

LICENSING SUB – COMMITTEE

Thursday 20 January 2021 14:30 Guildhall Winchester

Report of the Service Lead for Public Protection

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Application: Application for the Grant of a New Premises Licence

Premises: The Stable, 31B The Square, Winchester, Hampshire,
SO23 9EX

Part A. Report

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Part A.**1. Application**

Applicant: The Stable Bar And Restaurants Limited

Premises: The Stable, 31B 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 The Stable, 31B The Square, Winchester, Hampshire, SO23 9EX.
- 1.2 The premises is described in the application as a 'bar and restaurant.' A plan of the premises location can be seen at Appendix 4.
- 1.3 The premises already has an existing premises licence in effect (see Appendix 3). This new application seeks to retain the same operating hours as the existing licence, with some modifications and conditions that reflect the current operation of the premises.
- 1.4 The application specifies live music, recorded music, late night refreshment and supply of alcohol (for consumption on and off the premises) as the licensable activities. The full application, including hours applied for and proposed conditions, can be seen at Appendix 1.
- 1.5 One representation has been received by a Responsible Authority; PC Brian Swallow of Hampshire Constabulary, on behalf of the Chief Officer of Police. This representation is set out in Appendix 2 to this report, and relates to the licensing objectives of prevention of crime and disorder, public safety and prevention of public nuisance.
- 1.6 It is understood that discussions about possible conditions were had between PC Brian Swallow and the applicant's appointed agent during the consultation period; however, no agreement was reached. A copy of the email correspondence can be seen at Appendix 5.
- 1.7 No representations were received by Other Persons.
- 1.8 Notice of the application was displayed outside of the premises for a period of 28 days until 20 December 2021, and advertised in the Hampshire Chronicle on 25 November 2021.
- 1.9 Notices of the hearing were sent to all Parties on 11 January 2022.

Designated Premises Supervisor

Taione Matasere Masuwale

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 of Hampshire Constabulary, on behalf of the Chief Officer of Police, made a representation against the application. It relates to the licensing objectives of prevention of crime and disorder, public safety and prevention of public nuisance.

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

No representations have been received from any Other Persons.

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

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:

Operating Hours

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

Monday to Wednesday	10:00 to 01:00
Thursday to Saturday	11:00 to 02:30
Sunday	10:00 to 00:00

From 10:00 on New Year’s Eve until the end of permitted hours on New Year’s Day, and for an additional hour on Christmas Eve, Bank Holidays and Sundays immediately preceding a Bank Holiday Monday.

2. The hours the premises may be used for the provision of regulated entertainment shall be:

Live Music	Monday to Wednesday	11:00 to 00:00
	Thursday and Saturday	11:00 to 01:00
	Friday	11:00 to 02:00
	Sunday	12:00 to 23:00

From 11:00 on New Year’s Eve until the end of permitted hours on New Year’s Day, and an additional hour on Christmas Eve, Bank Holidays and any Sunday immediately preceding a Bank Holiday Monday.

Recorded Music	Monday to Wednesday	11:30 to 01:30
	Thursday to Saturday	11:30 to 02:30
	Sunday	11:30 to 00:00

From 11:30 on New Year’s Eve until the end of permitted hours on New Year’s Day, and an additional hour on Christmas Eve, Bank Holidays and any Sunday immediately preceding a Bank Holiday Monday.

3. The hours the premises may be used for the provision of late night refreshment shall be:

Monday to Wednesday	23:00 to 01:00
Thursday to Saturday	23:00 to 02:30
Sunday	23:00 to 00:00

From 23:00 on New Year's Eve until 05:00 on New Year's Day, and for an additional hour on Christmas Eve, Bank Holidays and Sundays immediately preceding a Bank Holiday Monday.

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

Monday to Wednesday	08:00 to 01:00
Thursday to Saturday	08:00 to 02:30
Sunday	08:00 to 00:00

From 08:00 on New Year's Eve until the end of permitted hours on New Year's Day, and for an additional hour on Christmas Eve, Bank Holidays and Sundays immediately preceding a Bank Holiday Monday.

All Licensing Objectives

- A1: This licence shall be of no effect unless and until premises licence number PREM 196 is surrendered.
- A2: The premises shall be a food-led establishment and to that end:
- (i) Substantial meals appropriate to the time of day shall be available to order at least from the time the premises open until 22:00 hours or an hour before the intended closing time of the premises, whichever is earlier;
 - (ii) A waiter/waitress service shall be in operation at all times; and
 - (iii) Non-alcoholic beverages including tea and coffee shall be available at all times the premises are open.

Crime and Disorder

- CD1: The holder of the licence shall install and thereafter maintain in good working order a CCTV system that covers all public parts of the premises (except the lavatories). Recordings shall be accurately date and time stamped and retained for a minimum period of 30 days. The system shall be checked at least weekly and a written record shall be kept of those checks. Any defect will be noted along with details of steps taken to rectify the defect. The record shall be made available for inspection by police and other authorised officers on request.

CD2: Facilities shall be available to allow police and other authorised officers to view playbacks of CCTV recordings immediately on request and to be provided with copies in playable format as soon as is reasonably practicable, provided in every case that the request is compliant with data protection regulations.

CD3: The premises shall maintain an Incident Book and Refusals Register (either separately or as a single record) and use the same to record:

- Any incident occurring in the premises (including the external area) involving the commission (or suspected commission) of any criminal offence or incident of anti-social behaviour;
- Any occasion when a customer is refused service of alcohol and the reason for the refusal;
- Any occasion when a customer is asked to leave the premises (other than at closing time); and
- Any occasion when a person is refused admission to the premises.

The incident book/refusals register shall be made available for inspection by police and other authorised officers on request.

CD4: If it is intended that the premises will be open to the public beyond midnight on any day and/or any event is planned that is different from the normal operation of the premises (e.g. the televising of a major sporting event), the holder of the licence or the DPS shall carry out a risk assessment to determine:

- Whether it is appropriate to deploy door supervisors before, during and after the event;
- Whether it is inappropriate to use glass drinking vessels or serve alcohol in bottles; and
- Whether any additional measures need to be temporarily put in place to prevent crime and disorder.

The outcome(s) of the risk assessment shall then be implemented and if any door supervisor is deployed, full details of their deployment, including details of their SIA registration shall be recorded in the Incident Book.

Copies of any risk assessment shall be provided to the police and other authorised officers on request and retained for at least 12 months.

CD5: The premises licence holder will send a representative of the premises (wherever possible the DPS) to Pubwatch meetings or meetings of a similar scheme, so long as such a scheme is in existence and welcomes participation of the venue representative.

CD6: The DPS or their representative shall ensure that descriptions of disorderly/banned individuals are circulated to other licensed venues via the Pubwatch or similar scheme. The DPS will work in cooperation with

Hampshire Constabulary and other licensed venues by refusing entry to any person who has been included on the banned list.

Public Nuisance

PN1: If it is intended to provide any form of live or recorded music as regulated entertainment other than in accordance with the Live Music Act as amended (i.e. after 23:00 hours) the holder of the licence will:

- Have in place a written noise management plan to ensure that neighbouring properties will not suffer from a noise nuisance;
- Undertake monitoring of noise levels outside the premises at least every 30 minutes to ensure that noise levels are not causing nuisance to the occupiers of any residential properties in the locality;
- Ensure that all amplified music is routed through a noise limiting device calibrated to the reasonable satisfaction of the Licensing Authority.

PN2: If the premises are open beyond midnight, the admission of new patrons will not be permitted after 01:30 hours.

PN3: The holder of the licence shall ensure that noise and odours from the premises are controlled in such a way as not to cause a public nuisance.

PN4: A notice shall be prominently displayed at the exit(s) from the premises requesting that patrons leave quietly.

Protection of Children

PC1: The premises shall operate a 'Challenge 25' policy whereby any person who appears to be under the age of 25 shall be required to produce photographic proof of age in one or other of the forms prescribed by the mandatory conditions before being supplied with alcohol.

PC2: All staff involved in the sale of alcohol shall be trained regarding prohibited sales (to persons who are under-age or who are intoxicated) and the conditions attaching to this licence. Refresher training will be provided at least every 6 months.

Written records of all training will be maintained and made available for inspection by authorised officers on request.

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 £450.00 has been received. It is anticipated that an appropriate level of officer attendance will be provided within the existing budget.

Appendices

1. Application by The Stable Bar And Restaurants Limited
2. Representations by Responsible Authorities
3. Current Premises Licence (PREM 196)
4. Map of Premises Location
5. Correspondence between Police and Applicant