

Decision Notice

Licensing Panel hearing on Thursday 25 April 2013

To consider an application for a variation to premises licence number 4304 at the Oxford Thames Four Pillars Hotel, Henley Road, Sandford on Thames, Oxford OX4 4GX

The council's Licensing Panel met at 2.00 pm on Thursday 25 April 2013 to consider the application for a variation to premises licence 4304 for the Oxford Thames Four Pillars Hotel, Henley Road, Sandford on Thames, Oxford OX4 4GX.

The decision of the Panel is set out below. This decision takes effect immediately from the date it is issued.

Appeal 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. If you wish to appeal you must give notice in time, in the proper form, and with the proper fee to the Clerk to the Justices, The Court House, Oxford Magistrates' Court, Speedwell Street, Oxford OX1 1RZ. The magistrates' court may make any order as to costs as it thinks fit. The magistrates' court can be contacted on 01865 448020. Section 181(1) Schedule 5(9) of the Licensing Act 2003 sets out the process for appeals.

Right of review.

Responsible authorities, local residents, and ward councillors may request a review of the premises licence if the premises are running licensed activities in such a way as to fail to uphold one of the 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 of 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.

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.

Contacts.

If you have queries about the licence or about enforcement, contact the licensing team (tel 01491 823209, email licensing@southoxon.gov.uk). If you have queries about the hearing or this notice, contact the Democratic Services Officer named below (tel 01491 823619, email democratic.services@southandvale.gov.uk).

Jennifer Thompson
Democratic Services Officer

Date issued and posted: 10 May 2013

Contact: Legal and Democratic Services at South Oxfordshire District Council, Benson Lane, Crowmarsh Gifford, Wallingford, OX10 8QS

Licensing Panel Hearing
held at 2.00 pm on Thursday 25 April 2013 at
Council Chamber, District Council Offices,
Crowmarsh Gifford



Listening Learning Leading

Premises details and attendance

Premises Licence:	4304
Premises address:	Oxford Thames Four Pillars Hotel, Sandford on Thames, OX4 4GX
Licensing Panel Councillors:	Mrs Margaret Turner (Chairman) Ms Lynn Lloyd Mrs Ann Midwinter
Legal advisor:	Miss Sarah Commins
Licensing Officer:	Mr Bhavdip Nakum
Clerk:	Mrs Jennifer Thompson
Representing the applicant:	Mr Jonathan Oldroyd, General Manager Mr Rex Clayton, Regional manager Ms Wendy Procter, Regional General Manager for Oxfordshire
Environmental Protection:	Mr Sam Bryan
Interested Parties:	none in attendance

Reason for Hearing

To determine the application for a variation to a premises licence for made under section 34 of the Licensing Act 2003 ("the Act")

Hearing

Written evidence considered

The Panel considered the following:

- report of the licensing officer, which included copies of the premises licence variation application, a representation from environmental protection, two relevant representations from three local residents, and a late representation from a local resident.
- additional documents submitted by the applicant in support of the application, circulated to the Panel in advance and available at the hearing which included a statement by Rex Clayton dated 22 April 2013, photographs of the premises and an architects drawing of modifications to the premises

Oral Evidence

The Panel heard from the licensing officer, the applicant and his representatives, and from the environmental protection officer.

The applicant explained that the application was to allow the premises to provide sale and consumption of alcohol and regulated entertainment in two courtyard areas; one open and one enclosed by a glazed and air-conditioned conservatory. There was no extension to the current hours of operation. Using the photographs and drawings submitted in advance to the Panel the applicant explained how the newly constructed areas would be used; the intention being to provide dining in the conservatory and occasional functions involving regulated entertainment. These would be neither regular nor frequent, but would avoid the previous need to apply for temporary event notices.

The applicant explained that this would reduce the need to hire a marquee for most functions except the annual Oxford Business Awards which was a very large event. The applicant explained that in the past the hotel had often received last-minute requests for regulated entertainment too late to allow them to apply for a temporary event notice. Currently during events including regulated entertainment a member of staff would be outside on the perimeter to ensure noise levels remained acceptable, and those providing entertainment were made aware of their responsibilities. Action to reduce noise was taken where necessary.

Upon being questioned by a member of the Panel the applicant confirmed that they would be agreeable to a 12.00am finish for events in the open courtyard if required

The applicant stated that there was a commitment to good management to avoid disruption to residents of the hotel and neighbouring properties. The number of bedrooms at the hotel was being increased by 22 which created more need for dining provision.

The environmental protection officer confirmed that in his view the conditions proposed would be sufficient to prevent public nuisance from noise from the use of the courtyard areas. There had been 11 complaints about noise from the hotel since 2000, with the most recent complaint in the summer of 2012, and primarily relating to noise from events in marquees. The complaints showed that there was the potential for noise from the premises to cause public nuisance but this was because a marquee provides very little noise attenuation. Noise from patrons was unlikely to cause the same degree of public nuisance as could be caused by regulated entertainment.

Decision

To grant the variation to premises licence 4304 for the hours and areas applied for subject to the additional conditions as set out below:

Live Music	Monday to Sunday Indoors and Outdoors	9:00 to 01:00
Recorded Music	Monday to Sunday Indoors and Outdoors	9:00 to 01:00
Provision of facilities for dancing	Monday to Sunday Indoors and Outdoors	9:00 to 01:00

Late Night Refreshment	Monday to Sunday Indoors and Outdoors	23:00 to 01:00
Supply of Alcohol	Monday to Saturday	11:00 to 01:00
	Sunday for consumption on or off the premises	12:00 to 01:00

The operating schedule (schedule P in the application).

Two additional conditions as proposed by Environmental Protection and agreed by the licence holder prior to the hearing shall be applied to the licence as follows:

1. Boundary noise limit

To avoid nuisance to residential premises, noise emanating from the licensed premises as a result of regulated entertainment shall not be clearly audible at the (external) boundary of any residential premises. If it is possible to determine where the noise is coming from and speech, lyrics, melody or bass components are distinguishable at the monitoring point (external boundary of any residential premises) then the noise will be considered to be clearly audible.

2. Boundary noise checks

At least twice during each occasion when regulated entertainment takes place outside the person in charge shall undertake an assessment of noise emanating from the premises as a result of regulated entertainment at the boundary of the site nearest residential premises. If the assessment indicates a potential problem exists arising from excessive noise levels then immediate action must be taken to reduce the noise level and a further check conducted to ensure that the noise levels have been sufficiently reduced. A written record shall be kept of each noise assessment and of any remedial action taken. Records of such checks shall be made available to the Licensing Authority for inspection at any reasonable time.

Reasons for the Decision

The Panel considered the representations of all parties including those unable to attend the hearing, the relevant provisions of the Act, the Secretary of State's guidance issued under section 182 of the Act and the council's licensing policy. The Panel considered what action would be reasonable and proportionate having regard to the Act and associated regulations and guidance, the promotion of the licensing objectives, and the Council's licensing policy.

The Panel only took into account evidence relevant to the licensing regime and to the promotion of the licensing objectives.

The Panel took account of:

- the mixed use area surrounding the site;
- the nature of the business;
- the hours and activities set out in the application, the operating schedule, and the applicant's comments;
- the concerns raised in the representations made by residents; and
- the representations from environmental protection.

The Panel acknowledged the concerns of local residents regarding public nuisance created by noise late at night from patrons at the hotel but also noted that the mixed use

of the area including other licensed premises may be responsible for some of the noise nuisance. The Panel considered the history of noise complaints as detailed by the environmental protection officer and noted that the last complaint was in June 2012 however since 2007 such complaints had been very few and the Panel was satisfied that the applicant demonstrated a responsible attitude to such complaints and during events involving regulated entertainment already engaged a dedicated member of staff to undertake noise checks at the boundary of the premises.

The Panel considered the likely additional nuisance arising from noise from the glazed conservatory and from the open courtyard areas up to and after midnight. It noted that the noise attenuation provided by the conservatory should give residents adequate protection from public nuisance, provided its doors and windows were closed. It was noted that the glazed areas would provide greater noise protection than the previous marquee use and that provided the applicant complied fully with the conditions requested by environmental protection, the type and frequency of activities outlined by the applicant would not give rise to public nuisance. Consequently the Panel did not consider that there was a justifiable reason to restrict the proposed hours or activities as the measures proposed by the applicant in the operating schedule and the additional conditions requested by environmental protection were sufficient to meet all four licensing objectives

The Panel noted that if the activities of the premises caused a public nuisance, environmental protection could take steps to address breaches of environmental protection legislation controlling noise; or the licensing officer or responsible authorities or residents could take steps up to and including requesting a review of the licence.

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 are 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.

The meeting closed at 3.30 pm

Signed as a true summary of the proceedings by the Chairman¹

Mrs Margaret Turner (Chairman)

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.