

LICENSING SUB – COMMITTEE

Thursday 6th June 2019 10:00 at Guildhall Winchester

Report of the Service Lead for Public Protection

Contact Officer: Briony Appletree. Tel No: 01962 848188

Application: Application for New Premises Licence

Premises: Holywell House, Holywell, Swanmore, Southampton, Hampshire,
SO32 2QE

Part A. Report

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Part A.**1. Application**

Applicant: Lord George Edward Laurence Clarendon and Lady Bryonie Victoria Lowther Clarendon

Premises: Holywell House
Holywell
Swanmore
Southampton
Hampshire
SO32 2QE

1.1 This application is for a New Premises Licence under Section 17 of the Licensing Act 2003 for Holywell House, Holywell, Swanmore, Southampton, Hampshire, SO32 2QE.

1.2 The application is to licence specific areas of the Holywell Estate, namely the main house, the summer garden, the walled garden and the park. These areas are detailed on the plans shown in Appendix 3.

Notice of the application was displayed outside of the premises, and every 50 metres thereafter around the external perimeter of the premises where it abuts the highway, for a period of 28 days until 16 May 2019. Notice of application was also advertised in the Hampshire Chronicle on 30 April 2019.

1.3 Notices of the hearing were sent to all parties on 21 May 2019.

1.4 Hampshire Constabulary made a representation against this application with regards 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of conditions were agreed between Hampshire Constabulary and the applicant, and the representation was subsequently withdrawn.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 Environmental Health also made a representation against this application with regards to the prevention of public nuisance licensing objective. During the consultation period a number of conditions and amendments to licensable hours were agreed between Environmental Health and the applicant, and the representation was subsequently withdrawn. These conditions and amendments are reflected in Section 5 of this report.

1.6 The applicant noted the level of public interest in this application and volunteered conditions and amendments to the licensable hours in an effort to minimise public nuisance. These conditions and amendments

are reflected in Section 5 of this report. The original application is attached as Appendix 1.

- 1.7 No representations have been received from other Responsible Authorities (those made by Hampshire Constabulary and Environmental Health have been withdrawn).
- 1.8 Representations have been received from 94 'Other Persons', all of which are against the application. These representations are set out in Appendix 2 and primarily relate to the public safety and prevention of public nuisance licensing objectives.

Designated Premises Supervisor

Lady Bryonie Victoria Lowther Clarendon

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 made and subsequently withdrawn following agreements made with the applicant to add conditions and amend licensable hours, in the interest of preventing public nuisance. These conditions and amendments are reflected in Section 5 of this report.

Hampshire Constabulary

Representation made and subsequently withdrawn following agreements made with the applicant to add conditions, in the interest of preventing crime and disorder and protecting children from harm. These conditions and 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 (South Downs National Park)

No representations received. However it has been requested that where an Event Management Plan is submitted for any event at the premises, South Downs National Park Authority is consulted on this plan. This has been proposed as a condition in Section 5 of this report.

3. Representations from Other Persons

Representations have been received from 93 interested parties, all of which are against the application. The main concerns are with regard to public safety and the prevention of public nuisance.

Representations can be seen in Appendix 2. A map of representations in context of the premises location can be seen in Appendix 4.

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 Part 4, A8)

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, 2.11, 2.17 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.

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 time 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.

The Committee will be aware that many health and safety requirements are enforceable under their own substantive legislation and thus these have not been suggested as conditions under Public Safety.

Those conditions in italics are those which have been suggested by Hampshire Constabulary and Environmental Health and subsequently agreed with the applicant.

Operating Hours

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

Plays (Indoors and Outdoors)

- | | | |
|------|--------------------|--------------|
| (i) | Monday to Saturday | 1000 to 0000 |
| (ii) | Sunday | 1000 to 1800 |

Films (Indoors and Outdoors)

- | | | |
|------|--------------------|--------------|
| (i) | Monday to Saturday | 1000 to 0000 |
| (ii) | Sunday | 1000 to 1800 |

Live Music (Indoors and Outdoors)

- | | | |
|------|--------------------|--------------|
| (i) | Monday to Saturday | 1000 to 2230 |
| (ii) | Sunday | 1000 to 1800 |

Recorded Music (Indoors and Outdoors)

- (i) Monday to Saturday 1000 to 0000
- (ii) Sunday 1000 to 1800

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

Late Night Refreshment (Indoors and Outdoors)

- (i) Monday to Saturday 2300 to 0000

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

- (i) Monday to Saturday 1100 to 0000
- (ii) Sunday 1100 to 1800

Supply of alcohol is permitted for consumption on and off the premises.

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

Not applicable.

All Licensing Objectives

- A1. *This licence shall authorise the relevant licensable activities for a maximum of 3,000 people for 1 day per calendar year and a maximum of 500 people for up to a maximum of 27 days per calendar year. This shall include all persons present at the premises in whatever capacity including ticket holders, performers, guests and staff.*
- A2. *No licensable activity shall occur after 23:00 hours for any event with over 500 people. This shall include all persons present at the premises in whatever capacity including ticket holders, performers, guests and staff.*
- A3. *An Event Management Plan (including a traffic management plan) shall be submitted to the licensing authority no later than 28 days prior to each event with an attendance of more than 500 people. This shall include all people present at the premises in whatever capacity including ticketholders, performers, guests and staff.*

- A4. Any Event Management Plan shall be shared with South Downs National Park Authority for comment.
- A5. *Training*
- (i) *The premises licence holder shall ensure that a training package is in place in order for all staff involved with the sale or supply of alcohol to be sufficiently trained in licensing matters proportionate to their role and aware of their responsibilities.*
- (ii) *Particular attention should be paid to underage sales / ID verification and the refusal of alcohol sales to a drunk person.*
- (iii) *Records shall be kept of this training, dated and signed by the staff member and trainer. Refresher training shall be completed at least every 12 months again with documented records made and to be available for inspection from Police and other responsible authorities.*
- A5. *A written record shall be retained at each bar to show the staff that have been authorised to sell alcohol. This shall be made available to the Police and other responsible authorities on request.*
- A6. The Premises Licence Holder shall ensure that all staff and suppliers are fully briefed prior to each event as to the nature of the event, traffic management, guest numbers and event timings.

Crime and Disorder

- CD1: *The premises licence holder shall ensure that a refusals book / incident book or log is maintained at the premises. These records shall be retained for a minimum of 1 year and be made available to the Police and other responsible authorities upon request.*

Public Nuisance

- PN1. *Any films finishing after 23:00 shall use silent cinema technology (i.e. sound transmission by headphones only)*
- PN2. *A Noise Management and Community Liaison Plan shall be submitted to the Licensing Authority no later than 28 days prior to any event with an attendance of more than 500 people. This shall include details of the arrangements in place to mitigate noise nuisance to ensure that the volume of music remains at an acceptable level, orientation of speakers, management of patrons to ensure that they leave the premises without causing unreasonable disturbance to neighbours, resident communication and provision of a 'hotline' telephone number for local residents to enable them to report disturbance during the course of such events.*

- PN3. The use of Fireworks (including stage pyrotechnics), Chinese lanterns and Lasers shall not occur as part of any licensable activity unless agreed otherwise in writing with the Licensing Authority.*
- PN4. Except for 1 occasion per calendar year all live and recorded music associated with licensable activity shall be located only within either the summer or walled garden areas (as located on the attached site plan).*
- PN5. The Premises Licence Holder shall ensure that any outdoor lighting used whilst licensable activities are taking place is used with consideration to the South Downs National Park Authority's guidance on this matter.

Protection of Children

- PC1: The premises licence holder shall ensure that a system is in place to ensure that every individual who appears to be under 25 years of age seeking to purchase or be supplied with alcohol at or from the premises, shall produce acceptable means of identification and age confirmation. Acceptable identification shall be a passport, photo driving licence or PASS accredited photo ID. 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.*

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
2. Representations by Other Persons
3. Maps of premises location
4. Map of representations