

WAVERLEY BOROUGH COUNCIL

MINUTES OF THE LICENSING SUB-COMMITTEE A - 26 OCTOBER 2015

SUBMITTED TO THE LICENSING AND REGULATORY COMMITTEE  
26 NOVEMBER 2015

(To be read in conjunction with the Agenda for the Meeting)

**Present**

Cllr John Fraser  
Cllr Simon Inchbald

Cllr Libby Piper

**In Attendance**  
Cllr Patricia Ellis

4. ELECTION OF CHAIRMAN (Agenda item 1.)

Cllr Simon Inchbald was appointed Chairman for this meeting of Licensing Sub-Committee A.

5. MINUTES (Agenda item 2.)

The Minutes of the Meeting held on 30 March 2015 were confirmed and signed.

6. DISCLOSURE OF INTERESTS (Agenda item 3.)

There were no interests declared under this heading.

**PART I - RECOMMENDATIONS TO THE COMMITTEE**

There were no matters falling within this category.

**PART II - MATTERS OF REPORT**

Background Papers

The background papers relating to the following report items in Part II are as specified in the agenda for the Committee.

7. LICENSING ACT 2003 - APPLICATION FOR VARIATION TO AN EXISTING PREMISES LICENCE - THE LOUNGE BAR & GRILL, 1 HIGH STREET GODALMING, SURREY, GU7 1AZ (Agenda item 4.)

The applicant accompanied by the manager and DPS of the premises attended the meeting and confirmed that they had received a copy of the agenda papers.

The Democratic Services Manager introduced the report and explained that the applicant sought to vary the area/plans covered for licensable activities, change the capacity limit and amend the conditions regarding:

- Smoking outside
- Last entry/re-entry
- Children in the bar

The licensable activities and times and days that licensable activity were permitted remained the same.

The Manager of The Lounge explained that they sought to increase the number of people allowed outside smoking at any one time to 15 from 23.00 on a Friday and Saturday, and for the allocated smoking area to be relocated to the side of the building. This would move people away from the front of the building and help reduce noise nuisance to local residents. He suggested that the noise was not only created by customers to The Lounge, but from other nearby premises, one of which had live music. Opposite The Lounge was also a lay-by and bus shelter where people tended to congregate to wait for taxis.

The Environmental Health Officers then gave their reasons for objecting to the variation. Principally their objections were on the grounds of noise nuisance which both the relocation of the smoking area and the extension of entry time would increase. The Environmental Health Officer listed 13 instances since September 2011 where complaints had been received over noise from the premises.

The Environmental Health representatives also stated that the current capacity limit of 100 was an embedded condition based on evacuation need and fire doors and were uncertain whether an increase in numbers would required a safety assessment. Environmental Health no longer had responsibility for fire safety issues and suggested a new risk assessment be undertaken by the relevant authority.

Godalming Town Council then outlined their objection which related to the side of the building being used as a smoking area. Godalming Town Council was the owner of the access area that lead to a public car park. The applicant had not contacted them to ask for permission and Godalming Town Council would not consent for its use as a smoking area. The Chairman therefore said that this was not a matter for the Sub-Committee and the applicant should take it up with the Town Council as the landowner.

The Sub-Committee then asked a number of questions of the Manager of The Lounge. The Manager did not accept that the numbers of smokers allowed outside the premises had exceed the limit of five, as people waiting to get into the premises often smoked as they waited and therefore this was a difficult area to police.

The Manager advised that the reason for requesting an extension to the last entry or re-entry time was to allow industry workers access after they had finished work in the town. The Sub-Committee were concerned that this would be difficult to monitor and a type of informal arrangement would not be allowed under the licence provisions.

With regard to noise escape the Manager did not agree with complaints received by Environmental Health of noise escape through windows left open, which was in

breach of their licensing condition. He also stated that he did not accept that the front door had been propped open and that it only remained open when someone holds it when entering or leaving. The Manager also stated that he was only aware of one of the complaints over noise that Environmental Health had recorded and he maintained that the premises had not been playing music on that particular date but that the premises opposite had been.

The Manager said that the rearrangement of the premises had removed the kitchen which was now arranged as a private function room with its own bar. The intention was to attract older clientele and families who could hire the room for family parties, which was the reason for seeking a variation of the Under 14s Policy so that Under 18s could be admitted if accompanied by an adult aged 21 or over and be required to vacate the premises by 20.00 hrs.

Following summing up the Sub-Committee WITHDREW at 11.07.

Following the Sub-Committee's deliberation the meeting RESUMED at 13.41. The Council's Solicitor had been asked to advise the Sub-Committee during their deliberation on the wording of their decision and the Democratic Services Manager had advised them on matters relating to processes involving representations received from responsible authorities.

The Sub-Committee carefully considered the application for a variation to an existing premises licence, taking into account the representations received, statutory guidance and the Council's Statement of Licensing Policy 2013-2018.

On the balance of probabilities the Sub-Committee found that, on the evidence before them, the variation should be granted **in part**, subject to the conditions and restrictions contained in the current operating schedule as varied by the conditions imposed today which the Sub-Committee find are appropriate for the promotion of the licensing objective relating to Prevention of Nuisance.

The Sub-Committee required the management to ensure that smoking outside the building was controlled and limited to the current number of 5 persons and would not change the relevant condition by increasing this number. This was because the management had not demonstrated that they could currently control and supervise the currently allowed number of smokers outside the premises. Also the Sub-Committee had no power to allow smoking in the alleyway to the side of the premises which was owned by Godalming Town Council. This was to control the amount of noise and to prevent public nuisance outside the premises.

The variation of the area covered for licenseable activities is granted as requested.

Surrey Fire and Rescue had no objection to the request to increase the number of patrons allowed in the premises at any one time from 100 to 150 and this was granted. The Sub-Committee was **not** satisfied that the variation in numbers would impact on the other Licensing Objectives. The Sub-Committee therefore replaced the condition that the number of persons to be admitted to the premises shall not exceed 100 with the following condition:

The licence holder is to responsibly manage the number of persons on the premises at any one time to no more than 150 including staff.

The Sub-Committee noted that the existing condition regarding time of last entry/re-entry to the premises was imposed at a review hearing. The Sub-Committee, having heard from Environmental Health about the number of complaints about the premises, were not satisfied that altering this restriction would be consistent with promoting the prevention of public nuisance objective as it would increase the duration of noise from the premises which had already been the subject of noise complaint. The Sub-Committee would therefore not extend the time of last entry or re-entry to the premises until 00.30. Last entry/re-entry would remain at 00:00 hours.

The existing condition at 2 in the Licence (Children in Bar) to be replaced by the following condition:

Children below the age of 18 will be monitored by the staff at the establishment at all times and will only be allowed in the private function room. All under-18s are to be accompanied by a responsible adult age 21 years or over and required to vacate the premises by 20.00 hrs. This is to address the Licensing Objective relating to the Protection of Children from Harm.

The applicant is reminded that it is his responsibility to ensure that under-18's are to be strictly accompanied by a responsible adult of age 21 years or over and the Sub-Committee suggested that the manager reminded the private party 30 minutes prior to the 20.00 hrs time limit that all children should vacate the premises by that time.

The Sub-Committee believed that the conditions imposed were designed to minimise the impact of the licence variation on the promotion of the licensing objectives and were appropriate for the promotion of the licensing objectives.

The Sub-Committee was conscious that should there be any cause for concern in the future, legislation allows for members of the community and responsible authorities to contact their licensing authority with complaints over the operation of the premises, leading to a possible review of the licence.

The applicant or any person who made a representation may appeal against this decision to the magistrates' court within 21 days of receiving written notice of this decision.

**The meeting commenced at 10.00 am and concluded at 1.55 pm**

**Chairman**