

Licensing Panel Report



Report of Head of Environmental Services

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Purpose of Meeting:

1. To consider the relevant representations received in respect of an application to vary the Premises Licence for The Oak, Didcot under the Licensing Act 2003.

Introduction

2. The Licensing Act 2003 has established a single integrated scheme for licensing premises which are used for the supply of alcohol, regulated entertainment, late night refreshment or permission to carry on some or all of these activities. In the Act these activities are referred to collectively as the "licensable activities"
3. The standard procedure for the hearing of all licensing applications is attached as **Appendix A**.

Section 17 Crime and Disorder Act 1998

4. Section 17 states: "Without prejudice to any other obligation imposed upon it, it shall be the duty of each Authority to exercise its various functions with due regard to the likely effect of the exercise of those function on, and the need to do all that it reasonably can, to prevent crime and disorder in its area."

Application

5. The following information has been supplied by the applicant.

Type of application:	Application to vary a premises licence under the Licensing Act 2003
Applicant / Address	Greene King Retailing Limited
Supply of Alcohol:	Yes
Designated premises supervisor name and licence number:	Mr Anthony David Davies Licence No. 329 Issued by: South Oxfordshire District Council
Summary of new application:	
<p>The applicant has applied to amend the current conditions upon the existing premises licence that relate to the use of the outside areas of the premises. The applicant has not requested any amendments to any of the permissions for regulated entertainment currently authorised by the premises licence. The application form is attached at <u>Appendix B</u>.</p>	
Details of application	<p>a. To amend the existing condition:</p> <p><i>Any outside areas must not be used by patrons between 23.00 hours and 08.00 hours.</i></p> <p>To read:</p> <p><i>Any outside area must not be used by patrons between 00.00 hours and 08.00 hours.</i></p> <p>b. To remove the following conditions:</p> <p><i>No external drinking after 23.00.</i></p> <p><i>Regulated entertainment (excluding recorded music) to end at 23.00</i></p> <p><i>Number of door supervisors (dates etc)</i></p>

Promotion of Licensing Objectives

6. The operating schedule upon the existing premises licence, which is attached in **Appendix C**, has been amended with regard to the proposed alterations and now shows that the licensing objectives will be met as follows:

General Licensing Objectives	Additional training for all house managers on dealing with illegal activities and aggressive customers
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	<p>To join Pub Watch (if scheme exists)</p> <p>Sensible drinking policy and training in place - restrictions on discounting and promotions, sale to under 18 and drunks</p> <p>Additional training on communicating with customers when service is refused for no proof of ID</p> <p>Additional training on communicating with customers when service is refused for drunkenness</p>
The Prevention of Crime and Disorder	<p>Number of door supervisors (dates etc)</p> <p>CCTV</p> <p>External lighting of car parks and walkways</p> <p>Additional training for all house managers on dealing with illegal activities and aggressive customers</p> <p>Sensible drinking policy and training in place</p> <p>Joining Pub Watch will permit the DPS to have up to the minute information on local issues and National Support, this will forge better communications with Police</p> <p>Additional training on communicating with customers when service is refused for drunkenness</p>
Public Safety	<p>Number of door supervisors</p> <p>CCTV</p> <p>External lighting of car parks and walkways</p> <p>Increased supervision of trading area by management, staff and glass collector's etc</p> <p>Sensible drinking policy and training in place</p> <p>To join Pub Watch will facilitate the exclusion of known troublemakers thus making the pub safer</p>
The Prevention of Public Nuisance	<p>Noise attenuation measures</p> <p>To join Pub Watch (if scheme exists)</p> <p>No external drinking after 23:00</p> <p>Please leave quietly signs</p>

	<p>Delivery and collection times not to be changed</p> <p>Regulated entertainment (excluding recorded music) to end at 23:00</p> <p>Sensible drinking policy and training in place</p> <p>Additional training on communicating with customers when service is refused for drunkenness</p> <p>No external regulated entertainment</p> <p>External background music to be turned off at 21:00</p> <p>All windows and external doors to be kept shut during live performance save for customer access and egress</p>
The Protection of Children From Harm	<p>No children to be allowed on the site after 22:00</p> <p>Minimum signage to be displayed on the AWP's</p> <p>Audited proof of age scheme to be in place</p> <p>Additional training on communicating with customers when service is refused for no proof of ID</p>

Background

7. The following background information is known about this premise.

Previous licences held:	<p>Prior to the introduction of the Licensing Act 2003, the premise held a Public Entertainment Licence and a Justices On Licence which permitted regulated entertainment and the sale of alcohol respectively. On 1 August 2005, Greene King applied to convert the licences held by the premise and simultaneously convert them to extend the permissions for the supply of alcohol and recorded music on Friday, Saturday and Sunday nights until 1.00am and to add the permissions for films, live music and late night refreshment. The only objection received in respect of the variation application came from Environmental Protection Officer who proposed several conditions to be attached to the licence to prevent the possibility of nuisance being caused to local residents. Greene King accepted all the conditions proposed and their licence was granted.</p>
Current convictions:	None
Details of licence reviews:	None

Complaints:	No complaints have been received in relation to the premise since July 2005. The complaint was not substantiated at the time and diary sheets that had been sent to the complainant were not returned. A total of ten complaints have been received in relation to noise nuisance from the premise by Environmental Services. However, all ten of these complaints occurred prior to the grant of the current licence with six of the ten complaints being reported between 1999 and 2001.
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Relevant Representations

8. Relevant representations from responsible authorities have been made in respect of the application listed in paragraph 5. Full details of these representations are attached to the report at **Appendix D**. A summary of the responses from the relevant authorities are as follows:

Police:	No response
Fire & Rescue Service:	The Fire Officer has no objections to the application
Environmental Protection:	<p>The Environmental Protection Officer has requested the following amendments to the existing condition upon the premises licence:</p> <ol style="list-style-type: none"> 1. Outside seating areas and the beer garden shall not be used by patrons consuming alcohol and/or food between 23:00 and 08:00. <p>The Environmental Protection Officer has also recommended the following additional conditions be added to the licence:</p> <ol style="list-style-type: none"> 1. The management shall ensure that no open vessels, glasses or any other items belonging to the premises are taken into the outside seating areas or beer garden between 23:00 and 08:00, other than legitimate off-sales. 2. Signs shall be erected signs in the outside seating areas and the beer gardens requesting that customers respect the needs of local residents keep noise to an appropriate level so as not to cause disturbance.

	<p>3. i) To ensure that customers keep noise to an appropriate level so as not to cause disturbance to the local residents, periodic noise assessments of the outside seating areas and beer gardens after 23:00 shall be undertaken by a member of staff at reasonable and regular intervals (approximately every 30 minutes) and logged.</p> <p>ii) The log book must set out: time and date of observation; observer; observation; action taken to resolve situation. 0 = satisfactory level of noise, unlikely to cause disturbance; up to 5 = severe disturbance, receipt of numerous complaints.</p> <p>The Environmental Protection Officer has also objected to the removal of the following two conditions from the licence:</p> <ol style="list-style-type: none"> 1. No external drinking after 23.00 hours 2. Regulated entertainment (excluding recorded music) to end at 23.00 hours.
Health and Safety	The Health and Safety Officer has no objections to the application

Planning:	<p>The Planning Officer had no objections to the application however, they made the following observations:</p> <p><i>PO4/W0525 – Erection of a single storey extension to the rear elevation and construction of timber decking and raised planting beds to the front elevation.</i></p> <p><i>Condition 4 of the above application states “That no live or other music shall be provided other than inside the building”. No planning objections to the proposed changes to the licence providing that any music is within the building.</i></p>
Trading Standards:	Trading Standards have no objections to the application
Child Protection:	No response

Interested Parties

9. Representations have been received from one Interested Party.

The representation refers to the possible increase in public nuisance through the use of the outside areas of the premises. The full details of the representations can be found at **Appendix E**.

Legal Implications

10. Under Schedule 5 of the Licensing Act 2003 the applicant or a person who made a relevant representation may appeal to the Magistrates Court in the event of not accepting the decision of the Licensing Panel.

Policy Considerations

11. In determining applications the authority must give appropriate weight to:

- a. Representations received from Responsible Authorities;
- b. Relevant Representations made by Interested Parties;
- c. The Secretary of State's Guidance;
- d. The Statement of Licensing Policy;
- e. The steps necessary to promote the Licensing Objectives

12. The Licensing Officer considers the following policies taken from the Statement of Licensing Policy should be considered for this application.

Policy LH 3: Licensing hours not limited

The Authority will not reduce the hours permitted for licensable activities to less than those stated in an application, unless representations indicate that this is necessary and then only in the context of the individual merits of that application. In considering a limitation on trading hours, regard will be had to the nature of the locality around the premises.
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Policy GN 23: Live music, dancing and theatre
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The Authority will take proper account of the need to encourage and promote live music, dancing and theatre in balance with the potential for disturbance from these activities. In determining what conditions should be attached to licences and certificates, the Authority will take account of the need to avoid measures that inadvertently impose substantial indirect costs

Policy LH 5: Closing Times

In determining applications, the Authority will take into account the time that it is proposed to close the premises where patrons have been attracted to attend by a licensable activity. Regard will also be had to matters such as the nature of the locality and the availability of public transport at the time that the premises propose to close.

Policy LH 6: Dispersal procedures

The Authority will require applicants for Premises Licences where there is likelihood for nuisance to the neighbourhood due to patrons leaving the premises, to submit a written statement with their application, covering procedures for orderly dispersal of patrons at closing time. Frequently, but not exclusively, these types of premises will be those that open for regulated entertainment or sale of alcohol after midnight,

Such a statement should show how all staff in the premises are trained in its implementation. The Authority expects any dispersal procedure to state the time at which the licensable activities cease and the later, actual, closure time of the premises.

Policy LH 7: Latest admission times

In appropriate premises, where there is the possibility of customers moving between premises late at night or in the early hours of the morning in a way that could have a negative effect on any of the licensing objectives, the Authority expects latest admission times to apply where premises continue to sell alcohol for consumption on the premises and provide Regulated Entertainment after midnight. The Authority expects the latest admission time to be at least one hour before cessation of the licensable activity.

Policy LA 3: Premises Licence – Regulated Entertainment (General)

The Authority expects the applicant to address sources of noise leakage in practical ways such as:

- (a) providing adequate mechanical ventilation so that doors and windows can be kept closed;
- (b) ensuring that the mechanical ventilation is adequately sound-proofed;
- (c) installing a sound limiting device to prevent sound exceeding an appropriately defined level;
- (d) installing sound proofing measures to contain sound and vibration;
- (e) other organisational measures to ensure that potential sound leakage is contained, particularly from special events.

These measures may be employed singly or in combination. Applicants should ensure that they carefully consider Approved Document F (Ventilation) in the Building Regulations 2000 when deciding on the level and type of activity proposed in the premises.

Policy DPS 1: Designated Premises Supervisors – availability

The Authority expects the Designated Premises Supervisor to be normally readily available to manage activities at the premises. The Authority also expects the person in charge when the Designated Premises Supervisor is absent, to be both readily available and identifiable.

Policy PP 12: Supply of alcohol (“Off-sales”)

For applications that include the sale of alcohol for consumption off the premises, the Authority will expect operating schedules to address how sales of alcohol will be confined to those entitled to purchase it and how the procedures will be consistently applied. The role of the Designated Premises Supervisor will be pivotal in this respect. The operating schedule should cover such practical issues as:

- (a) the display of prominent warning notices about the supply of alcohol to minors;
- (b) offences which adults can commit by buying alcohol for minors; and
- c. requirements for production of satisfactory proof of age.

The Authority expects that staff involved in the sale of alcohol will have had appropriate training in order to put the operating schedule into effect. Times during which alcohol may be sold will be restricted if it appears to the Authority, as a result of Representations, that this would promote the licensing objectives of preventing public nuisance, crime and disorder. The Authority will maintain close working relationships with both the Police and Trading Standards Officers who will conduct 'test purchasing' of alcohol under the 2003 Act in order to detect and prevent sales of alcohol to minors and to pursue prosecutions where appropriate.

Policy OS 3: Operating schedule – Log book

The Authority suggests that the managers of appropriate premises maintain a log of activities for the premises, that records the details of the manager and staff and the times that they are on duty, with details of incidents such as where people have been refused admission or have been ejected from the premises.

Policy OS 11: Operating schedule – CCTV

For appropriate premises, the Authority expects the use of CCTV equipment to capture images of appropriate quality, location and frequency. The Authority expects applicants for licences for such premises to demonstrate in their operating schedules that the installation and operational procedures for the equipment at the premises comply with Thames Valley Police’s “Standard Minimum Closed Circuit Television Requirements”.

Policy OS 14: Operating schedule – ‘Pub-Watch’ Schemes

The Authority strongly recommends that all premises licensed to sell alcohol will participate in a ‘pub-watch’ or similar approved scheme and become part of any alert system(s) that such schemes may implement to alert members about potential troublemakers.

Policy OS 13: Operating schedule – Door Supervisors

The Authority generally expects Premises holding regulated entertainment that continues beyond midnight to employ door supervisors in furtherance of the licensing objectives, unless it is shown to be unnecessary. In addition to the SIA requirements for registration, the Authority will require Door Supervisors to comply with the requirements of the “Thames Valley Door Safe” code of conduct whilst they are on duty. Where appropriate, the Authority will attach conditions to Premises Licences about the minimum numbers of male and female door supervisors on duty and their roles, which will reflect the layout of the premises, the location, the type of

entertainment or function provided and the periods when regulated entertainment normally takes place. Where Representations have been made, the Authority may require premises to use door supervisors for particular types of regulated entertainment which have a significant potential to provoke disorder, or where there are special promotional events in which the sale of alcohol is significant. At premises that have regular entertainment or where special events are taking place, other attendants who do not engage in security activities, may be required to supervise areas within the premises. The Authority expects door supervisors and other staff undertaking security or supervisory duties to be readily identifiable by members of the public and where appropriate to wear high visibility clothing.

Licensing Officer's Observation

13. The premise is situated in a residential area and faces onto a main road into Didcot Town. The premise is currently restrained under it's current licence in regard to letting patrons use the outside areas. This has posed a problem after 11.00pm with the introduction of the smoking legislation. A plan showing the location of the premise and the location of the interested party who has made a representation in relation to this application is attached at **Appendix F**.
14. This report provides information submitted by the applicant and from the records of the Environmental Services Department at South Oxfordshire District Council. The Panel is 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
15. In making its decision, the Panel is obliged to have regard to the relevant provisions of the Act, Guidance and Policy.
16. The Panel must also have regard to all the relevant representations made and the evidence it hears. Members of the Panel when considering the application must confine themselves to considering only those aspects of the application in respect of which relevant representations have been made.
17. The Panel must either grant the application as applied for OR take such of the following steps as it considers necessary for the promotion of the licensing Objectives:
 - i. Modify the conditions of the licence, by altering or omitting or adding to them

- ii. Reject the whole or part of the application

18. The Panel cannot modify the conditions or reject the whole or part of the application merely because it considers it desirable to do so. It must actually be necessary in order to promote one or more of the Licensing Objectives.

APPENDIX A

PROCEDURE FOR THE HEARING BY THE LICENSING PANEL

INTRODUCTION

1. Where both parties intend to produce documents in support of his/her case they shall exchange documents not less than 7 working days prior to the date of the hearing and further shall supply copies of these documents to the Council's Licensing Officer not less than 7 working days prior to the date of the hearing.
2. By reason of the confidential nature of some types of case heard by the Licensing Panel the public and press may be excluded from the proceedings.
3. The applicant will have the right to be accompanied at the hearing by his/her representative, who may present the case for or on behalf of the applicant.
4. At the commencement of the hearing, the applicant, or his/her representative and the Council's Licensing Officer, will present to the Licensing Panel details of any witnesses to be called.

LICENSING OFFICER

5. **The Licensing Officer** will then present the circumstances of the case, as supported by any documentary evidence, and may call witnesses.
6. **The applicant or his/her representative** may ask questions of the Licensing Officer and witnesses on any of the evidence presented by them.
7. **Objectors to the application** may then ask questions of the Licensing Officer and any witnesses called
8. **The Licensing Panel members** may ask questions of the Licensing Officer and witnesses on any of the evidence presented by them.

APPLICANT

9. **The applicant and his/her representative** may present his/her case/submission to the Licensing Panel as supported by any documentary evidence and may call witnesses.

10. **The Licensing Officer** may ask questions of the applicant and/or his/her representative and any witnesses on their evidence.

11. **The Objectors** to the application may ask questions of the applicant and any witnesses on their evidence.

12. **The Licensing Panel members** may ask questions of the applicant and/or his/her representative and any witnesses on their evidence.

THE OBJECTORS

13. **The Objectors** will give details of their objections to the application, this may be supported by documentary evidence and witnesses may be called.

14. **The Applicant** may then ask questions of the objectors and any witnesses called by the objectors.

15. **The Licensing Officer** may then ask questions of the objectors.

16. **The Licensing Panel members** may then ask questions of the objectors and any witnesses called by the objectors.

SUMMING UP

17 **The Licensing Officer, the applicant and/or his/her representative and the objectors** will then have the opportunity to sum up their cases if they so wish.

18 **All parties and their witnesses** will then be asked to withdraw from the meeting whilst the Licensing Panel deliberates in private. In the event of uncertainty on any of the evidence, all parties will be recalled regardless of the fact that the point in question may relate only to the evidence of one of the parties.

19 When the Licensing Panel has completed its deliberations all parties will be recalled to the meeting and the Chairman will announce the Licensing Panel's decision and the reasons for that decision.

**Application to vary a premises licence under the Licensing Act
2003.**

The Oak, 118 Park Road, Didcot

Licence Number: 4262

APPENDIX C

Current Premises Licence: 4262

The Oak, 118 Park Road, Didcot

APPENDIX D

Representations received from Relevant Authorities

Memo

To: Licensing

Date: 06 July 2007

From: Environmental Protection

Ask For: Rebecca Ware

Extension:

re: application to vary premises licence

The oak, 118 park road, didcot, oxon, ox11 8qr

Thank you for consulting this Service regarding the above application.

I have reviewed the application and consulted our records and would like to make representation against the application. I am concerned that due to the residential location of the premises, the proposed amendments to the Premises Licence may not be sufficient to prevent a public nuisance.

The areas of concern are:

- General break out noise from the garden area and beer garden after 23:00;**

I would like to propose the following conditions to address these concerns.

I recommend rewording the proposed condition to read and adding additional conditions:

- 4. Outside seating areas and the beer garden shall not be used by patrons consuming alcohol and/or food between 23:00 and 08:00.**

- 5. The management shall ensure that no open vessels, glasses or any other items belonging to the premises are taken into the outside seating areas or beer garden between 23:00 and 08:00, other than legitimate off-sales.**

- 6. Signs shall be erected signs in the outside seating areas and the beer gardens requesting that customers respect the needs of local residents keep noise to an appropriate level so as not to cause disturbance.**

- 7. i)To ensure that customers keep noise to an appropriate level so as not to cause disturbance to the local residents, periodic noise assessments of the outside seating areas and beer gardens after 23:00 shall be undertaken by a member of staff at reasonable and regular intervals (approximately every 30 minutes) and logged.**

ii)The log book must set out: time and date of observation; observer; observation; action taken to resolve situation. 0 = satisfactory level of noise, unlikely to cause disturbance; up to 5 = severe disturbance, receipt of numerous complaints.

Environmental Protection objects to remove the following conditions from the licence:

- No external drinking after 23.00 hours**
- Regulated entertainment (excluding recorded music) to end at 23.00 hours.**

Whilst we are unable to comment directly on the changes to the number of door supervisors it would be advisable to consider utilising these staff to manage the noise from patrons using the external areas after 23.00 hours in line with the recommended conditions.

If you have any queries regarding the above then please do not hesitate to contact me.

Regards

Rebecca Ware

Environment Officer

Appendix E

Representations received from Interested Parties

Appendix F

Site plan of showing the location of Interested Parties in relation to The Oak

