

BABERGH DISTRICT COUNCIL

FROM: Head of Legal and Administrative Services

REPORT NUMBER E113

TO: LICENSING SUB-COMMITTEE

DATE OF MEETING 1 September 2005

LICENSING ACT 2003 – HEARING REPORT

1. SUMMARY

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

Peter John James Wakeman and Claire Louise Wakeman

in respect of:

The Black Horse, 21 East Street, SUDBURY CO10 2TP

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.

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 Mr Peter Wakeman and Mrs Claire Wakeman in respect of the Black Horse, 21 East Street, SUDBURY CO10 2TP. The named premises supervisor is Mr Peter John James Wakeman (the existing justices' licence holder).

The premises is a public house with kitchen and outside area for consumption of alcohol.

This variation application seeks to remove all existing conditions and restrictions under the Licensing Act 1964, the Cinematograph Safety regulations 1955 (concerning showing of films) and similarly remove any existing restrictions under the Childrens and Young Persons Act 1933.

The application is to simultaneously vary a conversion licence (justices' liquor licence) 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:

Note: Permitted hours in West Suffolk area commence at 10:00hrs and not 11:00hrs

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 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 01:30hrs (Monday to Sunday)
- (b) **'Indoor sporting events' (BOX C)**
Pub games that attract an audience whether spontaneously or by advertisement
Hours applied for: 10:00hrs until 01:30hrs (Monday to Sunday)
- (c) **'Live music' (BOX E – NOW CONFIRMED INDOORS ONLY)**
Live/Acoustic amplified music and amplified voice
Hours applied for: 10:00hrs until 23:00hrs (Monday to Sunday)
- (d) **'Recorded music' (BOX F - indoors)**
Recorded music including karaoke with or without a disc jockey
Hours applied for: 10:00hrs until 01:00hrs (Monday to Sunday)
- (e) **'Anything of a similar description to that of live music, recorded music or performances of dance' (BOX H - indoors)**
Performers using voice amplification
Hours applied for: 10:00hrs until 01:30hrs (Monday to Sunday)

- (f) **‘Provision of entertainment facilities for making music’ (BOX I - indoors)**
Stage area and microphone with amplifier
Hours applied for: 10:00hrs until 01:30hrs (Monday to Sunday)
- (g) **‘Provision of facilities for dancing’ (BOX I - indoors)**
Stage area and microphone with amplifier
Hours applied for: 10:00hrs until 01:30hrs (Monday to Sunday)
- (h) **‘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 01:30hrs (Monday to Sunday)
- (i) **‘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 01:00hrs (Monday to Sunday)

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

Hours applied for: 10:00hrs until 01:30hrs (Monday to Sunday)

The above opening hours allow for a 30 minute period after the cessation of alcohol sales for appropriate dispersal and drinking-up.

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 (all indoors) shall cease at 01:00hrs on New Years Eve.

The applicant proposes that for Bank Holiday weekends (Friday to Monday), Christmas Eve and 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.

Further to the above, the applicants are requesting ‘unspecified extensions’ for up to 12 spontaneous events per year (referred to in the application as “event days”) for use at the licence holder’s discretion. No dates or times for such are known. It is possible that under the legislation there is no mechanism for such ‘unspecified extensions’ other than what is provided for by temporary event notices, secretary of state general orders of exemption or specified non-standard/seasonal timings built in to a premises licence application.

The applicant has proposed various measures that they intend to take to promote the four licensing objectives, detailed in section Q of the application form attached as Appendix 1. Members will note that the application also seeks to remove all inherent conditions and restrictions under existing enactments specified in paragraph 3.1 of this report. The measures proposed include:

- (a) Windows will be kept closed after 23:30hrs.

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 advertisements required under the Act were published on 15 July 2005 and displayed on the premises for 28 days. The applicant has confirmed that the following consultees, as Responsible Authorities, have received notice of the application.

RESPONSIBLE AUTHORITY	RESPONSE
1. Chief Officer of Police	YES - 25.07.2005
2. Local Fire Authority	
3. Health and Safety Executive/Local Authority for Health and Safety at Work Act	YES - 21.07.2005
4. Environmental Health	YES - 21.07.2005
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 Representations have also been received during the statutory period from the following interested parties:

- **Mr & Mrs D.Muddimer, 19 East Street, SUDBURY CO10 2TP**
- **R.Ridgard - NO ADDRESS SUPPLIED**
- **Mr Cutmore, 15 Newmans Road, SUDBURY CO10 1UA**
- **Ms Cheryl Fraser (Scheme Manager), Elizabeth Court, SUDBURY CO10**
- **Miss J.Bear & Mrs W.Bear, 3 Springfield Terrace, SUDBURY CO10 2TS**
- **Ms Tracey Barrett, 9 East Street, SUDBURY CO10 2TP**
- **Mr & Mrs Goddard, 7 East Street, SUDBURY CO10 2TP**
- **Mrs Kate Nott, 2 Springfield Terrace, SUDBURY CO10 2TS**
- **Mr & Mrs Tibbles, 1 Springfield Terrace, SUDBURY CO10 2TS**
- **B.Garaido, Norwoods, Newmans Road, SUDBURY CO10 1UA**
- **Ms Nicola Lamb, 11 Newmans Road, SUDBURY CO10 1UA**

A copy of any representations are attached as Appendix 2.

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 Interested Party objectors.

8. BACKGROUND PAPERS REFERRED TO

None

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