

BABERGH DISTRICT COUNCIL

FROM: Head of Legal and Administrative Services

REPORT NUMBER **E75**

TO: LICENSING SUB-COMMITTEE

DATE OF MEETING 5 August 2005

LICENSING ACT 2003 – HEARING REPORT

1. SUMMARY

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

Greene King Retailing Limited

in respect of:

Horse & Groom, 35 East Street, SUDBURY CO10 2TU

The hearing is to determine the variation element of this 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. All existing conditions and restrictions under the Licensing Act 1964, and other enactments specified by the Secretary of State, therefore carry across with the conversion automatically as conditions on 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 Green King Retailing Ltd in respect of the Horse & Groom, 35 East Street, SUDBURY CO10 2TU. The named premises supervisor is Mr Robert Mitchell Drummond (the existing justices' licence holder).

The premises is a public house with one bar, a dining area, a patio area and beer garden. The premises has AWP gaming machines on site and also sells cigarettes.

The variation seeks to add the following activity to the new premises licence, in addition to the carry over of 'sale by retail of alcohol' (on and/or off sales) and 'playing of recorded music':

(a) 'Live music' (BOX E - indoors)

Soloists, duos and karaoke

Hours applied for: 19:00hrs until 23:30hrs (Wednesday to Saturday)
19:00hrs until 23:00hrs (Sunday)

And also extend the scope of the aforementioned conversion activities of:

(b) 'Recorded music' (BOX F - indoors)

Recorded music including disco

Hours applied for: 19:00hrs until 23:30hrs (Wednesday to Saturday)
19:00hrs until 23:00hrs (Sunday)

(c) 'Supply of alcohol' (BOX M - ON and OFF the Premises)

Proposed extension of hours for on and/or off sales

Hours applied for: 10:00hrs until 00:30hrs (Monday to Saturday)
10:00hrs until 23:30hrs (Sundays)

The above for Box M also applies to use of the beer garden and patio areas.

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

Hours applied for: 09:00hrs until 01:00hrs (Monday to Saturday)
09:00hrs until 00:00hrs (Sundays)

The above opening hours allow for a 30 minute period after the cessation of alcohol sales for appropriate dispersal and drinking-up. The applicant has also proposed earlier opening times of 09:00hrs to provide non-licensable activities.

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'.

The applicant proposes that for all bank holidays/public holidays (including Christmas Eve, Christmas Day, Boxing Day, New Years Day, Spring and August bank holidays, Good Friday, Easter Saturday, Easter Sunday and Easter Monday) the hours for the sale of alcohol, recorded music and live music be extended to 10:00hrs until 00:30hrs with the premises remaining open on such occasions for a further 30 minutes to close at 01:00hrs.

In addition to the above, the applicant has proposed ‘unspecified extension of hours’ for use at the discretion of the licence holder, opening to the public from 08:00hrs until 01:00hrs for no more than 12 occasional pub outings per annum (eg days trips, excursions and also for live televised sporting and non-sporting events of either national or local importance such as World Cup Football).

[However, please note that Greene King have subsequently withdrawn references to ‘unspecified extension of hours’ for unknown dates/times in all of their applications for the Babergh District area. There is already sufficient provision in the Act for Temporary Event Notices and general exemption orders for events of national or local significance. Therefore such references are to be disregarded from this application].

The applicant has proposed various steps that they intend to take to promote the four licensing objectives, detailed in section Q of the application form attached as Appendix 1. These include:

- (a) Use of photo ID proof of age
- (b) Membership of Pubwatch and BII schemes
- (c) Adoption of best practice including Portman Group guidance
- (d) Strong management controls, policies and training
- (e) Use of plastic glasses for external Beer festivals
- (f) Provision of litter bins and litter management
- (g) Children must be accompanied in dining areas by responsible adult

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 verified that the statutory advertisements of the application have been published in the local press 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.

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	YES 12.07.2005
4. Environmental Health	YES 12.07.2005
5. Local Planning Authority	15.07.2005 Comments only – no planning conditions controlling hours of operation
6. Area Child Protection Committee	
7. Any other Licensing Authority	
8. Trading Standards	

RESPONSIBLE AUTHORITY	RESPONSE
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:

- **John Toosey - Eastgate House, Upper East Street, SUDBURY CO10 1UB**
- **P.M.Layer & J.E.Layer - Waldingfield Road, SUDBURY CO10 2PU**
- **Lesley Searle - East Street, SUDBURY CO10 2TR**
- **Niall Murray - East Street, SUDBURY CO10 2TR**

A copy of any representations 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 ISSUES

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

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