

## CHILTERN DISTRICT COUNCIL

### MINUTES of the Meeting of the LICENSING & REGULATION COMMITTEE held on 1 OCTOBER 2012

**PRESENT:** Councillor P N Shepherd - Chairman  
" D G Meacock - Vice Chairman

Councillors: S P Berry  
N L Brown  
Mrs J A Burton  
P M Jones  
D J Lacey  
M Prince

**APOLOGIES FOR ABSENCE** were received from Councillors M J Cunnane, G K Harris, S A Patel, N Stewert, H A Trevette and M Vivis

#### 1 ELECTION OF CHAIRMAN

**RESOLVED –**

**That the appointment of Councillor N Shepherd as Chairman of the Committee for the remainder of the Municipal year, as noted at Annual Council on 15 May 2012, be agreed.**

#### 2 APPOINTMENT OF VICE-CHAIRMAN

**RESOLVED –**

**That the appointment of Councillor D G Meacock as Vice-Chairman of the Committee for the remainder of the Municipal year, as noted at Annual Council on 15 May 2012, be agreed.**

#### 3 MINUTES

The Minutes of the meeting held on 1 March 2012, copies of which had been previously circulated, were agreed by the Committee and signed by the Chairman as a correct record.

#### 4 DECLARATIONS OF INTEREST

There were no declarations of interest.

## **5 CONSIDERATION OF AN OBJECTION NOTICE MADE IN RESPONSE TO A TEMPORARY EVENT NOTICE**

Members were requested to consider the objection notice served by Environmental Health in response to a Temporary Event Notice (TEN) given for an event taking place between 00:00 and 03:00 on 1 January 2013 at the George Inn Public House, 137 High Street, Chalfont St Peter.

Members were also requested to consider the objection notice served by Environmental Health in response to another TEN given for an event taking place between 22:30 and 02:30 on 23/24 December 2012 and between 00:00 and 02:30 on 25 December 2012 at the same premises, the subject of a separate report.

With the agreement of the applicant the Committee agreed to consider simultaneously both notices. The Committee would also use the Licensing Sub-Committee adopted procedure.

The Council's Licensing Officer presented the details of the notices, as detailed in the reports, and answered questions. It was confirmed that both notices had been served on Thames Valley Police and Environmental Health. Environmental Health had issued an objection to the notices for the prevention of public nuisance. No objection had been received from the Police.

It was confirmed that the George Inn Public House already had a premises licence which included mandatory conditions, conditions consistent with the operating schedule submitted by the applicant, and conditions attached after a Licensing Sub-Committee hearing. TENs operated outside of existing premises licences, and as such the conditions placed on the existing premises licence did not automatically apply to the notices that had been issued.

Mr Charalambous (the applicant) attended the meeting with Zoe Huber. The applicant said that he thought the conditions on his premises licence would apply to the TEN events too. Accordingly he was agreeable to the transfer of all conditions from the premises licence to both notices. The Committee agreed that the only outstanding issue therefore was timing.

The Environmental Health Officer confirmed that the objection to both notices were submitted because Environmental Health considered that allowing the premises to be used in accordance with both notices would undermine the licensing objective; prevention of public nuisance.

The existing premises licence enabled the premises to sell alcohol and conduct various other licensable activities until 22:30 on Sunday 23 December and midnight on Monday 24 December. The TEN specified licensable activities until midnight 23 December continuing to 02.30 on 24 December and until 02.30 on 25 December. Environmental Health considered that 00:30 was the latest that the premises should be permitted to conduct licensable activities on the mornings of Monday 24 December and Tuesday 25 December. This was considered necessary because 24 December was an ordinary working day, and 25 December was a day when it was reasonable to

consider that families may be affected by the potential nuisance caused by the event.

The existing premises licence also enabled the premises to sell alcohol and conduct other licensable activities until midnight on 31 December. The TEN specified licensable activities until 03:00 on Tuesday 1 January. Environmental Health had considered it reasonable for the premises to remain open until 02:00 since the 1 January was a Bank Holiday.

Environmental Health confirmed they had assumed that the normal operating activities would take place during the opening hours contained in the notices. The applicant confirmed that the events would be like normal opening nights. He also confirmed that the notices had been issued to enable the premises to remain open for longer for 3 days during the festive period as this was considered essential to the business because there are not many chances to maximise profits in a recession.

Following the agreement from the applicant, the Noise Management Plan (August 2011) and photos showing the location of the premises in relation to nearby residential properties were circulated at the meeting.

In response to a comment made by the applicant, it was clarified that Environmental Health had objected specifically to the opening hours contained in these notices, not to TENs relating to the George generally. It was also clarified that each TEN would be considered on its merits (as with all premises).

In response to a question from the Committee it was advised that in March 2011 the Council had received a complaint that noise could be heard from loud music and from people in the smoking area at the premises. Following an inspection by Environmental Health Officers, a noise nuisance abatement notice was then served on the premises in May 2011. In September 2011 a further complaint was received that the noise nuisance abatement notice had been breached. It was confirmed that no complaints had been received by Environmental Health since September 2011.

The applicant said that research they had commissioned provided evidence that no noise could be heard from outside the premises; doors and windows were kept closed. The applicant advised that the conditions attached to the premises licence were adhered to. Customers were not allowed to exceed the limits in place, in particular the maximum number of people allowed in the designated smoking area at a time. The applicant advised that the breach of conditions witnessed by the Licensing Officer in March 2012 had taken place when there had been no door supervisor, and this was not typical. The applicant also said that nearly all of the complaints came from one neighbour. They also had letters from other neighbours confirming that they did not hear noise from the premises.

The applicant felt that the opening hours suggested by Environmental Health for 23-25 December and 1 January would not support the business activities of the premises. The applicant confirmed that they would accept the opening hours suggested for 1 January, but added that not all customers would

necessarily stay until the premises closed, and that neighbouring premises were able to remain open later.

The Committee then requested additional information and the Chairman agreed for the meeting to be adjourned briefly to enable the Licensing Officer to obtain further information relating to the opening hours and hours of licensable activity for other premises located within the immediate vicinity of the premises. The meeting then re-convened and an existing draft table which had been compiled some considerable time previously for different purposes, but which gave a very general idea of the operating hours of surrounding premises was circulated to those present. The Committee and the applicant were made aware of the unreliable nature of the data and the need to consult the full licences, by the Legal Advisor after the meeting and before the decision was made.

The Committee discussed the opening hours, hours of licensable activities of neighbouring premises, and the location of the premises, in particular the designated smoking area in relation to neighbouring residential properties.

The applicant confirmed that TENS had only previously been used at the premises for a limited number of private parties taking place throughout the year, however, the applicant had reserved using the notices to enable the premises to remain open longer over three days during the festive period, an important time for the business.

It was also clarified that the start time of the event on 25 December and the event on 1 January should be 00:01, rather than 00:00 as contained in the notices.

The room was then vacated to enable the Committee to consider their decision. The Democratic Services Officer remained for the purpose of recording the decision. The Legal Advisor was called in to give advice on the options open to the Committee.

## **RESOLVED –**

- 1. Chiltern District Council, being the relevant licensing authority, received an Objection Notice on the 20 September 2012 from the Environmental Health Officer in relation to the Temporary Event Notice given by the Premises User for a Temporary Event to take place**

**At George Inn Public House, 137 High Street, Chalfont St Peter, Buckinghamshire SL9 9QL**

**For a period of 28 hours beginning at 22.30 on 23 December 2012 until 02.30 on 24 December 2012 then recommencing at 00.01 on 25 December 2012 and finally finishing at 02.30 on 25 December 2012.**

**The Council now GIVES YOU NOTICE that a hearing was held on 1 October 2012 by the Licensing and Regulation Committee to consider the Objection Notice and the Committee made the decision (which was orally confirmed to you immediately after the hearing) to give a Counter Notice for the following reasons:**

1. In order to protect the licensing objective of public nuisance, as the hours requested in the Temporary Event Notice extend beyond the hours when other premises in the local area are serving alcohol and playing music.
  2. The Committee were of the opinion that allowing the event to proceed under the Temporary Event Notice would cause unnecessary disturbance to neighbouring residents as a result of noise breakout from the premises and the noise of patrons leaving the premises, particularly due to the close proximity of residential properties.
  3. The Committee considered whether they could protect the licensing objective of public nuisance if, rather than issue a counter notice, they attached conditions to the Temporary Event Notice from premises licence number 10/01545/LAPRE (so far as such conditions are not inconsistent with carrying on the licensable activities under the Temporary Event Notice). However the Committee found that due to the hours applied for, the conditions would not sufficiently address the disturbance to neighbouring residents referred to above.
2. Chiltern District Council, being the relevant licensing authority, received an Objection Notice on the 20 September 2012 from the Environmental Health Officer in relation to the Temporary Event Notice given by the Premises User for a Temporary Event to take place on **1 January 2013**

At **George Inn Public House**, 137 High Street, Chalfont St Peter, Buckinghamshire SL9 9QL

For a period of 3 hours beginning at 00.01 on 1 January 2013 and finishing at 03.00 on 1 January 2013.

The Council now GIVES YOU NOTICE that a hearing was held on 1 October 2012 by the Licensing and Regulation Committee to consider the Objection Notice and the Committee made the decision (which was orally confirmed to you immediately after the hearing) to give a Counter Notice for the following reasons:

1. In order to protect the licensing objective of public nuisance, as the hours requested in the Temporary Event Notice extend beyond the hours when other premises in the local area are serving alcohol and playing music.
2. The Committee were of the opinion that allowing the event to proceed under the Temporary Event Notice would cause unnecessary disturbance to neighbouring residents as a result of noise breakout from the premises and the noise of patrons leaving the premises, particularly due to the close proximity of residential properties.
3. The Committee considered whether they could protect the licensing objective of public nuisance if, rather than issue a counter notice, they attached conditions to the Temporary Event Notice from premises

licence number 10/01545/LAPRE (so far as such conditions are not inconsistent with carrying on the licensable activities under the Temporary Event Notice). However the Committee found that due to the hours applied for, the conditions would not sufficiently address the disturbance to neighbouring residents referred to above.

## **6 CONSTITUTIONAL CHANGES: TEMPORARY EVENT NOTICE**

The Licensing Sub Committee had authority to hear and determine police objections to a temporary event notice. Members felt that objections received from responsible persons, including Environmental Health, should also be determined by the Licensing Sub Committee, rather than the Licensing and Regulation Committee.

It was advised that this would be the subject of a separate report that was due to be considered by the Licensing and Regulation Committee at the meeting on 18 October 2012.

**The meeting ended at 12.40 pm**