

## **Licensing Sub-Committee – 3 July 2008**

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Minutes of the meeting of the **Licensing Sub-Committee** held on **3 July 2008** when there were present:-

Cllr T G Goodwin  
Cllr A J Humphries

Cllr Mrs J A Mockford

### **OFFICERS PRESENT**

A Bugeja	- Head of Legal Services
K Doyland	- Licensing Manager
C Honey	- Trainee Solicitor
S Worthington	- Committee Administrator

### **90 APPOINTMENT OF CHAIRMAN**

Cllr A J Humphries was appointed Chairman of the Sub-Committee.

### **91 PROCEDURE FOR LICENSING HEARING**

The Sub-Committee noted the procedure to be followed during the hearing.

### **92 LICENSING APPLICATION**

The Sub-Committee considered an application for variation of a premises licence made under section 34 of the Licensing Act 2003. The application related to a premises known as Smuggler's Den, 315 Ferry Road, Hullbridge. Members had before them the report of the Head of Environmental Services setting out the details of the application and the representations received from various interested parties.

A short adjournment of 30 minutes was made to allow the applicant additional time to read all the papers relating to the various representations made to the application. The applicant confirmed he had no objection to the hearing proceeding without his legal representative's attendance.

The Sub-Committee re-convened.

The applicant confirmed that the application was to vary the licence conditions to allow the club to open its doors and windows during trading hours until 2100 hours each day except when live music or entertainment was being performed, or amplified music played, and also to allow club members and bona fide guests to use the land marked private on the plan dated 05/11/07 in the same manner as the rest of the club.

In response to questions, the following was noted:-

- The outside areas were regularly used by club members.

- A problem identified in May 2008 with the noise limiter device had been rectified; this had been subsequently adjusted and was now functioning correctly.
- Club members have been asking for the doors to be open; it is a small club and, when the doors are closed, appears rather dark and enclosed.
- The private land in question was close to and overlooked the river and would be pleasant for club members to use. Smokers currently congregated outside drinking by the doors; extending the private area would enable a canopy to be erected for smokers, opposite the steps on the right hand side, and would also enable fencing to be erected to screen the area.
- The external areas were regularly monitored by staff.
- Currently music was played at the club once or twice a week on Sundays during the lunchtime and disco music was played on Saturday evenings.

Representations had been made by 2 Responsible Authorities and the written representation from the Local Planning Authority raising objections on the grounds of the prevention of crime and disorder and the prevention of public nuisance was taken into consideration by the Sub-Committee.

Mr Laycock, on behalf of the Environmental Protection Unit, confirmed that it would be preferable to restrict the use of the external areas to the same times that the windows and doors of the premises were opened. He further indicated that the Unit would raise no objection to the same restricted hours being applied as for the Anchor public house, on the opposite side of the road. Licensing officers confirmed that use of the garden areas at the Anchor ceased at 11.00 pm.

One written representation had been made against the application by interested parties in respect of the prevention of public nuisance licensing objective and the hearing accepted a late, written representation from Miss Billington, a copy of which was circulated to all those present, which also related to the prevention of public nuisance.

The public objector to the application indicated that noise emanating from the premises was worse during the daytime. He stressed that when his family first moved into their property there was no use of the club's external areas. He emphasised that the outside areas were now heavily used by club members during the daytime and his family were regularly subjected to foul language and noise emanating from these areas. He felt that such significant use of these external areas was unacceptable in a residential area.

The public objector indicated that his family had been threatened by club members and sworn at; it was not possible for children to enjoy the use of his family garden.

In response to questions, the following responses from the public objector were noted:-

- The private area proposed to be used by the club was close to the boundary with the public objector's property and there would still be instances of unruly behaviour.
- The number of tables in the external areas had already been increased from 3 to 9.
- Introducing a time limit on use of the club's external areas would not improve the situation.

In response to the concerns expressed by the objector the applicant stressed that there was a public right of way running through both the club and the objector's property, which was used regularly by local residents and walkers accessing the public open space nearby. The right of way effectively divided the objector's garden from the main house and the outside decked area, where tables were placed, from the main club premises. The Anchor public house was directly opposite the Smuggler's Den, from which noise emanated. There was also a busy Indian restaurant in close proximity. Use of the private outside area would locate club members further away from the objector's property and could improve the situation. In addition, the ability to open doors and windows during hot weather could encourage club members to use the internal areas more than was currently the case.

Having given careful consideration to the application and all representations made, Members fully appreciated the potential for noise nuisance and disturbance that could arise from the activities at the premises. They had also considered the fact that these were established premises and that there were currently no time limitations on the use of the outside areas and that the location of the existing smoking area had been an ongoing concern.

Members did not consider the proposal to vary condition 20 of the premises licence to allow windows and doors to be opened at times when there was no music or entertainment to be unreasonable and it was felt that any time restriction should be consistent with that applicable to the use of the open areas and as applied to the other licensed premises in the vicinity. They perceived that this could well serve to encourage greater use of the internal areas. Whilst recognising the concerns of the objectors as to the use of the private area, Members nevertheless considered that, if properly controlled, this could assist in minimising disturbance, particularly if the applicant's suggestion to relocate the smoking area and to erect appropriate screening to the boundary was pursued.

The importance of adhering fully to all the conditions of the premises licence were stressed to the applicant and Members emphasised that the applicant should exercise management and control over club members at all times. Members drew the licensing officers' attention to the importance of monitoring the licence conditions.

### **Resolved**

That the application be granted, subject to the following conditions:-

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- All licensable activities and the consumption of food and drink within the open areas of the premises are prohibited after 11.00 pm.
- All doors and windows to remain closed after 11.00 pm, except for exit and egress. There must be no live music or any amplified entertainment in the building when the doors and windows are open. (HES)

The meeting commenced at 10.25 am and closed at 1.30 pm.

Chairman .....

Date .....

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