountfitchet. The applicant Mr P Devere and partner Ms M Pimblett were present at the meeting as was Mrs P Welham who wished to make an objection to the application.

The Council's Legal Officer outlined the procedure for the hearing and drew attention to the opportunity for all parties to have their say. She then asked who would be speaking for and against the application. Mr Devere explained that due to a car accident his legal representative was unable to attend so he would present his own application, and Mrs Welham confirmed that she wished to speak.

Ms Pimblett was present with Mr Devere but did not intend to speak.

The Licensing Officer then outlined the application as set out in the report, explaining that it concerned a premises licence granted in accordance with the Licensing Act 2003 for Restaurant 1893. The licence permitted the playing of recorded music (indoors only) and the sale of alcohol by retail on the premises only.

The hours granted for both of these activities were:-

Monday to Saturday	12 midday - 4 pm
Monday to Saturday	6.30pm – 12 midnight
Sunday	12 midday – 4pm

The hours that the premises were permitted to be open were identical to those above.

The applicant had submitted a new operating schedule which sought to increase the hours permitted for the current licensable activities. He also sought to extend the hours that the premises were open to the public.

The new Operating Schedule sought the following

(a) The playing of recorded music (indoors only).

Monday – Wednesday	12 midday to 12 midnight
Thursday – Saturday	12 midday to 1 am
Sunday	12 midday to 12 midnight

(b) Supply of Alcohol (on the premises only)

Monday – Wednesday	12 midday to 12 midnight
Thursday – Saturday	12 midday - 1 am
Sunday	12 midday - 12 midnight

(c) The hours the premises are open to the public.

Monday – Wednesday	12 midday – 12.30 am
Thursday – Saturday	12 midday – 1.30 am
Sunday	12 midday – 12.30 am

The operating schedule indicated the following measures would be taken to promote the licensing objectives:-

Prevention of crime and disorder.

- To check and be vigilant to ensure that no illegal activities are taking place.

Public safety.

- Emergency lighting, fire fighting equipment and fire alarm system installed.

Prevention of public nuisance.

- Customers leaving would be told to leave quietly and to avoid causing a disturbance.

Protection of children from harm.

- Persons under 18 are not served alcohol.
- Identification with a photograph is required where there is any doubt about age.

Copies of this application had been served on the statutory bodies with no representations being received but a representation had been received from an interested party based on the licensing objectives of prevention of crime and disorder and prevention of a public nuisance. The objector feared that additional noise might be created together with the potential for a disturbance if the current licensing hours were extended.

The Licensing Officer reminded the Committee that 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

The decisions available were to:

- Grant the application
- Modify the application by inserting conditions
- Remove a licensable activity from the application
- Reject the application

He added that due regard should be given to the Council's Licensing Policy and the Secretary of State's Guidance. Any conditions to be imposed must be necessary and proportionate to promote the licensing objective relative to the representations received. Equally, the Committee could not impose conditions that duplicated the effect of existing legislation.

There were no questions for the Licensing Officer.

Mrs Welham from whom written representations had been received was invited to make her statements.

Mrs Welham explained that she would like the hours at the restaurant kept as they were. Her house was approximately 20 metres away from it and being in a conservation area, the building was old, with single glazed windows. She had no wish to spoil anybody's fun on occasions such as New Year's Eve, but she felt she could not cope with noise which went on, as that had, to 2am, on all weekends. She was concerned about the effect on her children and about the likely noise that would happen in July when people had to go outside the restaurant to smoke and noise would become worse from those sitting on the wall outside the restaurant and the house.

Councillor Lemon asked whether she had complained to anyone and Mrs Welham had replied that she had not because the New Year's Eve occasion was a one off one she had not realised that the hours might be changed and had not been aware that the restaurant was to become a wine bar.

In answer to a question from Councillor Loughlin, she said that patrons' noise occurred when they left because despite there being double lines outside the buildings to restrict parking, people parked on the street. Slamming doors at 12 midnight was acceptable, but at 1.30am it would not be.

Mr Devere was offered the opportunity to ask questions of Mrs Welham and said he did not want to cause upset. The business was still a restaurant and a small one with only 35 covers. Another nearby restaurant had an extension and was twice the size of Restaurant 1893, with 75 covers, and the trade from that restaurant parked around the Restaurant 1893 area. Mr Devere therefore asked Mrs Welham how she could be sure that noise was from Mr Devere's restaurant.

Mrs Welham said that the other restaurant was further away and that noise was attenuated by the protection of a tree between her house and it. What concerned her now was the possibility of noise at 1.30 am.

Mr Devere then had the opportunity to state his case. He described his premises and stressed that no draught beers were sold there, only good quality wine. There was a strict code which had been agreed with the Police of admitting only those over 21 and smartly dressed. The pricing in the restaurant meant that customers were in practice 35 and up. No objections had been raised by the properties near the traffic lights.

He explained that the New Year event had been a private party of friends of his and there was no intent to repeat this sort of party. He was not going to have live music. He added that rough language or behaviour or drunken behaviour was outlawed in his restaurant. Food orders stopped at 9.45pm and the restaurant closed at 11.00pm. Guests who had eaten upstairs generally sat on settees downstairs after the meal to talk and have a quiet drink.

He said that to accommodate Mrs Welham's concerns he would put notices up about considerate behaviour when leaving and would speak to clients himself. In practice there were usually only 10 or 12 in the restaurant by midnight and these were usually locals known by name.

He added that he would ask the Council if he could plant a tree to improve noise attenuation and would speak to the listed building's department to see whether you could be allowed to put thicker glass into the approved windows since the building was a grade II listed building. He said that very few of his clients smoked and stressed that the three neighbouring pubs all had longer hours and were much larger than the 1893 restaurant. In answer to a question, he confirmed that he did not have tables outside on the pavement or seating and he did not envisage wanting to place them there. Councillor Row asked for an explanation of the use of Brewery Yard and Mrs Welham advised that it was offices fronting the road and town houses behind, and confirmed that there was no noise from her next door neighbours in the yard.

The Licensing Officer suggested that Mr Devere speak to him before putting any tables and chairs out and Mr Devere affirmed that he had no interest in going down this particular route. Mrs Welham, who had to leave the meeting early, stressed that she simply did not want a party in the restaurant every weekend.

Mrs Nicholson informed Mrs Welham that she would write to her with the decision and that if she was not happy with it, it would be open to her to appeal. Mrs Welham left the meeting at 3.00pm.

L47 **EXCLUSION OF THE 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.

Members then left the Committee Room to consider their decision at 3.00 pm.

L48 **APPLICATION FOR A VARIATION TO AN EXISTING PREMISES LICENCE UNDER THE LICENSING ACT 2003 AT THE RESTAURANT 1893 STANSTED MOUNTFITCHET**

Members returned to announce their decision at 3.15 pm.

RESOLVED

- 1 that having carefully considered the report of the Licensing Officer and having considered the written representation sent in, and in addition the representations made by Mrs Welham in person today, the Committee having regard to the licensing objectives has decided that no evidence has been submitted to suggest that the objective of the prevention of public nuisance would not be met if the application were to be granted and therefore the variation is granted as applied for.
- 2 Mrs Nicholson advised about the rights to appeal.

The meeting ended at 3.20 pm.