

To: Licensing & Gambling Acts Casework Sub-Committee

Date: 03 August 2015

Item No: 1

Report of: Head of Community Services

Title of Report: Robert Yue Opher – Application for a Variation of a Premises Licence: The Lodge, Pennyfarthing Place, Oxford, OX1 1QF

Application Ref: 15/02831/PREM

Summary and Recommendations

Purpose of report: To inform the determination of Robert Yue Opher's application for a Variation of a Premises Licence for The Lodge, Pennyfarthing Place, Oxford, OX1 1QF.

Report Approved by:

Legal: Daniel Smith

Policy Framework: Statement of Licensing Policy

Recommendation(s):

Committee is requested to determine Robert Yue Opher's application taking into account the details in this report and any representations made at this Sub-Committee meeting.

Additional Papers:

Appendix One: Application for a Variation of a Premises Licence

Appendix Two: Amendment to Application

Appendix Three: Representation from Interested Party

Appendix Four: Location Map

Introduction

1. This report is made to the Licensing & Gambling Acts Casework Sub-Committee so it may determine in accordance with its powers and the Licensing Act 2003 whether to grant a Variation of a Premises Licence to Robert Yue Opher.

Application Summary

2. An application for a Variation of a Premises Licence has been submitted by Robert Yue Opher. An amendment to the application was submitted on 16th July 2015 prior to the close of consultation. A summary of the licensable activities applied for and the times proposed for these activities can be found detailed below (which include any amendments applied for).

Films, Live Music, Recorded Music, Performances of Dance, Entertainment Similar to Music and Dance (all indoors only):

Sunday - Wednesday	12:00 (Noon)	Until	03:30
Thursday – Saturday	12:00 (Noon)	Until	05:00

Late Night Refreshment (provided indoors only):

Sunday – Wednesday	23:00	Until	03:30
Thursday – Saturday	23:00	Until	05:00

Supply of Alcohol (both on and off sales):

Monday - Wednesday	10:00	Until	03:30
Thursday – Saturday:	10:00	Until	05:00
Sunday:	11:00	Until	03:30

3. Both the application and the steps that the applicant intends to take to promote the licensing objectives (as set out in the operating schedule) can be found at **Appendix One**, and confirmation of the applicants request to amend the originally proposed hours can be found at **Appendix Two**.

Relevant Representations

4. No valid representations were received from the Responsible Authorities as detailed in the table below.

Responsible Authority	Response	Licensing Objective(s)
Thames Valley Police:	No Representation	
Fire & Rescue Service:	No Representation	
Environmental Health:	No Representation	
Health and Safety:	No Representation	
Planning:	No Representation	
Trading Standards:	No Representation	
Child Safeguarding:	No Representation	
Licensing Authority:	No Representation	

5. A valid representation has been received from one Interested Party as detailed in the table below. Copies of these representations are attached at **Appendix Three**.

Name	Address	Licensing Objective(s)
Councillor Ruthi Brandt	Carfax Ward	Public Nuisance

Location

6. A map is attached at **Appendix Four** showing the general location of the applicant's premises, and the proximity to the premises of those who have raised objections to the application.

Statement of Licensing Policy

7. The Sub-Committee is referred to the Council's Statement of Licensing Policy*. In particular, the following paragraphs have a bearing upon the application:

Relevant Policy Matters	Sections	Policy
Public Nuisance:	5.3.1 to 5.4.2	LH6 to LH7
	7.3.1 to 7.3.10	LA3 to LA5
Cumulative Impact:	3.1.1 to 3.2.5	GN19
Licensing Hours:	5.1.1 to 5.2.2	LH3 to LH5

8. A number of changes have been made to the Licensing Act 2003 in recent times by the Police Reform and Social Responsibility Act 2011, the Live Music Act 2012 and the Deregulation of Schedule 1 of the 2003 Act.
9. The Authority's Statement of Licensing Policy has not yet been revised following the introduction of these changes, the above sections from the current Policy do not reflect these changes which include removing the "vicinity test" for interested parties and amending the wording of the 2003 Act so that conditions imposed on licences must now be "appropriate to the promotion of the Licensing Objectives" rather than "necessary".
10. A copy of the Statement of Licensing Policy may be obtained from the Council Offices or found online at: **www.oxford.gov.uk/licensing**

Home Office Statutory Guidance

11. Members are also referred to the statutory guidance issued by the Home Office. Of particular relevance to this application are the following matters:

Relevant Sections	Relevant Paragraphs
Public Nuisance:	2.14 to 2.20
Cumulative Impact:	13.30 to 13.39

12. A copy of the Home Office Statutory Guidance may be found online at: www.gov.uk/government/publications/revised-guidance-issued-under-section-182-of-the-licensing-act-2003

Cumulative Impact

13. Oxford City Council has adopted Special Saturation Policies in respect of the City Centre and East Oxford as detailed within the Statement of Licensing Policy.
14. The Special Saturation Policies were introduced following evidence brought by Thames Valley Police on the grounds of the cumulative impact of licensed premises on the licensing objectives of preventing crime and disorder and preventing public nuisance within the defined areas.
15. The effect of adopting Special Saturation Policies is to create a rebuttable presumption that applications for new Premises Licences or Club Premises Certificates or material variations to these will normally be refused, if relevant representations to that effect are received, unless it can be demonstrated that the operation of the premises involved will not add significantly to the cumulative impact already being experienced on the licensing objectives of preventing crime and disorder and preventing public nuisance.

Other Relevant Considerations

16. The Sub-Committee is reminded of its responsibilities under the Crime and Disorder Act 1998 (to co-operate in the reduction of crime and disorder in Oxford) and the Human Rights Act (which guarantees the right to a fair hearing for all parties in the determination of their civil rights, and also provides for the protection of property, which may include licences in existence, and the protection of private and family life) when considering the fair balance between the interests of the applicant and the rights of local residents. Any decision taken by the Sub-Committee must be necessary and proportionate to the objectives being pursued.
17. Members are reminded that whenever they make a decision under the Licensing Act 2003, they have a duty to act with a view to promoting the licensing objectives.
18. When considering any representations, only those issues relating to the four licensing objectives should be considered and appropriate weight given to the importance and relevance of each representation.
19. In making its decision, Members must also have regard to the Home Office statutory guidance issued under section 182 of the Licensing Act 2003 and the Council's own Statement of Licensing Policy.
20. The Sub-Committee must take such of the following steps as it considers appropriate for the promotion of the licensing objectives:

a) Grant the licence in accordance with the application.

b) Modify the conditions of the operating schedule by altering or omitting or adding to them.

c) Exclude or restrict from the scope of the licence any of the licensable activities to which the application relates.

d) Reject the whole of the application.

The Sub-Committee may also grant the licence subject to different conditions for different parts of the premises or the different licensable activities.

21. Members are asked to note that they may not modify the conditions or reject whole or part of the application merely because they consider it desirable to do so. It must be appropriate to do so in order to promote the licensing objectives. Any such step must relate to a relevant representation made.
22. If Members grant the application, the details of the operating schedule will be incorporated into the licence as conditions. The licence will also be subject to certain mandatory conditions.
23. Members should note that the applicant or persons making representations have the right of appeal against the decision made by the Sub-Committee.

Name and contact details of author: **Julian Alison**
Licensing Manager
Community Services
Tel: 01865 252381
Email: jalison@oxford.gov.uk

APPENDIX ONE

[Insert name and address of relevant licensing authority and its reference number (optional).]

Application to vary a premises licence under the Licensing Act 2003

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form. If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary.

You may wish to keep a copy of the completed form for your records.

I/We Robert Yue Opher

(Insert name(s) of applicant)

being the premises licence holder, apply to vary a premises licence under section 34 of the Licensing Act 2003 for the premises described in Part 1 below

Premises licence number

15/00906/MVPREM

Part 1 – Premises Details

Postal address of premises or, if none, Ordnance Survey map reference or description

The Lodge
Pennyfarthing Place

Post town

Oxford

Postcode

OX1 1QF

Telephone number at premises (if any)

Non-domestic rateable value of premises

£22,500.00

Part 2 – Applicant details

Daytime contact
telephone number

E-mail address (optional)

Current postal address if different
from premises address

Post town

Postcode

Part 3 - Variation

Please tick as appropriate

Do you want the proposed variation to have effect as soon as possible? Yes No

If not, from what date do you want the variation to take effect?

DD	MM	YYYY
<input type="text"/>	<input type="text"/>	<input type="text"/>

Please describe briefly the nature of the proposed variation (Please see guidance note 1)

To permit a terminal hour for all licensable activity of 05.00 every day.

If your proposed variation would mean that 5,000 or more people are expected to attend the premises at any one time, please state the number expected to attend:

Part 4 Operating Schedule

Please complete those parts of the Operating Schedule below which would be subject to change if this application to vary is successful.

Provision of regulated entertainment

Please tick all that apply

- | | |
|---|-------------------------------------|
| a) plays (if ticking yes, fill in box A) | <input type="checkbox"/> |
| b) films (if ticking yes, fill in box B) | <input checked="" type="checkbox"/> |
| c) indoor sporting events (if ticking yes, fill in box C) | <input type="checkbox"/> |
| d) boxing or wrestling entertainment (if ticking yes, fill in box D) | <input type="checkbox"/> |
| e) live music (if ticking yes, fill in box E) | <input checked="" type="checkbox"/> |
| f) recorded music (if ticking yes, fill in box F) | <input checked="" type="checkbox"/> |
| g) performances of dance (if ticking yes, fill in box G) | <input checked="" type="checkbox"/> |
| h) anything of a similar description to that falling within (e), (f) or (g) (if ticking yes, fill in box H) | <input checked="" type="checkbox"/> |

Provision of late night refreshment (if ticking yes, fill in box I)

Sale by retail of alcohol (if ticking yes, fill in box J)

In all cases complete boxes K, L and M

A

Plays Standard days and timings (please read guidance note 6)			<u>Will the performance of a play take place indoors or outdoors or both – please tick</u> (please read guidance note 2)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	<u>Please give further details here</u> (please read guidance note 3)		
Mon					
Tue			<u>State any seasonal variations for performing plays</u> (please read guidance note 4)		
Wed					
Thur			<u>Non standard timings. Where you intend to use the premises for the performance of plays at different times to those listed in the column on the left, please list</u> (please read guidance note 5)		
Fri					
Sat					
Sun					

B

Films Standard days and timings (please read guidance note 6)			Will the exhibition of films take place indoors or outdoors or both – please tick (please read guidance note 2)	Indoors	<input checked="" type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	Please give further details here (please read guidance note 3)		
Mon	12.00	05.00			
Tue	12.00	05.00	State any seasonal variations for the exhibition of films (please read guidance note 4)		
Wed	12.00	05.00			
Thur	12.00	05.00	Non standard timings. Where you intend to use the premises for the exhibition of films at different times to those listed in the column on the left, please list (please read guidance note 5)		
Fri	12.00	05.00			
Sat	12.00	05.00			
Sun	12.00	05.00			

C

Indoor sporting events Standard days and timings (please read guidance note 6)			Please give further details (please read guidance note 3)
Day	Start	Finish	
Mon			
Tue			State any seasonal variations for indoor sporting events (please read guidance note 4)
Wed			Non standard timings. Where you intend to use the premises for indoor sporting events at different times to those listed in the column on the left, please list (please read guidance note 5)
Thur			
Fri			
Sat			
Sun			

D

Boxing or wrestling entertainments Standard days and timings (please read guidance note 6)			Will the boxing or wrestling entertainment take place indoors or outdoors or both – please tick (please read guidance note 2)	Indoors	<input type="checkbox"/>			
				Outdoors	<input type="checkbox"/>			
				Both	<input type="checkbox"/>			
Day	Start	Finish	Please give further details here (please read guidance note 3)					
Mon								
Tue								
Wed						State any seasonal variations for boxing or wrestling entertainment (please read guidance note 4)		
Thur								
Fri						Non standard timings. Where you intend to use the premises for boxing or wrestling entertainment at different times to those listed in the column on the left, please list (please read guidance note 5)		
Sat								
Sun								

E

Live music Standard days and timings (please read guidance note 6)			<u>Will the performance of live music take place indoors or outdoors or both – please tick</u> (please read guidance note 2)	Indoors	<input checked="" type="checkbox"/>			
				Outdoors	<input type="checkbox"/>			
				Both	<input type="checkbox"/>			
Day	Start	Finish	<u>Please give further details here</u> (please read guidance note 3)					
Mon	12.00	05.00						
Tue	12.00	05.00						
Wed	12.00	05.00				<u>State any seasonal variations for the performance of live music</u> (please read guidance note 4)		
Thur	12.00	05.00						
Fri	12.00	05.00	<u>Non standard timings. Where you intend to use the premises for the performance of live music at different times to those listed in the column on the left, please list</u> (please read guidance note 5)					
Sat	12.00	05.00						
Sun	12.00	05.00						

F

Recorded music Standard days and timings (please read guidance note 6)			Will the playing of recorded music take place indoors or outdoors or both – please tick (please read guidance note 2)	Indoors	<input checked="" type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	Please give further details here (please read guidance note 3)		
Mon	12.00	05.00			
Tue	12.00	05.00	State any seasonal variations for the playing of recorded music (please read guidance note 4)		
Wed	12.00	05.00			
Thur	12.00	05.00	Non standard timings. Where you intend to use the premises for the playing of recorded music at different times to those listed in the column on the left, please list (please read guidance note 5)		
Fri	12.00	05.00			
Sat	12.00	05.00			
Sun	12.00	05.00			

G

Performances of dance Standard days and timings (please read guidance note 6)			<u>Will the performance of dance take place indoors or outdoors or both – please tick</u> (please read guidance note 2)	Indoors	<input checked="" type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish			
Mon	12.00	05.00	<u>Please give further details here</u> (please read guidance note 3)		
Tue	12.00	05.00			
Wed	12.00	05.00	<u>State any seasonal variations for the performance of dance</u> (please read guidance note 4)		
Thur	12.00	05.00			
Fri	12.00	05.00	<u>Non standard timings. Where you intend to use the premises for the performance of dance at different times to those listed in the column on the left, please list</u> (please read guidance note 5)		
Sat	12.00	05.00			
Sun	12.00	05.00			

H

Anything of a similar description to that falling within (e), (f) or (g) Standard days and timings (please read guidance note 6)			Please give a description of the type of entertainment you will be providing		
Day	Start	Finish	<u>Will this entertainment take place indoors or outdoors or both – please tick</u> (please read guidance note 2)	Indoors	<input checked="" type="checkbox"/>
Mon	12.00	05.00		Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Tue	12.00	05.00	<u>Please give further details here</u> (please read guidance note 3)		
Wed	12.00	05.00			
Thur	12.00	05.00	<u>State any seasonal variations for entertainment of a similar description to that falling within (e), (f) or (g)</u> (please read guidance note 4)		
Fri	12.00	05.00			
Sat	12.00	05.00	<u>Non standard timings. Where you intend to use the premises for the entertainment of a similar description to that falling within (e), (f) or (g) at different times to those listed in the column on the left, please list</u> (please read guidance note 5)		
Sun	12.00	05.00			

I

Late night refreshment Standard days and timings (please read guidance note 6)			<u>Will the provision of late night refreshment take place indoors or outdoors or both – please tick</u> (please read guidance note 2)		Indoors	<input checked="" type="checkbox"/>
					Outdoors	<input type="checkbox"/>
					Both	<input type="checkbox"/>
Day	Start	Finish	<u>Please give further details here</u> (please read guidance note 3)			
Mon	23.00	05.00				
Tue	23.00	05.00				
Wed	23.00	05.00	<u>State any seasonal variations for the provision of late night refreshment</u> (please read guidance note 4)			
Thur	23.00	05.00				
Fri	23.00	05.00	<u>Non standard timings. Where you intend to use the premises for the provision of late night refreshment at different times, to those listed in the column on the left, please list</u> (please read guidance note 5)			
Sat	23.00	05.00				
Sun	23.00	05.00				

J

Supply of alcohol Standard days and timings (please read guidance note 6)			Will the supply of alcohol be for consumption – please tick (please read guidance note 7)	On the premises	<input type="checkbox"/>
				Off the premises	<input type="checkbox"/>
				Both	<input checked="" type="checkbox"/>
Day	Start	Finish	<u>State any seasonal variations for the supply of alcohol</u> (please read guidance note 4) From the start time on New Year’s Eve to the finish time on New Year’s Day <u>Non-standard timings. Where you intend to use the premises for the supply of alcohol at different times to those listed in the column on the left, please list</u> (please read guidance note 5)		
Mon	10.00	05.00			
Tue	10.00	05.00			
Wed	10.00	05.00			
Thur	10.00	05.00			
Fri	10.00	05.00			
Sat	10.00	05.00			
Sun	11.00	05.00			

K

<p>Please highlight any adult entertainment or services, activities, other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children (please read guidance note 8).</p>

L

Hours premises are open to the public Standard days and timings (please read guidance note 6)			<u>State any seasonal variations</u> (please read guidance note 4)
Day	Start	Finish	
Mon	10.00	05.00	<p><u>Non standard timings. Where you intend the premises to be open to the public at different times from those listed in the column on the left, please list</u> (please read guidance note 5)</p> <p>At the discretion of the licence holder</p>
Tue	10.00	05.00	
Wed	10.00	05.00	
Thur	10.00	05.00	
Fri	10.00	05.00	
Sat	10.00	05.00	
Sun	11.00	05.00	

Please identify those conditions currently imposed on the licence which you believe could be removed as a consequence of the proposed variation you are seeking.

Please tick as appropriate

- I have enclosed the premises licence
- I have enclosed the relevant part of the premises licence

If you have not ticked one of these boxes, please fill in reasons for not including the licence or part of it below

Reasons why I have not enclosed the premises licence or relevant part of premises licence.

M

Describe any additional steps you intend to take to promote the four licensing objectives as a result of the proposed variation:

a) General – all four licensing objectives (b, c, d and e) (please read guidance note 9)

The carrying on of licensed activities until 05.00 shall be permitted only during the period that Robert Yue Opher is the holder of this Premises Licence and that he operates the establishment solely as a Burlesque Club in accordance with the Licensing Act 2003. Should the Premises Licence cease to be held by Robert Yue Opher and / or the venue ceases to operate solely as a Burlesque Club in accordance with the Licensing Act 2003, the hours permitted for licensable activities shall revert to those in force prior to the issue of this Premises Licence (as detailed within Premises Licence 15/00906/MVPREM)

No new entry to the premises after 03.00

b) The prevention of crime and disorder

No additional steps required

c) Public safety

No additional steps required

d) The prevention of public nuisance

No additional steps required

e) The protection of children from harm

No additional steps required

Checklist:


Please tick to indicate agreement

- I have made or enclosed payment of the fee. [✓]
- I have sent copies of this application and the plan to responsible authorities and others where applicable. [✓]
- I understand that I must now advertise my application. [✓]
- I have enclosed the premises licence or relevant part of it or explanation. [✓]
- I understand that if I do not comply with the above requirements my application will be rejected. [✓]

IT IS AN OFFENCE, LIABLE ON SUMMARY CONVICTION TO A FINE NOT EXCEEDING LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003, TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION.

Part 5 – Signatures (please read guidance note 10)

Signature of applicant (the current premises licence holder) or applicant's solicitor or other duly authorised agent (please read guidance note 11). **If signing on behalf of the applicant, please state in what capacity.**

Signature	
Date	17 th June 2015
Capacity	Solicitors for applicant

Where the premises licence is jointly held, signature of 2nd applicant (the current premises licence holder) or 2nd applicant's solicitor or other authorised agent (please read guidance note 12). **If signing on behalf of the applicant, please state in what capacity.**

Signature	
Date	
Capacity	

Contact name (where not previously given) and address for correspondence associated with this application (please read guidance note 13)

BLP
Adelaide House
London Bridge

Post town	London	Post code	EC4R 9HA
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Telephone number (if any)

If you would prefer us to correspond with you by e-mail, your e-mail address (optional)

From: _____
To: _____
Cc: _____
Subject: Application for the Lodge in Pennyfarthing Place
Date: 16 July 2015 15:52:34

Before submitting the most recent application, my clients had discussions with the Church at St Ebbes and also the Police with a view to ensuring that their concerns were addressed. Following a recent meeting with Mr Menary (copied), my clients have agreed to further amend the application as follows

1. Terminal hour for licensable activity Thursday to Saturday to be 05.00 with a closing time of 05.30
2. Terminal hour for licensable activity for the rest of the week to be 03.30 with a closing time of 04.00

I should be grateful if you would note these amendments as the application proceeds.

The clients have also agreed with Mr Menary that the word "Burlesque" shall be removed from the exterior of the building although I don't think this needs to be embedded as a condition of the licence. Merely a notification to yourselves of the agreement.

Craig Baylis | Berwin Leighton Paisner LLP
Partner

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APPENDIX THREE

From: planning@oxford.gov.uk [<mailto:planning@oxford.gov.uk>]
Posted At: 13 July 2015 20:57
Posted To: licensing@oxford.gov.uk
Conversation: Comments for Licensing Application 15/02831/PREM
Subject: Comments for Licensing Application 15/02831/PREM

Licensing Application comments have been made. A summary of the comments is provided below.

Comments were submitted at 8:57 PM on 13 Jul 2015 from Ms Ruthi Brandt.

Application Summary

Address: Thirst Lodge Pennyfarthing Place Oxford Oxfordshire
OX1 1QF

Proposal: Premises Licence

Case Officer: Emma Thompson

[Click for further information](#)

Customer Details

Name: Ms Ruthi Brandt

Email: _____

Address:

Comments Details

Commenter Type: Ward Councillor

Stance: Customer objects to the Licensing Application

Reasons for comment: - Public Nuisance

Comments: 8:57 PM on 13 Jul 2015 It was already agreed that this location is not appropriate for such a late-night venue. The managers of the club can't control the noise levels from people leaving the venue, or even stepping out to the smoking area. Closing the venue to new entries at 3am will indeed reduce the noise levels from people arriving, however patrons will still be leaving the venue until 5am. This includes taxis coming to pick them up, as well as patrons walking from the venue along residential streets. This will lead to unacceptable noise levels in the area, during very unsociable hours.

APPENDIX FOUR

