

LICENSING SUB – COMMITTEE

Wednesday 12 May 2021 10:00

Report of the Service Lead for Public Protection

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Application: Application for the Grant of a New Premises Licence

Premises: Coffee Lab The Square, 20 - 21 The Square, Winchester,
Hampshire, SO23 9EX

Part A. Report

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Part A.**1. Application**

Applicant: Coffee Lab The Square Limited

Premises: Coffee Lab The Square, 20 - 21 The Square, Winchester, Hampshire, SO23 9EX

- 1.1 This application is for the grant of a new premises licence under section 17 of the Licensing Act 2003 for Coffee Lab The Square, 20 - 21 The Square, Winchester, Hampshire, SO23 9EX.
- 1.2 The premises is described in the application as a coffee shop situated just off Winchester High Street.
- 1.3 The application proposes the provision of regulated entertainment and the supply of alcohol as licensable activities; details of the proposed days and times are outlined in Section 5 of this report.
- 1.4 Hampshire Constabulary made a representation against this application in relation to the prevention of crime and disorder and the protection of children from harm licensing objectives. During the consultation period a number of conditions were agreed between Hampshire Constabulary and the applicant, and the representation was subsequently withdrawn. These conditions are reflected in Section 5 of this report.
- 1.5 No representations were received by any other Responsible Authorities.
- 1.6 Representations have been received from 5 Other Persons, all of which are against the application. The representations are set out in Appendix 2 to this report, and primarily relate to the prevention of crime and disorder and the prevention of public nuisance licensing objectives.
- 1.7 In response to one of the representations received from 'Other Persons' the applicant amended the application with regards to the supply of alcohol for consumption off the premises. The licensable hours for this activity have been amended to begin at 11:00 each day, as opposed to the initially proposed 09:00. This is reflected in Section 5 of this report.
- 1.8 Notice of the application was displayed outside of the premises for a period of 28 days until 14 April 2021, and advertised in the Mid Hampshire Observer on 25 March 2021.
- 1.9 Notices of the hearing were sent to all Parties on Thursday 22 April 2021.

Designated Premises Supervisor

None; since the application was submitted to the licensing authority, the proposed designated premises supervisor has advised that they will no longer be associated with this premises.

The premises licence, if granted, would not authorise the supply of alcohol until such time as an application is received to specify a new designated premises supervisor.

Steps to promote the Licensing Objectives

Please see Section M, Appendix 1.

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:

Environmental Health

No representations received.

Hampshire Constabulary

PC Brian Swallow, on behalf of Hampshire Constabulary, made a representation against this application with regard to the prevention of crime and disorder and the protection of children from harm licensing objectives. During the consultation period a number of conditions were agreed between Hampshire Constabulary and the applicant, and the representation was subsequently withdrawn. These conditions are reflected in Section 5 of this report.

Hampshire Fire and Rescue Service

No representations received.

Child Protection Team

No representations received.

Building Control

No representations received.

Head of Trading Standards

No representations received.

Public Health Manager

No representations received.

Home Office

No representations received.

Licensing Authority

No representations received.

Planning

No representations received.

3. **Representations from Other Persons**

Representations have been received from 5 'Other Persons', all of which are against the application. The main concerns are with regard to the prevention of crime and disorder and the prevention of public nuisance licensing objectives.

Representations can be seen at Appendix 2.

4. Observations

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

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

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

The Sub-Committee must take such of the following steps it considers appropriate to promote the Licensing Objectives:

1. Grant the licence subject to conditions in accordance with the operating schedule (modified to such extent as the authority considers appropriate for the promotion of the licensing objectives) and the mandatory conditions;
2. exclude from the scope of the licence any of the licensable activities to which the application relates;
3. 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 2.22 Part 4, A8, C4)

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, 2.9 - 2.11, 2.17, 2.19 – 2.21 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, B2, B3)

Public Nuisance

The Sub-Committee should consider any appropriate conditions to prevent public nuisance caused by noise 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.

Public Sector Equality Duty

The Public Sector equality duty must be taken in to consideration with all decision making. The duty is stated in section 149 of The Equality Act 2010. This application raises no considerations under this Act.

5. 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.

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 times 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 carried 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 an 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: 25ml or 35ml; and
 - (iii) still wine in a glass: 125ml;
 - (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.

Conditions in italics are those which have been suggested by Hampshire Constabulary and subsequently agreed with the applicant.

Operating Hours

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

Live Music <i>(indoors only)</i>	Monday to Sunday New Year’s Eve	18:00 to 23:00 18:00 to 02:00
Recorded Music <i>(indoors only)</i>	Monday to Sunday New Year’s Eve	08:00 to 23:00 08:00 to 02:00

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

Supply of Alcohol	Monday to Sunday New Year’s Eve	09:00 to 22:00 09:00 to 02:00
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The supply of alcohol is for both consumption on and off the premises. Please also see condition A1 in relation to off sales.

3. The hours the premises may open for other than Licensable Activities shall be:

Monday to Sunday	08:00 to 23:00
New Year's Eve	08:00 to 02:00

All Licensing Objectives

- A1: The premises licence holder shall ensure that alcohol for consumption off the premises is not supplied or sold prior to 11:00 each day.
- A2: *Before commencing their duties all new staff must receive information and training concerning the sale of age-restricted products. This training must cover their legal responsibilities and action to be taken in the event of suspicions being aroused that someone is purchasing or attempting to purchase an item under the legal age. All employees will sign a letter to acknowledge that they have completed this training and have understood their responsibilities on this area. This training should be reviewed and updated at reasonable intervals but at least annually.*

Crime and Disorder

CD1: *Refusals Book*

- (i) *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 venue manager.*
- (ii) *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 responsible authority.*
- (iii) *The record of refusals will be retained for 12 months.*

Public Safety

None.

Public Nuisance

- PN1: The premises licence holder shall ensure that notices are displayed at the exit points, requesting that customers leave quietly and with respect to local residents.

Protection of ChildrenPC1: *Challenge 25*

- (i) *There will be a Challenge 25 policy operating at the premises. Challenge 25 means that the holder of the premises 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.*
- (ii) *Acceptable identification for the purposes of age verification will include a photo card driving licence, passport or photographic identification bearing the "PASS" logo and the persons date of birth.*
- (iii) *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.*
- (iv) *'Challenge 25' posters shall be displayed in prominent positions at the premises.*

6. Other Considerations

Council Strategy Outcome (Relevance To:)

This report relates to the fourth Strategic Outcome; 'Improving the quality of the District's environment' by working with partners and using powers available to us to make Winchester a safe and pleasant place to live, work and visit.

Resource Implications

A statutory licence fee of £315.00 has been received. It is anticipated that an appropriate level of officer attendance will be provided within the existing budget.

Appendices

1. Application by Coffee Lab The Square Limited
2. Representations by Other Persons