

CHILTERN DISTRICT COUNCIL

MINUTES of the Hearing of the LICENSING SUB COMMITTEE held on 2 MARCH 2016

PRESENT: Councillor J J Rush - Chairman

Councillors: M Flys
E A Walsh
N Shepherd - Reserve

7 DECLARATIONS OF INTEREST

There were no declarations of interest.

All parties indicated that they had no objections to the membership of the Sub Committee.

Note: Councillor N Shepherd left the Hearing at 10.40am.

8 APPLICATION FOR A NEW PREMISES LICENCE AT THE CHEQUERS TREE, HIGH STREET, PRESTWOOD, BUCKS HP16 9HD

Members were requested to consider an application for a new Premises Licence for The Chequers Tree, High Street, Prestwood, Bucks, HP16 9HD.

The Licensing Sub Committee was required to consider the application and the valid representations which had been received during the consultation period. A representation was also received from the Environmental Health Authority relating to the prevention of public nuisance licensing objective.

The Chairman then invited the applicants and the objectors present who wished to speak at the Hearing to introduce themselves.

For the objectors Mr & Mrs Blackburn, Dr Mary Davis and Mr Jarvis were present on their own behalf, Mr Jarvis also represented Mr & Mr Aslett, Sheila Smith and Mr & Mrs Veysey. District Councillor John Gladwin was present to speak on behalf of objectors Mark Wingrove, Jackie Walsh and Barbara Rowett and Parish Councillor Lesley Cook was present on behalf of Great Missenden Parish Council. Mr Piers Warne of TLT Solicitors was present to speak for the applicants. Mr Michael McArthur of Greene King Retailing Ltd and Scott Suckling the operator of the premises, were also in attendance.

The Chairman informed the Hearing that there were two local councillors present to speak for the objectors, Chiltern District Councillor John Gladwin and Great Missenden Parish Councillor Lesley Cook, but assured the parties that their presence would not prejudice the Sub Committee's decision.

The Licensing Officer then introduced the application, as detailed in the report. He noted that other concerns besides those relating to the Licensing Objectives had been raised, particularly the impact on parking, but they could not be taken into account by the Committee in reaching its decision. In

response to the objections raised the applicant had organised a residents meeting to discuss their concerns and had submitted a formal written amendment to their application by letter dated 26th February 2016. This had been sent to objectors prior to the Hearing and was available in hard copy at the Sub Committee. He also informed the Hearing that following the amended application the Environmental Health Officer had withdrawn her objections and the licensing department had received three emails indicating support for the amended proposal.

In response to a question from the Sub Committee the Licensing Officer clarified that no smoking area was specified in the application or identified on the plan to allow flexibility in finding the most suitable location within the external area of the Licensed Premises. That in practice this was found to be the best approach generally regarding smoking areas as it meant that the area could be moved to address any concerns if they arose.

In answer to questions from the objectors he confirmed the proposed hours allowed the premises to remain open throughout the night between New Year's Eve and New Year's Day and added that this was a standard feature for premises licenses. It was also asked why the Environmental Health Officer withdrew their objection and it was explained that the amended hours matched very closely the hours they had recommended in their representations and in light of the reduced hours they had also confirmed that their additional proposed conditions were no longer appropriate or reasonable. The applicants had no questions for the Licensing Officer.

The Chairman then invited the objectors to speak about their objections and the following main points were made. The amended hours were acknowledged as an improvement, however, there was still concern that the opening hours would result in noise inappropriately late in the evening, anti-social behaviour and littering, especially in a residential area with young children living nearby. Several objectors submitted that 11pm would be a suitable closing time given the location of the premises. The later opening hours on Friday and Saturday night were considered particularly excessive and likely to cause disruption significantly later into the evening. There was also a strong feeling that the proposed extended opening hours for New Year's Eve and New Year's Day were unnecessary and would be extremely disruptive in a residential area. The early opening time of 8am was also questioned, which would coincide with children walking to school and mean the pub operated very long hours. The Sub Committee asked for clarification of this point from the Licensing Officer and he explained that although the proposed opening hours were from 8am alcohol would not be served until 10am.

In response to questions from the Sub Committee the objectors answered that under the previous license the pub had stayed open late, beyond 11pm, and significant noise had been caused. It was confirmed that the Green Man nearby opened later than the proposed hours, however, it was argued that its location was less residential and it therefore caused much less disturbance.

Mr Warne then spoke for the applicants. Mr Warne acknowledged the problems which had arisen under the previous tenants but emphasised that under the new application the intention was to operate an establishment

suitable for its residential location with a strong restaurant element to the business. The residents meeting had been organised because the operators wanted to engage positively with community and the amended hours had taken account of the feelings residents expressed. The film aspect of the application had also been withdrawn and music would be in keeping with a conversational, restaurant setting, making the premises more in keeping with a residential area. He recognised the new hours did not meet all the objectors concerns, however, there had been substantial variation in the views expressed by residents and the applicants considered the amended hours to be both reasonable and necessary for the Chequers Tree to succeed as a business.

Responding to earlier questions he explained that in keeping the location of the smoking area flexible it could be moved if issues arose. That they would decide in conjunction with their nearest neighbour and had already moved it away from his house. He also confirmed that the 8am opening time was intended for the service of coffee and food.

In response to questions from the Sub Committee Mr Warne explained that regarding the potential for noise nuisance from the bar it was not expected that there would be large, rowdy groups, it was expected to be a quiet, eating establishment. He also noted that premises usually police themselves in village settings in order to earn their place in the community. Regarding crime prevention Mr Warne answered that the police had not been sufficiently concerned to make a submission and they should be the main source of guidance regarding the risk of crime and disorder. He also assured the Sub Committee the operator would aim to address any issues as they arose. Regarding the proposed reduced hours in the amended license he explained that the bar did not expect to become a destination venue attracting customers from beyond The Chequers Tree because it was not open sufficiently late, there were other locations which opened longer for those wanting to stay out late. Finally he explained that there were no formal consultation arrangements with residents in place going forward, however, the manager's phone number would be provided to residents and they would be welcome to come and speak to the staff at any time about any concerns.

The Chairman then invited questions from the objectors. In response Mr Warne explained that although the 12 midnight closing time was included in the application the operators did not anticipate large crowds after 11pm, it was there so people were not put off from coming earlier to the premises for a meal. Concerning how the closing hours would be policed and noise nuisance managed Mr Warne advised that the doors and windows would be closed after 11pm, there would be notices advising customers of the manager's phone number, and a crime reporting incident book. He also stressed that they did not intend to offer a heavy drinking environment likely to cause a lot of noise. Regarding the noise nuisance caused by outdoors seating to the front of the premises under the previous tenants he answered that it should not be repeated because there would not be a very large seating area there.

The Chairman then moved the Sub Committee to consider the proposed conditions. It was noted that the Applicant agreed to conditions 1-13 and that the Objectors did not raise any objections thereto. It was noted that conditions 14 and 15 proposed by the Environmental Health Officer had been withdrawn

in view of the amended hours. On condition 16 Mr Warne asked for an amendment to allow bottles to be disposed of after 7am, arguing that this would allow the bar to be prepared for opening at 8am. Mr Gladwin asked that this be pushed back until 9am on Saturday, Sunday and Bank Holidays. It was also noted that Condition 17 was no longer appropriate as films had been removed from the application as a licensable activity.

The Chairman then asked those present for any closing statements they wished to make. Mr Warne asked that the Sub Committee consider that the impact of conditions, including their fiscal burden on the business, could be taken into account and to weigh up any negatives with the advantages of a new community orientated establishment. That the application did not undermine the licensing objectives and reminded the Sub Committee that their decision had to be proportionate with the licensing objectives. The objectors and Licensing officer confirmed that they had no closing statements to add in addition to what they had already said during the Hearing and everyone present confirmed that their concerns had been heard.

The Chairman thanked everyone present for their contributions and the Sub Committee retired to make its decision.

After considering all the evidence the Sub Committee:-

RESOLVED

That the application a new Premises Licence for The Chequers Tree, High Street, Prestwood, Bucks, HP16 9HD be allowed in part with immediate effect, subject to the Mandatory and other Conditions set out in the Schedule to the Report, as amended and deleted by the Sub-Committee, as set out in full in the Decision Notice attached to and forming part of these minutes.

The Hearing end at 1.40pm

LICENSING ACT 2003, AS AMENDED

APPLICATION BY GREENE KING RETAILING LIMITED FOR A NEW PREMISES LICENCE

DECISION OF THE LICENSING SUB-COMMITTEE SITTING ON 2ND MARCH 2016.

The Licensing Sub-Committee had before it an application from Greene King Retailing Limited for a new Premises Licence for The Chequers Tree, High Street Prestwood, Bucks HP16 9HD.

The details of the Premises Licence applied for are set out in the Application form appended to the Licensing Officer's report at Appendix 2 ("the Report") as amended by the Applicant prior to the Hearing in a letter dated 25th February 2016 ("the Letter of Amendment") reducing the hours of operation applied for and removing Films from the proposed Licensable Activities.

Relevant representations objecting to the application received from local residents and the Great Missenden Parish Council were listed in the Report at paragraph 5 and a copy thereof appended to the Report.

It is noted that Environmental Health did initially object but withdrew the objection in light of the amendment to the Application made prior to the Hearing.

The Licensing Sub-Committee, having listened to all the evidence, submissions and responses thereto and having read all the material before it including the Letter of Amendment and an amendment to paragraphs 4.2 and 4.3 of the Report tabled by the Licensing Officer, was satisfied on balance that in all the circumstances and for the Reasons given below that this Application as amended by the Applicant prior to the Hearing should be:

ALLOWED IN PART as follows -

Live Music and Recorded Music (Indoors only) and Supply of Alcohol (on and off the premises) -

Standard timings -

Sundays to Thursdays - 10am to 11pm
Fridays and Saturdays - 10am to Midnight

Non- Standard timings -

An additional hour on Sundays prior to Bank Holiday Monday, Christmas Eve and the Thursday before Good Friday.

New Year's Eve - from the beginning of the permitted hours on New Year's Eve until **3am** on New Year's Day.

Hours Premises are open to the public -

Standard timings -

Sundays to Thursdays - 8am to 11.30pm
Fridays and Saturdays - 8am to 30 minutes after midnight (00.30 the next day)

Non- Standard timings -

On Sundays prior to Bank Holiday Monday, Christmas Eve and the Thursday before Good Friday - 30 minutes after the terminal hour for the Sale of Alcohol on those days.

New Year's Eve - from the beginning of the permitted hours on New Year's Eve until **3am** on New Year's Day.

Late Night Refreshment - (Indoors only) -

Standard timings -

Fridays and Saturdays - 11pm to Midnight.

SUBJECT TO the Mandatory Conditions and the Conditions set out in the Schedule to the Report but renumbered and **deleted and amended** by the Sub-Committee as follows -

Amendments to Proposed Conditions

Condition 16 - amended to delete the words "nuisance is not" and regarding times as follows -

An inspection of the external area of the Licensed Premises will be undertaken during each licensed session to ensure litter and bottles and glass generated during licensable activities at the premises are disposed of appropriately. The disposal of bottles/glass will be carried out in such a way that noise is not created that may cause a nuisance to local residents and must not be carried out between the hours of 21.00 and 08.00 Mondays to Fridays and 21.00 and 09.00 Saturdays and Sundays.

Deleted Proposed Conditions

Conditions 14, 15 and 17.

This decision is considered to be justified as being appropriate for the promotion of the following Licensing Objectives

- Prevention of Crime and Disorder
- Public Safety
- Prevention of Public Nuisance
- Protection of children from harm

and proportionate in consideration of representations made, the operating schedule submitted and matters heard today.

REASONS.

The Licensing Sub-Committee considered carefully the Objectors' written representations and submissions made today at the Hearing which related mainly to noise nuisance after 11pm, crime and disorder, public safety and the extended hours regarding New Year's Eve and the Bank Holidays. It also considered the location of the Licensed Premises in a residential area and in relation to the Objectors' premises.

It noted that the only Responsible Authority which had raised an objection to the Application was Environmental Health relating to potential disturbance and public nuisance but that these objections were withdrawn having been addressed by the amendment to the Application.

Consideration was also given to the Parish Council's representations regarding reduced hours and submission at the Hearing that there would be no objection if the premises closed by 1am.

It was also noted that a large number of Objectors had shown support for the Premises being licensed and re-opening and welcomed the reduced hours proposed

by the Applicant and the removal of Films in light of the representations received and the public meeting.

The Licensing Sub-Committee also took into consideration that some of the concerns raised by the Objectors were based on what might happen if the application was allowed. In considering this the Licensing Sub-Committee had regard to the Home Office Guidance and in particular paragraph 9.42 and that decisions should be evidence-based.

The Licensing Sub-Committee took into account the Objectors representations and concerns referred to in their representations and also made at the Hearing regarding New Year's Eve, Bank Holidays and the opening hour of 8am whilst balancing the need for flexibility for the Applicant in pursuing its lawful business activities in allowing the hours applied for but reducing hours for New Year's Eve.

Regarding the proposed Conditions, it was noted that the Applicant agreed to the proposed Conditions 1 to 13 inclusive and that the Objectors had not raised any objection to these at the Hearing.

The Licensing Sub-Committee also considered very carefully the submissions from the Applicant's Solicitor and Objectors regarding the proposed Conditions 14, 15 and 16.

It felt that Conditions 14 and 15 were not proportionate or appropriate in view of the amended hours of operation but considered it appropriate to amend the timings referred to in Condition 16 as stated above in view of the concerns regarding noise and disturbance.

The Licensing Sub-Committee believed that the hours now permitted together with the Conditions imposed on the Premises Licence including those relating to noise, the monitoring thereof and the need to keep incident record book will ensure that effective noise monitoring takes place and written records of monitoring and complaints will be available to the Council for investigation and compliance purposes were appropriate and proportionate to adequately address the licensing objectives and the concerns of the Objectors and so decided to grant the application in part as stated above.

The Sub-Committee, whilst making this decision, also took into account the ability of the objectors to make representations in the future which will lead, where evidence shows the premises is the cause of crime and disorder, public nuisance and/or noise, to a review of the Premises Licence where steps could be taken to address the issues. Accordingly, the objectors should be reassured that the Licensing Authority does have significant powers when dealing with a premises on review if appropriate and proportionate in all circumstances.

The Licensing Sub-Committee also had regard to

National Guidance;
The Council's Licensing Policy;
The Human Rights Act 1998, as amended and
The individual merits of this case

before reaching this decision.



**Head of Legal and Democratic Services and
Clerk to the Licensing Sub-Committee**

DATED 2nd MARCH 2016

ATTENTION IS DRAWN TO THE ATTACHED RIGHTS OF APPEAL

YOUR RIGHT OF APPEAL
Licensing Act 2003, Section 181, Schedule 5

Rejection of applications relating to premises licences

- 1 Where a licensing authority-
 - (a) rejects an application for a premises licence under section 18,
 - (b) rejects (in whole or in part) an application to vary a premises licence under section 35,
 - (c) rejects an application to vary a premises licence to specify an individual as the premises supervisor under section 39, or
 - (d) rejects an application to transfer a premises licence under section 44, the applicant may appeal against the decision.

Decision to grant premises licence or impose conditions etc.

- 2 (1) This paragraph applies where a licensing authority grants a premises licence under section 18.
 - (2) The holder of the licence may appeal against any decision-
 - (a) to impose conditions on the licence under subsection (2)(a) or (3)(b) of that section, or
 - (b) to take any step mentioned in subsection (4)(b) or (c) of that section (exclusion of licensable activity or refusal to specify person as premises supervisor).
 - (3) Where a person who made relevant representations in relation to the application desires to contend-
 - (a) that the licence ought not to have been granted, or
 - (b) that, on granting the licence, the licensing authority ought to have imposed different or additional conditions, or to have taken a step mentioned in subsection (4)(b) or (c) of that section,he may appeal against the decision

Variation of licence under section 35

- 3 (1) This paragraph applies where an application to vary a premises licence is granted (in whole or in part) under section 35.
 - (2) The applicant may appeal against any decision to modify the conditions of the licence under subsection (4)(a) of that section.
 - (3) Where a person who made relevant representations in relation to the application desires to contend-
 - (a) that any variation made ought not to have been made, or
 - (b) that, when varying the licence, the licensing authority ought not to have modified the conditions of the licence, or ought to have modified them in a different way, under subsection (4)(a) of that section,he may appeal against the decision.

If you wish to appeal you must do so within 21 days beginning with the day you were notified of the decision.

The postal address for the Magistrates' Courts that cover the Chiltern Area is:

Milton Keynes Magistrates' Court, 301 Silbury Boulevard,
Witan Gate East, Milton Keynes, Buckinghamshire MK9 2AJ