

# Summary of Licensing Sub-Committee Decision(s) taken on 16 April 2024

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## Part I

**Application No. 23636 - Hungerford Park Estate, Hungerford Park, Hungerford, West Berkshire, RG17 0UU (Item 2(1))**

### NOTICE OF DECISION

The Licensing Sub-Committee of West Berkshire District Council met on **16 April 2024** and resolved to approve Application **23636** in respect of premises known as **Hungerford Park Estate, Hungerford Park, West Berkshire, RG17 0UU** subject to a number of conditions which are set out below.

In coming to their decision, the Sub-Committee had regard to the four licensing objectives, which are:

1. the prevention of crime and disorder;
2. public safety;
3. the prevention of public nuisance; and
4. the protection of children from harm.

They also considered the Home Office Revised Guidance issued under section 182 of the Licensing Act 2003 and West Berkshire District Council's Statement of Licensing policy.

The Sub-Committee heard representations made by:

1. The Applicant: Toby Hunter and Stewart Gibson (Applicant's Agent)
2. Objectors: Cllr James Cole (Representing Hungerford Town Council), Langley Sharp, Ben Leb (Representing the Town and Manor of Hungerford)
3. Ward Members: Denise Gaines and Tony Vickers

The Licensing Sub-Committee also considered all written representations which were included within the agenda pack and the following documents which were submitted in time and admitted into evidence prior to the hearing: the written submission of the Applicant, the written submission of the Representative of the Town and Manor of Hungerford, and a screenshotted email submitted by Hungerford Town Council.

In addition, the Sub-Committee noted that the Applicant had agreed the conditions provided by Thames Valley Police and Environmental Health.

Having taken those representations into account, the Licensing Sub-Committee **RESOLVED** that Application **23636** be granted subject to the conditions as set out in the operating

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# Summary of Licensing Sub-Committee Decision(s) taken on 16 April 2024 (continued)

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schedule, including as modified below, as well as any relevant mandatory conditions in ss19-21 of the Licensing Act 2003 and secondary legislation.

## Operating Schedule

### Box E: Live Music (Indoors and outdoors)

Monday to Sunday 23:00hrs – 24:00hrs

#### Further details:

To allow the performance of live music, if required, when weddings or events are being held only at the Walled Garden

### Box F: Recorded Music (Indoors and outdoors)

Monday to Sunday 23:00hrs – 24:00hrs

#### Further details:

To allow the performance of recorded music, if required, when weddings or events are being held only at the Walled Garden

### Box I: Late night refreshment (Indoors and outdoors)

Monday to Sunday 23:00hrs – 24:00hrs

#### Further details:

To allow the sale of hot food and drink to continue beyond 23:00hrs until the terminal hour of 24:00hrs, for weddings and events held at the Walled Garden

### Box J: Supply of Alcohol (on and off the premises)

Monday to Sunday 07:00hrs – 24:00hrs

#### Non-standard timings:

Cider Barn 07:00hrs to 22:00hrs Monday to Sunday

Spirit Barn / Tap Room 07:00hrs to 22:00hrs Monday to Sunday

Walled Garden (everyday trading) 11:30hrs to 23:30hrs Wednesday to Saturday

Walled Garden (Weddings/Events) 11:30hrs to 24:00hrs as required

The terminal hour of 24:00hrs only be used for weddings/events, which could fall on any day of the week.

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## Conditions:

### Prevention of crime and disorder

#### CCTV

1. The premises licence holder shall ensure that 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.
2. 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 District 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.
3. Signage advising customers that CCTV is in use, shall be positioned in prominent positions.
4. 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 District Council.
5. When employed, at least 2 SIA licensed door supervisors shall be on duty at the premises, from 20:00 until 30 minutes after closure.
6. All persons entering or re-entering the premises, may be searched by a SIA licensed member of staff, and monitored by the premises' CCTV system.
7. 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.

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

## **Incident Register**

9. All incidents which impact on any of the four licensing objectives shall be recorded in a register kept at the premises for this purpose.
10. 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 offender's name will also be recorded;
11. This record shall be available for inspection by a Police Officer or an Authorised Officer of West Berkshire District Council upon request and shall be retained for one year.
12. The record shall be signed off by the DPS or nominated representative on a monthly basis.

## **Staff Training**

13. Staff employed to sell alcohol shall undergo training upon induction. This shall include, but not be limited to:
- a. The premises age verification policy

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- b. The law relating to underage sales
  - c. Dealing with refusal of sales
  - d. Proxy purchasing
  - e. Recognising valid identity documents not in the English language
  - f. How to identify and safeguard vulnerable persons who attend the premises
  - g. Such training sessions are to be documented and refreshed every twelve months.
14. 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 District Council upon request.
15. Before any person is employed at the premises sufficient checks will be made to ensure they are legally entitled to employment in the UK. Such checks shall include:
- a. Proof of identity (such as a copy of their passport)
  - b. Nationality
  - c. Current immigration status
  - d. 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.
  - e. 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 District

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Council upon request.

16. 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 a bound book similar to a A4 day by day diary and marked "refusals". The book/register shall contain:
  - a. Details of the time and date the refusal was made.
  - b. The identity of the staff member refusing the sale.
  - c. Details of the alcohol the person who attempted the purchase.
17. This book/register shall be available for inspection to an authorised officer of West Berkshire District 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**

18. No deliveries to the licenced premises shall take place between 24.00 hours and 06.30 hours.
19. 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 hours until closure of the premise.
20. During operating hours, the licensee or nominated representative shall be available to receive and respond to nuisance related complaints. A contact number shall be readily available to residents upon request.
21. The licensee or other nominated representative shall receive and respond to complaints of noise throughout the duration of all entertainment on the premises.
22. 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 hours and 08:00 hours.
23. 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.
24. 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.

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25. 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.
26. 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
27. The plan shall be implemented in full for all events held at the premises.
28. Staff must be given adequate training to ensure the control measures outlined in the Noise Management Plan are adhered to.

### **Protection of Children from Harm**

29. 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.
30. A notice advertising the Challenge 25 and proof of age policy shall be displayed at

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# Summary of Licensing Sub-Committee Decision(s) taken on 16 April 2024 (continued)

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the entrance and at all bar serving areas.

## **Public Safety**

31. 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 the Police or an authorised Officer of West Berkshire District Council upon request.

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

## **Reasons:**

The Licensing Sub-Committee considered the Application, together with the relevant written and oral representations made.

The Sub-Committee considered the representations from all parties and noted that the concerns of the objectors largely related to the prevention of crime and disorder and the prevention of public nuisance. The Licensing Sub-Committee noted that the police are a key source of information and advice on the impact of licensable activities, particularly on the crime and disorder objective, and Environmental Health, is a key source of information and advice in relation to public nuisance. The Sub-Committee noted that both Environmental Health and Thames Valley Police had formally withdrawn their objections on the basis the applicant had agreed additional conditions.

The Sub-Committee also noted that the Planning Authority, which is the main source of advice on planning matters, was consulted as part of the consultation period as a responsible authority and made no representations in response to the application.

In response to the objectors' and Ward Members' concern in relation to a potential increase in deliveries being undertaken at the early hours of the day throughout the week, the Sub-Committee, noted that the Applicant suggested at the hearing that conditions could be placed to limit the timings when deliveries could be made at the licenced premises. The Sub-Committee heard from the Applicant that deliveries would take normally place from around 6:30AM and felt that it would be reasonable and proportionate to add as a condition of the licence, that no deliveries should take place at the licenced premises before that time on any given day.

The Sub-Committee noted the concerns from objectors that licensable activities at the premises would create public nuisance through light pollution. The Sub-Committee heard that the applicant had planned for a limited time of events per calendar year, which should be 15 or less, and that any discotheque or strobe lights would be kept under a marquee-type structure.

The Applicant also stated that trees present at the premises would prevent undue escape of excessive light from the premises; the Sub-Committee, having considered the type, location, characteristics, and activities that will take place at the premises was satisfied that the measures the applicant intends to take as part of the application are reasonable and proportionate in promoting the prevention of public nuisance licencing objective. When

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making this consideration the Sub-Committee also noted that Environmental Health had not suggested a condition to be agreed with the applicant in relation to light pollution.

Written and oral representations were made to the Sub-Committee that the granting of this premises licence, even subject to conditions, would be in breach of section 85 of the Countryside and Rights of Way Act 2006 ('CRoW 2006'), which states:

*“(A1) In exercising or performing any functions in relation to, or so as to affect, land in an area of outstanding natural beauty in England, a relevant authority other than a devolved Welsh authority must seek to further the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty.”*

The argument which was advanced was that such a decision would not seek to further the purpose of conserving and enhancing the natural beauty of the Area of Outstanding Natural Beauty on which the premises are located.

The Licensing Sub-Committee decided that the promotion of the licensing objectives could be achieved through conditions. The Sub-Committee was satisfied that the application and the additional conditions put forward adequately took into account the objections received to ensure the licensing objectives were not undermined. The Licensing Sub-Committee were satisfied that the conditions as set out in the operating schedule including as modified above, were reasonable, proportionate, and appropriate in the circumstances. The Sub-Committee is satisfied that its decision is in compliance with section 85 of the CRoW 2006 for the following reasons:

- 1) The North Wessex Down Management Plan (2019-2024) published by DEFRA at Chapter 9 (Tourism and Leisure) recognises as special qualities of the Area its “growing reputation for local food and produce” and under its key issues and strategic objective it lists a poor recognition amongst AONB communities of the associated economic benefit that the landscape can bring. The same chapter states that effort should be taken to promote responsible tourism in the area. The activities suggested to take place at the premises, (i.e. “apple spirit and cider production business, using the estate grown apples” “cider tasting” and areas for businesses to sell food and drink products”; “café style refreshments from the estate grown produce”) is in line with the DEFRA objectives for the local area.
- 2) The Sub-Committee is aware that other licenced premises exist within the AONB, and within the immediate vicinity of the current premises. No application for a review of those licenses has been received by the licensing authority in relation to these premises.

In reaching its decision, the Sub-Committee noted the Council as Licensing Authority must determine each application under the Licensing Act 2003 on its own merits, and every decision must be both justified and proportionate based on the available evidence in accordance with the Statutory Guidance and the Council's Licensing Policy.

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## Summary of Licensing Sub-Committee Decision(s) taken on 16 April 2024 (continued)

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Cllr Paul Dick:

(Chairman)

Cllr Nigel Foot

Cllr Paul Kander

Date: 19 April 2024

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