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**DACORUM BOROUGH COUNCIL**

**LICENSING OF ALCOHOL AND GAMBLING SUB-COMMITTEE**

**29 APRIL 2014**

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Present –

**MEMBERS:**

Councillors Lawson (Chairman), G Sutton and Taylor

**OFFICERS:**

S Scrowther	Solicitor
R Hill	Team Leader, Licensing
S Taylor	Lead Licensing Officer
T Coston	Member Support Officer

**OTHER PERSONS PRESENT:**

Mr A Scarff	Applicant
Mr J Shayler	Applicant's Business Partner
Mr F Fender	Applicant's Representative from FJF Licensing Solutions

The meeting began at 7.30 pm

**1. INTRODUCTIONS**

The Chairman introduced himself, 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 2 October 2013 were agreed by the Members present and then signed by the Chairman.

**3. APOLOGIES FOR ABSENCE**

There were no apologies for absence.

**4. DECLARATIONS OF INTERESTS**

Councillor Lawson felt he should declare an interest due to having met Mr Frank Fender briefly before but did not hold a personal relationship with him and therefore felt it would not have an impact on the meeting.

No other interests were declared.

**5. LICENCE HEARING**

The application was for:

Junction 9  
London Road  
Flamstead  
AL3 8EX

The Chairman asked the Members of the Sub-Committee if they had read the agenda, and Councillors G Sutton and Taylor confirmed they had read the documents at hand.

The Chairman asked whether all legal obligations had been complied with. R Hill confirmed they had.

The Chairman asked R Hill if he had anything to add to the report. R Hill advised that the application before the committee was for a variation of a premises licence for Junction 9, on the A5 London Road near Flamstead. The details of the current licence were set out at paragraph 1.2 of the appendix to the report. The variation sought to extend the permitted hours for activities to a 02.00 terminal hour seven days a week, with an additional hour on the day the clocks go forward, and 30 minutes for closing and dispersing customers, as set out at paragraph 2.1. R Hill advised members that the premises was separately licensed for sexual entertainment, however only the premises licence was under consideration at this meeting, which permitted the sale of alcohol, music, non-sexual dance and similar entertainment.

R Hill explained that during the representation period the applicant and police had agreed a number of additional licence conditions would be added to the licence if the variation was approved. Two further representations had been received, one from a local resident and one from a ward councillor, which were included due to their references to the potential for public nuisance. He said a number of other matters referred to in the representations, such as the demand for licensed premises and potential for increased drink driving, were outside of the control of the licensee. The sub-committee were asked to disregard those sections of the representations. He advised the sub-committee that they were required, having regard to the representations, any submissions made by the applicant, the Government guidance and the council's statement of licensing policy, to take action as they considered appropriate for the promotion the licensing objectives, to either grant the application, grant with modification, or reject all or part of the application.

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

Mr Fender presented the following submission:

"Junction 9 is a long established licensed premise which has operated for many years. As you have heard, the current licence was granted when the law changed from the 1964 Licensing Act to the 2003 Act; Mr Scarff was the licence holder then and he still is today. He was the licence holder under the previous legislation also, and this demonstrates a wealth of experience in managing and operating this venue. Your officer's report has outlined the current hours for licensable activity. These hours have been in place since 2005 and I am instructed that there have been no issues at these premises which have caused concerns for the Authorities throughout that period of time. The premise is well managed; they operate totally in accordance with the legislation and comply with all conditions as stated in the licence.

The applicant wishes to be able to extend the hours for licensable activity at the premises until 02:00 am each day. The provision of late night refreshment is also requested, and this would allow the applicant to provide teas and coffees to customers who requested it, throughout the time the premises are open. You will note the requested opening hours for the premises exceed the times for licensable activity by 30 minutes – this would allow for

customers to leave at their own pace within that 30 minute period, rather than have everyone leave at the same time.

The application has resulted in 2 representations received from interested parties but none from any of the Responsible Authorities. The Police have asked for the inclusion of additional conditions as per pages 42 and 43 of your report; these matters are in respect of CCTV, door Supervisors and an incident log. These requested conditions have been readily accepted by the applicant and will be added to the licence if you are minded to grant this application.

The first representation from an interested party, as per page 44 of the report, is from a gentleman who lives a considerable distance from these premises, and in fact, I believe his premises is approximately half a mile along the A5 from Junction 9. References to drink driving are not relevant to the licensing objectives and I will qualify this in a moment.

Second representation is from the Ward Councillor; Councillor Killen starts her representation by saying that she wishes to register her objection unless certain conditions are imposed. Councillor Killen finishes her representation by stating that the objection is to protect public safety on the roads and prevent the commission of road traffic offences. Public safety in respect of the licensing act is restricted to measures that can be undertaken by licence holders to promote public safety, matters for which they have control over.

Road Safety and Traffic Offences are matters for other regulatory bodies. Drivers have a responsibility to drive in accordance with the law, and the applicant cannot be held responsible for the actions of drivers on the road. This therefore begs the question as to whether or not this is a relevant representation at all, although there is a sentence which mentions sleep disturbance. There is no evidence within either of the representations that these premises create any noise nuisance, and there is nothing to suggest they will do so if the longer hours are granted. Any noise generated at the premises when regulated entertainment is provided is contained within the premises. The premises benefits from a set of external doors which are kept closed when entertainment is taking place, there is also a set of internal lobby doors which remain closed when entertainment is taking place. A door supervisor ensures these doors remain closed, save for access and egress of customers.

Immediately outside the premise is a large car park, and a large grassed garden area. There is then an area of approximately 2 acres in size between the car park and the nearest residential properties – the nearest residential property to the front doors of Junction 9 is approximately 125 yards away. It is interesting to note that none of the residents who live within that area have objected to this application, but a person who lives half a mile away has objected on the basis of noise potential. Will he be affected? No.

Notwithstanding the distance from residential properties, any potential for noise nuisance is further negated by the fact that the agreed condition with the police in respect of door supervisors will serve to ensure noise does not cause a nuisance – a door supervisor's role includes asking customers to leave quietly and they will be monitoring the car park also.

The potential for noise disturbance is further reduced by allowing customers to leave during the 30 minute period at the end of licensable activity as people will be leaving in ones and twos, rather than everyone out at the same time. Councillor Killen suggests that you should restrict the later hours to a Friday and Saturday only – she suggests this so as to minimise sleep disturbance in the early hours for those in neighbouring properties during the working week. I respectfully suggest that these premises do not have any neighbouring properties or residents whose sleep will be disturbed by noise as they are too far away and there are measures in place to ensure there is no noise.

For this reason, I can see no reason why the later hours should be restricted to Fridays and Saturdays only, as suggested by Councillor Killen. There is no evidence to suggest that longer hours for every day would undermine the licensing objectives and for that reason, I would ask you to grant this application as applied for, subject to the adding of the agreed conditions with Hertfordshire Police.”

Councillor Lawson said due to the premises having no immediate neighbours, he couldn't find any reason to refuse the application.

Councillor Taylor said he agreed with the representations made by Mr Fender. He was aware of the premises and its location and explained it was an industrial type setting and had no neighbouring properties nearby. He couldn't see noise nuisance or the safety of local residents being a problem due to its location. He said it was ideally suited for what the applicant wanted and as there had been no record of problems or incidents in the past he felt the application should be granted.

Councillor G Sutton echoed the points made by the other members. He said his main concern was noise nuisance which had been addressed by Mr Fender and Herts Constabulary, and suggested that if there were any problems with noise in the future then this would need to be handled by Environmental Health.

Councillor Lawson made a proposal to grant the variation as applied for, with additional conditions as agreed with Hertfordshire Constabulary.

Vote:

3 For, 0 Against.

**Agreed:**

That the Licensing of Alcohol and Gambling Sub-Committee, having considered the written representations and verbal submissions made on behalf of the applicant, and having regard to the council's statement of licensing policy and the Secretary of State's guidance to licensing authorities, the Sub-Committee unanimously resolved to grant the variation of the premises licence as applied for, subject to the additional conditions previously agreed by the applicant with Hertfordshire Constabulary with regards the operation of an internal CCTV system with recording capability, the provision of 2 SIA-licensed door supervisors, and the maintenance of an incident log, at all times while open to trade.

The Sub-Committee considered the comments made in representations with regards the possibility of public nuisance arising from the later hours sought, but were satisfied that the industrial nature of adjacent premises, the distance of the premises from residential properties, the noise from the adjacent main road and the measures in operation at the premises to prevent sound escape would prevent any adverse impact upon the public nuisance licensing objective as a result of the later hours sought in the application.

The Sub-Committee were advised that matters set out in representations pertaining to the demand for licensed premises or to the actions of customers after they had left the premises were excluded under the statutory guidance, and as such should not be taken into considering the current application.

Additional Conditions:

**The prevention of crime and disorder**

1. The digital closed circuit television system shall be compatible with the requirements of Hertfordshire Constabulary. All entry and exit points will be covered to enable frontal identification of every person entering the premises in any light condition.

The CCTV system shall continually record whilst the premises is open for licensable activities and during times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Recordings shall be made available immediately upon the request of Police or authorised officer throughout the preceding 31 day period.

A staff member from the premises who is knowledgeable with the operation of the CCTV system shall be on the premises at all times when the premises are open to the public, this staff member must be able to show a Police or authorised officer recent data or footage with absolute minimum of delay when requested.

2. A minimum of 2 SIA licensed door supervisors shall be on duty at the premises at all times whilst it is open for business.
3. An incident log shall be kept at the premises, and made available on request to the Police or to an authorised officer, which will record the following:
  - All crimes reported to the venue
  - All ejections of patrons
  - Any complaints received
  - Any incidents of disorder
  - All seizures of drugs or offensive weapons
  - Any faults in the CCTV system
  - Any refusals of the sale of alcohol
  - Any visit by the emergency services or a relevant authority.

The meeting finished at 7:47 pm