

WAVERLEY BOROUGH COUNCIL

LICENSING SUB-COMMITTEE C – 10 JULY 2017

Title:

LICENSING ACT 2003 - APPLICATION FOR VARIATION TO AN EXISTING PREMISES LICENCE – THE FOX, 21 FRENHAM ROAD, LOWER BOURNE, FARNHAM, SURREY, GU10 3PH.

[Ward Affected: Farnham Wards]

Summary and Purpose

The purpose of this report is to enable the Sub-Committee to consider an application for a variation to the Premises Licence of The Fox, 21 Frensham Road, Lower Bourne, Farnham, Surrey, GU10 3PH from Westgate Brewery, the current Premises Licence Holder. The application has received 24 representations from 'other persons' and 1 from Environmental Health as a responsible authority.

Background

1. The premises was the subject of conversion and variation in the transitional period, under the 2003 Licensing Act. Accordingly, The Fox, Farnham was granted a Premises Licence.
2. A copy of the current Premises Licence is attached at Annexe 1 and summarised below:
 - **Regulated Entertainment (Live Music Indoors)**

Monday to Saturday	1900 to 2300
Sunday	1900 to 2230
 - **Sale of Alcohol (both on and off the premises)**

Monday to Thursday	1100 to 2300
Friday & Saturday	1100 to 2330
Sunday	1200 to 2230
 - **Opening hours**

Monday to Thursday	0800 to 2330
Friday & Saturday	0800 to 0000
Sunday	0800 to 2300

Activities Sought under this Licence Application

3. In brief summary, the applicant seeks to amend the layout of the premises and;
 - Permit the sale of alcohol, recorded music, films and live music on New Year's Eve until 0300 on New Year's Day

- As a result of the above point, the opening hours are to be permitted on New Year's Eve until 0330 on New Year's Day
- Replace existing non-standard timings
- Recorded music (Indoors only) and Films (Indoors & Outdoors) to be added to the Premises Licence (Mon-Sat 1100 till 2300 and Sunday 12 to 2230)
- Remove some out of date conditions

All other licensable activities, times and days are to remain the same.

- A copy of the application form is attached at Annexe 2.
- A copy of the old plan of the premises is attached at Annexe 3.
- A copy of the new plan of the premises is attached at Annexe 4.

5. Attached at Annexe 5 is a plan showing the area of the premises and surrounding properties.

Licensing Objectives

6. The four Licensing Objectives of the Licensing Act 2003 are set out below. Any representations for consideration must relate to one or more of these objectives, and representations must be from interested parties and/or from the responsible authorities under this legislation.

1. Prevention of Crime and Disorder
2. Public Safety
3. Prevention of Public Nuisance
4. Protection of Children from Harm

Representations received

Responsible Authorities

7. There has been 1 representation from Environmental Health acting as a Responsible Authority, reproduced at Annexe 6.

Other Persons

8. There have been 24 representations from 'Other Persons', which are reproduced at Annexe 7. 1 late representation was received. A number of pictures were also submitted with the representations and these will be circulated separately to the agenda.

Human Rights

9. Under Article 8, European Convention on Human Rights, everyone has the right to respect for his private and family life, his home and his correspondence. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder

or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others. In Licensing Act 2003 cases this means that the Sub-Committee must have regard to the effect of its decisions on local residents, and balance their interests against those of the public at large (e.g. the customers of the premises under consideration) and the people operating the business from the premises.

What the Sub-Committee may do

10. The Sub-Committee, after hearing from the applicant and having considered the representations, must take such of the steps listed below (if any) as it considers appropriate for the promotion of the licensing objectives. Reasons must be given by the Sub-Committee for any decision made, since there is an opportunity for any applicant or any person making representations to appeal to the Magistrates' Court against the Licensing Sub-Committee decision.

The steps are:

- To modify the conditions of the licence;
 - To reject the whole or part of the application.
11. Revised Guidance issued under Section 182 of the Licensing Act 2003, available at:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/607237/182Guidance_05_04_17.pdf

It will be available for reference purposes at the meeting.* Particular attention is drawn to:

- Hearings - paragraphs 9.31 to 9.44
- Conditions – paragraphs 1.16-1.17 and 10.1 to 10.66
- The Licensing Objectives – paragraphs 2.1–2.31
- Live Music – paragraphs 16.26 to 16.32
- Recorded Music – paragraphs 16.33
- Licence conditions re Music – paragraphs 16.36 to 16.41
- Beer Gardens – paragraphs – 16.42 to 16.44

Recommendation

The Sub-Committee is requested to consider the application for the variation of the premises licence on its merits.

Section 35(3) Licensing Act 2003 provides that the Sub-Committee, having regard to the relevant representations made, must take such of the following steps (if any) as it considers appropriate for the promotion of the licensing objectives:

- To modify the conditions of the premises licence, whether by alteration or omission of conditions or the addition of new conditions. Any conditions must be appropriate for the promotion of the licensing objectives, proportionate and should address the matters raised in the representations

- To reject the application in whole or part.

Background Papers

Application referred to above, representations and pictures referred to above.

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*Those without access to the Internet should contact Paul Hughes in order to access the Guidance.