

EPPING FOREST DISTRICT COUNCIL COMMITTEE MINUTES

Committee: Licensing Sub-Committee **Date:** 3 December 2019

Place: Council Chamber, Civic Offices, **Time:** 10.00 am - 12.25 pm
High Street, Epping

Members Present: C P Pond (Chairman), I Hadley, L Mead and D Stocker

Other Councillors: -

Apologies: -

Officers Present: K Tuckey (Licensing Team Manager), R Ferriera (Assistant Solicitor),
H Ibrahim (Licensing Compliance Officer) and G Woodhall (Senior Democratic Services Officer)

43. DECLARATIONS OF INTEREST

(a) Pursuant to the Council's Code of Member Conduct, Councillor C P Pond declared a personal interest in agenda item (3) – Variation of Existing Premises Licence – The Hollybush, 140 High Road, Loughton – by virtue of being acquainted with some of the objectors. The Councillor had determined that her interest was non-pecuniary and would remain in the meeting for the consideration of the application and voting thereon.

(b) Pursuant to the Council's Code of Member Conduct, Councillor L Mead declared a personal interest in agenda item (3) – Variation of Existing Premises Licence – The Hollybush, 140 High Road, Loughton – by virtue of being acquainted with some of the objectors. The Councillor had determined that her interest was non-pecuniary and would remain in the meeting for the consideration of the application and voting thereon.

44. PROCEDURE FOR THE CONDUCT OF BUSINESS

The Sub-Committee noted the adopted procedure for the conduct of business at the meeting.

45. VARIATION OF EXISTING PREMISES LICENCE - THE HOLLYBUSH, 140 HIGH ROAD, LOUGHTON

The three Councillors that presided over this item were Councillors C P Pond (Chairman), I Hadley and L Mead. The Chairman welcomed the participants and requested that they introduce themselves to the Sub-Committee. In attendance on behalf of the application were: Mr S Gill, Commercial Director for Macmillan Breweries; Mr J Himsworth, Area Operations Manager for MacMillan Breweries; and Mr D Brown, the Designated Premises Supervisor for the Hollybush. Also in attendance were: Mr P Jones, Essex Police; Mr D Linnell, representing the Loughton Residents Association; and Mr A Buchan, an objector.

The Chairman then introduced the Members and Officers present, and outlined the procedure that would be followed for the determination of the application.

(a) The Application before the Sub-Committee

The Licensing Enforcement Officer informed the Sub-Committee that an application to vary the Premises Licence had been received in respect of The Hollybush at 140 High Road in Loughton. The application had requested permission to vary the hours for Live Music and Recorded Music, as follows:

	<u>Live Music</u>	<u>Recorded Music</u>
Sunday to Thursday	10.00 to 00.00	10.00 to 00.00
Friday & Saturday	10.00 to 01.00	10.00 to 01.00

The application also requested the removal of the following condition from the Premises Licence:

Any live and recorded music will end one hour before the terminal hour for the sale of alcohol.

The application had been properly advertised and the Council had received eleven representations relating to the prevention of crime and disorder, public safety, the prevention of public nuisance, and the protection of children from harm. Essex Police Licensing had also responded and offered a number of recommended conditions, which had been agreed with the Applicant and would be added to the Licence if the application was approved.

The Council's Assistant Solicitor advised the Sub-Committee that a number of the representations were concerned with public nuisance, but there was no definition under the Licensing Act 2003 so the Sub-Committee should use the common law meaning of the term. In addition, representations should have only been made on the conditions to be varied.

(b) Presentation of the Applicant's Case

Mr Gill presented the application, emphasising that MacMillan Breweries had owned and operated the venue for 100 years. The application was simply requesting an extension of one hour for live and recorded music each evening, and was not seeking to extend the opening hours of the premises. There had been no representation from the Environmental Health authority, and 24 additional conditions for the Premises Licence had been agreed with Essex Police which were very comprehensive.

(c) Questions for the Applicant

Councillor I Hadley asked where at the Premises any taxis would come to in order to collect customers; Mr Gill stated that they would come to the front of the premises as the back of the premises was closed at 10.00pm each evening.

In response to questions from the objectors present, the applicant stated that no additional soundproofing had been installed in the building, although all of the windows were double glazed.

(d) Presentation of the Objectors' Case

Mr Jones advised the Sub-Committee that the conditions agreed with the applicant would address the concerns of Essex Police regarding the management of the premises and the dispersal of customers.

Mr Buchan advised the Sub-Committee that he had had good relations with the managers of the premises when he had lived in Smarts Lane, and had been able to discuss any issues with them. Mr Buchan informed the Sub-Committee that he still owned the property in Smarts Lane but rented it out now. Music from the premises would have been audible at the property, especially when trying to get to sleep, and the objector was concerned that there had no measures undertaken to improve the soundproofing of the premises.

Mr Buchan was also concerned that, with less tables and chairs than before, the premises was being turned into a nightclub by stealth. Behind the premises was a residential area, and all of those properties would potentially be exposed to noise disturbance. The Sub-Committee was reminded that there had been issues in the High Road in the past from the former Luxe Bar.

Mr Buchan felt that the premises was not a suitable place for live music late at night, and the objector's property rental business would be adversely affected if tenants continually left the property because of noise issues from the premises. Mr Buchan believed that the current Licence arrangements were a reasonable compromise between the needs of the premises and local residents.

The Council's Assistant Solicitor advised the Sub-Committee that a landlord's ability to rent out and make money from a nearby property could not be considered as part of the application under the Licensing Act 2003.

Mr Linnell acknowledged that the premises had been in situ for a considerable length of time, but the opening hours were not those expected for a premises in a residential area; most people would be in bed by 11.00pm or midnight at the latest, especially on week nights. The premises was very close to residential properties, and there were residential flats all along the High Road in Loughton. Mr Linnell was concerned that there were no plans for further soundproofing, although as the premises was a listed building it might not be straightforward to obtain the necessary planning permission.

Mr Linnell suggested that the reason why there had been no complaints to Environmental Health about noise issues at the premises was that there had been little or no action taken by Environmental Health Officers over similar complaints about other premises in the vicinity in the past. Mr Linnell felt that the extra hour requested would encourage patrons to stay longer at the premises and leave later, and it was wholly inappropriate to consider granting this extension in a residential area.

(e) Questions for the Objectors

Mr Gill reiterated that the premises did have a noise limiter installed, which was designed to prevent excessive noise nuisance outside the building. However, Mr Linnell countered that there had been numerous complaints that the noise limiter was either not switched on or not set at a sufficiently low level.

Mr Brown reassured the Sub-Committee that, as the Designated Premises Supervisor, any resident could meet with him to discuss any issues at any time. Mr Himsworth also reassured the Sub-Committee that the premises served food until 9.00pm each evening, and also showed live sport and music on the big screens installed within the premises. Additional bench seating had been installed in 2018, and there was no dancefloor at the venue.

(f) Objectors' Closing Statement

Mr Buchan reiterated that the additional hour of live and recorded music would impinge on residents' ability to sleep when they went to bed.

(g) Applicant's Closing Statement

Mr Gill highlighted that the extra conditions agreed with Essex Police included a significant element to deal with the dispersal of customers from the premises, and MacMillan Breweries were confident that the premises could be run so as not to disturb local residents.

(h) Consideration of the Application by the Sub-Committee

The Sub-Committee received no formal advice from the Officers present.

The Licensing Manager outlined the review process for the Sub-Committee, and also confirmed the current hours that the Premises were open to the public and the permitted hours for the sale of alcohol.

The Sub-Committee considered whether to grant only a 30 minute extension to the current hours for live and recorded music; if the full hour was granted then it could result in more people staying later at the Premises, which in turn would extend the noise disturbance for the neighbouring residents. The Sub-Committee agreed to remove the condition as requested in the application, and that the conditions previously agreed with Essex Police should also be added to the Licence.

The Sub-Committee decided to grant a 30 minute extension to the current hours for live and recorded music, on the basis that this would strike a fair balance between the needs of the business and the needs of the local residents, and was also proportionate to the promotion of the Licensing objectives – particularly the prevention of crime and disorder.

The Sub-Committee returned to inform the participants of its decision, and the Chairman reminded the Applicant that they had 21 days from the date of the written notification of the Sub-Committee's decision to exercise their right of appeal to a magistrate's court.

Resolved:

(1) That the application to vary a Premises Licence for The Hollybush at 140 High Street in Loughton be granted, subject to the following conditions which the Sub-Committee considered to be reasonable, proportionate and in the public interest for the promotion of the licensing objectives:

(a) the provision of Live Music to be permitted during the following hours:

(i) Sunday – Thursday 10.00 to 23.30; and

(ii) Friday and Saturday 10.00 to 00.30;

(b) the provision of Recorded Music to be permitted during the following hours:

(i) Sunday – Thursday 10.00 to 23.30; and

(ii) Friday and Saturday 10.00 to 00.30;

(c) the removal of the condition “Any live and recorded music will end one hour before the terminal hour for the sale of alcohol” be agreed; and

(d) the addition of the suggested conditions by Essex Police to the Licence (pages 53 - 55 of the agenda refers), previously agreed with the Applicant.

46. NEW PREMISES LICENCE - WO FAT RESTAURANT, 270-272 HIGH ROAD, LOUGHTON

The three Councillors that presided over this item were Councillors C P Pond, I Hadley and L Mead. The Chairman welcomed the participants and requested that they introduce themselves to the Sub-Committee. In attendance on behalf of the application was Mr Y Cheung, a Director of Win Rise Limited. In attendance on behalf of Essex was Mr P Jones, and Mr D Linnell, representing Loughton Residents Association. The Chairman then introduced the Members and Officers present, and outlined the procedure that would be followed for the determination of the application.

(a) The Application before the Sub-Committee

The Licensing Enforcement Officer informed the Sub-Committee that an application for a new Premises Licence had been received in respect of the Wo Fat Restaurant at 270-272 High Road in Loughton, along with representations from interested parties. The application had requested permission for the following hours:

	<u>Mon - Thu</u>	<u>Fri - Sat</u>	<u>Sun</u>
Sale of Alcohol	12.00 – 14.30 17.00 – 23.00	12.00 – 14.30 17.00 – 23.30	12.00 – 23.00
Recorded Music	12.00 – 14.30 17.00 – 23.00	12.00 – 14.30 17.00 – 23.30	12.00 – 23.00
Late Night Refreshment	-	23.00 – 23.30	-
Opening Hours	12.00 – 14.30 17.00 – 23.00	12.00 – 14.30 17.00 – 23.30	12.00 – 23.00

The Licensing Enforcement Officer stated that the application had been properly advertised and the Council had received four representations relating to the prevention of public nuisance. Essex Police Licensing had also responded and offered a number of recommended conditions, which had been agreed with the Applicant and would be added to the Licence if the application was approved. A response had also been received from Essex Fire & Rescue Service, but they had no objections to the application.

(b) Presentation of the Application

Mr Cheung stated that the primary reason for the application was to allow the restaurant to be open a little later at weekends. Mr Cheung acknowledged that there were flats in the High Road as well as businesses and recognised the concerns of local residents, but staff employed in the restaurant lived in the flat above it and the

restaurant had been in operation for 40 years now. The customers of the restaurant were not usually troublesome, and simply wanted to leave a later at weekends.

Mr Cheung emphasised that all of the suggested conditions had been agreed with Essex Police, and the Licensing Enforcement Officer had assisted with the application process as Mr Cheung had no previous experience of licensing procedures.

Mr Cheung concluded that he wished to run the business with integrity and transparency, and he would be happy to compromise with the application if the requested hours for Fridays and Saturdays were agreed.

(c) Questions for the Applicant from the Sub-Committee

In response to questions from the Sub-Committee, Mr Cheung confirmed that he would be the Manager and Designated Premises Supervisor for the restaurant, and that the recorded music would be background music with no singing.

(d) Questions for the Applicant from the Objectors

Mr Linnell enquired about the use of the parking space behind the restaurant. Mr Cheung confirmed that it was used by delivery vans for another premises nearby, but that occasionally it was used by Mr Cheung or other staff.

(e) Presentation of the Objector's Case

Mr Linnell expressed his concerns about customers leaving the restaurant after 11.00pm and causing a disturbance if the application was granted, as there were flats either side of the restaurant and a row of cottages. Therefore, a closing time at weekends of 11.00pm would be preferable. The Sub-Committee was also reminded that a new block of flats was being built behind the restaurant.

Mr Jones from Essex Police stated that there was no suggestion that the Applicant had any links with the previous owners, who had employed illegal immigrants at the restaurant.

(f) Closing Statement from the Applicant

Mr Cheung reiterated that the extra 30 minutes on a Friday and Saturday evening would make a huge difference to the business as this was when the restaurant was at its busiest. The Sub-Committee was reminded of the permissible hours for other Chinese restaurants in the vicinity, and that the 'Challenge 25' initiative would be in operation during the opening hours of the restaurant.

Mr Cheung concluded by stating that the restaurant was a small family run business, with ten members of the family involved in the business, and requested that the Sub-Committee grant the additional hours on Friday and Saturday evenings at the very least.

(g) Consideration of the Application by the Sub-Committee

The Sub-Committee received no formal advice from the Officers present.

The Assistant Solicitor advised the Sub-Committee of the options available when reaching a decision in this case. The Licensing Manager reminded the Sub-Committee that the additional Licence conditions suggested by Essex Police had

been agreed by the Applicant and would be added to the Licence if the application was granted.

The Sub-Committee noted that there were a number of other eating and restaurant establishments in the vicinity, and that a closing time of 11.30pm on Friday and Saturday evenings would not be unreasonable as the premises was a restaurant not a public house or bar. Therefore, the Sub-Committee felt that there were no good reasons for refusing the application.

The Sub-Committee returned to inform the participants of its decision, and the Chairman reminded the Applicant that they had 21 days from the date of the written notification of the Sub-Committee's decision to exercise their right of appeal to a magistrate's court.

Resolved:

(1) That the application for a Premises Licence at Wo Fat Restaurant at 270-272 High Road in Loughton be granted as requested in the application, subject to the following conditions which the Sub-Committee considered to be reasonable, proportionate and in the public interest for the promotion of the Licensing Objectives:

(a) the operating schedule as set out in the application to grant the Licence; and

(b) the addition of the suggested conditions by Essex Police to the Licence (pages 93 – 94 of the agenda refers) previously agreed by the Applicant.

47. EXCLUSION OF PUBLIC AND PRESS

The Sub-Committee noted that there was no business which necessitated the exclusion of the public and press from the meeting.

CHAIRMAN