

LICENSING SUB – COMMITTEE

14 June 2016

Report of the Head of Environmental Health and Licensing

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Application: Variation of a Premises Licence

Premises: Lainston House Hotel, Stockbridge Road, Sparsholt, Winchester,
Hampshire SO21 2LT

Part A. Report

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Part A.**1. Application**

Applicant: Lainston House Limited

Premises: Lainston House Hotel, Stockbridge Road, Sparsholt, Winchester, Hampshire SO21 2LT

- 1.1 This report relates to an application to vary a premises licence PREM 74 under section 34 of the Licensing Act 2003 for Lainston House Hotel, Stockbridge Road, Sparsholt, Winchester, Hampshire SO21 2LT.
- 1.2 Lainston House Limited has held the premises licence since the Licensing Act 2003 came into force on 24 November 2005.
- 1.3 The current licensable hours for supply of alcohol are Monday to Saturday 1000 to 2300, Sunday 1200 to 2230, Christmas Day 1200 to 1500 and 1900 to 2230, Good Friday 1200 to 2230 and New Years Eve 1000 to 1000 1 January (1200 if on a Sunday). The hours for regulated entertainment are Sunday to Saturday 1000 to 0000 and New Years Eve 1000 to 0100 1 January. The hours for late night refreshment are Monday to Saturday 2300 to 2330 and New Years Eve 2300 to 0500.
- 1.4 The purpose of the application is to extend the licensing hours for the supply of alcohol to Monday to Sunday 1000 to 0200, all regulated entertainment (excluding boxing and wrestling entertainment) to Monday to Saturday 1000 to 0200 and Sunday 1200 to 0200 and late night refreshment to Monday to Sunday 2300 to 0200. Non-Standard timings for New Years Eve are to remain as per the current licence. The application also includes changes to plan of the premises to include Dawley Barn on to the licence. The Dawley Barn is currently covered by a separate premises licence and if the application is granted the applicant will surrender the licence. No additional conditions have been offered and the conditions on the current licence are from the converted public entertainment licences. The application can be found in Appendix 1.
- 1.5 A representation was received from Environmental Health, a Responsible Authority, on the grounds of the public nuisance licensing objectives. A copy of this can be found in Appendix 2.
- 1.6 No representations were received from any other Responsible Authority.
- 1.7 Representations were received from thirteen other persons. These relate to the public nuisance licensing objective. Copies of these can be found in Appendix 3.
- 1.8 The applicant has been notified of all relevant representations.

- 1.9 Notice of the application was displayed outside of the premises for a period of 28 days until 17 May 2016, and advertised in the Hampshire Chronicle on 28 April 2016.
- 1.10 Notices of the hearing were sent to all parties on 27 May 2016.

Current Designated Premises Supervisor

Gaius Alexander Wyncoll (from 1 April 2015)

Relevant Representations

2. Responsible Authorities

All of the Responsible Authorities have been served with a copy of the application. The representations received are as follows:

Hampshire Constabulary

No representations received.

Environmental Health

Representation received.

Hampshire Fire and Rescue Service

No representations received.

Child Protection Team

No representations received.

Building Control

No representations received.

Head of Safety Standards

No representations received.

Public Health Manager

No representations received.

Licensing Authority

No representations received.

3. Representations from Other Persons

Representations have been received from the following persons, all which relate to public nuisance:

Richard Morse
Francis and Kat Nicholson
Keith Wood
Anne Pease
Nicholas Craig-Harvey
Julia Craig-Harvey
Amanda Hemmingway
Ian Beith
Nicola Ormerod
Alison Gammon
Jan Anderson
Christine Morse
Jill Judge on behalf of Sparsholt Parish Council

Copies of the representations received can be found in Appendix 2.

4. Observations

4.1 The Sub-Committee is obliged to determine this application with a view to promoting the Licensing Objectives:

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

4.2 In making its decision, the Sub-Committee is also obliged to have regard to the National Guidance and the Council's Licensing Policy.

4.3 The Sub-Committee must have regard to all of the representations.

4.4 The licensing authority must, having regard to the application and any relevant representations, take such steps shown below as it considers necessary for the promotion of the licensing objectives:-

- a) Vary the licence subject to conditions in accordance with the operating schedule (modified to such extent as the authority considers necessary for the promotion of the licensing objectives) and the mandatory conditions;
- b) Exclude from the scope of the licence any of the licensable activities to which the application relates;
- c) Reject the application

Terminal hours

The Sub-Committee should take account of the National Guidance and the Council's Licensing Policy with regard to terminal hours and take such steps as it considers appropriate to promote the Licensing Objectives.

(Licensing Policy Part 4, A8)

Licensing Objectives.

Crime and Disorder

The Sub-Committee should consider any appropriate conditions to prevent crime and public disorder relating to the premises having regard to the operating schedule and the representations.

(Licensing Policy 1.9, 2.11, 2.17 and Part 4 Section A)

Public Safety

The Sub-Committee should consider any appropriate conditions relating to public safety having regard to the relating to the premises having regard to the operating schedule and the representations.

(Licensing Policy Part 4, B3, B4)

Public Nuisance

The Sub-Committee should consider any appropriate conditions to prevent public nuisance caused by noise and light pollution from the premises relating to the premises having regard to the operating schedule and the representations.

(Licensing Policy Part 4, Section C)

Protection of Children

The Sub-Committee should consider any necessary conditions for the Protection of Children relating to the premises having regard to the operating schedule and the representations.

(Licensing Policy Part 4, D6, D7)

Human Rights

It is considered that Articles 6 (right to a fair trial) 8 (right to respect for private and family life) and Article 1 of the First Protocol (right to peaceable enjoyment of possessions) may be relevant. As there is a right of appeal to the Magistrates' Court, it is considered that there would be no infringement of Article 6. Article 8 is relevant, insofar as the nearby residents could claim that this right would be infringed by disturbance from customers. This should be balanced against the applicants' right to use of their premises under Article 1 of the First Protocol. Interference with these rights is permitted, where this interference is lawful, appropriate in a democratic society, and proportionate. Likewise, the residents may argue that their rights under Article 1 of the First Protocol would be infringed. If conditions are imposed, there should be no interference with any convention rights. To the extent that any interference may occur, it would be justifiable in a democratic society, and proportionate.

5. Conditions

The Mandatory Conditions are imposed on a premises licence in any case.

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.

Possible Conditions

If the application is granted, the Sub-Committee may wish to consider the following conditions to reflect the Operating Schedule:

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**
- (ii) **Sunday** **1200 to 0200**
- (iii) **New Years Eve** **1000 to 0100 1 January**

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.

6. Other Considerations

Community Strategy and Portfolio Plans (Relevance To:)

This report covers issues which affect the Outcomes of High Quality Environment and Active Communities.

There is no direct link to Portfolio Plans as the requirements under the Licensing Act 2003 are statutory functions.

Resource Implications

The application fee of £635 has been received. An annual fee of £350 is payable on the anniversary the licence was granted. In regulating the activities it is anticipated that an appropriate level of officer attendance will be provided within the existing budget.

Appendices

1. Application by Lainston House Limited
2. Representations by Responsible Authorities
3. Representations by other persons
4. Current premises licence (redacted) and plan
5. Map of premises location