

CHERWELL DISTRICT COUNCIL**LICENSING SUB COMMITTEE****22 SEPTEMBER 2005****REPORT OF THE HEAD OF CORPORATE SERVICES****PREMISE LICENCE APPEAL HEARINGS****1 Introduction and Purpose of Report**

- 1.1 The purpose of this report is to provide an outline of the four applications and details of representations received from The Head of Environmental Health and a number of interested parties which has resulted in the necessity for hearings.

2 Wards Affected

- 2.1 Banbury Easington, Drayton, Fringford, Kidlington North and Wroxton

3 Effect on Policy

- 3.1 None.

4 Contact Officers

- 4.1 Tina Poke (ext 1503)
Janet Smith (ext 1534)

5 Background

- 5.1 This report contains details of five applications that are to be considered by the Committee. The applications are in respect of the following premises:

Tommy Flynn's, Banbury (Scheduled to be heard at 10:00)
The Red Lion, Stratton Audley

Kings Arms, Kidlington (Scheduled to be heard at 14:00)
North Arms, Wroxton
Drayton Leisure, Warwick Road, Banbury

- 5.2 Each case is detailed individually.

- 5.3 The applications fall into two parts. Firstly, the conversion of an existing licence to a Premises Licence and secondly to consider varying the new Premises Licence. In each case details are provided in respect of the existing licence and the variations.

- 5.4 On conversion the premises licence must be subject to conditions that reproduce the effect of any conditions on existing licences and any restrictions imposed by legislation.

5.5 Should any supplementary information be received from those making representations in any case, it will be circulated in advance of the meeting of the Sub-Committee.

6 Tommy Flynn's, 6 North Bar, Banbury

6.1 This application was received on 1 August 2005 from Cavalier Pub Company Ltd., of Sanderum House, Oakley Road, Chinnor, Oxfordshire. Brendan McClelland of 6 North Bar Street, Banbury will operate the premises.

6.2 Outline of Application and Details of Variation to Premises Licence under the Licensing Act 2003

6.3 General Description of the premises:

"Town Centre public house with food, functions and entertainment. Outside trading area at the rear. Located on a busy main road surrounded by other leisure uses and by shops and offices. Some residents live in the vicinity."

6.4 Current permissions are a full Justices on licence for sale of alcohol for consumption either on or off the premises, special hours certificate and for the provision of live and recorded music and dance by way of a Public Entertainments Licence.

6.5 The proposed variation is briefly described as:

- To extend hours the premises are open to the public everyday 07:00 to 03:00
- To extend hours for the supply of alcohol (on & off the premises) everyday 07:00 to 02:00, with non standard timings 07:00 New Years Eve to 02:00 New Years Day
- Provision of Late Night Refreshments everyday 23:00 to 03:00
- To permit the following regulated entertainments throughout the premises at any time during opening hours (07:00 to 03:00) everyday – Live and recorded music, films (video/tv), indoor sporting events, performances of dance, provision of facilities for making music and dancing

6.6 Promotion of the Four Licensing Objectives

6.7 The applicant has stated the following as a general approach to satisfying the licensing objectives.

"The types of regulated entertainments proposed amend the terms of the converted PEL and re-instate the normal pub and family entertainments that were previously unregulated, with the benefit to enhance the local facilities for social entertainments and reduce the focus on alcohol. Staff will be trained on the requirements of the Licensing Act 2003 when they are recruited and given training in 'drugs awareness' as part of their induction. We have considered the terms of your local licensing policy in preparing this application".

6.8 *The prevention of public nuisance*

6.9 The representations received are in relation to possible public nuisance being caused by the grant of additional hours to the premises. The applicant has stated the following regarding measures to promote the licensing objective relating to prevention of public nuisance:

"The standard for noise audibility in the rear garden shall be amended to refer to the standard of audibility inside the nearest residential property, as established by the Environmental Protection Act as the standard from which an actionable nuisance could arise. The Licensing Act is not to be used as a way to circumvent that law by establishing a higher standard by use of licence conditions. The operators apply on the basis they will retain the discretion whether or not to offer music at particular times or on particular days."

6.10 ***The prevention of crime and disorder***

6.11 Some of the representations received from interested parties also expressed concerns regarding potential issues relating to the prevention of crime and disorder. The applicant has stated the following regarding this licensing objective.

“The code of conduct for door supervisors is superseded by SIA door staff training and registration. Door supervision and queue management will only be required when live music and DJ regulated entertainment activities are proposed. The range of other ‘ordinary’ regulated entertainments are not expected to attract crowding or disorder and do not trigger any need for door supervision or queue management. Providing one hour’s extension of opening hours after the end of the sale of alcohol will promote this objective as the last drink will be consumed less quickly, the access to the pubs toilet facilities and access to non-alcoholic drinks and food. The music volume and tempo will be reduced during that period to promote and orderly dispersal and to enable customers to adjust their hearing before going out into the street. ‘Drink stacking’ at the end of alcohol hours will be prevented by staff training to ensure that any purchases of multiple drinks at the end of alcohol sales hours are one per person in group where rounds are purchased.”

6.12 **Representations Received and Relevant Licensing Objectives**

6.13 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.

1. The garden area not to be used after 23:00 hours
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.

6.14 The response from the Environmental Services is attached as Annex 1.

6.15 There three interested parties who have submitted representations.

- The representation from Andrew and Linda Woodward of Ivydene, 1 The Leys, Banbury is attached as Annex 2.
- The representation from Martin and Wendy Allitt of 2 The Leys, Banbury is attached as Annex 3.
- The representation from L A Allitt of 2A The Leys, Banbury is attached as Annex 4.

7 The Red Lion, Stratton Audley

7.1 This application was received on 28 July 2005 from William Joseph O’Neill of The Red Lion, Stratton Audley and Andrew Joseph Sparkes of 15 Cavendish Place, Stratton Audley who own the premises. William J O’Neill will operate the premises.

7.2 Outline of Application and Details of Variation to Premises Licence under the Licensing Act 2003

7.3 General Description of the premises:

“Two storey detached property used primarily as a public house. Top floor two room staff accommodation. Small separate function room for private parties for food and drink with a small room used for food. Trade garden to rear of property. Trade kitchen on ground floor.”

7.4 Current permissions are a full Justices on licence for sale of alcohol for consumption either on or off the premises.

7.5 The proposed variation is briefly described as:

- 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.
- To extend hours for the supply of alcohol (on and off the premises) 11:00 to 24:00 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 applicant's discretion.
- 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 24:00 weekends only. Bank holiday weekends till 24:00.
- To permit recorded music indoors starting at 12:00 and finishing at 23:00 Sunday to Thursday and 12:00 to 24:00 Friday and Saturday. Non standard timings when opening hours are extended on bank holiday and event days, these hours follow the opening hours.
- 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.
- 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.

7.6 **Promotion of the Four Licensing Objectives**

7.7 The applicant has stated the following as a general approach to satisfying the licensing objectives.

"The types of regulated entertainments proposed re-instate and then enhance the normal pub entertainments that were previously unregulated, with the benefit to enhance the local facilities for social entertainment and reduce the focus on alcohol.. No new steps have been identified by risk assessment in relation to the four licensing objectives, except as below."

7.8 ***The prevention of public nuisance***

7.9 The representations received are in relation to possible public nuisance being caused by the grant of additional hours to the premises. The applicant has stated the following regarding measures to promote the licensing objective relating to prevention of public nuisance:

"Live music will end by 23:00. Recorded music will end by 24:00. All windows will be kept closed after 24:00. When opening hours are extended on bank holidays and event days these hours follow the opening hours."

7.12 **Representations Received and Relevant Licensing Objectives**

7.13 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.

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

7.14 The response from the Environmental Services is attached as Annex 5.

8 Kings Arms, 4 The Moors, Kidlington

8.1 This application was received on 1 August 2005, from Punch Taverns Plc of Jubilee House, Second Avenue, Burton Upon Trent, Staffordshire who own the premises. The premises will be operated by Patrick McGrath who is the current Justices licensee.

8.2 Outline of Application and Details of Variation to Premises Licence under the Licensing Act 2003

8.3 General description of the premises:

“The Kings Arms is a mid-market local, with two bar areas and external function area. The outlet fronts onto The Moors road, with a car park situated to the side. The outlet has a good food offer of bar snacks and plated meals.”

8.4 Current permissions are a full Justices on licence for sale of alcohol for consumption either on or off the premises.

8.5 The proposed variation is briefly described as follows:

- 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
- 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
- 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.
- 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

8.6 Promotion of the Four Licensing Objectives

8.7 The applicant has indicated, as a general approach to satisfying the licensing objectives the following:

“Following an assessment of the premises and its surrounding area the following is proposed: 30 minute drinking up time will allow appropriate dispersal, use of lavatories etc., In order to further the licensing objectives the licensee reserves the right to move the fire appliances, AWP machines, cigarette machines and or any other similar objects temporarily in a fixed location which may impact on the ability of individuals on the premises to use exits or escape routes without impediment”.

8.8 ***The Prevention of Public Nuisance***

8.9 The representations received are in relation to possible public nuisance being caused by the grant of additional hours to the premises. The applicant has stated the following regarding the measures to promote the licensing objective relating to the prevention of public nuisance:

- All entrance doors have internal lobbies
- A noise survey is carried out regularly especially when entertainment is being provided, landlord monitors externally.
- Being a detached property there are no adjoining neighbours
- The fact that this public house is a detached property assists in minimising noise transfer to neighbours
- Food preparation is limited to lunchtimes only and not on Sunday and therefore the use of kitchen extractor is minimal
- The pub has a lobbied entrance which reduces noise emission
- Cellar cooling condenser is positioned in an area so as not to cause nuisance to neighbours / is sound proofed
- Customer departure is managed by Licensee
- Licensee has been in situ for 9 years and knows area requirements
- Fabric of the building retains sound

8.10 **Representations Received and Relevant Licensing Objectives**

8.11 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.

PN 12 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

PN17 The garden / outside drinking area must not be used by customers after the hours of 23:00

8.12 The response from the Environmental Health is attached as Annex 6.

8.13 There are five interested parties who have submitted representations.

- The representation from C Mitchell of 12 St Mary's Close, Kidlington is attached as Annex 7
- The representation from Mr & Mrs Lyle of 9 The Moors, Kidlington is attached as Annex 8
- The representation from Mr & Mrs Lowen of 11 The Moors, Kidlington is attached as Annex 9
- The representation from Mr & Mrs Lovell, 7 The Moors, Kidlington is attached as Annex 10
- The representation from FW Hodcroft of 4 St Mary's Close, Kidlington is attached as Annex 11

9 North Arms, Mills Lane, Wroxton, Banbury

9.1 This application was received on 3 August 2005 from Greene King Retailing Limited of Abbot House, Bury St Edmunds, Suffolk who own the premises. Karen Walton of North Arms, Mill Lane, Wroxton is the current licensee and will operate the premises.

9.2 Outline of Application and Details of Variation to Premises Licence under the Licensing Act 2003

9.3 General description of the premises:

“One Bar, Restaurant and Garden”

9.4 Current permissions are a full Justices on licence with a Supper Hours Certificate. Alcohol can be consumed either on or off the premises.

9.5 The proposed variation is briefly described as:

- 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
- 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
- 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

9.6 Promotion of the Four Licensing Objectives

9.7 The applicant has stated the following as a general approach to satisfying the licensing objectives;

“Strong management controls and effective training of all staff so they are aware of the licensing objectives and in particular ensure:- no underage drinking, drunkenness on the premises, drunkenness in public, use of drugs, violent and antisocial behaviour and to protect children from harm”.

9.8 *The Prevention of Public Nuisance*

9.9 Representations received from the interested parties are in relation to possible public nuisance being caused by the additional hours to the premises. The applicant has stated the following regarding measures to promote this licensing objective:

“Responsible management at all times, Training and supervision to prevent incidents of public nuisance. Regular visits to all parts of the premises including the exterior and deliveries etc., outside opening hours. Adoption of best practices e.g. Control of Noise from Pubs & Clubs, national Harm Reduction Strategy Toolkit and other voluntary codes of practice including the BBPA and Portman Group point of sale promotions. Management of people including staff and traffic arriving and leaving the premises. Liaison with public and private transport providers. External lighting and security lighting installed. Collection and management of litter and effective ventilation systems to prevent nuisance from odour.”

9.10 Representations Received and Relevant Licensing Objectives

9.11 There are four interested parties who have submitted representations.

- The representation from Ian Brough of Woodcote Mills Lane, Wroxton is attached as Annex 12
- The representation from Richard and Maureen Woollacott of Honeysuckle Cottage, Mills Lane, Wroxton is attached as Annex 13
- The representation from Mrs & Mrs Mitchell of Lavender Cottage, Mills Lane, Wroxton is attached as Annex 14
- The representation from Elizabeth Young of The Old Bakehouse, Mills Lane, Wroxton is attached as Annex 15
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10 Drayton Leisure, Warwick Road, Banbury

10.1 This application was received on 5 August 2005 from Nicholas Turner of Drayton Lodge Farm, Banbury and David Turner of Bloxham Lodge, Banbury Road, Bloxham who own the premises. Nicholas Turner will operate the premises.

10.2 Outline of Application and Details of Variation to Premises Licence under the Licensing Act 2003

10.3 General Description of the premises:

“Drayton Leisure is a gold centre including a 9 hole golf course, golf driving range and coarse fishing lake. The clubhouse, adjoining the range comprises of a bar area, shop and function room, this is a single story building with a decking area outside and a grass area for putting and seating.”

10.4 Current permissions are a full Justices on licence for sale of alcohol for consumption either on or off the premises.

10.5 The proposed variation is briefly described as:

- To extend hours the premises are open to the public everyday 08:00 to 23:00
- To extend hours for the supply of alcohol (on the premises) everyday 10:00 to 23:00, with non standard timings 25 times per year to finish at 01:30.
- 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.
- 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.
- 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.

The application suggests that on a number of occasions some regulated activities will take place beyond the hours the premises are open to the public. The applicant has been asked to verify his intention as part of the presentation to the committee.

10.6 Promotion of the Four Licensing Objectives

10.7 The applicant has stated the following as a general approach to satisfying the licensing objectives.

“All staff to be trained on licence issues.”

10.8 ***The prevention of public nuisance***

10.9 The representations received are in relation to possible public nuisance being caused by the grant of additional hours to the premises. The applicant has stated the following regarding measures to promote the licensing objective relating to prevention of public nuisance:

“Music will be monitored for disturbance and annoyance to neighbours. We do not have close neighbours.”

10.12 **Representations Received and Relevant Licensing Objectives**

10.13 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.

- All live music to cease in the outside area by 22:00

10.14 The response from the Environmental Services is attached as Annex 16.

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

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

Guidance

Public Nuisance

Page 85	Section 7.38	Concerns relating to the prevention of public nuisance
Page 164	Annex G	

Crime and Disorder

Page 80	Section 7.20	Concerns relating to the prevention of Crime and Disorder
Page 148	Annex D	

11.2 Cherwell District Council Statement of Licensing Policy

Public Nuisance

Page 14	Sections 5.3 – 5.7	Licensing Hours	LH 3 – 8
Page 22	Section 7.3.9	Addressing local concerns	LA5
Page 22	Section 7.3.10	General Management & Control	LA6

Crime and Disorder

Page 14	Sections 5.1 – 5.7	Licensing Hours	LH 1 – 8
Page 22	Section 7.3.10	General Management	LA 6
Page 35	Sections 8.3 – 8.7	Various	OS 10 – OS 14

11.3 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 to the meeting.

12 Options

12.1 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.