

Decision Notice

Licensing Panel Hearing 30 September 2011

Victoria Vibes, Henley

The Licensing Panel met on 30 September 2011 to consider the application for a review of premises licence 4251 held by the Victoria Vibes, 48 Market Place, Henley on Thames, RG9 2AG.

The decision of the Panel is set out below. This decision is deemed to be effective from the end of the period for lodging an appeal. This does not affect the rights of the premises during the period of any appeal, if lodged.

If you have queries about the licence or about enforcement, contact the licensing team on 01491 823209 or at licensing@southoxon.gov.uk. If you have queries about the hearing or this notice, contact Jennifer Thompson, Democratic Services Officer, on 01491 823619 or at jennifer.thompson@southandvale.gov.uk. Both can be contacted in writing at Legal and Democratic Services, South Oxfordshire District Council, Benson Lane, Crowmarsh Gifford, Wallingford, OX10 8QS.

Appeal rights

All parties have the right of appeal. Section 181(1) Schedule 5(9) of the Licensing Act 2003 states that if you wish to appeal you must give notice of the appeal to the clerk to the Justices, The Court House, Oxford Magistrates' Court, Speedwell Street, Oxford OX1 1RZ within a period of **21 days** from the date of this notice. The magistrates' court may make any order as to costs as it thinks fit. The magistrates' court can be contacted on 01865 448020.

Right of review.

The Council's Statement of Licensing Policy states that, under the 2003 Licensing Act, the licensing authority can review a premises licence at any time if it receives representations from one or more of the responsible authorities or interested parties. The authority may not initiate its own review without receiving representations. Reviews only arise in connection with a failure of the premises relating to one or more of the four licensing objectives (prevention of crime and disorder, public safety, prevention of public nuisance, protection of children from harm). The authority will generally not expect to hold a review requested by representations from an interested party more frequently than annually unless there has been a significant change in the use of the premises or there are exceptional circumstances.

Jennifer Thompson
Democratic Services Officer

Date issued and posted: 21 October 2011

Licensing Panel Hearing for a review of a premises licence

held on 30 September 2011 at 10.00 am at the council offices, Crowmarsh Gifford

Premises Licence:	4251 Victoria (Victoria Vibes)
Premises address:	48 Market Place, Henley on Thames, RG9 2AG
Licensing Panel Councillors:	Mr Malcolm Leonard(Chairman) Mrs Ann Midwinter Mr Christopher Quinton
Legal advisor:	Ms Amanda Nauth
Licensing Officer:	Mr Nigel Haverson
Clerk:	Mrs Jennifer Thompson
Representing the applicant for the review -Thames Valley Police:	Ms L Morris (licensing officer), Mr B Clark (licensing manager), Sergeant G Pink and Inspector M Harling
Representing the premises:	Mr C Vanni (designated premises supervisor (DPS)), Mrs J Vanni (premises licence holder), Mr T Child and Ms C Hitchman (solicitors)
Interested Parties:	Mr M Jiggins (local resident in support of premises)

Five members of the public supporting the premises observed the hearing.

The Panel considered the report of the Licensing Officer which included copies of the premises licence application and seven relevant representations from 12 local residents¹. The Panel also considered papers submitted by the premises licence holder including a rewritten copy of the incident book.

The Panel considered a request from Mr Child to accept a second bundle of documents as evidence in support of the premises. After advice from the licensing officer and their legal adviser, the Panel did not accept the documents as the licensing officer advised that these did not constitute valid representations. The Panel considered a request from Thames Valley Police to submit a transcript of the incident on 11 June involving Mr Vanni rather than reading this out in evidence due to the

¹ the pack did not contain an Appendix 9 as this was withdrawn
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language it contained. The premises' solicitor objected to this and the Panel did not accept its submission.

The Panel heard evidence from Thames Valley Police's representative; from the premises licence holder, her solicitor and the DPS; and from the local resident in support of the premises.

The Panel are bound by the Licensing Act 2003 and associated guidance and regulations and may not make decisions which are contrary to these, which are outside the scope of the licensing objectives, or which are not based on reasonable objective evidence.

The Panel considered what action would be reasonable and proportionate having regard to the Licensing Act 2003 and associated regulations and guidance, the licensing objectives, and the Council's licensing policy. The Panel had regard to the steps necessary to promote the licensing objectives and considered the evidence from all parties including the evidence of those unable to attend the hearing. In coming to their decision, the Panel took into account only evidence relevant to the licensing regime and in particular factors relating to the promotion of the licensing objective of preventing crime and disorder.

The Panel took particular account of:

- The number of recorded breaches of the licence conditions and other incidents, which whilst individually not serious, gave cause for concern.
- About half of the incidents logged in 2011 were breaches of the operating hours and/or the condition requiring a last entry time of 00:00. The majority took place after 0000 and a number related to noise either from the premises or from patrons outside. The licensing officer stated that the premises should be closed and no regulated activity should be taking place in the licensed area, not even for private parties, outside of the permitted opening hours.
- Mr and Mrs Vanni were unaware of the need to comply with the CCTV condition on their licence. They had installed it in accordance with the condition on their licence granted in November 2005 but it had not worked for several years. The licensing authority and police had not raised it as an issue until recently. The police stated that CCTV would help the management of the premises and provide evidence if there were problems in or just outside the pub and it should be reinstated forthwith.
- Drugs readings during and since Henley Regatta were of concern, as these suggested there was now an on-going problem with drugs use in the premises. The pattern of readings had not been seen in other premises. Mrs Vanni had previously greased surfaces to prevent drug-taking in the toilets, but had stopped. She had now re-started. She said she would take the police's advice to grease using vegetable oil, and would like advice on other measures to reduce drug use.
- The pub garden could not be used for smokers after 23:00 without disturbing those living next to and behind the pub. Smokers had to go outside the front of the premises.

- The Panel were concerned that the very low staff numbers at the premises were not adequate to manage a busy late-night pub and carry out all necessary checks.
- The police, licensing officer and environmental protection team had stated that their relationships with Mr and Mrs Vanni were strained and appeared unproductive. The police were concerned that Mr and Mrs Vanni were reluctant to ask for advice and appeared reluctant to implement any advice given. Mrs Vanni said she would like to improve relationships.
- The premises had a great deal of support from customers; provided a venue for a number of pub sports; was a member of Pubwatch; and in 2010 had reduced the number of incidents significantly following a final warning from the police.
- Mr and Mrs Vanni offered a number of conditions: supervised entry after midnight (instead of no entry); checking the front of the premises or providing CCTV there; telephone number for residents to contact; notices banning drinking or taking glasses outside; challenge-21 age policy.
- Mrs Vanni was taking an SIA door supervisor course in October 2011.
- The intention was still to provide a safe and peaceful place for late night drinking in a community pub. Curtailing the opening hours would impact significantly on the pub's viability.
- Mr and Mrs Vanni had successfully reduced problems at the pub since taking it over in 2005. However the recent increase in incidents was unacceptable and could not continue. The police considered that if the licence was not revoked, changes in management style were necessary.
- Mr and Mrs Vanni outlined the reasons for the lax control of the premises recently and apologised for the problems this had created. They explained the steps they could take to address some of the issues. However, they were reluctant to forbid entry after 00:00 given that they gained a great deal of their business from late-night customers.

The Panel considered that there were sufficient grounds for revoking the premises licence to promote the licensing objective of preventing crime and disorder given the incidents of disorder, the increase in drugs readings, and the number of breaches of the licence conditions and opening hours in recent months.

However, the Panel considered that the licence holder had been able to run the premises effectively. Prior to 2011 the number of incidents gave less cause for concern. Revoking the licence in the first instance would be disproportionately severe and would not give the licence holder the opportunity to improve the management, address the problems at the premises, and comply with their permitted hours and conditions.

The decision of the Panel was to

- **remove the designated premises supervisor, Mr Cristiano Vanni with immediate effect;**
- **issue a formal warning; and**
- **vary the premises licence with amendments to the hours of operation and conditions.**

The Chairman stated that the Panel take the safety of the public very seriously and came very close to revoking the licence. It is hoped that the action taken will enable the licence holder to prove their capability to operate the premises within the licence conditions and an opportunity to ask for a variation of the licence in the future if appropriate.

The Panel issued a formal warning:

The Panel expect to see full compliance with all the conditions and operating hours. This is an opportunity for the pub to implement proposed solutions, improve management and create better working relationships with the responsible authorities. Recently Mr and Mrs Vanni have proved unable to responsibly and effectively run a late-night establishment and to continuously comply with the conditions on their licence. However, the Panel consider that they appear to be capable of running licensed premises correctly given the history of incidents prior to 2011. Mr and Mrs Vanni have a chance to prove themselves to be capable landlords in the future, as they have proved themselves in the past. The Panel expects high standards of behaviour and compliance.

On balance, the decision to reduce the operating hours and add conditions but not revoke the licence is reasonable and proportionate given the evidence: if the premises operate without incident, a variation may be sought in the future. If the premises fail to comply with the conditions on the licence and promote the licensing objectives, the expectation is that the licence will be brought back for review forthwith.

The licence is amended to:

Opening hours

Hours premises are open to the public²

Monday to Sunday 09:00 to 23:30

Alcohol sales

Hours for supply of alcohol (on and off the premises):

Monday to Sunday 09:00 to 23:00

Regulated activities

Indoor sports, live music, recorded music, anything of a similar nature to live or recorded music or performances of dance:

Monday to Sunday 09:00 to 23:00

² Note: this means that outside these hours no member of the public should be on the premises for any reason.

The additional conditions attached to the licence in 2005 and after this hearing are all reproduced in full with amendments in bold:

1. The premises will be a member of the Pubwatch scheme for the local area.
2. A personal licence -holder will be on the premises whenever an event involving live and/or recorded music is taking place.
3. All staff involved in the service of alcohol will be trained in relation to the law regulating the supply of alcohol and the conditions of this licence prior to commencing their duties and at 6 monthly intervals thereafter.
4. A log will be kept of all staff training, such records to be retained for at least 12 months. The record will be available upon reasonable notice to the Police and/or the licensing authority.
5. **By 1 December 2011 there will be CCTV in operation to enable staff at the bar to observe areas not directly visible from the bar. The CCTV system shall incorporate a recording facility which shall be retained and stored in a suitable and secure manner for a minimum of one calendar month. The system shall comply with the Data Protection Act 1998 and all signs as required shall be clearly displayed. The system will be maintained and fully operational throughout the hours that the premises are open for any licensable activity. The system will incorporate a camera covering the entrance and inside of the store as well as a camera covering the front exterior of the premises and this will be capable of providing an image that is regarded as 'identification standard'. Should the CCTV suffer failure the police will be informed and the system repaired in 48 hours. The premises licence holder will make recordings available to the police and the licensing authority on request.**
6. The duty manager will respond promptly to any reasonable complaint received regarding the conduct of the premises and will take appropriate action.

~~There will be a Proof of Age policy in force in the premises, to the satisfaction of the Police and the Licensing Authority~~ **(condition deleted as superseded by condition 18)**
7. Signs will be displayed regarding prohibition of sales to persons under 18 years of age or those purchasing on their behalf.
8. Signs will be displayed on or in the immediate vicinity of the AWP machines stating that no person under the age of 18 years old may play on the machine.
9. The Premises Licence is granted for the area shown on the plans submitted to the Licensing Officer.
10. The premises shall comply with the operating schedule as set out in the application.
11. There shall be no admissions or readmissions to the premises after midnight every day of the year.

12. Rear doors to the premises (as highlighted in red pen on the attached plan) must remain closed, other than for access or egress between 22:00 hours and 06:00 hours on any day.
13. Prominent, clear notices shall be displayed at all exits / in the beer garden requesting that customers respect the needs of local residents and leave the premises and the area quietly.
14. Outside areas must not be used by customers after 23:00 hours and before 06:00 hours on any day.
15. Entertainment is to be held internally only and no music or speakers shall be provided to external areas of the premises.
16. Noise emanating from the premises as a result of regulated entertainment shall not be clearly audible within the premises known as 50 Market Place or at the boundary of any nearby residential premises.
- 17. Copies of relevant qualifications obtained by staff and copies of internal training documents to be sent to the licensing authority.**
- 18. The premises shall adopt a challenge-21 proof of age policy. All members of staff shall seek credible photographic proof of evidence from any person appearing under the age of 21 years and who is seeking to purchase alcohol. Such evidence will either be a passport or photographic driving licence including a photograph.**
- 19. The premises shall maintain a refusals book to record any refusal of sales that occur at the premises. The book shall be available to the Police and/or the licensing authority upon request.**
- 20. All flat surfaces in the toilets shall be greased or otherwise treated in accordance with advice from the Police, or removed, to prevent their use for the taking of drugs.**
- 21. Prominent, clear notices shall be displayed informing customers that the premises will not tolerate the use of drugs;**
- 22. Prominent, clear notices shall be displayed near the entrance informing customers that they are not permitted to take glasses outside and/or drink on the street.**

Reasons for reducing the permitted hours and imposing additional conditions:

To ensure the promotion of the licensing objective of preventing crime and disorder.

Appeal and review rights

Each party has the right of appeal to the magistrates' court within 21 days of the date of the formal notice of this decision if they are unhappy with this decision.

Responsible authorities, local residents, and ward councillors may request a review of the premises licence if the premises is running licensed activities in such a way as to fail to uphold one of the licensing objectives. In addition, other legislation exists to protect the amenity of residents if the premises should be run in such a way as to cause a statutory noise nuisance.

Signed as a true summary of the proceedings by the Chairman³

Date

³ Unlike committee minutes, notes of Panel hearings are signed by the Chairman on behalf of the Panel but are not approved by the whole Panel.