

LICENSING SUB-COMMITTEE HEARINGS

11 JULY 2008

Present :- Councillor Barrie Cook (Chairman)
Councillors Helen Chuah and Christopher Garnett

1. Membership

Alexandra Tuthill, Committee Services Assistant (Licensing), advised that there were no changes to the membership.

2. Appointment of Chairman

RESOLVED that Councillor Cook be appointed Chairman.

3. Declarations of Interest

Councillor Christopher Garnett (in respect of personal business relationship with Ellisons) declared a personal interest in Minute No. 5 pursuant to the provisions of Meetings General Procedure Rule 7(3)

4. Applications under the Licensing Act 2003

The Head of Planning, Protection and Licensing submitted a report in relation to the following application for determination by the Sub-Committee, in accordance with the provisions of the Licensing Act 2003.

5. Banquet 1408, 342 London Road, Stanway, Colchester, Essex

In Attendance

Applicants: Miss Huan Qiong Zhou, applicant; Mr Kahn, Manager; and Ms L. Bland, solicitor for the applicant

Residents: Mr R. Donnelly

Officers: Mr Essex, Legal Services; Mr Harvey, Licensing Manager; Mr Russell, Planning Officer; and Mr Martin, Environmental Control Officer

The Application

Alexandra Tuthill, Committee Services Officer (Licensing), briefly introduced the application, advising that one letter of representation had been received from a local resident opposing the application to vary Banquet 1408's licence on the grounds that it would lead to disturbance and excessive noise to local residents. Colchester Borough

Council's Planning and Environmental Control teams had also submitted letters opposing the application.

Ms Bland requested and obtained the Committee's permission to distribute some information on the specifics of the premises and proposing new conditions to the application. The meeting was adjourned to give the Committee and the objector's time to consider the material. Ms Bland then outlined the application and explained the unique nature of the business and explained that Miss Zhou did not wish to change the concept of the restaurant and that the variation was being sought to allow for more flexibility in the restaurant and function rooms. The removal of conditions had been sought as they prohibited Miss Zhou from having buffets; customers in the function rooms from using the garden; and as they had very few takeaway orders there was little use for the bins outside. The additional activities requested were to enable them to host themed nights at the restaurant such as Chinese festivals and to be able to have Karaoke as it was very popular in China.

Ms Bland informed the Committee that there had never been any noise complaints about the property and with regard to the additional hours sought, Miss Zhou was aware that she would need to obtain planning permission. The additional hours would only be used on special occasions.

Ms Bland then went on to address the objections that had been received. In relation to Mr Donnelly's objection he refers to cooking smells. Ms Bland highlighted the location of the air ducts at the premises and at the White Hart public house and suggested that the cooking smells were probably actually from the White Hart not Banquet 1408. The applicant was unaware that smokers outside the premises were a nuisance to residents and stated that they were happy to put up signs asking smokers to be respectful of their neighbours and are happy to specify a new smoking area. Mr Donnelly's letter also refers to the potential for more cars to be exiting the service road. Miss Zhou has contacted the Landlord of the premises and has obtained his permission to put up a barrier preventing cars from using the service road. The events that Miss Zhou has planned will be indoors (unlike the Chinese New Year 2007 that Mr Donnelly refers to in his letter). Ms Bland finished outlining the application by saying that she hoped that the concerns Environmental Control and Planning have, have been addressed by the conditions that were offered at the hearing.

A representation had been received from Environmental Control expressing concerned about the removal of conditions and potential noise problems that may occur as a result of any grant of the application. However, Mr Martin confirmed that he was happy with the proposed conditions offered by the applicant but would like them to keep the noise limier and wished for his objection to the opening hours to remain. It was confirmed that there had not been any noise complaints made in respect of the premises. Planning had also submitted a letter of objection to the application and was concerned that the extended hours and removal of conditions would result in he premises becoming more alcohol orientated and less food orientated.

A representation had been received from a local resident. Mr Donnelly thought that by providing Karaoke, it would change the ethos of the business and thought that the additional hours being sought would generate extra traffic and could not see how the

barrier Miss Zhou was proposing could work. Mr Donnelly was also concerned that the themed nights could be noisy.

Mr Harvey said that he was reassured that the applicant had proposed a new condition to serve food with the alcohol and that they wish for the business to remain as a restaurant. However, Mr Harvey was concerned that the Fire Authority would not be happy with one of the proposed conditions which was to have a 'No Exit' sign above the emergency exit doors.

In responding to questions, Ms Bland informed the Sub-Committee that Miss Zhou was happy to notify residents who they considered may be affected when a special event such as Chinese New Year was due to take place. However, Mr Donnelly thought that this would just generate more business for them and would therefore add to the noise. The applicant re-iterated that the barrier would force customers to use the same slip road to enter and exit the car park. Miss Zhou confirmed that they would not be serving food up until 01.00 but customers there at that time would have already eaten and alcohol would not be available to take away.

The Decision

RESOLVED that-

(i) the Sub-Committee carefully considered the application and having regard to the relevant parts of Section 182 Guidance, the Council's Licensing Policy, the contents of the report, the representations received and the submissions made at the hearing by the applicant, the applicant's representative, a local resident, and planning and environmental control and determined to grant the following-

- Live Music, recorded music, anything of a similar description, provision of facilities for making music, provision of facilities for dancing, provision of facilities for entertainment of a similar description for the following hours-

Mondays to Sundays – 12.00 to 01.00

- Late Night Refreshment for the following hours-

Mondays to Sundays – 23.00 to 01.00

- Supply of alcohol for the following hours-

Mondays to Sundays – 11.00 to 01.00

Save from 10.00 New Year's Eve until 23.00 New Year's Day.

- The premises to be open to the public for the following hours-

Mondays to Saturdays – 11.00 to 01.30

Sundays – 11.00 to 01.00

(ii) The following conditions be removed –

o Where the premises provide food to the public for consumption on or off the Premises there shall be provided at or near the exits, sufficient waste bins to enable the disposal of waste food, food containers, wrappings, etc.

o Alcohol shall not be sold or supplied on the premises otherwise than to persons taking table meals there and for consumption by such a person as an ancillary to his/her meal.

o When alcohol refreshment is sold for consumption on the premises it will be sold to people sitting at a table and service will be by waiter/waitress only.

(iii) The licence be granted subject to the following conditions:

Imposed by the Sub-Committee at the Hearing

- A leaflet drop to properties within a 500 metre radius to be carried out when special events with an external activity are taking place.
- A defined smoking area to be established within the garden area and no smoking to be permitted elsewhere in the curtilage of the premises.
- Any amplified music and/or Karaoke system to be linked to a device which cuts the amplification power in the event that the fire escape in Karaoke room is opened or carry out such other works which achieves the same outcomes.
- An 'Emergency Exit Only' sign to be placed on the fire escape door of the Karaoke Room to the garden.
- A noise limiter to be fitted to the Karaoke and amplified music system and to be set at levels approved by Environmental Control.
- A barrier to be fitted restricting entry and exit to the service road, which must be lowered by 21.00 and not lifted before 02.00.
- Alcohol will only be sold to persons eating in the restaurant or attending a function where substantial food is available.

Mandatory Conditions

Mandatory conditions where licence authorises supply of alcohol

- No sale of alcohol may be made under the premises licence-
 - a. at a time when there is no designated premises supervisor in the respect of the premises licence, or
 - b. at a time when the designated premises supervisor does not hold a personal licence or their personal licence is suspended.
- Every supply of alcohol under the premises licence must be made or authorised by a

person who holds a personal licence.

6. Close of Meeting

The meeting closed at 12.30.