

BABERGH DISTRICT COUNCIL

FROM: Head of Natural and Built Environment **REPORT NUMBER:** **J145**

TO: LICENSING SUB-COMMITTEE **DATE OF MEETING:** 22 December 2009

LICENSING ACT 2003 - HEARING REPORT

1. PURPOSE OF REPORT

1.1 To determine an application made under the provisions of the Licensing Act 2003 by:

Conrad Trading Company Limited

in respect of:

Boat House, Cross Street, SUDBURY, Suffolk CO10 2DL

The hearing is to determine an application for the GRANT of a NEW premises licence (Application ref: 004940) made under section 17 of the Licensing Act 2003. A copy of the premises licence application and accompanying plan is attached as **Appendix 1**.

- 1.2 Generally, the application is seeking to licence a range of licensable activities for regulated entertainment, late night refreshment and supply of alcohol at the Boat House. The previous licence (number: BPL0170) lapsed at the end of October 2009 when the premises licence holder ('The Boathouse Sudbury Limited') went insolvent. Therefore a new licence application became necessary and this was duly submitted by Conrad Trading Company Limited (registered company number 2861250).
- 1.3 The activities proposed would take place indoors with the exception of the consumption of alcohol which would extend to the external terraced area of the premises as defined on the plan attached as Appendix 1.

2. RECOMMENDATIONS

- 2.1 The Sub-Committee must, having regard to the representations made, take such of the steps below (if any) as it considers necessary for the promotion of the licensing objectives:
- (a) To grant the licence subject to conditions which are consistent with the operating schedule submitted by the applicant;
 - (b) To exclude from the scope of the licence any of the licensable activities that have been applied for;
 - (c) To refuse to specify a person in the licence as the premises supervisor;
 - (d) To reject the application.
- 2.2 Members of the Sub-Committee should note that they may, where it is deemed necessary and proportionate for the promotion of the licensing objectives, alter, omit or add new conditions within the applicants operating schedule.
- 2.3 The Sub-Committee is able to determine this application.

3. THIS APPLICATION

3.1 The applicants are Conrad Trading Company Limited and the proposed Designated Premises Supervisor (DPS) is Mr Paul Vincent Wharrier, who is also the head chef at the Boat House. Mr Wharrier is the holder of personal licence BPA0645 issued by Babergh District Council.

3.2 The premises licence application seeks to carry on the following licensable activities:

- (a) Supply of alcohol (for consumption ON the premises only)
- (b) Late night refreshment (indoors)
- (c) Plays (indoors)
- (d) Films (indoors)
- (e) Live music (indoors)
- (f) Recorded music (indoors)
- (g) Performances of dance (indoors)
- (h) Entertainment similar to live or recorded music or dance (indoors)
- (i) Provision of facilities for dancing (indoors)
- (j) Provision of facilities for entertainment similar to making music or dancing (indoors)

Latest standard hours proposed for licensable activities are until midnight (Monday to Sunday) - except Late Night Refreshment which will continue until the premises closes at 00:30hrs. New Year's Eve extensions are sought for alcohol sales until 01:00hrs with the premises to close at 01:30hrs. Full details are contained within the application form attached as **Appendix 1**.

3.3 The application proposes various measures to promote the four licensing objectives, and for ease of reference these are summarised below:

- Air conditioning/double glazed windows;
- Notices encouraging customers to leave quietly and with respect for neighbours;
- Management will take all reasonable steps to ensure noise from inside or outside the premises is kept to minimum;
- Windows/doors to be kept closed during live or recorded music (except background music);
- All events will be carefully reviewed/approved by management before bookings agreed;
- There will be no karaoke type activity;
- There will be no food 'takeaway' operation from the premises;
- Regular safety review of the fencing to the river and external lighting will be conducted;
- Installation of noise limiter equipment to be set at level as agreed with Environmental Health Officer;
- Under 16's will not be permitted in public areas during any adult entertainment;
- 'Challenge 21' type policy to be operated; and
- Tickets for dining events will not be sold to under 18's.

3.4 The application has stated that the premises has a planned indoor seating capacity of 140, plus an additional outdoor dining area, and that the intended operation is as a traditional restaurant with the premises also being available for wedding, banquet, training/educational and similar functions.

3.5 Notices of the application have been published and on display. The newspaper advertisement of the application appeared in the Suffolk Free Press on 12 November 2009. The following consultees, as Responsible Authorities under the 2003 Act, have also been served with a copy of the application and plans:

RESPONSIBLE AUTHORITY:	RESPONSE:
1. Chief Officer of Police	Confirmed NO OBJECTION
2. Local Fire Authority	No representation or comments
3. Health and Safety Executive/Local Authority for Health and Safety at Work Act	Confirmed NO OBJECTION. Some advisory comments only (attached as Appendix 2 for clarification/information)
4. Environmental Health	Confirmed NO OBJECTION. Some advisory comments only (attached as Appendix 2 for clarification/information)
5. Local Planning Authority	Advisory comments only regarding Planning (attached as Appendix 2 for clarification/information)
6. Area Child Protection Committee	As per Chief Officer of Police. NO OBJECTION.
7. Any other Licensing Authority	Not applicable
8. Trading Standards	No representation or comments

3.6 Representations have been received during the statutory period from 'interested parties' as defined by the 2003 Act. Mr Colin Miller has been the co-ordinator of the 'Boathouse Action Group' and has collected signatories (see Appendix 2 attached) from the following persons:

1. Mr Colin Miller, 102 Ballingdon Street, SUDBURY CO10 2BP
2. Patrick Burns, The Apartment, Olde Bull Hotel, Church Street, SUDBURY CO10 2BZ
3. Amy & Ryan Syder, 5 Laundry Gardens, Cross Street, SUDBURY CO10 2DH
4. Anesta Newson & Kenneth (Newson?), 100a Ballingdon Street, SUDBURY CO10 2BP
5. Peter J.Hunt, 86/88 Friars Street, SUDBURY CO10 2AJ
6. Val Hemingway, 24 Church Street, SUDBURY CO10 2BL
7. Craig Daniels & Wendy Wright, 40 Cross Street, SUDBURY CO10 2DL
8. N & D Keeble, 58 Cross Street, SUDBURY CO10 2DL
9. Chris Bevan & Charlotte Butler, 72 Cross Street, SUDBURY CO10 2DL
10. Brendan & Nichola Layzell, St.Mary's Ballingdon Street, SUDBURY CO10 2BP
11. Pauline Broom, Sunny Holme, Cross Street, SUDBURY CO10 2DL
12. Mrs Susan Devine, Bridge House, 38 Cross Street, SUDBURY CO10 2DL
13. M.Scott & G.B Scott, 37 Cross Street, SUDBURY CO10 2DL
14. Peter Mallender, 36 Cross Street, SUDBURY CO10 2DL
15. Mrs E.M.Stacy, 32 Cross Street, SUDBURY CO10 2DL
16. P.Grant, 31 Cross Street, SUDBURY CO10 2DL
17. Warren Pitt, 28 Cross Street, SUDBURY CO10 2DL
18. I.P.Collins, 27 Cross Street, SUDBURY CO10 2DJ
19. R.W.Beevis, 25 Cross Street, SUDBURY CO10 2DL
20. C.Salter, 24 Cross Street, SUDBURY CO10 2DL
21. David Bryant, The Cottage, Hawk Lane, Ballingdon Street, SUDBURY CO10 2BS
22. J.Wimbs, 6 Ballingdon Street, SUDBURY CO10 2BP
23. M.Barrett, Bridge Foot Cottage, Cross Street, SUDBURY CO10 2DG
24. R.W.Nunn & Niesje Nunn-Spee, 1 Bridge Foot, Cross Street, SUDBURY CO10 2DG
(Note: Mr & Mrs Nunn also submitted their own separate written representation)
25. John & Gill Taylor, 24 Ballingdon Street, SUDBURY CO10 2BP
26. Mrs Carol Kirk, 4 Brands Cottages, Church Street, SUDBURY CO10 2BQ
27. P.H.Greene, 2 Brands Cottages, Church Street, SUDBURY CO10 2BQ
28. Sue Frost, 101, Ballingdon Street, SUDBURY CO10 2BP
29. Anne Stockill, 18 Church Street, SUDBURY CO10 2BJ
30. Mrs V.E.H.Grey, 11 Church Street, SUDBURY CO10 2BJ
31. L.Copping, 9 Church Street, SUDBURY CO10 2BJ
32. M.D.Hutton, 7 Church Street, SUDBURY CO10 2BJ
33. R.Lance, Cross Street (NO NUMBER GIVEN)

34. Georgina Pearce, 71 Cross Street, SUDBURY CO10 2DP
35. F.W.Hanbury, 62 Cross Street, SUDBURY CO10 2DJ
36. M.Berkouwer, 78 Cross Street, SUDBURY CO10 2DJ
37. June Smith & Gerald Smith, 28 Church Street, SUDBURY CO10 2BL
38. S.Fosker, 101a Ballingdon Street, SUDBURY CO10 2BP
39. Peter Walker & Maria Walker, 21 Cross Street, SUDBURY CO10 2DL
40. S.Bourne, 53 Church Street, SUDBURY CO10 2BJ
41. S.Edge, 52 Church Street, SUDBURY CO10 2BJ
42. K.Merton, 39 Church Street, SUDBURY CO10 2BJ
43. J.Collins, 33 Church Street, SUDBURY CO10 2BJ
44. Mr & Mrs McGregor, 30 Church Street, SUDBURY CO10 2BJ
45. Freda Rayner, 1 Ballingdon Street, SUDBURY CO10 2BP
46. Mr S.Paul, 39 Cross Street, SUDBURY CO10 2DL
47. Margaret Tracey, 51 Church Street, SUDBURY CO10 2BJ
48. Agnes Burns, 103 Ballingdon Street, SUDBURY CO10 2BP
49. Sally Freer & Roy Freer, 5 Bridge Foot, Cross Street, SUDBURY CO10 2DG
50. Mr Bryan Mayles, (owner of) 42 Cross Street, SUDBURY CO10 2DL
Address for correspondence 22 Corporal Lillie Close, SUDBURY CO10 2TL

- 3.7 Copies of all representations received are attached as referred to in **Appendix 2**. This also includes any 'advisory only' comments made by Responsible Authorities for purposes of information and clarification.

4. GUIDANCE AND POLICY CONSIDERATIONS

- 4.1 The Sub-Committee is referred generally to section 2 - 'The Licensing Objectives', section 8 - 'Applications for Premises Licences', section 9 - 'Determining Applications' and section 10 - 'Conditions Attached to Premises Licences and Club Premises Certificates' of the Central Government Guidance (as revised July 2009) in respect of this application.
- 4.2 The Government Guidance issued under section 182 of the Licensing Act 2003 advises that duplication with other statutory provisions is to be avoided (sections 1.16 and 10.15 - 10.18 refer) and that any conditions deemed necessary to attach to a licence must be proportionate and focus on relevant measures that are within the direct control of the licence holder.
- 4.3 Licensing law is not the primary mechanism for the general control of individuals once they are away from the licensed premises and beyond the direct control of individual licensees (section 1.26 refers).
- 4.4 'Need' for licensed premises is not a matter for a Licensing Authority when discharging its licensing functions - it is a matter for planning committees and for the market (section 13.23 of the statutory guidance refers).
- 4.5 It should be noted that applications for licences may be made before any relevant planning permission has been sought or granted by the Planning Authority. Licensing committees are not bound by decisions made by a planning committee, and vice versa (sections 13.64 - 13.68 of the statutory guidance refer).
- 4.6 The Sub-Committee should have due regard to all relevant sections of the Council's Statement of Licensing Policy in respect of the determination of this application.

4.7 The Sub-Committee will also be aware of Human Rights Act 1998 considerations - specifically Article 6 for the applicant and Articles 8 and 1 of Protocol 1 for those raising representations - when determining applications for the grant of a new licence.

5. THE ISSUE(S)

5.1 The Licensing Act 2003 came into full effect on 24.11.2005. The four underlying objectives of the legislation are:

- Prevention of crime and disorder
- Public safety
- Prevention of public nuisance
- Protection of children from harm

These are the **only** grounds upon which an application may be refused, or if deemed necessary, conditions may be attached to a licence.

5.2 Members will note that the issues in respect of this application involve carefully balancing the interests of owners, employees, customers and neighbours of licensable premises.

6. PROCEDURE TO BE FOLLOWED AT HEARING

6.1 A copy of the 'Procedure for Hearing of Application under the Licensing Act 2003 where a Representation/Objection is received' is attached to the Agenda.

7. APPENDICES REFERRED TO

- (a) Appendix 1: Application together with premises plans
- (b) Appendix 2: Representations received and any RA advisory only comments
- (c) Appendix 3: Site plan

MALCOLM FIRTH
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