

Licensing Act 2003



Licensing and Gambling Acts Casework Sub-Committee

Notification of determination

Hearing under Section 17 and 18 of the Licensing Act 2003, and the Licensing Act 2003 (Hearings) Regulations 2005 in respect of an application made to Oxford City Council for a Premises Licence.

Date of hearing:	14th June 2021
Place:	Remote hearing via 'Zoom'
Case No.	21/00936/PREM
Applicant	KP Wholesale Drinks Ltd T/A 24/7 Alcohol Delivery
Premises:	KP Wholesale Drinks Ltd T/A 24/7 Alcohol Delivery
Premises address:	Unit A, Taurus Peterley Road, Oxford, OX4 2TZ
Licensing Sub-Committee Councillors:	Cllr Colin Cook (Chair), Cllr Ajaz Rehman, Cllr Imogen Thomas
Legal Advisor:	Daniel Smith
Licensing Officer:	Emma Thompson
Clerk:	Richard Masters

The Sub-Committee heard representations from the following:

Licensing Authority: Emma Thompson (Senior Licensing Compliance Officer)

Emma Thompson presented the Licensing Authority's report, stating that the application had attracted a representation from Thames Valley Police (TVP) which highlighted concerns in relation to how the application may fail to promote the licensing objectives of the prevention of crime and disorder, public safety and protection of children from.

Applicant: Hiren Patel (Operations Manager)

Hiren Patel stated that he was operating a similar service in London and other areas. He

disagreed with the comments from TVP that crimes only happen in the night time. He claimed that they can happen at any time.

They will take the necessary precautions moving forward and the current pandemic encourages people not to go out so it is preferable to be able to deliver alcohol to home addresses.

He reiterated that they have similar operations in Manchester and London and have no issues other than one occasion in Manchester, which was allegedly no fault of their own.

He said that their aim is to protect the customer and their employees.

Mr Patel said that they would not deliver alcohol to public areas, but only to residential addresses.

TVP had requested that the sale of alcohol should cease at 23:00 but Mr Patel was seeking a later hour. He explained that if the licence was granted and that they did experience issues, that they would cancel the operation. However, he stated it was too early to say what issues would be faced as they are not currently operating and it is speculation.

He remarked that the business had been operating elsewhere for the last 1 ½ years without incident except for a robbery in Manchester which was out of their control.

He said the business would help the community, as by drinking at home, it will stop the nuisance outside.

He said that they check identification of customers and register with Deliveroo and other similar companies, and ensure it is the correct person accepting the delivery and that they keep records on their system.

He asked for permission to operate and be issued with a licence and to see how it goes.

Cllr Cook asked the applicant for clarity on the hours sought for licensable activity and he stated they were seeking a terminal hour of 04:00.

Cllr Cook also asked if the applicant was willing to accept the conditions requested by TVP, to which he replied he was.

Cllr Rehman asked how orders were placed and Mr Patel stated they operated through Deliveroo and Uber Eats like other restaurants. His own drivers would deliver within a 3 mile radius of Oxford.

Cllr Rehman then asked how long they planned on keeping ID records of customers. He replied up to 6 months and that they record the ID at same time as the company to which the order was placed. He said that when the delivery is to be completed, they check the reference with Uber etc. to confirm it is the correct person. Any issues they will not complete the delivery.

Cllr Thomas queried what the procedure was if a customer was refused due to intoxication or not having ID. Mr Patel answered that they check the phone number and call the customer to ascertain if they are intoxicated or not. The driver will go to the door and request the customer shows ID. Any issues they cancel the order with the ordering company. They highlight on their system and they block the customer so as to refuse future bookings.

Sgt Bouse asked for clarification regarding the involvement of Uber.

Mr Patel confirmed they employ their own drivers and vehicles. This is to ensure that they are providing the alcohol to the correct person. Drivers check the ID's.

Cllr Cook asked for confirmation that Uber etc. were used for booking facilities and the order was then fulfilled by Mr Patel's company. Mr Patel confirmed this was the case.

Cllr Rehman requested clarification on staff training. Mr Patel said that they undertake a knowledge test, they are trained on what forms of ID to accept. Each driver has a training manual. The drivers then have a temporary trial period of 3 months to ensure they are suitable. Training is ongoing. They currently employ 20 drivers within the company over the existing sites. They also undertake DVLA checks on the drivers every 3 months to ensure they hold the relevant licence and that it has not expired or been revoked. They use the DVLA check code facility on the DVLA website to run these checks.

Responsible Authorities: Sgt Neil Bouse (Thames Valley Police)

Sgt Bouse indicated that their representation was based on a number of points. Their first concern was the issues faced by the drivers when challenging a customer for ID or if the customer is intoxicated. This dynamic puts the driver in a position of weakness and potential harm.

The hours sought in the application, 04:00 cessation time, posed an issue for TVP in that the current data they hold shows that the longer the alcohol is served, the larger the increase in violent crime and disorder.

In the night time economy, nearly of 50% of crime occurs at the weekend, 14%-15% occur after 01:00 hours.

Over the last year, there has been an increase in noise nuisance and anti-social behavior (ASB), predominantly in relation to student parties. Some Licensed venues close at 01:00 to 02:00, and if this business has a service until 04:00, it could lead to this nuisance for the community, and demand for Police services, to increase.

Sgt Bouse said that the initial application was somewhat misleading as the application alluded to the fact that there was a proven track record of operating responsibly. After checks with Police colleagues in Manchester, there had been occasion when on inspecting the premises they had found that the Designated Premises Supervisor (DPS) had not been present.

Cllr Thomas asked if there was any statistical evidence in relation to incidents with drivers. Sgt Bouse replied they had no statistical evidence. He stated that in normal licensed premises such as bars, staff have difficulty challenging customers when they are intoxicated but in that environment they would have support staff and possibly security. Driver's delivering the alcohol will have no support and will potentially be put at risk from intoxicated persons.

Mr Patel confirmed they have a parallel company and that may have been where the confusion lay regarding their previous trading history. He said the information provided in the application was not incorrect but related to another trading name.

He said they had been successfully running for 1 ½ years and had no problems in London and that the Manchester business only had 1 issue.

He reiterated that crime can happen anywhere. He said his staff are trained and if the drivers face any potential issue when delivery the alcohol they are advised to leave the drinks and vacate the area.

Sgt Bouse clarified the issue in Manchester that he mentioned was related to there being no DPS when visited for an inspection, rather than an incident involving drivers being targeted for carrying alcohol.

Mr Patel stated that they follow all the rules and guidelines, they are fully insured, and have CCTV.

He asked to be given a chance and to see how it goes. If there are any problems, the licence

can be reviewed.

Sgt Bouse summed up by saying that alcohol delivery so late could possibly lead to noise nuisance and will be putting drivers in harm's way.

Emma Thompson confirmed that there are currently four other Premises Licences in force for similar alcohol delivery services within Oxford and all had a cessation time of 23:00 or earlier and a further two licences that had been surrendered had similar timings.

Sgt Bouse confirmed that 23:00 was the time that TVP proposed for the end of sale of alcohol.

Mr Patel conceded that he was willing to accept the terminal time requested by TVP.

Decision and Reasons of the Sub-Committee

1. 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 policy PP11 (Supply of alcohol for the consumption off the premises) and LH8 (Hours for 'Off-Sales' of Alcohol) .
2. The Sub-Committee gave weight to the concerns that TVP had in regards to the driver's personal safety when challenging customers for identification or if the customer was intoxicated and the increased problems of crime & disorder and public nuisance after 01.00.
3. The Sub-Committee noted the licensable hours for sale of alcohol for similar licensed alcohol delivery services in Oxford but understood that each case is determined on its own merits.
4. The Sub-Committee was satisfied that the conditions requested by TVP, and agreed with the applicant, would ensure the licensing objectives would be upheld.
5. The Sub-Committee determined that in order to promote the licensing objectives of preventing crime and disorder and preventing public nuisance it was appropriate to restrict the licence hours to 20:00 until 23:00 for the sale of alcohol, and to include all of the conditions proposed by Thames Valley Police in their representation, detailed below:

TVP 1

Under premises 'off sales' function providing a remote ordering and home delivery ordering service, alcohol shall only be delivered to a residential or business address.

The receiver of the alcohol must be able to prove to the person delivering the alcohol they are a resident or employee at the premises and must be inside the building or at the doorway of the business, house or flat.

(i.e. Not standing in the entrance or the grounds/garden etc.) Alcohol shall not be delivered to a person who is in a public place i.e. in a street, a park etc.

This requirement will be clearly displayed in any advertising and prior to the transaction being authorised at the point of sale. It will be confirmed in the receipt afterward for the customer's awareness

TVP 2

All persons delivering alcohol must be aged 18 years or over

TVP 3

An employment register will be kept of all those staff that deliver alcohol. This register will document the full name, date of birth, and home address. This register will be made readily available to Thames Valley Police upon request (in line with and subject to relevant data protection legislation) to aid in any investigations related to a delivery person whilst in execution of tier job role at the premises.

TVP 4

In the event the premises under its 'off sales' function provides a remote ordering and/or home delivery ordering service orders, delivery staff shall be readily identifiable as being a persons delivering on behalf of the premises (ie high visibility premises/courier branded vest etc) and to remove any helmet, mask or other head gear etc that might obscure their face when at the front door.

TVP 5

In the event the premises under its 'off sales' function provides a remote ordering and/or home delivery ordering service delivery will be made by a member of staff employed directly by the premises and not by a third party (ie A taxi/private hire Driver, delivery service etc etc)

TVP 6

In the event the premises under its 'off sales' function provides a remote ordering and/or home delivery ordering service for alcohol, all sales of alcohol will only be made by way of credit or debit card transaction (including that by way of third party proxy such as 'Paypal' etc)- no cash upon delivery.

TVP 7

In the event the premises under its 'off sales' function provides a remote ordering and/or home delivery ordering service for alcohol the premises will adopt a policy whereby any person attempting to buy or take delivery of alcohol who appears to be under 25 will be asked for photographic identification to prove their age. The only identification that will be accepted are passports, UK driving licences with a photograph or Photographic Card bearing the 'PASS' hologram the details of which correspond to the details of the customer that made the order.

Failure to provide the requested identification will result in non-delivery of the alcohol and a refund in respect of that part of the order which relates to the alcohol only.

This requirement will be clearly displayed in all advertising related to this service, and will be clearly stated to the customer prior to the transaction being authorised at the point of sale. It will be reiterated in the receipt given with the delivery afterward for the customer's awareness.

TVP 8

In the event the premises under its 'off sales' function provides a remote ordering and/or home delivery ordering service orders for alcohol The premises will maintain a daily register. The register will comprise of a bound printed paginated note book to prevent fraudulent amendment. It will document:

- The person in charge of the premises for that day*
- The person authorising the sale of alcohol for that day if they are not the same as the above.*

It will also record every delivery made and will include:

- The date and time of each delivery*
- The customer name and address to which the delivery was made*
- Any request made for proof of age/ID by the delivery person*
- What was provided*
- Any refusals and the reason for that refusal*
- Any further action or outcome from this (ie refund given subsequently / this address/person now barred etc)*

The register will be maintained for a minimum rolling period of 24 months and will be readily made available to Thames Valley Police, or the Licensing Authority upon request.

TVP 9

All staff/third party agency involved in the delivering of alcohol orders shall receive full training in:

- challenge 25 policy
- approved forms of identification,
- fake and fraudulent proof of age/ID
- the company's policy of non-delivery/refusals and refund
- conflict resolution

A record of all training will be kept, which staff/third party agency will sign and date each time they receive this training to confirm they have had, fully understand its content and will adhere to the training.

Copies of the content of this training and the staff/third party agency training confirmation records will be made readily available to the Licensing Authority or Thames Valley Police upon request.

Where subsequent issues related to the training is brought to the premises licence holder's attention by either the Licensing Authority and/or responsible authorities named in the Licensing Act, the premises licence holder will make amendments as directed by that authority

TVP 10

In the event the premises under its 'off sales' function provides a remote ordering/home delivery ordering service for alcohol When an order is taken for delivery to a customer, upon delivery all customers shall sign a delivery note which will contain:

- A list of the individual items delivered;
- The delivery address;
- The method of payment;
- The name of the person ordering and receiving the alcohol;
- The date and time of delivery;
- If proof of age was asked for, confirmation of the type of proof of age document presented and accepted;
- The name or designated employee ID number of the employee that made the delivery.

TVP 11

In the event the premises under its 'off sales' function provides a remote ordering/ home delivery ordering service for alcohol all vehicles used in the delivery of alcohol will have a means of tracking (GPS etc) by the premises and a means of contacting either the premises or the emergency services (i.e. mobile phone). These will be in full working order at all times whilst the vehicle is being utilized for delivery, and delivery staff will understand how to operate them as required for the job role.

TVP 12

In the event the premises under its 'off sales' function provides a remote ordering/ home delivery ordering service for alcohol all staff involved in the delivery of alcohol to the public will have taken an accredited course in dispute resolution training.

TVP 14

In the event the premises under its 'off sales' function provides a home delivery and or remote ordering service, customers placing a remote order including alcohol shall be required to confirm that they are over the age of 18 at the time of making payment.

TVP 15

In the event the premises under its 'off sales' function provides a home delivery /remote ordering service orders of or orders including alcohol will be delivered no later than 30 minutes after the terminal hour for the sale of alcohol

TVP 17

In the event the premises under its 'off sales' function provides a home delivery /remote ordering service of alcohol Where a customer ordering alcohol for delivery is found to be ordering irresponsibly (i.e. is underage, excessively intoxicated, abusive, violent etc) the premises shall operate a refusals registers when future orders by that customer are declined.

TVP 18

In the event the premises under its 'off sales' function provides a home delivery /remote ordering service of alcohol any member of staff or agent acting on behalf of the premises in delivering alcohol

to a customer will have and operate whilst completing the delivery body worn video (BWV) which records both video (images) and audio footage.

The member of staff or agent acting on behalf of the premises in delivering alcohol to a customer will :

- understand how to properly operate the BWV,*
- they will ensure it is properly operational before leaving the premises.*
- In the event of disorder, verbal abuse, threat of or actual physical violence, antisocial behaviour or any other behaviour that the member of staff/agent feels threatened or in fear they will activate the camera.*

The premises will ensure that footage is downloaded to a central hard drive and retained for a rolling period of 31 days.

The premises will have a member of staff working at all times whilst the licence is in operation that is able to operate the system and in particular is able to provide copies of any footage requested by The Police.

The premises will have a means of copying any footage to another medium as evidence if requested by the Police

The premises will have a system shall be in place to maintain the quality of the recorded image and a complete audit trail maintained. The system will comply with other essential legislation, and all signs as required will be clearly displayed

TVP 19

In the event the premises under its 'off sales' function provides a home delivery /remote ordering service of alcohol any vehicle used by a member of staff or agent acting on behalf of the premises in delivering alcohol to a customer will have and operate whilst completing the delivery a dash camera or other such video recording

The member of staff or agent acting on behalf of the premises in delivering alcohol to a customer will :

- understand how to properly operate the dash camera,*
- they will ensure it is properly operational before leaving the premises.*
- It will be in operation whilst the vehicle is out on delivery*

The premises will ensure that footage is downloaded to a central hard drive and retained for a rolling period of 31 days.

The premises will have a member of staff working at all times whilst the licence is in operation that is able to operate the system and in particular is able to provide copies of any footage requested by The Police.

The premises will have a means of copying any footage to another medium as evidence if requested by the Police

The premises will have a system shall be in place to maintain the quality of the recorded image and a complete audit trail maintained. The system will comply with other essential legislation, and all signs as required will be clearly displayed.

6. The application is **GRANTED** subject to the conditions and timings set out above.

Signed: Councillor Colin Cook

Chair of Licensing Sub-committee

Notes:

- A. The applicant, and any responsible authority or interested party that has made representations upon the application has a right of appeal to the Magistrates' Court against this decision. If you wish to appeal you must do so within 21 days of being notified of the decision.