

A record of the meeting of a Licensing  
Sub-Committee Hearing held in the Council Chamber,  
The Grange, Nutholt Lane, Ely  
on Friday, 13<sup>th</sup> June 2014 at 10.34am

---

**PRESENT**

Councillor Allen Alderson  
Councillor Michael Allan  
Councillor Chris Morris (Reserve Member)  
Councillor Tony Parramint

**IN ATTENDANCE**

Mr Andrew Fayers – Cambridgeshire County Council Trading  
Standards  
Ms Sue Loaker – Cambridgeshire Constabulary  
Councillor Neil Morrison - Objector  
Sergeant Ruth Sheehan – Cambridgeshire Constabulary  
Mr Damian Trojak - Applicant

**OFFICERS**

Lin Bagwell – Licensing Officer (Enforcement)  
Maggie Camp – Senior Legal Assistant  
Janis Murfet – Democratic Services Officer  
Karen See - Principal Environmental Health Officer (Domestic)

1. **ELECTION OF CHAIRMAN**

It was resolved:

That Councillor Michael Allan be elected as Chairman for the  
duration of the Sub-Committee Hearing.

2. **DECLARATIONS OF INTEREST**

No declarations of interest were received.

3. **INTRODUCTIONS**

The Chairman welcomed everyone to the meeting and invited those  
seated to introduce themselves. He then explained the Hearings Procedure  
for the benefit of all present.

4. **LICENSING ACT 2003 – APPLICATION FOR THE GRANT OF A PREMISES LICENCE – DAMIAN’S SHOP ONLINE, 36 WOODFEN ROAD, LITTLEPORT, CAMBRIDGESHIRE, CB6 1JP**

The Licensing Sub-Committee was presented with a report (P18), previously circulated, to consider and determine an application for the grant of a Premises Licence in respect of Damian’s Shop Online, 36 Woodfen Road, Littleport, Cambridgeshire, CB6 1JP.

At the invitation of the Chairman, the Licensing Officer summarised the main points of her report.

She explained that an application for a Premises Licence for Damian’s Shop Online, 36 Woodfen Road, Littleport, CB6 1JP was received by the Council on 8<sup>th</sup> April 2014.

In his application, Mr Damian Trojak had described the proposed premises as the integral garage of his home address at 36 Woodfen Road, Littleport. The garage has brick walls and a cement floor, and the dimensions are approximately 660cms x 350cms.

Mr Trojak advised that the proposed premises was intended for the storage of goods only and all alcohol sales would be via the internet, telephone or “take away”. There would be no sale of alcohol products to under 18’s, and alcohol consumption on the premises would be forbidden.

It was noted that the application sought to provide internet, telephone or “take away” sales of alcohol from Monday to Sunday, 00:01 to 00:00 hours. The premises would be open to the public to collect pre-paid orders from Monday to Sunday, 16:00 to 22:00 hours.

The Licensing Officer drew Members’ attention to paragraph 3.4 of her report, which set out the mandatory conditions to be imposed upon the new premises licence by the Licensing Act 2003. She also stated that Mr Trojak had undertaken a risk assessment to identify the steps to be taken in relation to the four licensing objectives; paragraph 3.5 of her report set out the details.

The Sub-Committee noted that in accordance with legislation, Mr Trojak had displayed a notice on the premises where it could be conveniently read by members of the public for 28 consecutive days, and he had also placed a notice in the Ely Standard within 10 working days after the date of submission of his application to the Council. The last date for the receipt of representations was 6<sup>th</sup> May 2014.

The following representations were received:

- Andrew Fayers, Lead Officer of Cambridgeshire County Council Trading Standards Supporting Businesses & Communities Service submitted a representation form for responsible authorities by email on 11<sup>th</sup> April 2014, in which he raised concerns regarding the

prevention of crime and disorder and the protection of children from harm;

- Karen See, Principal Environmental Health Officer, Environmental Protection, submitted a representation form for responsible authorities dated 2<sup>nd</sup> May 2014 in which she raised concerns regarding the prevention of public nuisance;
- Sgt Ruth Sheehan, Cambridgeshire Constabulary Police Licensing Officer, submitted a responsible authorities form dated 6<sup>th</sup> May 2014, in which she raised concerns regarding the prevention of crime and disorder, public safety and the protection of children from harm;
- Sue Loaker, Cambridgeshire Constabulary Crime Reduction Officer submitted a letter dated 1<sup>st</sup> May 2014, in which she raised concerns about the security of the proposed premises, in support of the representation raised by Sgt Sheehan regarding the prevention of crime and disorder;
- Councillor Neil Morrison, ECDC Member, submitted a representation form for interested parties dated 2<sup>nd</sup> May 2014 regarding the public nuisance and protection of children from harm Licensing Objectives.

(Councillor Morris left the Chamber at 10.45am)

Two dates were arranged for responsible authority officers from Cambridgeshire Constabulary, Trading Standards and the Council's Planning Services and Environmental Services (Environmental Protection) to meet with Mr Trojak at the proposed premises to discuss areas of concern.

All representations raised were emailed to Mr Trojak on 12<sup>th</sup> May 2014 and a further letter was sent to him on 21<sup>st</sup> May seeking his views on the concerns raised in the representations and the suggested proposals and conditions put forward by the responsible authorities. He was asked to put forward his ideas to mitigate the concerns or to suggest appropriate conditions to address the issues raised. Mr Trojak was also asked if he wished to agree that those conditions proposed by the responsible authorities might be added to the premises licence operating schedule at the Licensing Sub-Committee Hearing.

The Licensing Officer stated that at the time of finalising her committee report on 30<sup>th</sup> May, no response had been received from Mr Trojak to her letter of 21<sup>st</sup> May 2014. She concluded by asking Members to consider the application on its merits, and in accordance with the statutory guidance issued under S182 Licensing Act 2003, the Council's Statement of Licensing Policy, the information contained within her report, and having due regard to the applicant and the parties/authorised bodies making representations.

In response to a question from the Chairman, Mr Trojak confirmed that he had received a copy of the agenda and was satisfied with the

content of the papers. He did not wish to ask any questions of the Licensing Officer.

Councillor Parramint, referring to paragraphs 3.20 and 3.21 of the Officer's report, asked for clarification as to why Mr Trojak's planning application was considered invalid. The Licensing Officer replied that she was unable to give an answer as only the applicant could be told the reason. Councillor Parramint then enquired whether there had been any response from Mr Trojak regarding the letter dated 21<sup>st</sup> May 2014. The Licensing Officer said that the only response from Mr Trojak was in relation to the official notice of the hearing; he had confirmed that he would attend but would not be represented.

The Chairman invited Mr Trojak to address the Sub-Committee and put his case. Mr Trojak stated that he wished to be able to sell alcohol online via the internet and provide a delivery service for those people who did not wish to buy from a supermarket.

In response to a question from Councillor Parramint, he confirmed that this would be a new business and he did not have any previous experience of this type of venture. Councillor Parramint then asked Mr Trojak whether he owned or rented his home; Mr Trojak replied that he owned his home with a mortgage. When asked by Councillor Parramint if the mortgage company was aware of him starting this business, he said that he had informed them and they were okay with this.

The Sub-Committee queried the safety measures which would be put in place in the event of a fire, but Mr Trojak did not give any details other than to say that both he and his wife would occupy the premises. Members also expressed concern that Mr Trojak would be selling alcohol at a much cheaper price than the local retail shops, and this might result in unfair trading. Mr Trojak's response was that many people preferred to have home deliveries rather than go to the actual shop.

Members asked if he would expand and move into retail premises if his business got bigger, but he stated that he would wish to trade from home. A query was raised regarding the hours the premises would be open to the public (16:00 to 22:00 each day), as there were concerns that the school closed at 16:00 hours and there should be no collections at this time.

Councillor Alderson thought the drawing of the premises did not reflect its true dimensions and a better diagram could have been provided. It gave no real indication of how secure the premises would be and he felt that the security proposals were inadequate. There was no way that Mr Trojak could guarantee the house would not be left unattended at times and the garage could be easily broken into.

The Licensing Officer clarified that Mr Trojak did hold a personal licence and had attended a course, but he had no previous experience as a Designated Premises Supervisor. She also highlighted the new mandatory condition regarding the pricing of alcohol and asked him if he was aware

that he could not sell at discounted prices. Mr Trojak confirmed that he was aware of the new mandatory condition.

At the invitation of the Chairman, Sgt Sheehan addressed the Sub-Committee and stated that her representations were made in respect of the prevention of crime and disorder, public safety, and the protection of children from harm. She had attended the premises with her colleague Sue Loaker, and they had been very concerned regarding the lack of security and equipment. Mr Trojak had indicated that he would be using a plastic unit inside the garage to secure the alcohol and he showed them the container he was proposing to purchase. Sgt Sheehan said she was of the view that the container was far too flimsy and inadequate.

Sgt Sheehan continued, saying that there was a high rate of garage and shed burglaries in East Cambridgeshire and Mr Trojak had not taken any additional security measures to prevent his premises being broken into. She was concerned that the garage is attached to a residential house and has only a flimsy “up and over” door to the front. There is low fencing around the property and acres of open fields to the rear, and there is a clear glass window looking into the garage. The rear door to the premises is made of UPVC with clear glass. Her colleague, Sue Loaker, had made recommendations regarding the minimum standards that Cambridgeshire Constabulary would wish to see at the premises.

Sgt Sheehan also had concerns regarding Mr Trojak acting as a delivery driver and using his own vehicle to deliver the alcohol. She said that he would need additional insurance to be able to do this and he had not contacted his insurance company to arrange the cover. Also, by using his own vehicle, he could become a target for robbery.

It was unclear whether Mr Trojak had contacted his insurance company to see if his building and contents insurance would cover the proposed use of the premises. Public liability insurance would also be required for people to come on to the premises to purchase goods and it was unclear whether he had looked into this either.

Sgt Sheehan concluded that Mr Trojak had not given sufficient thought to the application and his obligations to his wife and the public.

Mr Trojak responded by saying that he had decided that the premises would not be open to the public, and he planned to make more secure storage by having a “safe room” for the alcohol. Sgt Sheehan reiterated that her report had been prepared on what was available at the time, and it was insufficient.

The Chairman asked Mr Trojak if his insurance would cover people coming to the house, and he said it would. The Licensing Officer interjected to say it was unlikely that house insurance would cover this; Mr Trojak needed a separate policy for public liability insurance, and when she had spoken to him, he did not have it. In response to his comment that he would buy a policy, she said that in her experience one would have to check

whether a company would cover you before getting a licence, as it was not easy to get cover.

At the invitation of the Chairman, Sue Loaker addressed the Sub-Committee. She said that most of her concerns had already been covered by Sgt Sheehan, but she wished to reiterate that all the points she had raised needed to be adhered to. The premises would need an alarm system, CCTV and the boundary secured. She had been concerned that when the garage door was open, the alcohol would be visible to people walking the school route. She was also concerned that Mr Trojak did not have public liability insurance to cover him for when people came on to the premises.

Members reminded Mr Trojak that this was a very serious matter and whilst they appreciated that it was a difficult situation for him, he had to follow the correct procedures and they had to see that he had done so.

Councillor Alderson remarked that it would have helped Mr Trojak's case if he had attended the hearing with a written response from his mortgage company confirming that they were happy for him to trade from home, and a similar letter from his insurance company to say that they would insure him. However, from what was before the Sub-Committee today, Members were trying to judge the case when they did not have those assurances.

At the invitation of the Chairman, Andrew Fayers addressed the Sub-Committee and stated that his representations were mainly concerned with the licensing objectives of prevention of crime and disorder and the protection of children from harm. He had met with Mr Trojak prior to the application being made, but the statements made in his operating schedule did not protect children from harm, and had nothing regarding the checking of identification for persons believed to be under the age of 18. For this reason, Mr Fayers did not believe that the licensing objectives were being met.

He continued, saying that there was no information regarding the training of staff (including Mr Trojak's wife), no refusals register and no online controls in place. However, he did confirm that Mr Trojak had been given a "Challenge 25" pack and a "No ID" training pack.

Mr Fayers was concerned that as Mr Trojak would be purchasing the alcohol from London, this could put him at risk of buying counterfeit alcohol. Members noted that the sale of counterfeit alcohol was rife throughout the country. Referring to a recent article in the national press, Mr Fayers said that all brands were being counterfeited, especially vodka and whisky, and he added that it was well in circulation in Cambridgeshire. There was a risk of death or injury as the counterfeit alcohol had been found to contain chemicals commonly found in industrial cleaners, and in a number of cases, anaesthetic. The Sub-Committee was shown some pictures of counterfeit alcohol to illustrate just how realistic the bottles looked.

It was noted that Trading Standards had introduced some measures to help stop the sale of counterfeit alcohol and it was suggested that preventative measures be included in the conditions. Mr Trojak stated that he had purchased a UV light to enable him to check that the correct UK Duty stamps were on any alcohol he would purchase. Mr Fayers agreed that this was a good start, however he would want to see invoices for any alcohol purchased to enable a strict stock control system to be implemented. In response to a question regarding monitoring, Mr Fayers said that premises were only investigated where concerns had been raised.

At the invitation of the Chairman, Karen See addressed the Sub-Committee and confirmed that her representation concerned the prevention of public nuisance. The proposed premises was situated in a residential area and at the time of writing her report, planning permission had not been granted. Mr Trojak had suggested that he would be open to the public between 4.00pm and 10.00pm, including weekends, and deliveries of alcohol would operate for 24 hours a day, 7 days per week.

Ms See had concerns regarding potential disturbance from people entering and leaving the premises, customer traffic, car parking on the road and gravel drive, and the noise from the “up and over” garage door being opened and closed. She added that there was also a potential for nuisance from the external lighting, and from traffic movements if deliveries were taking place over 24 hours every day of the week. She did not think that sufficient measures had been proposed to address the public nuisance issues. She added that they would have been picked up during the planning process but had yet to be tested as Mr Trojak’s planning application had been invalid.

Mr Trojak repeated that he had changed his mind and the premises would not be open to the public. The Chairman asked the Licensing Officer if she was aware of this and she replied that she was not. Members could, if so minded, amend the conditions during their deliberations. Such changes were normally made in response to representations raised and Mr Trojak could have circulated his response to the responsible authorities. However he had not done so and therefore there had been no chance to deliberate.

The Licensing Officer, picking up on Mr Trojak’s point that he had only one neighbour, reminded Members that the adjacent land was up for sale for residential use and in time there would be properties to the side and rear of his premises. Furthermore, Mr Trojak was aware of this.

At the invitation of the Chairman, Councillor Neil Morrison addressed the Sub-Committee. He wished to make it plain that he was a Governor at the nearby school and he had discussed the matter with the Headmaster, who had been disturbed to learn of the application.

Councillor Morrison said that his representations were made in respect of the licensing objectives of public nuisance and the protection of children from harm. He was concerned that if Mr Trojak was selling drinks from his house, school children could come asking for soft drinks. Woodfen Road was a very busy road and the area was already very congested,

particularly when parents were taking their children to and from school. This could present difficulties because Mr Trojak would be receiving deliveries at around the same time of day.

Councillor Morrison continued, saying he had concerns that the external security lighting would cause a public nuisance as it would be activated by the regular visits to and from the premises. At present, Mr Trojak had only one neighbour who was quite liberal in her attitudes, but she might object if the light was shining into her property late at night. Referring to burglaries, Councillor Morrison informed Members that there had been a number of break ins in the locality, including the primary school.

In response to a question from Councillor Parramint, Mr Trojak stated that he had lived in the UK for six years; both he and his wife were in employment, he was working as a forklift truck driver.

When asked by Councillor Alderson if he or his wife intended giving up their present employment if granted a licence, Mr Trojak replied that he would leave his job. He added that with regard to traffic, he would try to avoid deliveries at school times.

The Chairman, being satisfied that nobody had anything further to say, announced that the Sub-Committee would retire to deliberate on their decision.

(There followed an adjournment between 11.43am and 12.04pm)

Upon returning to the Chamber, the Chairman asked the Senior Legal Assistant to announce the decision:

*“The Licensing Sub Committee do not grant your application for a premises licence.*

*Members are of the view that the risk assessment you carried out does not address the licensing objective of prevention of crime and disorder.*

*They also do not think that your risk assessment addresses the licensing objective of public safety as they are concerned that there are no adequate measures for the onsite security of the alcohol, or the external lighting.*

*They do not think it addresses the licensing objective of prevention of public nuisance, you said that you were going to remove the requirement that the premises is to be open from 4 pm to 10 pm, but nothing has been placed in writing and no opportunity has been given for the licensing authority to consult with the responsible authorities so Members have had to take the application very much as it is before them.*

*They do not think the risk assessment addresses the licensing objective of protecting children from harm as there is a school located very*



*close and although you have said that no children will be permitted in the alcohol storage area, there are concerns about the additional traffic which will be generated in close proximity of the school and this also relates back to the licensing objective of public nuisance.*

*You have not provided any further information with regard to the representations from the responsible authorities and interested party in response to a letter from the licensing officer on 21<sup>st</sup> May 2014.*

*In summary, the way in which your case has been presented did not give Members the confidence to grant the application as it is and therefore your application for a premises licence is not granted.*

*A written decision will be forwarded to you within the next 5 days and you have 21 days from receipt of notification of the decision in which to make an appeal to the Magistrates Court”.*

The meeting concluded at 12.07pm.

Minutes of a Meeting of the Licensing Sub-Committee  
held in the Council Chamber, The Grange, Nutholt Lane, Ely  
on Thursday, 28<sup>th</sup> August 2014 at 10.00am

---

**P R E S E N T**

Councillor Allen Alderson  
Councillor Michael Allan  
Councillor Christine Ambrose Smith  
Councillor Colin Fordham (Reserve Member)

**I N A T T E N D A N C E**

Miss Linda Hitchings - Applicant  
Mr David Baker – Applicant's Partner/Supporter

**O F F I C E R S**

Lin Bagwell – Licensing Officer (Enforcement)  
Janis Murfet – Democratic Services Officer  
Sarah Steed – Senior Legal Assistant

*(Having entered the Council Chamber, Councillor Fordham realised that both the Applicant and her partner were known to him; he therefore withdrew from the Chamber for the duration of the Hearing)*

1. **ELECTION OF CHAIRMAN**

It was RESOLVED:

That Councillor Michael Allan be elected as Chairman for the duration of the Sub-Committee Hearing.

2. **DECLARATIONS OF INTEREST**

No declarations of interest were made by Members of the Sub-Committee.

3. **INTRODUCTIONS**

The Chairman welcomed everyone to the meeting and invited those seated to introduce themselves. He then made reference to the Hearings Procedure contained within the agenda papers.

In response to a question from the Chairman, the Applicant confirmed that she had received a copy of the Sub-Committee report.

4. **LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982: APPLICATION FOR A STREET TRADING LICENCE**

The Sub-Committee was asked to consider an application, submitted by Miss Linda Hitchings, for a street trading licence to trade from the lay-by on the A142 between Soham and Stuntney, providing hot and cold food and drinks 8.00am to 3.00pm, Monday to Saturday.

Presenting the report on behalf of her colleague Stephen Carrington, the Licensing Officer summarised the main points and reminded Members of the options available to them and the legislative/legal factors to be taken into consideration when making their decision.

It was noted that there was currently one street trading licence in force at the lay-by on the A142, issued to the current Licence Holder trading from a trailer marked "Oasis".

Under the Local Government (Miscellaneous Provisions) Act 1982 a street trading licence could not be transferred from one person/trader to another and therefore a new application had to be submitted by the Applicant.

The current Licence Holder wished to sell her business to the Applicant and was willing to surrender the current street trading licence should the Applicant's application be successful. A letter to this effect (attached as Appendix 3 to the report) had been submitted.

Members were informed that Miss Hitchings proposed to trade from the same trailer at the same location, selling the same hot and cold food and drinks as the current Licence Holder was permitted by their street trading licence. It was also noted that she had volunteered the following condition for the new street trading licence:

*"That the licence shall not come into force and the Applicant will be unable to act under the licence until such time as the present licence is surrendered, not renewed or revoked."*

Miss Hitchings confirmed that the content of the report was correct.

Councillor Ambrose Smith noted that any potential alterations to the new licence would have to be assessed, but she asked what would happen if, for example, the Applicant wanted to go away on holiday. The Licensing Officer replied that Miss Hitchings would still be expected to trade, but the Act did allow for substitutes. The Licensing Section would need to be kept informed of who would be responsible for the trailer and it was strongly suggested that that person should be aged 18 or over. Miss Hitchings said that her sister would most probably cover for any absences.

The Licensing Officer reiterated the importance of Miss Hitchings advising either herself or Mr Carrington of anything “out of the ordinary”, especially if it involved employing anyone else or adding something else to her trading, as she was only permitted to trade in what was specified in the street trading licence.

Councillor Alderson remarked that the A142 lay-by was a good place to have a food and drink stand and it was important to retain the facility as it was very well used. He asked Miss Hitchings if she intended carrying on exactly the same as the current licence Holder and she confirmed that it was her intention to do so.

The Chairman enquired if Miss Hitchings was going to trade from the “Oasis” trailer. She replied that she might, but one of her trailers was slightly larger and was more modern in that it had its own hot water system. The Licensing Officer informed Members that the application did not specify the “Oasis” trailer and she was content with this, but she asked that Miss Hitchings inform the Licensing Department which trailer she would be using when she started trading.

The Chairman then asked Miss Hitchings if she intended setting out any chairs and tables by the trailer. Miss Hitchings said she had thought about putting out a table and 2 chairs in the summer. The Licensing Officer reminded Members that this was a matter for the County Council Highways department; the District Council could only give permission for the street trading licence. Miss Hitchings was advised to contact the County Council, as they might ask for a payment or impose a condition; she was also cautioned that if she did put out the furniture, she should take out public liability insurance to cover herself in the event of any accidents.

At the invitation of the Chairman, Miss Hitchings addressed the Sub-Committee. She told Members that she had bought her business “Appetize Catering”, 6 years ago and she now had 5 trailers. She traded at weekend events such as the carnivals in Soham and Newmarket, Mildenhall Cycle Rally, Fordham Car Boot Sale (she had 4 trailers at this venue), motorcycle racing events and at Thetford Forest. She employed 13 staff. If Members were minded to grant her the street trading licence, she intended giving up some of the weekend work and possibly selling a couple of the trailers.

The Chairman, having established that Miss Hitchings did not have anything further to add, announced that the Sub-Committee would retire to deliberate on the application and then return to announce the decision.

The Sub-Committee retired from the Council Chamber at 10.25am and returned to the Council Chamber at 10.47am.

At the request of the Chairman, the Senior Legal Assistant read out the following decision:

*“Members are minded to grant the Street Trading Licence application in full for those days and times included in the application form subject to the conditions detailed at 4.2.1 and 4.2.2 of the Committee report dated 28<sup>th</sup> August 2014 regarding refuse and for the existing Licence Holder to surrender their Licence before this Licence comes into force.*

*Members have noted that you have confirmed that alcoholic drinks will not be served and Members would also remind you to contact Cambridgeshire Highways Department if you intend to place any equipment, including tables and chairs, on the Highways.*

*Please liaise with the Licensing Department for any changes in personnel or any absences.”*

The Chairman informed Miss Hitchings that she would receive a notice confirming the decision to grant the Licence.

Whereupon,

It was resolved:

That Miss L Hitchings be granted a Street Trading Licence in full for those days and times included in the application form, subject to the conditions detailed at paragraphs 4.2.1 and 4.2.2 of the Committee report dated 28<sup>th</sup> August 2014 regarding refuse, and the requirement for the existing licence holder to surrender their licence before this licence can come into force.

The Hearing concluded at 10.50am

A record of the meeting of a Licensing  
Sub-Committee Hearing held in the Council Chamber,  
The Grange, Nutholt Lane, Ely  
on Wednesday, 10<sup>th</sup> September 2014 at 10.00am

---

**PRESENT**

Councillor Christine Ambrose Smith  
Councillor Colin Fordham  
Councillor Chris Morris  
Councillor Sue Willows (Reserve Member)

**IN ATTENDANCE**

Mrs Jacqueline Crick - Objector  
Mrs Paula Crick – Representing Mrs J Crick  
Mr Mark Duckworth – Representing Mrs L Povedaiko  
Mrs Jo Haslam – Applicant (Owner/Director, TLC Inns Ltd)  
Mr Steven Haslam – Applicant (Owner/Director, TLC Inns Ltd)  
Mrs Lilija Povedaiko - Objector

**OFFICERS**

Lin Bagwell – Licensing Officer (Enforcement)  
Claire Braybrook – Environmental Health Officer  
Maggie Camp – Senior Legal Assistant  
Janis Murfet – Democratic Services Officer  
Karen See - Senior Environmental Health Officer (Domestic)

1. **ELECTION OF CHAIRMAN**

It was resolved:

That Cllr Chris Morris be elected as Chairman for the duration of the  
Sub-Committee Hearing.

2. **DECLARATIONS OF INTEREST**

No declarations of interest were received.

3. **INTRODUCTIONS**

The Chairman welcomed everyone to the meeting and invited those  
seated to introduce themselves, beginning with the Members of the Sub-  
Committee.

For the benefit of all present, the Hearings Procedure was summarised.

4. **APPLICATION FOR THE VARIATION OF A PREMISES LICENCE UNDER THE LICENSING ACT 2003**

The Licensing Sub-Committee was presented with a report (P72), previously circulated, from which Members were asked to consider and determine an application for the variation of a premises licence in respect of Grand Central, 5-5A Annesdale, Ely, CB7 4BN.

At the invitation of the Chairman, the Licensing Officer summarised the report.

The Licensing Officer explained that an application for a variation of a premises licence under Section 34 of the Licensing Act 2003 for Grand Central, 5-5A Annesdale, Ely, CB7 4BN was submitted to the Licensing Authority on 16<sup>th</sup> July 2014 by TLC Inns Ltd, Woodland Place, Hurricane Way, Wickford, SS11 8YB.

The premises is a restaurant fronting the riverside waterfront, previously known as "The Boathouse".

The premises licence currently issued to Grand Central operated under "grandfather rights" from the Licensing Act 1964. Sale of alcohol was permitted from Monday to Saturday, 11:00 to 00:00 hours, Sundays, Good Friday and Christmas Day 12:30 to 23:30 hours and from the end of permitted hours New Year's Eve to the start of permitted hours New Year's Day.

The current opening hours of the premises were Monday to Sunday, 00:01 to 00:00 hours.

Although consumption of alcohol is not a licensable activity, it is advisable for all alcohol consumption areas to be marked on the premises licence plan. Applicants/premises licence holders can volunteer specific conditions for alcohol consumption areas to be added to the premises licence operating schedule to assist them in achieving compliance with the four licensing objectives of the Act.

Currently the outside eating/drinking area was not marked on Grand Central's premises licence plan nor were there any specific licensing conditions contained in the premises licence operating schedule to cover this area.

Regulated entertainment was not permitted on the current premises licence but as the premises operated as a restaurant it was possible for "themed" background music to be played during opening times as this was deemed ancillary to the main use of the premises as a restaurant.

With regard to statutory provision and activities and times applied for, the application for variation sought to provide:

- Sale of alcohol Monday to Sunday 09:00 to 00:30 hours, from end of prescribed hours New Year's Eve to start of prescribed hours on New Year's Day and the annual date of the Superbowl 09:00 to 05:00 hours. Outside drinking to cease at 23:00 hours.
- Provision of regulated entertainment – plays, films, indoor sporting events, live music, recorded music, performance of dance and entertainment of a similar description Monday to Sunday 09:00 to 00:30 hours, from end of prescribed hours New Year's Eve to start of prescribed hours on New Year's Day and the annual date of the Superbowl 09:00 to 05:00 hours. Outside drinking to cease at 23:00 hours.
- Provision of late night refreshment Monday to Sunday 23:00 to 00:30 hours, from end of prescribed hours New Year's Eve to start of prescribed hours on New Year's Day and the annual date of the Superbowl 09:00 to 05:00 hours. Outside drinking to cease at 23:00 hours.
- Removal of embedded conditions under the Licensing Act 1964.
- Addition of workable and enforceable conditions to the premises licence operating schedule.
- Changes to the premises plan to include the outside eating/drinking area for consumption of alcohol from 09:00 to 23:00 hours daily.
- Continuation of the current opening hours of the premises Monday to Sunday 00:01 to 00:00 hours.

The Licensing Officer then drew attention to paragraph 3.9 of the report which set out the conditions which, by law, were to be imposed upon the new premises licence by the Licensing Act 2003.

It was noted that the Applicant had undertaken a risk assessment to identify the steps necessary to be taken in relation to the four Licensing Objectives. These were listed in paragraph 3.10 of the Officer's report under each objective and specific conditions had been volunteered to help in the management of the outside seating area.

The Sub-Committee noted that the Applicant had displayed a notice on the premises where it could be conveniently read by the public for 28 days, and placed a notice in a local newspaper circulating within the vicinity of the premises within 10 working days after the date of submission of the application to the Council. The last date for the receipt of representations was 13<sup>th</sup> August 2014.



The Licensing Officer stated that there were no representations made by any of the statutory Responsible Authorities, but some were received from members of the public. Two of the representation forms regarding the public nuisance licensing objective were deemed not relevant. All representations raised were emailed to the Applicant, TLC Inns Ltd on 14<sup>th</sup> August 2014.

A mediation meeting was held on 20<sup>th</sup> August 2014 for the local residents raising representations to meet with representatives of TLC Inns Ltd at the Council offices to discuss their areas of concern.

It was noted that no conditions had been put forward by any of the Responsible Authorities that could be added to the premises licence operating schedule.

The notes of the meeting (attached as Appendix 8 to the Officer's report) were circulated to all parties on 27<sup>th</sup> August 2014.

The Licensing Officer also drew Members' attention to paragraphs 3.21 and 3.22 of her report, which set out the relevant sections of the East Cambridgeshire District Council Revised Statement of Licensing Policy, October 2010, and S182 Revised Statutory Guidance to the Licensing Act 2003.

Members were requested to consider the application on its merits, and in accordance with the Revised Statutory Guidance issued under S182 Licensing Act 2003, the Council's Revised Statement of Licensing Policy, the information contained within the Officer's report, and having due regard to the Applicant and the parties/authorised bodies making relevant representations.

Having regard to the representations made by other persons, the Licensing Authority could determine the variation of a premises licence application as follows:

- To grant the premises licence variation;
- To reject the whole or part of the application;
- To modify the conditions of the licence;

and for this purpose the conditions of the licence were modified if any of them were altered or omitted or any new condition was added.

The Licensing Officer reminded the Sub-Committee that should there be a decision to modify the conditions of the licence or reject the whole or part of the application the Applicant could appeal to the Magistrates' Court. The right of appeal was 21 days from the date of the notification of the decision, and there would be costs associated with this process.

Similarly, where a person who made relevant representations desired to contend that any variation made ought not to have been made or that when varying the licence the Licensing Authority ought not to have

modified the conditions or ought to have modified them in a different way, then the person who made the relevant representation could appeal the decision. The right of appeal was 21 days from the notification of the decision and there would be costs associated with the process.

At the invitation of the Chairman, Mr Steven Haslam, owner of Grand Central, addressed the Sub-Committee in support of his application and made the following points:

- He was the owner of TLC Inns Ltd and this included the Cutter Inn. When he took over the Cutter 8 years ago it was not the nicest place, but it had now had over 1 million visitors and there had never been any problems. There had never been any cause to call the Police and the establishment had been well received in the community. He was aware that the Cutter was located in a residential area and his neighbours were also his customers. He had always done what he could to mitigate any problems.
- The Boathouse was a failing business, but he had invested £250,000 to refurbish the property. This had included putting in single skinned soundproofing and installing a new double baffled extractor system which was the quietest on the market. He had not been asked to do this, but had chosen to do so.
- After having spoken to Mrs J Crick he had added acrylic feet to the furniture in the restaurant and lowered the wattage of the speakers in the toilets in order to reduce noise levels. He had also introduced log sheets for the extractor system and the music, and added signage asking patrons to keep the noise down. He reiterated that he would do everything he could to mitigate any problems that might arise.
- Grand Central was a restaurant, not a late night music venue. With regard to holding a Superbowl event, it was important that he was able to cover all facets to his business.
- Grand Central was the earliest closing venue on the riverside; he had no desire to stay open late.
- He did not believe that his business was affecting the Riverside Inn. Indeed, some of the Inn's customers had said they believed there was a benefit to having a restaurant close by and there had been no complaints about noise.
- The Grand Central restaurants were open in other areas, and all were well managed. He was always willing to listen to concerns and help to mitigate problems, and he believed that he had already demonstrated this.

The Chairman provided an opportunity for Members and the Objectors to ask the Applicant questions.

Mrs P Crick asked for clarification regarding the use of the upstairs part of the building. The Licensing Officer referred her to the mediation notes, saying that it had been made clear that only the downstairs area would be used. Everything had to be mapped as 5-5A Annesdale, and there had been no application for the use of the upstairs area.

Councillor Fordham had a number of questions. He asked in which direction the extractor fan faced and Mr Haslam replied that it faced to the rear at the back alleyway. Councillor Fordham commented that such fans were noisy and Mr Haslam said that it was switched off at 10.30pm once it had cooled down. It was a brand new system, the quietest on the market, and it was very very quiet.

Councillor Fordham next raised the issue of music, suggesting that the “boom, boom, boom” going on until 12.30pm would disturb nearby residents. Mr Haslam responded by saying that Grand Central was an American bar and grill; it had Americanised music, not bass-led. It would be easy listening for diners rather than a party atmosphere. Councillor Fordham then asked him if he had been close to the homes of the objectors to check what could be heard. Mr Haslam said, yes, he always did this and he was also very cautious about where speakers were positioned so as to try and lessen any potential problems.

Mr Haslam asked Members to remember that there had always been music played at the premises because it had formerly been a restaurant with background music. He had done everything he could to mitigate the noise and he did not feel he should be penalised for being successful. He continued, saying that people did not realise how vibrant the riverside and Ely were becoming and he wanted to make it a better place. It would be good for the local economy. He felt it was fundamentally wrong to want to put restrictions on his business when other places had longer hours. He asked that people should look at his history because they would see that he did what he said he would.

Councillor Ambrose Smith noted that Mr Haslam was an experienced operator and she asked if Grand Central was run separately from the Cutter. He confirmed that it was, and they were two very different businesses. Grand Central did not have a bar, it was food led and could not cater for large numbers of people just wanting to drink. With regard to regulated entertainment, he wished to be able to put on themed evenings offering food and entertainment.

The Chairman enquired why Mr Haslam had decided to get involved in Grand Central when the Cutter was so close by. Mr Haslam replied that it was in a very good location, he knew the market and he did not want the premises to fall into the hands of a competitor.

Mrs P Crick asked Mr Haslam whether food would be served during the Superbowl. He replied that this was the biggest sporting event in the U.S. calendar and he would make it a ticketed event so that it could be kept under control. There would be a buffet and drinks for maybe 50 people on

this one night of the year. He did not know if people would go for it, and if they did not, then it would not be repeated, but he wanted permission to try.

With regard to a further question about New Year's Eve, he said he had no desire for the event to go on past 00.30 – 01.00 because the later it went on, the more it invited problems. This would go ahead under "grandfather rights". By way of clarification, the Licensing Officer explained that this was an embedded allowance; if the application was refused, it would not be taken off because events of this type could be held by means of a Temporary Event Notice (TEN). It would be up to her colleagues/the Police etc if they wanted to impose conditions.

Mr Haslam remarked that Grand Central was a concept, and the Cutter never had a late night finish on New Year's Eve because people tended to dine and then migrate up into the town centre.

The Senior Environmental Health Officer informed the Sub-Committee that she and the Environmental Health Officer had visited Mr and Mrs Haslam to discuss any potential problems before they submitted their application. During an inspection of the premises the ground floor party wall had been noted and the upstairs had been highlighted as an area of concern; Mr Haslam had been emailed regarding these concerns. In respect of public nuisance, it was very unusual for the Council to raise objections to a TEN, however, if there were any problems a review of the licence could be requested and discussions held.

The Senior Environmental Health Officer drew the Sub-Committee's attention to the first bullet point at the top of page 7 of the Officer's report. As the Applicant had requested that live/recorded music should finish at 00:30, this point was superfluous and could be removed from the application.

Mr Mark Duckworth, representing Mrs Liliya Povedaiko, said he wished to know to what specification/standard the sound insulation had been built. Mr Haslam replied that this was not Mr Duckworth's concern; the trading area was detached from Mrs Povedaiko's property and was not insulated, whereas insulation had been put in to protect Mrs Crick. When asked by the Chairman why he had made this comment, Mr Haslam replied that Mr Duckworth was acting for Mrs Povedaiko, and he had been talking about the other party, Mrs Crick.

At the invitation of the Chairman, Mrs P Crick addressed the Sub-Committee in objection to the application and read from the following prepared statement:

*"My name is Paula Crick. I have prepared a brief statement on behalf of my mother-in-law Mrs Jacqueline Crick who owns the adjoining property at 4 Annesdale. Mrs Crick raised an objection in relation to the proposed licence variation in relation to the public nuisance licensing objective as she is extremely concerned that the type of events proposed and extended customer hours would be inappropriate for the current building design of the*

*Grand Central premises. In particular there seems to be inadequate noise protection on the party wall between the two properties based on Mrs Crick's experience.*

*Mrs Crick has lived in the property at 4 Annesdale with her family for over 45 years and has seen many changes in Annesdale during this time, including several changes of use at the neighbouring business premises currently known as Grand Central. Mrs Crick has generally made efforts to maintain a good relationship with neighbouring businesses over the years and since the opening of the Grand Central restaurant earlier in the year has sought to communicate with the new business proprietors, highlighting her concerns directly to the managers.*

*In responding to the recent licence application, Mrs Crick highlighted a number of noise and nuisance-related activities caused by the current business operation such as loud after-hours music and excessive noise from staff clearing tables, moving chairs noisily and cleaning of kitchens continuing well after midnight. However, Mrs Crick acknowledges that these late night problems were largely teething problems and the recent measures put in place by the proprietors since 4th August seem to have addressed the issues sufficiently, so that the current situation is now just about tolerable, with the majority of customer activities ceasing before midnight.*

*However, Mrs Crick considers that the building currently occupied by the Grand Central restaurant is unsuitable for the type of additional activities proposed and late night extended operation hours will cause disruption to her sleep and further restrict the use of her property by her family.*

*The Grand Central property is a Victorian mid-terraced building constructed with very thin party walls consisting of a single skin of 4' bricks separating Mrs Crick's residential property from the Grand Central premises. Restaurant noise therefore penetrates easily through the thin party walls and often causes disturbance to Mrs Crick throughout the evening and this is beginning to affect her quality of life and enjoyment of her family home. The recent building modifications appear to be superficial only with changes of surface finishes and very little additional noise protection installed, based on Mrs Crick's experience of noise levels.*

*Mrs Crick's property is also relatively small with all of her habitable rooms (two upstairs bedrooms and two downstairs reception rooms), sharing the party wall with Grand Central, so there is no available quiet space within her house where she could escape from any noisy activities going on next door. Even her courtyard garden is adjacent to the restaurant kitchens and she has experienced unacceptable noise levels previously in relation to the extractor fans which are adjacent to her property boundary (although the applicants stated earlier that these have been upgraded recently and this is appreciated). In order to cope with the cumulative effects of the current use and existing activities, Mrs Crick occasionally sleeps at her son's house to escape from the disruption and noise nuisance*

*which already has a noticeable impact on her use of the property and lifestyle. Therefore, any extension of customer hours or intensification of noise levels would be unacceptable and may, over a long period of time, have a detrimental impact on her health.*

*The recent renovation of the application property prior to opening appears to have exacerbated the situation as the customer area has hard surface finishes such as ceramic wall tiles and slate tiles on the floors which create noise when chairs and tables are moved. These surface finishes seem to contribute to reverberant noise, and at busy times, this has a noticeable effect within Mrs Crick's property, as customers talk in increasingly raised voices to make themselves heard over the loud background music and noise generated by other customers. The party wall between the properties is also directly connected to the floor beams and this facilitates the transfer of noise through to adjacent habitable rooms in Mrs Crick's house from the movement of furniture and footfall within the customer areas. In Mrs Crick's experience the noise also carries to the upstairs bedrooms which also do not have noise protection.*

*Mrs Crick has noticed that noise levels in her property have generally increased since the opening of Grand Central in comparison with previous restaurant businesses which have occupied the premises. For example, Mrs Crick now finds that she often needs to put her television on a louder volume setting to make it audible above the restaurant noise and she has been reluctant to invite friends and family to her home. Mrs Crick is especially concerned that noise from the additional late night events would affect her ability to look after her grandchildren who frequently stay overnight with her.*

*In order to minimise the impact of the proposals, Mrs Crick requests that the proprietors should make further upgrades to the party wall with an acoustic treatment. The floor and ceiling would also benefit from a softer finish to attenuate reverberant noise and minimise transfer of noise and vibration to the adjacent habitable rooms at number 4 Annesdale.*

*In relation to the proposed events, Mrs Crick is very concerned about the nature and type of events which are quite different from the current restaurant use, in particular live music, potentially with amplification, drumming and bass guitars which are likely to be much louder and more intrusive than current restaurant activities and continuing for longer hours which would be extremely disturbing. Mrs Crick requests that acceptable noise level limits should be clearly defined and a condition applied to specifically restrict the volume of amplified music after 11pm.*

*Overall, Mrs Crick does not wish to prevent the current restaurant business from operating and tolerates the current use but would only accept the proposed licence variation if suitable measures are put in place to provide some further noise protection to her property and conditions applied to more explicitly control the frequency, timing and noise limits of the proposed events."*

At the invitation of the Chairman, Mr Mark Duckworth spoke in objection to the application on behalf of Mrs Liliya Povedaiko, owner of the Riverside Inn Guest House, and he read from the following prepared statement:

*“Mr Chairman,*

*Good morning and thank you for allowing me to speak today. I have been asked to represent my clients, owners of the adjacent guest house, in my capacity as a valuer and building/party wall surveyor.*

*My aim is to convey my client’s position regarding the proposals before us and if granted, the potential implications on my client’s family welfare, business viability plus potential diminution of value of their property as well as to suggest a possible way forward.*

*At the outset, my clients wholly accept that the adjoining leaseholders, owners of (Grand Central) have the right to engage in their business activities and that this will involve at times large numbers of people and of course a degree of noise up to the current time of 12 o’clock. Whilst they respect this right to run a restaurant business although it is not easy for them and their guest house clients, they do accept the status quo. However, should a time extension plus live music and other all night events be granted, then this would represent the crossing of a red line into a manifestly unreasonable state affairs leaving my clients with little alternative, other than to contest such a decision with vigour. Again, in view of the obvious impact that such a decision would have upon them as a family, as a business and indeed on the value of their property.*

*My clients also acknowledge the tension between council policy of encouraging nightlife. While they realize that a balance has to be struck, they are understandably concerned to convey the potential implications of the proposals and simply request that the Committee come to a fair minded and reasonable determination.*

*As the matter appears to hinge upon what is deemed to be ‘reasonable’ I would like to set some context regarding the proposal before us:*

- i. The current license would be granted to the premises i.e. (not the proprietor) therefore potentially in perpetuity, to play live music/entertainment up to 12:30 AM together with the serving of alcohol. Up to twice a year namely New Year’s Eve and Super Bowl music/entertainment is proposed effectively all-night.*
- ii. In view of the time it takes for people to finally leave an entertainment venue and considering how sound travels in the still night, I want to initially focus upon the proposed conditions. Notably which, in their current form are not defined or related to any specific measurable standards from which any appropriate benchmarking can take place. Which therefore makes any assessment wholly*

*subjective. In my view a recipe for ongoing disputes and acrimony with potentially litigation being an unfortunate possibility.*

- iii. *Point 1.3 refers to live music ceasing at 12.30 while in point 1.2, amplified music simply is to be turned down after 12.30, again no clear and defined limits are stated for music per se.”*

*(Councillor Willows left the meeting at 11.01am and did not return to the Chamber.)*

At this point a brief adjournment was called between 11.01am and 11.04am while the Chairman left the Chamber.

Upon the Chairman's return, Mr Duckworth continued with his statement:

- iv. *Point 1.5 continues with a particularly imprecise and ultimately subjective approach to noise abatement. I quote ‘ staff to aurally check external areas regularly for elevated noise levels during events involving regulated entertainment and appropriate measures taken to reduce and control noise emissions at the time if considered likely to cause excess disturbance to neighbouring properties.*

*Clearly, what the restaurant staff deem to be acceptable is almost certainly not going to be the same as someone in one of the neighbouring properties, seeking to relax or even sleep. For people staying over at the guest house for a relaxing weekend seeking to enjoy the ambience of the Riverside plus Ely's other cultural attractions, is it really appropriate to expect the restaurant staff to be the arbiters of what is acceptable regarding noise?*

*I would now like to turn to the Council's own revised statement of licensing policy.*

*Page 8 section 1.24 ‘ the licensing authority will seek to balance those factors against its duty to promote the four licensing objectives and the rights of residence to peace and quiet. Under section 5-prevention of public nuisance section 5.1 the second sentence says ‘ ECDC wishes to maintain and protect the amenity of residents and other businesses from the potential consequence of the operation of licenced premises, whilst recognizing the valuable cultural social and business importance that such premises provide’.*

*This I believe is a crucial consideration whereby, before a licence is granted an effective preventative assessment can be determined with the clear aim of protecting the amenity and enjoyment of residents from the potential consequences, that granting such a licence extension, may otherwise have.*



*In view of the importance of this particular point, I would if I may respectfully request that the Committee carefully weigh this point up, on behalf of my clients.*

*The policy statement goes onto say that stricter conditions will apply, including controls of licensing hours where licensed premises are in residential areas.*

*Whilst the policy document refers to the presence of noise limiting features, as this criteria is currently not expressly defined, in its absence we must surely revert to recognized standards such as Part E of the building regulations, which sets out minimum requirements for acoustic insulation and what is deemed to be acceptable/ permissible noise levels.*

*At 5.7 the document refers to having regard to the particular type of premises and/or activities: e.g. adoption of best practice guidance, again we refer to building regulations part E to include the installation of soundproofing and sound limitation devices in order to achieve the minimum requirements under what would be the case with the current regulations.*

*Finally, section 1.16 deserves particular emphasis as it states ‘ The use of wording such as must, shall and will is encouraged. Licence conditions must be precise and enforceable and must be unambiguous and clear in what they intend to achieve.*

*May I ask if the Committee regard the present conditions as meeting these policy objectives in this instance?*

*I should now like to turn to several published on line reviews, specifically on the subject of sound within the restaurant.*

*Reviewed 24th of June 2014 The noise level was so high that the waitress had to turn the music down as she could not hear what we were ordering.*

*Third of June 2014: Music was blaring out to the point we could barely speak to one another without shouting across our table.*

*14th of June 2014: Music is too loud and if you use the loo take your earplugs as it is even louder.*

*There are a number of quotes but I would quote a review from 3 August 2014: ‘the music means that a level of shouting across the table is necessary and they will turn the volume down, but up again a few minutes later’.*

*Mr Chairman in view of the fact that this is supposed to be background music, as these comments relate to the current situation, can we venture a thought for the effects of proposed live music going on later into the early hours when sound travels that much more effectively?*

*From my own professional perspective, I would like to explain some fundamental problems with what are for the most part physically attached Victorian buildings. Firstly, party walls are in places very thin i.e. just a single brick party walls as opposed to thick and dense sound insulating wall construction, furthermore wooden floor joists form an integral part of the structure between the buildings, as a consequence of this such buildings, any noise produced can create echo chambers and where particularly low frequency sounds are produced (such as bass and percussive sounds) will readily transfer via the connected building elements to the adjacent properties.*

*Whilst I understand that some soundproofing has been undertaken within the premises, to my knowledge this is not been applied consistently throughout. In simple terms, this is not something that you can do a little bit of, it has to be consistent and it has to be according to publish standards in order to be in any way effective.*

*Before finally coming to my conclusions I would like to quote from two reports posting recent years one from the World Health Organisation concerning noise pollution and one from the Halifax bank with regards to the effect of decreasing value the property.*

*The former World Health Organisation report guideline of community noise I quote 'The results of annoyance are privately felt dissatisfaction, publicly expressed complaints to authorities (although underreporting is probably significant), and the adverse health effects already noted'.*

*The latter refers to the top ten devaluing factors of properties, top of the list at 49% of this particular section refers to noise from neighbouring properties.*

*In conclusion, my clients accept that Grand Central retains the inherited grandfather rights whereby a certain amount of noise up to 12 o'clock is part of business reality in this instance.*

*However they strongly urge the Committee to very carefully consider the impact of the proposed licence changes which would be in perpetuity.*

*They also urge that particular serious consideration be given to the current council policy where it states that the potential consequence of the operation of licensed premises be considered prior to the granting of such licences.*

*Practically speaking, in view of the time it takes the people to depart following a licensed entertainment venue, particularly where there is food and drink and in this case with pavement terrace; consideration should also be given to the likely time for people to fully disperse which then creates additional noise externally and the still air of night-time. Furthermore, kitchen and cleaning staff not least noise extraction fan units are likely to also continue after the proposed deadline.*

*All in all, this extends realistically the actual time that noise is likely to be produced in what remains in part a residential area.*

*Such older Victorian buildings and particularly this venue with a considerable square meterage of thin single brick party walls clearly represents a significant problem without fundamental soundproofing to predefined/agreed levels.*

*Lastly, in view of the extremely high risk of generating not only excessive noise late into the night but also therefore the need for appropriate remedy, this I would suggest is a crucially important decision.*

*Thank you very much.”*

Mr Haslam responded by saying that the reviews to which Mr Duckworth referred related to noise from inside the building, not outside it. Some customers came to the premises thinking they would get a different experience to what they actually got. The insulation was better now than it had ever been before, with double boarded ceilings and a double insulated wall. The adjoining wall was not tiled, and Mr Haslam said he believed he had done everything he could; he was not trying to turn Grand Central into a “2.00am Ta Bouche”.

Addressing Mr Haslam, Mrs J Crick said she had a good working relationship with him, but noise was still penetrating her property. There was also a slight problem with people smoking outside her window and this went on late into the evening. Mrs P Crick added that although she appreciated what had already been upgraded, there was a big difference with what Mr Haslam was proposing and what he was doing already – more needed to be done.

Mr Haslam replied that he had submitted the application for a variation to the licence because he wanted everything to be out in the open, whereas he could have put on events by applying for TENs. Grand Central was a restaurant serving drinks and on the odd occasion there could be themed events such as a Michael Bubl  impersonator rather than something like Iron Maiden. The restaurant was four times busier than it had previously been and he had put measures in place. He did not have to replace the extractor but had chosen to, and he had invested money over and beyond what he could have done. If the venture proved to be financially viable, he would take further measures but he wished to reiterate that he was not turning the place into a late night music venue.

The Licensing Officer interjected to draw attention to the Live Music Act 2012 and Deregulation of Schedule 1, saying that the Council tried to work with licensed premises to get round the Act.

The Senior Environmental Health Officer remarked that with regard to the volume being turned down, there would be no amplified music at Grand Central after 00:30 hours.

She continued, saying that conditions were placed on 99% of licensed premises in the District and the Council had to be certain that control would be exerted by the management. Experience had shown that complaints were very few and far between because the Licensing Authority worked with applicants. There was no measurable standard for noise nuisance and what was right for one premises might not be for another. Noise limiters would only usually be appropriate where the management of a premises could not control levels themselves. It was not thought that a noise limiter could be asked of this location at this time.

Highlighting Mr Duckworth's reference to the World Health Organisation, the Senior Environmental Health Officer agreed that noise nuisance was a problem. However, it came down to what was reasonable; any complaints would be investigated and if necessary, the licence would be called in for review.

Mr Haslam said that out of courtesy to his neighbours, and with regard to Mrs J Crick, he was happy to offer a compromise. He duly proposed that live music should end at midnight and amplified music finish at 00.30 hours. Mrs P Crick responded by saying that they just wanted the noise levels to be noticeably different. She also asked that a building survey be carried out on the premises.

With regard to this latter point, the Licensing Officer commented that asking for a full building survey, without knowing the cost, might be considered an unreasonable condition and might not be effective. If noise was a problem, readings could be taken as proof, the licence reviewed, and then appropriate conditions imposed.

Mr Duckworth thought it would be sensible to have an acoustic engineer conduct tests because one party was being subjugated to gross noise and the other business was being disturbed. People came to this area of Ely for peace and quiet and he thought it would be unreasonable to have to fight the matter through the courts.

Mr Haslam reminded the Sub-Committee that Grand Central was one of three licensed premises on the riverfront, and such conditions had not been requested for either the Cutter or the Maltings. The other premises had not been acoustically tested and he believed that this debate was now getting out of control. He believed that he had made a perfectly good offer and he questioned how far he was expected to go; he felt he was being penalized for being successful.

Councillor Fordham agreed that the business was very successful, but said that having had a lifetime of working in buildings, he knew that sound could travel up into Mrs Crick's bedroom through the woodwork. He suggested that the wood could be on hangers; the work should be carried out properly and correctly.

Mr Haslam repeated his contention that he was being penalized for being financially successful, and this was fundamentally wrong. This hearing was about the licensing objectives, not other issues.

The Chairman expressed concern about what happened at Grand Central after closing time, given Mrs Crick's statement. Mr Haslam acknowledged that there had been teething problems at first. There had been such high levels of trade that it was taking 2 – 3 hours to clear up after closing time. However, Mrs J Crick had said that things had subsided and he had addressed every problem.

At this point Mrs Haslam interjected to say that since the mediation meeting, a diary had been pinned to the wall so that the times that the music went off could be noted. Mrs Povedaiko asked the Environmental Health Officer to confirm whether any complaints had been received since the mediation meeting. Mrs Braybrook confirmed that a complaint had been received and she had sent out a letter to the complainant and was awaiting a response. When the response was received, she would go out and investigate. The Licensing Officer added that at the mediation meeting, Mrs Crick had acknowledged that the after hours staff were no longer doing the cleaning; this was now carried out by a morning cleaner.

Returning to the issue of insulation, Mr Duckworth stated that some of it was not equipped on the requisite party wall. He asked the Sub-Committee to consider how peace and quiet was to be enjoyed if the proposals were to go ahead. Mr Haslam repeated that he had put in the sound proofing in good faith, and he had just suggested a thoughtful and honest compromise by offering to turn off the live music at midnight. He had the feeling that something was being missed and the discussion was going round in circles.

In order to move matters on, the Senior Legal Assistant suggested that the objectors should be asked for their thoughts about Mr Haslam's offer.

Mr Duckworth thought that there would not be much differential between the live and recorded music because the noise would still travel. Based on an architect's opinion the sound would travel unless the premises was sound proofed in its entirety.

Mrs P Crick thought the suggestion to be good, but the situation would still need to be monitored.

The Licensing Officer reiterated that if the condition was accepted, live music would finish at midnight and the amplified music would cease at 00:30 hours. Anything after this would be a breach of conditions, although she anticipated that the Applicant would not breach the condition. Mr Haslam concurred, saying that it seemed sensible to make it midnight as this would be more acceptable to the neighbours.

Mrs P Crick expressed concerns about the Superbowl event, wondering how noisy customers would be controlled in the early hours. Mr Haslam said it would be as at any other time, with respect to the neighbours. He wanted to be out in the open about the event which was only once a year and there was no guarantee that it would be successful. Mrs P Crick then asked if the event had to run until the time stated and Mr Haslam replied that it depended when and where the Superbowl was held in the United States. Timewise, the UK was 5 hours ahead of the States. He sought to reassure Mrs Crick that he would do everything he could to reduce any nuisance and he would let her know in advance how many tickets he had sold.

The Chairman, having established that nobody had anything further to add, announced that the Sub-Committee would retire to deliberate on the application and then return to announce the decision.

The Sub-Committee retired from the Council Chamber at 11.45am and returned to the Council Chamber at 12.10pm.

The Chairman announced that Members were minded to grant the Application to vary the Premises Licence and to modify the conditions by omitting the condition “the volume of the amplified music in the premises to be turned down after 00:30 hours” and with the additional condition that the internal music will cease after midnight on any night and amplified/recorded music to cease at 00:30 hours.

At the request of the Chairman, the Senior Legal Assistant read out the reasons for the decision and the right of appeal:

*“Members are aware that they are to consider the steps and issues relevant and necessary to promote the 4 licensing objectives and that in determining this application, they are to promote these objectives in the overall interests of the local community.*

*In summary, Members confirmed that they were of the view that the risk assessment carried out by the Applicant addressed the licensing objectives and having heard the representations made today, they considered that the licensing objectives were met. Members would expect the Applicants and staff to continue to monitor noise in the premises and staff activity closely to ensure that the standards continue to be met.*

*The applicant or any person who made a relevant objection has a right of appeal against this decision. Notice must be given to Peterborough Magistrates’ Court within 21 days of notification of the Sub-Committee’s decision.”*

Mr Haslam thanked the Sub-Committee and said he wished to assure the neighbours that they could contact him with any issues and he would do what he could to address them. Whereupon,

It was resolved:

That the Application to vary the Premises Licence be granted, subject to the modification of the conditions by omitting the condition “the volume of the amplified music in the premises to be turned down after 00:30 hours” and with the additional condition that the internal live music will cease at midnight on any night and amplified/recorded music to cease at 00:30 hours.

The meeting closed at 12.13pm.