



delegated powers to determine this licence review and, as a result, the application had to be considered by this Sub-Committee.

The Chairman welcomed the applicant and introduced the members and officers present. The Licensing Compliance Officer informed the Sub-Committee of the circumstances under which the licence could not be dealt with under delegated authority.

The applicant made a short statement in support of his application before answering a number of questions from the Sub-Committee. The Chairman requested that everyone, except the Sub-Committee members and advising officers left the Chamber whilst they considered the application.

The Chairman invited the applicant, Licensing Compliance Officer and Councillor J M Whitehouse back into the Chamber and informed the applicant of the Sub-Committee's decision.

The Chairman advised that they had received no legal advice whilst determining the application. The application had been treated on its own merits and the Sub-Committee had taken its decision based upon the relevant representations received, the information given in the report and the Council's policies.

**RESOLVED:**

- (1) That the licence shall be **granted** for a period of three years, subject to the applicant passing the Council's knowledge test.
- (2) That the Sub-Committee was satisfied having considered the information before it at the hearing that the applicant was a fit and proper person to hold a hackney carriage driver's licence.
- (3) That the applicant had held a full motor car driving licence for at least 12 months prior to the application.
- (4) That any further offences could lead to the hackney carriage licence being revoked.

The applicant was reminded of his right of appeal to the Magistrates' Court within 21 days of the date of the written notification of this decision.

**24. INCLUSION OF PUBLIC AND PRESS**

**RESOLVED:**

That the public and press be invited back into the meeting for the remaining items of business.

**25. APPLICATION FOR A NEW PREMISES LICENCE - TOM, DICK & HARRY'S, 153 HIGH ROAD, LOUGHTON IG10 4LF**

The three councillors that presided over this application were Councillors C P Pond (Chairman), B Rolfe and J M Whitehouse. The Chairman welcomed to the meeting Mr Lee Newton, the applicant and Mr Manos Filaitis, the designated premises supervisor (DPS). Mr J Stratford (representing his daughter Ms E Stratford) was attending as an objector to this application. Essex Police Licensing Officer, K Dott,

was also present. The Chairman introduced the Members and officers present and outlined the procedure that would be followed for the determination of the application.

**(a) Application before the Sub-Committee**

An application was made by TD&H Restaurants Ltd for a new premises licence at Tom Dick & Harry's, 153 High Road, Loughton IG10 4LF. The application was for the licensing activities detailed in the agenda report.

The application was received on 8 July 2022. The Operating Schedule set out conditions that would be attached to the licence if this application was granted. The Responsible Authorities had all received a copy of the application. It was also advertised at the premises and in a local newspaper. The public notice and newspaper advert were attached in the agenda report. All residences and businesses within 150 meters radius of the premises were individually consulted.

The authority had received eighteen representations of objection from residents, Loughton Residents Association Plans Group and Loughton Town Council, which were detailed in the agenda report and included conditions agreed with Essex Police and the Council's Community Resilience Team. The objections related to the prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm.

**(b) Presentation of the Applicant's case**

Mr L Newton, the applicant outlined his application and that he was applying for an extra thirty minutes on the Thursday to Saturday timings to cover three sittings to increase income as costs had escalated greatly with the current economic crisis, for example with the rising electricity prices. Although the previous nightclub, NuBar, had closed six years ago, when Tom, Dick & Harry's restaurant opened four years ago, it took over many restrictions from the former establishment. The restaurant featured in the Michelin guide. The customers it served were local and of all ages as it welcomed families but during the evening most diners were aged over fifty. People dined in and outside the restaurant, as the outside frontage was shared by Gods Own Pizza, which he owned next door. All meals and drinks were served by waiters. There had been no public disorder or anti-social behaviour with only one complaint received about the noise from a private party. The DPS, M Filaitis, had twelve years' experience with no complaints. Mr L Newton stated that he had looked at all the objectors' letters and remarked that comments about bottles and cans being in residents' properties had not come from Tom, Dick & Harry's because all drinks were served in glasses and parking was provided at the premises, which was used by its customers.

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

The Sub-Committee stated that as the applicant had accepted the conditions from the Council's Community Resilience Team, how was the music monitored at the premises? Mr L Newton replied that it was background music, well under the loud levels both inside and out. Live music was played inside and out at its pizza eatery, as this was an option allowed under the rules.

The Sub-Committee asked what type of music was played? Mr L Newton explained that usually one musician was playing a guitar, but there was also a piano at the premises.

The Sub-Committee queried the maximum number of people that could be seated outside? Mr L Newton replied that the maximum dining capacity was a 100 – 50 people outside with 50 inside, but customers would not be outside during the winter.

**(d) Questions for the Applicant from the Objector**

Mr J Stratford asked how the applicant monitored noise at the restaurant for the neighbouring residents? Mr L Newton replied that noise levels could be monitored at the premises, but he had spoken with the Council and police on this already.

**(e) Presentation of the objector**

Mr J Stratford was representing his daughter, Ms E Stratford, who had objected to this application [see agenda pages 84 – 85] and she lived 150 metres away from the premises. Concerns raised were that there were four establishments at the south end of the High Road that could attract a higher proportion of younger people more likely to cause a nuisance. All residents had a right to enjoy their homes, so why apply to open later, which could attract younger customers. How did the applicant know its customers lived locally? It was a profitable operation with the current licence. Currently noise at the restaurant was contained inside but being able to have live and recorded music inside and outside would set a precedent. Also, his daughter did not believe that any other establishment had such flexibility, as this licence application would allow, in relation to the non-standard timings being applied for.

**(f) Questions for the Objector from the Sub-Committee**

The Sub-Committee queried if it was the levels of noise later that were not acceptable to the objector, in relation to current noise levels. Mr J Stratford answered that allowing outside music to 22.00 for Tom, Dick & Harry's would set a precedent, as far as he was aware no other premises could have outside music up until 22.00. This would also include the frontage with Gods Own Pizza. It was an unusual situation as the land outside (slipway and pavement) were owned by Crown House Investments Limited.

The Licensing Sub-Committee asked for the Licensing officers to clarify the issues of live music outside and on DJs and dance floors, as there was a difference between the licence terms for a nightclub and a restaurant? The Council's Licensing Manager, Mr D King, advised that under the Live Music Act any premises that was licensed for on-sales was automatically entitled to provide live and recorded music from 08.00 to 23.00. The exemptions that could apply were detailed under the Licensing Act 2003. The Licensing Compliance Officer, H Ibrahim, acknowledged that deregulation of the Licensing Act 2003 allowed live music and entertainment to 23.00, unless there were strict conditions on a licence that prohibited a premises from having this. In relation to dancing, the applicant had also agreed conditions with Essex Police [see agenda pages 57 – 63], which included under the prevention of public nuisance that alcohol would only be served by waiters to patrons sat at a table who intended to have a meal. Diners could stand up and dance, but that condition would prevent a nightclub atmosphere. Mr D King continued that with regard to the conditions on live and recorded music between 08.00 and 23.00, they could only be attached and enforceable following a premises licence review but could not be attached at the granting on a new licence.

**(g) Questions for the Objector from the Applicant**

Mr L Newton questioned the objector over there being no other establishments in Loughton with premises licences that allowed outside music, as Gods Own Pizza

next door had this. Mr J Stratford was of the opinion this was irrelevant as the pizza eatery shared the frontage with Tom, Dick & Harry's.

**(h) Closing statement from the Objector**

Mr J Stratford had nothing further to add but commented that in the current economic situation everyone was aware of the rising energy costs for businesses, but prices could be frozen by the Government when the new prime minister took office.

**(i) Closing statement from the Applicant**

Mr L Newton stated that Tom, Dick & Harry's was a local business serving local people and it had received a Michelin award. The application was essentially seeking an extra thirty minutes on certain days. He felt his two eating establishments had tidied up this end of Loughton. In reference to the economic crisis, he remarked that he could only deal with the current rising costs.

**(j) Consideration of the application by the Sub-Committee**

The Chairman advised that the Sub-Committee would go into private deliberations to consider the application.

The Sub-Committee considered that the application satisfied the necessary requirements in order to be considered as it was on the prescribed form, it had been advertised and relevant notifications had been given. The Sub-Committee took into account the written and oral representations, had considered what was appropriate to promote the four licensing objectives, the Council's Licensing Policy and the Home Office's guidance. During its deliberations in private session, the advisory officers gave members the following advice that the conditions imposed must be appropriate, be capable of being enforceable and must not undermine the licensing objectives and that each case must be determined on its own merits.

**RESOLVED:**

- (1) That the application for a premises licence in respect of Tom, Dick & Harry's, 153 High Road, Loughton IG10 4LF be **granted** for the following:

**Provision of Live Music**

- Indoors – as per the application set out on page 23 of the agenda.
- Outdoors – all live music must end at the same time as the outside seating area is to be cleared of customers as agreed on page 54 of the agenda, namely Sunday to Wednesday at 22.00 hours and Thursday to Saturday at 23.00 hours. This will also apply to the non-standard timings in respect of the playing of live music outside.

**Provision of Recorded Music**

- Indoors – as per the application set out on page 23.
- Outdoors – the playing of the same must end at the same time as the outside seating area is to be cleared of customers as agreed on page 54 of the agenda, namely Sunday to Wednesday at

22.00 hours and Thursday to Saturday at 23.00 hours. This would also apply to the non-standard timings in respect of the playing of recorded music outside.

#### **Provision of Late-Night Refreshment**

- Indoors – as per the application set out on page 23.
- Outdoors – all late-night refreshment must end when the outside seating area is to be cleared of customers. This will also apply to non-standard timings.

#### **Sale of alcohol (on and off sales) and its Non-standard timings**

- As per the application on page 24.

#### **Hours Premises were open to the public and its Non-standard timings**

- As per the application on page 24.

#### **Subject to:**

- the conditions as submitted by the applicant within his application
- the representations at points 1, 3 and 4 mentioned on page 54 of the agenda as agreed with the Environmental Enforcement Officer in so far as they added to or superseded the applicant's conditions
- the representation at point 2 mentioned on page 54 which had been amended to read "All live music outside was to end at the same time as the outside seating area was to be cleared of customers as mentioned in point 1 above", and
- the representations which were previously agreed with the applicant and Essex Police on page 58 of the agenda in so far as they added to or superseded the applicant's conditions,

which the Sub-Committee considered were reasonable and proportionate and would not undermine the licensing objectives, namely, the prevention of crime and disorder, the prevention of public nuisance and the protection of children from harm.

- (2) That the mandatory conditions contained in Sections 19 – 21 of the Licensing Act 2003 be attached.

The applicant and the objectors were reminded of their right of appeal to the Magistrates Court within 21 days of date of the written notification of this decision and of the review mechanism under the Licensing Act 2003 because of any matters arising in the future at the Premise in connection with any of the four licensing objectives.

**Conditions agreed with the Council's Community Resilience Team (as amended on (2) below):**

1. The outside seating area would be cleared of customers Sunday to Wednesday at 22.00 hours and Thursday to Saturday at 23.00 hours.
2. All live music outside was to end at the same time as the outside seating area was to be cleared of customers as mentioned in point 1 above.
3. Live music would be monitored and kept to a level which did not cause annoyance or nuisance to noise sensitive properties.
4. Recorded music was to be incidental background music, which was to be kept at a level which did not cause annoyance or nuisance to noise sensitive properties.

Reason: to prevent public nuisance.

**Conditions agreed with Essex Police:****Prevention of crime and disorder**

- Signs must be displayed at all entrances and exits advising customers that CCTV is operating at the premises and shall be a minimum size of 200 x 148 mm and clearly legible at all times when the premises conducts licensable activities. (Legal requirement when CCTV is in place).
- An incident log shall be kept at the premises, and made immediately available to police or licensing authority staff upon reasonable request.  
The log must be completed as soon as is possible and within any case within 4 hours of the occurrence and shall record the following:
  - (a) all crimes reported to the venue
  - (b) all ejections of patrons
  - (c) any complaints received concerning crime and disorder
  - (d) any incidents of disorder
  - (e) all seizures of drugs or offensive weapons
  - (f) any faults in a CCTV system, searching equipment or scanning equipment mandated as a condition of the licence.

The incident log shall either be electronic or maintained in a bound document with individually numbered pages and be retained for at least 12 months from the date of the last entry.

**Prevention of public nuisance**

- Service of alcohol shall be by waiter/waitress only to patrons seated at a table and who have or intend to have a substantial meal.
- Clear and legible notices must be prominently displayed at all exits requesting customers to respect local residents and leave the area quietly.  
These signs shall be a minimum size of 200mm x 148 mm.

**Prevention of children from harm**

- A Challenge 25 scheme shall be operated, whereby any person who appears to be under the age of 25 years of age is required to produce on request an item which meets the mandatory age verification requirement (photo, name, date of birth and either a holographic mark or ultraviolet feature) **and** is either a:
  1. Proof of age card bearing the PASS Hologram;
  2. Photocard driving licence;

3. Passport; or
  4. Ministry of Defence Identity Card.
- The premises shall clearly display signs at the each point of sale and in areas where alcohol is displayed advising customers that a 'Challenge 25' policy is in force.  
At the point of sale, such signs shall be a minimum size of 200mm x 148mm.
  - A refusals record shall be maintained at the premises that details all refusals to sell alcohol. Each entry shall, as a minimum, record the date and time of the refusal and the name of the staff member refusing the sale. All entries must be made as soon as possible and in any event within 4 hours of the refusal and the record must be made immediately available to police, trading standards or licensing authority staff upon reasonable request.  
The refusals record shall be either electronic or maintained in a bound document and retained for at least 12 months from the date of the last entry.
  - All staff engaged in the sale or supply of alcohol on the premises shall have received training in relation to the protection of children from harm (including under-age sales), how to recognise drunkenness and the duty not to serve drunk persons. Refresher training shall be carried out at least every six months.  
Training records shall be kept on the premises (or otherwise be accessible on the premises) for a minimum of 12 months and made immediately available to police, trading standards or licensing authority staff upon reasonable request.

**26. APPLICATION FOR A NEW PREMISES LICENCE - TOOT HILL GOLF CLUB, SCHOOL ROAD, ONGAR CM5 9PU**

The three councillors that presided over this application were Councillors C P Pond (Chairman), M Sartin and J M Whitehouse. The Chairman welcomed to the meeting Mr Sazzad Ullah, the applicant and premises supervisor. Ms A Jones, Stamford Rivers Parish Council Clerk, was present as an objector. Essex Police Licensing Officer, K Dott, was also present. The Chairman introduced the Members and officers present and outlined the procedure that would be followed for the determination of the application.

**(a) Application before the Sub-Committee**

The application was for a new premises licence at Toot Hill Golf Club, School Road, Ongar CM5 9PU and was for the following licensing activities:

- **Provision of Live Music**  
Monday to Sunday 17.00 – 00.00am
- **Provision of Recorded Music**  
Monday to Sunday 12.00 – 00.00am
- **Sale by Retail of Alcohol**  
Monday to Sunday 12.00 – 00.00am On and Off sales
- **Opening Times requested**  
Monday to Sunday 12.00 – 00.00am

The application was received on 6 July 2022. The Operating Schedule set out conditions that would be attached to the licence if this application was granted. The Responsible Authorities had all received a copy of the application. It was also advertised at the premises and in a local newspaper. The public notice and newspaper advert were attached in the agenda report. All residences and businesses



within 150 meters radius of the premises were individually consulted. The previous surrendered licence had also been detailed in the agenda report.

The authority had received one representation of objection from Stanford Rivers Parish Council. The objection related to crime and disorder and the prevention of public nuisance. Also included in the agenda report was a response from Essex Police with recommendations and conditions, which had been agreed with the applicant, and a general letter from Essex Fire and Rescue.

**(b) Presentation of the Applicant's case**

Mr S Ullah outlined his application and stated that he had been in business for fifteen years. He considered the application was reasonable as there were no directly adjacent neighbours. He had applied for off sales, so that customers eating there could take home any of their excess wine. However, people would not be allowed to come into the premises just to buy alcohol, only those people dining could purchase alcohol. He wanted to work with everyone and was willing to listen to the police.

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

The Sub-Committee queried if off sales was necessary to permit people to take home unfinished wine? Mr Ullah replied that it was a necessary requirement.

The Sub-Committee sought clarification on where the restaurant would be situated, and would the premises be leased? Mr Ullah answered that the restaurant would be located inside the actual clubhouse, which he would be leasing.

The Sub-Committee asked the applicant if he wanted late night refreshments to be licensed until midnight? The Licensing Compliance Officer, D Houghton, advised that the applicant could have this to 23.00 only. Mr Ullah stated he wanted to have refreshments until 23.00 but the licencing activities to midnight. When asked further by the Sub-Committee about opening to midnight, Mr Ullah explained that diners would be able to finish their drinks by midnight when the premises closed. The Legal Officer, R Ferreira, confirmed with Licensing that the latest time the premises would be allowed to open to was midnight.

**(d) Questions for the Applicant from the Objector**

The objector had no questions for the applicant.

**(e) Presentation of the objector**

Ms A Jones, Clerk, commented that Stanford Rivers Parish Council had concerns over the lateness of the hours being applied for given the rural area of the golf club and it was hoped residents would have some protection against any disturbances. Parish councillors had also been uncomfortable with the off sales licensing activity.

**(f) Questions for the Objector from the Sub-Committee**

The Sub-Committee asked which residents would be impacted by the application? A Jones replied that as there was an element of activity when customers left the premises, it would be those immediate residents rather than noise from the clubhouse, which was quite out of the way.

**(g) Questions for the Objector from the Applicant**

Mr Ullah queried the off sales element of the application with the objector and advised that off sales would not be available to anyone, only to customers dining at the restaurant. He stated that the premises had its own car park and there were no direct neighbours but if there were any problems, he would work with those residents.

**(h) Closing statement from the Objector**

No closing statement was made by the objector.

**(i) Closing statement from the Applicant**

No closing statement was made by the applicant.

**(j) Consideration of the application by the Sub-Committee**

The Chairman advised that the Licensing Sub-Committee would go into private deliberations to consider the application.

The Sub-Committee considered that the application satisfied the necessary requirements in order to be considered as it was on the prescribed form, it had been advertised and relevant notifications had been given. The Sub-Committee had taken into account the written and oral representations. It had considered what was appropriate to promote the four licensing objectives, the Council's Licensing Policy and the Home Office's guidance. During its deliberations in private session the advisory officers gave members the following advice that the conditions imposed must be appropriate, be capable of being enforceable and must not undermine the licensing objectives and that each case must be determined on its own merits.

**RESOLVED:**

- (1) That the application for a premises licence in respect of Toot Hill Golf Club, School Road, Ongar CM5 9PU be **granted** subject to:
  - the conditions as submitted by the applicant within his application; and
  - the representations which were previously agreed with the applicant and Essex Police on pages 125 and 126 of the agenda in so far as they added to or superseded the applicant's conditions,which the Sub-Committee considered were reasonable and proportionate and would not undermine the four licensing objectives, namely, the prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm.
- (2) That the mandatory conditions contained in Sections 19 – 21 of the Licensing Act 2003 be attached.
- (3) That in addition, the following conditions the Sub-Committee considered were reasonable and proportionate and would not undermine the licensing objectives.

- For the prevention public nuisance – no live or recorded music outside after 23:00.

The applicant and the objectors were reminded of their right of appeal to the Magistrates Court within 21 days of date of the written notification of this decision and of the review mechanism under the Licensing Act 2003 because of any matters arising in the future at the Premise in connection with any of the four licensing objectives.

#### **Conditions agreed with Essex Police:**

- A Challenge 25 scheme shall be operated, whereby any person who appears to be under the age of 25 years of age is required to produce on request an item which meets the mandatory age verification requirement (photo, name, date of birth and either a holographic mark or ultraviolet feature) and is either a:
  - a. Proof of age card bearing the PASS Hologram;
  - b. Photocard driving licence;
  - c. Passport; or
  - d. Ministry of Defence Identity Card.

#### **Prevention of Public Nuisance**

- Except when being used for entry or egress by a patron, all external windows and doors shall be kept shut after 2100 hours.

#### **Protection of Children from Harm**

- A refusals record shall be maintained at the premises that details all refusals to sell alcohol. Each entry shall, as a minimum, record the date and time of the refusal and the name of the staff member refusing the sale.

All entries must be made as soon as possible and in any event within 4 hours of the refusal and the record must be made immediately available to police, trading standards or licensing authority staff upon reasonable request.

The refusals record shall be either electronic or maintained in a bound document and retained for at least 12 months from the date of the last entry.

**CHAIRMAN**