
APPLICATION FOR THE GRANT OF A PUBLIC ENTERTAINMENT LICENCE

THE EXHIBITION INN, HIGH STREET, GREAT WAKERING

1 SUMMARY

- 1.1 This Sub-Committee has been convened to determine an application for the grant of a Public Entertainment Licence because objections have been received.
- 1.2 The terms of reference and delegation of this Sub-Committee are "to hear and determine opposed applications for the grant or renewal of a Public Entertainment Licence".
- 1.3 Natural Justice requires the Council to take in account any representations made by the applicant and/or their representatives, the objectors and/or their representatives and any other interested persons.

2 INTRODUCTION

- 2.1 Public Entertainment Licensing is a statutory function. It regulates the operation of premises ensuring public safety, the provision of adequate facilities and assisting in the prevention of noise nuisance. Schedule 1 of the Local Government (Miscellaneous Provisions) Act 1982 contains the Public Entertainment Licensing provisions which are administered by District Councils.
- 2.2 A Licence is required for most forms of public music, dancing or similar entertainment, but not for private entertainment, held indoors. Licences remain in force for 1 year (or such shorter period specified) and may be renewed on expiry. All of the Council's full licences expire on 31st December. If a renewal application is made before the licence expires it remains in force until the Council determines the application. Before granting or renewing a licence the Council must consult with the Police and Fire Authority who may make observations which the Council must have regard to. Conditions or restrictions may be imposed on licences, but they only apply when the premises are being used for a public entertainment function. There is a right of appeal to the courts against the refusal to grant a licence and conditions attached to a licence
- 2.3. However, a Public Entertainment Licence is not required for certain types of musical entertainment provided in premises licensed to sell liquor by the Licensing Act 1964. This is music provided by no more than two performers or recorded music. Karaoke does, however, require a Public Entertainment Licence because it consists of both recorded music and singing by live performers.

3. PUBLIC ENTERTAINMENT LICENCE APPLICATION

- 3.1 On 9th August 2000 an application and plan (Appendix 1 and 2) was received from Mr Leslie Gue and Mrs Yvonne Gue, The Exhibition Inn, High Street, Great Wakering, for the grant of an Occasional PEL to hold karaoke at The Exhibition Inn on a maximum

number of 28 days between 7pm and 11pm on weekdays (excluding Sundays) for 100 people.

- 3.2 On 9th August 2000 a Certificate of Exhibition (Appendix 3) was received from Mr Gue stating that he displayed a copy of the Notice of Intention to make an application for a Public Entertainment Licence on the "front window" of the premises.
- 3.3 On 5th October 2000 a letter (Appendix 4) was received from Mr Gue's Licensing Consultant, Mr A Flaherty, enclosing a copy of advertisement placed in the Southend Standard (Appendix 5). The advertisement confirms that application is for a licence for "normal permitted hours".
- 3.4 On 23rd October 2000 a letter (Appendix 6) was received from Mr A Flaherty outlining Mr Gue's proposals for ensuring that local residents are not affected by noise nuisance from the proposed entertainment, which include:
1. Double glazing has been installed to the front of the premises to assist in the reduction of any possible noise break-out.
 2. Karaoke will be held at the rear of the premises.
 3. Mr Gue only wishes to hold karaoke on a handful of occasions.
 4. The Licensing Act 1964 already entitles Mr Gues to have recorded music or up to two live performers without the need for a Public Entertainment Licence.

4 CONSULTATION AND INSPECTION

- 4.1 Following an inspection of the premises and consultation with the Fire Authority, a letter was sent to Mr Gue and Mr Flaherty on 23rd November 2000 with an enclosed schedule of requirements necessary to bring the premises up to standard for the grant of this licence. A copy of this letter and schedule of works and the Fire Authority's consultation reply dated 20th October 2000 are Appendices 7 and 8 respectively.
- 4.2 Essex Police have been consulted and they replied on 13th September 2000 (Appendix 9). The key points are:
1. Over the years they have spoken to several local residents, usually during the summer months, about the noise level and lateness people leave.
 2. Recorded incidents at the premises are few; only one during 2000 and one during 1999. Both incidents were about noise from allegedly serving after hours.
 3. The Police have no objections to the application, but suggest that conditions are attached i.e. a noise limiter which would cut off at a certain level.
- 4.3 A site plan showing The Exhibition Inn and the supporters to and the objectors of the application is at Appendix 10.

5 SUPPORTERS OF THE APPLICATION

5.1 Seven letters in support of the application have been received (Appendix 11) from people living behind, adjacent and opposite to this public house. They are from:

- M Taylor, 2 Exhibition Lane, Great Waking. Letter dated 11/10/00.
- Mr M Gilseman, 14 Exhibition Lane, Great Waking. Letter dated 12/10/00.
- G Langton and D Mason, 237 High Street, Great Waking. Letter dated 14/10/00.
- Mr P Burgess, 245 High Street, Great Waking. Letter dated 14/10/00.
- Mr A Babbington, 242 High Street, Great Waking. Letter dated 14/10/00.
- K Adams, 10 Exhibition Lane, Great Waking. Letter dated, 15/10/00.
- Mr & Mrs Fisher, 250 High Street, Great Waking. Letter dated 15/10/00.

5.2 The nature of the letters of support are, dealing with each of the above letters respectively:

1. Allegations against The Exhibition Inn of loud music and rowdy behaviour are nonsense. Have lived in the lane very close to the pub and have never had any reason to complain.
2. Lived directly to the rear of The Exhibition Inn since 1996 but have never experienced any problems due to noise or disturbance of any kind.
3. Have lived very close to The Exhibition Inn for seven years and have had no problems with the pub or clientele whatsoever.
4. Lived next door to The Exhibition Inn for the past seventeen years and have had no problems whatsoever concerning noise or disturbance.
5. Lived here for thirteen years but have never had any problems with The Exhibition Inn.
6. Live a few paces from the Pub. Considering the quietness of our location can categorically state that there has not been one occasion to cause concern regarding any disturbance from Mr Gue's establishment.
7. Live with wife and four young children directly opposite The Exhibition Inn and have never heard or witnessed any loud music or trouble from within the pub or car park.

6 OBJECTORS TO THE APPLICATION

6.1 Three letters of objection have been received (Appendix 12) from people living opposite this public house. They are from:

- Mr & Mrs P Philips, 244 High Street, Great Waking. Letter dated 14/8/00.
- Mrs C Hall, 248 High Street, Great Waking. Letter dated 14/08/00.
- E Lawrence, 240 High Street, Great Waking. Letter undated, received on 21/8/00.

- 6.2 The nature of the objections are, dealing with each of the above letters respectively:
1. Have suffered the noise and abuse of clientele for years and granting the licence would increase the problem that is already present.
 2. Endless complaints to the Police and the Council over the last few years regarding the way in which Mr Gue conducts his pub and the volume of noise coming from it.
 3. Beer glasses left on their property; cars parked blocking entrance to their drive.
- 6.3 A copy of these letters was sent to Mr Flaherty and Mr Gue on 6th and 10th October 2000 (Appendix 13 and 14).

7 HISTORY OF COMPLAINTS RECEIVED BY THE COUNCIL

- 7.1 Since 1990, seven complaints have received about noise nuisance allegedly caused by the Exhibition Inn. These consist of:
1. One complaint in 1995, received on 3/8/95, from Mrs Hall.
 2. Two complaints in 1996, both received on 14/11/96 from Mrs Hall and Mrs Philips.
 3. Three complaints in 1998, two received on 16/2/98 from Mrs Philips and Mrs Hall; and one received on 24/8/98 from Mrs Hall.
 4. One complaint in 2000, received on 4/9/00 from Mrs Hall.
- 7.2 None of the investigations into these complaints established evidence that The Exhibition Inn had caused a Statutory Noise Nuisance, and all of the complaints have been abated.
- 7.3 There are currently no outstanding complaints about noise nuisance in respect of the Exhibition Inn.

8 NOISE ASSESSMENT

- 8.1 On 7th November 2000 during the morning, a visit was made to the Exhibition Inn to assess whether music playing inside the premises would cause a disturbance to neighbouring premises, particularly those that live directly opposite on the north side of the High Street.
- 8.2 Noise measurements were taken and the level of noise was listened to outside the premises opposite and in the car park of the Exhibition Inn adjacent to 243 High Street, whilst music was being played at a very high volume (louder than clientele could comfortably tolerate) through two loud speakers located in the rear bar.
- 8.3 No noise from the music playing in the premises could be heard when all of the front doors and windows and windows on the side elevation to the front bar remained closed. However, when these doors and windows were all in the open position, the music playing at high volume in the rear bar of the Exhibition Inn could clearly be heard

in front of the houses opposite, whose residents have registered an objection to the application, and in the car park.

- 8.4 Although the music volume can be adjusted, it is considered that disturbance to residents living opposite would be unlikely if all the front windows and doors and the side windows to the front bar of this premises are kept closed whenever karaoke entertainments take place.
- 8.5 On 7th November 2000 a letter was sent to Mr Gue, copied to Mr Flaherty, and on 23rd November 2000 a letter was sent to Mr Flaherty, confirming that Mr Gue had agreed to a condition being attached the Public Entertainment Licence, if granted, requiring these windows and doors to remain closed when karaoke entertainments take place at the premises. A copy of these letters is at Appendices 15 and 7.

9 STANDARD PUBLIC ENTERTAINMENT LICENCE CONDITIONS

- 9.1 In addition to Special Conditions specific to the premises, all of the Council's Public Entertainment Licences have Standard Conditions (Appendix 16). They both apply when premises are used for public entertainment. Standard Conditions would be attached to a Public Entertainment Licence granted for these premises.
- 9.2 Standard Condition 3 requires a licence holder to ensure that music provided at the licensed premises does not cause a noise nuisance to local residents and that any form of amplification is so controlled as to prevent such a nuisance.

10. CONCLUSION

- 10.1 Mr Gue is already legally entitled to hold musical entertainment because the premises are licensed under the Licensing Act 1964 to sell liquor. He may have up to two live performers or play recorded music without the need for a Public Entertainment Licence. Karaoke does, however, require a Public Entertainment Licence because it is both recorded music and singing by live performers.
- 10.2 Although the occupiers of three nearby houses object to this application, Essex Police are not objecting and there are the occupiers of seven nearby houses are in favour of the application.
- 10.3 Recorded complaints about noise and disturbance from this premises received by the Police and the Council are few, and none of the complaints received by the Council have been substantiated.
- 10.4 Disturbance to the residents living opposite from music noise can be prevented if the applicant keeps all the front windows and doors and the windows to the front bar of this premises closed and controls the amplification so as not to cause a noise nuisance, whenever karaoke entertainments take place.
- 10.5 These two noise controls can be required by Conditions attached to a licence.

11 RESOURCE IMPLICATIONS

- 11.1 An application fee of £198.75 has been received.
- 11.2 If a licence is granted a renewal fee is required each year.

12 LEGAL IMPLICATIONS

- 12.1 The Council must exercise its licensing function in a fair and judicious manner.

13 PARISH IMPLICATIONS

- 13.1 The premises are within the Great Wakering Parish Council.

14 RECOMMENDATION

- 14.1 It is proposed that the Committee **RESOLVES** to determine the application.

If Members are minded to grant a licence, it should be:

1. granted after the works listed on a schedule enclosed with a letter sent to Mr Flaherty on 23rd November 2000 have been completed to the satisfaction of the Head of Housing, Health & Community Care; and
2. subject to the Council's Standard Conditions and the following Special Condition:
 - All of the front windows and doors and all of the windows to the front bar of these premises shall be kept closed whenever karaoke entertainments take place. (HHHCC)

G Woolhouse

Head of Housing, Health & Community Care

For further information please contact Robert Peacey on:

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