

**LICENSING SUBCOMMITTEE
(2003 ACT)**[5 January 2009]
[10am – 1.00pm]***APPROVED BY MEMBERS - DRAFT TO BE SIGNED*****Present:** Councillors Smith (Chair), Hart and McGovern**09/lic/1 Minutes**

The minutes of the meeting held on 29 September 2008 were agreed as a correct record and signed by the Chair.

09/lic/2 Declarations of Interest

There were no personal interests declared.

09/lic/3 Procedure to be Followed

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

09/lic/4 Application for a new Premises licence: China Inn, 180 High Street, East Chesterton, Cambridge**Present for this application:****For the Applicant:** Long Trinh (Owner); Michael Cowell (Solicitor)**Interested Parties:** Lindsay Stuart-Green, local resident; Michael Bond, Secretary Old Chesterton Residents' Association (OCRA); Caroline Worthy, local resident; Clive Brown, Chairman OCRA

The hearing: The Licensing Manager presented her report and outlined the application being made. She stated that the new licence requested by the applicant detailed in the committee report was for Late Night Refreshment (indoors and outdoors) for the hours of 23:00 to 00:00 (midnight) Monday to Sunday.

She submitted that the proposed opening hours for the premises were:

Monday to Thursday and Sunday	17:00 to 00:00
Friday and Saturday	12:00 to 14:00 & 17:00 to 00:00

The solicitor, Michael Cowell, presented the case for the applicant. He explained that the premises was converted from a bakers to a takeaway (A3 permission) in 1992. Since that time, no representations had been made as to noise up until now. He stated that the same restrictions had not been made

to other businesses in the area. These businesses were all within 200 yards of the China Inn. He submitted the applicant ran a law abiding business and had subsequently asked his customers to sign a petition in order to show they were law abiding people who would not cause disruption. He raised the point that there were not enough people to confirm there would be a public nuisance. He addressed the concerns for fast food litter by stating that the applicant would be more than happy to install litter bins in the near vicinity of the premises, and ask customers to consider neighbours after leaving the premises, with regard to noise and litter.

The Members of the Sub-Committee asked the applicant to clarify issues which concerned:

- Where the bins would be positioned, as the available space was so small that it would result in obstructing the public footpath.

The objectors explained the basis of their objections to granting the licence:

- The other food premises the applicant had cited were detached from neighbouring sites. There was a much larger proportion of residents in the immediate vicinity of the applicant's premises. Many of them were early risers;
- In 1992 when the applicant applied for A3 usage of the premises, major objections were made with regard to the disturbance and litter. Litter was a real factor and over the Christmas holiday period, the amount of litter was noticeable reduced;
- Litter bins would have to be sorted out with the Highway Authority, and therefore would be unlikely to be immediately installed, if at all;
- Working on a shift basis at Addenbrookes. Therefore required as much sleep as possible; was currently lacking due to the noise;
- Had experienced problems with people sitting on the window sill of house consuming food. Therefore if application was granted, people would loiter around for much longer;
- Had to clear away glass debris found outside of house on a number of occasions;
- The residents resided in Victorian houses which were not sound proof, therefore found it extremely difficult to sleep until an hour after the premises had closed for business as the noise disturbances such as from cooking, the TV, clearing up etc permeated through to the neighbours building;
- Some residents could not park on the street anymore as it had become littered with food;
- Afraid that if the application was granted, it would cause other businesses to apply to stay open until 12pm.

Members of the Sub-Committee asked questions of clarification of the residents:

- Whether Michael Bond had made his representations on behalf of OCRA?

A: Mr Bond confirmed he had made such representation, and raised the point that if the application were to be granted, the noises of cleaning would go on until 1am. Also, the type of people who usually ventured for a late night meal tended to be different to those who went for an earlier meal. The objectors felt that the other food outlets in the area were detached from residents, and were not causing as much problem or nuisance as the applicant's premises as it was within a terrace of properties.

Members of the Sub-Committee retired at 11.30am to consider the application and returned at 11.55am with a verdict.

The Decision: In reaching the decision on the application, the Sub-Committee considered the material presented in writing, including documents tabled by the parties by agreement during the meeting, the representations made before and at the hearing, the Council's Statement of Licensing Policy and the legislation and statutory guidance under the Licensing Act 2003 and the legal advice received during the hearing.

In this case, the Sub-Committee had to balance the interests of the applicant with those of the wider community, and in particular the potential for issues of public nuisance affecting the residents close to the premises.

It was decided:

To grant a new Premises Licence for Late Night Refreshments (indoors and outdoors) for the hours 23:00 to 23:30 on Friday and Saturday subject to: -

1. A condition that prominent clear and legible notices shall be displayed at all exits requesting patrons to respect the needs of local residents by leaving the premises quietly and not eating in, or littering, the street.

For the following reasons;

1. The Sub-committee noted that the Planning Conditions conflict with the variations but that as such this is not a matter for the licensing authority, and no other planning representations had been made.
2. Due weight had been given to the representations of the other interested parties' concerns about public nuisance arising from the additional late opening hours requested but these had been addressed adequately in the additional condition and the restricted hours.

With effect from: 5 January 2009

09/lic/5 Declarations of Interest

Members declared the following personal interests:

Councillor McGovern – Member of Campaign for Real Ale (CAMRA)

Councillor Boyce – Appeared as an interested party and member of licensing committee

**09/lic/6 Application to vary Premises licence: The Graduate, 16
Chesterton Road, Cambridge****Present for this application:**

For the Applicant: Steve Foster (Operations Director); Be Rozzo (MD Group)

Interested Parties: Councillor Boyce, local resident; Steven Grundy representing Anne Bromley, local resident;

The hearing: The Licensing Officer presented her report and outlined the application being made. She stated the application is to extend the hours for the sale or supply of alcohol on the premises by 1.5 hours:

Sale/supply of alcohol 10.00 to 01.30 - Saturdays;

To open one hour earlier on Sundays (to open from 10:00 to 00:30);

To open two hours later on Saturday nights (that is, from 00:00 to 02:30, total hours open Saturday from 10.00 to 02.30)

To remove condition 10 of the Premises Licence (restrictions on live and recorded music and performance of dance)

She stated that the premises became fully licensed in 1995. Representations had been received from the Planning Authority which indicated a conflict with a planning condition and from the Council's Environmental Protection Manager that recommended amending conditions to replace the existing condition 10 prior to the hearing, and from other interested parties.

The applicant, Mr Foster stated that the premises was currently closed as it was losing £2,000 - £3,000 a week. It did not have a history of problems and was unable to trade late at night and it did not operate 'happy hour'. He stated that he risk managed every single event, and that the objection from the pub next to the premises was a trade objection and should be discounted.

The objectors explained the basis of their objections to granting the licence:

- Could still hear noise even after the sound removers had been installed;
- Background noise after 12.00am – concerned that the noise would extend in the summer months;
- No other premises around Mitcham's corner was currently open the hours of the applicant's premises;

- Recommendation – no late entry policy;
- No effective police presence in town;

Members of the Sub-Committee retired at 12.50pm to consider the application and returned at 1.05pm with a verdict.

The Decision: In reaching the decision on the application, the Sub-Committee considered the material presented in writing and the representations made before and at the hearing, the Council's Statement of Licensing Policy and the legislation and statutory guidance under the Licensing Act 2003 and the legal advice received during the hearing.

In this case, the Sub-Committee had to balance the interests of the applicant with those of the wider community.

It was decided:

To grant the application subject to the following conditions:-

1. No entry to the premises of any person less than one hour before close of the event not later than midnight, whichever time is the earlier;
2. The adoption and practice of the "Challenge 21" policy at the entry doors of the premises for all late night events;
3. Two door staff to control the exit of people from the premises after midnight;
4. The variation of the existing condition 10 in line with the Environmental Protection Manager's proposals as follows:

Regulated entertainment in the form of live music and recorded music and performances of dance in any combination shall only be held in the first floor function room and shall only be permitted between the hours of 10:00 and 00:00 Sunday to Friday and from 10:00 Saturday to 02:00 Sunday;

5. Before the variation to the Licence comes into effect the applicant shall provide a written report to the Environmental Protection Manager confirming that all the noise insulation, limiters and equipment required by the licence conditions to prevent public nuisance are present and working in accordance with the licence conditions, and the variations shall not take place until the report has been approved by the Environmental Protection Manager;
6. A condition requiring noise limiters to be calibrated every six months to the satisfaction of the Environmental Protection Manager

For the following reasons:

1. The Sub-Committee accepted the applicant's evidence that the Graduate was a well-run premises, and the Sub Committee considered that with the additional conditions the proposed variations met the four licensing objectives.
2. The Sub-committee noted that the Planning Conditions conflict with the variations but as such this is not a matter for the licensing authority, and no other planning representations had been made.
3. Due weight had been given to the representations of the other interested parties concerns about public nuisance arising from the variations but these had been addressed adequately in the additional conditions.

With effect from: 5 January 2009

The Meeting concluded at 1.05pm

Chair