

Supplemental Items for Licensing Sub-Committee

(1) **Application No. 23636 - Hungerford Park Estate, Hungerford Park, Hungerford, West Berkshire, RG17 0UU** 3 - 24

Proposal: To set out the background information pertaining to this Licensing Application.

Location: Hungerford Park Estate, Hungerford Park, Hungerford, West Berkshire, RG17 0UU

Applicant: Hungerford Park Limited

Tuesday, 16 April, 2024 at 10.00 am
In The Council Chamber, Council Offices,
Market Street, Newbury

Sarah Clarke.

Sarah Clarke

Service Director (Strategy & Governance)

For further information about this/these item(s), or to inspect any background documents referred to in Part I reports, please contact Ben Ryan (Democratic Services Officer) on (01635) 503973

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BEFORE A LICENSING SUB-COMMITTEE OF

WEST BERKSHIRE COUNCIL

HUNGERFORD PARK LIMITED

Hungerford Park Berkshire, RG17 0UU

SUMMARY OF PREMISES LICENCE APPLICANT'S SUBMISSIONS

v.27.03.2024

1. This is an application for a new premises licence, to enable the applicant to add the sale of alcohol for consumption on and off the premises, Regulated Entertainment and Late -Night Refreshment to the venue.
2. This is a multi -purpose licence with the sale of alcohol required to complement the existing business, and a licence for pre booked events at a separate area within Hungerford Park. There are two distinct areas within Hungerford Park that require

to be licensed, and hopefully the detailed description of both below, will allow for a better understanding of what the business is seeking to achieve.

3. The first area requesting a licence is an area that can be used daily. This is the area shown on the site plan as A. (Shown in appendix 1). This area covers the Cider Barn, the Spirit Barn, The Fungi Club, and an outside courtyard area in the middle of all these venues. The licence for all these areas has been applied for the hours of 0700 to 2200 Monday to Sunday. There is no provision in this application to extend the hours of operation for any of these areas in the application. This provides an opportunity for staff from other businesses on the Park, and the general public to enjoy a relaxing drink either after work or from visiting the businesses on site. There is no request for Regulated Entertainment or Late -Night Refreshment from any of these areas, as the area will close for the evening before these activities require to be licensed.

4. The second area on Hungerford Park that is seeking to be licensed is the area known as the Walled Garden. (Shown as B on the site plan, (shown in Appendix 2). There is a considerable distance between the two areas, meaning they are not linked in any way, nor would they be to a customer visiting either area. (Customers will not move

between the two areas during a visit to Hungerford Park). The Walled Garden will be

available to be used throughout the year, on a day-to-day basis, should demand dictate,

between the hours of 11:30 to 23:30 from Wednesday's to Saturday's offering a licensed café style refreshments (on and off trade) from the estate

grown produce.

The second function of the Walled Garden will be to host weddings, and Private

Parties/events onsite, (Birthday Parties/ anniversary parties etc.) For these types of events

the Walled Garden is to be licensed between the hours of 11:30 to 00:00, with the venue

closed at 00:30. Permission for Regulated Entertainment and Late -Night Refreshment

is also sought for the hours between 23:00 and 00:00 for weddings/ events. Given the

change in the licensable times depending on whether an event is to be held, at least

two weeks notice will be given in writing to the Licensing Authority and the Police

before any event is held at the Walled Garden. Each event will be risk assessed by the

Premises Licence Holder/ DPS, and evidence of such risk assessments will be made

available on request by the relevant authorities.

5. During the 28- day consultation period, extensive negotiation has taken place with the Police and the Environmental Health Officer, and as a result the application has been amended to request the following conditions be added to the operating schedule, which have been agreed with both responsible authorities.

These are:

6. Environmental Health:

1. *The volume of amplified music should be played at a level that is appropriate to the circumstances such as the time of day and in relation to the distance of the premises from dwellings or other noise sensitive premises.*
2. *Prominent, clear and legible notices must be displayed at all exits requesting patrons/guests to respect the needs of local residents and to leave the premises and the area quietly.*
3. *The licensee or other nominated representative shall ensure that after 23:00 hours noise from entertainment involving amplified music or speech should not be audible outside any noise sensitive premises in the vicinity.*
4. *The licensee or other nominated representative shall receive and respond to complaints of noise throughout the duration of all entertainment on the premises.*

5. *The licensee shall put in place a documented Noise Management Plan (NMP) to monitor and control noise from all events held at the premises. This must be produced in advance of the first event to be held following approval of the premises*

licence. It shall include the following information:

- a. A summary of the premises/site/event*
- b. A statement of intent and key objectives (purpose of the NMP)*
- c. A location plan and site plan*
- d. An inventory of all noise sources on the site*
- e. An assessment of the impact of the identified noise sources and an outline of what controls are needed paying specific attention to low frequency/bass noise*
- f. Proposed noise monitoring on and off the site*
- g. Communication with the public including a hotline to receive complaints*
- h. Action to be taken in the event of complaints*
- i. Management command and communication structure*
- j. Contact details for person with overall control for sound levels and authority regarding the NMP*
- k. Follow up reports on events where complaints received and actions to be taken in the future*

The plan shall be implemented in full for all events held at the premises.

6. *Staff must be given adequate training to ensure the control measures outlined in the Noise Management Plan are adhered to.*

7. Police Conditions Agreed are as follows:

1. Prevention of crime and disorder

CCTV

The premises licence holder shall ensure the premises' digitally recorded CCTV system

cameras shall continually record while the premises are open to the public, and recordings shall be kept, for a minimum of 31 days with time and date stamping. The entire licensable area shall be covered by CCTV.

There shall be at least one camera positioned at each entry and exit point to monitor any external areas to the premises.

At least one staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises is open. This

staff member shall be able to access, download and provide copies of CCTV images or

data recordings to a Police Officer or an authorised officer of West Berkshire Borough

Council, together with facilities for viewing upon request, subject to the provisions of the Data Protection Act and GDPR. Recorded images shall be of such quality as to be able to identify the recorded person in any light.

Signage advising customers that CCTV is in use, shall be positioned in prominent positions.

The Designated Premises Supervisor shall conduct a dynamic written risk assessment for every special event held at the premises. This assessment, will consider the need for

SIA Registered Door Staff to be employed for the event. This shall be retained for 6 months, and made available for inspection to a Police Officer or an authorised officer from West Berkshire Borough Council.

When employed at least 2 SIA licensed door supervisors shall be on duty at the at the

premises, from 20:00 until 30 minutes after closure.

All persons entering or re-entering the premises, may be searched by a SIA licensed member of staff and monitored by the premise's CCTV system.

The Premise Licence holder shall keep and maintain a register of door supervisors. The

register will show the following details:

- a) the name, home address and registration number of all door supervisors working at the premises.*
- b) SIA registration number.*
- c) date and time that the door supervisor commenced duty, countersigned by the Designated Premises Supervisor or Duty Manager.*
- d) Any incident of crime and disorder, or concerning children must be recorded giving names of the door supervisors involved.*
- e) Date and time the door supervisor finished work, countersigned by the Designated Premises Supervisor or Duty Manager.*
- f) The door supervisor register must be kept at the licensed premises and be available for inspection by Police or an authorised officer of West Berkshire Borough Council*

The manager shall actively participate in and support the Pub Watch scheme, where such a scheme exists.

Incident Register

All incidents which impact on any of the four licensing objectives shall be recorded in a

register kept at the premises for this purpose.

The names of the person recording the incident, and those members of staff who deal

with any incident shall also be recorded. Where known, any offenders name will also be recorded;

This record shall be available for inspection by a Police Officer or an Authorised officer of West Berkshire Borough Council upon request and shall be retained for one year.

The record shall be signed off by the DPS or nominated representative on a monthly basis.

Staff Training

Staff employed to sell alcohol shall undergo training upon induction. This shall include, but not be limited to:

- *The premises age verification policy*
- *The law relating to underage sales*
- *Dealing with refusal of sales*
- *Proxy purchasing*
- *Recognising valid identity documents not in the English language*
- *How to identify and safeguard vulnerable persons who attend the premises*

Such training sessions are to be documented and refreshed every twelve months.

Records of training shall be kept for a minimum of one year and be made available to

an authorised officer of Thames Valley Police and West Berkshire Borough Council upon request.

Before any person is employed at the premises sufficient checks will be made of their bona fides to ensure they are legally entitled to employment in the UK. Such checks shall include:

- *Proof of identity (such as a copy of their passport)*
- *Nationality*
- *Current immigration status*

Employment checks will be subject of making copies of any relevant documents produced by the employee, which will be retained on the premises and kept for a minimum period of one year.

Employment records as they relate to the checking of a person's right to work will be

made available to Police or an authorised officer of West Berkshire Borough Council

upon request.

All staff to be trained to record refusals of sales of alcohol in a refusals book or electronic register, If the record is in written form then it should be documented in

abound book similar to a A4 day by day diary and marked refusals. The book/register

shall contain:

- Details of the time and date the refusal was made*
- The identity of the staff member refusing the sale*
- Details of the alcohol the person attempted to purchase*

This book/register shall be available for inspection to an authorised officer of West

Berkshire Borough Council or Police. A weekly review of the refusals book/register

shall also be carried out, and signed off by the Designated Premises Supervisor, or

their nominated representative.

Prevention of Public Nuisance

The licensee shall ensure that no noise shall emanate from the premises nor vibration

be transmitted through the structure of the premises which gives rise to undue disturbance to local residents.

Staff shall monitor all external areas from 22:00 until closure of the premise.

All refuse and bottles shall be disposed of in bins quietly so as not to disturb neighbours or local residents.

There shall be no disposal of glass bottles outside between 23:00 and 08:00.

Prominent, clear and legible notices shall be displayed and maintained at all exits requesting the public to respect the needs of local residents and to leave the premises and the area quietly.

Protection of Children from Harm

The premises shall at all times operate a Challenge 25 age verification policy to prevent

any customers who attempt to purchase alcohol and who appear to the staff member to

be under the age of 25 years from making such a purchase without having first

provided identification. Only a valid driver's licence showing a photograph of the

person, a valid passport, Military ID or proof of age card showing the 'Pass' hologram

(or any other nationally accredited scheme as set down within the mandatory conditions) are to be accepted as identification.

A notice advertising the Challenge 25 and proof of age policy shall be displayed at the

entrance and at all bar serving areas.

Public Safety

The premises shall implement, operate and maintain a policy to manage dispersal of customers from the premises. The policy shall be in written form and all staff shall be trained in how to operate it. The policy shall be produced to Police or an authorised Officer of West Berkshire Borough Council upon request.

All external lighting shall be positioned in such a way so as not to disturb or intrude upon local residents or businesses.

8. As a result of these agreed conditions, or rewording of the original conditions offered in

the operating schedule of the application, both the police and EHO now support the application in its revised format.

9. We are therefore left with outstanding representations from 6 interested parties:

10. The representations focus on the following concerns.

- a) Traffic
- b) Parking
- c) Road Safety
- d) Crime and Disorder- Late night drinking leading to ASB and crime

e) Prevention of Public Nuisance via

- Noise Pollution
- Light Pollution- Dark Skies Policy
- Litter on the Common
- Noise Pollution due to traffic.

From the above reasons cited in the representations, the following have no relevance to the

Licensing Act 2003:

- a) Traffic
- b) Parking
- c) Road Safety

These are not Licensing matters, but are covered under planning. The Licensing Act 2003 is

concerned with the likely effect of any or all of the Licensing Objectives, by the introduction of

any of the Licensable Activities, (the sale or supply of alcohol, regulated entertainment, late night

refreshment), and centre around the effect on the licensing objectives in and around the immediate

vicinity of the licensed premises. The licensee is not held responsible for the behaviour of customers/ guests once they leave the licensed premises. Personal responsibility kicks in here,

meaning the individual is responsible for their own actions. Conditions can only be added to a

licence that are measurable, and able to be controlled by the licensee.

The Section 182 Guidance, (2018), is quite clear on this point in section 1.16, which states;

"conditions cannot seek to manage the behaviour of customers once they are beyond the direct management of the of the licence holder and their staff, but may impact on the behaviour of customers in the immediate vicinity of the premises or as they enter or leave; and should be written in a prescriptive format"

11. Of the remaining concerns and representations to the application the applicant would say this:

a) Crime and Disorder- Late night drinking leading to ASB and crime: the

vast majority of licensable activity will cease at 22:00 hours, or earlier depending

on demand. Any "event" that is held will first have to be risk assessed depending

on the nature of the event, and appropriate measures taken again depending on the

event.

For example, a Golden Wedding Anniversary party would be viewed totally

differently to a young couples wedding reception. All functions are private pre -

booked events only, and can cater for around 120 people maximum. Given anyone

attending one of these private events would do so by invitation only, there would

be a record of all persons attending any event. This information would be shared

with the authorities if requested.

This is an exclusive venue, with hire fees at the top end of the market. The typical

profile of a guest attending an event is not one who would lend themselves to the

sort of behaviour the representation is fearful of.

It is also mentioned that crime and disorder will take place on the common, due to

customers drinking on the common. There is no suggestion anywhere in the

application that customers to Hungerford Park will be permitted to use the common,

nor will permission be given. There is no access to Hungerford Park directly from

the common or vice versa. The only gate leading to the common is covered with

barbed wire fencing and is not accessible. For events, the Walled Garden is suitably

far enough away from the common not to be a concern at all. This representation is

without foundation, and should be dismissed.

b) **Prevention of Public Nuisance via: Noise Pollution:** The only area where regulated entertainment will be provided is at the Walled Garden, and a request is made

to permit regulated entertainment from 23:00 to 00:00, whilst a pre booked event is

taking place. This is because there is no requirement under the Licensing Act 2003 to

licence regulated entertainment at a venue before 23:00 hours, as long as that venue

holds a licence to sell or supply alcohol, and less than 500 people are in attendance. It

has already been said in these submissions that the events will cater for around 120

patrons at any one time. Having said that the premises would be subject to other noise

protection legislation outside of these times, (such as Environmental Protection Act

1990) but again this is not the concern of the Licensing act 2003. There have also been

a series of conditions agreed with the Environmental Health Officer to ensure that noise

from the premises does not become a nuisance to local residents, (please see the list of

conditions earlier in these submissions). In addition, the Walled Garden is surrounded

by a natural insulation against any noise from the "Garden" by way of the large

extensive tree line. With these trees in leaf during the summer months, the time when

outdoor events will be booked, any perceived noise from the premises will be trapped

by this natural sound barrier.

c) Prevention of Public Nuisance via Light Pollution, "The Dark Skies

Policy"

As mentioned above the tree line will not only act as a sound barrier, but will also

negate any potential nuisance due to lights. These are wedding receptions in the main

with music generated from a standard DJ. Due to health and safety reasons the DJ decks

will invariably be under cover, again ensuring no light nuisance once darkness sets in.

d) **Litter on the Common:** As has been documented earlier, the guests/ customers

to Hungerford Park will not be permitted to use the common whilst in attendance

at the Park. There is no direct access to the common, with the only gate and fenced

area covered by barbed wire fencing. There will be no opportunity for customers

of Hungerford Park to leave the premises with any alcoholic beverage and go

directly to the common. The provision of off sales is purely to allow customers to

purchase bottles of cider etc that is made on the premises, and allow them to take

home as would happen in any other off sales venue in the country.

e) Noise Pollution due to Traffic: It has been well documented in the

representations that the access to the licensable areas in Hungerford Park is via

single file roads, with limited opportunity for cars to pass each other travelling in

opposite directions. The applicant is well aware of this, and so proposes to operate

a one- way system to accommodate cars during the booked events. Entry to the

premises, (during an event), will be via the main entrance at the Old Cold Harbour

Cottages. Cars will be directed to dedicated car parking areas at the Walled Garden,

with an overflow car park available should it be necessary. This will be controlled

by marshals.

For all vehicles leaving the venue, the exit route will be via the second entrance to

the Park only, and again will be controlled by car park marshals. In order to

facilitate a quick and quiet dispersal of vehicles, the marshals will advise drivers

that no music can be played in the car until they have left the Park. Cars will be

allowed to leave in groups of 10 to 12, with a few minutes intervals between each

group leaving. This is to avoid traffic building up on the roads in the near vicinity

to Hungerford Park. This will also minimise the potential noise and light nuisance

by vehicles leaving the venue.

During events, no vehicles will be permitted to leave the premises via the Old Cold

Harbour Cottages entrance, and no vehicles will be permitted to enter Hungerford

Park via the second entrance.

12. It is plain to all that the country is currently in very difficult times. Many businesses are closing down, many jobs have been, and many more will be lost in the coming months to the detriment of local communities and major cities alike. Here we have a business that, despite the economic uncertainty, is willing to invest in the local area, and not only provide a service for the local community, but also to continue

to provide local jobs for local people. Businesses that are still willing to invest in the area in these difficult times are in need of support and encouragement.

13. The propriety of taking into account the wider economic impact of licensing decisions was explicitly recognised by the Court of Appeal in the leading case of *Hope and Glory* [2011] EWCA Civ 31, when Toulson LJ observed [at 42]:

“Licensing decisions often involve weighing a variety of competing considerations: benefit to the proprietor and to the locality by drawing in visitors and stimulating the demand, the effect on law and order, the impact on the lives of those who live and work in the vicinity, and so on.”

14. For these reasons, the sub-committee is invited to grant the Premises Licence, as amended with the Conditions agreed with the authorities.

STEWART GIBSON

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4 April 2024

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