

Licensing Sub Committee

Premise Licence Determination Hearing

14 December 2010

Report of Head of Safer Communities, Urban & Rural Services

PURPOSE OF REPORT

To provide an outline of an application to for the grant of a Premises Licence in relation to The Lounge 60-62 Broad Street, Banbury and detail the representations received from Responsible Authorities and Interested Parties that has resulted in the need for a hearing to determine the application.

This report is public

Recommendations

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

Executive Summary

Introduction

- 1.1 On 01 November 2010 the Licensing Authority received an application for the grant of a premises licence to permit Regulated Entertainment, Late Night Refreshment and the Supply of Alcohol in relation to The Lounge, 60-62 Broad Street, Banbury.
- 1.2 During the consultation period the Licensing Authority received letters of representation from a number of Interested Parties living in the vicinity of the premises.
- 1.3 In addition, representation was also received from Thames Valley Police.

Proposals

- 1.4 The applicant has proposed to provide Regulated Entertainment in the following formats:
- Films
 - Boxing or wrestling entertainments
 - Live music
 - Recorded music
 - Performances of dance
 - Provision of facilities for making music
 - Provision of facilities for dancing
- 1.5 The applicant has proposed to provide the entertainments listed above from Monday to Sunday between 11.00am and 03.30am the following morning
- 1.6 The proposal is for indoors only
- 1.7 In addition, the applicant proposes to provide Late Night Refreshment from Monday to Sunday from 11.00pm to 03.30am the following morning.
- 1.8 The applicant has proposed to supply alcohol from the premises at the following times:
- Monday to Sunday from 11.00am to 03.30am the following morning
- 1.9 The proposal is for consumption both on and off the premises
- 1.10 The applicant has proposed to open the premises from Monday to Sunday between 11.00am to 04.00am the following day
- 1.11 The applicant has requested that an additional hour be added to the permissions for regulated entertainment, late night refreshment, the supply of alcohol and the opening times when British summertime commences
- 1.12 The applicant has requested the premises will open and provide regulated entertainment in the forms stated above, late night refreshment and the supply of alcohol on New Years Eve from the end of permitted hours to the start of permitted hours on New Years Day

Background Information

- 2.1 The Lounge situated at 60-62 Broad Street, Banbury previously operated as the Chicago's. The premises licence in respect of Chicago's was surrendered on 26 April 2010. Therefore, there is currently no licence in place at the premises necessitating this application.
- 2.2 As part of the application requirements, the applicant must submit a plan of the premise. A copy of the plan referred to is attached as Appendix 1.
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Key Issues for Consideration/Reasons for Decision and Options

3.1 The Licensing Act 2003 states that all licensing matters must promote the four Licensing Objectives, they are:

- The prevention of crime and disorder;
- Public safety;
- The prevention of public nuisance; and
- The protection of children from harm

3.2 Representations received have stated concerns in relation to potential issues in respect of the prevention of crime and disorder and the prevention of public nuisance. Paragraph 3.3 details how the applicant intends to promote the four licensing objectives in relating to the promotion of the prevention of crime and disorder objective and the promotion of the prevention of public nuisance objective.

3.3

Objective	Applicants response
Prevention of crime and Disorder	<ol style="list-style-type: none"> 1. There is to be one member of doorstaff per 100 persons on the premises 2. The premises, when in use, shall be monitored on a CCTV system. The images shall be recorded and kept for one month from their recording date. One camera shall be so positioned to record details of all persons admitted to the premises. The Licensee shall, on request, where required to do so by the Licensing Authority, give up such recordings to the Licensing Authority which shall be able to retain the recording until such time as it no longer requires it; 3. Notices stating CCTV is in operation 24 hours a day will be displayed throughout the venue 4. The venue will actively participate in the local Pubwatch or equivalent scheme 5. No bottles or glasses containing alcohol are to be taken from the premise
Prevention of public nuisance	<ol style="list-style-type: none"> 1. Noise arising from any amplified or live music, vocalization, live or recorded event transmission, film or video display, gaming machine or any other source shall be inaudible at any residential site boundary; 2. If a DJ is used on any night then he/she will ask customers to leave quietly 3. The current level of lighting outside the premise will continue for the additional hours of trading; 4. Reasonable steps will be taken to recognise the need of local residents and businesses.

- 3.4 During the consultation period, representations were received from twelve interested parties. A plan showing the locations of all the objectors is attached at Appendix 2
- 3.5 An objection was received from Mr George A Beddow of 45 Amos Court, Britannia Road, Banbury. A copy of this objection is attached as Appendix 3.
- 3.6 An objection was received from Mrs K Phipps of 44 Amos Court, Britannia Road, Banbury. A copy of this objection is attached as Appendix 4
- 3.7 An objection was received from Alina Kawka of 18 Christchurch Court, Banbury. A copy of this objection is attached at Appendix 5.
- 3.8 An objection was received from Sarah Collins of 17 Barclay House, Christchurch Court, Banbury. A copy of this objection is attached at Appendix 6.
- 3.9 An objection was received from Laura Greenaway, the owner of Flat 14 Barclay House, Christchurch Court, Banbury. A copy of this objection is attached at Appendix 7.
- 3.10 An objection was received from Jacqueline Walker, the owner of Flat 13 Barclay House, Christchurch Court, Banbury. A copy of this objection is attached at Appendix 8.
- 3.11 An objection was received from Dr N M Bolas of Flat 9 Barclay House, 16 Broad Street, Banbury. A copy of this objection is attached at Appendix 9.
- 3.12 An objection was received from Tim Dalchau of 12 Barclay House, Christchurch Court, Banbury. A copy of this objection is attached at Appendix 10.
- 3.13 The objection from Mr Dalchau was accompanied by a letter from SJB Properties which inferred Cherwell District Council were requesting local residents object to the application submitted by The Lounge. The Licensing Team at Cherwell District Council advised all interested parties that this was not through its Notice of Hearing issued on 1 December 2010. A copy of the letter sent by SJB Properties is attached at Appendix 9 and a copy of the letter sent to Interested Parties by the Licensing Team is attached at Appendix 14.
- 3.14 On 1 December, Mr Bingham of SJB Properties contacted the Licensing Team to advise that there had been a miscommunication in relation to the circulation of requests for interested parties to object to this application and that Cherwell District Council's name should not have been mentioned. A copy of the email confirming this is attached at Appendix 15.
- 3.15 An objection was received from Oliver and Marilena Kearns, the owners of Flat 8 Barclay House, Christchurch Court, Banbury. A copy of this objection is attached at Appendix 11.
- 3.16 An objection was received from B M Lister of 14 Barclay House, Christchurch Court, Banbury. A copy of this objection is attached at Appendix 12.
- 3.17 An objection was received from Nikki Jones of 1, Christchurch Court, Banbury. A copy of this objection is attached at Appendix 13.

3.18 An objection was also received from Thames Valley Police. Thames Valley Police liaised with the applicant and negotiated changes to be made to the premises licence operating schedule. The negotiated changes consisted of the following items being added to the operating schedule:

3.19 A copy of the correspondence between Thames Valley Police and the applicant is attached at Appendix 16.

- A Challenge 21 Policy will be in place at the premise at all times. Anyone who looks under the age of 21 will be asked to show photographic ID to prove they are over 18;
- The premises shall participate in the local Pubwatch Scheme;
- Staff outside the premises whilst on duty will wear High Visibility Jackets at all times;
- If there is to be a substantial increase in the size of the dance floor, works will not commence with prior consultation with Thames Valley Police;
- The premise will ensure any doorstaff on duty are signed into the register on each day of duty. The register will be available for inspection by the authorities at any time the premise are trading;
- An incident book will be kept at the premise and all incidents at the premise will be recorded. The register will be available for inspection by the authorities at any time the premise are trading;
- A drugs policy will be produced and adhered to at all time.

3.20 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:

Pages 82 – 85	Sections 10.11 – 10.18	Imposed Conditions, Proportionality, Duplication with other statutory provisions
Page 85	Sections 10.19 – 10.21	Hours of Trading
Pages 18 – 21	Sections 2.1 – 2.18	Crime and Disorder
Pages 23 – 25	Sections 2.32 – 2.40	Public Nuisance
Pages 133 – 137	Annex D	Part 4. Conditions relating to the prevention of Crime and disorder
Pages 144 – 145	Annex D	Part 4. Conditions relating to the prevention of public nuisance

Cherwell District Council Statement of Licensing Policy:

Pages 15 – 17	Policies LH1 – LH8	Sections 5.1 – 5.7	Licensing Hours
Pages 21 - 23	Policies LA4 – LA6	Sections 7.3.1 – 7.3.10	General Prevention of Public Nuisance including Addressing Local Concerns and Management and Control
Page 28 - 30	Policy PP9 – PP12	Sections 7.5.16 – 7.5.22	Late Night Refreshment including Take away food outlets – alcohol sales and Supply of alcohol (“Off Sales”)
Page 35 – 40	Policy OS1 – OS16	Sections 8.1.1 – 8.8.2	Operating Schedules

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.

The following options have been identified. The approach in the recommendations is believed to be the best way forward

- Option One** Approve the application for the grant of a premises licence as submitted
- Option Two** Reject the application for the grant of premises licence in whole or part
- Option Three** Place conditions on the grant of premises licence and/or require changes to the details of the permissions sought.

Consultations

Full consultation in accordance with the requirements of the Licensing Act 2003 was carried out for a period of 28 days ending at midnight on 29 November 2010

Implications

- Financial:** There are no financial implications of this report
Comments checked by Denise Taylor, CSR Service Accountant, 01295 221982
- Legal:** The decision must comply with relevant legislation and Council Policy.

All parties have a right of Appeal to the Magistrates Court against the decision
 Comments checked by Paul Manning , Solicitor, 01295 221691

Risk Management:

There is a risk that if policy and legislation has not been correctly followed, any resulting appeal could be successful.

Comments checked by Rosemary Watts, Risk Management & Insurance Officer, 01295 221566

Wards Affected

Banbury Grimsbury and Castle

Document Information

Appendix No	Title
Appendix 1	Premises plan
Appendix 2	Location of Interested Parties
Appendix 3	Response received from Mr George Beddow
Appendix 4	Response received from Mrs K Phipps
Appendix 5	Response received from Alina Kawka
Appendix 6	Response received from Sarah Collins
Appendix 7	Response received from Laura Greenaway
Appendix 8	Response received from Jacqueline Walker
Appendix 9	Response received from Dr N M Bolas
Appendix 10	Response received from Tim Dalchau
Appendix 11	Response received from Oliver and Marilena Kearns
Appendix 12	Response received from B M Lister
Appendix 13	Response received from Nikki Jones
Appendix 14	Copy of Notice Of Hearing sent to all Interested Parties
Appendix 15	Copy of Email from SJB Properties
Appendix 16	Copy of correspondence between Thames Valley Police and the applicant
Background Papers	
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.	
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