

**BABERGH DISTRICT COUNCIL**

**FROM:** Head of Legal and Administrative Services

**REPORT NUMBER** **E131**

**TO:** LICENSING SUB-COMMITTEE

**DATE OF MEETING** 20 September 2005

**LICENSING ACT 2003 – HEARING REPORT**

**1. SUMMARY**

To determine an application under the 2003 Licensing Act made by:  
**Greene King Retailing Ltd**  
in respect of:  
**Kings Head, 53 Ballingdon Street, SUDBURY CO10 2BZ**

The hearing is to determine the variation element of the application only. The conversion element of the application (Part A of the form) is not subject to any hearing or consideration by the sub-committee as the Police have made no objection to the conversion during the statutory period. The entitlements of the conversion are protected rights and cannot be reduced by any determination made by the sub-committee in its determination of the variation element.

Existing conditions and restrictions under the Licensing Act 1964, and other enactments specified by the Secretary of State, carry across with the conversion on to the new premises licence, unless the variation seeks to amend or remove these.

**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:

- To grant the licence subject to conditions which are consistent with the operating schedule submitted by the applicant;
- To exclude from the scope of the licence any of the licensable activities that have been applied for;
- To refuse to specify a person in the licence as the premises supervisor;
- To reject the application.

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.

The sub-committee is able to determine this application.

### **3. THIS APPLICATION**

3.1 This application is made by Greene King Retailing Ltd in respect of the Kings Head, 53 Ballingdon Street, SUDBURY CO10 2BZ. The named premises supervisor is Ms Sally Anne Parker (the existing justices' licence holder).

The premises is a public house with public bar, saloon bar, patio area and garden. The premises has AWP gaming machines and cigarette vending machine.

The application is to simultaneously vary a conversion licence (justices' liquor licence) and seeks to extend hours during which licensable activities, existing and new, will take place on the premises.

The existing permitted hours for the premises are as follows:

#### **Justices' licence 'permitted hours':**

Monday to Saturday	(10:00hrs until 23:00hrs)
Sunday/Good Friday	(12:00noon until 22:30hrs)
Christmas Day	(12:00noon until 15:00hrs and 19:00hrs until 22:30hrs)
New Years Eve	Extension allowed from end of permitted hours until start of permitted hours on New Years Day

#### **The hours and activities being proposed by the variation application are:**

- (a) **'Live music' (Box E – Indoors)**  
**'Recorded music' (Box F – Indoors)**

**Hours applied for:** 20:00hrs until 00:00hrs (Friday & Saturday)

- (b) **'Supply of alcohol' (both ON and OFF the premises)**

**Hours applied for:** 10:00hrs until 00:00hrs (Monday to Thursday)  
10:00hrs until 01:00hrs (Friday & Saturday)  
12:00hrs until 23:30hrs (Sunday)

**The applicants also propose that the opening hours of the premises be extended as follows (BOX O):**

**Hours applied for:** 09:00hrs until 00:30hrs (Monday to Thursday)  
09:00hrs until 01:30hrs (Friday & Saturday)  
11:00hrs until 23:30hrs (Sunday)

*The above opening hours contain provision of 30 minutes after the cessation of alcohol sales for appropriate dispersal and drinking-up.*

#### **Seasonal and non-standard timings (including bank holidays)**

By virtue of the conversion application, the applicant carries forward a general exemption allowing the premises to open from the closure of the premises on New Years Eve until the beginning of permitted hours on New Years Day as a 'grandfather right'.

**Further to the above, the applicants propose that:**

- Supply of alcohol to continue until 01:00hrs (premises closing at 01:30hrs) for Christmas Eve, Christmas Day, Boxing Day, New Years Day, Spring and August Bank Holidays, Good Friday, Easter Saturday, Easter Sunday and Easter Monday and any other bank holidays.
- Live music (indoors) to continue until 00:00hrs for the above specified non-standard timings.

***Note: Any reference to ad-hoc unspecified extensions in the application has been withdrawn by Greene King.***

The applicant has proposed various measures that they intend to take to promote the four licensing objectives, referred to in section Q of the application form. The measures proposed include:

- (a) Use of SIA registered doorstaff
- (b) Membership of Pubwatch scheme
- (c) Adoption of best practice including Portman Group guidance
- (d) Strong management controls, policies and training
- (e) Use of plastic and toughened glasses for external consumption
- (f) Provision of litter bins and litter management

Some of the steps proposed may require further clarification by the applicant at the hearing.

Please refer to the copy of the complete application attached as Appendix 1.

- 3.2 The application is attached as Appendix 1. Greene King have confirmed that the advertisements required under the Act were published and displayed on the premises for 28 days. The applicant has confirmed that the following consultees, as Responsible Authorities, have received notice of the application.

<b>RESPONSIBLE AUTHORITY</b>	<b>RESPONSE</b>
1. Chief Officer of Police	
2. Local Fire Authority	
3. Health and Safety Executive/Local Authority for Health and Safety at Work Act	
4. Environmental Health	
5. Local Planning Authority	
6. Area Child Protection Committee	
7. Any other Licensing Authority	
8. Trading Standards	
9. Environmental Agency/British Waterways Boards/Maritime and Coastguard Agency	

No objections/representations have been received from Responsible Authorities during the statutory period.

3.3 Representations have been received during the statutory period from the following interested parties:

- **Mr & Mrs Halliday - 51 Ballingdon Street, SUDBURY CO10 2BX**

A copy of any representations are attached as Appendix 2. Any comments outside of formal representations made by responsible authorities are also attached for purposes of clarification and information.

#### **4. GUIDANCE AND POLICY CONSIDERATIONS**

4.1 The sub-committee is referred to section 6 – ‘Hours of Trading’ and section 7 – ‘Conditions Attached to Premises Licences and Club Premises Certificates’, and also Annexes D to H, of Central Government Guidance in respect of this application.

4.2 The sub-committee is referred to sections 1, 6, 7, 9, 10 and 14 of the Council’s Statement of Licensing Policy in respect of this application.

#### **5. THE ISSUE(S)**

5.1 The Licensing Act 2003 introduced a new licensing regime. The four underlying objectives of the regime 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 main issues here are:

- Balancing the interests of owners, employees, customers and neighbours of licensable premises.
- Assessing whether the local resident objections are ‘in the vicinity’ of the 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**

- (a) Appendix 1 – Part B – Application together with premises plan
- (b) Appendix 2 – Representations
- (c) Appendix 3 – Site Plan showing location of Interested Party objectors.

**8. BACKGROUND PAPERS REFERRED TO**

None.

PAULINE McBRIDE  
Head of Legal and Administrative Services

**CONTACT:** Lee Carvell

**DIRECT LINE:** 01473 825719