

LICENSING PANEL

Date: 7 May 2009

Venue: East Northamptonshire House, Cedar Drive, Thrapston

Time: 9:30am

Present: Councillors: -

Andy Mercer (Chairman)
Gill Mercer

Brian Northall

PART A ITEMS

1. APPOINTMENT OF CHAIRMAN

RESOLVED:

That Councillor Andy Mercer be appointed Chairman for this Hearing.

2. DECLARATION OF INTERESTS

No interests were declared under Section 50 of the Local Government Act 2000.

3. APPLICATION FOR THE VARIATION OF A PREMISES LICENCE – THE GREEN DRAGON, BRIGSTOCK

The Panel considered an application for the variation of a Premises Licence for The Green Dragon, Brigstock, under the Licensing Act 2003.

The Licensing Officer reported that the applicant was seeking a variation of the Licence to extend the permitted hours for the sale of alcohol and playing of recorded music as follows (the current permitted hours are in brackets):

- (a) Sale of Alcohol and Playing of Recorded Music – Thursday, Friday and Saturday until 1:00 hours. (currently 00:00 hours)
- (b) Premises open to the public – Thursday, Friday and Saturday until 01:20 hours. (currently 12:20 hours)
- (c) Sale of alcohol on Boxing Day from 09:00 to 01:00 hours for the traditional Boxing Day Hunt. (currently normal hours for the day of the week on which Boxing Day falls).
- (d) Sale of alcohol on New Years Day from 11:00 to 02:00 hours (11:00 to 01:00 hours).

The statutory bodies had been consulted about the application. Representations had been received from Brigstock Parish Council and five local residents. (The representations had been analysed and extracts placed under the relevant licensing objective are attached as Appendix 1 to these minutes at page 3).

Mr Goff, the applicant (licence holder), spoke in support of the variation. He stated that he was seeking an extension of hours to the current Premises Licence on certain days to enable him to hold occasional special themed events without live music and was responding to requests from customers and also provide an improved facility for local people. He emphasised that he would not be holding events on every night that he had requested an extension. The premises had undergone extensive refurbishment since he had bought it in September 2008; the works included secondary glazing and soundproofing to improve noise insulation. The car park had also been refurbished to allow patrons to park behind the pub and prevent them parking in the street outside. He said that some of the incidents mentioned in the representations from local residents should not be attributed solely to patrons from his premises but could be caused by patrons from the other pub in the village.

Mrs Doolan, Mrs Burdett and Mr Glanvill (local residents), and Mrs Wilks (Chair of Brigstock Parish Council), spoke objecting to the variation. They all mentioned that the main issue for them was noise from the premises, caused by groups of people standing outside the front of the premises after it had closed and from people standing at the back smoking outside. A couple of residents also mentioned that a recent 'karaoke' event had resulted in excessive noise from the premises. They all requested that the present opening and licensing hours on the Licence for Thursday, Friday and Saturday should remain the same. No representations were made against the applicant's request to extend the hours for Boxing Day and New Years Day.

Mrs Cullinham (a local resident), also attended the Hearing and requested to speak. The Licensing Unit had apparently not received her letter and notice of intention to speak but she confirmed that she had handed in a letter to the Council's reception at Thrapston. The Panel obtained confirmation of her name and address and that she qualified as an interested party. The Solicitor to the Council advised the Panel that it had discretion to allow her to speak and it was agreed that Mrs Cullinham could address the Hearing. She then spoke objecting to the variation for the same reasons mentioned by the other objectors.

The Panel asked Mr Goff, Mrs Doolan, Mrs Burdett, Mr Glanvill, Mrs Cullinham and Mrs Wilks a number of questions about their submissions and Mr Lapsley (the landlord), summed up the case for the applicant, Mr Goff and requested that the Panel permit the variations to the Premises Licence specified on the application.

After considering the submitted report and the representations made at the Hearing from the speakers, including advice from the Solicitor to the Council, the Panel retired to consider the application and evidence presented, and it was

RESOLVED:

That the application for the Variation of the Premises Licence for The Green Dragon, Brigstock, be partially granted (see page 3).

The Chairman read out a statement at the Hearing giving the reasons why the Panel had partially granted the application. This is set out in full below.

"In determining this variation of Premises Licence, the Panel carefully considered all submitted reports, representations and evidence presented to it today, from all interested Parties, and mindful of the Licensing Objectives, particularly Prevention of Public Nuisance, had reached the following decision: -

To partially grant the applicant's request with changes to the times displayed on the Premises Licence for Licensed activities. The Panel will also impose conditions that were in addition to those that already existed on the Licence.

Changes to timings

The Premises will close no later than 20 minutes after all licensed activities had ceased.

Boxing Day

Supply of Alcohol from 11:00 hours until 01:00 hours

Hours open to the public will be from 11:00 hours until 01:20 hours

The Panel agreed to this extension because it had not received any representations objecting to this variation.

New Years Eve

Supply of Alcohol from 11:00 hours until 02:00 hours

Hours open to the public will be from 11:00 hours until 02:20 hours.

The Panel agreed to this extension because it had not received any representations objecting to this variation.

Recorded Music

The Panel decided not to extend the hours for recorded music with the exception of Boxing Day for the following reasons:

1. There are a number of listed buildings in the area where double glazing and other forms of noise insulation can not be installed.
2. The Licensed Premises are close to a number of residential properties, some of which are listed buildings.

This met the Licensing objective of Prevention of Public Nuisance (Reference ENC Licensing Policy paragraph 5.2.)

However, this does not prevent the use of incidental recorded music to accompany diners.

In relation to Boxing Day, the Panel decided to grant the applicant's request for a variation because the Panel had not received any representations objecting to this variation.

Permitted hours for supply of Alcohol

Monday to Thursday from 11:00 hours until 00:00 hours.

On Fridays and Saturdays, the supply of alcohol will be from 11:00 hours until 01:00 hours, only for patrons who had eaten, or who were eating a meal at the premises on that evening. In relation to the other patrons, the supply of alcohol shall cease at 00:00 hours.

Reason – these restrictions have been imposed for the Prevention of Public Nuisance. (Reference ENC licensing policy paragraph 5.2.)

The Panel considered that the risk of Public Nuisance from diners was much less than that from other patrons. “

The Chairman then explained the Right of Appeal, that the decision was effective immediately and that the Decision Notice would be sent in writing to the applicant within 21 days.

Chairman

APPLICATION FOR THE VARIATION OF A PREMISES LICENCE – THE GREEN DRAGON, BRIGSTOCK

The representations have been analysed by officers and abstracts have been taken and placed under the relevant licensing objectives:-

Public Nuisance

Local Residents

Noise from music and customers leaving the premises and or standing around outside especially if later hours are granted. Noise from cars as customers leave the premises late at night.

Parish Council

Noise from music and customers. Noise from customers and cars leaving the premises late at night.

LICENSING PANEL

Date: 18 June 2009

Venue: East Northamptonshire House, Cedar Drive, Thrapston

Time: 9:30am

Present: Councillors: -

Glenn Harwood
Brian Northall

Gill Mercer

PART A ITEMS

1. APPOINTMENT OF CHAIRMAN

RESOLVED:

That Councillor Glenn Harwood be appointed Chairman for this Hearing.

2. DECLARATION OF INTERESTS

No interests were declared.

3. MINUTES

The Minutes of the meetings held on 16 April 2009 were approved and signed by the Chairman.

4. REVIEW OF THE PREMISES LICENCE FOR THE GEORGE INN, OUNDLE

The Licensing Panel considered an application for a review of the existing Premises Licence for The George Inn, Oundle, under the Licensing Act 2003. The review had been requested by the Council's Environmental Protection Officer on behalf of local residents on the grounds of the prevention of public nuisance objective under the Act.

The application for the review had been prompted by the conviction at the Magistrates Court of the Licence Holder, Mr John Saunders, in January 2009 for the breach of a Noise Abatement Notice served by the Council in July 2007.

The Licensing Officer reported that a previous Licensing Panel Hearing had been held in November 2007 to consider a variation of the Premise Licence. The variation was approved with additional conditions that no more than 2 events being held outside the premises per month from April to September annually as follows: -

- Live Music – live music external to the building both amplified and unamplified shall be allowed for 4 hours only at any one event between the hours of 12:00 and 21:00 hours.

- Recorded Music - no recorded music amplified external to the building shall be allowed outside the premises at any time.
- Dancing – the provision of facilities for dancing outdoors shall be allowed for 4 hours only at any one event between the hours of 12:00 and 21:00 hours.
- Opening Hours – the premises shall only be open to the public from 10:00 hours to 01:00 hours from Sunday to Thursday and from 10:00 hours to 02:00 hours on Friday and Saturday only.

The statutory bodies had been consulted about the application and representations had been received from the Council's Environmental Protection Officer, Oundle Town Council and 4 members of the public about noise nuisance (3 for the review and 1 against). (The representations had been analysed and extracts placed under the relevant licensing objective are attached as Appendix 1 to these minutes at page 4).

Karen Pell, the Council's Environmental Protection Officer and applicant, spoke in support of the review. She said that the Council had a statutory duty to investigate noise complaints and take appropriate action in accordance with the Council's noise enforcement policy. On 7 June 2008, complaints had been received from local residents and an officer witnessed noise nuisance from an outside event held at the premises. Mr Saunders was interviewed by officers on 18 June 2008 about the alleged nuisance and he made assurances that no further outside events were planned for that summer. A formal caution was offered but not accepted by Mr Saunders. On 22 August 2008, further complaints were received and an officer witnessed noise nuisance from an outside event held at the premises. Mr Saunders was then prosecuted on 14 January 2009 at Corby Magistrates Court for breach of the Noise Abatement Notice, where he pleaded guilty and was convicted of two offences. She referred to the letter of support received from Mr Murray and refuted the evidence he had attached to the letter regarding noise readings he had taken with Mr Saunders present at the second event in August 2008.

Miss Pell stated that the Council had applied for the review on behalf of local residents and requested that the Panel remove any condition allowing live or amplified music played outside the main public house, to ensure that local residents did not have to suffer further noise nuisance from the premises.

Two local residents, Mrs E MacDonald and Mrs P Mayhew, spoke supporting the review and mentioned the high volume of noise from the two outside events held at the premises last summer. Mrs Mayhew suggested that Mr Saunders was welcome to visit her property when an event was in progress to witness the level of noise she was experiencing.

Mr Hobbs, representing Mr Saunders, spoke objecting to the review. In referring to the prosecution for breach of the Noise Abatement Notice in January 2009, he stated that the Magistrates had given Mr Saunders an absolute discharge, with no fine or costs awarded against him. The Magistrates had also stated that they considered the conditions imposed on the Abatement Notice were impossible to comply with and Mr Saunders had done everything he could to prevent noise nuisance occurring. He requested that the Panel dismiss the review and allow the existing conditions to remain on the Licence.

The Panel asked Miss Pell, Mr Hobbs, Mrs E MacDonald and Mrs P Mayhew, a number of questions about their submissions and asked Miss Pell and Mr Hobbs to sum up their cases.

After considering the submitted report and the representations made at the Hearing from the speakers, including advice from the Solicitor to the Council, the Panel retired to consider the

application and evidence presented at the Hearing, and it was

RESOLVED:

That the existing conditions on the Premises Licence for The George Inn, Oundle, remain and that no additional conditions be imposed on the Licence.

The Chairman read out the following statement giving the reasons why the Panel had not amended the existing conditions on the Licence or had imposed extra conditions: -

“The Licensing Panel had considered this application for a review of a Premises Licence after taking into account the Licensing Officers report, representations both supporting and objecting to the application and other items of evidence presented. They had also carefully considered the Licensing Objectives, East Northamptonshire Council’s Statement of Licensing Policy and Guidance issued under Section 182 of the Licensing Act 2003 in reaching their decision.

There would be no change to the existing Licence conditions, mandatory and/or additional. The Panel considered that the existing conditions which imposed a maximum 2 events per month, from April to September annually, limited to a maximum of 4 hours each event, finishing no later than 21:00 hours, were sufficiently robust.

The Panel was very aware of the concerns raised by residents in support of the Review. However, two of the three letters of representation submitted in this case referred to an indoor function that took place on the 3 May 2009. The third letter also referred to that function as well as others including some outside.

East Northamptonshire Council’s statement of licensing policy under paragraph 11.1 states that “the Licensing Authority should be aware that the views of vocal minorities should not be allowed to predominate over the general interests of the community that the Panel represents”. In addition, paragraph 11.3 of the same document encourages and promotes entertainment particularly live music and dancing.

The Panel was encouraged to hear a supporter of the Review offer an invitation to the Licence Holder to visit her home when events are occurring to assess noise levels at that location. That was welcomed by the Panel as a positive way forward in this matter.

Whilst the Panel did not wish to impose any additional conditions on the Licence, it did consider that the License Holder had to be more pro-active and positive in the control of potential noise nuisance from future events. Failure to do so could result in a further Review of the Licence.

Whilst not a condition, the Panel recommends that the License Holder should notify nearby local residents in writing, no less than 7 days in advance of an event.”

The Chairman also mentioned that the Panel’s decision would be sent in writing to all parties and that they had the right to appeal to the Magistrates Court within 21 days, if he wanted to appeal against the Panel’s decision.

Chairman

REVIEW OF THE PREMISES LICENCE FOR THE GEORGE INN, OUNDLE

The representations received had been analysed by the Licensing Officer and extracts placed under the relevant licensing objectives:-

Public Nuisance Objective

(a) Representations in Support

Three representations had been received from local residents in support of the Review and they all gave details of nuisance caused by loud music from the premises:

“...we noticed that there was loud music coming from a live band.....clearly audible in our bedrooms and very disturbing”

“..immediately aware of music, with a heavy bass beat..... the music was pretty loud. I could hear it through double glazing. It stopped about 11.45pm”

“Our most recent intrusion was on Sunday May 3 2009 when we heard the bass beat from the George through our walls in the front of the house”

(b) Representations Against

One letter against the Review had been received from a local resident, referring to the writers use of, and support for, the public house:

“I am and remain absolutely flabbergasted at the Review called by the Council once again.”

A representation had been received from Oundle Town Council indicating that the Council felt that the proposed action appeared harsh.