

BABERGH DISTRICT COUNCIL

FROM: Head of Legal and Administrative Services

REPORT NUMBER **E145**

TO: LICENSING SUB-COMMITTEE

DATE OF MEETING 23 September 2005

LICENSING ACT 2003 – HEARING REPORT

1. SUMMARY

To determine an application under the 2003 Licensing Act made by:
Mr Shaun Francis Hill & Mr Dennis Douglas Hill
in respect of:
The Rose and Crown, ELMSETT IP7 6PA

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 Shaun Hill and Douglas Hill in respect of the Rose and Crown, The Street, ELMSETT IP7 6PA. The named premises supervisor is Mr Shaun Hill (the existing justices' licence holder).

The premises is a public house with beer garden, serving food and occasional entertainment.

The application is to simultaneously vary a conversion licence (both justices' liquor licence and Public Entertainments 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

PEL authorised hours:

Monday to Friday	(10:00hrs until 00:00hrs)
Saturday	(10:00hrs until 23:30hrs)

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

- (a) **'Live music' (Box E – Indoors)**
'Recorded music' (Box F – Indoors)
'Entertainment of a similar description to live and recorded music and dance' (Box H – Indoors)
'Provision of facilities for making music' (Box I – Indoors)
'Provision of facilities for dancing' (Box J – Indoors)

Hours applied for: 10:00hrs until 01:00hrs (Monday to Saturday)

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

Hours applied for: 10:00hrs until 01:00hrs (Monday to Saturday)
12:00hrs until 01:00hrs (Sunday)

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

Hours applied for: 10:00hrs until 01:30hrs (Monday to Saturday)
12:00hrs until 01:30hrs (Sunday)

The above opening hours provide a thirty minute period 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 remain 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'.

The applicant has proposed no measures of their own to promote the four licensing objectives, and instead state a willingness to accept any proposed by responsible authorities (section Q of the application form refers).

The solicitor for the applicant has verified acceptance of additional steps to promote the licensing objectives following recommendations made by the Environmental Health officer. These are attached at Appendix 2 for clarification purposes.

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

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

RESPONSIBLE AUTHORITY	RESPONSE
1. Chief Officer of Police	
2. Local Fire Authority	
3. Health and Safety Executive/Local Authority for Health and Safety at Work Act	<i>No representation following agreement reached with applicant.</i>
4. Environmental Health	<i>No representation following agreement reached with applicant.</i>
5. Local Planning Authority	<i>Comments only. No planning or restrictions or conditions.</i>
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 M.A Quinn, Tara Cottage, Ipswich Road, ELMSETT IP7 6NY**

A copy of any representations, and any 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 introduces 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.

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

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