

# Licensing Panel



Report of Head of Legal and Democratic Services

AGENDA ITEM

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Licensing Panel

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## **Application for the Review of a Premises Licence under the Licensing Act 2003 –**

## **Premises Licence Number 7641:-Latinos T/A Diamonds and Pearls and Speak Easy, Greys Road Car Park, Market Place, Henley**

### Recommendation(s)

1. That the Panel consider the application for review of this licence, and
2. Having heard all the evidence submitted by the various parties at the hearing, taken into account the Secretary of State's Guidance issued under Section 182

Licensing Act 2003, and the council's Statement of Licensing Policy determine if based on this that any or all of the licensing objectives have been undermined, and

3. If the Panel conclude that any or all of the licensing objectives have been undermined then they are recommended to consider what measures are necessary and proportionate in order to ensure that those licensing objectives are promoted.

## **Purpose of Report**

1. To present the facts and relevant representations received in respect of an application by Thames Valley Police, for a review of the premises licence for Latinos T/A Diamonds and Pearls and Speak Easy, Greys Road Car Park, Market Place Henley, under Section 51 of the Licensing Act 2003 to the Licensing Acts Panel in order that the Panel 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 When a valid application is received for the review of a premises licence and the review has not been withdrawn the matter will be referred to a Licensing Acts Panel to determine the application.

3.3 An application was received from Thames Valley Police on 3 March 2011 under Section 51 of the Licensing Act 2003 for a review of the Premises Licence **No. 7641** in respect of Latinos T/A Diamonds and Pearls/ Speak Easy, Greys Road Car Park, Market Place, Henley on Thames, RG9 2AA.

The grounds for the review are:-

Thames Valley Police are calling for review of this licence due to the premise breaching conditions and not upholding the crime and disorder objective of the 2003 Licensing Act.

The number and nature of incidents that have occurred at the premise have greatly increased over the last year. There is great concern that these incidents are increasingly involving persons who are affiliated with or working for the premise.

Upon a licensing check at the premise there were several licensing conditions that are attached to the premise licence that are not being adhered to.

A copy of the review application together with the supporting documentation from Thames Valley Police is attached at **Appendix 1**.

South Oxfordshire District Council as the licensing authority were responsible for placing the necessary signs on the premises and these were put up on Friday 3 March 2011 inviting comments on the review application by 31 March 2011. A copy of the "blue notice" is attached at **Appendix 2**. The review has been called for in respect of the crime and disorder licensing objective. Thames Valley Police confirmed that copies of the review documentation were also served on the responsible authorities and premises licence holder.

4. A copy of the current **Premises Licence 7641** is attached at **Appendix 3** for information. This licence was first granted on 16 January 2009 to the current premises licence holder. A variation of the licence was granted on 10 June 2009 and is the licence that is currently in force. The Designated Premises Supervisor (DPS) is Mr Carmelo Borg and he has been the DPS since 22 January 2009.

There have been a number of problems over a period of time with the running of the premises and the Licensing Authority has on file correspondence between Thames Valley Police and the licence holder

outlining breaches of conditions and seeking improvements in the running of the premises. Other departments within the council have dealings with the premises from a regulatory perspective but on matters that are not of direct relevance to the licensing objectives. In respect of matters that are dealt with by Environmental Health that do relate to the licensing objectives no matters of concern have been raised. The licensing authority has conducted a number of inspections at various times both when the premises has been open and when it has been closed and these inspections have been conducted both by officers of the licensing authority on their own and in the company of officers from Thames Valley Police. During these inspections matters requiring attention have been brought verbally to the attention of the DPS and premises licence holder.

The licensing authority has received a number of letters in respect of the premises relating to the regulated entertainment of an adult nature at the premises. However the letters relate to matters outside of the council's powers under the Licensing Act 2003 and will be dealt with if and when any application under the provisions of Local Government (Miscellaneous Provisions) Act 1982 relating to Sexual Entertainment Venue Licences is received.

In respect of crime and disorder issues these have in the main been raised by and dealt with by Thames Valley Police.

3.5 Environmental Protection, Health and Safety and Planning in their capacity as Responsible Authorities have raised no comments on the review process either in support of it or against it.

3.6 Henley Town Council in their capacity as an organisation representing residents in the area has commented on the review and their letter of representation is attached at **Appendix 4**.

3.7 Four other letters of representation have been received and these are attached as **Appendices 5-8**. The issues raised that are of relevance to the review relate to the crime and order objective and the protection of children from harm objective. The letters of representation also refer to other matters that are not of relevance to this review.

## **4. Options**

4.1 In determining an application for the review of a premises licence the authority must give weight to:

- Representations received from Responsible Authorities
- The Secretary of State's Guidance Issued under Section 182 of the Licensing Act 2003
- The Statement of Licensing Policy
- The steps necessary to promote the Licensing Objectives

4.2 The Panel are reminded that any decision they consider has to be proportional to only do that which it considers necessary to promote those licensing objectives that may be considered to have been undermined.

4.3 In view of the above, the Panel is requested to consider the application for a review of the premises licence and decide whether:

- Take no action, or
- Issue a warning to the premises licence holder, or
- Suspend the licence for a period not exceeding 3 months, or
- Revoke the licence, or
- Remove the DPS, and/or
- Vary the licence by removing, some or all of the licensable activities, and/or
- Vary the licence by amending the hours the premises can be open, and/or
- Vary the licence by amending the hours during which any of the licensable activities can be provided, and/or
- Vary the licence by attaching additional conditions to the licence

## **5. Financial Implications**

**5.1 Should the applicant or any party aggrieved by the decision wish to appeal against the decision of the Council, they may do so to the Magistrates' Court. The council would incur costs should this occur, although the court may decide to award costs if the council's decision is upheld.**

## **6. Legal Implications**

**6.1 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 for the review of an existing licence the panel will be aware of Human Rights considerations, specifically Part 1, Article 6, right to a fair trial and Part 2, Article 1, peaceful enjoyment of possessions (a licence is deemed to be a possession).**

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

6.3 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.'

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

## **Risks**

6 None identified

## **Other Implications**

7 None

## **Conclusion**

8.1 This report provides information submitted by the applicant for the review, Henley Town Council and other interested parties. The panel should determine this application with a view to promoting the relevant Licensing Objectives which are 'the prevention of crime and disorder' and 'the protection of children from harm' and have regard to the relevant provisions of the Act, Guidance and Policy.

2. The Panel should, having heard all the evidence submitted by the various parties at the hearing, taken into account the Secretary of State's Guidance issued under Section 182 Licensing Act 2003, and the council's Statement of Licensing Policy determine if based on this that any or all of the licensing objectives have been undermined.
  
3. If the Panel conclude that any or all of the licensing objectives have been undermined then they should consider what measures are necessary and proportionate in order to ensure that those licensing objectives are promoted. The options available for the panel to consider are set out at paragraph 4.3 above.

## **Background Papers**

- Legislation referred to in the report.

**APPENDIX 1**

**Application for the review of a premises licence or club premises**

**certificate under the Licensing Act 2003**

**PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST**

Before completing this form please read the guidance notes at the end of the form.

If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary.

You may wish to keep a copy of the completed form for your records.

I  Thames Valley Police

*(Insert name of applicant)*

**apply for the review of a premises licence under section 51 of the Licensing Act 2003 for the premises described in Part 1 below (delete as applicable)**

**Part 1 – Premises or club premises details**

Postal address of premises or, if none, ordnance survey map reference or description

Latinos

Greys rd car park

Market Place

**Post town**      **Post code (if known)** RG9 2AA

Henley-on

Thames

Name of premises licence holder or club holding club premises certificate (if known)

Antonio Lopes

**Number of premises licence or club premises certificate (if known)**

7641

**Part 2 - Applicant details**

I am

**Please tick yes**

1. an interested party (please complete (A) or (B) below)

- a. a person living in the vicinity of the premises  2.
- b. a body representing persons living in the vicinity of the premises  3.
- c. a person involved in business in the vicinity of the premises  4.
- d. a body representing persons involved in business in the vicinity of the premises  5.
6. a responsible authority (please complete (C) below)
7. a member of the club to which this application relates (please complete (A) below)

**(A) DETAILS OF INDIVIDUAL APPLICANT (fill in as applicable)**

**Please tick**

Mr  Mrs  Miss  Ms  Other title (for example, Rev)

**Surname**

**First names**

**I am 18 years old or over**

**Please tick yes**

**Current postal**

**address if**

**different from premises address**



**Post town**

**Post Code**

**Daytime contact telephone number**

**E-mail address (optional)**

**(B) DETAILS OF OTHER APPLICANT**

Name and address

Telephone number (if any)

E-mail address (optional)

**(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT**

Name and address

Thames Valley Police Licensing Department

Laura Morris

St Aldates Police Station

St Aldates

Oxford

OX1 1SZ

Telephone number (if any)

**01865 266109**

E-mail address (optional)

[laura.morris@thamesvalley.pnn.police.uk](mailto:laura.morris@thamesvalley.pnn.police.uk)

**This application to review relates to the following licensing objective(s)**

Please tick one or more boxes

1. the prevention of crime and disorder
2. public safety
3. the prevention of public nuisance
4. the protection of children from harm

**Please state the ground(s) for review** (please read guidance note 1)

Thames Valley Police are calling for review of this licence due to the premise breaching conditions and not upholding the crime and disorder objective of the 2003 Licensing Act.

The number and nature of incidents that have occurred at the premise have greatly increased over the last year. There is great concern that these incidents are increasingly involving persons who are affiliated with or working for the premise.

Upon a licensing check at the premise there were several licensing conditions that are attached to the premise licence that are not being adhered to.

**Please provide as much information as possible to support the application** (please read guidance note 2)

There has been 106 incidents since opening in 2009 the brake down of these can be seen below.

11 ABH

1 Affray

7 Assault No injury

13 Breach

13 Disorder

9 Drugs

12 Fraud

4 Intoxication

20 Other

5 Public Order

6 Theft

2 Underage

3 Fight

106 Total

In the last year there has been an increase in complaints of fraud and an increase in the levels of the premises drugs results.

The local Sergeant and Inspector as well as the licensing department have had many meetings with the premise in order to advise the premise of our concerns but the problems still persist.

On the 18<sup>th</sup> February 2010 a licensing check was carried out at the premise And during thisit was found that several of the licensing conditions that are on the premise licence were not being adhered to. When questioning management and staff about some of these breaches many were unaware that these conditions even existed let alone adhere to them.

Please see attached Annexes

Annex 1 All Incidents (subject to additions should further incidents arise before the hearing)

Annex 2 Incidents involving staff

Annex 3 Card Fraud Incidents

Annex 4 Incident break downs.

Annex 5 Drug results (if more swabs are done before the hearing this is to be updated)

Annex 6 Results of licensing check 18/2/11

Annex 7 Police incidents Vs Premise Incident Book

Annex 8 Correspondance & meetings (this is subject to additions as i am awaiting statements from officers)

**Please tick yes**

Have you made an application for review relating to this premises before

If yes please state the date of that application

Day	Month	Year

**If you have made representations before relating to this premises please state what they were and when you made them**

**Please tick yes**

- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate
- I understand that if I do not comply with the above requirements my application will be rejected

**IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION**

**Part 3 – Signatures (please read guidance note 3)**

**Signature of applicant or applicant’s solicitor or other duly authorised agent (See guidance note 4). If signing on behalf of the applicant please state in what capacity.**

Signature

.....

Date            28/2/11

.....

Capacity      Licensing Officer

.....

Contact name (where not previously given) and postal address for correspondence associated with this application (**please read guidance note 5**)

**Post town**

**Post Code**

<b>Telephone number (if any)</b>
<b>If you would prefer us to correspond with you using an e-mail address your e-mail address (optional)</b>