

# **LICENSING ACT 2003 HEARINGS**

**Monday 16 February 2015**

**COUNCILLORS PRESENT:** Councillors Coulter (Chair), Clarkson and Lygo.

**OFFICERS PRESENT:** Julian Alison (Licensing Team Leader), Daniel Smith (Law and Governance), Jill Cramer (Senior Licensing Officer) and Anna Kieca (Licensing Technical Officer)

- 1. APPLICATION FOR A NEW PREMISES LICENCE: OXFORD WINE CAFE: 14/04165/PREM**
  
- 2. APPLICATION FOR A NEW PREMISES LICENCE: EL MEXICANA: 14/04301/PREM**

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## Notification of determination

Hearing under Sections 17 and 18 of the Act and The Licensing Act 2003 (Hearings) Regulations 2005 In respect of an application made to the Oxford City Council for a Premises Licence

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Date of hearing:	<b>16<sup>th</sup> February 2015</b>
Place:	<b>Town Hall, Oxford</b>
Case No:	<b>14/04165/PERM</b>
Applicant:	<b>Oxford Wine Café (Jericho) Ltd</b>
Premises:	<b>Oxford Wine Café</b>
Premises address:	<b>32 Little Clarendon Street, Oxford. OX1 2HU</b>
Licensing Sub-committee Councillors:	<b>Coulter (Chair), Clarkson, Lygo</b>
Legal Advisor:	<b>Daniel Smith</b>
Licensing Officer:	<b>Julian Alison</b>
Clerk:	<b>Jill Cramer</b>

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### **Decision and Reasons of the Sub Committee**

The Sub-committee considered all submissions, both written and oral. It also had regard to the relevant Home Office Guidance and the Council's Statement of Licensing Policy in particular Policies PP1 (Pubs, Restaurants, Hotels, Guest Houses), LH3 (Licensing hours not limited) and OS6 (Smoke free premises).

The Sub-Committee noted that it could only consider representations which related to one or more of the four licensing objectives. The concerns expressed about the risks of public nuisance and crime and disorder were speculative given the premises did not yet operate. The Sub Committee placed particular weight on the fact that Thames Valley Police and Environmental Protection had not objected to the application.

Policy OS6 (Smoke Free Premises) required the Premises to provide a suitable smoking area without compromising the licensing objectives. The Sub-Committee was satisfied with the Applicant's proposed smoking area but found it appropriate to attach conditions to ensure it would operate effectively.

The Sub-Committee noted the reduced hours applied for and were content these would further reduce the risk of any public nuisance.

- **The hours for supply of alcohol on Friday and Saturday would be reduced to 11:00 until 00:00.**
- **No additional hours on St Patrick's Night.**

The application as amended was otherwise in accordance with the licensing objectives.

If problems did arise in the future the licence could be subject to review.

The amended application was **GRANTED** subject to the following conditions:

1. A designated outside smoking area shall be provided at the northeast of the premises.  
**Reason:** the prevention of public nuisance.
2. Customers wishing to smoke shall be required to use the designated outside smoking area.  
**Reason:** the prevention of public nuisance.
3. Prominent clear notices shall be displayed at all exits and at the designated smoking area requesting that customers be considerate to local residents and keep noise to a minimum.  
**Reason:** the prevention of public nuisance.



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Date of hearing:	<b>16<sup>th</sup> February 2015</b>
Place:	<b>Town Hall, Oxford</b>
Case No:	<b>14/04301/PREM</b>
Applicant:	<b>Omaringa Limited</b>
Premises:	<b>El Mexicana</b>
Premises address:	<b>Unit 92, The Gallery, Gloucester Green, Oxford, OX1 2BU</b>
Licensing Sub-committee Councillors:	<b>Van Coulter (Chair), Mary Clarkson, Mark Lygo</b>
Legal Advisor:	<b>Daniel Smith</b>
Licensing Officer:	<b>Julian Alison</b>
Clerk:	<b>Anna Kieca</b>

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### **Decision and Reasons of the Sub Committee**

1. The Sub-Committee noted the amendments to the application and that the reduced hours proposed would be added to the Operating Schedule.
2. The Sub-Committee considered all submissions, both written and oral. It also had regard to the relevant Home Office Guidance and the Council's Statement of Licensing Policy in particular Policies PP1 (Pubs, Restaurants, Hotels, Guest Houses) and GN19 (Special Saturation Policy)(SSP).
3. The Sub-Committee acknowledged the application was for a new premises licence within the area of the SSP for the City Centre and the burden of proof was therefore on the Applicant to show the premises was not likely to add significantly to cumulative impact problems from crime, disorder and nuisance.
4. The Sub-Committee were mindful that the SSP had been adopted on the basis of Police evidence on the cumulative impact of pubs and nightclubs in the city centre, rather than restaurants. Policy PP1 indicated that restaurants would normally require only minimal controls provided they only undertake the sale of alcohol with

a meal. Thames Valley Police had not made a representation against the application and Home Office guidance required the Sub-Committee give significant weight to that fact.

5. Taking these factors into consideration the Sub-Committee were satisfied the Application would not add significantly to cumulative impact problems, providing premises are operated as a restaurant and that the sale of alcohol is ancillary to the provision of food. The Sub-Committee found it appropriate to attach conditions to ensure this.
6. The Application was otherwise in accordance with the licensing objectives.

The amended application is **GRANTED** subject to the following additional conditions:

- a) The sale of alcohol shall be ancillary to the primary use of the premises as a restaurant.

**Reason:** the prevention of crime and disorder and the prevention of public nuisance.

- b) The sale of alcohol shall only be to persons who are eating at the premises, have placed an order, or are waiting to place an order for food.

**Reason:** the prevention of crime and disorder and the prevention of public nuisance.

For the avoidance of doubt the licensable hours granted for the sale of alcohol are 10:30 hours until 23:00 hours each day.