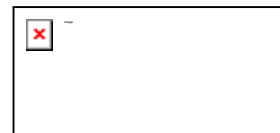


# Licensing Panel report



Report of Head of Legal and Democratic Services

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Licensing Panel

DATE: 23 June 2011

## **Application to vary a Premises Licence under the Licensing Act 2003 – Premises Licence Number: 4027 Magoos, 22 Hart Street, Henley-on-Thames RG9 2AU**

### **Recommendation(s)**

That the Panel consider the application to vary the licence, the residents' objections to the application and decide whether to grant the requested variation in full, refuse the variation or make amendments to it.

### **Purpose of Report**

1. To present the facts and relevant representations received in respect of an application to vary a premises licence for Magoos, 22 Hart Street, Henley-on-Thames under Section 34 of the Licensing Act 2003 to the Licensing Acts Sub-Committee in order that it can determine the application.

## Strategic Objectives

2. The relevant objectives are those of “helping people to feel safe and secure” and “managing our business effectively”. The relevant corporate priorities are those of “provide value for money services that meet the needs of our residents and service users” and “maintain low levels of fear of crime and anti-social behaviour”.

## Background

3.1 The Licensing Act 2003 (‘the Act’) 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’.

Any assessment of licensable activities must consider and promote the following four statutory objectives:

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

3.2 Where no representations are received in respect of an application for the grant or variation of a premises licence, then the licence would be granted by the Head of Legal and Democratic Services Officer under delegated powers. When valid representations are received regarding the grant or variation of a premises licence, the application will be referred to the Licensing Panel for consideration.

3.3 An application has been received from Mr. Laurence Gordon to vary the premises licence **Number 4027** in respect of Magoos, 22 Hart Street, Henley-on-Thames, RG9 2AU (**Appendix 1**). The application seeks to vary the existing licence as follows:-

- Approve proposed alteration to the premises
- Variation to extend the hours for Live Music on Thursday, Friday and Saturday from 21:00 to 01:00
- Variation to extend the hours for Recorded Music on Thursday, Friday and Saturday from 22:00 to 02:00.
- Variation to extend the hours for Provision of Facilities for Dancing on Thursday, Friday and Saturday from 22:00 to 02:00.
- Variation to extend the hours for Late Night Refreshment on Thursday, Friday and Saturday from 23:00 to 02:30.
- Variation to extend the hours for the Supply of Alcohol on Thursday, Friday and Saturday from 11:00 to 02:00.

- Variation to extend the hours the premises are open to the public Monday, Tuesday and Wednesday from 9:30am to 1:30am, on Thursday, Friday and Saturday from 9:30am to 2:30am and on Sunday from 12noon to 1:30am

In respect of non standard timings for all of the above the applicant has applied as follows:

- Permitted hours for licensable activities and opening hours to be extended until 3am on Henley Regatta Week.
- Permitted hours for licensable activities and opening hours to be extended until 1am on the Sunday preceding bank holiday Monday.
- Permitted hours for licensable activities and opening hours to be extended for 36 hours for New Years Eve

The application seeks approval for removal and/or amendment of following conditions:

**Condition 2 of Annex 2** Personal licence holder to be on the premises at all times when the licence is being used **(This condition is sought to be removed)**

**Condition 2 of Annex 3** Late Night Refreshment shall not be served beyond 1am Monday to Wednesday and Sunday and until 2:30am on Thursday to Saturday **(Amendment)**

**Condition 3 of Annex 3** Live Music shall be permitted between the hours of 21:00 to 00:00 on no more than two days in any one week (Monday to Sunday) **(This condition is sought to be removed)**

**Condition 4 of Annex 4** Dancing shall be permitted in the back bar between the hours of 22:00 and 01:00 on no more than twelve occasions in the year. The licensing authority to be notified in writing at least two weeks before such an event occurs **(This condition is sought to be removed)**

3.4 The current premises licence allows;

- Live Music from 21:00 to 00:00 on Monday to Sunday

- Recorded Music from 22:00 to 01:00 on Friday and Saturday
- Dancing facilities from 22:00 to 01:00 on Monday to Sunday
- Late Night Refreshment from 23:00 to 01:00 Monday to Sunday
- Supply of Alcohol from 11:00 to 01:00 on Monday to Sunday.
- The premises are open to the public from 09:30 to 01:30 on Monday to Saturday and 11:00 to 01:30 on Sunday.

(See **Appendix 2** for the current premises licence.)

3.5 The council is satisfied that the application was advertised in accordance with Licensing Act 2003

3.6 A map of Henley town centre showing the premises location is displayed as **Appendix 3**

3.7 Thames Valley Police and Trading Standards in their capacity as Responsible Authorities have raised no objections. Planning has raised no objections although they indicate that planning permission may be required as it is not clear from the construction notes supplied as to whether the work to be done at the building is in accordance with the works permitted by previous planning applications and any variation from the approved scheme may require fresh listed building consent (**Appendix 4**)

3.8 Environmental Health have raised objections to the application in relation to the impact of noise on the surrounding area and have recommended a number of conditions be attached to the licence if granted as per the application. According to the environmental health officer, the applicant has verbally agreed to these conditions if the licence is granted. (**Appendix 5**)

3.9 Eight letters of objection from residents have been received. All are concerned with the potential for crime and disorder, nuisance from noise from the premises and noise from patrons leaving the premises or noise from people congregating outside the premises late in the evening, and exposure of alcohol to young people. The Interested Parties' letters can be seen at **Appendix 6**.

## 4. Options

4.1 In determining applications the authority must give weight to:

- a. The Secretary of State's Guidance Issued under Section 182 of the Licensing Act 2003
- b. The Council's Statement of Licensing Policy
- c. The steps necessary to promote the Licensing Objectives

4.2 In view of the above, the Panel is requested to consider the application for variation of the premises licence and decide whether:

- a. to grant the variation as applied for
- b. to refuse the variation
- c. to grant the variation with amendments
- d. to grant a full or amended variation and attach additional conditions to the licence

## **5. Legal Implications**

**5.1 The Human Rights Act 1998 requires public bodies to ensure everything they do is compatible with Convention Rights and makes it unlawful for a public authority to act incompatibly with those Rights. When determining applications the Panel will be aware of Human Rights considerations, specifically Part 2, Article 1, peaceful enjoyment of possessions (a licence is deemed to be a possession) and Article 6 (right to a fair trial) for the applicant and Article 8 (right to respect for private and family life) for those making representations.**

5.2 The hearing of all applications is subject to the principles of natural justice.

5.3 Section 17 of the Crime and Disorder Act 1998 states, 'without prejudice to any other obligation imposed on it, it shall be the duty of each authority to exercise its various functions with due regard to the likely effect of those functions and the need to do all that it reasonably can to prevent crime and disorder in its area.'

5.4 Under Schedule 5 part 1 of the Licensing Act 2003 any person aggrieved by the decision in respect of the application may appeal to a Magistrates' Court within 21 days of the date of the decision.

## **6. Risks**

6.1 None identified

## **7. Other Implications**

7.1 None

## **8. Conclusion**

8.1 This report provides information submitted by the applicant, responsible authorities and residents. The Panel should determine this

application on its merits with a view to promoting the relevant Licensing Objectives which are 'the prevention of crime and disorder', 'public safety', 'the prevention of public nuisance' and 'the protection of children from harm' and have regard to the relevant provisions of the Act, Statutory Guidance and the council's Licensing Policy.

8.2 The Panel must having had regard to all the relevant objections made and the evidence it hears either grant the variation, refuse the variation, grant the variation with amendments or grant a full or amended variation and attach conditions to it.

## **Background Papers**

- Legislation referred to in the report.