

Licensing Act 2003



Licensing Sub-Committee

Notification of determination

Hearing under Sections 34 and 35 of the Act, and the Licensing Act 2003 (Hearings) Regulations 2005 In respect of an application made to Oxford City Council for variation of a Premises Licence

Date of hearing:	7th February 2023
Place:	Town Hall, Oxford
Case No.	22/04848/PREM
Applicant	Greene King Retailing Limited
Premises:	The Gardeners Arms
Premises address:	8 North Parade Avenue, Oxford, OX2 6LX
Licensing Sub-Committee Councillors:	Cllr Lizzy Diggins (Chair), Cllr Katherine Miles, Cllr Barbara Coyne
Legal Advisor:	Tazafar Asghar
Licensing Compliance Officer:	Richard Masters
Clerk:	Katie Thorp

The Sub-Committee heard representations from the following:

Licensing Authority: Richard Masters (Senior Licensing Compliance Officer)

Richard Masters (**RM**) Senior Licensing Compliance Officer presented the Licensing Authority's report to the Sub-Committee, outlining the proposed variation to the premises licence. **RM** stated that the application had attracted representations from eighteen Interested Parties, which highlight concerns in relation to how the application may fail to promote the licensing objectives of the prevention of crime and disorder, the prevention of public nuisance, protection from children from harm and public safety. **RM** stated that following publication of the report, the applicant's solicitor submitted a letter detailing potential amendments to their proposal to alleviate the issues raised by local residents, and it is for the applicant to introduce the amendments when they address the Sub-Committee.

Applicant: Wayne Farrell (Applicant) and Piers Warne (Legal Director)

Piers Warne (**PW**) states that the application has been amended following representations

from various residents and refers to the letter mentioned previously that was circulated before the hearing to all parties. **PW** states the application for supply of alcohol on and off sales has been amended to only apply for one additional hour on Friday and Saturday, and so the application to remain as Sunday to Thursday 10:00 hours to 23:00 hours and then Friday, Saturday and notable days as 10:00 hours to 00:00 hours (midnight). **PW** states that Late Night Refreshment will not take place Sunday to Thursday and will only be in place on Friday and Saturday from 23:00 hours to 00:00 (midnight) and lastly the amendments to remove live and recorded music from the application.

PW also states that the application is also to change the layout, which has not been contentious and so he believes there is nothing to add in relation to this.

PW states that the application is to remove four of the five conditions from the licence and adding a new operating schedule to the licence which is a modern updating of the licence, including CCTV, incident logs, noise checks during regulated entertainment, challenge 25 and dispersal policy. **PW** refers to the four additional conditions outlined in the letter following the representations received from residents. **PW** says these conditions deal with the concerns raised and are dealt with appropriately and proportionately. Those conditions are no new entry to the premises after 23:00 hours on any day except New Year's Eve, which fits in with paragraph 5.4 (latest admission times) of the Authority's policy, a complaints log to be maintained at the premises and any complaints by neighbours are to be logged, including date, time, name of complaint, nature of complaint and action taken. **PW** states the third and fourth conditions are customers will not be permitted to congregate, drink or smoke in the alleyway immediately adjacent to the premises, and each day, following closure to the public, the pedestrian area immediately outside the premises will be swept and tidied.

Cllr Barbara Coyne (**BC**) asks **PW** about how the applicant is managing the alleyway at the moment. **PW** states the previous tenants managed it themselves without any conditions to the licence, the applicant has offered a condition to add to the licence now and they expect the new tenant to put in place a robust plan to deal with it. **PW** says the applicant would allow the tenant to manage it how they see fit but the condition offered.

Cllr Katherine Miles (**KM**) asks the applicant about what time commercial waste is collected from the pub as she understands that early collection can also cause a disturbance to residents. **PW** states it is collected as the same as the other businesses on the parade. Wayne Farrell (**WF**) states that all deliveries and collections are pre 9:00am as the parade is now pedestrianized, all of the pubs deliveries are before the road closure starts but are also not before 8:00am.

KM asks about the complaints log and what method would the applicant be receiving complaints from the local residents, and asks whether they would provide a telephone number for residents to use to make a complaint at the time.

PW states he had spoken to residents and had mentioned the offer of a telephone number to help when residents wish to contact the premises and make a complaint. The applicant states they tend not to be prescriptive in ways in which to engage with the applicants. **WF** states that with experience in other locations, residents will also contact Greene King directly by telephone and email.

KM asks what steps the applicant will be taking in relation to patrons congregating outside the premises and asks whether there is any way the alleyway can be closed off.

PW states the parade has been pedestrianized and so people can congregate outside safely.

PW states they cannot stop people from using the alleyway as it is not private land, however with the inclusion of the condition, they can require the tenants to ensure any customers are round the front of the premises. **PW** states they have also offered a dispersal policy which will be drawn up with the new tenant.

Cllr Lizzy Diggins (**LD**) asks whether there is seating outside the premises and whether the premises has a pavement licence.

WF states the premises does have a pavement licence, and also confirmed another premises has patrons outside until midnight. **PW** offers to add a further condition to the licence should it be granted that there shall be no drinks permitted outside the premises after 23:00, unless smoking.

LD asks if that is a condition the applicant is willing to offer, how smokers would be managed outside to not spend more time than necessary outside after 23:00 hours. **PW** states the premises is small and it wouldn't be difficult to manage people outside.

KM asks what noise proofing the premises is adding to the refurbishment to mitigate any noise impact if they use things like temporary event notices in the future. **PW** states that the applicant has offered a condition about conducting noise checks when regulated entertainment takes place.

RM states that the Licensing Authority received letters from residents in response to the amendment letter from the applicant. **RM** read out the letters from Alan Smith and Peter Shaw on behalf of Mrs Bickmore.

Interested Parties: Lucie Cluver, Maria Tudhoe, Richard Katz

Lucie Cluver (**LC**) states herself, her family and Mrs Bickmore have two significant concerns in relation to the application, firstly the noise disruption from 11:00pm to midnight. **LC** states she has a young son who may be kept up until 12:30 at night and she works full time, and the thought of being kept awake is overwhelming. The second concern is the alleyway along the side of the premises, this is the way in to the backdoor, and the way the children go in and out. **LC** requests that the premises sticks with the hours already on the licence, there is no access to the alleyway and lastly that there is no one allowed outside drinking and smoking after 9:00pm.

Maria Tudhoe (**MT**) states she supports everything that has been said, and underlines her concerns about the capacity for outdoor drinking between 9:00pm and 11:00pm. **MT** states for those families that have children, for those who work out of the home, the incursion into the rest hours is particularly troublesome. **MT** states there is the capacity to have a number of people outside in an area in which noise during the later hours is noticeable.

KM asks interested parties what the current situation is with smoking outside the premises.

Richard Katz (**RK**) states that there is the occasional smoker outside and they don't cause an issue.

LD states that she would consider a condition where there are no drinks allowed outside after 23:00 hours. **WF** states the applicant is happy to have a condition added that states no drinks permitted outside after 23:00 hours on any given day.

LD also states that she does not believe the Sub-Committee have the power to make the

alleyway a no public access area.

In summing up, **RM** reminds the Sub-Committee that smoking is not a licensable activity.

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.
2. The Sub-Committee considered representations from interested parties and were not persuaded that there was the evidence of any pre-existing issues to justify refusing the application.
3. The Sub-Committee considered the proposals in the operating schedule, the conditions the applicant proposed to remove along with the proposed additional conditions to be included.
4. The Sub-Committee also considered the proposed changes from the applicant to the terminal hours of the licensable activities applied for, the withdrawal of live and recorded music entirely and the additional conditions, following the representations received from interested parties.

The Sub-Committee decided:

- To **GRANT** the licence, and;
- To **MODIFY** the conditions of the operating schedule by omitting and adding to them, and;
- To **EXCLUDE & RESTRICT** from the scope of the licence the licensable activities to which the application relates.

Times the license authorises the carrying out of licensable activities:

Supply of Alcohol (on and off sales)

Sunday to Thursday: 10:00 hours to 23:00 hours
Friday and Saturday: 10:00 hours to 00:00 hours (midnight)
Notable Days: 10:00 hours to 00:00 hours (midnight)
New Year’s Eve: 11:00 hours to 11:00 hours on New Year’s Day

Provision of Late Night Refreshment

Friday and Saturday: 23:00 hours to 00:00 hours (midnight)
Notable Days: 23:00 hours to 00:00 hours (midnight)

In the timings above, “notable days” means the following:

- Christmas Eve
- Spring and August Bank Holidays
- Good Friday
- Easter Saturday, Sunday and Monday
- Any other Bank Holidays

Plays (limited to 1 occasion per year), provision of facilities for dancing:

Monday to Sunday: 00:00 (midnight) to 00:00 (midnight) the following day

Provided indoors only

Condition remaining on the Premises Licence:

1. Persons under the age of 18 will only be admitted if accompanied by a responsible adult who will be responsible for those under 18 whilst on the premises.

Conditions removed after a hearing:

3. All staff shall be aware of the law regarding the refusal of service to any person who is drunk or is underage, and shall be aware of how to seek identification from anyone who appears to be underage.
4. All members of staff at the premises shall seek 'credible photographic proof of age evidence' from any person who appears to be under the age of 18 years and who is seeking access to the premises or is seeking to purchase or consume alcohol on the premises. Such credible evidence, which shall include a photograph of the customer, will include a passport, photographic driving licence, or a Proof of Age card carrying a 'PASS' logo.
6. Prominent clear notices shall be displayed at the point of entry to the premises and in a suitable location at any points of sale, advising customers that they may be asked to produce evidence of their age.
7. No person under the age of 18 is allowed in the bar area unless he/she is in the bar solely for the purpose of passing to or from some part of the premises which is not a bar and to or from which there is no other convenient means of access or egress.

Conditions attached after a hearing:

1. The Premises Licence Holder shall ensure that all staff who have direct dealings with customers shall be trained in the following:
 - Licensing Law and in particular that relating to the sale of alcohol.
 - The challenge 25 policy
 - Refusal of service for
 - The premises licence and its conditions.

A record shall be kept of this training which will be refreshed no less than every 6 months and this record shall be available for inspection by the Licensing Authority or Police upon request.

2. The Premises Licence Holder shall ensure that a digital hard drive CCTV system shall be in operation at the premises.
 - All CCTV images will be kept for a period of 28 days.
 - Any manager left in charge of the business shall be trained in the use of any such CCTV equipment and able to produce/download/burn CCTV images upon request by an authorised officer.
 - CCTV shall be maintained on a regular basis and kept in good working order.
3. The Premises Licence Holder shall ensure that an incident log will be kept and maintained at the premises and all incidents shall be recorded in it. As a minimum, the log will record the date and time of the incident, the name of the person making the

entry, the nature of the incident and any actions taken.

4. The Premises Licence Holder shall ensure that the Designated Premises Supervisor (DPS) / Manager will undertake a risk assessment in relation to any night where regulated entertainment is provided at the premises past 00:00 hours in order to determine whether SIA door staff will be required to promote the licensing objectives. Where the risk assessment identifies the need for SIA door staff, these will be provided at the times and in the numbers deemed by the risk assessment to be appropriate in the circumstance. This risk assessment can be undertaken once in relation to a series of nights where the same entertainment is to be provided (for instance, regular Friday night live music), so long as it is revisited regularly to ensure that the risk assessment remain appropriate for that night. The risk assessment is to be in written form and kept at the premises for at least 30 days after the night or series of nights to which it relates.
5. The Premises Licence Holder shall ensure that a sign will be displayed at each exit from the premises asking customers to respect the rights of nearby residents not to be disturbed. The sign will also advise customers that they are not permitted to congregate, drink or smoke in the alleyway immediately adjacent to the premises.
6. The Premises Licence Holder shall ensure that when regulated entertainment is provided, noise checks will be carried out at the nearest noise sensitive property. A noise check log will be kept and maintained at the premises. A minimum log will record the date and time of the check, location of the check, the name of the person making the check, the sound level and if required any action taken. The log will be made available to an authorised officer upon request.
7. The Premises Licence Holder shall ensure that a dispersal policy is in place at the premises to ensure that customers leave the area quietly.
8. The Premises Licence Holder shall ensure that all windows and external doors shall be kept closed when regulated entertainment takes place, except for access and egress.
9. The Premises Licence Holder shall ensure that a challenge 25 policy shall be implemented and full and appropriate identification shall be sought from any person who appears under the age of 25.
10. The Premises Licence Holder shall ensure that staff will accept the following forms of identification:
 - Valid Passport from any country
 - Valid EU country identity card with photo
 - Valid UK photo driver's licence
 - Valid UK photo ID card with 'pass mark'
 - Any other form of ID (hard-copy or digital) approved by the Home Office for the purposes of sales of alcohol.
11. The Premises Licence Holder shall ensure that a notice shall be displayed indicating that the Challenge 25 policy is in force.
12. The Premises Licence Holder shall ensure that a record of sales refusals will be kept at the premises. This may be a manual entry book or electronic record via the tills. The refusals log in any form will be kept for 30 days and be available for inspection by appropriate officers of the responsible authorities.

13. The Premises Licence Holder shall ensure that there is no new entry to the premises after 23:00 hours on any day except New Year's Eve.
14. The Premises Licence Holder shall ensure that a complaints log will be maintained at the premises and any complaints by neighbours are to be logged, including date, time, name of complainant, nature of complaint and action taken. The Premises Licence Holder shall ensure that a telephone number and email address are made available to anyone wanting to make a complaint.
15. The Premises Licence Holder shall ensure that each day, following closure to the public, the pedestrian area immediately outside the premises will be swept and tidied.
16. The Premises Licence Holder shall ensure that there shall be no drinks permitted outside the premises after 23:00 hours.

The Sub-Committee members made a recommendation to the applicant that should they apply for a temporary event notice, they send a letter to all local residents in advance so that they are aware.



**Signed: Councillor Lizzy Diggins
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.

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