

FOR DECISION
WARD(S): ST BARTHOLOMEW

LICENSING SUB – COMMITTEE

Tuesday 31 January 2023 10:00 Walton Suite, 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: North Walls Recreation Ground, Gordon Road, Winchester,
Hampshire

Part A. Report

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Part A.**1. Application**

Applicant: Live Tour Promotions Limited

Premises: North Walls Recreation Ground, Gordon Road, Winchester, Hampshire

- 1.1 This application is for the grant of a new premises licence under section 17 of the Licensing Act 2003 for North Walls Recreation Ground, Gordon Road, Winchester, Hampshire.
- 1.2 The application proposes the supply of alcohol (for consumption on the premises only) and the provision of regulated entertainment on Friday and Saturday only. Full details of the proposals are outlined in Section 5 of this report.
- 1.3 The applicant has proposed a number of conditions to promote the licensing objectives; these are detailed in the application at Appendix 1, and outlined in Section 5 of this report.
- 1.4 A representation has been received by Winchester City Council's Environmental Health Team, in relation to the prevention of public nuisance licensing objective. As part of this representation, Environmental Health have proposed conditions that would propose the licensing objectives. The representation can be found at Appendix 2, and the proposed conditions detailed in Section 5 of this report.
- 1.5 No representations have been received from Other Persons.
- 1.6 Notice of the application was displayed outside of the premises for a period of 28 days until 26 December 2022, and advertised in the Hampshire Chronicle on 1 December 2022.
- 1.7 Notices of the hearing were sent to all parties on 13 January 2023.

Designated Premises Supervisor

Martin Barker

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

Representation received, relating to the prevention of public nuisance licensing objective.

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

No representations received.

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. Refuse to specify a person in the licence as the premises supervisor;
4. 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 concerns in relation to the 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.

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 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 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: 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

Should the application be 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 Environmental Health in their representation.

Operating Hours

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

Supply of Alcohol	Friday and Saturday	14:00 to 23:00
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The supply of alcohol is for consumption on the premises only.

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

Live Music	Friday and Saturday	14:00 to 23:00
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Recorded Music	Friday and Saturday	14:00 to 23:00
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Performance of Dance	Friday and Saturday	14:00 to 23:00
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3. The hours the premises may be open to the public for purposes other than licensable activities shall be:

Opening Hours	Friday and Saturday	14:00 to 23:15
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All Licensing Objectives

- A1: The premises licence shall authorise licensable activities for two consecutive days on one occasion per calendar year only.
- A2: The premises licence holder shall notify the licensing authority, in writing, of its intention to undertake licensable activities under this premises licence no less than 2 months prior to licensable events taking place.
- A3: The premises licence holder shall ensure that the perimeter boundary of the licensed premises is fenced.
- A4: *The Premises Licence Holder shall submit an initial Event Safety Management Plan (ESMP) and an appropriate site plan to the Licensing Authority at least 90 days in advance of each event and a final version of the Event Safety Management Plan to the Licensing Authority at least 30 days prior to the event.*
- A5: *The deadline for submission of the EMP may be altered in writing by the Local Authority Head of Licensing following a written request from the Premises Licence Holder.*
- A6: *The arrangements (as detailed in the final Event Safety Management Plan) for protecting public safety, preventing crime and disorder, protecting children and preventing public nuisance shall be fully implemented prior to and during the event. The event will be delivered in full accordance with the ESMP submitted.*
- A7: *A team of suitably qualified professionals will be employed to deliver the Operational Management of the event. Details of appointed contractors and appointed roles and responsibilities will be included in the ESMP along with up to date contact details.*
- A8: *A detailed programme of all licensed and operational timings and venues will be included as part of the ESMP.*

Crime and Disorder

- CD1: The premises licence holder shall ensure that there is at least one personal licence holder present on any bar used for the purpose of supplying alcohol.
- CD2: The premises licence holder shall ensure that the designated premises supervisor is on the premises during all hours when alcohol is being supplied.
- CD3: The premises licence holder shall ensure that no glass drinking vessels are used for supplying drinks to customers. Alternatives to glass shall be used.
- CD4: The premises licence holder shall ensure that all licensed door supervisors are issued with radios that enable communication with event control at all times that licensable activities are taking place.
- CD5: The premises licence holder shall ensure that all licensed door supervisors wear high visibility jackets or similar means of clearly identifying them as security personnel.
- CD6: The premises licence holder shall ensure that all stewards wear high visibility jackets or similar means of clearly identifying them as stewards.
- CD7: The premises licence holder shall ensure that SIA registered security personnel are present at the event. The number of security personnel shall be based on a risk assessment conducted no less than one month prior to licensable events taking place.
- CD8: The premises licence holder shall ensure that any patrons displaying signs or symptoms of drunkenness or use of drugs is ejected from the premises, or admitted to onsite welfare facilities until deemed safe to be ejected from the premises.
- CD9: The premises licence holder shall ensure that refusal books are completed for any refusal to supply alcohol to a patron. At least one refusal book shall be maintained at each bar used for the supply of alcohol. Refusal books shall be made available upon request to authorised officers.
- CD10: An incident book shall be maintained and completed for any incident that takes place on the premises. This book shall be made available on request to authorised officers.
- CD11: Any drugs or other illegal substances found or confiscated on the premises will be logged via radio communication at the point of

location or confiscation. The substance will then be securely stored and logged at event control. Details of items logged shall be made available on request to authorised officers.

Public Safety

- PS1: A dedicated area of the premises shall be designated for welfare provision, to ensure the safety of any vulnerable patrons.
- PS2: Adequate medical provision shall be made, following a risk assessment completed by the appointed medical provider.

Public Nuisance

- PN1: The premises licence holder shall display signage throughout the event site reminding patrons of the proximity of residential areas and to leave the site quietly.
- PN2: The premises licence holder shall, within an area agreed with the licensing authority, notify residents in writing of the events dates and times for licensable activities no less than 1 month prior to any event taking place. The written communication must include a hotline telephone number that can be used to contact the premises licence holder or nominated representative during any event.
- PN3: *The Premises Licence Holder shall produce an initial Noise Management and Community Liaison Plan (NMP) at least 90 days prior to the commencement of the event. The final NMP shall be submitted to the Licensing Authority for agreement no later than 30 days prior to the commencement of the event. No alteration to the NMP after this date shall be made by the Premises Licence Holder except with the written consent of the Licensing Authority.*
- PN4: *The final NMP shall contain the methodology which shall be employed to control the sound produced on the premises. The NMP must include all of the arrangements for preventing public nuisance and consultation with the local community and shall include:*
- a) *An inventory and location of all sound systems to be used on the site.*
 - b) *Management command and communication structure/methods for ensuring that permitted sound system output and finish times are not exceeded.*
 - c) *Publication and dissemination of information to the public and arrangements for provision and staffing of a hotline number for dealing with complaints, in an area agreed with the Licensing Authority.*
 - d) *Actions to be taken by the Event Organiser following complaints.*

- PN5: *The Premises Licence Holder shall ensure compliance with all aspects of the Noise Management and Community Liaison Plan.*
- PN6: *At least 7 days prior to an event the Premises Licence Holder shall provide to the Licensing Authority a telephone number for contacting the Premises Licence Holder or a nominated representative during the course of an event.*
- PN7: *All noise levels from music shall not exceed 55dB LAeq (15 minutes), at monitoring locations agreed in writing with the Local Authority.*
- PN8: *All noise levels from music in the 63Hz and 125Hz octave frequency bands shall not exceed 65dB Leq (15 minutes) at the monitoring locations agreed in writing with the Local Authority.*
- PN9: *The monitoring locations shall be agreed in writing with the Licensing Authority no later than 28 days before any event commences. These locations shall be representative of the noise levels experienced at the nearest domestic premises and shall be measured in free field conditions in the absence of other significant local noise sources.*
- PN10: *The Premises Licence holder shall appoint a competent noise consultant to monitor and record on site and off site music noise throughout the event to ensure compliance with noise levels required under public nuisance conditions PN7 and PN8. All monitoring performed shall be made available to the Licensing Authority upon request. Such records shall be kept for a minimum of 3 months after any such event finishes.*

Protection of Children

- PC1: All staff members involved in the sale of age-restricted products shall undertake appropriate training prior to being authorised to sell age-restricted products. This training shall be documented and made available on request to authorised officers.
- PC2: The premises licence holder shall ensure that a Challenge 25 policy is in effect at the premises. This means that any person seeking to purchase alcohol who appears to be under the age of 25 years old will be asked for photographic identification as proof of their age. Acceptable identification shall be valid passports, UK driving licences or cards bearing the PASS hologram. The list of approved identification may be amended or revised where agreed with the licensing authority and Hampshire Constabulary.

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 £100.00 has been received. It is anticipated that an appropriate level of officer attendance will be provided within the existing budget.

Appendices

1. Application by Live Tour Promotions Limited
2. Representations by Responsible Authorities
3. Map of Premises Location