

**LICENSING SUBCOMMITTEE
(2003 ACT)**11 August 2008
10am – 11.10am**Present:** Councillors Liddle (Chair), Rosenstiel and Wright**08/lic/19 Declarations of Interest**

Councillors Rosenstiel and Wright declared a personal interest in that they knew Mr France who spoke as a resident objector. They had not spoken to him about this matter. Councillor Rosenstiel also declared a personal interest as a member of CAMRA.

08/lic/20 Procedure to be Followed

The procedure for hearings of the subcommittee set out on the agenda was noted

08/lic/21 Application to Vary Premises Licence: D'Arry's, King Street**Present for this application:**

For the Applicant: Matthew Dellar, DPS; Anthony McEvoy, Regional Manager, Greene King Retailing; Kevin Baumber (Counsel)

Interested Parties: Roger France (King Street Neighbourhood Association) representing neighbours including Richard and Vanessa Price.

The hearing: The Licensing Officer presented her report and outlined the application being made.

In response to concerns expressed by the Environmental Protection Manager the applicant had agreed to the following conditions being added to the operating schedule and to being placed on the licence under the prevention of public nuisance objective (to replace existing condition 7).

The prevention of public nuisance

1. Regulated entertainment shall be no more than 2 performers playing instruments and a singer, (maximum number of performers 3). All performances shall be without amplification of vocals or instruments.
2. Regulated entertainment shall take place between the hours of 12:00 and 22:30. There shall be no more than 8 performances in any calendar month. Performers shall be positioned in the bar area in front of the fireplace to the right of the bar, marked A on the plan reference WK/200806250.
3. When regulated entertainment is taking place both sets of main entrance lobby doors allowing access to the main bar area, marked B on plan reference WK/200806250, shall be kept closed. When regulated entertainment is taking place the door in front of the bars serving opening towards the entrance gate, marked C on the plan reference WK/200806250, shall be kept closed.
4. When regulated entertainment is taking place after 20:00 all doors and windows shall be closed, including those doors marked D on the plan reference WK/200806250.

The following conditions to be included as in the current licence:

5. The outside tables shall not be used after 23.30 on any day.

6. Prominent, clear and legible notices shall be displayed at all exits, requesting customers to respect the needs of local residents and to leave the premises and the area quietly.
7. Bottles and refuse shall not be disposed of outside the premises between 23:00 and 7:00.

A further representation had been received after the 28 days consultation period from the Chairman of the King Street Neighbourhood Association.

Members then clarified aspects of the report:

- The implications of removing the embedded restrictions mentioned on page 2 of the agenda
- The actual changes to the opening hours.

Mr Baumber representing the Applicant then presented his case. He emphasised that the application was modest with a maximum of 3 live performers with no amplification who would stop performing at 22:30 hours with no more than 8 performances per month. All windows and doors would be closed during the performance. The change would not encourage a different clientele or make more noise. The majority of alcohol sales were wine which people drank with their meal. Less than 10% was other sales such as beer and spirits accounted for only 2% of sales.

Mr Baumber addressed the concerns raised by the resident objectors concerning their quality of life. No increase in noise was predicted outside because the changes were internal and the conditions addressed any potential for additional noise. He said that references to planning legislation were wrong in law because parliament had delegated the licensing function to the Committee. The relevant issues to consider were those that were subsumed under the over-riding objectives in the licensing policy. Twenty four hour trading had not been applied for. The issues raised concerning alcohol served to children was not a consideration because this was against the law and would be dealt with by management.

In response to a question from members, Mr McEvoy assured the Committee that measures were in place to ensure that there were unlikely to be unacceptable levels of noise break out to the street and the rear of the premises. These had been discussed and agreed with the Environmental Protection Manager.

The Chair asked Mr France whether the new conditions tabled at the meeting were sufficient to alleviate the residents' concerns.

Mr France said it would have been helpful to see the existing hours and conditions listed alongside the changes proposed. He welcomed the fact that music would not be amplified but pointed out that the instruments used had different noise characteristics. A tin whistle or flute was different to timps, drums and trumpet. He asked for a condition that required the windows to be closed when music was played.

Mr France then spoke on behalf of Mr and Mrs Price who had experienced considerable noise and disturbance especially after 11pm. An additional most unpleasant factor was men urinating into the basement area of the houses in Portugal Street.

From his own point of view, Mr France said that environmental amenity was the key factor and an 11pm closing time was appropriate. He thought that all premises should close at

11pm as a standard across the city. He said that the Town and Country Planning Act re land use was relevant as there was a change of use for the premises.

Mr France also mentioned that the tenants and leaseholders of the premises in King Street belonging to King Street Housing Society experienced considerable disturbance during the period 11pm to 7am. He also emphasised that D'Arry's was opposite the rooms and the library of Sidney Sussex College and disturbance to the students living and working there could be considerable.

Members asked the applicant to answer the points made about the noise perceived outside the premises from music.

Mr Baumber and Mr McEvoy explained that condition 4 required doors and windows to be closed when music was played, that the location of the music was in the new bar servery on the opposite side of the premises to King Street and that D'Arry's was a place people came to eat and they wanted the music only as background. The DPS would monitor any noise break out by walking the perimeter of the site.

The Licensing Officer asked that the minutes record that the opening hours were to be until 22.00 hours on Monday – Thursday and on Sunday and 22.30 hours on Friday and Saturday.

Mr Baumber confirmed that closing time on Bank Holiday Mondays would be 22.30 hours.

Members of the Sub-Committee retired at 10.55am to consider the application and returned at 11.05am with a question of clarification about the removal of the embedded restrictions. They returned at 11.10am with a verdict.

The Decision: In this case, the Sub-Committee had to balance the interests of the applicant with those of the wider community. The decision was reached on its individual merits, taking into account amendments proposed by the applicant, noting that the premises is in a residential area and having regard to the representations made regarding public nuisance and cumulative impact.

It was decided:

To grant to the applicant variation application as applied for, save as detailed below and subject to the conditions translated from the Applicant's Operating Schedule and the conditions recommended by the Environmental Protection Manager as agreed by the Applicant.

Live Music (indoors)

Mon – Thur & Sun	10.00 to 22.00
Fri & Sat	10.00 to 22.30

Non-standard timings and seasonal variations

10.00 – 22.30 Christmas Eve, Christmas Day, Boxing Day, New Year's Eve, New Year's Day, Spring and August Bank Holidays, Good Friday, Easter Saturday, Sunday and Monday. Proceeding and preceding day before a Bank Holiday, St Patrick's day, St George's day and any other publicly declared holiday.

Provision of facilities for making music and dancing (indoors)

Mon – Thur & Sun	12:00 to 22:00
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Fri & Sat

12:00 to 22.30

Non-standard timings and seasonal variations

10.00 – 22.30 Christmas Eve, Christmas Day, Boxing Day, New Year's Eve, New Year's Day, Spring and August Bank Holidays, Good Friday, Easter Saturday, Sunday and Monday. Proceeding and preceding day before a Bank Holiday, St Patrick's day, St George's day and any other publicly declared holiday.

The variation is granted subject to the following conditions, which were requested by Cambridge City Council Environmental Protection Manager and agreed by the Applicant.

Regulated entertainment shall be no more than 2 performers playing instruments and a singer (maximum number of performers 3). All performances shall be without amplification of vocals or instruments.

Regulated entertainment shall take place between the hours of 12.00 and 22.30. There shall be no more than 8 performances on any calendar month. Performers shall be positioned in the bar area in front of the fireplace to the right of the bar, marked A on the plan reference WK/200806250.

When regulated entertainment is taking place both sets of main entrance lobby doors allowing access to the main bar area, marked B on plan reference WK/200806250, shall be kept closed. When regulated entertainment is taking place the door in front of the bars serving opening towards the entrance gate, marked C on the plan reference WK/200806250, shall be kept closed.

When regulated entertainment is taking place after 20.00 all windows and doors shall be closed, including those doors marked D on the plan reference WK/200806250.

These conditions will replace condition 7 on the existing licence under the prevention of public nuisance objective.

The variations of the licence to have effect from the 11th August 2008.

The Meeting concluded at 11.10am

Chair