

LICENSING SUB-COMMITTEE**14 June 2016****Attendance:**

Councillors:

Izard (Chairman) (P)

Green (P)

Laming (P)

Officers in attendance:

Miss J Allingham – Licensing Officer

Miss C Stefanczuk – Licensing Manager

Ms C Tetstall – Licensing Solicitor

Mrs A Toms – Environmental Health Manager

1. **VARIATION OF PREMISES LICENCE – LAINSTON HOUSE HOTEL,
STOCKBRIDGE ROAD, SPARSHOLT, WINCHESTER, SO21 2LT**
(Report LR475 refers)

The Chairman welcomed to the meeting Mr Gaius Wyncoll, the Designated Premises Supervisor at Lainston House Hotel (the Applicant), together with the applicants solicitor, Mr Cliff Morris.

Miss Allingham introduced the variation of premises application to the Sub-Committee. In summary, she explained that the purpose of the application was to extend the licensing hours for the supply of alcohol and regulated entertainment until 0200 hours, Monday to Sunday. Non-standard timings for New Years Eve would remain as under the current licence. The application also included changes to the plan of the premises to include Dawley Barn on the licence. Dawley Barn was currently covered by a separate premise licence and if the application was granted the applicant would surrender the licence. No additional conditions had been offered and the conditions on the current licence were from the converted public entertainment licence.

Miss Allingham advised that 13 representations had been made by other persons and copies of these were contained within Appendix 3 to the Report. She drew Members' attention to an amended version of Appendix 3 which had been distributed with a supplementary agenda for the meeting on 13 June 2016. A representation had also been received from Environmental Health.

Miss Allingham stated that since the Report was issued, discussions had taken place between Environmental Health and the applicant who had agreed that the playing of live or recorded music outdoors be limited to midnight. The Environmental Health Manager therefore withdrew her representation.

Ms Tetstall drew the Sub-Committee's attention to Paragraph 1.3 of the Report which set out the current licensable hours.

In response to Members' questions, Miss Allingham confirmed that a Notice of Application had been displayed outside of the premises and there had been notification in the local newspaper and on the Council's website.

On behalf of the applicant, Mr Morris confirmed that the application was to amend the Premises Licence to apply until 0200, seven days a week. He stated that the Hotel was set in 63 acres of land and part of its business included holding conferences, weddings and other events. Dawley Barn was accessed through the Hotel and it was proposed to be included within the application in order to simplify matters. Mr Morris stated that the amendment had been applied for to satisfy consumer demand and, although it was possible to apply for temporary event notices to extend hours, this might deter potential customers. There was no intention to open until 0200 everyday but these timings had been applied for to enable flexibility in the business offered.

Mr Morris confirmed that since the application had been made, the applicant had discussed with Environmental Health and agreed additional conditions to alleviate concerns regarding noise. He highlighted that the nearest private property was located approximately 200m from the Hotel, whilst the majority of representations received were from residents living over 300m away. In responding to some comments made in the representations received (as set out as Appendix 3 to the Report), Mr Morris stated that the Hotel had not contacted local residents prior to making the application partly because no communications had previously been received from such residents. No complaints had been received under the current licensing hours. However, recent attempts had been made by the Hotel to liaise with residents and the Parish Council. Mr Morris emphasised that the Hotel was keen to ensure a good relationship with local people and remind customers of the need to leave the premises quietly late at night. In addition, it was investigating the possibility of using new "silent" fireworks to minimise noise impact. However, it had no responsibility over customers once they had left the site and were driving on local roads.

In response to Members' questions, Mr Morris stated that sometimes events were held outside in a marquee, and customers were also able to exit premises to go outside, for example to smoke. Hotel staff would take appropriate measures to ensure windows and doors remained closed.

Mrs Toms advised that Environmental Health had not received any complaints regarding the premises for at least the last 17 years. In her view, any noise from indoor music could be easily managed by ensuring windows and doors remained closed and also due to the siting of the Hotel within 63 acres of land. However, there was the potential for noise from music played outside to be heard from further away, particularly base noise. Therefore, following discussions with the Applicant, it had been agreed to reduce the hours of outdoor regulated entertainment to midnight. In addition, a Noise Management Plan would be required to consider matters such as monitoring

from the boundary of the site, ensuring doors and windows remained close, and a contact number for local residents to complain about any issues.

One Member suggested the applicant also be requested to keep a log of any noise complaints and it was further clarified this be for a two year period. Mr Wyncoll confirmed he was happy to agree to this and the other requests by Environmental Health and added that the Hotel had a 24 hour duty manager.

The Sub-Committee retired to deliberate in private.

On returning to the meeting room, the Chairman stated that the Sub-Committee had carefully considered the application and the representations made. It had taken into account the duties under the Crime and Disorder Act 1998 and the rights set out in the Human Rights Act 1998.

Members had decided to grant the licence application, with the conditions set out in the Report from page 8 (Section 5), with the following amendments and additions:

- A) No amplified music for the additional hours requested under the application (Sunday to Saturday 0000 to 0200) shall be played until a suitable and sufficient noise management plan has been submitted to and approved in writing by The Licensing Authority. The sort of points that WCC would expect to be addressed in the Noise Management Plan would include:
- Noise monitoring at the boundary of the site during outdoor events to ensure that noise levels remain acceptable and are not likely to cause disturbance to neighbours. (This would be a subjective assessment by a named member of staff who would, at times defined by the Applicant monitor the noise levels at points around the boundary of the site and adjust the volume should it be audible after 2300. It is suggested that the locations are determined to be representative of direction of the nearest residential properties);
 - Policy on keeping windows and doors closed whilst indoor music is being played;
 - Details on the management of customers conduct as they leave the premises to avoid public nuisance;
 - Details of a contact number for local residents in case they wish to complain.
- B) There shall be no outdoor regulated entertainment after 0000 on any night.
- C) The Applicant shall keep a log of all noise related complaints (for a period of two years) and provide a copy to the Licensing Authority on request.

The Sub-Committee appreciated that fireworks did not come under its remit or any additional traffic caused by events. However, the Sub-Committee considered that the Applicant had addressed the licensing objectives relating to public nuisance and made all reasonable efforts to minimise the impact on local residents.

The Chairman thanked all present for attending the meeting and explained to all parties that they would be formally notified of the decision in writing in due

course and of their right to appeal to the Magistrate's Court within 21 days from the date of the decision letter.

RESOLVED:

1. That the Variation of Premises Licence be granted with the conditions set out in the Report from page 8 (Section 5), with the following amendments and additions:

- A) No amplified music for the additional hours requested under the application (Sunday to Saturday 0000 to 0200) shall be played until a suitable and sufficient noise management plan has been submitted to and approved in writing by The Licensing Authority. The points that should be addressed in the Noise Management Plan would include:
- Noise monitoring at the boundary of the site during outdoor events to ensure that noise levels remain acceptable and are not likely to cause disturbance to neighbours. (This would be a subjective assessment by a named member of staff who would, at times defined by the Applicant, monitor the noise levels at points around the boundary of the site and adjust the volume should it be audible after 2300. It is suggested that the locations are determined to be representative of direction of the nearest residential properties);
 - Policy on keeping windows and doors closed whilst indoor music is being played;
 - Details on the management of customers conduct as they leave the premises to avoid public nuisance;
 - Details of a contact number for local residents in case they wish to complain.
- B) There shall be no outdoor regulated entertainment after 0000 on any night.
- C) The Applicant shall keep a log of all noise related complaints (for a period of two years) and provide a copy to the Licensing Authority on request.

REASON

The applicant had addressed the licensing objectives related to public nuisance and made all reasonable efforts to minimise the impact on local residents.

MODIFIED CONDITIONS:

Mandatory Conditions

Where the Licence Authorises Supply of Alcohol:

1. No supply of alcohol may be made under the premises licence:

- (a) At a time when there is no designated premises supervisor in respect of the premises licence, or
 - (b) At a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.
2. Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

Where the Licence requires Door Supervision:

Where individuals are required on premises to carry out security activities, they must be licensed by the Security Industry Authority.

The Licensing Act 2003 (Mandatory Licensing Conditions) (Amendment) Order 2014

– effective from 1 October 2014

1. (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
- (2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises—
- (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to—
 - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
 - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
 - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
 - (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
 - (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).
2. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
3. (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.

- (2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
- (3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either—
 - (a) a holographic mark, or
 - (b) an ultraviolet feature.
4. The responsible person must ensure that—
 - (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—
 - (i) beer or cider: ½ pint;
 - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
 - (iii) still wine in a glass: 125 ml;
 - (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
 - (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

Licensing Act 2003 (Mandatory Licensing Conditions) Order 2014
– effective from 28 May 2014

1. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.
2. For the purposes of the condition set out in paragraph 1-
 - (a) “duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;
 - (b) “permitted price” is the price found by applying the formula- $P = D + (D \times V)$ where-
 - (i) **P** is the permitted price,
 - (ii) **D** is the rate of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
 - (iii) **V** is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
 - (c) “relevant person” means, in relation to premises in respect of which there is in force a premises licence-
 - (i) the holder of the premises licence,
 - (ii) the designated premises supervisor (if any) in respect of such a licence, or
 - (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;
 - (d) “relevant person” means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and

- (e) "valued added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.
3. Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.
 4. (1) Sub-paragraph 2 applies where the permitted price given by Paragraph (b) of paragraph 2 on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.
(2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

Operating Hours

1. The hours the premises may be used for all regulated entertainment (excluding boxing or wrestling entertainment) shall be:

- | | | |
|-------|---------------------------|---|
| (i) | Monday to Saturday | 1000 to 0200 (until 0000 outdoors) |
| (ii) | Sunday | 1200 to 0200 (until 0000 outdoors) |
| (iii) | New Years Eve | 1000 to 0100 1 January (until 0000 outdoors) |

2. The hours the premises may be used for late night refreshment shall be:

- | | | |
|------|-------------------------|---------------------|
| (i) | Monday to Sunday | 2300 to 0200 |
| (ii) | New Years Eve | 2300 to 0500 |

3. The hours the premises may be used for the sale of alcohol shall be:

- | | | |
|------|-------------------------|---|
| (i) | Monday to Sunday | 1000 to 0200 |
| (ii) | New Years Eve | 1000 to 1000 1 January (1200 if on a Sunday) |

All Licensing Objectives

Conditions from existing licences:-

Justices On-Licence

To comply with fire officer's recommendations.

Exemption:

The premises may be used for the purposes of providing private entertainment for gain, without restriction.

Public Entertainment Licence

The maximum number of persons permitted to be admitted to the premises whilst in use for the purposes of this Licence shall not exceed:-

40 in the Large Restaurant

40 in the Small Restaurant and Hall

65 in the Drawing Room and

200 in the Dawley Barn

INSCRIPTION

There shall be affixed and kept up on some conspicuous place on the outer side of the principal door or over and outside the principal entrance of the place licensed an inscription in capital letters not less than one inch in height in the words following: -

“Licensed in pursuance of Act of Parliament for the public ... “followed by a word or words indicating the purpose for which the place is licensed.

HOURS OF OPENING

The place licensed shall not be opened for the purpose of public entertainment between 2.00am and 8.30am on any day.

RESPONSIBLE PERSON

The licensee or a responsible person nominated by the licensee in writing, not being a person being under 21 years of age shall be in charge of, and present in the place licensed at all times members of the public are present.

MAXIMUM NUMBERS

The maximum numbers of persons to be admitted at any one time to the licensed premises shall not exceed the number specified in the licence.

ATTENDANTS AND SECURITY PERSONNEL

During the time the premises are in use for public entertainment, there shall be in attendance the following numbers of staff or other attendants acquainted with the established routine to be followed in the case of fire or other emergency. The aim of the attendants should be the avoidance of panic and the orderly evacuation of the premises:-

Up to 25 persons

2 attendants

Over 25 persons

4 attendants for the first 250 persons
1 attendant for each of the additional 250 persons

Where at any licensed function the majority of persons attending are under the age of 16 years

Double the above number of attendants plus one attendant for each exit

OR SUCH LOWER NUMBER OF ATTENDANTS AS MAY BE AGREED IN WRITING BY THE LOCAL AUTHORITY

Where an attendant is responsible for security, protection, screening the suitability of people entering premises or conflict management they must be licensed by the Security Industry Authority.

SAFETY OF PERSONS

The licensee shall take all precautions necessary for the safety of persons frequenting the licensed premises.

FORM OF ENTERTAINMENT

No public entertainment shall be permitted or suffered to take place in the place licensed which is licentious, indecent or likely to produce riot, tumult or breach of the peace.

BEHAVIOUR

The Licensee shall to the best of his ability maintain and keep good order and decent behaviour on the licensed premises whilst open for public entertainment.

NUISANCE

No public entertainment shall be permitted or suffered to take place in the place licensed which is a nuisance, annoyance or inconvenience to the occupiers of any other property.

INTOXICATION

No person shall be permitted or suffered to enter or remain within the place licensed while in a state of intoxication

OFFENDERS

If any disorderly conduct shall take place, the Licensee shall himself and his employees assist to the utmost in the apprehension or expulsion of the offenders.

HYPNOSIS

No exhibition, performance or demonstration of hypnotism shall be permitted at the place licensed except with the express written consent of the Council.

Permitted exhibitions, performances or demonstrations of hypnotism shall be in accordance with the conditions set out in the Home Office Circular 42/89.

SEATING

Seating, tables and chairs and other furniture and fittings shall be so arranged as to allow free and ready access to exits.

FLOOR COVERINGS

All floor coverings shall be secured and maintained in such a way as to prevent unevenness in the floor level.

CURTAINS AND DRAPES

Curtains shall be adequately supported and where hung across doorways or across corridors they shall be arranged as to draw easily from the centre and slide freely, and be so hung that they are clear of the floor and shall be treated with fire retardant.

TOILETS

Adequate and separate sanitary conveniences suitably marked shall be provided for persons of both sexes and shall be maintained in good working order and kept in a clean condition.

EXITS

The number, size and position of all doors or openings provided for the purpose of the egress of the public from the premises shall be to the satisfaction of the Licensing Authority.

Doors and Fastenings – Unless otherwise permitted in writing by the Council, exit doors and gates shall open in the direction of exit, and shall in all cases be free from fastenings other than panic bolts or other such fastenings as shall be approved by the Council. Any panic bolts or other approved fastenings must be signed “PUSH BAR TO OPEN” or as is appropriate to the fastening to ensure that the mode of operation is readily apparent to any person.

Exit Routes – All exit routes including passages, courts, ramps, and stairways, which lead from the place licensed to the outside, shall at all times be kept free from obstruction.

LIGHTING AND HEATING

Provisions – All parts of the place licensed shall be suitably and adequately illuminated. Except where otherwise permitted in writing by the council, all those

parts to which the public have access and all exit routes shall be illuminated by at least two independent sources each of a standard approved by the Council.

Standard of Illumination – The illumination from each source shall be sufficient to enable the public, performers and staff to see their way out of the place licensed in safety at any time, and shall not be derived from pre-payment meters.

Segregation of the Two Systems of Lighting – The two or more lighting systems provided shall each be so installed so that a fault or accident arising in one system shall not jeopardise any other system.

Exit Notices – Each exit route from the parts of the place licensed to which the public has access shall be signed “Exit” in the manner approved by the Council. Each sign so provided must be illuminated, internally or otherwise, by at least two independent sources.

Special Effects – No laser beam or other hazardous effect may be used in the place licensed without prior written approval of the Council. The Licensee must give at least 21 days notice to the Council to allow adequate consideration.

The form of heating of the licensed premises shall be to the satisfaction of the Council.

Safety in Heating Appliances – No heating appliances shall be used in proximity to any woodwork, curtains, drapes or other materials likely to be ignited by use of the appliance.

in proximity to any woodwork, curtains, drapes or other materials likely to be ignited by use of the appliance.

All heating appliances must be sufficiently guarded or protected so as to avoid injury to any person.

ELECTRICAL INSPECTIONS

All electrical installations shall be inspected every three years by a competent qualified electrician to the requirements of the Institute of Electrical Engineers Wiring Regulations and a Certificate as to the condition of the electrical installations shall be furnished to the Council.

In the intervening years the electrical installations shall be inspected annually by a competent electrician.

Any alterations, modifications or extensions to the electrical installations with which the premises are provided shall be carried out by a competent electrician and shall be strictly in accordance with the Institute of Electrical Engineers Regulations. Any portable electrical appliances or equipment used in the premises shall be in efficient working order and correctly wired and connected.

FIRE PRECAUTIONS

Except with the written consent of the Council and subject to any conditions which may be attached to such consent, explosives or highly inflammable material shall not be brought in or used on the premises.

The use of naked flame shall not occur except when strictly necessary to any performance and when expressly permitted in writing by the Council.

Combustible or flammable materials or liquids shall not be stored within the place licensed except with the written consent of the Council and subject to any conditions which may be attached to such a consent.

If it appears to the council that the use of material, fabric or finish might assist the spread of fire, then it may require the material fabric or finish to be removed or treated forthwith in such a manner as to reduce the risk.

SWITCHES

All gas taps and electric switches used in connection with the lighting or heating of the place licensed shall be rendered inoperable other than by the licensee, the responsible person in charge of the place licensed and any staff or attendant employed by the Licensee.

FIRE FIGHTING EQUIPMENT

There shall be provided in the place licensed fire fighting equipment of a standard approved by the Fire Officer and acceptable to the Council. Such equipment shall be examined at least once annually by a competent person. All portable fire extinguishers shall be inspected and tested by a competent person. The date on the test to be clearly marked on a label firmly fixed to the extinguisher.

CEILINGS

Where considered necessary, provision shall be made to the Council's satisfaction, for the examination from the above of any suspended ceiling over parts of the premises to which the public have access and such other parts of the premises as the Council may deem necessary.

CONSTRUCTION

Wall and Ceiling Linings, Insulation, Treatment, etc – Any material used as a wall or ceiling lining, or as a suspended ceiling, or for acoustic or thermal insulation purposes shall be to the Council's satisfaction and shall be fixed and supported in such a manner as may be approved by the Council.

Note: For the purpose of this condition the council will normally require such material to be non-combustible or be rated class 1 of the classification for the surface spread of flame when tested in accordance with the appropriate British Standards and be

throughout its thickness of no greater flammability than its surface. Certain other materials may, however, be accepted subject to compliance with such conditions as the Council may consider appropriate in the circumstances of the case.

ALTERATIONS

No structural or other alteration of the place licensed or of the means of exit there from shall be made during the continuance of this licence without the written approval of the council except such alterations as shall from time to time be approved by the licensing justices under the Licensing Acts.

NB: The council has no power to retrospectively approve unauthorised alterations made during the period of the licence.

The meeting commenced at 10.00am and concluded at 11.00am.

Chairman