

CHERWELL DISTRICT COUNCIL

LICENSING SUB COMMITTEE

14 September 2006

REPORT OF THE HEAD OF CORPORATE SERVICES

PREMISES LICENCE APPEAL HEARINGS

1 Introduction and Purpose of Report

- 1.1 The purpose of this report is to provide an outline of an application and details of representations received from The Head of Environmental Health, Thames Valley Police and an interested party which has resulted in the necessity for a hearing.

2 Wards Affected

- 2.1 Banbury Grimsbury & Castle

3 Effect on Policy

- 3.1 None.

4 Contact Officers

- 4.1 Tina Poke (ext 1503)
Natasha Barnes (ext. 1599)

5 Background

- 5.1 This report contains details of an application in respect of Que Pasa, 64-65 High Street, Banbury that is to be considered by the Committee.
- 5.2 The application is to vary the premises licence issued under the Licensing Act 2003. Details are provided in respect of the existing licence and the proposed variation.
- 5.3 Should any supplementary information be received from those making representations, it will be circulated in advance of the meeting of the Sub-Committee.

6 Application in respect of Que Pasa 64-65 High Street, Banbury

- 6.1 The application to vary was received on 25 July 2006, from Eldridge Pope and Company Limited of Weymouth Avenue, Dorchester who own and operate the premises.

7 Details of Variation to Premises Licence under the Licensing Act 2003

7.1 Brief description of the nature of the proposed variation:

1. To authorise the hours for sale of alcohol and provision of regulated entertainment on each Monday to Sunday (inclusive) 10:00 to 04:00 hours (morning following).
2. To provide late night refreshment on each Monday to Sunday (inclusive) 23:00 to 04:30 hours (morning following)
3. To remove the condition relating to sale of alcohol being ancillary to music and dancing and substantial refreshment.
4. To remove the condition relating to admittance to the licensed premises forbidding admittance or re-admittance to the premises after midnight.
5. To remove the condition which requires a minimum of 7 doorstaff to be on duty.
6. To remove all conditions on the premises licence under paragraph 6(8) of the Eighth Schedule to the Licensing Act 2003 with the exception of the provisions relating to New Years Eve.

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

- Sale (by retail) of alcohol Monday to Saturday other than Christmas Day, New Years Eve or Good Friday 10:00 to 23:00, Good Friday and Sunday other than Christmas Day or New Years Eve 12:00 to 22:30, Christmas Day 12:00 to 15:00 and 19:00 to 22:30, New Years Eve except on a Sunday 10:00 to 00:00 New Years Eve on a Sunday 12:00 to 22:30, New Years Eve from the end of permitted hours on New Years Eve to the start of permitted hours on the following day. (For consumption **on & off** the premises)
- If the sale of alcohol is ancillary to the use of the premises for music and dancing and substantial refreshment
 1. The permitted hours shall commence:-
 - On days, other than Sundays, Christmas Day, and Good Friday, at 10:00
 - On Sundays , Christmas Day and Good Friday at 12:00(NB For New Years Eve permitted hours commence at 10:00 unless New Years Eve falls on a Sunday when they shall commence at 12:00).
 2. Subject to the following paragraphs, the permitted hours on Mondays, Tuesdays and Wednesdays shall extend until 01:00 the following morning and on Thursdays, Fridays and Saturdays shall extend until 02:00 the following morning except that—
 - (a) the permitted hours shall end at 00:00 on any day on which music and dancing is not provided after 00:00; and
 - (b) on any day that music and dancing end between 00:00 and 02:00 in the morning, the permitted hours shall end when the music and dancing end
 3. In relation to the morning on which summer time begins, paragraph (2) of this condition shall have effect with the substitution of references to 03:00 in the morning for references to 02:00 in the morning
 4. Except as provided in (5) below the permitted hours on Sundays shall extend until 00:30 in the following morning except that –
 - (a) the permitted hours shall end at 00:00 on any Sunday on which music and dancing is not provided after 00:00
 - (b) where music and dancing end between 00:00 on any Sunday and 00:30, the permitted hours on that Sunday shall end when the music and dancing end,
 5. On Sundays immediately before bank holidays other than Easter Sunday, the permitted hours shall extend until 2am the following morning except that-
 - (a) the permitted hours shall end at midnight on any Sunday on which the music or dancing is not provided after midnight;
 - (b) where music and dancing end between midnight on any Sunday and 2 am, the permitted hours on that Sunday shall end when the music and dancing end

6. On New Year's Eve the permitted hours shall extend through from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day (or, if there are no permitted hours on the following day, to midnight on 31st December).
7. The sale of alcohol must be ancillary to the use of the premises for music and dancing and substantial refreshment
 - Provision of Live Music, Recorded Music, Performance of Dance, Anything of a similar description to Live Music, Recorded Music or Performance of Dance, Provision of Entertainment facilities for Making Music, Dancing and Entertainment of a similar description to Making Music and Dancing Monday to Wednesday 11:00 to 01:00, Thursday to Saturday 11:00 to 02:00 and Sunday 11:00 to 00:30. (Indoors)
 - Provision of Late Night Refreshment until the expiration of 30 minutes after permitted hours for sale (by retail) of alcohol.

7.3 The proposed variation is briefly described as:

- Sale (by retail) of alcohol everyday 10:00 to 04:00 (For consumption both **on and off** the premises)
- Provision of Live Music, Recorded Music, Performance of Dance, Anything of a similar description to Live Music, Recorded Music or Performance of Dance, Provision of Entertainment facilities for Making Music, Dancing and Entertainment of a similar description to Making Music and Dancing everyday 10:00 to 04:00 (Indoors and outdoors)
- Non-standard timings apply to sale (by retail) of alcohol from the commencement of permitted hours on New Years Eve to the end of permitted hours on New Years Day. (For consumption both **on and off** the premises)
- Provision of Late Night Refreshment everyday 23:00 to 04:00.
- Non-standard timings apply to Provision of Live Music, Recorded Music, Performance of Dance, Anything of a similar description to Live Music, Recorded Music or Performance of Dance, Provision of Entertainment facilities for Making Music, Dancing and Entertainment of a similar description to Making Music and Dancing and Provision of Late Night Refreshment as follows from the commencement of permitted hours on New Years Eve to the end of permitted hours on New Years Day (Both Indoors and Outdoors)

8 **Promotion of the Four Licensing Objectives**

8.1 The applicant has stated the following in respect of promoting the four licensing objectives

To extend the existing standards and procedures so that they are applied over the proposed extended trading period and apply to all licensable activities requested. This will enable the premises to continue to operate as premises providing a location for customers to socialise as well as purchase alcohol and food and be entertained. Maintenance of existing standards will enable the premises to operate lawfully, peacefully, safely and without harm to children.

8.2 ***The Prevention of Crime & Disorder***

8.3 Some representations received have stated concerns in relation to potential issues in respect of increased risk of crime and disorder being caused by the grant of additional permissions to the premises. The applicant has stated the following in respect of promoting this licensing objective.

To continue with the responsible management of the premises in such a way that all patrons are aware that crime and disorder of any nature will not be tolerated. To ensure that all staff are trained so as to maintain high standards of operation this will include a cooling off period of thirty minutes after last sale of alcohol. To ensure that there are a sufficient number of doorstaff on the premises in order to be compliant with the Licensing Objectives.

8.4 **Public Safety**

8.5 One of the representations received stated concerns in relation to potential issues in respect of the need to protect public safety being caused by the grant of additional permissions to the premises. The applicant has stated the following in respect of promoting this licensing objective.

To continue to maintain the premises and operate them in a manner so that public safety is not put at risk. To comply with all relevant legislation relating to public safety.

8.6 **The Prevention of Public Nuisance**

8.7 Some representations received have stated concerns in relation to potential issues in respect of public nuisance being caused by the grant of additional permissions to the premises. The applicant has stated the following in respect of promoting this licensing objective.

To continue to ensure that sound from the premises is maintained at a level that does not cause a public nuisance. Notices at entrances/exits requesting customers to leave quietly and have regard to any neighbours and members of staff to request customer to leave quietly at closing time.

9 **Representations Received and Relevant Licensing Objectives**

9.1 The Head of Environmental Services has no objections to the grant of the licence subject to the following conditions which will implement additional measures to control public nuisance from noise related issues.

- Customers are not permitted to be admitted to or return to licensed premises within the last hour of trading.
- Clearly with extended hours the level of occupancy of the premises will vary with time and the nature of the activity being carried out within the premises. While the removal of the blanket requirement is considered acceptable a risk assessment must be carried out in order to establish the level of door supervision that the premises will require under varying conditions of trade.
- Conditions 1, 2, 3 and 6 remain as mandatory. Conditions 4, 5, 7, 8, 10 may be removed with all other conditions in Annex 1 being retained in order to achieve the four licensing objectives.

9.2 The response from Environmental Services is attached as Annex 1

9.3 The Licensing Officer for Thames Valley Police has no objections to the grant of the licence subject to the following conditions which will implement additional measures to prevent crime and disorder related issues.

- A minimum of 5 door supervisors, all individually registered with the SIA, shall be present on the premises at all times between 2100hrs and closing time on all days when the premises are open after midnight.
- No person shall be admitted to the premises less than one hour before cessation of the last licensable activity.
- The Licence Holder shall implement a written responsible drinking policy to be agreed in writing with Thames Valley Police.
- All members of staff at the premises shall seek “credible photographic proof of age evidence” from any person who appears to be under the age of 21 years and who is seeking access to the premises or is seeking to purchase or consume alcohol on the premises. Such credible evidence, which shall include a photograph of the customer, will either be a passport,

photographic driving licence, or Proof of Age card carrying a “PASS” logo.

- Prominent clear notices shall be displayed at the point of entry to the premises and in a suitable location at any points of sale, advising customers that they may be asked to produce evidence of their age.
- All occasions when persons have been refused service shall be recorded in writing and kept at the premises for six months.
- No drinks shall be served in bottles.

9.4 The response from Thames Valley Police is attached as Annex 2

9.5 There is 1 interested party who has submitted a representation;

- The representation from Eva Oliver of Flat 1 17 Broad Street Banbury is attached as Annex 3.

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:

Sections 7.20 – 7.30 Page 80

Annex D Page 148 Conditions relating to the prevention of crime & disorder

Sections 7.31 – 7.37 Page 83

Annex E Page 154 Conditions relating to public safety

Sections 7.38 – 7.46 Page 85

Annex G Page 164 Conditions relating to the prevention of public nuisance

Cherwell District Council Statement of Licensing Policy:

Page 14 LH 3 - 8 Sections 5.3 – 5.7 Licensing Hours

Page 22 LA5 Section 7.3.9 Addressing local concerns

Page 22 LA6 Section 7.3.10 General Management and control

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 representations received and what is appropriate for the promotion of the licensing objectives, the options open to the Sub-Committee are, in broad terms:

- 1) approve the application for the variation as submitted
- 2) reject the application for the variation in whole or part
- 3) place conditions on the variation to the premises licence and/or require changes to the details of the variations sought.

Cherwell District Council
Environmental Services Department
Environmental Protection Licensing Consultation Response.

Licensing Act 2003: Application for Variation

Premises: Que Pasa, 64-65 High Street Banbury Oxon

History: I can confirm that I have examined the records held within the Councils Environmental Services Department and can report that there are no records which suggest that there is a history of public nuisance associated with these premises.

Observations:

The applicants have submitted an application to vary their current premises license. The variations are itemized into six separate categories and I comment on each category below:

1. To authorize the hours for the sale of alcohol and provision of regulated entertainment on each Monday to Sunday (inclusive) 10:00-04:00 (morning following).-
No objection
2. To provide late night refreshment on each Monday to Sunday (inclusive) 23:00 to 04:00 hours (morning following) - No objection.
3. To remove the condition relating the sale of alcohol being ancillary to music and dancing and substantial refreshment – No objection.
4. To remove the condition relating to admittance to the licensed premises forbidding admittance or re-admittance to the premises after midnight – Clearly if the premises are to be permitted to remain open for the sale of alcohol until 04:00 hrs the imposition of a condition prohibiting admission or readmission after midnight is impractical. However the imposition of a condition where by customers are not permitted to be admitted to or return to licensed premises within the last hour of trading has in the past been considered beneficial as it was thought to restrain those individuals who may wish to move from premises to premises to get the last alcoholic drink. With this in mind a latest hour of admission and readmission condition would be considered beneficial but should reflect the revised hours of operation.
5. To remove the condition which requires a minimum of 7 door staff to be on duty. -
The original requirement to employ 7 door supervisors was developed on the basis that the premises would be operating at maximum capacity. Clearly with extended hours the level of occupancy of the premises will vary with time and the nature of the activity being carried out within the premises. While the removal of the blanket requirement is

considered acceptable a risk assessment must be carried out in order to establish the level of door supervision that the premises will require under varying conditions of trade.

6. To remove all conditions on the Premises License under paragraph 6(8) of the 8th schedule to the Licensing Act 2003 with the exception of the provisions relating to New Years Eve.- I am assuming that the conditions being referred to under this section are contained within Annex I of the premises license. This being the case conditions 1, 2, 3 and 6 remain as mandatory. Conditions 4, 5, 7, 8, 10 may be removed with all other conditions in this section being retained in order to achieve the four licensing objectives.

Recommendation:

I can confirm that the Councils Environmental Protection Section would not object to the granting of a license in respect of the above premises for the additional hours as set out in Bond Pearce's license application dated 24 July 2006. This non objection is subject to a condition being imposed prohibiting admission or readmission to the premises one hour before the cessation of the sale of alcohol; that the applicants carry out an document a risk assessment to determine the level of door supervision required within the premises under varying conditions of trade. The risk assessment must be submitted to the Licensing Authority for approval prior to the revised level of supervision is put into operation and that the conditions detailed in 6 above are retained.

Rob Lowther
Anti Social Behavior Manager.
01/08/06

A copy of this report is sent to the applicant(s) or their agents and to the Licensing Authority for the Cherwell District Council Area. Should you wish to discuss the contents of this report and its recommendations please contact Rob Lowther on 01295 221623 or rob.lowther@cherwell-dc.gov.uk.

PLEASE CONFIRM IN WRITING THAT YOU HAVE RECEIVED THIS DOCUMENT, THAT YOU AGREE THE RECOMMENDED CONDITIONS OR THAT YOU INTEND TO CHALLENGE THE HEAD OF ENVIRONMENTAL SERVICES RECOMMENDATION. Correspondence must be addressed to **The Head of Corporate Services. The Licensing Authority Cherwell District Council Bodicote House Bodicote Banbury Oxon OX15 4AA**

aded sections, where possible, to be completed **BEFORE** being allocated to the individual undertaking the assessment. The rest to be completed by the officer undertaking the assessment. Attach AL 3 to the application form.



THAMES VALLEY POLICE

Premise Licence Application Police Response

To be returned with, Premises License application form, to the police licensing office

BEFORE...21.8.06.....

Triage Categorisation

A / B / C

Name of premises	Address And phone number(s)	Name of applicant (individual or company name)	Company name if different to applicant
Que Pasa	Banbury		
Date application received by police & allocated to assessing officer	TVP licensing officer dealing or other e.g. ABO	Licensing Authority dealing with application	Licensing Authority licensing officer dealing
28 July 06	Oli Wright	CDC	

Applicants correspondence address if different to premise address	Date application assessment process began	Date(s) contact made between police licensing officer and applicant or other	Name of other person acting on behalf of applicant
	19.8.06	Yet to contact applicant.	
	Date Responded 21.8.06		

Tick as appropriate*

Thames Valley Police are satisfied with this application and do NOT wish to make representations*	<input type="checkbox"/>
Thames Valley Police have concerns regarding this application and would like to make a number of representations as detailed on the following pages*	<input checked="" type="checkbox"/>

See next page

Que Pasa Representation

TVP would like to make known their representation against the Que Pasa, Banbury application. TVP are requesting a number of conditions be placed on the licence but no agreement has yet been reached. The conditions are:

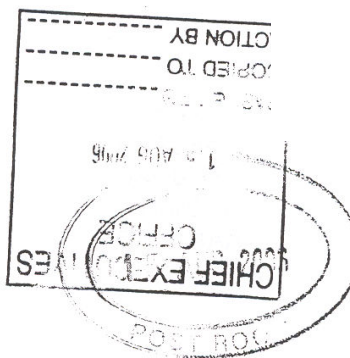
- A minimum of 5 door supervisors, all individually registered with the SIA, shall be present on the premises at all times between 2100hrs and closing time on all days when the premises are open after midnight.
- No person shall be admitted to the premises less than one hour before cessation of the last licensable activity.
- The Licence Holder shall implement a written responsible drinking policy to be agreed in writing with Thames Valley Police.
- All members of staff at the premises shall seek “credible photographic proof of age evidence” from any person who appears to be under the age of 21 years and who is seeking access to the premises or is seeking to purchase or consume alcohol on the premises. Such credible evidence, which shall include a photograph of the customer, will either be a passport, photographic driving licence, or Proof of Age card carrying a “PASS” logo.
- Prominent clear notices shall be displayed at the point of entry to the premises and in a suitable location at any points of sale, advising customers that they may be asked to produce evidence of their age.
- All occasions when persons have been refused service shall be recorded in writing and kept at the premises for six months.
- No drinks shall be served in bottles.

It is envisaged however that there will be an agreement in due course, as I am yet to make contact with the applicant.

Oli Wright
Licensing Officer
Thames Valley Police

→ Tinafske

Head of Corporate Services
Licensing Authority
Cherwell District Council
Bodicote House
Bodicote, Banbury
Oxfordshire OX15 4AA



11 August 2006

Dear members of the Licensing Authority Panel,

I am writing to you to object to the extended hours licensing application made by Bar Que Pasa. I learnt about this in the Banbury Guardian's front page (10 August 2006) and was immediately concerned.

I live nearby Que Pasa, in the corner of Broad Street and George Street, in the proximity of other bars. We chose this area for its convenience: we rely in public transport, and being in the town centre makes commuting, shopping, etc. easier. However we have been plagued by night disturbances, especially in the summer season, and on weekends throughout the year, and I am keen to stop the extended drinking hours bringing yet more misery.

The reasons for my objection are:

1. **Crime and disorder:** An establishment staying opened until late will result in its customers consuming a higher amount of alcohol. Whereas there may be security within the bar, once customers leave they are left to their own devices and I fear that noise, loud arguments on the street and disturbances, damage to public and private property (everything from abandoning cans and wrappers and other litter to urinating or vomiting in an alleyway), etc will increase.
2. **Public nuisance:** See above. Que Pasa is located in a mixed residential and commercial area. Customers who abandon the premises in an intoxicated state are likely to create so much noise that it would disrupt our rest. We have a right to enjoy a restful night before getting up at 6.30 am to go to work or for our usual business. This is likely to affect many others, too.
3. **Public safety:** It would affect the safety of Que Pasa customers themselves. Drinking until later is likely to result in increased consumption of alcohol, with the associated dangers, especially for drivers and for young women returning home after a night out. Plus, anyone else on their way to an early start to their job would encounter disturbance galore.

In general, I feel that this application would go in detriment of the atmosphere in Banbury town centre, it would increase the amount of noise in the area near Que Pasa, it would affect the state of the town itself the morning after, and would result in problems for neighbours, police and many customers themselves. I am just being realistic, and I hope my views and those of many others are taken into consideration.

Yours sincerely

[Signature]

Ack Card
Sent 15/8