

Decision Notice: Licensing Panel Hearing 9 September 2011

Sindu Express, Garsington

Date issued and posted: 27 September 2011

The Licensing Panel met on 9 September 2011 to consider the application for a new premises licence for the Sindu Express, 31 Elm Drive, Garsington, Oxford, OX44 9AG.

The decision of the Panel is set out below. This decision was deemed to be effective immediately from the date of the hearing. This does not affect the rights of the premises during the period of any appeal.

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.

Section 10.1 of the Council's Statement of Licensing Policy states that, under the 2003 Licensing Act, it is possible for the local 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 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

Licensing Panel Hearing for a new premises licence



held on 9 September 2011 at 10.00 am at the council offices, Crowmarsh Gifford

Premises Licence: Sindu Express

Premises address: 31 Elm Drive, Garsington, Oxford OX44 9AG

Licensing Panel Councillors: Mr Christopher Quinton (Chairman)
Mrs Eleanor Hards
Mrs Ann Midwinter

Legal advisor: Ms Amanda Nauth

Licensing Officer: Mr Nigel Haverson

Clerk: Mrs Jennifer Thompson

Representing the applicant: Mr R Jordan (licensing consultant),
Mr K Sureshkumar (applicant and DPS)

Thames Valley Police: Ms L Morris, Licensing Officer

Interested Parties: Mr D Mather, Mrs V Mather, Mr R Fry (local residents) and Mr C Moss (observing)

The Panel considered the report of the Licensing Officer which included copies of the premises licence application and relevant representations from Thames Valley Police and 31 local residents. The Panel considered copies of the training handbook, signs and registers the applicant proposed to use. These had been sent to the Panel prior to the hearing.

The Panel heard evidence from the applicant and his representative, from Thames Valley Police, and from three local residents.

The applicant confirmed that the conditions proposed by Thames Valley Police were acceptable. On the third of these, an additional sentence “the premises licence holder will make CCTV recordings available to the police or the licensing authority on request” was proposed by the licensing officer and accepted by the applicant. The applicant agreed to a proposed condition to send copies of all policies to Thames Valley Police for their records.

The applicant proposed altering references in operating schedule and the first condition proposed by the police from ‘persons who appear to be under the age of 21’ to ‘persons who appear to be under the age of 25’. He suggested an additional condition that 70 per cent of the front window be kept clear to allow staff to clearly see the area outside the shop.

Residents were concerned about noise, disturbance and anti-social behaviour from young people congregating around or close to the shop. Residents were concerned that the sale of alcohol could add to these problems and that selling alcohol until 2300 may contribute to an unacceptable nuisance.

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 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 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. The Panel took into account only those factors relevant to the licensing regime.

In particular, the Panel took account of:

- the quiet residential area surrounding the site;
- the proximity of nearby properties and the high proportion of elderly residents;
- the nature of the business;
- the hours and activities set out in the application and the applicant's comments about trading patterns;
- the likelihood of disturbance outside the premises from the sale of alcohol generally, and from sales late in the evening and in the morning; and
- the likely impact of any additional disturbance caused by alcohol off-sales.

In coming to the decision, the Panel sought to balance the rights of the residents to a peaceful enjoyment of their premises with the rights of the applicant to a peaceful enjoyment of the business and the licence, and to balance the different requirements of the business, residents, and customers.

The decision of the Panel was: to grant the premises licence with conditions and amendments to the hours of operation.

Opening hours: 0700 to 2300 Monday to Sunday
Hours of sale of alcohol: 0700 to 2100 Monday to Sunday.

The operating schedule, conditions suggested by the applicant at the hearing, and the conditions proposed by Thames Valley Police and agreed by the applicant are attached as additional conditions to the licence:

1. Staff training to occur at regular intervals.
2. Staff training and retailing should ensure the shop does not present a public nuisance.
3. No unreasonable smell or noise
4. Liaise with local police community support team as they require.
5. All alcoholic spirits to be kept behind the counter (as stated in the plan submitted with the application). The remaining alcohol to be kept within viewing distance of the counter and not near the entrance of the premises.
6. ID all persons who appear to be under 25 who attempt to purchase alcohol.
7. Refusal register – ID persons who appear to be under 25 who attempt to purchase alcohol. Be aware of proxy sales. Staff training at six monthly intervals which will be recorded.

8. The premises shall adopt a Challenge 25 policy. All members of staff shall seek credible photographic proof of evidence from any person under the age of 25 years and who is seeking to purchase alcohol. Such credible evidence, which shall include a photograph of the customer, will either be a passport or photographic driving licence.
9. 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.
10. The premises shall keep and maintain an incident/refusals book. This is to record any refusal of sales or incidents that occur at the premises,
11. Copies of all policies shall be sent to Thames Valley Police;
12. Training on dispersal of groups outside the shop shall be given, and information on this retained in the training manual;
13. The premises shall at all times have at least 70 per cent of its front window kept clear to allow staff to observe the area outside the premises;

Reasons for reducing the hours of sale of alcohol and imposing additional conditions.

To ensure the promotion of the licensing objective to prevent public nuisance by:

- stopping the sale of alcohol at 2100 to prevent disturbances caused by alcohol sales or refusals later in the evening in a quiet residential area with a primarily elderly population; and
- imposing conditions to control the likelihood of anti-social behaviour as a result of alcohol sales;

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.

Each party has the right to the peaceful enjoyment of their possessions – in the case of the residents, to their homes and in the case of the applicants to their premises and their licence.

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.