

REPORT OF THE HEAD OF CORPORATE SERVICES

APPEAL HEARING – Admiral Holland, Woodgreen Avenue, Banbury

1 Introduction and Purpose of Report

- 1.1 The purpose of this report is to provide an outline of the above application and details of the representations received from the Council's Head of Environmental Services and Thames Valley Police which has resulted in the necessity for a hearing.

2 Wards Affected

- 2.1 Ruscote

3 Effect on Policy

- 3.1 None.

4 Contact Officers

- 4.1 Clive Baynes (ext 1581);
Janet Smith (1534).

5 Background

- 5.1 This report contains details of an application that was received on 18 May 2005 from Mitchell and Butlers Leisure Retail Ltd of 27 Fleet Street, Birmingham who own and operate the premises.
- 5.2 The application falls into two parts. Firstly, the conversion of the existing licence to a Premises Licence and secondly to consider varying the new Premises Licence. The following paragraphs provide details of the existing licence and the variations.
- 5.3 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.

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

- 6.1 General description of the premises:
A managed business and a local community pub.
Two trading areas to ground floor, external drinking areas to front and side (where exterior area noted this is used for off supply)

- 6.2 Current licensable activities authorised by existing licences:
 Provision of regulated entertainment: live music, recorded music and performance of dance.
 Provision of entertainments facilities for making music and dancing
 Provision of late night refreshment
 Sale by retail of alcohol: for consumption on and off the premises.
- 6.3 Current hours of operation authorised by existing licences:
 Sale of alcohol: The provisions of section 59,60,61,63 of the Licensing Act 1964 apply i.e. normal permitted hours.
 Regulated entertainment: The playing of recorded music is permitted 24 hours a day pursuant to section 182 Licensing Act 1964
 Public entertainment is permitted during all the following hours 11:00 – 23:00 Monday to Sunday (Appendix A of the current public entertainment licence is attached as Annex 1 to this report.)
 Late night refreshment: the sale of hot food and drink is permitted during all the hours permitted for the sale of alcohol and 30 minutes thereafter.
- 6.4 The proposed variation is briefly described as:
 1. To extend hours for the sale of alcohol, hot drink and/or food and entertainment, and to permit regulated entertainment all to operate Monday to Sunday 10:00 to 00:00 and for hours noted on notable days and certain international events. To remove any restrictions which are placed on the licence by virtue of schedule 8, paragraph 6(8) of the Licensing Act 2003 except for any indication otherwise in the application. To remove conditions. Full details of which can be inspected on the application.
- 6.5 The following variations to the operating schedule would be varied if the application were successful:

Films:	Indoors To permit amplified music, video, sport, entertainment programmes and any entertainment of like kind. (Nothing of an adult nature)						
	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
Start	10:00	10:00	10:00	10:00	10:00	10:00	10:00
Finish	00:00	00:00	00:00	00:00	00:00	00:00	00:00
Indoor Sporting Events:	Indoors May include, darts, dominoes, pool, snooker or other minor sporting games of a similar kind that may attract an audience occasionally						
	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
Start	10:00	10:00	10:00	10:00	10:00	10:00	10:00
Finish	00:00	00:00	00:00	00:00	00:00	00:00	00:00
Live music:	Both May be un-amplified or amplified. Music may be via artists singing, karaoke, DJ and other of a similar nature. (Not adult entertainment)						
	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
Start	10:00	10:00	10:00	10:00	10:00	10:00	10:00
Finish	00:00	00:00	00:00	00:00	00:00	00:00	00:00

Performance of dance:	Both Performers/staff may dance as part of their general entertainment (not nude striptease).						
	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
Start	10:00	10:00	10:00	10:00	10:00	10:00	10:00
Finish	00:00	00:00	00:00	00:00	00:00	00:00	00:00
Provision of facilities for making music:	Both From time to time the following facilities may be provided at the premises; in house sound/music system, musical instruments , video or tv screens Use of the facilities will be both amplified and un-amplified from time to time						
	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
Start	10:00	10:00	10:00	10:00	10:00	10:00	10:00
Finish	00:00	00:00	00:00	00:00	00:00	00:00	00:00
Provision of facilities for dancing:	Both Provision of permanent or temporary dance floor.						
	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
Start	10:00	10:00	10:00	10:00	10:00	10:00	10:00
Finish	00:00	00:00	00:00	00:00	00:00	00:00	00:00
Late night refreshment:	Both Hot food or drink sold in conjunction with the supply of alcohol if required.						
	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
Start	10:00	10:00	10:00	10:00	10:00	10:00	10:00
Finish	00:00	00:00	00:00	00:00	00:00	00:00	00:00
Supply of alcohol:	On the premises and Off the premises						
	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
Start	10:00	10:00	10:00	10:00	10:00	10:00	10:00
Finish	00:00	00:00	00:00	00:00	00:00	00:00	00:00
Hours of opening:	30minutes after the end of licensable activities i.e. to 00:30						
Current conditions the applicant believes could be removed as a consequence of the proposed variations:							
To remove any restrictions that are placed on the licence by virtue of schedule 8, para 6(8) of the Licensing Act 2003							
The restrictions regarding drinking up times are also to be replaced with 30 minutes as marked in Box O							
The Children's Certificate with accompanying conditions should not longer apply.							
To remove special conditions 1, 3 and 4 of the Public Entertainment Licence.							

7 **Promotion of the Four Licensing Objectives**

7.1 Admiral Holland is part of and operated by Mitchells & Butlers Group (MAB). MAB own and operate over 2000 separate managed businesses within the UK. Managers are employed by the company and operate under the direction and procedures of the company. MAB adopt a corporate approach to risk management across the whole estate. This ensures a consistent approach to the management of risk in each of their businesses through a range of policies, procedures and roles. This approach is fundamental to MAB's operating principles and is integrated into the way they run their businesses.

Reference is made to the attached document, "Mitchell and Butler – A guide to our Policies". This document which does **not** form part of the operating schedule, demonstrates MAB's total commitment to best practice policies, enforced and monitored at this site. It is not possible to submit such policies as potential conditions as they are obviously subject to other legislation, corporate responsibility considerations and market conditions, and are therefore liable to change from time to time.

This is a variation application that does **not represent a fundamental change in the way in which this premises has already been trading under it's existing licences and conditions**. MAB are required in schedule 1, part B2 to state "any additional steps that you intend to take in order to promote the four licensing objectives if the proposed variation is granted". MAB have carefully considered the risks and benefits associated with the additional hour(s) applied for and the conditions attached to our PEL adequately address all the licensing objectives save where additional steps are necessary which are indicated below.

MAB will continue to train their staff in the standards required by the relevant legislation and as required by company policy.

MAB's voluntary closure policy for the operation is 30 minutes after the approved closure time for the supply of alcohol.

7.2 ***Prevention of crime and disorder***

The company monitors the need for door supervisors and in so doing takes into account any advice given by the Police.

The Pub Manger is required to actively participate in and support the local Pubwatch scheme (where active).

Text and/or radio pagers, where already used will be used for any additional hours.

Toughened Glass is currently in use and will continue o be used during any additional hours.

Existing CCTV system will continue to operate during the additional hours.

In line with our Alcohol and Social Responsibility Policy there will be no promotions that encourage illegal, irresponsible or immoderate consumption.

7.3 ***Public Safety***

MAB already understand their obligations under existing Health and Safety legislation, take their responsibilities seriously and have extensive policies and practices in place to meet these obligations (see "Guide to our Policies").

It is MAB's opinion that the nature of the operation and proposed variation will not lead to any increase in risk of the public safety. The existing policies will simply be extended to cover the relatively small increase in opening hours. MAB's internal health and safety due diligence and incident reporting system will operate during the additional hour(s).

7.4 The Prevention of public nuisance

The style and nature of the operation will not differ significantly from the existing trading operation during the extended hour(s). Indeed, grant of the additional hour(s) will of itself promote the licensing objectives as stated at paragraph 3.29 of the **Guidance**, in allowing customers to emerge from premises at a more gradual rate.

Reasonable steps are taken to recognise the rights of local residents and to encourage customers to leave the premises quietly.

Managers are required to liaise with local neighbours as part of their duties and resolve any reasonable concerns in accordance with MAB's Role in the Community Guidelines.

7.5 The protection of children from harm

MAB's recognise the importance of protecting children from harm and this is supported by:-

- MAB's commitment to health and safety in the operation and maintenance of the premises
- MAB's approach to managing the risk of under-age drinking

MAB's will at all times observe the law and ensure that alcohol is not served to people who are under 18 years of age. The manager and staff are briefed in the importance of their responsibilities in ensuring customers are over 18.

No adult entertainment (paid for by the company of a nude physical nature) is permitted at these premises. Any children under 16 remain the responsibility of the accompanying adult when using the premises (and/or exterior area). Staff are not allowed to be in sole supervision of children which remains the responsibility of the accompanying adult at all times.

8 Representations Received and Relevant Licensing Objectives

8.1 Following consultation with responsible authorities, representations have been received from Thames Valley Police and the Head of Environmental Services. These are summarised in turn and details are annexed.

8.2 The representation received from the Thames Valley Police is attached as Annex 2. The Police object to the variation on grounds based on three of the licensing objectives i.e. prevention of crime and disorder, public safety and the prevention of public nuisance. The principal issues in the representation are:

- 1) Although the Police accept that the proposed variation applied for does not represent a fundamental change, the conditions requested are in the main a fine tuning of what is included in the application.
- 2) There have been a number of reported incidents relating to the premises and the imposition of conditions should assist in the efficient management of the establishment to relieve crime and disorder.

- 8.3 The representation received from the Head of Environmental Services is attached as Annex 3 to the report. The Head of Environmental Services requires certain conditions to be imposed in order to make the variation applied for acceptable. Most of these conditions are drawn from the existing public entertainments licence (see Annex 1), together with conditions PN17, PN 18 and PN19 from the Council's published pool of conditions. She states that due to the proximity of dwellings in Penrose Close, Woodgreen Avenue and the Orchard Way Shopping Complex use of the garden and outdoor drinking areas beyond 23:00 may cause nuisance to the occupants of these premises. 23:00 is widely recognised as the beginning of the period of time known as the 'sleeping hours'.
- 8.4 Should any supplementary information be received from those making representations it will be circulated in advance of the meeting of the Sub-Committee.

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

- 9.1 The relevant sections of the Guidance and Licensing Authority Policy issued under the Licensing Act 2003, which are applicable to the representations are as follows:

Guidance:

Annex D	Page 148	Conditions relating to the prevention of crime and disorder The following paragraphs: General, Door Supervisors, CCTV, Capacity limits, Proof of age cards, Crime prevention notices, drinks promotions and signage.
Annex G	Page 164	Conditions relating to the prevention of public nuisance The following paragraphs: General and hours
Annex H	Page 166	Conditions relating to the protection of children from harm The following paragraphs: Access for children to licensed premises – in general, age restrictions – specific and proof of age cards.

Cherwell District Council Statement of Licensing Policy:

Page 14	Sections 5	Licensing Hours	LH 3 & 5
Page 15	Section 5.5	Dispersal procedures	LH6
Page 17	Section 6.1	Access to premises by children	CH4
Page 18	Section 6.2	Prevention of alcohol by minors	CH5
Page 22	Section 7.3.9	Addressing local concerns	LA5
Page 22	Section 7.3.10	General Management and control	LA6
Page 33	Section 8.2	Safety (Log book)	OS2
Page 35	Section 8.3	CCTV	OS10
Page 36	Section 8.5	Door Supervisors	OS12
Page 37	Section 8.6	Pub Watch Scheme	OS13
Page 37	Section 8.7	Drinks promotions	OS14

10 Options

10.1 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 may, 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.