

Hearing Decision Notice
Licensing Panel Hearing 28 April 2008
White Lotus Sports Bar, Henley on Thames

The Licensing Panel met on 28 April 2008 to consider the application for a new premises licence for the White Lotus Sports Bar, Henley on Thames.

The decision of the Panel is set out in the Notes of the hearing (appended). The Licensing Officer will send the formal documentation setting out the details of the licence to the applicant. This decision is effective from its announcement at the hearing.

Appeal rights.

All parties have the right of appeal. The Guidance issued under section 182 of the Licensing Act 2003 states that if you wish to appeal you must give notice of the appeal to the justices' chief executive of the magistrates' court for your area within a period of 21 days from 7 May 2008. The magistrates' court may make any order as to costs as it thinks fit. The magistrates' court is situated at Speedwell Street, Oxford OX1 1RZ and can be contacted on 0870 2412808.

Right of review.

Section 10.1 of the Council's Statement of Licensing Policy states that, under the 2003 Licensing Act, it is possible for the authority to 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 may only arise in connection with a failure of the premises relating to the four licensing objectives (prevention of crime and disorder, public safety, prevention of public nuisance, protection of children from harm). The local authority will generally not expect to hold a review into a licence on representations from an interested party more than annually unless there has been a significant change in the use of the premises or there are exceptional circumstances.

Licensing Panel Hearing for a new premises licence

HELD ON 28 APRIL 2008 AT 10.00 AM

Place:	Council Chamber, Council Offices, Crowmarsh Gifford
Premises and Licence:	White Lotus Sports Bar
Premises address:	16-18 Hart Street, Henley on Thames, RG2 9AA
Licensing Panel Councillors:	Mr Malcolm Leonard (Chairman) Mr Lyndon Elias Mrs Pearl Slatter
Legal advisor:	Miss Annabel Cresswell
Licensing Officers:	Mr Alastair Dearling
Clerk:	Mrs Jennifer Thompson
Representing the premises:	Mr Daryl Bedding (designated premises supervisor), Mr Philip Somarakis (solicitor)
Representing the interested parties:	Mr Simon Hill (Environmental Protection Officer), Mr Tony Cope (Thames Valley Police licensing officer), Sgt K Stacey (neighbourhood police sergeant for Henley) and three local residents.

The Panel considered the report of the Licensing Officer which included copies of the application for the new license and representations from Environmental Services, Thames Valley Police and five local residents.

The Panel heard evidence from Mr Bedding, Mr Somarakis, Mr Cope, Sgt Stacey, Mr Hill, and two residents.

Mr Hill reported that the applicant had agreed to accept without alteration the conditions numbered on the memo from Environmental Health in the report as 1, 2, 3, 4, 5, 6, 8, 10, 11, 15, 16 and 17. The applicant had accepted conditions 7, 9, 13 and 14 with modifications. He had not accepted condition 12 which duplicated

condition M4 required by the police. The final wording of these conditions agreed by the Panel is set out in the decision below.

Mr Cope reported that the applicant had agreed to accept without alteration all conditions in the letter from Thames Valley Police in the report except CD23 (drinks to be served in polycarbonate glassware). The applicant had provided a risk assessment and, following discussions, the police had concluded that this condition was not necessary.

Mr Bedding explained that the application for performance of dance and provision of facilities for dancing, (sections G and J) was for non-standard timings only. There were no hours given as the intention was to have dancing only at selected special events during the year.

The residents stated their cases. They explained that they had significant concerns over noise emanating from patrons using the outside of the premises and over the behaviour of people on the streets late at night. Although general noise leakage was not problematic, low- frequency vibrations were of concern to one resident. They were reassured by the applicant's acceptance of the majority of the conditions requested and the explanation of the provision of dancing.

After hearing all the evidence presented, the Panel discussed the application in private session accompanied by the legal advisor and clerk.

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, the Council's licensing policy, and the evidence in the report and presented at the hearing. 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 took account of the concerns of the residents about the increase in public nuisance caused by noise disturbance from patrons within the premises and on leaving. In particular the Panel considered the effect on local residents of noise from the courtyard area from the televisions and from those watching major sporting events outside, and the difficulty in controlling the latter. The Panel noted that although noise could be well controlled by adherence to the agreed conditions, a potentially pervasive problem with transmission of low frequency vibrations was mentioned.

The Panel took account of the applicant's presentation and the conditions agreed with the relevant authorities. They noted the reasons for the withdrawal of the requirement for polycarbonate glasses, that a limited trial of these would take place during the 2008 Regatta week, and that the town as a whole were considering their introduction.

The decision of the Panel, as stated by the Chairman at the close of the hearing, was:

To grant the premises licence as set out below.

The Panel notes that the applicant will adhere to the conditions set out in their operating schedule.

The opening hours and hours of permitted activity shall be:

Alcohol – on and off premises:

Monday to Sunday 10:00 to 03:00 the following day

Films, recorded music, provision of facilities for making music:

Monday to Sunday 08:00 to 03:00 the following day

Late night refreshment:

Monday to Sunday 23:00 to 03:00 the following day

Opening hours:

Monday to Sunday 08:00 to 03:30 the following day

The following non-standard hours are permitted for each activity, for the provision of facilities for dancing, for the performance of dance and for the opening hours:

- From the start of permitted hours on New Year's Eve to the close of permitted hours on New Year's Day.
- To extend the hours for permitted activities until 05:00 and the opening hours until 05:30 during the week of Henley Regatta

The Panel agreed to further modify conditions 7 and 14 in the report and add one additional condition:

Condition 7 shall now read:

No drinks are to be taken into the open air areas of the premises between the hours of 1800 and 0800 and no regulated entertainment is permitted on the lower decked area between 1800 and 0800 hours, although members of the public may be permitted to smoke in the lower courtyard during the remaining opening hours.

Condition 14 shall now read:

There must be no admittance or readmittance of members of the public once past the premises' gated entrance located at the pavement of Hart Street on any night after 0200 or less than one hour before the cessation of sale of alcohol, if this is to be earlier.

And a condition shall be inserted after condition 4 below:

‘A means of recording low frequency noise, defined as below 20Hertz, shall be put in place and a written record shall be kept of each assessment and of any remedial action taken. Records of such checks shall be made available to authorised officers of the Licensing Authority for inspection at any reasonable time.’

The conditions attached by the Panel further the objective of the prevention of public nuisance under policies LH3 and LH5 by:

- preventing noise from regulated entertainment or from patrons drinking whilst watching the entertainment outside causing undue disturbance to residents into the evening, because the proposed hours may give rise to an unacceptable level of public nuisance given the residential nature of the immediate locality.
- preventing noise in the early morning caused by patrons moving from one premises to another
- determining if the level of sub-audio acoustic vibrations is such as to cause nuisance to nearby residents.

The hours for permitted activities inside the premises have not been restricted because there was no evidence to suggest that the proposed opening hours would give rise to an unacceptable level of nuisance and disturbance provided the agreed conditions were implemented. It was not clear that restricting the hours would of itself reduce general public nuisance in the vicinity.

The conditions to be attached to the licence as agreed between the applicant and Environmental Health were attached as follows:

- 1) Noise emanating from the premises as a result of regulated entertainment shall not be clearly audible at the boundary of any adjacent residential property.
- 2) No regulated entertainment shall take place in the premises until an acoustic survey has been carried out by an independent person, who is qualified to be at least an associate member of the Institute of Acoustics and a scheme for soundproofing these areas has been submitted to and approved by the Head of Environmental Services. The scheme must be fully implemented to the satisfaction of the Head of Environmental Services prior to any regulated entertainment taking place within the premises.
- 3) A sound limiting device shall be fitted to the amplification system and shall be located in a separate lockable cabinet which is remote from the volume control set at (a level determined by the Head of Environmental Services). The operational panel of the noise limiter shall then be secured to the satisfaction of an authorised officer. The keys securing the noise limiter cabinet shall be held by the premises licence holder only, and shall not be accessible by any other person. Access to the limiter shall be restricted to prevent tampering. No alteration or modification to any existing sound system(s) should be effected without prior agreement of the Head of

Environmental Services. No additional sound generating equipment shall be used on the premises without being routed through the sound limiter device.

- 4) At least twice during each occasion when regulated entertainment takes place, the premises licence holder shall ensure that assessments are undertaken of noise emanating from the premises as a result of regulated entertainment. The assessment shall be made at the rear of the club premises. If the assessment indicates that noise from the club premises is likely to be audible at the boundary of any adjacent residential premises, then immediate action must be taken to reduce the noise level and a further check conducted to ensure that levels have been sufficiently reduced. A written record shall be kept of each assessment and of any remedial action taken. Records of such checks shall be made available to authorised officers of the Licensing Authority for inspection at any reasonable time.
- 5) During operating hours, the licensee or a nominated representative shall be available to receive and respond to nuisance-related complaints. A contact number shall be readily available to residents upon request.
- 6) The external balcony area shall not be used between the hours of 18:00 and 08:00.
- 7) All external doors / windows must be kept closed, other than for access and egress, in all rooms when events involving amplified music or speech are taking place.
- 8) No speakers, other than those integral to the courtyard television may be used outside. The courtyard television speakers shall not be used until it has been demonstrated by the acoustic survey described in condition 2 above, that noise emanating from them will not give rise to disturbance to any nearby residential properties. Any recommendations and provisions provided in the acoustic report to achieve this requirement are implemented to the satisfaction of the Head of Environmental Services.
- 9) 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.
- 10) The placing of refuse (such as bottles) into receptacles outside the premises shall only take place between the hours of 08.00 and 20.00.
- 11) The Premises Licence is granted for the area shown on the plans submitted to the Licensing Officer up to the gated entrance located at the pavement of Hart Street.
- 12) The Licence Holder shall implement a written queue management policy. All queuing outside the premises shall be managed in such a way that prevents noisy or rowdy behaviour and therefore minimises disturbance or nuisance to neighbours. The policy shall be approved in writing by the Licensing Authority.

13) The Licence Holder shall implement a written dispersal policy, to move customers from the premises and the immediate vicinity in such a way as to cause minimum disturbance or nuisance to neighbours, both residential and business, and to make the minimum impact upon the neighbourhood in relation to potential nuisance, antisocial behaviour, crime and disorder. The policy shall be approved in writing by the Licensing Authority.

14) Implementation of the above conditions shall be carried out in agreement and consultation with the Head of Environmental Services.

The conditions to be attached to the licence as agreed between the applicant and Thames Valley Police were attached as follows:

15) A minimum of 2 Door Supervisors, all individually registered with the Security Industry Authority, shall be on the premises on any days the site is open for any licensable activity after midnight on week nights (starting at 22.00) and 23.00 on weekends (starting at 21.00)

16) All staff shall be suitably trained for their job function for the premise. The training shall be written into a programme, ongoing and under constant review, and must be available to a relevant Responsible Authority when called upon.

17) Structured training shall be delivered to all staff covering the need to be aware of the signs and consequences of drinks spiking. There shall be a training package in place for all staff and this shall include a policy for dealing with both the victim and the offender. This policy shall be approved in writing by Thames Valley Police and shall be reviewed annually by the Licence Holder.

18) No persons under 18 shall be admitted to, or allowed to remain on the premises between 21:00hrs and 06:00hrs.

19) No person shall be admitted to the premises less than one hour before cessation of the last licensable activity.

20) Persons shall be prevented from leaving the premises with alcohol supplied in open containers.

21) All staff shall be aware of the law regarding the refusal of service to any person who is drunk or is underage, and shall be aware of how to seek identification from anyone who appears to be underage.

22) A Premises Daily Register shall be kept at the premise. This register will be maintained and kept for a minimum of 12 months. This register should record the name of the person responsible for the premise on each given day. The Premises

Daily Register shall record all calls made to the premises where there is a complaint made by a resident or neighbour of noise, nuisance or anti social behaviour by persons attending or leaving the premises. This shall record the details of the caller, the time and date of the call and the time and date of the incident about which the call is made and any actions taken to deal with the call. The Premises Daily Register will be readily available for inspection by an Authorised Person throughout the trading hours of the premise. The Premises Daily Register will also record all incidents in relation to the use of any force by staff or Door Supervisors in the removal of persons from the premises. It shall record the time and date of the occurrence, name or brief description of the person removed, and details of the staff involved.

The register shall also record any incidences of a member of the public being refused service on ground so intoxication and/or age.

Not only will it record the date, time and member of staff that refused but will include a brief physical description of the person involved to allow ease of identification on CCTV.

23) All Door Supervisors shall enter their full details in the Premises Daily Register at the commencement of work. This shall record their full name, home address and contact telephone number, the Door Supervisor's SIA registration number and the time they commenced and concluded working. If the Door Supervisor was supplied by an agency, details of that agency will also be recorded including the name of the agency, the registered business address and a contact telephone number.

24) The premises shall be cleared of customers and closed 30 minutes after the conclusion of the last licensed activity.

25) The Licence Holder or Designated Premises Supervisor shall become a member of the Pubwatch scheme and a representative shall attend Pubwatch meetings.

25) The Licence Holder shall implement a written responsible drinking policy to be agreed in writing with Thames Valley Police.

26) No customers carrying open or sealed bottles shall be admitted to the premises at any time that the premises are open to the public.

27) All members of staff at the premises shall seek "credible photographic proof of age evidence" from any person who appears to be under the age of 18 years and who is seeking access to the premises or is seeking to purchase or consume alcohol on the premises. Such credible evidence, which shall include a photograph of the customer, will either be a passport or, photographic driving licence,

28) Prominent clear notices shall be displayed at the point of entry to the premises and in a suitable location at any points of sale, advising customers that they may be asked to produce evidence of their age.

29) CCTV system shall be installed or the existing system maintained. The system will incorporate a camera covering each of the entrance doors and be capable of providing an image which is regarded as 'identification standard.'

30) To obtain a clear head and shoulders image of every person entering the premises on the CCTV system, persons entering the premises should be asked to remove headwear, unless worn as part of religious observance.

31) The CCTV system shall incorporate a recording facility and any recordings shall be retained and stored in a suitable and secure manner for a minimum of one calendar month. A system shall be in place to maintain the quality of the recorded image and a complete audit trail maintained. The system will comply with other essential legislation, and all signs as required will be clearly displayed. The system will be maintained and fully operational throughout the hours that the premises are open for any licensable activity. For premises using a video recording system, the cassette tape shall be used on no more than 12 occasions to maintain the quality of the recorded image.

32) The Licence Holder shall implement a written Drugs Policy. This shall detail the strategies to minimise the use and supply of illegal drugs within the premises. The Drugs Policy shall include a structured training programme covering the issues relevant to the misuse of drugs in relation to licensed premises, which will be delivered to all staff. This Policy shall be approved in writing by Thames Valley Police.

The Chairman informed those present of their right of appeal, and that any further objections to the operation of this premises licence in the future could be dealt with by way of review.

Signed as a true summary of the proceedings by the Chairman¹

Date

¹ 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.