

Public Protection

Jackie Fitzsimons – Shared Public Protection Manager



DISTRICT COUNCIL
NORTH OXFORDSHIRE

Mr Marc Sylvester

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Our Ref: PRM0741

06 December 2017

Dear Mr Sylvester

Determination Notice

Premises Licence Application: Frequently Asked Questions, Bicester

Licensing Sub-committee Hearing, Cherwell District Council, 1 December 2017

I write to confirm the outcome of the above detailed Premises Licence Application hearing.

Decision

The licensing sub-committee has carefully listened to and considered all of the written information in relation to the application and all of the submissions made at the hearing. The sub-committee has also considered the statutory guidance issued under s182 of the Licensing Act 2003 and the Council's statement of Licensing Policy.

The sub-committee did not find the two pictures provided by Mr Symes at the hearing of cars parked in the Kings Arms car park to be relevant and therefore did not take the pictures into account when making a decision.

The sub-committee noted the submissions from the applicant at the hearing that he was no longer pursuing 'live music' as part of the application due to the size and style of the premises but did not want to rule out the possibility of DJ music. *The legal advisor advised the sub-committee during deliberation that in accordance with the statutory guidance issued pursuant to section 182 of the*



Licensing Act 2003, the performance of a DJ who is merely playing tracks would not be classified as live music, but it might if he or she was performing a set which largely consisted of mixing recorded music in a live performance to create new sounds.' The sub-committee noted the applicant's submissions at the hearing that the premises is intended to be a cocktail bar with music to provide atmosphere not entertainment but considered it appropriate to remind the applicant of this distinction in regard to DJ music as part of this decision.

The sub-committee further noted the submissions from the applicant that he understood the main concerns with the application to be in respect of late night noise. On reflection, he considered the licensable hours applied for in the application to be too late and had in fact only intended for the premises to be licensed until 01:00. He was therefore happy for any licence that may be granted to have a terminal hour for licensable activities as 01:00 but did want to be able to sell soft drinks until 01:30.

The sub-committee noted the concerns from local residents pre-dominantly relating to noise issues and lack of advertisement of the application. In regard to advertisement, the sub-committee was reassured by the Licensing Officer that the advertisement and consultation process had been complied with by the applicant and that any additional communication he had attempted to have with local residents was above and beyond what was required.

The sub-committee did not consider it was appropriate to refuse to grant a licence. However, in light of concerns around noise issues in particular, the sub-committee did consider it was appropriate to accept the applicant's proposal for the terminal hour for the Supply of Alcohol and Provision of Recorded Music to be no later than 01:00 and the terminal hour for Late Night Refreshment to be no later than 01:30 (such terminal hours to include days where seasonal variations were applied for).

The sub-committee further considered it was appropriate to grant the licence subject to the following conditions considered to be necessary for the promotion of the licensing objectives:

- The conditions submitted by Thames Valley Police and agreed by the applicant detailed at appendix 3, pages 36 and 37 of the Public Protection Manager's Report;
- The requirements of Cherwell District Council Environmental Protection agreed by the applicant detailed at appendix 3, pages 31-34 of the Public Protection Manager's report by way of the following conditions:
 - A condition reading, *'From 23:00 the garden area shall be closed except for a reduced area (plans to be agreed with the Council) which customers will be advised must only be used for smoking. There shall be no seating and no external music in the reduced area.'*

- A condition reading, *'An acoustic fence shall be erected across the garden area to reduce the noise impact on neighbouring property. Plans to be agreed with the Council prior to construction of the fence which shall be built and maintained in accordance with the specification agreed with the Council.'*
- A condition reading, *'External music levels shall be agreed with the Council and the control for this locked with access only available to the licence holder and DPS.'*
- A condition reading, *'A noise log shall be kept on site and be available for viewing on request by officers of the Council or police. The log shall contain details of all noise complaints received and also of noise assessments made by the DPS or a nominated member of staff when events that could have the potential to cause a nuisance are taking place.'*
- A condition reading, *'All windows and doors (except for access/egress) shall be kept shut when events that could have the potential to cause a nuisance are taking place.'*

Appeal

All parties have a right of appeal to the Magistrates' Court within 21 days of notification of this decision.

Yours sincerely

Jackie Fitzsimons
Shared Public Protection Manager

Cc. Thames Valley Police
Cherwell District Council Environmental Protection
George Symes
Sheila Kempson