

LICENSING SUB-COMMITTEE

A record of proceedings of the Licensing Sub-Committee held at Bodicote House, Bodicote, Banbury on 22 September 2005 at 10.00 am.

Membership of the Sub-Committee (all Members present) – Councillor Mrs Stratford (Chairman), Morris and Wyse.

Officers: M Dudfield (Solicitor) } Advising the Sub-
S Lodge (Democratic Services Officer) } Committee

C Baynes (Head of Corporate Services) – Representing the Council

1. DECLARATIONS OF INTEREST

In connection with the appeal hearing relating to Drayton Leisure, Warwick Road, Banbury, Councillors Mrs Stratford, Morris and Wyse declared a personal interest as they were acquainted with the applicant N Turner as a fellow Councillor. Mr S Lodge stated that he was also acquainted with Mr Turner.

2. LICENSING HEARINGS PROCEDURE

The hearings were undertaken in accordance with the agreed Licensing Hearings Procedure.

3. APPEAL HEARING – TOMMY FLYNN'S, 6 NORTH BAR STREET, BANBURY

Present at hearing: M Harmon	- Senior Technical Officer, Environmental Services, Cherwell District Council – Responsible Authority
D Bure, Director	- Cavalier Pub Company Ltd
B McClelland	- Licensee of Tommy Flynn's
R May	- Legal representative for the applicants
Mrs L Woodward	- Interested party making representations

The Head of Corporate Services stated that an application had been received on 1 August 2005 from Cavalier Club Company Ltd, the owner of Tommy Flynn's, 6 North Bar Street and B McClelland, the licensee of the premises for a variation in the Premises Licence under the Licensing Act 2003.

The report set out:-

- (1) details submitted by the applicants which set out support for the promotion of the four licensing objectives, ie: (a) the prevention of crime and disorder (b) public safety, (c) the prevention of public nuisance; and (d) the protection of children from harm.
- (2) representations received from Mr A and Mrs L Woodward. Mr M and Mrs W Allitt and L A Allitt as interested parties.
- (3) that the Head of Environmental Services had no objections to granting a licence subject to conditions.

The applications set out the variations to the Premises Licence, which was summarised as follows:-

1. To extend hours the premises are open to the public every day 07:00 to 03:00;
2. To extend hours for the supply of alcohol (on and off the premises) every day 07:00 to 02:00, with non standard timings 07:00 New Years Eve to 02:00 New Years Day;
3. Provision of late night refreshments every day 23:00 to 03:00;
4. To permit the following regulated entertainments throughout the premises at any time during opening hours (07:00 to 03:00) every day – live and recorded music, films (video/tv), indoor sporting events, performances of dance, provision of facilities for making music and dancing.

R May, legal representative for the applicant, stated that his client was prepared to accept the two conditions recommended by the Head of Environmental Services. He stated the variation to the licence could result in a reduction of noise emanating from the licensed premises. He indicated that the main objection was noise from the rear yard of the premises and in this connection he outlined steps the applicant proposed to take to alleviate the noise from Tommy Flynn's.

Mr Harmon, on behalf of the Head of Environmental Services, outlined the history relating to Tommy Flynn's and stated that following complaints relating to noise from amplified music received between 2003 and 2005 two noise abatement notices had been served. These abatement notices would remain in force whatever decision was made by the Sub-Committee. He stated, however, that he had no objection to granting a variation to the licence subject to two conditions:-

- (i) The garden area was not to be used after 23:00 and
- (ii) PN12 – all external doors/windows must be kept closed, other than for access and egress in all rooms where events involving amplified music or speech are taking place.

Mrs Woodward, speaking as an interested party outlined the problems encountered by residents of The Leys, particularly with regard to amplified music emanating from the rear of Tommy Flynn's.

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

RESOLVED that the variation to the existing Premises Licence be agreed subject to the following conditions:-

- (1) That the garden area was not to be used after 22:00 Sunday to Thursday, and 23:00 Friday and Saturday; and
- (2) All external doors/windows must be kept closed, other than for access and egress, in all rooms when events involving amplified music or speech are taking place (PN12 pool of conditions).

REASON – It appears to the Sub-Committee that the variation to the hours and the extension of musical entertainment can satisfactorily take place with the conditions imposed and the other legislative control that has already been exercised. If this proves not to be the case the matter can be reviewed.

4. **APPEAL HEARING – THE RED LION – STRATTON AUDLEY**

Present at hearing: M Harmon	- Senior Technical Officer, Environmental Services, Cherwell District Council – Responsible Authority
W J O'Neill	Joint owner of the premises

The Head of Corporate Services stated that an application had been received on 28 July 2005 from W J O'Neill and A J Sparkes who owned The Red Lion, Stratton Audley, for a variation to the Premises Licence under the Licensing Act.

The report set out:-

- (1) details submitted by the applicant which set out support for the promotion of the four licensing objectives, ie: (a) the prevention of crime and disorder, (b) public safety, (c) the prevention of public nuisance and (d) the protection of children from harm.
- (2) the representations received from the Head of Environmental Services.

The application set out the variations to the Premises Licence which was summarised as follows:-

- (1) To extend hours the premises are open to the public 11:00 to 00:30 Monday to Thursday, 11:00 to 01:00 Friday and Saturday and 11:00 to 00:00 on Sunday. Non standard timings of 10:00 to 02:30 New Years Eve, all Bank holiday weekends (Friday, Saturday and Sunday) Boxing Day and on up to 30 other events days per annum at applicants' discretion.
- (2) To extend hours for the supply of alcohol (on and off the premises) 11:00 to 00:00 Monday to Thursday, 11:00 to 00:30 Friday and Saturday and 11:00 to 23:30 on Sunday. Non standard timings of 11:00 to 02:00 New Years Eve, all Bank holiday weekends (Friday, Saturday and Sunday) Boxing Day and on up to 30 other events days per annum at applicants' discretion.
- (3) To permit live music both indoors and outdoors starting at 12:00 and finishing at 23:00 Monday to Sunday. Non standard timings of one per month till 00:00 weekends only. Bank holiday weekends till 00:00.

- (4) To permit recorded music indoors starting at 12:00 and finishing at 23:00 Sunday to Thursday and 12:00 to 00:00 Friday and Saturday. Non standard timings when opening hours are extended on bank holiday and event days, these hours follow the opening hours.
- (5) To permit the exhibition of films twice a month. To start at 10:00 and finish at 23:00 Monday to Saturday and 10:00 to 22:00 Sundays.
- (6) To provide facilities for dancing both indoors and outdoors Sunday to Thursday 12:00 to 23:00 and 12:00 to 23:00 Friday and Saturday. Non- standard timings when opening hours are extended on bank holiday and event days, these hours follow the opening hours.

Mr O'Neill, joint owner of The Red Lion, in support of the application stated that the only representation received in relation to the application was from the Head of Environmental Services who had recommended the following three conditions being imposed:

- (1) All regulated entertainment (live music and the performance of dance) to cease in the garden area by 22:00.
- (2) The garden area shall not be used after 23:00.
- (3) PN12 all external doors/windows must be closed other than for access and egress in all rooms when events involving amplified music and speech are taking place.

Mr O'Neill stated that he operated regulated entertainment only occasionally, but felt when he undertook such events then he should be allowed to continue performances until 23:00. In relation to the proposal to close the garden at 23:00 he stated that this was a facility that was used mainly during the summertime and he did not wish to inconvenience his customers who might be eating or drinking at the time by asking them to move indoors. The Red Lion had a walled garden which dampened the noise from the public house and the Parish Council and local residents had not objected to the application and he had never received complaints of noise. He felt therefore that the first two conditions recommended by the Head of Environmental Services should not be applied.

Mr M Harmon, on behalf of the Head of Environmental Services stated that he considered that regulated entertainment in the garden area after 22:00 and the use of the garden after 23:00 had the potential for unreasonable noise disturbance to nearby residential properties. Even though The Red Lion had a walled garden this would not control the noise to any significant degree.

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

RESOLVED that the variation of the existing Premises Licence be granted in accordance with the application subject to:-

- (1) Regulated entertainment (live music) to cease in the garden by 22:00 hours except on one event per calendar month when regulated entertainment shall cease at 23:00; and

- (2) All external doors/windows must be closed, other than for access and egress in all room when events involving amplified music or speech are taking place. (PN12 – pool of conditions).

REASONS – the Sub-Committee has allowed live music in the garden on one occasion each month to 23:00 and all others shall cease by 22:00 to respect the local residents. The Sub-Committee does not see the need to restrict the non-musical use of the garden area in the absence of any specific concerns. The final condition has been imposed again to respect the local residents.

5. APPEAL HEARING – THE KINGS ARMS, 4 THE MOORS, KIDLINGTON

Present at hearing:	R Lowther	-	Environmental Protection Manager, Environmental Services Department, Cherwell District Council –
	J Coulton	-	Punch Taverns – Area Manager
	Mr P and Mrs C MacGrath	-	Licencees of The Red Lion
	Mr C Mitchell	}	Interested parties making representations
	Mr E Lyle		
	Mrs E Lowden		
	Mr & Mrs J Lovell		
	F W Hodcroft		

The Head of Corporate Services stated that an application had been received on 1 August 2005 from Punch Taverns Plc, the owners of the Kings Arms, 4 The Moors, Kidlington for a variation of the Premises Licence under the Licensing Act 2006.

The report set out:-

- (1) details submitted by the applicants which set out support for the promotion of the four licensing objectives: (a) the prevention of crime and disorder; (b) public safety; (c) the prevention of public nuisance; and (d) the protection of children from harm.
- (2) the representations received from Mr C Mitchell, Mr E and Mrs M Lyle, Mr B and Mrs E Lowen, Mr and Mrs J Lovell, and Mr F W Hodcroft.
- (3) that the Head of Environmental Services had no objections to granting a licence subject to conditions.

The application set out variations to the Premises Licence which was summarised as follows:-

- (1) To extend hours the premises are open from Monday to Thursday 11:00 to 00:00, Friday & Saturday 11:00 to 00:30, Sunday 12:00 to 00:00.
- (2) To extend hours for the supply of alcohol from Monday to Thursday 11:00 to 23:30, Friday & Saturday 11:00 to 00:00, Sunday 12:00 to 23:30.

- (3) Provision of live & recorded music, dancing and karaoke from Monday to Thursday 11:00 to 23:30, Friday & Saturday 11:00 to 00:00, Sunday 12:00 to 23:30.
- (4) Seasonal variations apply to all activities as follows:

A further additional hour into the morning following every Friday, Saturday, Sunday and Monday for each May, Spring, Whitsun & August Bank Holiday weekend.

A further additional hour into the morning following every Thursday, Friday, Saturday, Sunday and Monday for the Easter Bank Holiday weekend.

A further additional hour every Christmas Eve and Boxing Day.

To reflect existing New Year's Eve/Day hours.

Mr Coulton, Area Manager of Punch Taverns and Mr P MacGrath licensee spoke in support of the application. Mr Coulton indicated that the increase in hours that the premises were open were very modest and he accepted the two conditions recommended by the Head of Environmental Services, these being:

PN12 – all external doors/windows must be closed, other than for access and egress, in all rooms when events involving amplified music or speech are taking place.

PN17 – the courtyard drinking area must not be used by customers after the hours of 23:00.

He stated that the letters from residents related primarily to public nuisance and stated that Mr MacGrath had been licensee of the Kings Arms for 9 years and was familiar with the customers who regularly used the licensed premises. Mr MacGrath was a member of the Pubwatch scheme and there had been no complaints from Police. Noise in the vicinity was also caused by late night buses and customers from other public houses. The Kings Head was a well ordered public house and being a community pub there would be no additional cars as a result of any increase in the hours the Kings Arms were open. There was no live music at the public house, but occasional karaoke and discos were held.

R Lowther, on behalf of the Head of Environmental Services stated that he had no objection to the approval of the variation, subject to the two conditions set out above.

Following a query Mr Dudfield, solicitor for the Council, confirmed that the courtyard was included as part of the application.

Mr C Mitchell, Mr E Lyle, Mrs E Lowen, Mr J Lovell and Mr F Hodcroft as interested parties addressed the Sub-Committee and expressed concerns over a number of issues primarily the noise as a result of regulated entertainment, which resulted from the use of the courtyard area, which was partly covered by a tarpaulin sheet and did not act as a suitable noise insulation.

In response to concerns from one of the interested parties Mr Dudfield stated that if the licensee did not have planning permission for structures built in the courtyard then this was a matter for the Council's Planning Department.

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

RESOLVED that the variation of the Premises Licence be granted as follows:-

- (1) For the supply of alcohol for the hours requested;
- (2) Live music, recorded music, dancing and karaoke inside the main premises for the hours as requested;
- (3) Live music, recorded music, dancing and karaoke in the courtyard for the hours of 11:00 to 23:00 Monday to Saturday and 12:00 to 23:00 on Sunday; this is limited to 12 times per annum and the licensee is to keep a register of such functions;
- (4) Seasonal variations as requested.

The above grant of the variation is subject to the following conditions;

- (i) All external doors/windows must be kept closed other than for access and egress, in all rooms when events involving amplified music or speech are taking place (PN12 Pool of Conditions);
- (ii) The courtyard area must not be used by customers after 23:00 (PN17 Pool of Conditions)

REASONS – there have been no concerns expressed regarding the hours during which alcohol should be supplied nor regarding the use of the main building for music related events. The Sub-Committee has therefore granted those parts of the application as requested.

The major concern expressed to the Sub-Committee concerns the courtyard. The Sub-Committee has decided to restrict the number of occasions in any year and the hours this can be used.

Conditions PN12 and PN17 have been accepted. PN17 will be amended to make it clear it relates to the courtyard.

6. **APPEAL HEARING – THE NORTH ARMS, MILLS LANE, WROXTON**

Present at hearing:	R Lowther	-	Environmental Protection Manager, Cherwell District Council – Responsible Authority
	Ms K Walton	-	Licensee of the North Arms, Wroxton
	Mr A Williamson	-	Counsel for the applicant
	I Brough	}	Interested parties making representations
	R Woollacott	}	
	Mr G Mitchell	}	
	Mrs E Young	}	

The Head of Corporate Services stated that an application had been received from Greene King Retailing Ltd the owners of North Arms, Mill Lane, Wroxton, for a variation of the Premises Licence under the Licensing Act 2003.

The report set out:-

- (1) Details submitted by the applicants which set out support for the promotion of the four licensing objectives, ie: (a) the prevention of crime and disorder; (b) public safety; (c) the prevention of public nuisance; and (d) the protection of children from harm.
- (2) Representations received from Mr I Brough, Mr R and Mrs M Woollacott, Mr G and Mrs S Mitchell, and Mrs E Young as interested parties.

The application set out variations to the Premises Licence which were summarised as follows:-

- (1) To extend hours premises are open to the public, Monday to Thursday 11:00 to 00:00, Friday, Saturday & Sunday 11:00 to 00:30. Seasonal variation on Christmas Eve 11:00 to 01:00.
- (2) To extend the hours for the supply of alcohol, Monday to Thursday 11:00 to 23:30, Friday, Saturday & Sunday 11:00 to 00:00. Seasonal variation of Christmas Eve 11:00 to 00:30.
- (3) Provision of live music (indoors) Sunday to Thursday 21:00 to 23:30, Friday & Saturday 21:00 to 00:00. Seasonal variation on Christmas and New Years Eve 19:00 to 00:00.

Mr Williamson, the Counsel for the applicant, spoke in support of the application and stated that North Arms was a small public house with a restaurant, seating 20, with a current supper licence which allowed customers who were eating to purchase alcohol on Fridays, Saturdays and Sundays until midnight, the time currently sought in the new Premises Licence. It was not proposed that the licensee would use the additional hours on all occasions, but the variation would allow for a more relaxed approach at closing time.

In response to concerns expressed by interested parties Mr Williamson stated that his client was willing to accept conditions in respect of the following matters:-

- (1) To restrict the playing of live music to two performers.
- (2) Not to use the car park adjoining the North Arms after 23:00.
- (3) To take action to ensure noise is reduced by customers leaving the North Arms.
- (4) To take action to reduce light pollution into properties of neighbouring residents.
- (5) Not to use the beer garden after 23:00.
- (6) That taxi firms will be called from the premises and the driver will come into the North Arms to pick up passengers rather than keeping his engine running and using his horn.

Mr I Brough, Mr R Woollacott, Mr G Mitchell and Mrs E Young, as interested parties all addressed the Sub-Committee. They indicated that they had no problem with the current licensee but expressed concerns however with light pollution emanating from the North Arms car park and noise from customers leaving the premises particularly those waiting for taxis. Wroxton was a small village and late at night noisy customers could be heard from considerable distances.

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 a variation to the existing Premises Licence be granted in accordance with the application subject to:-

- (1) In respect of live music no more than two performers shall play at any one time.
- (2) The car park to be closed and gated at 23:00.
- (3) The manager's telephone number to be notified to all residents regarding complaints.
- (4) Not to cause light pollution with a scheme to be agreed with the Head of Environmental Services.
- (5) Not to use the garden area after 23:00.
- (6) In respect of taxis, procedures to be adopted requiring taxis to be called from within the premises; vehicles must not sound horns or stand idling and drivers to collect customers from the premises; and
- (7) Notices to be displayed asking customers to respect the privacy of local residents.

REASONS – the application is for hours equivalent to those operated at the premises at the present time. Whilst the ability to purchase alcohol alone may increase the use of the premises during these late hours the Sub-Committee is not convinced that such use will necessarily cause the concerns expressed by the residents, particularly with the conditions that have been imposed.

The Sub-Committee has to deal with the application as submitted as the factual situation that currently exists. Any changes occurring as a result of new management would have to be considered, if that caused problems, by way of review. Further the current operation can be reviewed if the conditions imposed do not satisfactorily control the concerns raised.

7. **APPEAL HEARING – DRAYTON LEISURE, WARWICK ROAD, BANBURY**

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| Present at hearing: R Lowther | - Environmental Protection Manager, Cherwell District Council – Responsible Authority |
| N Turner | - Operator of the premises |

Mr Turner stated that he wished it to be recorded that he was attending the hearing as a private individual and not as a Member of the Council.

The Corporate Services Manager stated that an application had been received from Messrs N and D Turner as operators of Drayton Leisure, Warwick Road, Banbury for a variation of the Premises Licence under the Licensing Act 2003.

The report set out:-

- (1) Details submitted by the applicants which set out support for the promotion of the four licensing objectives, ie: (a) the prevention of crime and disorder; (b) public safety; (c) the prevention of public nuisance; and (d) the protection of children from harm.
- (2) The Head of Environmental Services had no objections to granting a licence subject a condition that all live music to cease in the outside area by 22:00.

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

- (1) To extend hours the premises are open to the public every day 08:00 to 23:00.
- (2) To extend hours for the supply of alcohol (on the premises) every day 10:00 to 23:00, with non standard timings 25 times per year to finish at 01:30.
- (3) To permit live music both indoors and outdoors starting at 19:00 and finishing at 23:00 Monday to Saturday with up to 25 additional recorded music events finishing at 01:00. 10 days notice will be given to the Police and the Licensing Authority.
- (4) To permit recorded music both indoors and outdoors starting at 10:00 and finishing at 23:00 Monday to Sunday with up to 25 additional live music events finishing at 01:00. 10 days notice will be given to the Police and the Licensing Authority.
- (5) To permit the staging of outdoor stage productions up to four times a year between April and September. To start at 12:00 and finish no later than 22:30. 10 days notice will be given to the Police and the Licensing Authority.

Mr Turner stated that he had operated a licensed premises from Drayton Leisure, Warwick Road, Banbury since 1997 in association with his golf centre. He had no problems associated with public nuisance but wished to extend the hours that live music could be held in the outside area beyond 22:00 as he held pre-booked events, such as wedding functions, in a marquee on a number of occasions each year and he required music to be played beyond that period. He stated that the nearest residential properties were a quarter of a mile from the outdoor events and these dwellings had only been erected some 2 to 3 years before. There was also a considerable amount of background noise from motor traffic on the housing estate at that time.

In seeking clarification as to his application the Sub-Committee were informed that the extended hours the premises were open to the public every day was 08:00 to 23:30. In relation to non-standard timings 25 times a year Mr Turner stated that these would finish at 01:30, no music would be played after 00:30 and the sale of alcohol would finish at 01:00.

Mr Lowther stated that following further discussion with the applicant he was prepared to withdraw his condition that all live music should cease in the outside area

by 22:00 subject to the timings now offered; the limit to the number of events proposed and the offer of 10 days notice to be given to the Police and Licensing Authority.

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

RESOLVED that the variation of the existing Premises Licence be granted for the hours as amended, ie, general closure at 23:30; non-standard events music to cease at 00:30; bar to close at 01:00; total closure at 1:30.

Subject to a condition requiring a minimum of 10 working days prior notice to be given of proposed events in the outside area to the Police and Head of Environmental Services and compliance with the reasonable requirements of the responsible authorities.

REASON – the responsible body has reevaluated its approach to the area of concern and the condition imposed is a compromise agreed between the parties.

8. **END OF MEETING**

The proceedings were adjourned at 11.00, resumed at 2.00 and concluded at 4.58 pm.