

# EAST CAMBRIDGESHIRE DISTRICT COUNCIL

## Licensing Act 2003

### Notice of Determination of Licensing Sub-Committee Hearing

- Date of Hearing:** Wednesday, 10<sup>th</sup> September 2014
- Sub-Committee Members:** Councillor Christine Ambrose-Smith  
Councillor Colin Fordham  
Councillor Chris Morris (Chairman)  
  
Councillor Sue Willows (Reserve Member)
- Officers:** Lin Bagwell – Licensing Officer (Enforcement)  
Maggie Camp – Senior Legal Assistant  
Janis Murfet – Democratic Services Officer
- Applicant:** TLC Inns plc
- Responsible Authorities:** Karen See – Senior Environmental Health Officer (Domestic)  
Claire Braybrook, Environmental Health Officer (Domestic)
- Persons making Representations** Mrs P Crick on behalf of Mrs J Crick  
Mr M Duckworth on behalf of Mrs L Povedaiko-Tamosaitis
- Application by:** TLC Inns Ltd
- Premises Address:** Grand Central, 5-5A Annesdale, Ely, Cambridgeshire CB7 4BN
- Date of Application:** 16<sup>th</sup> July 2014
- Details of Application:** Application to Vary a Premises Licence under Section 34 Licensing Act 2003 for Grand Central , 5-5A Annesdale, Ely CB7 4BN as set out below:

<b>Licensable Activity</b>	<b>Hours</b>
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 Regulation Entertainment – plays, films, indoor sporting events, live music, recorded music, performance of dance and entertainment of a similar description	Monday to Sunday 09:00 hours 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 23:00 to 05:00 hours. Outside drinking to cease at 23:00 hours.

Removal of embedded conditions from Licensing Act 1964	
Addition of workable and enforceable conditions to the premises licence operating schedule	Detailed below at "Conditions consistent with the Operating Schedule" and "Outside Seating Area Conditions"
Changes to the premises plan to include the outside eating/drinking area for consumption of alcohol	09:00 hours to 23:00 hours daily
Continuation of the current opening hours of the premises	Monday to Sunday 00:01 to 00:00 hours and from end of prescribed hours New Year's Eve to start of prescribed hours on New Year's Day. Non Standard timings in addition: The annual date of the Superbowl 09:00 to 05:00. Outside drinking to cease at 23:00.
Addition of Mandatory Conditions in relation to:- Premises Licence – Sale by Retail of Alcohol Premises Licence – Irresponsible Drink Promotions Premises Licence – Dispense of Alcohol Premises Licence – Provision of Free Tap Water Premises Licence – Age Verification Policy Premises Licence – Measures of Alcohol Premises Licence – No sale of Alcohol for less than the Permitted Price	These conditions are required by law to be imposed upon any new premises licence by the Licensing Act 2003
Conditions consistent with the Operating Schedule – the Applicant has undertaken a risk assessment to identify these steps in relation to the four licensing objectives.	<p>A sensible drinking policy to be in place</p> <p>Staff training to be given in relation to proof of age, underage drinking and refusal register.</p> <p>CCTV to be operated at the premises internally and externally.</p> <p>Appropriate external lighting to be provided.</p> <p>No drinks promotions or discounts to be offered.</p> <p>All escape routes to be highlighted and staff to be trained in the process of evacuating the building.</p> <p>Correct fire extinguishers to be kept in place on the premises.</p> <p>No glassware or drinking to be allowed outside the premises after 23:00 hours.</p> <p>Proof of age scheme "Challenge 25" or current official proof of age scheme to be adhered to.</p> <p>Clear and legible notices to be prominently displayed at all exits requesting the public to respect the needs of local residents and to leave the premises and the area quietly.</p> <p>Except for ingress to and egress from the premises, all doors and windows to remain closed during events involving regulated entertainment.</p> <p>The volume of amplified music in the premises to be turned down after 00:30 hours on any night.</p> <p>Internal live music to cease at 00:30 hours on any night.</p>

	<p>Recorded music between the hours of 00:00 and 00:30 to be limited to background music only.</p> <p>Regular monitoring of noise levels to take place outside the premises. 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 that time if considered likely to cause excess disturbance to neighbouring properties. Written records of checks to be kept and made available to the Local Authority on request.</p>
<p>Outside Seating Area Conditions – these conditions to apply to the external area adjacent to the side of the premises as edged red on the plan lodged with the Licensing Authority showing that external area</p>	<p>Cambridgeshire County Council's policy for "Tables and chairs positioned on the Highway" to apply to the premises outside pavement dining area.</p> <p>Application to first be made to Cambridgeshire County Council Highway Authority and County Council officers to assess the application before any tables and chairs are permitted to be located on the public highway outside the premises.</p> <p>Whilst the external seating area is in use by the premises, it must be adequately supervised; checks must be made at half hourly intervals (this to include removal of empty glassware and breakages etc)</p> <p>The area used to be clearly delineated by barriers provided by the venue and to be limited to 13 tables accommodating 60 covers in all.</p> <p>Whilst that area is in use by the premises, staff must ensure any customers who may be smoking in that area do not encroach upon the public right of way and allow free and unfettered access to persons wishing to use it. The external side seating area must not be used by the venue after 23:00 hours each evening.</p> <p>The Police will liaise with Management concerning use of this area by the venue and in the event that there should be any issues that undermine one or more of the licensing objectives, the Management, having been notified, will use their best endeavours to address the situation in good time and if necessary remove the tables from use until such a time it is agreed by the Police in writing that those concerns are addressed.</p> <p>The Environmental Health Officer will liaise with the Management concerning use of this area by the venue and in the event that there should be any issues that undermine the public nuisance licensing objective, the Management having been notified will use their best endeavours to address the situation in good time and if such issue is not addressed and a public nuisance is proved, if necessary the tables and chairs will be removed from use until such time as it is agreed by the Environmental Health Officer and those concerns are addressed.</p> <p>Notices to be placed in the external area, requesting customers to respect the needs of local residents.</p> <p>Notices to be placed in the external area requesting customers to ensure that they remain within the approved area and do not take glass drinking vessels from that area.</p>

## **Oral and Written Evidence presented to the Hearing**

### **Written Evidence**

The Sub-Committee members have read the material presented to them and listed below:

The Licensing Officer's Report – this included:

- 1) A copy of the applicant's application form and proposed operating schedule, which sets out the list of measures to be taken to ensure promotion of the 4 licensing objectives;
- 2) Copy of the Premises application newspaper notice;
- 3) Copy of the written representation from Mrs Jacqueline Crick, 4 Annesdale Ely CB7 4BN dated 4<sup>th</sup> August 2014;
- 4) Copy of the written representation from Mrs Lilija Povedaiko-Tamosaitis, 8 Annesdale Ely CB7 4BN dated 5<sup>th</sup> August 2014;
- 5) A table of areas of concern raised in representations made by other persons;
- 6) Extracts from East Cambridgeshire District Council Revised Statement of Licensing Policy dated 12 October 2010;
- 7) Extracts from the Revised Guidance issued by the Home Office under s182 Licensing Act 2003; and
- 8) Notes of the Mediation Meeting of 20<sup>th</sup> August 2014.

### **Oral Evidence**

The Sub-Committee members heard the following oral evidence:-

#### **The Licensing Officer**

The Licensing Officer ran through the salient points of her report. She confirmed the current opening hours and highlighted the variation in hours and activities sought by the Applicant, including changes in the plan of the areas to be covered by the premises licence. The Licensing Officer confirmed the mandatory conditions which now needed to be attached to the licence as required by law and which were detailed in her report.

She also referred to the steps which had been put forward by the Applicant to address the licensing objectives after undertaking a risk assessment as detailed in her report and that steps had been suggested in relation to the outside seating area. She drew the committee's attention to one of the steps put forward with regard to the volume of amplified music to be turned down after 00:30 and added that this was superfluous given that the music must cease at 00:30 in any event.

She confirmed that a notice had been placed in the local newspaper advertising the application for a variation and that no representations had been received from any of the Responsible Authorities. The only representations that had been put forward were from members of the public and outlined that only two had related to the licensing objectives and these were from Mrs Crick and Mrs Povedaiko-Tamosaitis. Two other representations had been received from Mr and Mrs Powell and Mr and Mrs Watkinson. All representations had been emailed to the Applicant on 14<sup>th</sup> August 2014.

She then referred to the mediation hearing on 20<sup>th</sup> August 2014, where local residents raising representations met with representatives of the Applicant at the Council offices to discuss their concerns. At the mediation meeting, the representations put forward by Mr and Mrs Powell and Mr and Mrs Watkinson were deemed not to be relevant to the licensing objectives.

It was also 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 Applicant**

Mr Steve Haslam spoke on behalf of the Applicant company. He outlined that he and his wife own TLC Inns Ltd. They also own The Cutter Inn as well as Grand Central. They took over The Cutter Inn some 8 years ago with considerable investment and the Cutter had attracted over 1 million visitors since they took over. They have not experienced any problems with the running of The Cutter Inn and have never had reason to call the police. The Cutter Inn is a well received pub and restaurant and in turn supports the local community. They have always been conscious that The Cutter Inn is in a residential area. They have an outside seating area, which has been well managed.

He explained that they had taken over Grand Central when it had formerly been The Boathouse restaurant, which was a failing business and had already invested a considerable sum into the business to refurbish the premises. He outlined that he had been made aware that there was a single skin wall and this had been soundproofed. He had not been asked to do this; he felt that it would help limit the noise for his neighbours. They had also invested in a brand new extractor system which was double baffled and was the quietest on the market. The air conditioning system had also been replaced as part of their efforts to reduce all noise.

After Mrs Crick had mentioned the noise from furniture being moved across the wooden floor, acrylic feet had been added to all furniture. As a side issue, he also confirmed that following the mediation meeting, he had arranged for a lower wattage on the speakers in the toilets so that the noise was lessened.

Mr Haslam also outlined that log sheets were being kept which document when the extractor systems and music are turned off and on to ensure that they have a record just in case any problems arise and they can then check whether it is in fact noise from their premises which could be at fault. Signage had been placed at the premises asking patrons to respect local residents and to keep the noise down when leaving the premises.

Mr Haslam wanted to make clear that Grand Central is a restaurant which sells drink and is not a late night music venue; the music will be supplementary. He had also included in the application things which they would be able to have if wanted, for example, late night opening for the annual Superbowl. He outlined that it was important that all facets were covered. He also wished to make it clear that Grand Central will still have the earliest closing time on the riverside as The Cutter Inn is open until 1 am and Ta Bouche, also on the river, closed at 2 am. He has no desire to open until 12:30 every night but would like the ability to do so, so that he can boost trade when it is at its quietest.

He said that Grand Central had not affected the Riverside Inn next door as he had looked at 50 online independent reviews from their customers and noise from Grand Central had not been mentioned. These reviews were posted on an independent and open forum. He felt that the objectors had a lack of understanding as to what Grand Central was hoping to do.

He also outlined that TLC Inns operate 6 other venues, many of which were in residential areas and they had no problems. 3 of the venues have play areas and these are well managed and they get on with all of their neighbours in all venues.

In response to a question from Mrs P Crick on behalf of Mrs J Crick to the Applicant, the Licensing Officer confirmed that the application was in respect of the downstairs area of Grand Central only and that the property is known as 5/5A Annesdale.

In response to a question from Cllr Fordham, Mr Haslam confirmed that the extractor fans are situated at the rear and back alleyway so they are not directed to the front of the building. He confirmed that they were switched off at 10.30 pm each evening to allow time for them to cool down before the premises closed. In response to a question regarding the type of music played

at Grand Central, Mr Haslam outlined that as it is an American bar and grill, the music tended to be soul and Americanised music, not bass led music which tended to cause problems. It was more easy listening for diners as background music. There is no room to dance so the music is aimed more for atmosphere.

When asked whether Mr Haslam had been to the homes of the residents to check the noise, he confirmed that they do outside hearing tests at all of their premises and they had made sure that the speakers in Grand Central were sited accordingly after carrying out such tests. He outlined that music was not a new thing to Grand Central, as music would have been played when the premises was a restaurant before. He said that at The Cutter Inn, they have houses at 3 points around the premises with no problems. The Cutter Inn tended to be busier than Grand Central as it is a bigger premises and a level of respect is needed in terms of managing noise levels.

When questioned as to whether the Applicant would be running Grand Central as a separate business to The Cutter Inn, he confirmed that it would not be run as an annex to The Cutter Inn; it would be a totally separate business. He outlined that The Cutter Inn is a bar and a restaurant whereas Grand Central is a restaurant which sells drinks and it does not have a bar. He said that it was a small building and 70% food led, which was the same as the Basildon branch of the business. He was asked whether the premises would encourage people to drop in just for drinks. He explained that due to the sheer nature of the business being food led, it would not encourage people to drop in for drinks and in any event, he could not have people in the restaurant just drinking.

When asked whether the variation would give them more scope for the business, he replied that it would as it would be something supplementary for customers of the restaurant, for example a Michael Buble evening. When questioned why he had become involved with Grand Central with The Cutter Inn so close by, Mr Haslam confirmed that it was such a good location and he wanted to take it over and do well, which he had.

One of the residents questioned Mr Haslam regarding activities being food led as she wanted to know whether on the night of the Superbowl, food would continue to be sold until 5 am in the morning. Mr Haslam explained that the Superbowl event would be a ticket only event so they would know how many people would be coming. In Ely, he envisaged this would only be around 50 people and a buffet would be served through the night with drinks. He said this would be one occasion when it would be an even split between food and drink and he wasn't sure whether Ely would buy into the experience. It would therefore only take place if all tickets were sold so if he cannot sell all tickets then the event will not happen. He felt that as it was an American bar, then it should support the biggest event in the American calendar.

In relation to New Year's Eve, he said that he had no desire to go beyond 12.30 to 1 am. At this point, the Licensing Officer clarified that this element of the premises licence would continue as it is covered by the grandfather rights so will not be removed in any event if the application were refused. She also clarified that for the type of events applied for, these could be done under a Temporary Events Notice 12 times a year. However, the Applicant wished to include these so their plans are out in the open and everyone knows what they are allowed to do.

The Applicant further clarified that Grand Central would not be open late on New Year's Eve as it tended to attract the early dinner trade, as people then tended to migrate to places to drink and dance later in the evening.

## **Responsible Authorities**

### 1) Karen See, Senior Environmental Health Officer, East Cambridgeshire District Council

Ms See confirmed that she had visited the Applicants before the application had been put into the authority to address any potential problems. She confirmed that she visited on 19<sup>th</sup> May with Mrs C Braybrook and they had both looked at the premises, including the insulation to the party wall. She outlined that one of the concerns were the upstairs rooms and these had been highlighted as an area of concern, because of an adjoining bedroom and access. She outlined that certain controls can be placed on the downstairs and outside but only on the upstairs if this area were to be included in the premises licence. They had discussed the wide range of things proposed with the applicant and she was of the view that the steps taken by the Applicant would address any public nuisance concerns. She also referred to the Superbowl event and said that this could have been covered by a Temporary Event Notice.

If any problems were raised with her as a responsible authority, she can ask for a review of the premises licence and they could then propose any changes and improvements needed. She also outlined the point raised by the Licensing officer that one of the measures put forward for the music to be turned down were superfluous, as the music would cease at 12.30 pm and there would be a quieten down period between midnight and 12.30 pm. Therefore the music would be turned off at 12.30 and not turned down.

### **Persons making Representations**

#### 1) Mrs P Crick on behalf of Mrs J Crick

Mrs Crick explained that she had prepared a brief statement on behalf of her mother in law, Mrs Jacqueline Crick, who owns the adjoining property at 4 Annesdale. She confirmed that Mrs J Crick had raised an objection in relation to the proposed licence variation in relation to public nuisance as she is extremely concerned that the type of events proposed and the extended customer hours would be inappropriate for the current building design of Grand Central. She outlined that Mrs J Crick felt that there was inadequate noise protection on the party wall between the two properties based on Mrs J Crick's experience.

She outlined that Mrs J Crick had lived at 4 Annesdale for over 45 years, and has seen many changes during this time, including several changes in use at the neighbouring business premises, currently known as Grand Central. She has made efforts to maintain a good relationship with neighbouring businesses over the years and since the opening of Grand Central earlier in the year, has sought to communicate her concerns to the new owners.

Mrs J Crick was concerned about a number of noise and nuisance related activities caused by the current business such as loud after hours music and excessive noise from staff clearing tables, moving chairs noisily and cleaning of kitchens continuing well into the night. However, she acknowledged that these late night problems were largely teething problems and recent measures put in place by the proprietors since 4<sup>th</sup> August seem to have addressed the issues sufficiently, so the situation is now just about tolerable, with the majority of customer activities ceasing before midnight.

However, she feels that the current building occupied by Grand Central 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 Grand Central. Restaurant noise penetrates easily through the walls and often causes disturbance to Mrs Crick throughout the evening. This is beginning to affect her quality of life and enjoyment of her family home. It was felt that the recent modifications consisted only of changes of surface finishes and very little additional noise protection had been installed.

She outlined that Mrs J Crick's property is relatively small with all of her habitable rooms (two upstairs bedrooms and two downstairs reception rooms) sharing the party wall with Grand Central. She said that there was no available quiet space within her house where she could escape from any noisy activities going on at Grand Central and her courtyard garden is adjacent to the restaurant kitchen. As a result she has experienced unacceptable noise levels from the extractor fans, which are adjacent to her boundary (although the applicants had referred earlier to these being upgraded and this is appreciated).

In order to cope with the cumulative effects of the current use and existing activities, she outlined that Mrs Crick sometimes sleeps at her son's house to escape from the noise, which already has a noticeable impact on her property use and lifestyle. Therefore it was felt that 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.

She then referred to the recent renovation of Grand Central prior to opening and this appeared 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 on Mrs Crick's property, as customers are forced to speak louder to make themselves heard over the background music and noise generated by other customers.

She outlined that 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 from the movement of furniture and footfall within customer areas. The noise also carries to the upstairs bedrooms which do not have noise protection.

Mrs J Crick has noted that noise levels in her property have increased since Grand Central opened in comparison with the previous restaurant businesses which have occupied the premises. For example, she finds that she often needs to increase the volume on her television to make it audible above the restaurant noise and she has been reluctant to invite friends and family to her home. She is especially concerned that noise from the late night events will affect her ability to look after her grandchildren, who frequently stay overnight with her.

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

Mrs J Crick is concerned about the nature and type of the proposed events, as they 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. She requested that acceptable noise level limits should be clearly defined and a condition applied to specifically restrict the volume of amplified music after 11 pm. Overall, Mrs Crick wanted to make clear that she does not wish to curtail 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 before the first live event.

## 2) Mr M Duckworth on behalf of Mrs L Povedaiko-Tamosaitis

Mr Duckworth outlined that he had been asked to represent Mrs Povedaiko-Tamosaitis in his capacity as a valuer and building/party wall surveyor. He wished to raise some points regarding his client's position regarding the application and the potential implications for his client's business. He set out that his clients fully accept the applicants have the right to engage in their business activities and there will be a degree of noise, as currently, up to midnight. However if the licence is varied to allow live music and other nightly events, then his clients feel this would have an adverse impact on their business and family welfare and they must therefore voice their



concerns. He outlined that his clients appreciate that a balance must be struck between the Council encouraging nightlife and the potential implications of the proposals and requested that the committee come to a fair minded and reasonable determination.

He outlined that as the proposals seemed to hinge upon what is deemed “reasonable”, he wished to set in context the concerns. These were that the current licence would be granted to the premises and not the proprietor and therefore there were concerns that the late night live music and entertainment could be in perpetuity, including the occasions of New Year’s Eve and Superbowl. There were concerns that given the time it takes people to leave an entertainment venue and how sound travels at night, he wanted to look at the proposed conditions and outlined that it was felt that there did not appear to be any specific measurable standards which could lead to ongoing disputes. He referred to staff aurally checking external areas regularly for elevated noise levels and appropriate measures taken. However he did not think it appropriate for staff to effectively be the arbiters of what was acceptable in terms of noise.

He also made reference to the Council’s own revised Statement of Licensing Policy and the need to balance its duty to promote the four licensing objectives and the rights of residents to peace and quiet. He referred to the policy statement’s reference to stricter conditions being applied to licensing hours where licensing premises are in residential areas. However he said that whilst the policy referred to the presence of noise limiting features, those features were not currently expressly defined and in their absence, he felt that there should be a reversion to recognised 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.

He then went onto refer to several published on line reviews for the premises, which refer to the subject of sound within the restaurant itself. He referred to specific quotes which indicated that the levels of noise within the building itself were such that it was necessary to ask staff to turn volumes down and he questioned whether, if this was supposed to be background music, what the effects would be of the proposed live music.

He then went onto to explain some of the problems with Victorian buildings which were in part attached to each other. He outlined that the party walls are very thin in places, i.e. just a single brick party walls as opposed to thick and dense sound insulating wall construction. This, coupled with wooden floor joists forming an integral part of the structure between buildings, meant that as a consequence, any noise produced can create echoes through the buildings and any low frequency sounds, such as bass and percussive sounds, will readily transfer between connected buildings to adjacent properties. He acknowledged that some soundproofing had been undertaken within the premises but to his knowledge this had not been applied consistently throughout.

He then quoted from two reports posted in recent years; one from the World Health Organisation concerning noise pollution and one from Halifax Bank with regards to the effect of decreasing value in property. The first report referred to community noise resulting in annoyance and private felt dissatisfaction, publicly expressed complaints to authorities and the adverse health effects already noted. The latter report referred to the top ten devaluing factors of properties and top of the list at 49% referred to noise from neighbouring properties.

In conclusion, he outlined that his client accepted that Grand Central retains the inherited grandfather rights and therefore a certain amount of noise up to midnight is part of the business reality. He then urged the committee to consider the impact of the proposed licence changes which would be in perpetuity. He then summarised the salient points of his representation.

The Applicant

In response to the two representations above, Mr Haslam referred to the reviews from inside the restaurant. He said that some people are not sure exactly what they are in for when visiting Grand Central.

He referred to the insulation and pointed out that the insulation that he had installed at the property was much better than what had been there before as it was double boarded with insulation in between.

He referred to the comment regarding harder surfaces and outlined that the adjacent wall to Mrs Crick was not tiled. He said that he had done everything that he could to minimise noise levels and felt that the neighbours were worrying unnecessarily as he certainly had no intention of turning the restaurant into a "2 am Ta Bouche" and wished to reassure them.

Mrs J Crick outlined that she had a good relationship with Mr and Mrs Haslam but the noise was still penetrating through to her property. She said that she would not be saying this if this were not the case. She also referred to people coming out to smoke and standing outside of her windows.

Mrs P Crick referred to the application and said that this had been upgraded. She wondered what was now proposed and what the residents may experience. She commented that it was felt the restaurant was not suitable for extra events and more would be needed to have these extra events.

In response, Mr Haslam said that he had put in the application so that matters would be brought out into the open and they could be more clear about what they were about, i.e. a restaurant that also serves drink to restaurant customers and not a drinking only venue. He outlined that the previous extraction system had been replaced and he had spent some £20,000 on a new system, which was much quieter. Residents would previously have had to endure the previous system 7 days a week when it had been the Boathouse. He felt that he had invested money over and above that required. He did not feel it necessary to provide further soundproofing as the premises is a restaurant and not a late night music venue.

The Licensing Officer then referred the committee to the Live Music Act, which had been discussed at the mediation meeting. The Live Music Act amended the Licensing Act 2003, meaning that a special licence is no longer needed to stage a live music performance if it takes place between 8 am and 11 pm, takes place at a licensed premises and the audience is no more than 200 people, when alcohol is being served. There are no audience level limits for non amplified music.

Karen See, Senior Environmental Health Officer also wished to add a couple of points arising from the representations that had been made. With regard to volume levels, it was noted that no amplified music will be allowed under the licence after 12:30. She outlined that conditions are placed on 99% of licensed premises which have live music/events in the East Cambridgeshire District and these have little or no problems, as management control these effectively. The management of licensed premises in East Cambridgeshire have noise very high on their agenda for their control, so controls are exerted on premises by the applicants themselves. This means that complaints regarding licensed premises are very low in the District down to discussions etc that the Council has with premises licence holders. She also outlined that there is no measurable standard for noise nuisance, as it is difficult to get right and what may be right for one premises would not be right for another. She confirmed that she does not consider noise levellers necessary as these would only be appropriate where the management of a premises could not control levels themselves and this is not an area this authority would wish to go down.

Karen then referred to the article by the World Health Organisation; she acknowledged that this is a growing problem. However it would be late in the day to investigate further as this could be

discussed if it were necessary for a review or the Council received a complaint regarding statutory nuisance.

In response, Mr Haslam suggested a compromise that the live music was switched off at midnight and amplified music was switched off at 12:30.

Mrs P Crick said that she thought the volume levels should be halved and this would make a difference. She then queried whether it would be possible to have a condition requiring a Building Control inspection of the property.

The Licensing Officer responded by saying conditions must be reasonable and not costly. She had no idea how much such an inspection would cost but it would be unreasonable to put such a condition on the licence without those costs being made known to Members beforehand. She gave an example relating to CCTV that it would be unreasonable if Members determined that an extensive CCTV system be installed in a premises where just a basic CCTV monitoring system would be appropriate in order to uphold the licensing objectives as this would cause an unnecessary and unjustified expense for the applicant. Similarly it would not be reasonable to the applicant to make a condition requiring an inspection and an inspection may in any event not be effective. Turning to noise, if the noise were measurable and evidence could be provided that there was a problem, then it would be possible to seek a review. This would then allow conditions to be put on the licence.

Karen See added that if the licence were reviewed, then it would be possible to measure noise at that stage to see if there were any problems and consider this at the review.

Mr M Duckworth stated that there should be a full acoustic review of the property.

Mr Haslam reminded the committee that Grand Central is only one of 3 licensed premises on the riverside. Nothing had been asked of the other venues. He further commented that the Maltings was probably 20 times bigger than Grand Central and had not been asked to put in measures. He questioned how far they can be expected to go to appease the residents. He felt that he was being penalised for having a successful business. He again said that there was evidence from the online public reviews that there had been no complaints regarding noise at Grand Central from people using the guesthouse next door.

He added that he had acted in good faith with regard to the works that had already been done to the building and he felt that it was wholly wrong that he should be expected to spend more money. He referred to the teething problems which had been experienced at the premises with regard to the late night cleaning and said that the problems had now been addressed. Mrs Haslam added that following the mediation meeting and visit from Claire Braybrook, a log had been installed to ensure that staff log when the music and extractors are turned off and on and this was openly available for anyone to see.

Mrs L Povedaiko-Tamosaitis then asked Mrs C Braybrook 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 she receives a response, they will go out and investigate.

The Licensing Officer said that the issues raised by Mrs J Crick had been addressed at the mediation meeting. The Applicant had now employed a morning cleaner so no cleaning is carried out after hours, which was causing problems.

When questioned about whether the reduced hours for music put forward by the applicant would help, Mrs P Crick agreed that this was a good suggestion as long as the situation is still monitored.

Mrs P Crick said that there were worried about the annual Superbowl event and whether any measures could be put in to control customer noise.

Mr Haslam responded by saying that this was a football game that was held once a year. He could have applied for a Temporary Event Notice to cover this but he wanted to bring it out in the open that this is what they intended to do. He said that the event was not guaranteed to be successful in Ely, as it was in his other branch in Basildon.

**The following Guidance was considered:**

East Cambridgeshire District Council's Statement of Licensing Policy October 2010; in particular, paragraphs 1.30-1.34, 1.57-1.58, 1.62-1.65 and 2.1 to 2.9 and 5.1 to 5.7 (attached to the Licensing Officer's reported at Appendix 6.)

Amended Guidance issued under section 182 of the Licensing Act 2003 by the Secretary of State; in particular, paragraphs 1.16, 1.17, 2.18-2.24, 9.38-9.41 and 10.8-10.13 (attached to the Licensing Officer's report at Appendix 7)

**DECISION**

The Licensing Sub-Committee granted the Application to Vary the Premises Licence and to modify the conditions by omitting the suggested condition "the volume of 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 12:30.

**Reasons for the Decision**

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 those 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 at the hearing, 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.

**Rights of Appeal**

The Applicants or any persons who made a relevant objection has a right of appeal against this decision. Notice must be given to Peterborough Magistrates' Court, The Court House, Bridge Street, Peterborough, Cambridgeshire PE1 1ED Telephone: 0845 310 0575, Facsimile: 01733 896915 within 21 days of notification of the Sub Committee's decision.