

Minutes

OF A MEETING OF THE

Licensing Panel

HELD AT 2.00 PM ON THURSDAY 29 AUGUST 2013

COMMITTEE ROOM 1 - SOUTH OXFORDSHIRE DISTRICT COUNCIL
OFFICES

Present

Mrs Margaret Turner (Chairman)

Mr David Bretherton and Mrs Eleanor Hards

Officers

Miss Sarah Commins, Mr Bhavdip Nakum and Jennifer Thompson

**3 Premises licence variation - The Square 10 Market Place
Henley on Thames**

Decision Notice

Licensing Act 2003

Decision of the Council's Licensing Acts Panel held
on 29 August 2013 at 2.00pm.

Application for a variation to the premises licence
for The Square, 10 Market Place, Henley on Thames
(4337)

Date issued: 24 September 2013

Reason for Hearing

To determine the application for a variation to the premises licence for The Square, 10 Market Place, Henley on Thames (4337) made under section 34 of the Licensing Act 2003 (the Act).

Decision

The Panel¹ grants the application for variation to the premises licence for The Square, 10 Market Place, Henley on Thames for the area shown on the submitted plans and with hours and conditions as set out below:

Opening hours of the premises:

Sunday to Thursday 0900 to 0000
Friday and Saturday 0900 to 0200 the following day

Sale of alcohol (on the premises)

Sunday to Thursday 1100 to 2330
Friday and Saturday 1100 to 0130 the following day

Sale of alcohol (off the premises)

Sunday to Saturday 1100 to 2200
See condition 20

Late night refreshment (indoors only)

Sunday to Thursday 2300 to 2330
Friday and Saturday 2300 to 0130 the following day

Recorded music, and anything of a similar description to live and recorded music and performances of dance (noting that on the application, this is listed as recorded music only)

Sunday to Thursday 1100 to 0000
Friday and Saturday 1100 to 0200 the following day

Non standard timings:

During Regatta week (Monday to Sunday), and on Christmas Eve and New Year's Eve: one hour later than the normal finishing time for each permitted activity.

Conditions are attached:

Mandatory conditions as required by the licensing authority.

The conditions proposed by Environmental Protection and agreed by the applicant:

1. 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 (the external boundary of any residential premises) then the noise will be considered to be clearly audible.
2. No regulated entertainment shall take place until the front door lobby and glazing to the front of the premises has been installed in accordance with the details specified in the acoustic report described prepared by Clement Acoustics, ref 8076-NIA-01 RevA, dated 9 May 2013.
3. At least one of the two lobby doors to be installed in compliance with condition 2 above must be closed at all times when live or amplified music is being played.
4. 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,

¹Councillors Margaret Turner, David Bretherton, and Eleanor Hards.

set at a level determined by the local authority. The operational Panel of the noise limiter shall then be secured to the satisfaction of an authorised officer and access to the limiter shall be restricted to prevent tampering. No alteration or modification to any existing sound system should be effected without prior agreement of the local authority. No additional sound generating equipment shall be used on the premises without being routed through the sound limiter device.

5. During each occasion when regulated entertainment takes place, the premises licence holder shall ensure that hourly assessments are undertaken of noise emanating from the premises as a result of regulated entertainment. The assessment shall be made outside the external facades of 4 and 11 Market Place, Henley-on-Thames. If the assessment indicates that noise from the premises is likely to be audible at the boundary of any nearby residential properties, 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 local authority for inspection at any reasonable time.
6. 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.
7. Prominent, clear notices shall be displayed at the exit requesting that customers respect the needs of local residents and leave the premises and the area quietly.
8. Intoxicating liquor shall not be sold or supplied on the premises otherwise than to persons taking table meals there and for consumption by such a person as an ancillary to his meals.

The conditions proposed Thames Valley Police to the applicant and agreed by the applicant:

9. If the premises has licensable activities occurring after 0100, a minimum of two SIA registered door supervisors shall be employed from 2300.
10. CCTV of evidential quality covering the entire premises shall be installed, maintained, and operated when the premises is open, to the satisfaction of the police and the licensing authority. Recordings will be provided to the licensing authority or police representative on request and will be kept for a minimum of 28 days.

The remaining parts of the operating schedule (Part M of the application form) proposed by the applicant and not covered above are attached as conditions on the licence:

11. The designated premises supervisor shall ensure safety on the premises.
12. The designated premises supervisor shall be an active member of Pubwatch.
13. Staff on the premises shall use the radio link scheme.
14. Under 21s will not be encouraged to enter.
15. Staff will be trained to deal appropriately with drunkenness/drug issues, in first aid, and there will be regular fire drills. A record of all training undertaken by

staff on these and other matters will be kept and made available for inspection by the licensing authority or the police on request.

16. Numbers entering the premises shall be monitored and kept within safe limits.
17. No unaccompanied children will be permitted on the premises.
18. No children shall be on the premises after 9pm.

Conditions 1 and 2 in Annex 2 of the licence in force until 29 August 2013 shall be deleted and Condition 2 replaced with:

19. All alcohol storage areas in the licensed premises shall be securely locked when the premises is not open to public

Conditions imposed on the permitted hours of licensable activities by the Panel:

20. Off-sales of alcohol are restricted to serving alcohol with meals at the tables outside the premises.

Evidence

The Panel considered the licensing officer's report and accompanying documentation and heard submissions from the applicant and his business partner, and from a local resident who had sent a written submission

The licensing officer supplied a plan of the premises showing the recent alterations to the interior.

Parties present:

Licensing Officer: Mr Bhavdip Nakum

Applicant: Mr Nuno Rossado and Ms Ondine Carrington

Environmental Protection: Mrs Sally Coxell

Interested Parties: Ms Penelope Thompson

Reasons for the Decision

The Panel took into account the written and oral evidence of all parties; 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 did not take account of any activities not within the control of the premises or which were not relevant to the licensing objectives, although members were sympathetic to the concerns of the local resident.

In particular, the Panel took account of:

- the characteristics of the site;
- that the premises was to operate only as a licensed restaurant and alcohol would only be served ancillary to table meals²;
- that the premises had previously operated as a licensed restaurant;

² 'Table meal' is defined as substantial refreshment.

- the hours and activities set out in the application and whether permitting these would undermine the licensing objectives;
- that the conditions proposed by environmental protection and the police covered a number of elements in the operating schedule, and different wording was required for other elements to create enforceable conditions;
- the applicant's explanation of the proposed operating of the premises;
- the concerns raised in the representations made by the local resident, and in particular her concerns that the increased footfall late at night would increase noise nuisance from people congregating in the market square;
- that while an increase in noise from people in the square would adversely impact on the residents, there was no evidence that this premises would cause such an increase; the area did not have a saturation policy; and the possible impact of noise from people in a public area did not constitute a valid reason to reject the application under the Act;
- the environmental protection officer's inspection of the acoustic lobby and the sound limiter and confirmation to the Panel that the lobby would provide sufficient sound insulation,
- the environmental protection officer's explanation of how the ,the sound limiter would be operated and secured, to prevent unauthorised modification;
- the conditions proposed by environmental protection and the effect these would have on reducing public nuisance by controlling noise from the premises and from patrons;
- that under the licensing permission from Henley Town Council, tables had to be removed from the square by 2200 and as the intention was to supply alcohol with meals there was no reason for off-sales to be permitted after 2200;
- that there was no designated area for smoking within the grounds of the premises, and as with a number of other premises smokers would have to stand in the market square. However, conditions 7 and 9 provide the means to control noise from patrons smoking outside the premises, and the Panel noted the assurance that the area outside the premises would be swept each morning;

Consequently the Panel considered that all four licensing objectives would be met in granting the variation with amended conditions

Signed as a true summary of the proceedings by the Chairman³

Mrs Margaret Turner (Chairman)

Date

Informatives

Appeal rights

All parties have a right of appeal against the Panel's decision. Any appeal must be made to the magistrates' court within 21 days of the date of this decision notice.

If you wish to appeal you must give notice in time, in the proper form, and with the proper fee. The magistrates' court can be contacted at: Clerk to the Justices, The

³Unlike committee minutes, notes of Panel hearings are signed by the Chairman on behalf of the Panel but are not approved by the whole Panel.

Court House, Oxford Magistrates' Court, Speedwell Street, Oxford OX1 1RZ, tel 01865 448020. The magistrates' court may make any order as to costs as it thinks fit.

Section 181(1) Schedule 5(9) of the Act sets out the process for appeals and Section 206 of the Act sets out the appeal rights.

Nuisance

Licensed premises must be run responsibly, in accordance with their licence conditions, and in a way that promotes the licensing objectives.

If the premises is causing a nuisance, residents can contact the council's environmental protection team to report this. Keeping a log of dates and times and the nature of the disturbance helps the team to work with the premises to resolve the problems.

If the premises is not complying with the conditions or operating hours, residents can contact the licensing team.

Review of the licence

Responsible authorities and any member(s) of the public can request a review of the premises licence if the premises fail to uphold one of the licensing objectives. Requests must be made on the correct form and should be made only after discussions with the licensing team.

The meeting closed at 4.25 pm