

Licensing Sub-Committee (Hearing under the Licensing Act 2003)

Monday 18 May 2020 at 2.30pm

**The meeting will be held remotely via MS
Teams with audio access for all parties and
their representatives and the public via
registered dial-in only**

Members of the Sub-Committee

Councillors T Burton, D Cotty and E Gill.
Councillors D Clarke, R King and J Olorenshaw in reserve (should a member of the panel lose
connection with the meeting)

Other Members of the Licensing Committee receive this Agenda for information only

In accordance with Standing Order 29.2 any non-member of the Sub-Committee who is considering 'attending' the meeting should first request the permission of the Chairman.

A G E N D A

Notes:

- 1) Any report on the Agenda involving confidential information (as defined by section 100A(3) of the Local Government Act 1972) must be discussed in private. Any report involving exempt information (as defined by section 100I of the Local Government Act 1972), whether it appears in Part 1 or Part 2 below, may be discussed in private but only if the Committee so resolves.
- 2) The meeting will take place in public save that the Sub-Committee may exclude the public from all or part of a hearing where it considers that the public interest in doing so outweighs the public interest in the hearing, or that part of the hearing, taking place in public.
- 3) Enquiries about the Agenda and background papers should be directed in the first instance to

**Miss C Pinnock, Democratic Services, Law and Governance Business Centre,
Runnymede Civic Centre, Station Road, Addlestone (Tel. Direct Line: 01932 425627).
(Email: clare.pinnock@runnymede.gov.uk).**

- 4) An objector who has submitted a representation by the published deadline of 28 April 2020 and wishes to speak must make a written request by midnight on Tuesday 12 May 2020 to licensing@runnymede.gov.uk. In light of the current restrictions imposed to address the Covid -19 outbreak, this meeting will be held remotely.
- 5) If you wish to listen to the Hearing by audio via MS Teams you must register by 10am on the day of the meeting by emailing your name and contact number to be used to dial-in to licensing@runnymede.gov.uk
- 6) For meetings held at the Civic Centre, in the unlikely event of an alarm sounding, members of the public should leave the building immediately, either using the staircase leading from the public gallery or following other instructions as appropriate.
- 7) **Filming, Audio-Recording, Photography, Tweeting and Blogging of Meetings held at Civic Centre or remotely via MS teams**

Members of the public are permitted to film, audio record, take photographs or make use of social media (tweet/blog) at Council and Committee meetings provided that this does not disturb the business of the meeting. If you wish to film a particular meeting, please liaise with the Council Officer listed on the front of the Agenda prior to the start of the meeting so that the Chairman is aware and those attending the meeting can be made aware of any filming taking place.

Filming should be limited to the formal meeting area and not extend to those in the public seating area.

For meetings held remotely via MS teams, you may only record the audio of those proceedings. The Council shall not be recording any remote meetings.

The Chairman will make the final decision on all matters of dispute in regard to the use of social media audio-recording, photography and filming in the Committee meeting.

LIST OF MATTERS FOR CONSIDERATION

PART I

Matters in respect of which reports have been made available for public inspection

	<u>PAGE</u>
1. ELECTION OF CHAIRMAN	3
2. MINUTES	3
3. DECLARATIONS OF INTEREST	3
4. PROCEDURE FOR THE CONDUCT OF BUSINESS	3
5. LICENSING ACT 2003 - APPLICATION FOR A VARIATION OF A PREMISES LICENCE – THE VICTORIA PUBLIC HOUSE, WOODHAM (PUNCH TAVERNS)	5
6. EXCLUSION OF PRESS AND PUBLIC	9

PART II

Matters involving Exempt or Confidential Information in respect of which reports have not been made available for public inspection.

- a) Exempt Information
- 7. (No reports to be considered under this heading)
- b) Confidential Information
- (No reports to be considered under this heading)

INTRODUCTIONS

The Legal Advisor to the Sub-Committee will introduce each member of the Sub-Committee present at the start of the remote meeting so that all participants (in particular the public) are clear who is in attendance and that although the Hearing Panel consists of three Members there are other Members present in case of a technical issue meaning that another Member will have to take the place of someone on the panel.

If any of the parties has chosen to make written representations instead of 'attending' the Hearing to speak, the Legal Advisor will advise accordingly.

1. ELECTION OF CHAIRMAN

The Legal Advisor will ask the Members present to elect a Chairman for the meeting.

2. MINUTES

To confirm and sign the Minutes of the Sub-Committee meeting held on 23 March 2020, as attached at Appendix 'A'. It is a requirement of the Council's Constitution that the minutes of the Sub-Committee are signed at the next available meeting. However, as the meeting is being held remotely, the Chairman will ask the Members of the Sub-Committee if they approve the Minutes which will then be signed when this is physically possible.

3. DECLARATIONS OF INTEREST

If Members have an interest in an item please record the interest on the form circulated with this Agenda and email it to the Legal Advisor or Democratic Services Officer by 12 noon on the day of the meeting.

Members are advised to contact the Council's Legal section prior to the meeting if they wish to seek advice on a potential interest.

Members are reminded that a non pecuniary interest includes their appointment by the Council as the Council's representative to an outside body and that this should be declared. Membership of an outside body in their private capacity as a director, trustee, committee member or in another position of influence thereon should be regarded as a disclosable pecuniary interest, as should an appointment to an outside body by the Council as a trustee.

Members who have previously declared interests which are recorded in the Minutes to be considered at this meeting need not repeat the declaration when attending the meeting. Members need take no further action unless the item in which they have an interest becomes the subject of debate, in which event the Member must leave the 'room' if the interest is a disclosable pecuniary interest or if the interest could reasonably be regarded as so significant as to prejudice the Member's judgement of the public interest.

4. PROCEDURE FOR THE CONDUCT OF BUSINESS

The Licensing Sub-Committee's rules of procedure which are set out in full in the Council's Constitution (pages 310 - 314), are summarised below: Note these have been adapted for remote meetings.

1. The procedure for the conduct of business, is as set out below. It is at the discretion of the Sub-Committee to alter the order of business, if appropriate and the Chairman will grant permission to those parties to be present where necessary.
2. The Authorised Officer's report shall be presented by the Senior Licensing Officer.

3. The Sub-Committee will take the form of a discussion between the Members, the Applicants, Responsible Authorities, and Other Persons present who made a representation, or persons nominated to speak on their behalf, in an orderly manner.
4. Each party will be invited to state their case followed by an opportunity for the other parties present to ask questions; in the case of an application for a variation of a premises licence this will usually be the Applicant first (or their representative), followed by Responsible Authorities and Other Persons (if present).
5. The Chairman will invite Members of the Sub-Committee to ask questions of any party or other person appearing at the hearing and all parties shall be entitled to give further information in support of their application, representations or notice, as appropriate and ask questions of other parties present and address the Sub-Committee if given permission to do so.
6. All parties present (applicant, responsible authorities etc) will be given an equal amount of time to state their case (10 minutes).
7. Each party will be invited to make a closing submission if they wish; the applicant being the last to make their submission, following other persons and the responsible authorities. All parties will be invited by the Chairman before they make their closing submission to advise the Sub-Committee if they wish to take the opportunity to 'adjourn' the meeting briefly to consult their representative in private before doing so. All parties present (applicant, responsible authorities etc) will be given an equal amount of time to make their closing submissions (10 minutes).
8. Where resolved to do so, the Sub-Committee will then retire to deliberate in private.
9. The Chairman will then close the public meeting and all parties attending, those listening and not part of the Hearing panel will be advised that the decision of the Sub-Committee will be emailed a summary and brief outline of the decision within 5 working days. The formal decision of the Sub-Committee will be issued in due course.
10. If an Applicant or other party to the hearing is unhappy with the decision of the Sub-Committee in relation to the licence or conditions placed upon it, on the grounds of lawfulness or bias, they have a right of appeal to the Magistrates' Court within 21 days of the date that the licence holder is notified of the decision.

5. **LICENSING ACT 2003 - APPLICATION FOR A VARIATION OF A PREMISES LICENCE – THE VICTORIA PUBLIC HOUSE, WOODHAM (PUNCH TAVERNS) (ENVIRONMENTAL SERVICES, LICENSING, ROBERT SMITH)**

Synopsis of report:

To consider an application for a variation to a premises licence in respect of The Victoria public house, 427 Woodham Lane, Woodham, KT15 3QE.

Recommendation(s):

The Sub-Committee determines the application for a variation to the premises licence in respect of The Victoria public house, 427 Woodham Lane, Woodham, KT15 3QE.

1. Context of report

- 1.1 This application (dated 1 April 2020), is for a variation of a premises licence under section 34 of the Licensing Act 2003 (the 'Act'). A copy of the application and plans of the premises are attached at Appendix 'B', pages 7 to 27.
- 1.2 The existing premises licence has been in place since 2005. The premises has been unused for approximately 1 year and is currently in a state of disrepair.
- 1.3 A copy of the current premises licence and plan is attached at Appendix 'C', pages 28 – 33.
- 1.4 Representations from local residents are attached at Appendix 'D', pages 34 – 55.
- 1.5 A map showing the location of the premises is shown at Appendix 'E', page 56.

2. Report

- 2.1 In summary, the application proposes the following:
 - a) A variation in the layout of the premises following renovation
 - b) Extending the terminal hour for the sale of alcohol on Friday and Saturday until midnight and on Sunday until 23:00
 - c) Permit the provision of films on Monday to Saturday from 11:00 to 23:00 and on Sunday from 12:00 to 22:30
 - d) Permit late night refreshment on Friday and Saturday from 23:00 to 00:00; the applicant has confirmed this would be indoors only.
 - e) Extend the opening hours to allow the premises to open from 08:00 daily for breakfast, coffee and tea etc. and to close on Friday and Saturday at 00:30 the following day and on Sunday at 23:30
 - f) Add non-standard timings for Christmas Eve and New Year's Eve by the addition of an extra hour for alcohol sales and opening hours, (thereby removing the seasonal variation on the existing licence as seen in 2.2 below)
 - g) Add non-standard timings for Christmas Eve and New Year's Eve by the addition of an extra hour for live and recorded music.
 - h) Remove all existing Annex 2 and Annex 3 licence conditions and replace with updated conditions
- 2.2 The current authorisation for opening hours is as follows: -
 - 11:00 to 23:30 Monday to Thursday
 - 11:00 to 00:00 Friday and Saturday
 - 11:00 to 23:00 Sunday
- 2.3 A seasonal variation allows opening from the end of opening hours on New Year's Eve until the beginning of opening hours on New Year's Day.
- 2.4 The current authorisation for the sale of alcohol from the premises is for on sales and off sales is as follows: -

11:00 to 23:00 Monday to Thursday
11:00 to 23:30 Friday and Saturday
11:00 to 22:30 Sunday

- 2.5 A seasonal variation allows the sale of alcohol from the end of licensing hours on New Year's Eve until the beginning of licensing hours on New Year's Day.
- 2.6 The current authorisation for live and recorded music is restricted to indoors only, this is as follows: -
- 11:00 to 23:00 Monday to Saturday
11:00 to 22:30 Sunday
- 2.7 There is no current seasonal variation to extend the hours of live or recorded music.
- 2.8 Members are reminded of the changes to music licensing that took place in 2015 following the Live Music Act 2012 and The Legislative Reform (Entertainment Licensing) Order 2014 which amended the Licensing act 2003.
- 2.9 This had the effect of deregulating live and recorded music at premises within the following circumstances:
- (i) Live music: no licence is required for:
 - (ii) - a performance of unamplified live music between 08:00 and 23.00 on any day, on any premises.
 - (iii) - a performance of amplified live music between 08:00 and 23:00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.
 - (iv) Recorded Music: no licence permission is required for:
 - (v) - any playing of recorded music between 08:00 and 23:00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.

Opening Hours

- 2.10 The application proposes that the premises opens at 08:00hrs for serving hot food and drink (breakfast, tea, coffee etc.). The sale of hot food and drink is not a licensable activity unless it occurs between the hours of 23:00hrs and 05:00hrs.
- 2.11 This is common practice in many similar premises and whilst some may have opening hours from early morning, others do not, but still carry on this activity and ensure any alcohol is covered so as not exposed for sale. No licensing offences are being committed in these circumstances as no licensable activity is taking place.
- 2.12 The authorised opening and closing hours on a premises licence are there to control licensable activities and the impact of licensable activities on the licensing objectives.

Promotion of Licensing Objectives

- 2.13 The applicant's proposals to promote the four licensing objectives are shown at section 16 (M) of the application (page 21 of Appendix B). These proposals are sought as replacement of the existing conditions on the licence.

Responsible Authorities - Relevant Representations

- 2.14 One Responsible Authority made representations in relation to this application.

This was submitted by the Council's Environmental Health section in relation to the licensing objective of the Prevention of a Public Nuisance. The applicant has accepted the amendments proposed by Environmental Health; these are shown below with the amended areas in red.

AMENDMENT of proposed condition 6 - *Refuse, such as bottles, shall not be placed into receptacles outside the premises between 22:00 and 08:00hrs the following day.*

AMENDMENT of proposed condition 7 – *No customer shall be permitted to use the external areas of the premises after 23:00hrs on Friday - Saturday and after 22:00hrs on Sunday – Thursday, except for customers permitted to temporarily leave the premises to smoke and no drinks shall be permitted to be taken into any external area after these times.*

Relevant Other Persons Representations

- 2.15 Eleven relevant representations have been received, these are all from local residents and relate to the licensing objective of the Prevention of Public Nuisance and the prevention of Crime and Disorder. These representations are attached at Appendix 'D', pages 34 - 55.
- 2.16 The applicant has been served with the required notices and furnished with copies of all representations.

Applicant's response

- 2.17 At the time of writing this report, the applicant had responded to the representation from Environmental Health as mentioned in 2.6. The applicant has made no response to the other representations.

3. Policy framework implications

- 3.1 Within Runnymede Borough Council's Statement of Licensing Policy, Members are asked to note paragraphs 7 to 11 which refer to the licensing objectives. This is not included in the agenda bundle, but each Member of the Sub-Committee has a copy and it is also available on the Council's website.

4. Legal implications

- 4.1 An authority must carry out its functions under the Licensing Act 2003 with a view to promoting the four licensing objectives and, in addition to the terms of the statute, must have regard to its published licensing statement (i.e. Policy) and guidance issued by the Secretary of State, under section 182.
- 4.2 The applicant, licence holder and any responsible authorities or other persons who have made a representation have the right of appeal to a Magistrates' court (within 21 days starting the day after the date of the decision notice) should they feel any decision is unjust. There is a possibility costs may be awarded against the Council where decisions are overturned.

(To resolve)

Background papers

Runnymede Licensing Policy 2016-2021

[file:///C:/Users/44757/Downloads/Statement_of_Licensing_Policy_4th_edition_2016 - 2021.pdf](file:///C:/Users/44757/Downloads/Statement_of_Licensing_Policy_4th_edition_2016_-_2021.pdf)

Licensing Act 2003

<http://www.legislation.gov.uk/ukpga/2003/17/contents>

Statutory Guidance (April 2018) issued under Section 182 of the Licensing Act 2003

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/705588/Revised_guidance_issued_under_section_182_of_the_Licensing_Act_2003_April_2018_.pdf

Live Music Act 2012

<http://www.legislation.gov.uk/ukpga/2012/2/contents/enacted>

The Legislative Reform (Entertainment Licensing) Order 2014

<https://www.legislation.gov.uk/ukdsi/2014/9780111117675>

6. **EXCLUSION OF PRESS AND PUBLIC**

If Members are minded to consider any of the foregoing items in private, it is the

OFFICERS' RECOMMENDATION that -

the press and public be excluded from the meeting during discussion of the report(s) under Section 100A(4) of the Local Government Act 1972 on the grounds that the report(s) in question would be likely to involve disclosure of exempt information of the description specified in the relevant paragraphs of Part 1 of Schedule 12A of the Act.

(To resolve)

PART II

Matters involving Exempt or Confidential Information in respect of which reports have not been made available for public inspection.

a) Exempt Information

PARAS

(No reports to be considered under this heading)

b) Confidential Information

(No reports to be considered under this heading)