

# Licensing Panel Report



Listening Learning Leading

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 Boat House, The Old Bridge, Wallingford 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 premises licence: 4105 The Boat House, 103 High Street, Wallingford under the Licensing Act 2003
Applicant / Address	Spirit Group, 107 Station Street, Burton-on-Trent, Staffordshire, DE14 1BZ
Supply of Alcohol:	Yes
Designated premises supervisor name and licence number:	Mr Leslie Walker Licence No. 1156 Issued by: Elmbridge Borough Council
<p>Summary of new application:</p> <p>The applicant has applied to extend the permissions for regulated entertainment in the forms of recorded music, performance of dance, entertainment of a similar description, live music, recorded music, the performance of dance, the provision of facilities for dancing and the provision of entertainment facilities for making music, the provision for the facilities for dancing, late night refreshment and to extend the sales of alcohol as stipulated below. The application to also requests to change the conditions attached to the existing license. full details of the variation are attached at <b><u>Appendix B</u></b></p>	
Details of application	<p>a. To be able to provide regulated entertainment in the form of recorded music, the performance of dance, entertainment of a similar description, and provision of the facilities for dancing and entertainment on Fridays and Saturdays from 10:00am until 1:00am the following morning.</p> <p>b. To extend the hours for the supply of alcohol for consumption both on and off the premises, Sunday, Monday, Tuesday, Wednesday and Thursday from 10:00am until 1:00am the following morning and on Fridays and Saturdays 10.00am until 02.00am the morning with an additional thirty minutes drinking up time</p>

c. To permit late night refreshment on Sunday, Monday, Tuesday, Wednesday and Thursday from 11.00pm until 1.00am the following morning and on Friday and Saturday's from 11.00pm until 02.00am the following morning.

d. The applicant has also requested the following Non Standing Timings for all the above licensable activities:

- 2.00am following every, Friday, Saturday, Sunday and Monday for each May Bank Holiday, Spring/Whitsun Bank Holiday and every August Bank Holiday Weekend.
- 2.00am into the morning following every Thursday, Friday, Saturday, Sunday and Monday for the Easter Bank Holiday weekend.
- 2.00am into the morning following every Christmas Eve and Boxing Day.
- From the start of permitted hours on New Years Eve to the close of permitted hours on New Years Day.

e. The applicant has also requested to change the condition stating:

- *The outdoor areas marked on the attached plan shall not be used by patrons consuming alcohol and/or food between 00:00hrs and 08:00hrs each day*

to

- *The outdoor areas marked on the attached plan shall not be used by patrons consuming alcohol and/or food between **01:00hrs** and 08:00hrs each day”*

## 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	To extend existing standards and procedures so that they are applied over the proposed extended trading period and apply to all licensable activities requested. This will enable the premises to continue to operate as premises providing a location for customers to socialise as well as purchase alcohol and food and be entertained. Maintenance of existing standards will enable the premises to operate lawfully, peacefully, safely and without harm to children.
The Prevention of Crime and Disorder	To continue with the responsible management of the premises in such a way that all patrons are aware that crime and disorder of any nature will not be tolerated. To ensure that all staff are trained so as to maintain high standards of operation. This will include a cooling off period of 30 minutes after last sale of alcohol when music will be turned down to background level.
Public Safety	To continue to maintain the premises and operate them in a manner so that public safety is not put at risk. To comply with all the relevant legislation relating to public safety.
The Prevention of Public Nuisance	<p>To continue to ensure that sound from the premises is maintained at a level that does not cause a public nuisance. Music will be reduced to background level during the cooling off period, when soft drinks will be available. Notices at entrances/exits requesting customers to leave quietly and have regard to any neighbours and members of staff to request customers to leave quietly at closing time.</p> <p>The outdoor areas marked on the attached plan shall not be used by patrons consuming alcohol and/or food between 01:00hrs and 08:00hrs each day.</p>

The Protection of Children From Harm	Staff fully trained in the implementation of proof of age schemes requiring photographic identification. To ensure that all staff are aware of the requirements of the Licensing Act 2003 so far as persons under 18 and under 16 are concerned.
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## Background

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

Previous licences held and Details of licence reviews:	<p>Mill House Inns Limited applied to convert their Justices Licence for the Boat House to a Premises Licence in July 2005. Simultaneously to this application, the applicant applied to vary their Premises Licence in respect of extending their hours for the provision of regulated entertainment in the form of recorded music and the facilities for making music, late night refreshment and alcohol sales until midnight with added extensions for these provisions until 01.00am on the day following from Thursday to Monday over Bank Holiday weekends.</p> <p>This application met objections from local residents which related mainly to the licensing objectives of the prevention of public nuisance and the prevention of crime and disorder resulting in a hearing before the Licensing Panel to determine the application in September 2005. The variation was granted with changes to the hours requested and conditions attached to the Premises Licence by the Licensing Panel.</p> <p>In May 2006, the applicant applied for a further variation to the Premises Licence seeking to extend the hours for the provision of regulated entertainment and the supply of alcohol until 01.00am and also the hours for late night refreshment until 01.30am. Objections were again received from local residents which related mainly to the licensing objectives concerning the prevention of public nuisance and the prevention of crime and disorder. A hearing was therefore arranged for 29 June to determine the variation application.</p>
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On 23 June 2006, local residents submitted an application for a review of the Premises Licence (as granted in September 2005).

Notwithstanding receipt of the review application, the hearing to determine the variation application proceeded on 29 June. The Licensing Panel rejected the application to vary the hours at the premises and imposed conditions proposed by the Environmental Protection Team and the Applicant.

The review hearing called by residents took place on the 24<sup>th</sup> August 2006 they cited the reason for the review on the following grounds:

The residents surrounding and near the premises have suffered considerable nuisance and the effects of crime and disorder resulting from the use of the premise, especially after 11.00pm.

Specific problems include:

Drunk and disorderly behaviour;

Noise nuisance from patrons leaving;

Noise nuisance from music played at the premises;

Damage to property;

Obstruction of property;

Offensive behaviour of patrons;

Vomit and urine in doorways/on pavement;

Litter left on private property/pavement/

It was decided by the Licensing Panel that the conditions laid down at the hearing to vary the premises licence on 29 June 2006 should be sufficient to address the residents' concerns relating to noise, and the premises licence was not altered.

The premises licence was transferred from Mill House Inns Limited to Sprit Group Limited on the 24 April 2008.

Current convictions:	None
Complaints:	Sixteen complaints relating to noise have been received in relation to the Boat House since 1996. The Council has only received 2 noise complaints since the Licensing Act 2003 came into force on 24 November 2005. The most recent complaint was received in May 2007 regarding noise from patrons leaving the area of the premise; prior to this a similar complaint was received in May 2006.

### Relevant Representations

8. Relevant representations from the 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:	Thames Valley Police have made a representation against the application on the grounds of crime and disorder. The Police consider the application is likely to have a cumulative effect on crime and disorder within the vicinity of the premise. Full details of the representation and the Officers comments can be found at Appendix D.
Fire & Rescue Service:	No response
Environmental Health:	The Environmental Protection Officer has made representation against the application in respect of the relaxation of the condition limiting the use of the outdoor areas and also in respect of the late hours requested for entertainment on the application. Full details of the representation and the Officers comments can be found at Appendix D.
Planning:	No Objection
Trading Standards:	No response
Child Protection:	No response

### Interested Parties

9. A total of 115 letters have been received in relation to this application from local residents. 35 of these letters have been deemed not relevant by the Licensing Officer under the requirements of the Licensing Act 2003. However, 80 of the letters were deemed relevant. A total of 105 people have made a valid comment against the application by written representation. All of the relevant 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.

<b>Policy GN 23: Live music, dancing and theatre</b>
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
<b>Policy LH 3: Licensing hours not limited</b>
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.
<b>Policy LH 5: Closing Times</b>
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.
<b>Policy LH 6: Dispersal procedures</b>
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.
<b>Policy LH 7: Latest admission times</b>
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 site plan showing the location of the premise 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 Boat House, 103 High Street, Wallingford.**

**Licence Number: 4105**

## **APPENDIX C**

**Current Premises Licence: 4105**

**The Boat House, 103 High Street, Wallingford.**

## **APPENDIX D**

### **Relevant representations received from Relevant Authorities**

**Relevant representations received from Interested Parties**



## Appendix F

### Site plan of showing the location of the Boat House.

(Due to the high numbers of representation and the large vicinity, it has not be possible to display representations on the map below)

