

**LICENSING SUB-COMMITTEE****28 August 2013****Attendance:**

Councillors:

Izard (Chairman) (P)

Bodtger (P)

Prowse (P)

**Officers in Attendance:**

Mr J Myall (Head of Licensing)

Mrs C Tetstall (Property and Licensing Solicitor)

Miss K Gosling (Licensing Assistant)

Mr P Tidridge (Environmental Health Officer)

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**1. NEW PREMISES LICENCE – UNIT A & B 28 JEWRY STREET, WINCHESTER**

(Report LR419 and Addendum refers)

The Sub-Committee met to consider an application for a new premises licence under Section 17 of the Licensing Act 2003 for a café/bar at Unit A & B, 28 Jewry Street, Winchester.

Present at the meeting on behalf of the applicant, was Mr K Latouf and his solicitor, Mr P Savill. Also present was Mr R Hall, representing his daughter Miss C Hall (an interested party who made a representation on the application).

Mr Myall presented the application as set out in the Report. He advised that the original application had included an application for recorded music. However, this had been withdrawn as it was not necessary for premises to have such a licence to play background music, incidental to the main purpose of the licence.

Mr Myall highlighted that subsequent to the Report being prepared, additional information had been received from Mr K Latouf, which had been circulated to all parties (Addendum to LR419 refers). He stated that although the Sub-Committee could have regard to the applicant's other premises (Josie's in Bishops Waltham) in terms of background information on types of operation, each application should be considered on its own merits.

Mr Myall also drew attention to a correction to the Report to substitute the word "appropriate" for "necessary" under Section 4, Observations (i.e. corrected to read "The Sub-Committee must take such of the following steps it considers appropriate to promote the Licensing Objectives: ...").

Mr Myall stated that no representations had been received from the Police or other responsible authorities in respect of this application. One relevant representation had been received from Ms C Hall, a resident of a flat situated above the premises. As the premises were within the cumulative impact area, the Sub-Committee must be satisfied that the operation of the premises would not add to the cumulative impact already experienced.

Mr Savill spoke in support of the application. With the permission of the parties, he distributed colour photographs showing the interior of the applicant's current licensed premises – a café/bar in Bishops Waltham. He stated that this premises had been in operation for about two years, without any complaints. Mr Savill emphasised that it was intended that alcohol would also be only sold at the new premises as an accompaniment to a meal. It was also intended to sell premium wines to customers to take home. The café would have 50 covers and would shut at 10pm Monday to Saturdays (4pm on Sundays) and consequentially, would not attract people leaving other licensed premises along Jewry Street later at night.

Mr Savill highlighted that no representations had been received from any of the responsible authorities, particularly the Police and Environmental Health. He stated that licensing objectives were designed to prevent public nuisance, but argued that any nuisance being experienced by Ms Hall was private nuisance from an adjoining premises.

In response to Members' questions, Mr Latouf explained that during the day, the intention was to offer a breakfast/brunch menu, predominantly focussed around serving coffee. In the early evening, meals would be offered with an accompanying alcoholic drink menu. There were not any standing areas for customers to eat and/or drink and alcohol would only be served to customers seated at tables. Mr Latouf also gave further details about the design of the interior and ceiling area, but was not able to comment on the provision of any insulation between the units and the flats above.

Mr R Hall spoke on behalf of his daughter, Miss Hall (an interested party) who was unable to attend the meeting. He queried whether the applicant intended to operate the premises more as a bar than a café? He advised that there was no noise insulation between his daughter's flat and the premises below. However, he confirmed that the flat was purchased with planning permission already granted for restaurant use in the ground floor units. He highlighted the noise experienced late at night in the area due to people congregating at the nearby taxi rank, off-licence and late night food outlets and expressed concern that the new licence being applied for would contribute to this, especially by offering the sale of alcohol for consumption off the premises.

The Sub-Committee retired to deliberate in camera.

In his closing remarks, the Chairman stated that the Sub-Committee had carefully considered the application and the representations made and the matters raised during the hearing. 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.

The Sub-Committee concluded that it would grant the application for a new premises licence for the following reasons. In coming to its decision, the Sub Committee considered that the premises would not have a negative cumulative impact in the area, because of the manner in which the premises would be operated and managed, and in particular noted that no representation had been received from the Police regarding crime and disorder issues. The Sub-Committee considered that the fact that there was a new off-licence in the area was not relevant, as the need for premises was not a consideration. With regard to the matter of public nuisance, the Sub-Committee noted that no representations had been received from Environmental Health or from any other person (apart from Miss Hall) and did not consider that public nuisance was a consideration here.

#### RESOLVED:

That the application be granted, subject to the following conditions:

#### Operating Hours

1. Sale of Alcohol for consumption on and off the premises
  - (i) **Monday to Saturday 1000 to 2200 each day**
  - (ii) **Sunday 1000 to 1600**
2. The hours the premises may open for other than Licensable Activities shall be:
  - (i) **Monday to Saturday 0700 to 2200 each day**
  - (ii) **Sunday 0900 to 1600**

#### Mandatory Conditions

These conditions are attached to the premises licence in any case.

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.

3. Where individuals are required on premises to carry out security activities, they must be licensed by the Security Industry Authority.
4. The responsible person shall take all reasonable steps to ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
5. The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).
6. The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.
8. The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.
9. 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 a holographic mark.
10. The responsible person shall 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; and
  - (b) customers are made aware of the availability of these measures.

### **All Licensing Objectives**

1. Alcohol shall only be consumed on the premises with the consumption of food, indoors only.
2. A suitable and sufficient CCTV camera system linked to a suitable recording facility shall, so far as is reasonably practicable, be operational at the premises during any period in which licensable activities are permitted.

- (a) So far as is reasonably practicable, the CCTV system must be maintained in good working order at all times.
  - (b) CCTV recordings and footage must be retained for a minimum period of 28 days and be made available for review by the Police upon request (subject to the requirements of the Data Protection legislation in force at the time).
  - (c) The CCTV system shall incorporate a camera covering the entrance door and any area(s) where alcohol is displayed.
3. Anyone authorised to sell alcohol at the premises shall be suitably trained and supervised in respect of the following matters to a level commensurate with their duties and responsibilities:-
- (a) the refusal of the sale of alcohol to those who appear intoxicated;
  - (b) the steps to be taken where an individual appearing to be under the age of 21 attempts to purchase alcohol.
4. Anyone authorised to sell or supply alcohol at the premises shall request and ensure sight of suitable identification, for proof of age, of any person appearing to them to be under the age of 21 (twenty-one) and who is attempting to purchase alcohol for consumption off the premises

2. **NEW PREMISES LICENCE – ABBEY MILL, COLEBROOK STREET, WINCHESTER**

(Report LR420 and Addendum refers)

The Sub-Committee met to consider an application for a new premises licence under Section 17 of the Licensing Act 2003 for a River Cottage Canteen and Deli at Abbey Mill, Colebrook Street, Winchester.

Present at the meeting on behalf of the applicant, was Ms R Foley and Mr R Greacen and their solicitor, Mr M Phipps. Also present was Mr G Ashton and Councillor F Mather (parties who made a representation on the application). In addition, Mr P Tidridge (Environmental Health) was also present.

Mr Myall presented the application as set out in the Report. Mr Myall highlighted that subsequent to the Report being prepared, supplementary information had been received in terms of an exchange of communications between TLT Solicitors (for the applicant) and Mr Ashton. This information had been circulated to all parties (Addendum to LR420 refers).

Mr Myall advised that the application included an application for recorded music which the applicant stated would be played on no more than one occasion per week.

Mr Myall also drew attention to a correction to the Report to substitute the word “appropriate” for “necessary” under Section 4, Observations (i.e. corrected to read “The Sub-Committee must take such of the following steps it considers appropriate to promote the Licensing Objectives: ...”

Mr Myall stated that no representations had been received from the Police or other responsible authorities in respect of this application. Three relevant representations had been received from Councillor F Mather, Mr G Ashton and Mr H Jones.

Mr Myall clarified that the Abbey Gardens was within an area covered by a Designated Public Place Order (DPPO), which gave powers to the Police to stop persons drinking in public. However this Order but did not cover licensed premises, including outside areas of such premises. In addition, the status regarding the planning consent for the premises was not relevant as it was not a licensing objective.

Mr Myall explained that the hours of original licensing application had been amended to coincide with the hours of the planning permission. In addition, under the Live Music Act 2012, no licence was required for live music provided the premises were open for the sale of alcohol.

On behalf of the applicant, Mr Phipps clarified that the River Cottage canteen intended to offer live music a few times a year as ancillary to customers enjoying a meal. This would be of an acoustic type only. In addition, the application included licence for recorded music to give the applicant flexibility in how the premises were operated. However, it was unlikely that recorded music, other than for the purposes of background music, would be used.

Mr Phipps explained that the late night refreshment application was to enable the applicant to sell hot beverages and/or food after 11pm (up until 11.30pm). The alcohol offered at the premises would be of a premium nature and the application for an off-licence was to enable customers to purchase a bottle of wine or beer to take home with them after a meal.

Mr Phipps stated that the Ward Councillor (Councillor Mather) had made representations regarding the original hours of operation and confirmed that the hours of operation had been amended to reflect the planning application. Councillor Mather confirmed that the points in her representation had been addressed by this change.

Mr Phipps advised that the correspondence with Mr Ashton had addressed a number of his concerns and he believed only two issues remained relating to the proximity to the children’s play area and the DPPO. The latter point had been addressed by Mr Myall above. With regard to the former point, Mr Phipps stated that he did not consider that the licensing objective on the protection of children was undermined by approving a licence for drinking outside the premises.

Mr G Ashton thanked the applicant and their solicitors for contacting him and their response to a number of queries (as contained within the Addendum to the Report). In particular, he welcomed the change in hours and clarification regarding CCTV, taxi pick-up point, windows and doors remaining closed to reduce noise levels, and the off-licence application. He confirmed that his outstanding issues related to the proximity of the play area and the location within the DPPO. With regard to the former point, he asked Members to consider whether it was appropriate to permit the consumption of alcohol in direct proximity to a play area? In relation to the second point, he believed the Council was sending out mixed messages by seeking to discourage the drinking of alcohol in the park but permitting it within the premises outside seating area. For these reasons, he requested that the application be amended to exclude the outside seating area.

Mr Myall clarified that the purpose of the DPPO was not to prohibit the consumption of alcohol, but to give the Police the necessary power to stop any nuisance being caused as a result. In any case, the outside seating area would be excluded from the zone.

In response to Mr Ashton's comments, Mr Phipps highlighted that the outside area was an integral part of the application and he did not consider there was any legitimate reasons to exclude it.

In response to questions, Mr Tidridge confirmed that Environmental Health would always encourage any complaints about noise levels to be taken up with the licence holder directly initially.

The Sub-Committee retired to deliberate in camera.

In his closing remarks, the Chairman stated that the Sub-Committee had carefully considered the application and the representations made and the matters raised during the hearing. 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.

The Sub-Committee concluded that it would grant the application for a new premises licence for the following reasons. In coming to its decision, the Sub-Committee noted that the applicant had taken steps to address the concerns of residents by amending the hours of opening and other measures mentioned above. In addition, conditions were included which would also address residents' concerns. The Sub-Committee has taken into account the representations relating to the proximity of the children's play area, but noted that no representations had been received from the relevant responsible authority.

**RESOLVED:**

That the application be granted, subject to the following conditions:

## Operating Hours

1. The hours the premises may be used for regulated entertainment shall be:

### Recorded Music - Indoors Only

- a. Mondays to Saturdays 0900 to 2300
- b. Sundays 0900 to 2200

### Late Night Refreshment – Indoors Only

- a. Mondays to Saturdays 2300 to 2330

### Sale of alcohol for consumption on and off the premises

- a. Mondays to Saturdays 0900 to 2330
- b. Sundays 1000 to 2300

### The Opening Hours of the Premises

- a. **Mondays to Saturdays 0800 to 2330**
- b. **Sundays 0800 to 2300**  
**(to allow for non-licensable activities)**

## Mandatory Conditions

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.
3. Where individuals are required on premises to carry out security activities, they must be licensed by the Security Industry Authority.
4. No film shall be exhibited unless it has received a U, PG, 12, 15 or 18 certificate from the British Board of Film Classification, or it is a current newsreel which has not been submitted to the British Board of Film Classification. The admission of children shall be restricted in accordance with the recommendations of the British Board of Film Classification.
5. The responsible person shall take all reasonable steps to ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.



6. The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).
7. The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.

The following conditions will apply from 1 October 2010.

8. The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.
9. 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 a holographic mark.
10. The responsible person shall 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; and
  - (b) customers are made aware of the availability of these measures.

### **All Licensing Objectives**

#### **Crime and Disorder**

1. A suitable and sufficient CCTV camera system linked to a suitable recording facility shall, so far as is reasonably practicable, be operational at the premises during any period in which licensable activities are permitted.
  - a. So far as is reasonably practicable, the CCTV system must be maintained in good working order at all times.
  - b. CCTV recordings and footage must be retained for a minimum period of 31 days and be made available for review by the Police upon request (subject to the requirements of the Data Protection legislation in force at the time).

- c. All CCTV recorded images and footage and copies thereof shall, so far as is reasonably practicable, be of evidential standard / quality and otherwise be regarded as identification standard.
  - d. One camera must either capture images of people arriving or leaving the premises.
  - e. All CCTV recorded images / footage and copies thereof shall, so far as is reasonably practicable, display the correct time and date of each recording.
  - f. The CCTV system shall be capable of producing immediate recordings on site and a person conversant with the operation and retrieval of information obtained by the CCTV system shall be available to attend the premises at all times.
2. 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 police for inspection upon request.
  - a. 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.
  - b. 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.
  - c. 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 the duty manager will de-brief 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.
3. The premises shall be a member of a local Pubwatch scheme if available.
4. Off sales to be taken off the licensed area shall be supplied only in sealed containers.

**Public Safety**

None

**Public Nuisance**

1. Whilst music is being played as part of regulated entertainment, the licensee or appointed member of staff shall check periodically that noise levels are acceptable. Such monitoring shall be carried out at the boundary of the premises to ensure that local residents are not likely to be disturbed.
2. Prominent, clear notices shall be displayed at all exits requesting customers to respect the needs of local residents, to leave the premises and the area quietly.
3. All doors and windows that are capable of being opened directly to the outside of the premises shall not be kept open whilst the premises are in use for the purposes of regulated entertainment.
4. A telephone number shall be made available for local residents to contact the premises in the case of noise nuisance or anti-social behaviour by persons associated with the premises. A record of all calls shall be kept including the action taken.
5. The outside seating area shall cease to be used no later than 2100 on any day.

**Protection of Children**

1. A written log shall be kept of all refusals including refusals to serve alcohol. The holder of the premises licence shall ensure that the refusals log is properly maintained and this shall involve, but is not limited to, nominating in writing a responsible person to check and sign it on a weekly basis.
2. Anyone authorised to sell alcohol at the premises shall be suitably trained and supervised in respect of the following matters to a level commensurate with their duties and responsibilities:-
  - a. the refusal of the sale of alcohol to those who appear intoxicated;
  - b. the steps to be taken where an individual appearing to be under the age of 18 attempts to purchase alcohol.

3. Anyone authorised to sell or supply alcohol at the premises shall request and ensure sight of suitable identification, for proof of age, of any person appearing to them to be under the age of 21 (twenty-one) and who is attempting to purchase alcohol.
4. Suitable and sufficient warning signs shall be displayed in the premises providing information in respect of the above challenge 21 policy and the request for suitable identification in connection thereof.

The meeting commenced at 10.00am and concluded at 12.35pm

Chairman