

**LICENSING SUB – COMMITTEE**

Monday 17 October 2022 13:00, Walton Suite, Guildhall Winchester

Report of the Service Lead for Public Protection

Contact Officer: Briony Appletree

Tel: 01962 848188

Email: [licensing@winchester.gov.uk](mailto:licensing@winchester.gov.uk)

Application: Application to Vary a Premises Licence

Premises: Vodka Bar And Nightclub, Upper Brook Street, Winchester,  
Hampshire, SO23 8AL

**Part A. Report**

- 1 Application**
- 2 Responsible Authorities**
- 3 Other Representations**
- 4 Observations**
- 5 Conditions**
- 6 Other Considerations**

**Part B. Appendices**

- Appendix 1 Application**
- Appendix 2 Representations from Other Persons**
- Appendix 3 Current Premises Licence**
- Appendix 4 Map of Premises Location**
- Appendix 5 Map of Representations**
- Appendix 6 Current Licence vs. Proposals**

**Part A.****1. Application**

**Applicant:** Mr Lee William Davies

**Premises:** Vodka Bar and Nightclub  
Upper Brook Street  
Winchester  
Hampshire  
SO23 8AL

- 1.1 This application is to vary a Premises Licence under Section 34 of the Licensing Act 2003 for Vodka Bar and Nightclub, Upper Brook Street, Winchester, Hampshire, SO23 8AL.
- 1.2 The application is to amend the hours for licensable activities; amend the opening hours; remove seasonal variations to the hours; amend the layout of the premises; and add, amend and remove various licence conditions.
- 1.3 The application's proposal to amend the hours for licensable activities and the opening hours includes permitting regulated entertainment, late night refreshment and the supply of alcohol until 04:00 on Tuesdays, Thursdays, Fridays and Saturdays.
- 1.4 For clarity, the hours on the current premises licence and the proposals as per the application are shown side by side in Appendix 6.
- 1.5 The application proposes to amend the layout of the premises to introduce a new welfare/medical room and relocate the toilets, cloakroom and rear door leading to the garden.
- 1.6 A number of conditions have been added, amended and removed. This has been done so following consultation with both Hampshire Constabulary and Environmental Health prior to the application being submitted, in order to promote the licensing objectives. The current and proposed conditions can be seen side by side in Appendix 6.
- 1.7 The full application and proposed plan can be found at Appendix 1. The existing premises licence can be found at Appendix 3.
- 1.8 No representations have been received by any Responsible Authorities.
- 1.9 Representations have been received from 12 'Other Persons', all of which are against the application. These representations are set out in Appendix 2 and relate to all four licensing objectives.

- 1.10 Notice of the application was displayed outside of the premises for a period of 28 days until 21 September 2022, and advertised in the Hampshire Chronicle on 6 September 2022.
- 1.11 Notice of the hearing was sent to all Parties on 30 September 2022.

**Designated Premises Supervisor**

Mr Lee William Davies

**Steps to promote the Licensing Objectives**

Please see Section M of Appendix 1, and pages of proposed conditions at the end of 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**

No representations received.

#### **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 12 'Other Persons', all of which are against the application. These representations are set out in Appendix 2 and relate to all four 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. Modify the conditions of the licence;
2. Reject the whole or part of the application;

and for this purpose the conditions of the licence are modified if any of them is altered or omitted or any new condition is added.

#### **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 considerations under this Act that the extended delivery hours could have an impact for wheelchair users if the pavement is blocked.



## 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.

### **All Licensing Objectives**

None.

### **Crime and Disorder**

- CD1: From the opening time until closing time of the venue, a ratio of two frontline door supervisor SIA registered security staff shall be employed at the venue for the first 100 persons and then one per 100 thereafter. This number is to include only frontline door supervisors SIA staff employed solely on door supervisor / security duties i.e. safety and security at the venue.
- CD6(a): A recording CCTV system that captures images from the main entertainment public areas shall be fully operational whilst licensable activities are taking place. Colour recording CCTV system in place at the entrance, exit and stairwell. The recording equipment must be stored and operated in a secure environment with limited access, to avoid damage, theft, unauthorised viewing and maintain the integrity of the system.
- CD5.5: At the terminal hour of operation, the licence holder shall ensure that adequate numbers of door supervisors are employed to assist with the management of customers leaving the venue as well as those remaining in the vicinity of the premises. Two members of door staff are to patrol the vicinity of the venue for 15 minutes after closing, to assist with safe dispersal from the area. The door staff are to be identified by wearing high visibility tabards as used during normal door staff duties.
- CD6(d): A notice shall be displayed at the entrance to the premises advising that CCTV is in operation.

- CD6(e): 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.
- CD6(f): It is important that the Police are able to access data from the systems quickly easily and therefore provision shall be made that at all times the venue is operating, 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.
- CD6(g): Ensure all operators receive training from the installer when equipment is installed and that this is cascaded down to new members of nominated staff.
- CD6(h): 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 / responsible authority for the purpose of the prevention and detection of crime as long as the request is lawful and complies with the Data Protection Act and GDPR.
- CD6(i): 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.

### **Public Safety**

- PS1: One steward/supervisor member of SIA registered door staff to be positioned in the smoking area when 40 or more people are present customers are present after 11pm.
- PS2: A written policy on how the venue shall deal with vulnerability shall be implemented and as a minimum shall include the following:
- (i) A definition of the different types of vulnerability that may present at the premises;
  - (ii) 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;
  - (iii) How to safeguard vulnerable people, including information on first aid administration and referral to the ambulance service and police where relevant;
  - (iv) Best practice for partnering with agencies, such as taxi companies, local authorities and other venues;
  - (v) 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.

PS3: Welfare Officer

- (i) There shall be a minimum of one dedicated 'welfare officer' employed at the venue. As a minimum they shall be on duty every Friday, Saturday and days preceding Bank Holidays from 22:00 until the closing time of the venue.
- (ii) This member of staff shall be trained in order to recognise the signs of drunkenness, drug abuse, underage customers, vulnerability and predatory behaviour or any activity which may lead to crime and disorder.
- (iii) They shall not be engaged in other duties within the venue such as cleaning, glass collecting or bar work.
- (iv) The welfare officer(s) shall be in a position to be able to freely communicate and liaise with the venue management, SIA security and bar staff.
- (v) The welfare officer(s) shall be identifiable by wearing a pink fluorescent tabard with 'welfare officer' printed in white on the rear.
- (vi) A log shall be kept at the venue and be made available to responsible authorities at all times, detailing the name of the welfare officer(s) and the times and dates which they worked.

PS4: Electronic Identification Scanning System

- (i) The premises licence holder shall operate and maintain in good working order, an electronic identification scanning system such as 'Scannet' or similar electronic document scanning device if commercially available.
- (ii) All customer entering the premises shall be asked to produce photographic identification, such as a valid passport, valid driving licence or PASS card and agree to the said identification being used for scanning. Customers who do not agree to this will be refused entry.
- (iii) All identification provided by customers shall be scanned electronically.
- (iv) The premises licence holder or venue representative will notify the Police Licensing Department responsible for the area in writing or by e-mail as soon as reasonably practicable if any issues arise in respect of the operation of the scanning system or the internet service accompanying it.

PS5: Staff Training

- (i) Before commencing their duties, all new staff must receive information and training concerning the sale of age-restricted products.

- (ii) 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.
- (iii) All employees will sign a letter to acknowledge that they have completed this training and have understood their responsibilities in this area.
- (iv) This training should be reviewed and updated at reasonable intervals, but at least annually.

### **Public Nuisance**

PN9: The rear smoking area will close to the public no later than 03:00.

### **Protection of Children**

#### **PC1: Challenge 25**

- (i) 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 the age of 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 shall include a photocard driving licence, valid passport or photographic identification bearing the 'PASS' logo and person's date of birth.
- (iii) 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.
- (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 has been received. It is anticipated that an appropriate level of officer attendance will be provided within the existing budget.

### **Appendices**

1. Application
2. Representations from Other Persons
3. Current Premises Licence
4. Map of Premises Location
5. Map of Representations