

**BABERGH DISTRICT COUNCIL**

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

**REPORT NUMBER**

**E41**

**TO:** LICENSING SUB-COMMITTEE

**DATE OF MEETING** 24 June 2005

**LICENSING ACT 2003 – HEARING REPORT**

**1. SUMMARY**

To determine an application under the 2003 Licensing Act made by:  
**Stephen William John Mulcahy and Patricia Christine Mulcahy**  
in respect of:  
**The Three Horseshoes Inn, Church Square, BURES CO8 5BS.**

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.

The application is to simultaneously vary a conversion licence (justices' liquor licence only) and seeks to extend hours during which the activities 'sale of alcohol' and provision of 'recorded music' are carried on.

**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.

The sub-committee is able to determine this application.

### **3. THIS APPLICATION**

3.1 This application is made by Stephen William John Mulcahy and Patricia Christine Mulcahy in respect of The Three Horseshoes Inn, Church Square, BURES CO8 5BS (BDC application ref: 000057).

The premises is a traditional village public house with one bar, a pool room and large beer garden. The premises does not serve food.

The application is to simultaneously vary a conversion licence (justices' liquor licence only) and seeks to extend hours during which the activities 'sale of alcohol' and provision of 'recorded music' are carried on.

This application seeks to extend the existing 'permitted hours' hours during which licensable activities take place at the premises. Existing permitted hours are:

- 10:00hrs until 23:00hrs Mondays to Saturdays
- 12:00noon until 22:30hrs Sundays
- Good Friday 12:00noon until 22:30hrs
- Christmas Day 12:00noon until 15:00hrs and 19:00hrs until 22:30hrs
- New Years Eve (not Sunday) 10:00hrs until 23:00hrs
- New Years Eve (Sunday) 12:00noon until 22:30hrs

The application seeks to carry on licensable activities from:

- 10:00hrs to 03:00hrs Monday to Sunday (inclusive) - affecting activities of 'sale of alcohol' and 'recorded music'.
- The applicants propose that the hours during which the premises is open to the public match licensable activities (until 03:00hrs). Therefore this does not readily identify any period of 'drinking-up time' or 'wind-down' period.
- The applicants also seek to open earlier during live televised sporting events (eg rugby, football, Olympics) and propose to open and carry on licensable activities from 07:30hrs during such occasions instead of 10:00hrs. However, this proposal offers no mechanism for the Licensing Authority and Responsible Authorities to know on which days the premises will be opening early as they are neither 'seasonal variations' or 'non-standard timings'.

Under "grandfather rights" during transition the applicant will automatically get extended opening hours for New Year's Eve following the making of the Regulatory Reform (Special Occasion Licensing) Order 2002. This allows the premises to stay open from the end of permitted hours on New Years Eve until the end of permitted hours on New Years Day.

The applicants have proposed various steps that they intend to take to promote the four licensing objectives, detailed in section Q of the application form. The measures proposed include:

- a) that any drinks promotions will be in line with the recommendations of the Portman Group and British Pub Association
- b) that at least one local Pubwatch meeting will be attended per year

- c) that photo ID proof of age will be required where staff believe an individual may be under 18
- d) that glasses be collected regularly and any spillages or breakages are cleared up immediately
- e) that after 23:00hrs the background music is discernibly quieter
- f) that litter is regularly cleared from the vicinity of the premises
- g) that customers are asked to leave the premises quietly at all times
- h) that any customers causing a nuisance will be asked to leave the premises
- i) that any children's play equipment be suitably maintained

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

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 on 12 May 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	Yes - 01.06.2005
2. Local Fire Authority	
3. Health and Safety Executive/Local Authority for Health and Safety at Work Act	Yes - 12.05.2005
4. Environmental Health	Yes - 12.05.2005
5. Local Planning Authority	No planning restriction on hours
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:

- Trevor J.Giddings, resident of Church Terrace, Bures
- Wendy A.Kelly, resident of Church Square, Bures
- Charlotte Searle, resident of Church Square, Bures
- Bures St.Mary Parish Council

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 issues here are:

- Balancing the interests of owners, employees, customers and neighbours of licensable premises.
- The steps proposed by the applicants in their operating schedule to promote the four licensing objectives.
- The applicants proposals for opening earlier and carrying on licensable activities during televised sporting events on unspecified days.

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

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