

Licensing Panel Report



Report of Head of Environmental Services

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Date of meeting: TBC

AGENDA ITEM NO

Purpose of Meeting:

1. To consider the relevant representations received in respect of an application to vary the Premises Licence for The Bull Bar and Brasserie, Henley on Thames, 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	The Henley Pub Company 89 Alexandra Drive Surbiton KT5 9AE
Supply of Alcohol:	Yes
Designated premises supervisor name and licence number:	Mr Richard Pugh Licence No. PA0623 Issued by: The Royal Borough of Kingston upon Thames
Summary of new application:	
<p>The applicant has applied to extend the permissions for regulated entertainment in the forms of live and recorded music and the provision for the facilities for dancing on Thursdays, Fridays, Saturdays and Sundays. The applicant has also requested to extend the hours for the supply of alcohol on these days and also the opening hours of the premises. The application form is attached at <u>Appendix B</u>.</p>	
Details of application	<ul style="list-style-type: none"> a. To be able to provide regulated entertainment in the forms of live and recorded music and the provision for the facilities for dancing on Thursdays, Fridays, Saturdays and Sundays from 7.00pm to 2.30am the following morning. b. To extend the hours for the supply of alcohol, both on and off the premises, on Thursdays, Fridays, Saturdays and Sundays from 7.00pm to 2.30am the following morning. c. To extend the opening hours on Thursdays, Fridays, Saturdays and Sundays until 3.00am the following morning.

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	On Thursdays and Sundays if music is being played beyond the existing end time then we would employ door staff to Police the premises.
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	<p>On Fridays & Saturdays if music is being played through to beyond 01:00am end time then we would employ door staff to Police type of customers and numbers.</p> <p>We closely monitor the noise levels and electronically limit the volume if necessary.</p> <p>We have not had any problems in the past and wish to keep the safe and non intimidating reputation we have built up.</p> <p>Children will not be an issue and public safety is our main priority.</p>
The Prevention of Crime and Disorder	<p>We have experienced no trouble in the 21 months that we have been open.</p> <p>We do not encourage under 21s and if there did prove to be any problems we would use the door staff to police an over 21 or 25 policy.</p> <p>We would also adjust the entry price to deter some sectors.</p> <p>CCTV throughout.</p> <p>Members of pubwatch scheme.</p> <p>All functions in piano bar room personally supervised.</p> <p>Staff training on drunkenness and drugs by the public.</p>
Public Safety	<p>Numbers entering will be monitored and entry will be refused once the sensible limit is reached.</p> <p>No foolish or dangerous behaviour will be tolerated.</p> <p>Sufficient staff will be employed to police the front and rear bar areas. The company complies with all relevant legislation, first aid trained personnel and fire drill training.</p>
The Prevention of Public Nuisance	<p>All doors will be kept closed and sound levels monitored and restricted so as not to cause disturbance.</p> <p>We continue to have an excellent relationship with our neighbours including our landlords (Brakspears) and wish to continue to build on this.</p> <p>Events/music all supervised in the piano bar and due regard to noise emanating from, including windows/doors being closed.</p> <p>Staff awareness training and customers made aware to be considerate at night when leaving.</p>

	All doors will be kept closed and sound levels monitored and restricted so as not to cause disturbance.
The Protection of Children From Harm	<p>This variation is for late night use of the premises.</p> <p>No children will be allowed access under any circumstances.</p> <p>Parents (as would all adults) will not be served if we feel they are drinking too much.</p> <p>Patrons will be asked to leave quietly and respect other people's rights to peace and quiet.</p> <p>Family and staff supervision ensured whether in restaurant or piano bar rooms - not allowed in bar area (save for passing through).</p>

Background

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

Previous licences held:	Immediately prior to the introduction of the Licensing Act 2003, the premises concerned did not hold any form of licence. However, the premises had held Justices Licences authorising the sale of alcohol prior to 2005 and had also held Public Entertainment Licences authorising regulated entertainment up until December 2003. In September 2005, the Henley Pub Company applied for a premises licence which was granted. An application to vary this licence was then made in October 2006, which was granted with conditions. A further application to vary the licence was made in May 2006. The outcome of this application is to be determined at this hearing due to objections received throughout the consultation period.
Current convictions:	None
Details of licence reviews:	None
Complaints:	There are 22 complaints on file for the premises. However, 21 of these complaints took place in or prior to 2003. The current holders of the premises licence have only been resident at the premises for the last 21 months. The only complaint to be received in relation to the operations of the premises under its current management, related to noise levels from loud music on a Saturday night. This complaint was made prior to the variation of the premises licence in November 2006 and no further complaints have been received since the variation was granted.

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 Health:	The environmental protection officer has no objections to the application. The food and safety officer also had no objections to the application.
Planning:	The planning officer had no objections to the application however, they made the following observations: Whilst planning cannot control the hours of opening given that the pub has existed before the Planning Act came into place in 1948, there is concern with regard to the hours of opening. The adjoining Slug and Lettuce made an application to extend their opening hours in 2006 which was able to be controlled by Planning. The application was refused on the grounds of noise disturbance to nearby residential properties. This proposed extension of hours to 57-59 Bell Street is likely to have the same impact.
Trading Standards:	No response
Child Protection:	No response

Interested Parties

9. Representations have been received from 6 Interested Parties. All of the representations refer to the possible increase in public nuisance and crime and disorder. 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 GN 23: Live music, dancing and theatre
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 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.
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. A plan showing the locations of the interested parties who have made representations in relation to the premises 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.

APPENDIX B

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

The Bull Bar and Brasserie, 57-59 Bell Street, Henley on Thames

Licence Number: 4477

APPENDIX C

Current Premises Licence: 4477

The Bull Bar and Brasserie, 57-59 Bell Street, Henley on Thames

APPENDIX D

Representations received from Relevant Authorities

Appendix E

Representations received from Interested Parties

Appendix F

**Site plan of showing the location of Interested Parties in relation
to the Bull Bar and Brasserie.**

