

**Committee:**           **Licensing Sub Committee**  
**Date:**               **Thursday 15 January 2009**  
**Time:**               **3.00 pm**  
**Venue**               **Bodicote House, Bodicote, Banbury, OX15 4AA**

**Membership**

**Councillor Eric Heath**                           **Councillor G A Reynolds**           **Councillor Rose Stratford**

**AGENDA**

**1. Constitution of the Sub Committee**

The Membership of the Sub-Committee for this meeting will be Councillors Heath, Reynolds and Mrs Stratford.

Please contact Alexa Coates (01295 221591) to tender apologies.

**Note:** Declaration of Interests: Any Member with a prejudicial interest will not be able to participate in the hearing, and should therefore notify the Head of Legal and Democratic Services in advance so that arrangements may be made for an alternate Member to attend.

**2. Premises License Appeal Hearing (Pages 1 - 11)**

**Summary**

The purpose of this report is to provide an outline of an application to vary a premises licence and details of representations received from the Head of Safer Communities and Community Development and Thames Valley Police which have resulted in the necessity for a hearing.

**Options**

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.

## **Information about this Agenda**

The agenda, reports and associated documents for the above hearing together with the Licensing Hearing Procedure are available at Bodicote House, Bodicote, Banbury, Oxfordshire OX15 4AA or on the Council's web site [www.cherwell-dc.gov.uk](http://www.cherwell-dc.gov.uk);

Members are asked to sign the Attendance Register; and

The Council and its Committees and Sub-Committees are required to consider the implications of the Crime and Disorder Act 1998 and the Human Rights Act 1998 when exercising their functions.)

### **Queries Regarding this Agenda**

Please contact Alexa Coates, Legal and Democratic Services [alexa.coates@cherwell-dc.gov.uk](mailto:alexa.coates@cherwell-dc.gov.uk)  
(01295) 221591

**Mary Harpley**  
**Chief Executive**

Published on Wednesday 7 January 2009

# Agenda Item 2

## CHERWELL DISTRICT COUNCIL

### LICENSING SUB COMMITTEE

15 JANUARY 2009

#### REPORT OF THE HEAD OF URBAN & RURAL 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 to vary a premises licence and details of representations received from the Head of Safer Communities and Community Development and Thames Valley Police which have 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 Natasha Barnes: Licensing & Vehicle Parks Manager (ext. 3738)  
Claire Bold: Licensing Team Leader (ext. 3741)

#### **5 Background**

- 5.1 This report contains details of an application in respect of The Cross Venue, 11 Horsefair, Banbury (formerly known as 52 Degrees North, Confessions and Arena), that is to be considered by the Committee.
- 5.2 The existing premises licence first came into force on 24 November 2005. The licence was held by Mr Reginald Howe and Mr David James Davis. The premises at the time was known as 52 Degrees North and operated as a night club consisting of two floors, both used for licensable activities.
- 5.3 On 17 November 2005, an application to vary the premises licence was received by the Licensing Unit. The application was submitted due to an oversight on the original application and the request to remove a previous condition that had been converted from the premise previous Public Entertainment Licence. Both the Environmental Health and Thames Valley Police had concerns over the removal of the condition and proposed further conditions to alleviate any possible problems regarding the prevention of crime and disorder and public nuisance. These conditions were duly agreed by the applicant and imposed upon the licence negating the need for a hearing to determine the application.

- 5.4 On 19 January 2006, the Licensing Unit received notification that the premises was to change its name from 52 Degrees North to Confessions, with effect from 26 January 2006.
- 5.5 On 2 February 2006, an application to vary the premises licence was received. The application merely sought to alter the layout of the venue and there were no requests to amend any of the licensable activities or conditions. No objections were received in respect of the application and the variation was duly granted.
- 5.6 In March 2006, the Licensing Unit received notification from Mr Davis that he would no longer be responsible for the licence from 24 March 2006. Following this notification, an application to vary the Designated Premises Supervisor from Mr Davis to Mr Howe was received on 18 April 2006. No objection to this change was made by Thames Valley Police and the amended licence was duly issued.
- 5.7 On 9 May 2006, an application to transfer the premises licence from both Mr Howe's and Mr Davis' names solely to Mr Howe's name was made. No objection to this change was made by Thames Valley Police and the amended licence was duly issued.
- 5.8 On 8 June 2007, an application to review the premises licence was received from Thames Valley Police. The Police believed that Confessions had been operating to the detriment of and failing to uphold, the licensing objectives for the prevention of crime and disorder and the protection of children from harm. Further to this, the Police believed several breaches of the conditions upon the licence had been occurred, namely the condition preventing any drinks promotions to take place at the venue.
- 5.9 A hearing was held to determine the application for review on 1 August 2007. The decision by the sub-committee was to suspend the premises licence for a six week period and to impose two further conditions upon the licence, namely:
1. Replace condition 14 with an absolute ban on drinks promotions.
  2. All persons entering the premises who do not appear to be 21 years of age shall be required to produce age identification before they shall be admitted to the premises.
- 5.10 On 19 September 2007, an application to vary the premises licence to Mr Xhetan Bushi from Mr Howe was received. Simultaneously, Mr Bushi applied to transfer the licence to himself and to change the name of the premises to Arena. No objection to this change was made by Thames Valley Police and the amended licence was duly issued.
- 5.11 On 13 November 2008, an application to transfer the licence from Mr Bushi to Mr Dritan Heta was received. This was followed by an application to vary the Designated Premise Supervisor to Mr Heta on 18 November 2008. No objection to this change was made by Thames Valley Police and the amended licence was duly issued.
- 5.2 The application to be determined by the hearing on 15 January 2009 concerns the variation of the current licence held by Mr Heta, under the Licensing Act 2003. Details are provided in respect of the existing licence and the proposed variation in paragraphs 7.2, 7.3 and 7.4.
- 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 The Cross Venue 11 Horsefair, Banbury

- 6.1 The application to vary the existing premises licence was received on 18 November 2008, from Mr Dritan Heta of 1 Preachers Lane, Oxford, OX1 1RS who operates the premises.

## 7 Details of Application to Vary a Premises Licence under the Licensing Act 2003

- 7.1 The proposed application is described by the applicant as:

Proposing to add licensable activities of:

- Live Music
- Boxing and Wrestling

And to extend hours at Bank Holidays and remove condition re drinks promotions

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

The premises to provide the sale by retail of alcohol (for consumption on the premises):

- Sunday to Wednesday from 11.00 to 01.00 the following morning (inclusively)
- Thursday and Friday from 11.00 to 03.00 the following morning (inclusively)
- Saturday from 11.00 to 04.00 the following morning (inclusively)
- Every Sunday of each Bank Holiday Week-end from 11:00 until 03:00 the following morning

The premises to provide the provision of regulated entertainment in the forms of recorded music and provision of entertainment facilities for dancing:

- Same times permitted for the sale by retail of alcohol
- Every Sunday of each Bank Holiday Weekend 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

To open the premise to the public

- Sunday to Wednesday from 11.00 to 01.30 the following morning (inclusively)
- Thursday and Friday from 11.00 to 03.30 the following morning (inclusively)
- Saturday from 11.00 to 04.30 the following morning (inclusively)
- Every Bank Holiday Sunday from 11:00 until 03:30 the following morning
- Every Friday from 18:45 to 21:45 specifically for teenage parties

- 7.3 The proposed application is described as:

1. To Licence the premises for Boxing and Wrestling entertainments (**Indoors Only**)
  - Sunday to Wednesday from 11.00 to 01.00 the following morning (inclusively)
  - Thursday and Friday from 11.00 to 03.00 the following morning (inclusively)
  - Saturday from 11.00 to 04.00 the following morning (inclusively)
  - Bank Holidays, Christmas Eve, New Years Eve and Easter Holiday from 11.00 to 03.00 the following morning (inclusively)
2. To Licence the premises for regulated entertainment in the forms of Live Music, Recorded Music (**Indoors Only**)
  - Sunday to Wednesday from 20.00 to 01.00 the following morning (inclusively)
  - Thursday and Friday from 20.00 to 03.00 the following morning (inclusively)
  - Saturday from 20.00 to 04.00 the following morning (inclusively)

In addition to the above times:

- Live Music to be permitted on Bank Holidays, Christmas Eve, New Years Eve and Easter Holiday from 11.00 to 03.00 the following morning (inclusively)
- Recorded Music to be permitted on Bank Holidays, Christmas Eve, New Years Eve and Easter Holiday from 20.00 to 03.00 the following morning (inclusively)

3. To Licence the premises for the provision of facilities for making music and dancing (**Indoors Only**)

- Sunday to Wednesday from 20.00 to 01.00 the following morning (inclusively)
- Thursday and Friday from 20.00 to 03.00 the following morning (inclusively)
- Saturday from 20.00 to 04.00 the following morning (inclusively)
- Bank Holidays, Christmas Eve, New Years Eve and Easter Holiday from 20.00 to 03.00 the following morning (inclusively)

4. To Licence the premises for the retail sale of alcohol (**On the Premises Only**)

- Sunday to Wednesday from 11.00 to 01.00 the following morning (inclusively)
- Thursday and Friday from 11.00 to 03.00 the following morning (inclusively)
- Saturday from 11.00 to 04.00 the following morning (inclusively)
- Bank Holidays, Christmas Eve, New Years Eve and Easter Holiday from 11.00 to 03.00 the following morning (inclusively)

5. To open the premises to the public

- Sunday to Wednesday from 11.00 to 01.30 the following morning (inclusively)
- Thursday and Friday from 11.00 to 03.30 the following morning (inclusively)
- Saturday from 11.00 to 04.30 the following morning (inclusively)
- Bank Holidays, Christmas Eve, New Years Eve and Easter Holiday from 11.00 to 03.30 the following morning (inclusively)

7.4 When asked to identify those conditions currently imposed on the licence which the applicant believes could be removed as a consequence of the proposed variation, the applicant has stated:

Drink promotion

## 8 Promotion of the Four Licensing Objectives

8.1 Representations received have stated concerns in relation to potential issues in respect of the prevention of crime and disorder and public nuisance. Paragraphs 8.3 and 8.4 detail how the applicant has stated they intend to promote these licensing objectives. Paragraph 8.2 details how the applicant intends to promote all four licensing objectives in general.

8.2 General – all four licensing objectives:

- Providing registered door supervisor
- Having a personal licence holder on the premises at all times the licence is being used
- Staff training on licensing issues
- Installing a CCTV system

8.3 The Prevention of Crime and Disorder:

- Drugs policies and notices
- Membership of a local pub watch scheme
- Age restrictions, Bottle ban
- Any drinks promotions would be worked out with safe drinking e.g. persons who are drunk and disorderly will be asked to leave and refused to be served if drunk

- 8.4 The Prevention of Public Nuisance:
- Secondary glazing/soundproofing
  - Keeping music to a reasonable level
  - Litter clearance
  - Not using external areas after a certain time
  - Keeping doors and windows close while the licence is used
  - Notice to leave quietly
  - Persons who are drunk and disorderly will be refused entry
- 8.5 In addition to the above, the applicant has also submitted a document called 'The Cross Venue Ltd Operating Schedule' as part of their application, which will form part of the conditions upon the licence should the application be granted. A copy of this document is attached to this report at **Annex 3.**

## **9 Representations Received and Relevant Licensing Objectives**

- 9.1 The Head of Safer Communities and Community Development objects to the granting of the variation to the existing Premises Licence due to the removal of the condition restricting drinks promotions as they believe this would have the potential to cause public nuisance and an increased risk of anti-social behaviour.
- 9.2 The response from the Head of Safer Communities and Community Development is attached as **Annex 1**
- 9.3 Thames Valley Police objects to the granting of the variation to the existing Premises Licence in its current form. However, Thames Valley Police would be prepared to remove their objection if a number of amendments and conditions were imposed upon the application in its current form to alleviate the possibilities of crime and disorder at the premises.
- 9.4 The response from Thames Valley Police is attached as **Annex 2** and details all of their concerns.

## **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 72 - 73	Sections 10.11 – 10.18	Imposed Conditions, Proportionality, Duplication with other statutory provisions
Page 73	Sections 10.19 – 10.21	Hours of Trading
Page 77	Sections 10.38 – 10.40	Discounting and Sales Promotions
Pages 16 – 19	Sections 2.1 – 2.18	Crime and Disorder
Pages 21 - 23	Sections 2.32 – 2.40	Public Nuisance

Pages 117 – 121	Annex D	Part 1. Conditions relating to the prevention of crime and disorder
Pages 128 - 129	Annex D	Part 4. Conditions relating to the prevention of public nuisance

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

Pages 15 - 17	Policies LH1 – LH7	Sections 5.1 – 5.6	Licensing Hours
Pages 21 -22	Policy LA4	Sections 7.3.1 – 7.3.4 & 7.3.6	General Prevention of Public Nuisance
Page 23	Policy LA5	Section 7.3.9	Addressing Local Concerns
Page 23	Policy LA6	Section 7.3.10	Management and Control
Page 29	Policy PP10	Sections 7.5.18 – 7.5.19	Late Night Refreshment
Page 39	Policy OS14	Section 8.7	Drinks Promotions

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  
Safer Communities and Community Development  
Anti-social Behaviour Units Licensing Consultation Response.

**Licensing Act 2003: Application for Variation**

**Premises: The Cross Venue, 11 Horsefair, Banbury, OXON. OX16 0AA**

**History:**

I can confirm that I have examined the records held within Safer Communities and Community Development and can report that there are no records to suggest that there have been any incidents of public nuisance associated with these premises.

**Recommendation:**

However, We would object to the removal of the following condition on the basis that customers leaving the premises, after a night of drinks promotions, has the potential to cause public nuisance and an increased risk of anti-social behaviour.

- ❖ Removal of condition "Drinks Promotions are banned under this Premises License."

Julie Wileman  
**Night Safe Officer.**  
05/12/2008

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 Julie Wileman on 01295 221668 or [julie.wileman@cherwell-dc.gov.uk](mailto:julie.wileman@cherwell-dc.gov.uk).

**PLEASE CONFIRM IN WRITING THAT YOU HAVE RECEIVED THIS DOCUMENT, THAT YOU AGREE THE RECOMMENDED CONDITIONS (IF ANY) OR THAT YOU INTEND TO CHALLENGE THE HEAD OF SAFER COMMUNITIES AND COMMUNITY DEVELOPMENT RECOMMENDATION.**

Correspondence must be addressed to The Head of Corporate Services.  
The Licensing Authority Cherwell District Council Bodicote House  
Bodicote Banbury Oxon OX15 4AA

# THAMES VALLEY POLICE

Annex 2

Division/Station: Licensing Oxford

From: Laura Morris

To: Cherwell District Council

Ref: Cross Venue

Date: 27 November 2008

Tel.No. 01865 266109

Subject:

## Representations

Due to the potential of this premises becoming a high capacity vertical drinking establishment Thames Valley Police wish for the following conditions to be attached / removed from the licence.

Remove from opening hours: *Every Friday from 18.45 to 21.45 party for 12 to 17 year old children*

We wish to have this removed as it states in the new operating schedule that children are not allowed in the venue when any licensable activity is taking place.

Annex 1

Condition 7 – to read

Amended CD6	<i>No person shall be newly admitted to the premises less than one hour before cessation of the last licensable activity.</i>
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This is to accommodate for the smoking ban and change of hours.

Condition 9 - to read

Amended M4	<i>A minimum of 5 registered door supervisor/attendants, all individually registered with the Security Industry Authority, shall be present every Thurs, Fri and Sat Night (or nights of extended hours) that the premise is open for licensable activities. Door staff shall be employed to supervise the premises until 30 minutes after the premises have closed or until they have been completely vacated by all patrons.</i>
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To ensure public safety a minimum amount of SIA trained staff has been agreed for the nights in which the venue runs late. This should help to control crime and disorder in and around the venue.

Condition 14 to read

Amended CD35	<i>Alcoholic drinks shall not be supplied in such a way which will enable or which is intended to enable persons to consume unlimited quantities of alcoholic drinks on payment of a single payment or payment arrangement which is not related to the amount or number of alcoholic drinks supplied.</i>
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Annex 3

To remove: *Drinks promotions are banned under this premises licence.*

As we are removing the condition that states drinks promotions are banned we wish to maintain the restriction of one payment for a night of free drinks. This should help to promote the licensing objectives especially in relation to crime and disorder.

Annex 2

Thames Valley Police would like to see the following amendments to the operating schedule.

Amended	<i>To ensure that one of the personal licence holders is on the premises at all times that the sale of alcohol is taking place.</i>
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Amended CD39	The venue will have a CCTV system that complies with the current and relevant Thames Valley Police guidelines for standard minimum CCTV requirements (issue 1 July 2004), which will cover all areas of the bar, toilets, seating areas, stairs and outside area.
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In relation to wrestling/boxing Licensable hours to be reduced to 18.00 – 22.00 Mon – Sun, and to attach the following condition –

	At least 10 days notice in writing shall be given to the licensing authority of any proposal to use the premises for any boxing /Wrestling. These shall also be limited to 3 events per calendar month.
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We feel that as this venue is not looking to hold boxing/wrestling events as its main purpose that limiting the scope for this licensable activity will prevent crime and disorder from occurring when the events do take place.

# The Cross Venue Ltd

## Operating Schedule

There are several key areas, which need to be looked at by the management team to ensure the safety of clients and staff whilst the business is operating. Due to the nature of the business this importance of making sure these areas are covered adequately is paramount.

The main points, which are to be followed, are:

To ensure that one of the personal license holders (Dritan Heta or Brendan Embra) is on the premises at all times that the sale of alcohol is taking place. At the present time the proposed hours are 10.00 – 0200 Thursday to Saturday but this is subject to change, as the license applied for will have longer opening times, however this will not affect the above statement.

Seek to discourage binge drinking, drunken disorderly and antisocial behavioural patterns. We are aware that excessive drinks promotions will encourage our patrons to drink more heavily and this should be discouraged. We have actively price our drinks so to compete openly with the other clubs in the area without promoting binge drinking. Any appropriate promotions will be carefully planned to make sure that no persons should be put at risk and that the promotion complies with guidelines laid down by the Licensee's Association.

Within the scope of drunken disorderly and antisocial behaviour, the staff and management are fully aware of the issues which come with serving intoxicated individuals, the door staff are aware that any offenders which have had bans from the establishments in the area should be handled with extreme care. The police and door staff should deal with any problems, which arise from these persons, and the pub watch initiative should be advised of any updates by the licensees, which could affect other licensees in the area.

A big factor, which will affect the club, is that any criminal conduct should be discouraged wholeheartedly in particular the use of illegal substances and the carrying of weapons. This is going to be an ongoing and long term goal of the management team. To try to counteract this unfortunate trend a search procedure may be conducted as a condition of entry to premises, recording full details of the circumstances surrounding any seizure of drugs, weapons or other articles that may be required for evidential purposes, if required. All offences pertaining to this behaviour will be reported to the police.

Other door policies, which we are to have in place, are that:

- Entry will be refused to anyone who is drunk, violent or using threatening behaviour.
- Entry may be refused to any person who has been convicted of drunkenness, violent or threatening behaviour or the use or distribution of illegal substances
- Ensure that ongoing risk assessments are carried out to minimise risks to staff and customers on their premises.
- Accept the legal responsibility to ensure effective procedures are in place to prevent underage purchase, sale and consumption of intoxicants to underage persons or customers who are drunk. This is to be counteracted by placing an over 21 policy and having an open ID policy on the bar that if an individual looks under 21 that ID must be produced to serve them any alcohol.
- The venue will have a CCTV system, which will cover all areas of the bar, toilets, seating areas, stairs and outside area.
- Providing a suitable receptacle for the safe retention of illegal substances and informing the Police so appropriate disposal can be arranged.
- Retaining any property that may be of an evidential nature and informing the Police of its existence.
- Becoming a member body 'Pub watch' recognised by Thames Valley Police, whose principal aims include reduction in crime, disorder and antisocial behaviour connected with licensable activities.
- Providing suitable receptacles for the safe and secure disposal of glass and other sharp objects. Premises that sell bottled alcoholic drinks should consider the use of secure bottle bins. Smaller secure bottle bins should be located near the main entry/exit doors. Door staff should show due diligence in preventing bottles and glasses being taken from or into the premises.
- Maintaining a daily incident register and signing on/off sheet for all staff that are registered by the Security Industry Authority employed at venues.
- Operating an appropriate communication system aimed at cascading and exchanging information between licensed venues that is acceptable to Thames Valley Police and at a standard that complies with the service providers' instructions and training.
- The provision of staff as attendants at both the toilet and cloakroom areas. This should reduce incidents and the fear of criminal activity taking place at licensed premises.
- Regular collection of glasses, bottles and ashtrays will prevent them being used inappropriately.
- Children are not allowed in the premises at any time during licensing hours.

The management are aware that the safety of their clients, staff and members of the general public are of paramount importance and that an ongoing relationship between the venue, the police, the council and pub watch to continually improve policies to ensure safety issues are covered.