

**APPLICATION FOR THE GRANT OF A NEW PREMISES LICENCE FOR  
THE STABLE, 31B THE SQUARE, WINCHESTER**

My profuse apologies for the lateness of this which is entirely my fault and not that of the Applicant.

I have endeavoured below to pull together the various conditions proposed by the Applicant and the conditions proposed by the Police with a commentary as to the relevant points of difference, this in the hope that the relevant issues can be more easily identified at the hearing.

The following are the conditions put forward by the applicant, followed by the conditions proposed by the police with, in each case a commentary as to the applicant's position.

**General**

*As proposed by the Applicant:*

The relevant mandatory conditions shall apply to the licence.

This licence shall be of no effect unless and until Premises Licence Number PREM196 21/00692/LAVDPS is surrendered.

The premises shall be a food-led establishment and to that end:

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;

A waiter/waitress service shall be in operation at all times; and

Non-alcoholic beverages including tea and coffee shall be available at all times the premises are open.

*As proposed by the Police – (note that the mandatory conditions will apply in any event and that unless and until the current licence is surrendered, any licence now granted pursuant to this application will be of no effect.)*

**RESTURANT CONDITION**

*The premises shall only operate as a restaurant where;*

*Customers are shown to their table.*

*Substantial table meals are prepared on the premises and are served and consumed at the table using non-disposable crockery.*

*No take-away service of food or drink for immediate consumption is provided.*

*Intoxicating liquor is only sold, supplied or consumed on the premises to persons who are bona fide customers supplied with substantial table meals.*

*Waiter/Waitress service shall be available throughout the premises at all times*

*Substantial food shall be available until at least one hour before the intended closure of the premises.*

*Consumption of alcohol in the bar area is restricted to customers waiting to be escorted to a table*

*Numbers of patrons drinking in the bar areas (not awaiting tables) shall not exceed (6) persons*

*Alcohol shall only be sold or supplied to customers who are engaging in a sit down table meal, as an ancillary to that meal.*

(With the additional comments in the representation as follows:

*"The applicant also wishes to retain the very late operating and licensable hours, 02:30 on weekends.*

*This puts this venue very firmly into the category of a night-time economy venue. To put it into context, there are only two other venues in Winchester who operate past this time and as such both have very robust SIA and supporting conditions such as bodyworn video to prevent crime and disorder. The operator states in their application that they are a food led operation, yet they offer a*

condition where by the supply of food would cease at 22:00 but the supply of alcohol would continue to 02:30." And:

The operator states in their application that they are a food led operation, yet they offer a condition where by the supply of food would cease at 22:00 but the supply of alcohol would continue to 02:30)

**NOTE - THIS IS REALLY THE NUB OF THE MATTER.**

By way of explanation, before the applicant acquired these premises, they effectively operated as a night club. The applicant operates both this and its other outlets on the basis that it is very much a food-led premises with a substantial menu. There is no intention that that should change. The application was prompted by a suggestion from one of the Council's licensing officers that an application should be made to remove the "nightclub type" conditions (such as those relating to toilet checks and the provision of SIA registered door staff, not least because in reality, the premises does indeed operate as a restaurant and rarely opens beyond midnight BUT the Applicant:

1. Would like to continue to offer customers who do not want to dine the opportunity simply to enjoy a drink;
2. Would like to be able to offer the use of part of the premises (particularly the first floor area) to private bookings such as wedding parties and to have the flexibility to cater for such bookings with hours that extend beyond the norm, without having to give Temporary Event Notices – in that regard, whilst TEN's can be made subject to conditions attaching to any underlying licence, if, for example, there was no condition relating to door staff (which is what is suggested by the police) then such events could take place without the "safeguard" of requiring risk assessments and the like;
3. The mainstay of the food provided are pizzas which are often supplied for consumption away from the premises.

Some of what is suggested by the Police is accepted but overall, the position will be that the applicant proposes the following (with notes in italics to explain):

**The premises shall be a food-led establishment and to that end:**

**Substantial meals appropriate to the time of day shall be available to order at least from the time the premises open until 23:00 hours or an hour before the intended closing time of the premises, whichever is earlier; *Amended from 22:00 hours but please note that this is a minimum requirement and does not mean that the provision of food would cease at that hour – in appropriate circumstances food would be provided until much later – e.g for a late buffet at a wedding reception***

**A waiter/waitress service shall be in operation at all times;**

**Substantial table meals shall be prepared on the premises, served and consumed at tables using non-disposable crockery;**

**Non-alcoholic beverages including tea and coffee shall be available at all times the premises are open;**

**A minimum of 40 covers suitable for dining shall be provided at least until 23:00 hours or an hour before the intended closing times of the premises; and**

**Any alcohol supplied for consumption off the premises (whether by take-away or delivery) shall only be so supplied as ancillary to a substantial meal.**

**NOTE further that the following proposed by the police are not accepted for the reasons stated:**

*No take-away service of food or drink for immediate consumption is provided. **This conflicts with s.172 of the Business and Planning Act which allows (by way of Notice only all on-licensed premises to sell alcohol for consumption off the premises subject to an 11 p.m. cut-off). The premises currently offer take-away services and delivery and these have not caused any issues.***

*Customers are shown to their table.*

*Consumption of alcohol in the bar area is restricted to customers waiting to be escorted to a table*

Numbers of patrons drinking in the bar areas (not awaiting tables) shall not exceed (6) persons Alcohol shall only be sold or supplied to customers who are engaging in a sit down table meal, as an ancillary to that meal. **These proposed conditions appear to be contradictory in that they seem to allow customers who are not eating to have a drink (subject to a maximum of 6 persons in the (undefined) bar area but at the same time, require that alcohol only be sold to "sit-down" diners. The current operation of the premises allows for customers to drink without eating and again, this does not seem to have caused any issues.**

## **Prevention of Crime and Disorder**

(CCTV)

*As proposed by the applicant:*

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.

Facilities shall be available to allow police and other authorised officers to view playbacks of 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.

*As proposed by the Police:*

### CCTV

*A colour recording CCTV system that captures images from the main public areas shall be fully operational whilst licensable activities are taking place.*

*The system shall be able to cope with all levels of illumination.*

*The recording equipment shall be stored and operated in a secure environment with limited access, to avoid damage, theft, unauthorised viewing and maintain the integrity of the system.*

*The system shall be serviced at twelve monthly intervals and maintained to a standard that is acceptable to the police licensing department responsible for the area.*

*The system clock shall be checked regularly for accuracy taking account of GMT and BST.*

*Digital systems shall have sufficient storage capacity for 28 days evidential quality recordings (minimum 4 frames per second).*

*The images produced shall be date and time stamped.*

*A notice shall be displayed at the entrance to the premises advising that CCTV is in operation.*

*An additional recording CCTV camera shall be installed and fully operational whilst the venue is open to the public to cover the area immediately outside the front of the premises.*

*It is important that the Police are able to access data from the systems quickly and easily. Therefore provision shall be made that at all times the venue is operating under its premises licence, a person is in attendance who is nominated by the data controller who has access to the secure area who is able to operate the equipment*

*Ensure all operators receive training from the installer when equipment is installed and that this is cascaded down to new members of nominated staff.*

*Have a simple operator's manual available to assist in replaying and exporting data (particularly important with digital systems) and to produce images to the police or responsible authority for the purpose of the prevention and detection of crime as long as the request is lawful and complies with GDPR.*

*In the event of a technical failure of the CCTV equipment, the premises licence holder or DPS shall notify the police licensing department responsible for the area within 24 hours.*

**NOTE – THE POLICE WORDING IS AGREED**

(Refusals Register and Incident Recording)

*As proposed by the applicant:*

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.

*As proposed by the Police:*

**REFUSALS LOG**

*A log, either written or electronic shall be kept of all 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/manageress or their deputy in their absence.*

*The refusals log shall be kept and maintained at the premises and shall be available for inspection immediately upon request by Hampshire Constabulary and any responsible authority.*

*The record of refusals shall be retained for 12 months.*

**NOTE – IT IS SUGGESTED THAT THE APPLICANT’S WORDING BE ADOPTED SUBJECT TO THE AMENDMENTS IN BOLD BELOW.**

The premises shall maintain an Incident Book and Refusals Register (either separately or as a single record **and either written or electronically**) 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 and Refusals Register shall be checked, signed and dated by the DPS (or, in their absence, a senior manager) on a weekly basis.**

The incident book/refusals register shall be made available for inspection by police and other authorised officers on request **and retained for a period of at least 12 months.**

(SIA CONDITION)

*As proposed by the Applicant:*

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.

**NOTE THAT IN THE EMAIL EXCHANGE, THE POLICE HAVE NOT REQUESTED ANY SIA CONDITION (BUT SEEK RESTAURANT TYPE CONDITIONS) AND IN THE REPRESENTATION ASSERT:-**

“The main contentious point for this applications in relation to SIA security. The applicant wishes to remove the requirement to employ SIA security if it operates past 00:00 to that of a risk assessed based condition. In my experience operators who have such a condition very seldom if ever actually employ SIA security. To the point where in my opinion, a risk-assessed condition is just an empty promise with very little consequence if it is abused.”

**FUTHER NOTE:**

**It is not accepted that this is “just an empty promise” – it would be condition of the licence and enforceable as such. The applicant operates a number of other premises with identical or very similar conditions and has not encountered any difficulty. Further, it would be wrong to simply delete the proposed condition – others who have chosen not to make any representation may have elected not to do so partly on the basis that this condition was offered.**

**(TOWN WATCH)**

*As proposed by the applicant:*

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.

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.

**NOTE – AGAIN THE POLICE HAVE NOT INCLUDED SUCH A CONDITION (ON THE BASIS THAT “I have also not included any Pubwatch condition as they are reliant on a third party” BUT IT IS SUBMITTED THAT AS IT WAS PROPOSED, IT SHOULD BE INCLUDED.**

**Public Safety** – no conditions proposed by the applicant nor the police

**Public Nuisance**

*As proposed by the Applicant*

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 an 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.

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

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.

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

**NOTE – THE POLICE HAVE NOT COMMENTED ON ANY NOISE CONDITIONS AND THIS SHOULD THEREFORE REMAIN. THERE IS NO REPRESENTATION FROM ENVIRONMENTAL HEALTH.**

### **Protection of children from harm**

(Challenge 25)

*As proposed by the applicant:*

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.

*As proposed by the Police:*

#### CHALLENGE 25

*There shall 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. Acceptable identification for the purposes of age verification shall include a valid photo card driving licence, passport or photographic identification bearing the “PASS” logo and the persons date of birth. If the person seeking alcohol is unable to produce acceptable means of identification, no sale or supply of alcohol shall be made to or for that person. ‘Challenge 25’ posters shall be displayed in prominent positions at the premises.*

**NOTE – THE APPLICANT IS CONTENT TO ACCEPT THE POLICE WORDING**

(Staff Training)

*As proposed by the applicant:*

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.

*As proposed by the Police:*

#### STAFF TRAINING

*Before commencing their duties all new staff who are involved the sale or supply of alcohol, shall receive information and training concerning the sale of age-restricted products. This training shall 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 shall sign an acknowledgement 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 every 6 months*

**NOTE – The police condition is agreed but it is suggested that the following wording be added (as per the application) –“Written records of all training will be maintained and made available for inspection by authorised officers on request.”**

**Additional Condition proposed by the Police (which is agreed although it is the sort of condition that one might expect to see in relation to a nightclub)**

#### VULNERABILITY

*A written policy on how the venue will deal with vulnerability shall be implemented and as a minimum shall include the following:*

*A definition of the different types of vulnerability that may present at the premises.*

*How best to communicate with vulnerable people. For example, people who are drunk, people on their own, people behaving aggressively and people who are ill.*

*How to safeguard vulnerable people, including information on first aid administration and referral to the ambulance service and police where relevant.*

*Best practice for partnering with agencies, such as taxi companies, local authorities and other venues.*

*What to do if you sense a vulnerable person is in danger, for example if they leave the venue alone or with people they didn't arrive with.*

#### **CONCLUSION AND SUBMISSION**

The Police suggest that particularly with regard to conditions relating to SIA security, they would have facilitated a minor variation to temporarily remove such conditions. The fact of the matter is that these premises suffered an enforced closure for much of 2020 and 2021 and any such temporary “relief” or “assistance” would not have been of much relevance as the Nation comes out of restrictions – this application would have been necessary in any event.

There is little dispute about approving the revised layout drawings – the inclusion of a servery on the first floor is simply to make life easier for staff employed at the premises to service the needs of customers.

The reality is that the nature of these premises has changed and whilst it could (and indeed does) currently operate under the conditions and restrictions of the current licence, it is considered that some of the conditions are not appropriate for the style of business.

It was felt that rather than seek variations to the current licence, it was more appropriate to seek a new licence – this on the basis of rather technical legal advice.

The thrust of the Police representation is to require the premises to operate solely as a restaurant (although some of the suggested conditions do seem to be contradictory in this regard). Further (and as a matter of law), it is submitted that the police cannot simply delete a series of conditions proposed in the Operating Schedule and, in effect, re-write Section M of the application.

There is no cumulative impact policy in place in Winchester and whilst it is noted that the police assert “*it certainly suffers from alcohol related crime, disorder and public nuisance, especially within the NTE. In recent months 2 venues, very close geographically, have had their licence reviewed for failing to uphold the licensing objectives of the prevention of crime and disorder*” no evidence of a cumulative impact has been adduced and there is absolutely no suggestion that these premises have caused any issue.

Indeed what is asserted on the representation is “*The venue has continued to operate under this premises licence since its inception, through the current pandemic and up to the time of writing with no concerns from the police or I believe any other responsible authority.*”

It follows that there is (legally) a presumption of grant, unless on an evidential basis, it would not be appropriate. Given the concessions made by the applicant with regard to proposed conditions, the sub-committee is invited to grant this application, as amended by the above.

Apologies again for the lateness of this but I trust that it will assist the sub-committee in its determination of the application.

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