
DACORUM BOROUGH COUNCIL

LICENSING OF ALCOHOL AND GAMBLING SUB-COMMITTEE

26 JANUARY 2012

Present –

MEMBERS:

Councillors Mrs Green (Chairman), Sutton and Taylor.

OFFICERS:

N Pope	Group Manager (Legal Governance)
K Ashton	Team Leader (Environmental Health & Licensing)
S Taylor	Licensing Support Officer
P Bowles	Member Support Officer
T Coston	Member Support Officer
A King	Environmental Health Officer
T Aldridge-Jones	Environmental Health Officer

Other Persons Present:

Mr and Mrs Wheway	Licensees (The George)
Mr Jones	Solicitor Representing Mr and Mrs Wheway
Mr McDowell	Interested Party
Sergeant Dean	Hertfordshire Police
PC Young	Hertfordshire Police
D O'Neil	Gazette

The meeting began at 2.30 pm

1. INTRODUCTIONS

The Chairman introduced herself, the Councillors on the Sub-Committee and the officers present. The Chairman then asked the other persons present to introduce themselves.

2. MINUTES

The Minutes of the meeting held on 19 October 2011 were agreed by the Members present and then signed by the Chairman, subject to changing references to the names of Councillors Sutton and Green.

3. APOLOGIES FOR ABSENCE

There were no apologies for absence.

4. DECLARATIONS OF INTERESTS

No interests were declared.

The Chairman outlined the procedure for a Review, as set out in the agenda, and explained there would be introductions and there was the question of adjournment, as a speaker could be represented if he or she was not represented. The speakers would speak for an agreed time and late documentation could only be introduced by the agreement of all parties. The Chairman said the matters of visits to the premises, the reading of papers and formal

requirements would be addressed and the discussion would be led by the Panel. The Chairman emphasised that all speakers were not permitted to introduce new information and there should be no repetition. The order of speakers would be: 1) the Borough Council; 2) Mr Wheway; 3) Mr McDowell and there would be cross-examination only if this was necessary in the view of Members.

The Chairman informed the Sub-Committee that she is the Ward Councillor for Berkhamsted West. The George is in Berkhamsted East Ward. The Chairman said that she has not visited the premises.

Councillor Taylor declared that he is Ward Councillor for Gadebridge. He has not visited the premises for over 10 years.

Councillor Sutton declared that he is Ward Councillor for Leverstock Green. He has not visited the premises but is aware of its location.

LICENCE HEARINGS

The application was for:

The George,
261 High Street
Berkhamsted
Hertfordshire
HP4 1AB

The Chairman asked the Members of the Sub-Committee if they had read the Agenda and all additional documents. Councillors Sutton and Taylor confirmed they had read the documents at hand.

The Chairman asked whether all legal obligations had been complied with.

Ms Ashton confirmed that they had.

The Chairman asked the parties for how long they wished to speak. Mrs King indicated 5 minutes, Mr Jones said 10 minutes and Mr McDowell said 5 minutes. Everyone agreed to 10 minutes.

The Chairman asked Mrs King for her statement.

Mrs King made a statement with the following comments:

Reason for review

This application has been made to review the Premises Licence held for The George Public House, due to music and noise emanating from the premises which is undermining the Licensing Objective in respect of Prevention of Public Nuisance under the Licensing Act 2003.

History

Environmental Health have dealt with a considerable number of noise complaints from the premises over the past 10 years which has resulted in enforcement action being instigated by the means of Statutory Abatement Notices pursuant to the Environmental Protection Act 1990, which was subsequently followed by three prosecutions at the Magistrates Court for breach of the notices.

Seizure of noise generating equipment has also been undertaken.

Complaints of noise have been received sporadically over the past 18 months, which has resulted in discussions and meetings being held with Mr & Mrs Wheway and subsequently further investigations by Environmental Health.

Recent complaint

In September last year a formal complaint was received by Environmental Health from a neighbour alleging that noise from loud music and persons using the 'smoking area' in the rear garden area were causing a nuisance in their home. The complaints stated that the noise was specifically causing a problem in the rear bedroom of their property.

As a result of this Mrs King held a number of conversations with Mark Wheway advising him of the complaint received and informed him that he must ensure the noise limiting device is used at all times when amplified music is played.

Current Investigation

Mark Wheway was informed that Officers from Environmental Health would be visiting the area to assess the levels of noise and that recording equipment might be used.

As a result of the complaints received, Officers from Environmental Health and Licensing undertook their investigation by visiting both The George and the complainants' home in September 2011 and installing recording equipment in the neighbour's property in November. (Friday 4th and Saturday 5th November 2011 and Friday 11th and Saturday 12th November 2011).

The visits to the complainants' property revealed that noise from the George Public House was clearly audible within the rear bedroom of their home. The noise comprised loud voices and shouting from persons within the smoking area of the premises and also low frequency bass levels from the music.

The data from the noise monitoring equipment has been analysed and also confirms that the noise emanating from The George is having a detrimental impact on the neighbouring property.

Noise levels and guidelines

The World Health Organisation Guidelines for Community Noise 2009 provides recommended noise levels for day and night exposure and also recommended levels to avoid sleep disturbance.

The evidence obtained from both the visits and the data from the noise monitoring equipment reveal that the Licensing Objective in respect of the Prevention of Public Nuisance is clearly being undermined. In addition the noise exceeds the recommended noise levels as provided by the World Health Organisation.

Licensing conditions:

The current conditions on the licence are insufficient to prevent such disturbances and undermine the licensing objectives in respect of the Prevention of Public Nuisance.

Summary

Evidence has been obtained by the Complainants, Officers from Environmental Health and the data from the Digital Audio Tape Recording Equipment, which reveal not only are the conditions attached to the Premises Licence being breached, they are not sufficient to prevent a nuisance being caused to nearby residents and that the level of the disturbance caused by the current use of the premises is undermining the Licensing Objective in respect of Prevention of Public Nuisance.

Following the submission of this review, Environmental Health and the Licensing division have held a number of meetings with Mr & Mrs Wheway and also one with their legal representative, Mark Jones, to discuss ways forward in the prevention of public nuisance from the premises.

Conditions required to be included on the licence have been discussed, which will be proposed to the Sub-Committee by The George.

Environmental Health strongly recommends that a strict written management regime be put in place by the premises management team, to ensure that the proposals/conditions put forward are implemented without delay and address the issues mentioned.

Environmental Health acknowledges that whilst works have already commenced on the premises by Mr & Mrs Wheway to instigate some of these proposals, it cannot be stressed enough the importance that the way the premises is managed is paramount to achieving the proposed conditions.

Failure to comply with these requests will instigate further investigation and will very likely be brought back before the Committee.

Mrs King's representations lasted 4 minutes.

The Chairman asked Mr Jones, the Applicant's representative, for his statement.

Mr Jones made a statement with the following comments:

- Mr and Mrs Wheway have worked successfully over the past 6 years to deal with issues arising, concerning the operating of the premises, and that approach will continue.
- They were pleased that conditions have been discussed with Environmental Health Officers as to how the present matter can be addressed immediately. A copy of the proposed additional conditions was submitted to the Sub-Committee and Mr Jones went through the 9 proposed conditions.
- Environmental Health Officers have been called out to the premises on numerous occasions during last summer and on each occasion they determined that there was no noise nuisance.
- Mr and Mrs Wheway had not been informed of the visits.
- Substantial improvement has been made in the running of The George. The nature of the business there has evolved and now, following substantial refurbishment, the client profile has altered and now tends to attract older customers with a higher spend per person. It is therefore not the same Public House that it was even one year ago.
- It is true that Mr McDowell has complained at regular intervals about noise nuisance. Mr Jones said that his client's major concern was that in many respects this has become an unseemly neighbour dispute. This point was made because Mr McDowell had taken it upon himself to come to the front of the premises to approach, uninvited, customers of the public house, causing trouble and heightening tensions. On 16 January 2012 there had been an incident involving a patron of 60 years of age at about 6 pm. It was a Monday night and the patron had been spoken to by Mr McDowell in aggressive terms. The patron was very shaken and upset and reported the incident to the Police.
- Certainly one of the proposed conditions depends upon the security of front of house running successfully and if this is interfered with by inappropriate behaviour of a neighbour, it will make matters a lot more difficult.

- When smokers leave the designated area at the rear of the pub after midnight and go to the other designated area in front of the pub there will be a limit of 10 patrons in that area and this could be undermined by another person intentionally. Approaches have been made to Mr and Mrs Wheway by their neighbours, including in the presence of their children. Appropriate changes need to be made on all sides.
- Mr Jones said he might seek to cross-examine Mr McDowell depending what happens.

Mr Jones' representations lasted 7 minutes.

The Chairman asked Mr McDowell for his statement.

Mr McDowell began his statement by asking if a recording made from his home on Saturday 14 January at 00.58 am could be played. Recordings had been taken over 5 weekends and this was the last one.

It was agreed that the recording could be heard.

Ms Aldridge-Jones explained that this particular recording was just one of a number of recordings taken over a period of time and represented what was audible in the rear bedroom.

Several minutes of the recording were played and voices and occasional shouting could be heard coming from the smoking area at the rear of The George.

Mr McDowell confirmed for Councillor Sutton the noise was mainly from the smoking area.

Mr McDowell made the following comments:

- It was difficult to find any of the existing conditions that are currently complied with. Mr McDowell referred to specific conditions that he said were being contravened:
 - SIA qualified staff to operate as door security on Friday and Saturday from 8.00pm. he said they are rarely there before 9.30pm.
 - SIA qualified staff will remain on the street for 15 minutes after closing time. On Friday night/Saturday morning this should be 1.45am, but they are gone by 1.00am.
- Just a few weeks ago 13 people were outside Mr McDowell's property after closing time and one of the 13 people was holding a drink. This was reported to the police. It seems as if it is a free for all outside the pub for upto half an hour after closing time. This is in mid-winter and can only get worse in the summer.
- On the same evening Mr Wheway was witnessed shaking hands and hugging and kissing the girls before ambling back into the pub without doing a thing.
- As regards the different clientele profile the pub is now attracting, as reported in this week's Gazette, Mr McDowell said he would like to know which councillor, doctor or lawyer was vomiting on his property on Saturday morning. This was a very regular occurrence. Nothing has changed and Mr McDowell said it is disgraceful what he and his family have to put up with.
- The noise limiter has been circumvented for years.
- When Mr McDowell confronted Mr Wheway about the noise on one occasion and asked him to open all the windows, Mr Wheway refused to comply.
- The music starts late and gets ramped up over the evening and can still be heard at 1.00am in the morning. A place like this should not be open until 1.30am. They have used up any good will a long time ago. The music rarely goes off when it should do and then there are end of night singsongs to Neil Diamond, Dean Martin and others.

- 3 out of the 5 weekends when the noise recorder was on, the music went on late after the designated time by up to 10 minutes past and these can be verified by the recordings.
- The recordings taken at the rear of the pub at 1.00am in the middle of winter have recorded dreadful noise. It is a zoo out there. The George is promoted as a 'Party Pub' and the proprietor does nothing to curb the noise and swearing. You can hear "Hey Mark..." this and that. Not once in 4 years has Mr Wheway been heard asking his patrons to have respect for the neighbours. There is "effing and blinding". Mr McDowell looks out the front to see what is happening and his family don't know what Saturday mornings are like and can't have guests at the back.
- If football matches are shown the noise starts earlier in the day and continues right through till late.
- The Council trusted the Wheways and they stick two fingers up.
- On the 16th of January a man trespassed on the property and Mr McDowell told him to go away but he came back 2 hours later to have another go. The matter was reported to the Police.
- Mr McDowell said that the noise really affects family life and it is ridiculous how he is being portrayed by the Proprietor. The new client profile is an absolute joke.

Mr McDowell's representations lasted 5 minutes.

The Chairman referred to the list of proposed conditions provided by the applicant to consider if the Sub-Committee were minded to grant the Licence, but she reminded those present that the Sub-Committee did have the power to remove the Licence. The Chairman said this would affect Mr and Mrs Wheway's livelihood and she would not wish to do that but sometimes needs must.

In response to a query from The Chairman regarding the proposed conditions, Ms Ashton explained that the 22.30 restriction mentioned in the current conditions relates to the rear garden and condition 1 of the proposed condition relates to a sunken area at the rear of the pub which is the smoking shelter and not currently controlled. The proposed conditions have been devised and agreed upon with the Premises Licence Holder to minimise the disturbance. It is down to the premises management to make sure these conditions are complied with. K Ashton drew attention to proposed conditions 6. She informed that the police were at the meeting just to observe. The Police did not make representations. The concerns have been raised and passed on to the Premises Licence Holder. When the review was lodged it was specific about the noise at the rear of the premises and one of the measures proposed by the Premises Licence Holder is to move people to the front of the premises after 00.00 hours and it is for them to explain how they intend to control people at the front of the premises because the police are concerned and have indicated that should there be any trouble they will call for a Review.

Councillor Taylor said he thought that specific restrictions were made on the smoking area and the rear garden. He said he was aware that they are two separate areas and it is the smoking area that is referred to in condition 1 that states that "No drinks shall be taken into the rear smoking area beyond 22.30 on Fridays and Saturdays" and reiterated the Chairman's opinion that this condition is already in existence.

Ms Ashton clarified that the current condition refers to the rear garden area and condition 1 refers to the immediate area at the rear of the premises, referred to as the smoking shelter, and was not included in the current conditions, which means that currently drinks can be taken to the smoking shelter after 22.30.

The Chairman queried if the smoking shelter had been adapted properly.

Mrs King replied that this was a matter still being sorted out with the Premises Licence Holder. It involves building regulations and structural issues. Planning permission was granted some time ago but the planning conditions were not complied with.

The Chairman said that the Sub-Committee did not want to remove the licence but the problems go right back to 2005 and unless these issues are reined in substantially the Licence may have to be removed. The Chairman said she would like to see agreement reached on cutting back the hours that the smoking area is used.

Mr Jones responded on behalf of the Premises Licence Holder. He said that the suggested transgression of the planning conditions had only reared its head recently. The facts are that the smoking area was constructed at the behest of the Landlord based upon agreed plans and was therefore not the responsibility of Mr and Mrs Wheway. They have only recently been told that the way in which the shelter has been erected minimally transgresses the planning consent by having too much brickwork. He said the Chairman had not seen the area, whereupon Councillor Taylor observed the Sub-Committee saw photos at the last meeting. Mr Jones added that the beer garden is at the furthest point and then it was important to realise that the smoking shelter is in a sunken area of the terraced garden; it has a slate roof and was built in accordance with planning permission. The suggestion that planning law has been flouted is vehemently rejected.

The Chairman said that the Planning application was granted with the conditions in 2007, with plenty of time to comply.

Mr Jones confirmed that conditions were attached and one of them referred to the smoking area when it was the beer garden that was to be, and had been, closed at 10.30pm. Any confusion is not of Mr and Mrs Wheway's making.

Councillor Taylor asked for clarification on whether the smoking area was just for smoking rather than for smoking and drinking.

Mr Jones responded and said that one of the conditions attached to the planning permission was that the smoking shelter could only be used up until 10.30pm which meant that the only place for people to smoke was at the front of the premises. A change was made 2 or 3 years later because the police preferred people to smoke at the back of the premises rather than the front and this meant people could smoke and drink in the smoking area until closing time. The confusion arises because it was only recently discovered that the planning condition had not been lifted when the Licence was changed.

There was disagreement between Mr Wheway and Councillor Taylor about whether drinking was ever permitted in the smoking area after 10.30pm.

Mr Wheway stated there was no drinking permitted at the front.

Ms Ashton clarified that two of the conditions attached to the Licence, outlined on page 41 of the agenda under the Prevention of Public Nuisance, state:

- Patrons will be required to leave the beer garden and return to the bar area at 22:30 hours.
- Smokers will be allowed to access only the sunken area of the garden after 22:30 hours.

Ms Ashton said that as the conditions stand, they do not specifically restrict drinking in the sunken area and this needs to be addressed from an enforcement point of view.

Mrs King confirmed that she had a copy of the Planning Permission from 2007 and it would appear that the Planning Officers also have a similar confusion over the beer garden and the smoking area and the closing times and according to the conditions Mr and Mrs Wheway have not breached what is classed as their Planning Permission. The concerns expressed have been whether the smoking shelter complies with the smoking legislation that comes under the Health Act. This now highlights that the planning conditions attached to the planning consent are inappropriate for the way in which the premises have and will be run. Mr and Mrs Wheway have been informed that on conclusion of today's meeting they should resubmit a planning application so that all is consistent. The position is clear on site, but the terminology is confusing.

Councillor Taylor asked if he could clarify whether the recording was from Mr McDowell's back bedroom and, on being told that this was correct, stated that the noise problems at the front of the premises had been addressed on the previous occasion by the smoking area at the back. Councillor Taylor added that Mr McDowell knew he was moving next door to a pub and that it was a place where people go to have fun by definition. Councillor Taylor said he was interested to hear the control of noise was effected by door staff, as door staff had to control people round the doors and not so much the noise. Councillor Taylor added that there needed to be a meeting of minds on what is affecting Mr McDowell's quality of life and what the pub management is doing that aggravates the situation.

Mr McDowell reiterated his concerns about the control outside on the basis people could move off to collect taxis and vomit on the business side of the pub. Mr Wheway does nothing and does not exercise control over drinking. After 1.30 am there are people hanging around and Mr McDowell added he only gets to sleep around 2 am. The doorman has gone by 1.00 am and should be there up to 1.45 am.

Mr Jones stated that this matter concerned noise nuisance at the rear of the premises. There had been no other representations apart from Mr and Mrs McDowell's. There is no suggestion of crime/disorder problems at the front of the premises and no representations from the Police. There is no material to suggest this is a lingering problem. Problems at the front of the premises have been successfully dealt with and Mr Jones asked that Mr Wheway be given the opportunity to respond to Mr McDowell's personal criticisms.

Mr Wheway said that he and his wife met with officers last spring to respond to the issues highlighted by Mr McDowell, especially in regard to moving people on after closing time. He said this was not an easy thing to do, despite having a good relationship with his regular customers. Dispersal is carried out in a friendly but professional manner. The neighbours were invited to a meeting to talk about these issues but no neighbours turned up to the meeting. Mr Wheway said he would determine from this that neighbours thought he was doing a good job.

The Chairman asked Mrs King if the premises would be revisited to reset the noise limiter.

Mrs King responded that this has been proposed by Mr Jones and the noise limiter will be reset because the layout within the pub has been changed and the location of the speakers will determine the positioning of the noise limiter. This will be in conjunction with visiting Mr McDowell's house to ensure that the levels of music won't be a nuisance in the neighbouring property.

Councillor Taylor stated that, as Mr Jones had indicated, the Sub-Committee are being asked to look at the level of disturbance from noise at the rear of the property as picked up in recordings in the neighbour's back bedroom. The Sub-Committee was not being asked to address fights outside or how people were moved on. It is already established that the rear garden is closed from 10.30pm. The smoking area is an area where no drinks will be taken after 10.30pm. Councillor Taylor wondered about limiting the number of people in the smoking area to 5 and said that the planning situation and smoking area itself needed to be sorted out, as it was clear what was required. Whilst trying to be fair to both sides, he felt 10 people in this area is a lot and asked if perhaps it was too many as this is the area where the noise was recorded.

Mrs King said that discussions had taken place with Mr and Mrs Wheway and Mr Jones about the numbers permitted in the smoking area but this applied to the front of the premises to the right of the building which is further away from Mr and Mrs McDowell's house.

Mr Jones commented that the rear smoking area is quite a large structure and will hold many more than 10. He said he took the point that the issue is the noise emanating from the rear of the property but the proposed conditions include a condition that the smoking area would shut at midnight and then the patrons who still want to smoke will do so out at the front of the pub. This is a limited space and therefore an area will be cordoned off and closely supervised until closing time. There was not a proposal to limit the numbers in the rear smoking area but it has been pointed out that no drinks should be taken out to the smoking area and this may address the problems to some extent.

Councillor Sutton referred to the noise generated from music. He asked Mrs King if a noise limiter can solve that issue or should the Licensee be considering acoustic insulation too.

Mrs King replied that the previous history had involved noise nuisance from amplified music. The George has undertaken a lot of acoustic work including work on the boundary wall with Mr and Mrs McDowell's property. When the noise limiter is set there is an officer in the public house and another in Mr and Mrs McDowell's property so that the device can be set at an appropriate level. However the limit is set to avoid nuisance and one would not expect silence. The majority of noise limiters do work comfortably when they are managed correctly.

The Chairman asked Mr Jones to clarify proposed condition 7 referring to the maximum capacity of the smoking area.

Mr Jones said that until 10.30pm there will be no maximum but after that time it is recognised that it would be prudent to cap the numbers. However, given the roof structure and dynamics, 10 would be a sensible number to opt for.

Councillor Sutton wanted this lowered to 8 maximum.

Councillor Taylor said he wanted to reach an amicable conclusion and both parties would need to give a bit. He said the music depended on the management of the noise limiting device and that he would agree to a cap of 10 rather than 8 on the condition that the garden closes at 10.30pm and from 10.30pm the smoking area will be open for smoking only, with no drinking, and that each party be respectful of each other by allowing the fun, but keeping the noise to a minimum.

Councillor Sutton referred to Condition 1 and asked why the restrictions on taking drinks to the rear smoking area beyond 10.30pm was limited to Fridays and Saturdays and any other times when regulated entertainment is taking place. He felt the restrictions should apply 7 days a week.

Councillor Taylor said the Review was to address noise at the rear as this was the complaint and one could not legislate for the "what if".

Mr Jones said that the condition specified Friday and Saturday because there had been no representations to indicate problems on other days of the week.

Ms Pope clarified that it is the noise nuisance at the back of the premises that was being dealt with and there had to be evidence for any decision, which needed to address the representations made.

Mrs King observed that there was a danger of pushing the problem to the front. The premises close at midnight through the week so people will be using the outside front area for an hour and a half every day of the week, whereas at the moment only Saturdays are being considered.

Mr Wheway referred to Ms Pope's advice and said that there had been no issues on week days and it was unfair to penalise the regulars who come in during the week to enjoy a drink and smoke after their day's work.

Mr McDowell stated that there had been diary sheet entries and recordings for some Sunday evenings when there was singing of songs after football coverage.

Ms Pope said Mr Jones or Mr Wheway should have the opportunity to respond.

Mr Jones stated that there was no regulated entertainment on Sundays. A blanket condition would be a sledge hammer to crack a nut.

The Chairman suggested the inclusion of Sundays into the conditions as well as Bank Holidays and Public Holidays.

Mr Jones nodded his agreement.

The Chairman then referred to the door supervisors that were not on duty at the specified time of 8.00pm.

Mr Jones said Mr Wheway and his wife are both SIA qualified and are on the premises before 8pm and there was no recorded issue on the door before 9.00 pm. There was a different clientele before 9.00 pm.

The Chairman queried condition 4.

Mr Wheway said he accepted door supervisors usually operated the door, but their job was to operate both in the back area and on the door. Mr Wheway added he knew the door supervisors and they respected him.

Mr McDowell interrupted, whereupon Mr Jones stated his client was completely committed to making it work with the McDowells, adding that there had been zero crime and disorder despite one of their busiest Christmases, and with only small issues the previous Christmases and this took very strong management.

Mr McDowell said the garden was a concrete amphitheatre and Mr Wheway had not said once to his customers: please calm down/moderate your language. There were many recordings with customers saying "Hey, Mark": he was out there, doing nothing and socialising.

The Chairman then reassured Mr McDowell that Mr and Mrs Wheway now know that their licence is on the line. If things do not improve substantially, the Council cannot continue to have Review after Review. The task of this Committee is to reach an amicable settlement.

Mr Wheway reiterated his previous comment about the improvements over the last year and that now some local residents are good customers. The McDowell's had posted letters all around the area last time and this had affected the Council's previous decision. They had posted letters again this time but, apart from Mr McDowell, there were no representations from other parties. Mr Wheway added that he understood they had to work together and he had changed a lot.

Mr McDowell interrupted at this point and was asked to wait.

The Chairman went through each of the proposed conditions. Points were clarified and the conditions amended and conditions added accordingly. There was a particularly long discussion about the third condition on p.40 of the agenda and the proposed new condition 4.

Councillor Taylor asked about CCTV.

Mrs King said an assurance was needed that it was working.

Mr Wheway advised the Police had said he needed to upgrade it.

The Chairman read out new proposed wording.

There was extensive discussion about conditions 7 to 10.

The Chairman asked the Licensees if the conditions were clear.

Mr and Mrs Wheway indicated that they were clear. Mr Jones asked if there was a time limit for the changes to CCTV to be implemented.

The Chairman told him that the Licensees would have 14 days to implement those changes.

The Chairman asked all the interested parties in turn if they had anything else they wanted to add.

Mr McDowell said he had nothing to add and stated that the additional conditions provided some safeguards and, if they were used effectively and correctly, they should work.

Mr Jones on behalf of Mr and Mrs Wheway said that the amended additional conditions do seem to address the problems mentioned by Councillor Taylor and Mr and Mrs Wheway will do their utmost to ensure compliance because the sword of Damocles would hang over them to avoid a Review. He said that it will require good will on all sides.

Mrs King on behalf of Environmental Health said she had nothing to add.

Councillor Taylor said he had taken note of the oral and written evidence and the lengthy discussions and while the situation was a bit of a mess, he was happy to go ahead. The Sub-Committee had answered the question before it and had tried to be fair to both parties.

There was only one issue, namely the noise at the rear. The terms of the Licence were specific and the Licensees should stick to them. This was ever so easy to say when there were no distractions and the mind was concentrated. Councillor Taylor added that he did not want the Police and Environmental Health out at the front and the McDowells kept awake, although this did not detract from Mr and Mrs Wheway's responsibility to uphold the terms and conditions as added to. All were human and might not agree but should respect each other.

Councillor Sutton said he was minded to continue with the Licence with the amended conditions and that he previously reviewed this Licence in 2008 when the Committee concluded with a strong message that the Licence holder should work closely with all parties to ensure that there was no further nuisance. He said he was disappointed to see another Review. There is now a very clear message that the Sub-Committee did not want to see the Licensees back again. Pubs were a dying breed and he did not want to see another pub closing and he hoped they would work closely with all interested parties to achieve a trouble free environment.

The Chairman said that the Sub-Committee were happy to accept the additional conditions and hope they would be adhered to as the Sub-Committee would not keep making allowances and enough was enough. The Chairman wished both parties well.

The Chairman added that Mrs King would set the noise limiting device to allow Mr and Mrs McDowell a peaceful evening, with no further repercussions regarding the back area.

Agreed:

The Licensing of Alcohol and Gambling Sub-Committee, having had regard to Section 182 of the National Guidance and Dacorum Borough Council's own Licensing Policy and the four Licensing Objectives of the Licensing Act 2003 and having taken into account all oral and written representations, in accordance with the voting and reasoning indicated above, agree to accept the additional conditions as set out below and allow Mr and Mrs Wheway to keep their licence.

Additional Conditions in respect of the George Public House, Berkhamsted.

1. No drinks shall be taken to the rear smoking area beyond 22:30 on Fridays, Saturdays, Sundays, Bank and Public Holidays and at any other time when regulated entertainment is taking place. Patrons will only be allowed to leave the premises to use the supervised rear smoking area to smoke and will not be encouraged to remain within the smoking shelter.
2. The heaters within the smoking shelter shall not be operated beyond 22:30 at any time when regulated entertainment is taking place.
3. The supervised rear smoking area shall be closed to patrons and staff at 12 midnight on Fridays and Saturdays.
4. Two SIA qualified door supervisors shall be on duty from 20:00 hours on Fridays and Saturdays, and when regulated entertainment is taking place, to the time the premises are closed to the public, to prevent admission of undesirable members of the public and to control dispersal on the street, outside the door, and for the latter purpose the SIA qualified staff will remain on the street for 30 minutes after closing time. One door supervisor shall be specifically controlling and managing the rear door to the rear supervised smoking area as well as managing the patrons within the rear smoking area to ensure that any disturbance is minimised.

5. The rear double doors to the rear smoking area shall be kept closed from 22:30 on Fridays, Saturdays, Sundays, Bank and Public Holidays and any other day when regulated entertainment is taking place and patrons shall only access that area via the single rear fire door.
6. On Friday night/Saturday morning, between midnight and 01:00 hours there shall be no re-entry into the front of the premises by patrons who have left the designated front smoking area as shown in red on the plan attached to the operating schedule.
7. After 22:30 hours on Fridays, Saturdays, Sundays and Bank and Public Holidays the maximum capacity of patrons permitted within the rear supervised smoking area shall not exceed ten.
8. The designated front smoking area as shown in red on the plan attached to the operating schedule may only be used between 00:00 hours and 01:00 hours on a Friday night/Saturday morning, and no drinks shall be taken to the designated front smoking area. The maximum capacity of patrons permitted within the designated front smoking area shall not exceed 10.
9. The noise limiter device shall be set to a level agreed by the Environmental Health Department so as to ensure no nuisance is caused to the neighbouring property and all regulated or amplified entertainment shall be played through the limiter. The limiter shall be set with the rear doors to the premises closed and the front doors and windows open.
10. The Premises Licence holder shall provide at least 14 days' written notice of any proposal to move speakers and any other noise equipment and written approval from Environmental Health will be required prior to any relocation of any of the equipment.
11. The Premises Licence Holder shall ensure that CCTV equipment is fully operational and working and positioned to the satisfaction of the Police, by and at all times from 9th February 2012, particularly to the rear of the premises, and that it is regularly monitored. Recordings shall be kept for 30 days and made available to the Police and Licensing Authority upon request.

The meeting finished at 4.35 pm