

Minutes

of a meeting of the

Licensing Panel



held on Monday, 16 October 2023 at
11.00 am in Meeting Room 1, Abbey
House, Abbey Close, Abingdon,
OX14 3JE

Open to the public, including the press

Present in the meeting room:

Councillors: Ali Gordon-Creed (Chair), Georgina Heritage, and Katharine Keats-Rohan
Officers: Sarah Commins (Legal Officer), Ashley Peachey (Licensing Officer), Darius Zarazel (Democratic Services Officer), Ben Silverthorne (Trainee Democratic and Electoral Services Officer)

Remote attendance:

Officers: Jeremy Lloyd (Broadcasting Officer)

9 Election of a chair

A motion moved and seconded, to elect Councillor Ali Gordon-Creed as chair of the panel was carried on being put to the vote.

RESOLVED: that Councillor Ali Gordon-Creed be elected as chair of the panel.

10 Declarations of interest

There were no declarations of interest.

11 Procedure for the meeting

The chair confirmed that all parties present understood the procedure.

12 Application for a premises licence for Monkey Puzzle Trading Limited, 18 Upper High Street, Thame, OX9 3EX

The panel considered the application for a premises license for Monkey Puzzle Trading Limited, 18 Upper High Street, Thame, OX9 3EX, and the chair invited the licensing officer to present their report.

Licensing officer

The licencing officer informed the panel that the premises licence application was for the premises known as Monkey Puzzle and had been submitted on behalf of Monkey Puzzle Trading limited for the supply of alcohol Monday to Sunday from 11am to 7pm. Amy Hutton (confirm name) and Leigh Schelvis were present for the applicant to speak on the application and the licensing officer also noted that the application had received three representations during the consultation period, with one objector, Mr Adrian Dite attending the panel hearing remotely. Finally, the licensing officer confirmed to the panel that the application was submitted in accordance with all the requirements.

No members of the panel, or the applicant and objector, had questions for the licencing officer.

The applicant

Leigh Schelvis, representing the applicant, then presented their case to the licensing panel. Some of the key information they highlighted was that the property in question was just 18 Upper High Street, not 18 to 20 and that they had agreed to a change in hours of their requested licensable activity for the supply of alcohol on and off premises from 11am until 7pm Monday to Sunday, with their proposed trading hours also being reduced from 8am to 7.30pm Monday to Sunday.

The proposed conditions put forward by the applicant were described by Mr Leigh Schelvis as being proportionate to address the assessed risks and would assist in promoting the licensing objectives.

He informed members that the premises currently traded as a coffee shop over two floors and had a communal external seating area and that it was a family and dog friendly environment that was a welcome and unique community asset.

He also noted that, although the shop was only open for seven months, it had received good reviews, receiving a community award, and was a regular host for Thames youth group for people between eight and 15 years old, and was also a safe social hub – he confirmed that no alcohol was being proposed to be sold at those events should the application be granted.

Mr Leigh Schelvis confirmed that the applicant was looking to expand their offer to alcohol to contribute to their afternoon tea and Mother's Day drinks events. The café would also like to host other events, such as arts and crafts later in the day, where alcohol would be sold. It was stressed that music would not be the focal point of the premises as it would not conform to the atmosphere they were trying to build. He also confirmed that they had no intention to hold music or sports events.

The proposed Designated Premises Supervisor (DPS) was Amy Hutton, a director of Monkey Puzzle. The panel were informed that she has held a personal licence since 2022 with around three years of experience within hospitality and had 20 years of involvement with the area.

The purpose of the application was to sell a limited offering of alcohol to enhance the existing family and dog friendly business, and not intended as a deviation from the

existing business model. There was no intention to become a night club, public house, or venue associated with alcohol focused business. Mr Leigh Schelvis also emphasised that the licensable hours proposed, until 7pm, were anticipated to have a low impact on the local community.

Regarding representations three had been received from residents. The applicant had engaged with the licensing authority and proposed and accepted conditions to promote the licensing objectives, found in appendix E. There are no live objections from responsible authorities and the applicant concluded therefore that they were satisfied with the application and the proposed conditions as they had chosen not to attend the panel.

On resident objections, Mr Leigh Schelvis suggested that the publication of a blue notice advising of an application for a premises licence for the sale of alcohol can draw the attention of local communities and raise concerns of problems associated with the sale of alcohol, but the concerns over noise for the hours now being sought were, he argued unjustified as objectors have no issue with the way the business is currently run and this should not change as there was no intention to move away from their current business practices and to turn into a place primarily for drinking..

Mr Leigh Schelvis emphasised that the conditions agreed by the applicant aligned with South Oxfordshire District Council's licensing policy on with the new hours sought being modest. He referred the panel to the fact that the council's licensing policy does not include a cumulative impact policy and in any event, he did not consider there was any available evidence to justify this complaint or other concerns of objectors.

On planning, he stated that the planning regime was separate from the licensing regime and there was no live planning enforcement action in relation to the premises. He highlighted that the applicant was a safe operator and the premises was a popular local community asset.

Members of the panel asked the applicant about the garden use and if the applicant was planning for most custom to be based outside. In response, the applicant's representative confirmed use was very weather dependent and most late events would be inside, although daytime activities would likely be mostly outside. Members noticed work was being undertaken at the far end of the garden and queried whether the public would be using the full width and length of the garden. The applicant said the paths being created were to prevent the grass getting muddy and that a shed was being created at the far end, of the garden for storage with the intention that tables would remain in the position they were currently and not be extended. The licensing officer noted that the licence applied for was for the premises itself not the garden, but the application was for on and off sales.

On a question about the range of alcohol provided, the agent confirmed that the range would be limited to a small range, not including beer taps.

In answer to how was the applicant proposing to mitigate noise at the premises, the applicant's representative answered that there were no speakers as wanted conversation to be had over music. Noise from customers, would occur as it is a café but the noise would be from talking and the applicant did not believe it was likely that

this would reach the level of statutory nuisance and that the operating schedule would promote the licensing objective of prevention of public nuisance.

The applicant confirmed in answer to a question about the choice to extend hours o that the main intention is to add to the existing offering. The applicant's representative reminded the panel that the business model is not part of the licensing objectives.

The licensing officer had no questions for the applicant.

Mr Adrian Dite one of the objectors asked the applicant about the premises itself and if all alcohol would be served in that area, not the outside area- and it was confirmed that the premises is only inside, but the application was for on and off sales. Mr Dite emphasised the residential nature of the surrounding properties and that he felt consumption of alcohol should be restricted to the inside of the business due to noise potential from people consuming alcohol making more noise. In response, the licensing officer confirmed that sale was for inside the premises but can be consumed on and off the premises so could be in the garden.

In response, the applicant's representative said the capacity of the café would be staying the same, only difference being a small offering of prosecco with afternoon tea and therefore did not believe would cause the disturbance suggested.

Mr Adrian Dite responded that, if the premises license was granted there could be issues relating to noise in the future. The Chair responded that it was their responsibility in accordance with the guidelines to look at the case in front of them and if the application were to be granted and noise to increase to an unacceptable level in the future any licence granted could be brought before a panel for review and/ or environmental health could investigate.

Objectors

Mr Adrian Dite, an objector, then presented his case to the licencing panel. The objector highlighted that he had no problem with the café which was very well run. However, he highlighted that the majority of seating is in the garden and that for the houses nearby the quiet residential garden atmosphere has changed and that the inclusion of alcohol may make this noise louder and with the increased hours louder for longer.

No members of the panel, or the applicant and objector, had questions for the objector.

Final submissions

The chair then invited each party to present their final submissions and the applicant's representative concluded by confirming that the application would not change what Monkey Puzzle does and they would remain a family friendly establishment but would simply expand their offer to limited alcohol sales and not transform the premises into a late-night venue or increase their capacity. He also highlighted the lack of objections from technical consultees and that the residents who did object had no issues with the

way the premises was currently run. He believed the evidence of how they currently traded on the site proved the operator's competence and ability to take on the proposed licence whilst not creating a nuisance.

The licencing officer did not choose to provide a closing statement.

In closing, Mr Adrian Dite emphasised to the panel that the surrounding area were residential gardens which now had a commercial use in the middle, and this had changed the atmosphere. He encouraged the panel to be careful if minded to approve the application. The legal officer highlighted that the panel was only able to consider relevant licensing policy, not planning or private law, and if the licence were to be granted and noise issues arose, a complaint could be made to environmental health. Mr Adrian Dite confirmed that he would like to see licence only granted for inside and for alcohol to be prevented from being brought outside.

Finally, the chair invited all the relevant parties to confirm that they considered that they had been provided with a fair opportunity to put their respective cases to the panel and each party confirmed that they had received that opportunity.

The panel then retired and excluded all the people from the meeting room apart from the democratic services officer and the legal advisor while they deliberated on the application.

Deliberation

The panel then deliberated the application.

The panel considered the written and oral evidence of all parties and 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 also considered what 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 considered evidence relevant to the licensing regime and to the promotion of the licensing objectives. The panel did not take account of non-regulated activities, any activities not within the control of the premises or those which were not relevant to the licensing objectives.

The panel considered the issues raised by the representations from both the agent and the objectors. Members noted that the works in the garden meant that customers could only use a portion of the garden and once done, they could move the tables further down the garden, which was adjacent to a residential area. They also noted the current opening hours of up to 5pm and that the license was seeking sale of alcohol to 7pm and business hours till 7.30pm

The panel believed that the reduction of proposed hours for the sale of alcohol from 7pm from the originally proposed 10pm did indicate that the applicant did not want to change the nature of the business. As the extension of hours would be for two hours in the early evening the panel did not believe that this would result in unreasonable noise levels and while considering whether it would be reasonable to limit hours on any particular day the panel did not consider that there were justifiable reasons for doing so.

The panel was satisfied that the proposed operating schedule and associated conditions proposed were appropriate and proportionate in meeting the licensing objectives in respect of this application and that the licence should be granted for the amended hours subject to these conditions and having made that decision called all members of the hearing back into the meeting room.

Decision

The democratic services officer then read out the decision notice; that the panel grant the premises licence for 18 Upper High Street, Thame, OX9 3EX by John Gaunt and Partners on behalf of Monkey Puzzle Trading Limited, as follows:

Licensable Activity	Proposed days and times
Supply of alcohol (on and off sales)	Monday to Sunday 11:00 to 19:00
Hours premises are open to the public	Monday to Sunday 08:00 to 19:30

The licence is subject to the mandatory conditions under the Act, conditions contained within the operating schedule, and the following additional conditions:

1) A digital CCTV system shall be installed and maintained in accordance with current Home Office Guidelines relating to UK Police Requirements for Digital CCTV Systems. The system shall ensure all licensed areas of the premises (except toilet facilities) are monitored, including all entry and exit points and external areas, and should ensure frontal identification of every person entering and in any light condition. All cameras shall continually record whilst the premises are open to the public and the recordings shall be kept and available for a minimum of 31 days with accurate time and date stamping. Any breakdown or system failure shall be notified to Thames Valley Police immediately and remedied as soon as practicable. A member of staff trained in data retrieval and viewing from the CCTV system shall be available at all times when the premises is open to the public. Recordings shall be made available to an authorised officer of Thames Valley Police or an authorised officer of the council together with facilities for viewing. The recordings for the preceding two days shall be made available immediately on request. Recordings outside this period shall be made available within 48 hours. Any request from Thames Valley Police, Trading Standards or the council for a copy of the CCTV recording to be made for evidential purposes must be carried out within 48 hours. A sign shall be placed in a prominent position on the premises notifying customers that CCTV is in operation.

2) Any serious incident at the premises which impacts any of the four licensing objectives shall be recorded in a register kept at the premises and shall contain the following information:

- a) time and date
- b) description of the incident
- c) name of staff members or door supervisors involved
- d) action taken as a result of the incident
- e) name of member of staff recording the incident
- f) This record must be retained at the premises for a period of not less than six months and be available on lawful request which is compliant with data protection legislation, by any authorised officer of the council or Thames Valley

Police. The record should be signed off by the DPS or a nominated representative at least once a month.

3) The licence holder or their nominated representative shall devise, implement and maintain a Challenge 25 policy as part of their policy relating to alcohol sales. Clear signage relating to the policy shall be displayed at the premises. Only a valid driver's licence showing a photograph of the person, a valid passport, national identity card or proof of age card showing the "PASS" hologram are to be accepted as identification.

4) All staff employed (whether paid or unpaid) in the sale of alcohol shall be trained in respect of the law relating to the sale of alcohol, proxy purchases, identification checking, the company's proof of age policy and the procedure on handling and recording refusals. Refresher training shall be carried out every six months. Such training sessions are to be documented and records shall be kept for a minimum of one year and be made available upon request to an authorised officer of the council, Trading Standards and Thames Valley Police.

5) A refusal register (written or electronic) shall be maintained at the premises to record sales of alcohol that have been refused. The register is to be made available upon lawful request, which complies with data protection legislation, by Thames Valley Police, Trading Standards Officers and Licensing Officers. The register should include details of the time, date, member of staff refusing the sale, reason for refusal (for example intoxication or underage) and a brief description of the person refused.

The meeting closed at 12.24 pm
