

Licensing Acts Panel Report



Report of Head of Legal & Democratic Services

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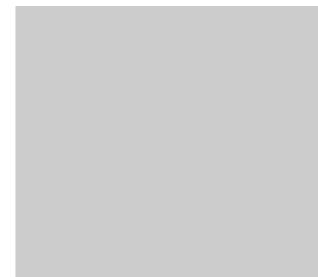
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Wards affected: Wantage Charlton

To: Licensing Acts Panel

DATE: 12 June 2012



Application for a variation of a premises licence for Shush, 9 The Regent Shopping Mall, Newbury Street, Wantage

Recommendation

That the panel consider the application to vary a premises licence and the residents' objections to the application and decide whether to a) grant the application as applied for, b) grant the application with modified conditions or c) reject the application in whole or in part.

Purpose of Report

1. To present the facts and relevant representations received in respect of an application to vary a premises licence for Shush, 9 The Regent Shopping Mall, Newbury Street, Wantage, under Section 34 of the Licensing Act 2003 to the Licensing Acts Panel in order that it can determine the application.

Strategic Objectives

2. The relevant strategic objective is that of 'building the local economy'. The relevant corporate priority is that of 'maintain low levels of crime and anti-social behaviour'.

Background

- 3.1 The Licensing Act 2003 ('the Act') has established a single integrated scheme for licensing premises which are used for the supply of alcohol, regulated entertainment, late night refreshment or permission to carry on some or all of

these activities. In the Act these activities are referred to collectively as the 'licensable activities'.

Any assessment of licensable activities must consider and promote the following four statutory objectives:

- the prevention of crime and disorder
- public safety
- the prevention of public nuisance
- the protection of children from harm.

3.2 Licences will normally be granted by the licensing officer under delegated powers but in the event of representations being received regarding the grant or variation of a premises licence, or in the case of an objection being received from Thames Valley Police with regard to personal licences, the application is then referred to the Licensing Acts Panel to be considered.

3.3 An application has been received to vary the existing premises licence (**Appendix 1**). The current licence can be seen at **Appendix 2**. The applicants requested the removal of the condition requiring two door supervisors to be on duty at 20:00 hours when alcohol is to be sold from 21:00 hours and requested that it be changed to permit the premises to open without door supervisors when it is not being used as a nightclub. An agreement has been reached with Thames Valley Police that door supervisors will be provided, 'on Friday and Saturday nights, Sunday nights prior to Bank Holidays and during any event whereby a licensable activity takes place and more than 350 people will be in attendance' (**Appendix 3**).

3.4 The application seeks to add the licensable activities of, 'anything similar to' performance of live music, playing of recorded music or performance of dance:

Day	Current times	Proposed times
Monday	Not currently permitted	11:00 - midnight
Tuesday	Not currently permitted	11:00 - midnight
Wednesday	Not currently permitted	11:00 - midnight
Thursday	Not currently permitted	11:00 – 02:00
Friday	Not currently permitted	11:00 – 03:00
Saturday	Not currently permitted	11:00 – 03:00
Sunday	Not currently permitted	11:00 – 01:00

3.5 The application also seeks to add the ‘provision of facilities for entertainment of a similar description to’ the provision of making music and the provision of facilities for dancing:

Day	Current times	Proposed times
Monday	Not currently permitted	11:00 - midnight
Tuesday	Not currently permitted	11:00 - midnight
Wednesday	Not currently permitted	11:00 - midnight
Thursday	Not currently permitted	11:00 – 02:00
Friday	Not currently permitted	11:00 – 03:00
Saturday	Not currently permitted	11:00 – 03:00
Sunday	Not currently permitted	11:00 – 01:00

3.6 In addition, the variation application seeks to change the hours for the performance of a play, the exhibition of a film and indoor sporting events:

Day	Current times	Proposed times
Monday	14:00 - midnight	11:00 - midnight
Tuesday	14:00 - midnight	11:00 - midnight
Wednesday	14:00 - midnight	11:00 - midnight
Thursday	14:00 - midnight	11:00 – 02:00
Friday	14:00 - midnight	11:00 – 03:00
Saturday	14:00 - midnight	11:00 – 03:00
Sunday	14:00 – midnight	11:00 – 01:00

3.7 The variation application also seeks to change the hours for boxing and wrestling entertainment:

Day	Current times	Proposed times
Monday	18:00 - midnight	11:00 - midnight
Tuesday	18:00 - midnight	11:00 - midnight
Wednesday	18:00 - midnight	11:00 - midnight

Thursday	18:00 - midnight	11:00 – 02:00
Friday	18:00 - midnight	11:00 – 03:00
Saturday	18:00 - midnight	11:00 – 03:00
Sunday	18:00 – midnight	11:00 – 01:00

3.8 The applicants also request amended timings for live music:

Day	Current times	Proposed times
Monday	14:00 - midnight	11:00 - midnight
Tuesday	14:00 - midnight	11:00 - midnight
Wednesday	14:00 - midnight	11:00 - midnight
Thursday	14:00 - 0100	11:00 – 02:00
Friday	14:00 - 0200	11:00 – 03:00
Saturday	14:00 - 0200	11:00 – 03:00
Sunday	14:00 – midnight	11:00 – 01:00

3.9 In addition the variation application also seeks to amend the permitted hours for recorded music, performance of dance, the provision of facilities for making music, the provision of facilities for dancing and the timings of alcohol sales:

Day	Current times	Proposed times
Monday	11:00 - midnight	11:00 - midnight
Tuesday	11:00 - midnight	11:00 - midnight
Wednesday	11:00 - midnight	11:00 - midnight
Thursday	11:00 – 02:00	11:00 – 02:00
Friday	11:00 – 02:00	11:00 – 03:00
Saturday	11:00 – 02:00	11:00 – 03:00
Sunday	12:00 – 01:00	11:00 – 01:00

3.10 The applicants also request amended timings for late night refreshment:

Day	Current times	Proposed times
Monday	23:00 - midnight	23:00 - midnight
Tuesday	23:00 - midnight	23:00 - midnight
Wednesday	23:00 - midnight	23:00 - midnight
Thursday	23:00 – 02:00	23:00 – 02:00
Friday	23:00 – 02:00	23:00 – 03:00
Saturday	23:00 – 02:00	23:00 – 03:00
Sunday	23:00 – 01:00	23:00 – 01:00

3.11 The variation application seeks to change the opening hours:

Day	Current times	Proposed times
Monday	11:00 - midnight	11:00 - midnight
Tuesday	11:00 - midnight	11:00 - midnight
Wednesday	11:00 - midnight	11:00 - midnight
Thursday	11:00 – 02:00	11:00 – 02:00
Friday	11:00 – 02:30	11:00 – 03:00
Saturday	11:00 – 02:30	11:00 – 03:00
Sunday	12:00 – 01:00	11:00 – 01:00

3.12 The applicants also request amended timings for activities on days preceding Bank Holidays:

Activity	Current times	Proposed times
Live music	14:00 – 02:00	11:00 – 03:00
Recorded music	11:00 – 02:00	11:00 – 03:00
Performance of dance	11:00 – 02:00	11:00 – 03:00
Facilities for making music	11:00 – 02:00	11:00 – 03:00
Facilities for dancing	11:00 – 02:00	11:00 – 03:00

Late night refreshment	23:00 – 02:00	23:00 – 03:00
Sale of alcohol	11:00 – 02:00	11:00 – 03:00
Opening hours	11:00 – 02:30	11:00 – 03:00

3.13 The council's environmental protection officer requested a condition be added to the licence in order to prevent noise nuisance. The applicants have agreed to the addition of this condition (**Appendix 4**).

3.14 Two residents living at the same address have objected to the application to vary the licence. In particular they cite concerns over an increase in criminal damage and noise nuisance from both music and patrons attending the venue (**Appendix 5**.) A plan showing the location of the residents in relation to the premises can be seen at **Appendix 6**.

Options

4.1 In determining the application the authority must give weight to:

- representations received from Responsible Authorities
- representations received from Interested Parties
- the Secretary of State's guidance issued under Section 182 of the Licensing Act 2003
- the council's statement of licensing policy and
- the steps necessary to promote the Licensing Objectives

4.2 In view of the above, the panel is requested to consider the application for the variation of the premises licence and decide whether to:

- (a) grant the application as applied for,
- (b) grant the application with modified conditions or
- (c) reject the application in whole or in part

Financial Implications

5. Should the applicant or any Interested Party wish to appeal against a decision of the council, they may do so to the Magistrates' Court. The council would incur costs should this occur, although the court may decide to award costs if the council's decision was upheld.

Legal Implications

6.1 The Human Rights Act 1988 requires public bodies to ensure everything they do is compatible with Convention Rights and makes it unlawful for a public authority to

act incompatibly with those rights. When determining whether to grant a licence the panel will be aware of human rights considerations, specifically Part 1, Article 1, the right to a fair trial, Part 2, Article 1, the peaceful enjoyment of possessions (a licence is deemed to be a possession) and Article 8 the right to respect for private and family life for those making representations.

6.2 The hearing of all applications is subject to the principles of natural justice.

6.3 Section 17 of the Crime and Disorder Act 1988 states, 'without prejudice to any other obligation imposed on it, it shall be the duty of each authority to exercise its various functions with due regard to the likely effect of those functions and the need to do all that it reasonably can to prevent crime and disorder in its area'.

6.4 Under Schedule 5, Part 1 of the Licensing Act 2003, any person aggrieved by the decision in respect of the application may appeal to a Magistrates' Court within 21 days of the date of the decision.

Conclusion

7 This report provides information submitted by the applicant and local residents. The panel should determine this application with a view to promoting the four Licensing Objectives. It must, having had regard to all the relevant objections made and the evidence it hears, either a) grant the application as applied for, b) grant the application with modified conditions or c) reject the application in whole or in part.

Background Papers

- None.