

## CHERWELL DISTRICT COUNCIL

## LICENSING SUB COMMITTEE

1 AUGUST 2007

## REPORT OF THE HEAD OF URBAN &amp; RURAL SERVICES

## PREMISES LICENCE APPEAL HEARINGS – REVIEW OF PREMISES LICENCE

**1 Introduction and Purpose of Report**

- 1.1 The purpose of this report is to provide an outline of an application to review that has resulted in the necessity for a hearing.

**2 Wards Affected**

- 2.1 Banbury Easington

**3 Effect on Policy**

- 3.1 None.

**4 Contact Officers**

- 4.1 John Parkinson (Ext 1514);  
Natasha Barnes (Ext 1599)

**5 Background**

- 5.1 This report contains details of an application for review from Thames Valley Police in respect of Confessions, 11 Horsefair, Banbury that is to be considered by the Committee.
- 5.2 The Premises Licence Holder is Mr Reginald Howe who is also the Designated Premises Supervisor in respect of the premises.
- 5.3 The application is to seek to review the Premises Licence issued under the Licensing Act 2003. Details are provided in respect of the existing licence and grounds for review.

**6 Application for review of the premises licence in respect of Confessions, 11 Horsefair, Banbury.**

- 6.1 The application for the review of the premises licence was first received on 8 June 2007, from Oliver Wright on behalf of Thames Valley Police.
- 6.2 Description of the grounds for review:

Confessions has consistently been a problematic premise since the new Licensing Act came into force in November 2005. The Police have been called to the premise to deal

with a huge number of incidents relating to the crime and disorder objective, and have also discovered on numerous occasions problems relating to the protection of children objective. The grounds for this review are therefore as follows:

Confessions has been operating to the detriment of, and has been failing to uphold, the following licensing objectives:

The prevention of crime and disorder,

The protection of children from harm.

In addition, it is argued that the management of the premises have failed to manage the premises to an acceptable standard. Furthermore, the management of Confessions have failed in their duty to adhere to a condition of the premises licence issued by the Licensing Authority. The condition breached is:

14(i) No promotions involving alcoholic drinks being sold at lower prices than the licensee would normally charge shall take place in connection with any public entertainment event held on any day without the prior agreement of the Licensing Authority who shall first consult the Police. Any application for an event involving such a drinks promotion shall be made at least 14 days prior to the event.

On numerous occasions, police officers have reported an offer with the lead line 'all you can drink for £12'. A flyer advertising such is included in the review evidence, as is a flyer advertising 'This Thursday: All drinks £1 B4 Midnight. Free admission all night'. (Flyers collected on 19.05.07 during test purchasing operation). The Police have never been contacted in relation to authorising these promotions, and nor has the Licensing Authority.

## **7 Details of the existing Premises Licence issued under the Licensing Act 2003**

7.1 The **Existing** Premises Licence which came into force on 24 November 2005 allows

1. Sale (by retail) of alcohol Sunday to Wednesday (inclusive) 11:00 to 01:00 hours (morning following), Thursday to Friday (inclusive) 11:00 to 03:00 hours (morning following) and Saturday 11:00 to 04:00 hours (morning following). Every Sunday of Each Bank Holiday Week-end from 11:00 until 03:00 the following morning. For consumption **On** the premises
2. Provision of Regulated Entertainment to include Recorded Music Sunday to Wednesday (inclusive) 20:00 to 01:00 hours (morning following), Thursday to Friday (inclusive) 22:00 to 03:00 hours (morning following) and Saturday 22:00 to 04:00 hours (morning following). Every Sunday of Each Bank Holiday Week-end from 20:00 until 03:00 the following morning. Every Friday from 18:45 to 21:45 party for 12 to 17 year old children. In all cases for provision **Indoors**.
3. Provision of Entertainment facilities to include Dancing Sunday to Wednesday (inclusive) 20:00 to 01:00 hours (morning following), Thursday to Friday (inclusive) 22:00 to 03:00 hours (morning following) and Saturday 22:00 to 04:00 hours (morning following). Every Sunday of Each Bank Holiday Week-end from 20:00 until 03:00 the following morning. Every Friday from 18:45 to 21:45 party for 12 to 17 year old children. In all cases for provision **Indoors**.
4. Opening Hours of the Premises are; Sunday to Wednesday (inclusive) 11:00 to 01:30 hours (morning following), Thursday to Friday (inclusive) 11:00 to 03:30 hours (morning following) and Saturday 11:00 to 04:30 hours (morning following). Every Sunday of

Each Bank Holiday Week-end from 11:00 until 03:30 the following morning. Every Friday from 18:45 to 21:45 specifically for teenage parties.

- 7.2 The Premises Licence in respect of this establishment came into force on 24 November 2005, a copy of which is to be found within Annex 1 of this report.

## **8 Objections/Representations received**

- 8.1 The review application was served upon the licensing Authority by Thames Valley Police on 8 June 2007.
- 8.2 A copy of the Thames Valley Police review application is to be found within Annex 2 of this report.
- 8.3 In accordance with the regulations of the Licensing Act 2003, the Licensing Authority duly displayed the Notice of Review for a period of 28 days starting from the day after the date on which the application was served. The notice was displayed at the premises in question and at Cherwell District Council, Bodicote House.
- 8.4 The consultation period for the review ended on 6 July 2007; no further representations have been received as a result of 8.3 above.

## **9 Supporting Evidence Submitted**

- 9.1 Thames Valley Police produced a number of documents as supporting evidence and these all accompanied the Review application. These items of evidence have also been served by Thames Valley Police upon the Premises Licence Holder and notification of them has been served upon the Responsible Authorities. The contents of the evidence bundle is briefly described as;

- 1. Command and Control Data logs with related GEN40s**
- 2. GEN40 evidence unrelated to C&C data logs**
- 3. Evidence of drinks promotions**
- 4. Letter to Mr R Howe regarding first discovery of drinks promotions.**
- 5. AL1 form detailing admissions of arrestee in Banbury custody.**
- 6. Summary and transcript of interview between Sgt 848 Johnson and Mr R Howe following serious disorder at Confessions (23.2.07).**

Copies of this Evidence can be found with Annex 3 of this report.

- 9.2 Thames Valley police also listed a number of Witnesses that may be called;

***Subject to availability, the following will be present at the hearing and may present arguments to support this review:***

- Inspector Michael Lynch - Banbury Inspector***
- Sgt 848 Lary Johnson - Banbury Sergeant***
- PC 1692 Paul Froggatt - Banbury Neighbourhood Constable***
- David Hosker - Banbury CCTV Operator***

9.3 At the time of compiling this report (10 July 2007) no evidence has been submitted on behalf of the Premises Licence Holder or any further evidence from Thames Valley Police. Any such evidence produced prior to the Hearing will be forwarded to Members of the Sub-Committee and all other parties upon receipt.

**10 Relevant sections of the Guidance and Licensing Authority Policy issued under the Licensing Act 2003**

10.1 The relevant sections of the Guidance and Licensing Authority Policy issued under the Licensing Act 2003, which are applicable to the representations for this case are as follows:

**Guidance:**

Pages 82 – 83	Sections 11.1 – 11.10	The Review Process
Pages 83 – 84	Sections 11.15 – 11.21	Powers of a Licensing Authority on the Determination of a Review
Pages 85 – 86	Sections 11.22 – 11.27	Reviews Arising in Connection with Crime
Pages 16 - 19	Sections 2.1 – 2.18	Crime and Disorder
Pages 117 - 121	Annex D	Part 1. Conditions relating to the prevention of crime & disorder
Pages 23 - 25	Sections 2.41 – 2.51	Protection of Children from Harm
Pages 130 - 133	Annex D	Part 5. Conditions relating to the protection of children from harm
Pages 72 - 73	Sections 10.11 – 10.18	Imposed Conditions, Proportionality, Duplication with other statutory provisions

**Cherwell District Council Statement of Licensing Policy:**

Page 18	Policy CH5	Section 6.2	Prevention of alcohol-consumption by Minors
Page 22	Policy LA5	Section 7.3.9	Addressing Local Concerns
Page 22	Policy LA6	Section 7.3.10	Management and Control
Page 37	Policy OS14	Section 8.7	Drinks Promotions
Page 40	Policies RE1 – RE4	Section 10.1	Reviews

10.2 Members have been issued with copies of the Guidance, the Statement of Licensing Policy and the Council's pool of conditions and are asked to bring them with them to the meeting.

**11 Options**

11.1 There is no recommendation. In considering the application received and what is appropriate for the promotion of the licensing objectives, the options open to the Sub-Committee are, in broad terms:

1. Modify the conditions of the Premises Licence;
2. Exclude a licensable activity from the scope of the Premises Licence;
3. Remove the Designated Premises Supervisor from the Premises Licence;
4. Suspend the Premises Licence for a period not exceeding three months;
5. Revoke the Licence;
6. Any combination of or none of the above.

11.2 The Licensing Act 2003 at Section 52, Paragraph 11 states:

“A determination under this section does not have effect-

- (a) until the end of the period given for appealing against the decision, or
- (b) if the decision is appealed against, until the appeal is disposed of.”

11.3 Schedule 5 of the Act, Section 9 Paragraph 2 states

“An appeal under this Part must be commenced by notice of appeal given by the appellant to the justices' chief executive for the magistrates' court within the period of 21 days....”

11.4 Therefore any decisions taken at the Review Hearing by the Licensing Sub-Committee will not take effect until the period within which an appeal can be brought has passed, and then following which until the determination of any such appeal.