

**NEW FOREST DISTRICT COUNCIL
LICENSING ACT 2003**

**APPLICATION FOR A REVIEW OF A PREMISES LICENCE: SIAM THAI LOUNGE,
24 HIGH STREET, LYNDHURST**

**Decision of the Licensing Sub-Committee hearing held at Appletree Court,
Lyndhurst on Friday, 5 July 2013 at 2.00pm**

1. Members of the Licensing Sub-Committee

Councillor S Clarke - Chairman
Councillor M Thierry
Councillor Mrs Ward

2. Parties and their Representatives attending the Hearing

PC Norris & PC Wood, Hampshire Constabulary - Applicant for Review
Edward Vandyck, Environmental Health Pollution – Applicant’s Supporter
Mr Leaver – Premises Licence Holder
Mr Newport – Hannides & Co Solicitors, Premises Licence Holder’s
Representative
Mr Chowdhury – Designated Premises Supervisor

3. Other Persons attending the Hearing

Mr Lang – Observer

4. Parties not attending the Hearing

None

5. Officers attending to assist the Sub-Committee

Amanda Wilson – Legal Advisor
Melanie Stephens - Clerk

6. Decision of the Sub-Committee

The Sub-Committee decided that the following amendments should be made to the Licence for the Premises:

- (a) That the closing hours of the premises be reduced to 23:30 hours Monday to Sunday;
- (b) That the sale of alcohol must finish at 23:00 hours Monday to Sunday;
- (c) That the playing of recorded music must finish at 23:00 Monday to Sunday;
- (d) That the provision of late night refreshment be removed from the Licence;
- (e) That Annex 2 be removed from the Licence;
- (f) That the following conditions contained in Annex 3 of the Licence be removed from the licence: Conditions 2 and 3; and
- (g) That the following conditions be attached to the licence:-

Staff Training

Staff will be trained regarding appropriate precautions to prevent the sale of alcohol to persons under the age of 18, the signs and symptoms of drunk persons and the refusal of sale due to intoxication. Records will be kept of such training which must be signed and dated by the member of staff who has received that training.

All staff will receive refresher training every six months as a minimum and records are to be kept of this refresher training which should be signed and dated by the member of staff who received that training.

In addition to their training a written test related to the training given will be conducted before the staff member is permitted to sell or authorise alcohol. The test will consist of a minimum of ten questions of which the pass rate is 80%. Anyone who fails to reach the prescribed pass rate will be retrained and re-tested. Anyone not attaining the pass rate will not be permitted to sell or authorise the sale of alcohol until the pass rate is attained. There will be a minimum of two sets of questions to be used in the training which will be rotated upon and each subsequent six month training session. Records of the results of the written test must be kept and signed and dated by the member of staff who took the test.

All training records will be made immediately available for inspection by Hampshire Constabulary and any other responsible authority upon request. Training records will be kept for a minimum period of two years.

Training records will be kept on the licensed premises to which they relate to.

Incident Book

An incident book will be provided and maintained at the premises. It will remain on the premises at all times and will be available to Hampshire Constabulary and any other responsible authority for inspection upon request.

Any incidents that include physical altercation or disorder, physical ejection, injury, ID seizure or drug misuse will be recorded in the incident book. The entry is to include an account of the incident and the identity of all person(s) involved (or descriptions of those involved if identity is not known). Should there be any physical interaction by members of staff and the public the entry

will include what physical action occurred between each party. The entry shall be timed, dated and signed by the author.

If the member of staff creating the entry has difficulties reading or writing then the entry may be written by another staff member. This should however be read back to the person creating the entry and counter signed by the person who wrote the entry.

At the close of business on each day the incident book will be checked by the manager on duty where any entries will be reviewed and signed. If incidents have occurred they duty manager will de-brief door staff at the close of business. Should there be no incidents then this will also be recorded at the close of business in the incident book.

Refusals Log

A written log shall be kept of all refusals including refusals to sell alcohol. The Premises Licence Holder shall ensure that the refusals log is checked, signed and dated on a weekly basis by the Designated Premises Supervisor or nominated deputy.

The refusals log will be kept and maintained at the premises and will be available for inspection immediately upon request by Hampshire Constabulary and any other responsible authority.

The record of refusals will be retained for 12 months.

CCTV

The premises shall have sufficient cameras located within the premises to cover all public areas including outside of the premises covering the entrance and exit. The system will be able to cope with all levels of illumination throughout the premises as well as outside areas.

CCTV warning signs to be fitted in public places.

The CCTV system must be operating at all times whilst the premises are open for licensable activity. All equipment shall have constant and accurate time and date generation.

The recording system will be able to capture a minimum of 4 frames per second and all recorded footage must be securely retained for a minimum of 28 days.

Records must be made on a weekly basis and kept for inspection to show that the system is functioning correctly and that data is being securely retained.

The Designated Premises Supervisor or premises manager must be able to demonstrate that the CCTV system has measures to prevent recordings being tampered with, i.e. password protected.

There shall be sufficient members of trained staff at the premises during operating hours to be able to provide viewable copies immediately to police on request when investigating allegations of offences or criminal activity. Any images recovered must be in a viewable format on either disc or VHS.

Footage supplied in a digital format on CD or DVD will also have a copy of the CCTV system software enabled on the disc to allow playback. In the event of technical failure of the CCTV equipment the Premises Licence Holder/Designated Premises Supervisor must report the failure to the Hampshire Western Police Licensing Unit within 24 hours.

Challenge 25

There will be a Challenge 25 policy operating at the premises. Challenge 25 means that the holder of the premise licence shall ensure that every individual, who visually appears to be under 25 years of age and is seeking to purchase or be supplied with alcohol at the premises or from the premises, shall produce identification proving that individual to be 18 years of age or older.

Acceptable identification for the purposes of age verification will include a driving licence, passport, HM Forces ID card or photographic identification bearing the "PASS" logo and the person's date of birth.

If the person seeking alcohol is unable to produce acceptable means of identification, no sale or supply of alcohol will be made to or for that person.

'Challenge 25' posters shall be displayed in prominent positions at the premises.

Alcohol Ancillary to Food

Alcohol shall not be sold or supplied on the premises otherwise than to persons taking table meals there and for consumption by such a person as an ancillary to his/her meal.

Alcohol Outside

No drinking or drinking vessels are permitted to be taken outside the premises.

DPS Training

The Designated Premises Supervisor will complete either the BIAB Level 2 National Certificate for Designated Premises Supervisors or the Level 3 Award for Designated Premises Supervisors (ADPS) within 3 months of the date that the determination of the review of the premises Licence (held on 5 July 2013) takes effect or in any other case within 3 months of appointment to the role of Designated Premises Supervisor.

7. Reasons for the Decision

The Sub-Committee considered carefully the application by the police for the review of the premises licence along with the evidence, both written and oral, supplied by the parties at the hearing. The Sub-Committee noted that the police were asking for a reduction in licensable hours, the removal of all licensable activities other than the sale of alcohol, the imposition of a number of conditions on to the licence and the removal of the current Designated Premises Supervisor (DPS).

The Sub-Committee listened to all the evidence that was provided and considered what action was appropriate for the promotion of the four licensing objectives:

- The prevention of crime and disorder;
- Public safety;
- The prevention of public nuisance; and
- The protection of children from harm

The Sub-Committee concluded that the licensing objectives; in particular the objectives relating to the prevention of crime and disorder, public safety and the prevention of public nuisance, are being undermined by the way in which the premises are currently permitted to operate.

The Sub-Committee heard a substantial amount of evidence from the police detailing incidents which had occurred late at night, as a result of drunken behaviour. The evidence provided at the hearing demonstrated that the current hours that the premises are open to the public and the current hours during which the sale of alcohol is permitted mean that the premises has become a final drinking destination for people after other local licensed premises have closed.

The Sub-Committee heard evidence from the police that the premises market themselves as a restaurant. The police read out an extract from the premises' website which states that it is "one of the regions Premier eating establishments" and a "friendly yet sophisticated dining experience".

The Police sought to argue that the current licensable hours were out of keeping with this business ethos.

Through their legal representative, the Premises Licence Holder (PLH) and the DPS admitted that there had been incidents at the Premises which was clearly undesirable. However, they referred to the Premises Licence that was in existence prior to December 2011, prior to the last extension of hours. This previous Licence permitted the premises to be open Monday to Wednesday 11:00 to 23:30, Thursday to Saturday 11:00 to 00:30 and Sunday 11:00 to 23:00, with the sale of alcohol ceasing thirty minutes prior to closing time.

The Sub-Committee heard from the Police and the PLH and DPS that prior to the extension of hours in 2011, that there had been little or no disturbances at the premises. The Sub-Committee carefully listened to and considered the evidence provided by the PLH and DPS that no incidents had been reported when this previous Licence was in operation and therefore it would be appropriate for the licensable hours to be returned to the pre December 2011 position.

However, the Sub-Committee is of the view that based on the drinking culture that has become associated with the Premises and the anti social behaviour and criminal incidents which have occurred, the most appropriate way of to adequately meet the licensing objectives would be to reduce the hours that the premises are open to the public and the hours that the sale of alcohol is permitted in accordance with those proposed by the police.

The Sub-Committee did not consider that the police had provided sufficient evidence that the regulated entertainment of recorded music needed to be removed from the licence.

The Sub-Committee determined that the conditions proposed by the police should also be added to the licence in their entirety. The Sub-Committee was

pleased to note that at the hearing PLH and DPS indicated their agreement to the conditions proposed by the police relating to staff training, an incident book, a refusals log, CCTV and a Challenge 25 policy.

The Sub-Committee considered that it was essential, for this Premises, that a condition be imposed so that alcohol could only be supplied if it was ancillary to food. It was considered that this condition, along with the reduction in hours, would return the premises to function as a restaurant rather than a late night drinking venue. The Sub-Committee concluded that these amendments were necessary to promote the licensing objectives.

The Sub-Committee had concerns regarding the DPS's understanding and ability to support the licensing objectives. This was evidenced by the representations provided by the police that there have been instances where the DPS has admitted and served people who were intoxicated, had not kept adequate records regarding training and refusal logs and had not adequately managed patrons when leaving the premises to ensure that the exit is carried out in a quiet and orderly fashion so as not to disturb local residents.

The Sub-Committee heard that the police had offered advice and guidance to the DPS regarding operation times, adequate training for staff, and how to uphold conditions on the licence, but were disappointed that insufficient improvements had been made at the premises.

However, the police did indicate during the hearing that the current DPS has always been cooperative with them and they would provide support going forward should the current DPS remain in place.

Having heard the representations from the police, including representations regarding disturbances at the premises which required Police resources as well as a letter from a local resident who is regularly disturbed late at night from noise emanating from the premises, the Sub-Committee seriously considered removing the Designated Premises Supervisor.

However, the Sub-Committee concluded, on balance, that changes to the hours of operation and further conditions being placed on the licence would bring about the improvements necessary for the promotion of the licensing objectives. In particular, the Sub-Committee felt that the inclusion of a condition requiring the current DPS and any subsequent DPS to obtain a recognised DPS qualification would further improve the Premises' compliance with the licence and ensure adherence to the licensing objectives in the future.

The Sub-Committee listened to the representation made by environmental health regarding the noise caused by the extractor fan installed at the premises, but did not consider that this was relevant to the licensing objectives and concluded that the issue could be addressed outside of the licensing regime.

The Sub-Committee is satisfied that the amendments made to the licence are proportionate to address concerns raised by the police, whilst still allowing the DPS to operate the business within the licensing objectives

The Sub-Committee would like to remind the DPS that, when necessary, they should contact the Police if there are disturbances at the premises.

The DPS can also contact the Council and police should he require advice and assistance with complying with the Premises Licence.

The Sub-Committee also recommends that the DPS puts in place working policies to deal with matters such as crime and disorder, CCTV operation and health and safety.

Should there be further problems at the Premises the police may request another review of the Licence.

Date: 5 July 2013

Licensing Sub-Committee Chairman: Cllr S Clarke

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Decision notified to interested parties on 10 July 2013