

LICENSING SUB-COMMITTEE

A record of proceedings of the Licensing Sub-Committee held at Bodicote House, Bodicote, Banbury on 25 August 2005 at 10.00 am.

Membership of Sub-Committee (All members present) – Councillors Wyse (Chairman), Bhart and Gibbard

Officers:	M Dudfield (Solicitor)	} Advising the
	S Lodge (Democratic Services Officer)	} Sub-Committee
	T Poke (Central Services Manager)	} Representing the
		} Licensing Authority

1. DECLARATIONS OF INTEREST

There were no declarations of interest

2. LICENSING HEARINGS PROCEDURE

The hearings were undertaken in accordance with the agreed licensing hearing procedure

3. APPEAL HEARING – THE STAR, BUCKNELL ROAD, BICESTER

Present at hearing	R Lowther	- Environmental Protection Manager, Cherwell District Council – Responsible Authority
	Mr C Townsend	- Licensee of the Star
	Miss C Ellis	- Solicitor to the Applicant
	I Mills	- Representing Mr J Brewerton An interested party

The Central Services Manager stated that an application had been received on 6 July 2003 from Greene King Retailing Ltd as owners of The Star, Bucknell Road, Bicester for a variation of the premises licence under the Licensing Act 2003.

The report set out:-

- (i) details submitted by the applicants which set out support for the promotion of the four licensing objectives, ie (a) prevention of crime and disorder; (b) public safety; (c) the prevention of public nuisance; and (d) the protection of children from harm;
- (ii) representations received from Mr J Brewerton and Mr R Bucknell as interested parties;
- (iii) that the Head of Environmental Services had no objection to the granting of a licence subject to a condition that the use of recorded music in the garden area should cease by 18.00 hours.

The application set out variations to the premises licence which were summarised as follows:-

- (i) to extend hours the premises are open to the public Sunday to Thursday to 00.00 and to 02.00 on Friday and Saturday;

- (ii) seasonal variation in respect of opening hours on Christmas Eve, Christmas Day, Boxing Day, New Years Day, Spring and August Bank Holiday, Good Friday, Easter Saturday, Sunday and Monday and any other Bank Holidays apply standard Friday/Saturday hours 10.00 to 02.00. Option to extend hours to 02.30 for the week leading up to Christmas;
- (iii) all major sporting events – timings as dictated by events, charitable events eg 24 hour marathon. Applies to opening times and supply of alcohol;
- (iv) to extend hours for the supply of alcohol Sundays to Thursdays to 23.30 and to 01.30 on Fridays and Saturdays;
- (v) seasonal variation in respect of the sale of alcohol Christmas Eve, Christmas Day, Boxing Day, New Years Day, Spring and August Bank Holiday, Good Friday, Easter Saturday, Sunday and Monday and any other Bank Holidays apply standard for Friday/Saturday hours 10.00 to 01.30. Option to extend hours to 02.00 for the week leading up to Christmas;
- (vi) to allow the performance of live music and Karaoke indoors until 23.30 every day, however the live music outdoors will cease by 18.00; and
- (vii) to allow the provision of recorded music, disco to 23.30 Sunday to Thursday and 01.30 on Friday and Saturday.

Mr Townsend, as licensee in support of the application, stated that he had taken over as licensee of The Star in June 2003 and undertaken considerable investment in the public house. Initially he had promoted various types of music, which had encouraged young people to frequent the premises and this had resulted in unruly behaviour and following discussions with the police a number of people had been barred from the establishment.

He now ran a community/family public house and following consultation with the Environmental Services measures had been put into place which had reduced the noise and nuisance and had resulted in fewer complaints from residents at Barry Avenue and Bucknell Road. In this connection he submitted a petition from customers and local residents in support of his application.

Miss Ellis, solicitor for the applicant, referred to sections in the Council's Statement of Licensing Policy which supported her client's application and set out the way Mr Townsend was promoting the four licensing objectives. She suggested that the nuisance in Bucknell Road late at night might be caused by people returning from the town centre and other public houses in the area. She indicated that her client was prepared to accept the condition recommended by the Head of Environmental Services that the use of recorded music in the garden area would cease by 18.00 hours.

Mr Lowther, on behalf of the Head of Environmental Services confirmed that complaints relating to noise from amplified music had been received in August 2004 and this problem had since been resolved. He confirmed that the condition recommended relating to recorded music in the garden had been agreed by the applicant. He further suggested that the Sub-Committee might impose a condition relating to the latest time in which persons might be admitted to the premises.

Mr I Mills on behalf of J Brewerton, an interested party, made representations relating to noise and anti-social behaviour which took place in Bucknell Road in the late evening and considered that additional opening hours would only exacerbate the problem.

The Sub-Committee then retired to consider the application under Regulation 14(2) of the Hearing Regulations. Upon the return of the Sub-Committee it was

RESOLVED that the variation to the existing premises licence be agreed subject to:

- (i) all major events to sell alcohol from one hour before the start of the event to one hour after the completion of the event; and
- (ii) the use of all recorded music in the garden area to cease by 18.00.

REASON - the Sub-Committee considered the evidence presented to it and was not satisfied that there is any justification to refuse the hours requested. The Sub-Committee have considered the operation of major events to clarify the provision and the condition is in line with other applications they have determined. The external music condition has been agreed. The Sub-Committee understand that some of the local residents have fears regarding the extension of the drinking hours. The new legislation provides for a review mechanism if unsatisfactory situations develop. The Sub-Committee suggest to the residents that if they have any concerns regarding the new operation from November these should be raised with the Head of Environmental Services so that they can consider whether the Sub-Committee should review the licence.

4. **APPEAL HEARING – WROXTON COLLEGE, WROXTON**

Present at hearing	R Lowther	- Environmental Protection Manager, Cherwell District Council - Responsible Authority
	Mrs K Cuffley Mr R Nivision Ms R Waters	- Interested parties

At the commencement of the hearing the Sub-Committee adjourned in view of the absence of the applicant Dr N Baldwin. Upon the return of the Sub-Committee it was

RESOLVED that in view of the fact that the applicant had not been given the statutory ten days notice of the hearing, the hearing be adjourned until 8 September 2005

5. **APPEAL HEARING – HORSE AND JOCKEY, 20 WEST BAR STREET, BANBURY**

Present at hearing	R Lowther	- Environmental Protection Manager, Cherwell District Council – Responsible Authority
	A Charman	- Thames Valley Police – Responsible Authority
	P Reis	- Licensee of Horse and Jockey
	Ms C Hyde	- Counsel for the Applicant
	E Cox	- Interested parties making representations
	Ms E Bishop	

The Central Services Manager stated that an application had been received on 19 July 2005 from P Reis Licensee of the Horse and Jockey 20 West Bar Banbury for a variation of premises licence under the Licensing Act 2003. She indicated that no objections had been received from Thames Valley Police or the Head of Environmental Services subject to one condition each being required by both responsible authorities.

The report set out:-

- (i) details submitted by the applicant which set out support for the promotion of the four licensing objectives ie (a) prevention of crime and disorder; (b) public safety; (c) prevention of public nuisance; and (d) protection of children from harm;
- (ii) representations received from Mr D Cox and Ms E Bishop as interested parties;
- (iii) report of the police which had no objection granting a licence subject to a condition.

The application set out the variations to the premises licence which were summarised as follows:-

- (i) extend the hours allowed for supply of alcohol to 00.00 every day;
- (ii) to extend the hours allowed for the supply of alcohol for all Bank holidays to 01.00 except New Years Eve and New Years day which would remain as per existing licence;
- (iii) extend hours the premises are open to the public 08.00 to 01.00 every day and may also open for non licensable events and
- (iv) extend late night refreshments hours from 08.00 to 00.00 every day as breakfast/snacks maybe served during non licensing hours, all of which would be consumed on the premises.

Mr P Reis Licensee of the Horse and Jockey spoke in support of the application to vary the licence to increase the hours he operated and stated that he was prepared to accept the two conditions recommended one by Thames Valley Police and one by the Head of Environmental Services, the latter that the outside courtyard/seating area must not be used by customers after the hours of 23.00 having been accepted by the applicant prior to the hearing. He acknowledged that investigation was currently being taken with regards to noise, but stated that no karaoke events had taken place since May, there were no public dancing and entertainment was confined to two musical performers.

Mr Charman of Thames Valley Police indicated that the police had received only one recorded incident of public nuisance and had therefore requested that a Premises Daily Register should be kept at the premises and the applicant had accepted this condition.

Mr Cox as an interested party stated he was opposing the application for extension due to:-

- (i) the disturbance caused by amplified music; and
- (ii) that Mr Reis was not a responsible landlord.

To support his case he circulated a noise disturbance diary for the period March to August 2005 and also referred to various instances where he considered that Mr Reis was in breach of his licence.

Mr Lowther stated that officers from the Environmental Services had made three unannounced visits to assess the noise level which was not found to be excessive and the investigation was continuing.

During the course of the appeal it emerged that, in his application for conversion and variation of the premises licence, Mr Reis had not applied for regulated entertainment comprising live or recorded music and dancing. Ms Hyde indicated that the applicant believed that the current right to provide musical entertainment by no more than two performers was part of the conversion rights and that there was no need for him to apply specifically for such regulated entertainment. Mr Dudfield indicated that his

interpretation of the legislation and his advice to the Sub-Committee was that the right to convert only existed if the application requested the right. Having inspected the application form, it was clear that this application had not included regulated entertainment comprising live or recorded music and dancing and that the Sub-Committee were obliged to consider the application on that basis.

The Sub-Committee then retired to consider the application under Regulation 14(2) of the Hearings Regulations. Upon the return of the Sub-Committee it was

RESOLVED that the variation to the premises licence as requested be granted (ie not including regulated entertainment comprising live or recorded music and dancing) be agreed subject to :-

- (i) the outside courtyard/seating area must not be used by customers after the hours of 23.00;
- (ii) that a Premises Daily Register shall be kept at the premises. This register will be maintained and kept for a minimum of twelve months. The register should record the person in a position of responsibility for the premise. The Premises Daily Register shall record all calls made to the premises where there is a complaint made by a resident or neighbour of noise, nuisance or anti-social behaviour by persons attending or leaving the premises. This shall record the details of the caller, the time and date of the call and the time and date of the incident relating to the call and any actions taken to deal with the call. The Premises Daily Register will be readily available for inspection by an Authorised Person throughout the trading hours of the premises.

REASON - the application request does not include regulated entertainment of live or recorded music and it is to this which the first part of the objection related. The second part of the objection related to the personal conduct of the applicant and this is a matter for consideration in connection with his personal licence not the premises licence. Concerns of the Police and the Head of Environmental Services have been met and the Sub-Committee had therefore granted the application.

6. **END OF PROCEEDINGS**

The proceedings were adjourned at 12.00 and resumed at 2.00 and ended at 3.35.