

**BABERGH DISTRICT COUNCIL**

**FROM:** Head of Legal and Administrative Services

**REPORT NUMBER**

**E86**

**TO:** LICENSING SUB-COMMITTEE

**DATE OF MEETING** 12 August 2005

**LICENSING ACT 2003 – NOTICE OF HEARING**

**1. SUMMARY**

To determine an application under the 2003 Licensing Act made by:

**T.D.Ridley and Sons Ltd**

in respect of:

**The Red Lion, The Street, East Bergholt, COLCHESTER CO7 6TB**

The hearing is to determine the variation element of this application only. The conversion element of the application (Part A of the form) is not subject to any hearing or consideration by the sub-committee as the Police have made no objection to the conversion during the statutory period. All existing conditions and restrictions under the Licensing Act 1964, and other enactments specified by the Secretary of State, therefore carry across with the conversion automatically as conditions on the new premises licence, unless the variation seeks to amend or remove these.

The premises also hold a Supper Hours Certificate (under section 68 of the Licensing Act 1964) which will extend the supply of alcohol as ancillary to table meals for one hour beyond permitted hours. This is a grandfather right by virtue of the conversion application.

**2. RECOMMENDATIONS**

2.1 The sub-committee must, having regard to the representations made, take such of the steps below (if any) as it considers necessary for the promotion of the licensing objectives:

- To grant the licence subject to conditions which are consistent with the operating schedule submitted by the applicant;
- To exclude from the scope of the licence any of the licensable activities that have been applied for;
- To refuse to specify a person in the licence as the premises supervisor;
- To reject the application.

Members of the sub-committee should note that they may, where it is deemed necessary and proportionate for the promotion of the licensing objectives, alter, omit or add new conditions within the applicants operating schedule.

The sub-committee is able to determine this application.

### **3. THIS APPLICATION**

- 3.1 This application is made by T.D.Ridley and Sons Ltd in respect of the Red Lion, The Street, EAST BERGHOLT CO7 6TB. The named premises supervisor is Mr Richard Finley Brogan (the existing justices' licence holder).

The premises is a detached village public house with a saloon bar, public bar, restaurant and beer garden adjacent to the saloon bar and restaurant. The pub also has one room available for bed and breakfast facilities (with a minibar).

This variation application seeks to remove all existing conditions and restrictions under the Licensing Act 1964, including those for the Supper Hours Certificate (which would normally carry across to the new premises licence under 'grandfather-rights') and similarly remove any existing restrictions under the Childrens and Young Persons Act.

The application is to simultaneously vary a conversion licence (justices' liquor licence with s68 certificate) and seeks to extend hours during which licensable activities, existing and new, will take place on the premises.

The existing permitted hours for the premises are as follows:

#### **Justices' licence 'permitted hours:**

Monday to Saturday	(10:00hrs until 23:00hrs)
Sunday/Good Friday	(12:00noon until 22:30hrs)
Christmas Day	(12:00noon until 15:00hrs and 19:00hrs until 22:30hrs)
New Years Eve	Extension allowed from end of permitted hours until start of permitted hours on New Years Day

The Supper Hours Certificate permits supply of alcohol for one hour in addition to the above hours where it is ancillary to a table meal, and by virtue of its existence allows 'late night refreshment' to be carried across under grandfather rights.

#### **The hours and activities being proposed by the variation application are:**

**(a) 'Films' (BOX B - indoors)**

Video entertainments on TV screens and amusement machines

**Hours applied for:** 10:00hrs until 00:30hrs (Monday to Thursday)  
10:00hrs until 02:00hrs (Friday and Saturday)  
12:00hrs until 00:30hrs (Sundays)

**(b) 'Indoor sporting events' (BOX C)**

Pub games that attract an audience whether spontaneously or by advertisement

**Hours applied for:** 10:00hrs until 00:00hrs (Monday to Thursday)  
10:00hrs until 01:30hrs (Friday and Saturday)  
12:00hrs until 00:00hrs (Sunday)

**(c) 'Live music' (BOX E - indoors)**

Live/Acoustic amplified music and amplified voice

**Hours applied for:** 10:00hrs until 23:30hrs (Monday to Thursday)  
10:00hrs until 00:00hrs (Friday and Saturday)  
12:00hrs until 23:30hrs (Sunday)

**(d) 'Recorded music' (BOX F - indoors)**

Recorded music including karaoke with or without a disc jockey

**Hours applied for:** 10:00hrs until 23:30hrs (Monday to Thursday)  
10:00hrs until 00:00hrs (Friday and Saturday)  
12:00hrs until 23:30hrs (Sunday)

**(e) 'Anything of a similar description to that of live music, recorded music or performances of dance' (BOX H)**

Performers using voice amplification

**Hours applied for:** 10:00hrs until 23:30hrs (Monday to Thursday)  
10:00hrs until 00:00hrs (Friday and Saturday)  
12:00hrs until 23:30hrs (Sunday)

**(f) 'Provision of entertainment facilities for making music' (BOX I)**

Microphone with amplifier

**Hours applied for:** 10:00hrs until 00:00hrs (Monday to Thursday)  
10:00hrs until 01:30hrs (Friday and Saturday)  
12:00hrs until 00:00hrs (Sunday)

**(g) 'Provision of late night refreshment' (BOX L - indoors)**

Provision of hot food and drinks until the end of alcohol sales in order to promote a smooth 'wind-down' period

**Hours applied for:** 23:00hrs until 00:15hrs (Monday to Thursday)  
23:00hrs until 01:45hrs (Fridays and Saturday)  
23:00hrs until 00:15hrs (Sundays)

**(h) 'Supply of alcohol' (BOX M - ON and OFF the Premises)**

Proposed extension of hours for on and/or off sales

**Hours applied for:** 10:00hrs until 00:00hrs (Monday to Thursday)  
10:00hrs until 01:30hrs (Friday and Saturday)  
12:00hrs until 00:00hrs (Sundays)

**The applicants also propose that the opening hours of the premises be extended as follows (BOX O):**

**Hours applied for:** 10:00hrs until 00:30hrs (Monday to Thursday)  
10:00hrs until 02:00hrs (Fridays and Saturdays)  
10:00hrs until 00:30hrs (Sundays)

The above opening hours allow for a 30 minute period after the cessation of alcohol sales for appropriate dispersal and drinking-up. The applicant proposes that the beer garden and patio will be closed at 23:30hrs on all occasions to avoid any potential for public nuisance.

**Seasonal and non-standard timings (including bank holidays)**

By virtue of the conversion application, the applicant carries forward a general exemption allowing the premises to open from the closure of the premises on New Years Eve until the beginning of permitted hours on New Years Day as a 'grandfather right'. The applicant proposes that music activities shall cease at 01:00hrs on New Years Eve.

The applicant proposes that for Bank Holiday weekends (Friday to Monday), Christmas Eve, Boxing Day and the Thursday before Good Friday the hours for supply of alcohol and other licensable activities are extended to cease at 01:30hrs. On such occasions the premises will remain open for a further 30 minutes to allow for drinking-up and dispersal, and therefore close to the public at 02:00hrs.

The applicant has proposed various steps that they intend to take to promote the four licensing objectives, detailed in section Q (page 24) of the application form attached as Appendix 1. These include:

- a) Proof of age identification
- b) Regular glass collection
- c) Children will be excluded from areas showing any TV broadcasts with adult theme

***The applicants have also agreed to suggestions made by Suffolk Constabulary relating to signage, last-admission time, provision of snacks and sandwiches and hours of sale of alcohol not to exceed 01:00hrs on Friday/Saturday. Please refer to Appendix 2.***

Some of the steps proposed may require further clarification by the applicant at the hearing.

Please refer to the copy of the complete application attached as Appendix 1.

- 3.2 The application is attached as Appendix 1. The applicant has a statutory responsibility to serve the application on all relevant responsible authorities, and advertise both in the local press and on the premises concerned for 28 days. The applicant has confirmed that the following consultees, as Responsible Authorities, have received notice of the application.

<b>RESPONSIBLE AUTHORITY</b>	<b>RESPONSE</b>
1. Chief Officer of Police	Agreement reached without representation being made
2. Local Fire Authority	
3. Health and Safety Executive/Local Authority for Health and Safety at Work Act	YES – 04.07.2005
4. Environmental Health	YES – 04.07.2005
5. Local Planning Authority	
6. Area Child Protection Committee	
7. Any other Licensing Authority	
8. Trading Standards	
9. Environmental Agency/British Waterways Boards/Maritime and Coastguard Agency	

- 3.3 No representations have been received during the statutory period from interested parties (local residents, local businesses or representatives thereof).

A copy of any representations are attached as Appendix 2. Relevant correspondence may also be attached for information/clarification purposes..

#### **4. GUIDANCE AND POLICY CONSIDERATIONS**

- 4.1 The sub-committee is referred to section 6 – ‘Hours of Trading’ and section 7 – ‘Conditions Attached to Premises Licences and Club Premises Certificates’, and also Annexes D to H, of Central Government Guidance in respect of this application.
- 4.2 The sub-committee is referred to sections 1, 6, 7, 9, 10 and 14 of the Council’s Statement of Licensing Policy in respect of this application.

#### **5. THE ISSUE(S)**

- 5.1 The Licensing Act 2003 introduced a new licensing regime. The four underlying objectives of the regime are:

- Prevention of crime and disorder
- Public safety
- Prevention of public nuisance
- Protection of children from harm

These are the only grounds upon which an application may be refused, or if deemed necessary, conditions may be attached to a licence.

- 5.2 Members will note that the main issue here is:

- Balancing the interests of owners, employees, customers and neighbours of licensable premises.

#### **6. PROCEDURE TO BE FOLLOWED AT HEARING**

- 6.1 A copy of the ‘Procedure for Hearing of Application under the Licensing Act 2003 where a Representation/Objection is received’ is attached to the Agenda.

#### **7. APPENDICES**

- (a) Appendix 1 – Part B – Application together with premises plan
- (b) Appendix 2 – Representations
- (c) Appendix 3 – Site Plan showing location of premises.

#### **8. BACKGROUND PAPERS REFERRED TO**

None

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