

**BABERGH DISTRICT COUNCIL**

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

**REPORT NUMBER E134**

**TO: LICENSING SUB-COMMITTEE**

**DATE OF MEETING 21 September 2005**

**LICENSING ACT 2003 – HEARING REPORT**

**1. SUMMARY**

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

**Miss Noremer Llupar & Mrs Joanne Llupar**

in respect of:

**The Peacock Inn, 37 The Street, CHELSWORTH IP7 7HU**

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 Miss Noremer Llupar and Mrs Joanne Llupar in respect of the Peacock Inn, 37 The Street, CHELSWORTH IP7 7HU. The named premises supervisor is Mrs Joanne Llupar (the existing justices' licence holder).

The premises is a public house with restaurant and hosts functions.

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 variation is also seeking to remove all embedded restrictions inherent in the Licensing Act 1964, The Cinematograph (Safety) Regulations 1955 and the Children and Young Persons Act 1933.*

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) 'Films' (Box B - Indoors)**

**'Indoor sporting events' (Box C)**

**'Anything of a similar description to music or dance' (Box H – Indoors)**

**Hours applied for:** 09:00hrs until 00:30hrs (Monday to Sunday)

**(b) 'Recorded music' (Box F – Indoors)**

**Hours applied for:** 09:00hrs until 00:00hrs (Monday to Sunday)

**(c) 'Live music' (Box E – Indoors)**

**Hours applied for:** 09:00hrs until 23:00hrs (Monday to Sunday)

**(d) 'Late night refreshment' (Box L - Indoors)**

**Hours applied for:** 23:00hrs until 00:30hrs (Monday to Sunday)

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

**Hours applied for:** 10:00hrs until 00:00hrs (Monday to 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 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 continue permitted hours 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:**

- **For Christmas Eve, Boxing Day and the Friday to Monday of bank holiday weekends extend all activities (except live music) until 01:00hrs and close at 01:30hrs.**
- **Up to thirty 'event days' for use at the discretion of the licensee.**  
*(Note: This element has since been withdrawn from the application by the applicant. There appears no provision in the legislation for such non-specific ad-hoc extensions outside of what is provided for by means of Temporary Event Notices, Secretary of State general orders of exemption and identifiable timings that could be built into a premises licence).*

The applicant has proposed no additional measures that they intend to take to promote the four licensing objectives, referred to in section Q of the application form, other than what is provided for generally within the application as proposed and the restrictions within the Licensing Act 2003.

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

- 3.2 The application is attached as Appendix 1. The advertisements required under the Act were published in the East Anglian Daily Times on 05.08.2005 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	<i>No representations.</i>
2. Local Fire Authority	
3. Health and Safety Executive/Local Authority for Health and Safety at Work Act	<i>Comments only – attached for information at Appendix 2.</i>
4. Environmental Health	<i>Comments only – attached for information at Appendix 2.</i>
5. Local Planning Authority	<i>Comments only – attached for information at Appendix 2. No restrictions.</i>

<b>RESPONSIBLE AUTHORITY</b>	<b>RESPONSE</b>
6. Area Child Protection Committee	
7. Any other Licensing Authority	
8. Trading Standards	
9. Environmental Agency/British Waterways Boards/Maritime and Coastguard Agency	

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

- **Mr A & Mrs T.Norwood, Jackdaw's Ford, The Street, CHELSWORTH IP7 7HU**

A copy of any representations and responsible authority comments are attached as Appendix 2.

#### **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 issue here is:

- 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**

- (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