

**MINUTES OF A MEETING OF THE  
LICENSING SUB-COMMITTEE  
Council Chamber - Town Hall  
2 December 2011 (10.30 am - 12.10 pm)**

**Present:**

**COUNCILLORS**

**Conservative Group**            Peter Gardner (Chairman) and Linda Trew (Vice-Chair)

**Residents' Group**

**Labour Group**                Denis Breading

**Independent Residents  
Group**

Mr David Dadds (Legal Adviser to the applicant), Mr Barry Drogman and Mr Ross Drogman. Havering Police Licensing Officer PC Dave Leonard and Marc Gasson, Public Protection Noise specialist.

The objector Mr & Mrs Hale were present.

Also present were Paul Jones (Havering Licensing Officer), the Legal Advisor to the Sub-Committee and the clerk to the Licensing sub-committee.

The Chairman advised Members and the public of action to be taken in the event of emergency evacuation of the Town Hall becoming necessary.

No interest was declared.

**1        APPLICATION FOR A PREMISES LICENCE UNDER THE LICENSING  
ACT 2003 ("THE ACT")**

**PREMISES**

The Shepherd and Dog,  
91 Shepherds Hill,  
Romford.  
RM3 0NP

**DETAILS OF APPLICATION**

Application for a premises licence under the Licensing Act 2003 ("the Act").

**APPLICANT**

Real English Inns Limited,  
1 Royal Terrace,  
Southend-On -Sea, Essex,  
SS1 1EA

**1. Details of the application**

<b>Plays, Films, Indoor Sporting events, Live Music, Recorded Music, Performance of dance, Anything of a similar description to live music or recorded music, Provision of facilities for Dancing, Provision of facilities for Entertainment similar to making Music or Dancing , Supply of Alcohol</b>		
<b>Day</b>	<b>Start</b>	<b>Finish</b>
Monday to Sunday	08:00hrs	00:00hrs

<b>Late Night Refreshment</b>		
<b>Day</b>	<b>Start</b>	<b>Finish</b>
Monday to Sunday	23:00hrs	00:00hrs

<b>Hours premises open to the public</b>		
<b>Day</b>	<b>Start</b>	<b>Finish</b>
Monday to Sunday	11:00hrs	00:30hrs

**Seasonal variations & Non-standard timings**

The applicant had applied for the following non-standard timings:

An extra hour on:

- Thursday, Friday, Saturday and Sunday of the Easter weekend
- Friday, Saturday and Sunday of the two May Bank Holidays
- Friday, Saturday and Sunday of the August Bank Holiday
- Christmas Eve, Boxing Day, Burns' Night, St Valentines' Day, St David's Day, St Patrick's Day, St George's Day and St Andrew's Day
- Hallowe'en if this day is not followed by a normal working day

New Year's Eve – from the end of permitted hours until the start of permitted hours on the following day.

## **2. Promotion of the Licensing Objectives**

The premises had previously benefited from a premises licence under the name “Gatsby’s”.

The applicant completed the operating schedule, which formed part of the application to promote the four licensing objectives.

The applicant acted in accordance with regulations 25 and 26 of The Licensing Act 2003 (Premises Licences and Club Certificates) Regulations 2005 relating to the advertising of the application insofar as a public notice was placed at the premises and in the local press. The required public notice was installed in the 19 October 2011 edition of the Yellow Advertiser. Both notices indicated that the consultation period ended on 13 November 2011 rather than 11 November 2011.

## **3. Details of Representations**

Valid representations may only address the four licensing objectives

There was one valid representation against this application from an interested party. The representation was based upon the prevention of public nuisance licensing objective.

There was one representation against this application from responsible authorities (Metropolitan Police) and the Public Health Services.

### Responsible Authorities

**Chief Officer of Metropolitan Police (“the Police”):** The Metropolitan Police were of the opinion that the applicant had failed to satisfactorily address the steps he intended to take to promote the four licensing objectives.

The representation outlined that with the amount of re-development work currently taking place on the premises, the applicant had not clearly identified how the business intended to operate. The Police licensing officer stated that he had visited to the premises and had been provided with a reassuring undertaking that the management intended to revert the premises to a traditional pub value with a strong emphasis on a food based business, but that the application submitted was not clear as to whether that was in fact the case.

The Police expected the applicant to be able to openly and transparently convey their business intentions to the sub committee. That with out these assurances being put before the sub committee the Police could not confidently support an application that sought to remove any conditions that were initially offered in order to obtain extended hours in an exclusively residential location.

**Public Health:** The Havering Noise Specialist made a representation against the application and also recommended refusal unless the following conditions to prevent the like hood of public nuisance being caused to nearby residents were included:

1. The installation of noise limiting device within any room where recorded/live music is to be played. Details of the noise limiting device are to be submitted to the local authority for approval, prior to its installation. Once approved, the unit is to be installed by a competent electrician. The unit is then to be set and sealed by officers from the Environmental Health Service.
2. Any exit from the public areas of the premises opening to the exterior of the building are to be lobbied.
3. No music to be played outside of the building
4. No music to be played through speakers mounted outside the building itself.
5. The use of the beer garden is to be prohibited after 22:00 hours Monday to Sunday inclusive
6. In light of the close proximity of the nearby residential properties and the previous noise problems witnessed by himself and other officers from the service. The service was recommending that for the period Sunday to Thursday inclusive, all licensable activities are to cease by 23:00 hours with the premises being closed to the public at 23:30 hours.

**London Fire & Emergency Planning Authority (“LFEP”):** None.

**Health & Safety Enforcing Authority:** None.

**Planning Control & Enforcement:** None.

**Children & Families Service:** None

**Trading Standards Service:** None

**The Magistrates Court:** None

#### **4. Determination of Application**

##### **Decision**

**Consequent upon the hearing held on 2 December 2011, the Sub-Committee’s decision regarding the application for a Premises Licence for The Shepherd and Dog was as set out below, for the reasons shown:**

The Sub-Committee was obliged to determine this application with a view to promoting the licensing objectives, which are:

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm

In making its decision, the Sub-Committee also had regard to the Guidance issued under Section 182 of the Licensing Act 2003 and Havering's Licensing Policy.

In addition, the Sub-Committee took account of its obligations under s17 of the Crime and Disorder Act 1998, and Articles 1 and 8 of the First Protocol of the Human Rights Act 1998.

### **Agreed Facts** **Facts/Issues**

Whether the granting of the premises licence would undermine the four licensing objectives.

The Police representative, PC Leonard, stated that while he was assured by the development at the premises and the management in place, the licence would go to the premises and not the management, and any such licence would need to be clearly defined. The people who reside near the premises have a right to know what is going on – it appears to be a restaurant, but this is not clear from the application. Given the problems the premises has experienced over the last 24 months, mostly in terms of noise nuisance, the applicant needs to be open and transparent about what it seeks to do.

Marc Gasson, Noise Specialist, advised that he had spoken with the applicant's representative with regard to the suggested conditions as set out in Mr Gasson's representation, but that he was not willing to withdraw any of them, given it is a residential area and the previous noise issues the premises has created. He added that as the application sought to include music, should that music require amplification, the noise limiter would control that amplification so as to avoid creating a nuisance to residents.

Mr Hale, an interested party addressed the sub committee stating that he lived next door to the premises and had problem as a result of noise emanating to his residence, particularly from the beer garden. He was regularly kept up till 01:00 or 02:00 hours, and it had led to health complications. He had been assured by the new management that it would not be the same type of premises as it has been, but he had received similar assurances about noise from the previous management. Mr Hale asked that the beer garden be closed from 22:00 hours onwards.

Mr Dadds, representative for the applicant, addressed the sub committee on the steps that the applicant had taken to address the licensing objectives. He requested that this application be considered on its own merits and not be related to previous issues and concern that had been attributed to the premises, which related to previous management, and not the applicant. He was of the view that the applicant had the support of local resident and as such there was only one objector. The sub committee was informed that the premises was to be known as The Shepherd and Dog, and that it was going to operate as a bar and restaurant.

He added that the current redevelopment of the premises included double glazing glass and making the venue air conditioned. That with this development the music will be controlled to a level not to cause a nuisance. The intention of the applicant also was to have not more than three musicians, effectively playing background music for diners.

Mr Dadds suggested the garden area could be closed at 23:00 hours (last serve 22:30 hours, cleared by 23:00 hours). He suggested that if noise were to be an issue, the Council is able to serve an abatement notice, and that a licence ought not to be frontloaded on what may happen. He suggested that the conditions put forward by Mr Gasson were not necessary for what was intended, being a maximum of three people playing guitar or flute or similar.

Mr Dadds was clear that the premises is to operate as a bar/restaurant, with an emphasis on food. The premises had employed a two Michelin Star Chef, that the kitchen area had been extended, and the management are of a very high standard. Alcohol would predominantly be served with meals, and the management expected to make profit through selling meals.

The sub committee was also informed that Mr Drogman ran other premises outside the borough where he also recently won an award, and that there was no evidence to show there would not be high standard of management.

Having considered the written representations and oral responses, the sub-committee stated that it had taken note of the intentions of the applicant to run the premises predominantly as a restaurant, the large amount of investment made to redevelop the premises in that manner, and the assurances given with regards the Restaurant (such as the employment of a highly rated chef) and Music (no more than three musicians) at the premises. The Sub-Committee stated that it would like a noise limiter as suggested by the Council's Noise Specialist, so it could be assured about the amplification of any music, and that the beer garden should be closed by 22:30 hours.

The sub committee **granted** the application as follows:

**Plays, Films, Indoor Sporting events, Live Music, Recorded Music, Performance of dance, Anything of a similar description to live music or recorded music, Provision of facilities for Dancing, Provision of facilities for Entertainment similar to making Music or Dancing , Supply of Alcohol**

<b>Day</b>	<b>Start</b>	<b>Finish</b>
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**Late Night Refreshment**

<b>Day</b>	<b>Start</b>	<b>Finish</b>
Monday to Sunday	23:00hrs	00:00hrs

**Hours premises open to the public**

<b>Day</b>	<b>Start</b>	<b>Finish</b>
Monday to Sunday	11:00hrs	00:30hrs

- That the premises must install a noise limiting device within any room where recorded/live music is to be played. Details of the noise limiting device are to be submitted to the Local Authority for approval, prior to its installation. Once approved, the unit is to be installed by a competent electrician. The unit is then to be set and sealed by officers from the Environmental Health Service.
- The use of the beer garden is to be prohibited after 22:30 hours Monday to Sunday inclusive

The sub committee stated that it was not prepared to grant the non-standard timings as applied for by the applicant.

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**Chairman**