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A meeting of **Alcohol and Entertainment Licensing Sub-Committee** will be held in Old Court Room, The Council House (Chichester City Council), North Street, Chichester on **Thursday 27 April 2017 at 2.30 pm**

MEMBERS: Mr P Budge, Mr J Connor and Mr H Potter

SECOND SUPPLEMENT TO AGENDA

Part 1

- (a) Report of the Responsible Authority for the Prevention of Public Nuisance (Pages 1 - 5)

NOTES

1. The press and public may be excluded from the meeting during any item of business whenever it is likely that there would be disclosure of exempt information as defined in section 100I of and Schedule 12A to the Local Government Act 1972
2. The press and public may view the agenda papers within Part 1 of the agenda on Chichester District Council's website at <http://www.chichester.gov.uk/committees>.
3. Subject to the provisions allowing the exclusion of the press and public, the photographing, filming or recording of this meeting from the public seating area is permitted. To assist with the management of the meeting, anyone wishing to do this is asked to inform the chairman of the meeting of his or her intentions before the meeting starts. The use of mobile devices for access to social media is permitted but these should be switched to silent for the duration of the meeting. Those undertaking such activities must do so discreetly and not disrupt the meeting, for example by oral commentary, excessive noise, distracting movement or flash photography. Filming of children, vulnerable adults or members of the audience who object should be avoided. [Standing Order 11.3 in the Constitution of Chichester District Council]

Report of the Responsible Authority for the Prevention of Public Nuisance to the Chichester District Council Licensing Sub-Committee for its meeting on 27th April 2017 to determine an application for a variation to a premises licence under the Licensing Act 2003 in respect of:

The Foundry 1 Southgate Chichester West Sussex PO19 8DH

Contacts: Tim Horne tel. (01243) 534598 E-mail: thorne@chichester.gov.uk

1. Recommendations

- 1.1 That the Sub-Committee considers the report of the Responsible Authority for the prevention of public nuisance.
- 1.2 Refuse the application as it stands because the licensing objective for the prevention of public nuisance is not sufficiently met.

2. Main Report

- 2.1 The Foundry pub building is situated in the vicinity of commercial and residential properties.
- 2.2 The main street entrance from Southgate is currently the only entrance provided with access to outside via the main bar areas.
- 2.3 There is already a beer garden with extensive seating for approximately 80 persons and provision of beer pumps.
- 2.4 There is a small car park at the rear used by staff and for deliveries.
- 2.5 The outside area has loudspeakers for background music.
- 2.6 Licensable activities within the Operating Schedule under boxes 'B,E and F are indoors only, with supply of alcohol under box 'J' being both. Amendments to the Licensing Act 2003 by The Legislative Reform (Entertainment Licensing) Order 2014, means no premises licence is required for the following activities;
 - Unamplified music between 08:00 hrs and 23:00 hrs on any day
 - Amplified music between 08:00 hrs and 23:00 hrs on premises authorised to sell alcohol for consumption on the premises, subject to a maximum audience of 500.
- 2.7 The proposal seeks to extend the current outdoors area by demolishing the existing boundary and creating a new area within half of the existing pub car park to within 2.3 metres of Globe House. The plan is to provide a larger more permanent external bar area during opening hours. These are Monday to Thursday 08.00 – 0.30hours, Friday/Saturday 08.00 – 2.30 hours, and Sunday 08.00 – midnight.

- 2.8 The plan shows that the area will be enclosed by a low wall to 0.6 m and there will be open steel slats above up to 1.65 m. Along the western edge of the new garden will be an area for waste bins to be stored [now reverted to original bin compound]. Seating along the furthest edge shows that there will be approximately 2.5 – 3.5 m separation distance to the three windows of Globe House that overlook the area.
- 2.9 The plans of the Foundry submitted with the application shows the total extent of the licensed area outlined in red. The current outside area can be used for permitted licensed activities and may now be used for the outdoors performance of live non amplified music and song until 23.00 and amplified recorded music until 23.00 hours. In addition, the new extended outdoors area will be used for drinking and smoking until closing time, midnight Sunday, 0.30 Mon -Thurs and 2.30 Fri - Sat.
- 2.10 To promote the licensing objective of the prevention of public nuisance at box 'P (d)' it is stated that the controls will be as per existing. No additional requirements are thought necessary by the applicant as the only new licensable parts will be a larger purpose built outside bar.
- 2.11 There is no disputing the fact that the increased area will accommodate significantly more customers, perhaps 50% more. Whilst it is difficult to put an exact number on persons occupying the outside space, there is potential for at least 120 persons to be outside and more if patrons are standing or spill out onto the car park within the pub's boundary.
- 2.12 More people talking together create more noise from conversation alone. If you add background mood music or other unlicensed entertainment there will be a significant increase in noise. Even during lunch and early evening it is likely there will be lively conversation between persons sat close to the boundary with neighbouring property.
- 2.13 In the evening there will be larger numbers outdoors at times. As mentioned above, additional sources of music may contribute to higher noise levels. The nearest residential development is elderly sheltered housing at Brampton Court, some 70 metres from the outdoors area. There is a direct line of sight to the 3 storey block of flats and noise will carry that far. The outdoors area is likely to be in maximum use during the warmer summer months when residents keep windows open for ventilation. It is a concern that customer noise will continue to be generated outdoors into the night well after the trains stop running.
- 2.14 The new area will bring patron derived noise and smoking approximately 11m closer to the neighbouring office property and the new boundary detail is inferior in terms of noise containment due to the open design of the slatted bars. There is concern over the proximity of the development in terms of noise and smoke emissions generated by its use. These emissions are likely to have an adverse impact on persons living and working in the vicinity. These may include;
- patron noise in external areas,
 - cigarette smoke drifting into neighbouring offices,
 - un-amplified live and amplified recorded music

- 2.15 There are no reports of noise although concern has been raised by a resident about the return of night time disturbance from its later use.
- 2.16 As the responsible authority for the prevention of public nuisance we have made representations to the licensing officer – (Background Papers 3.2)
- 2.17 The applicant has responded to the specific representations raised on 6 March 2017 ***highlighted in italics below.***

2.18 The use of the extended premises will cause noise disturbance to persons working in the vicinity.

The offices and classrooms in Globe House are understood to be used mainly between midday until 7pm on Monday to Friday, and all day Saturday. The windows of this property are within 3.5m (10 feet) of the new outdoors area. The proposal seeks to extend the outdoors area by demolishing the existing boundary and to within 2.3m of Globe House.

The extension to the premises will not cause noise disturbance to persons working in the vicinity as the use of the beer garden tends to be outside of the ordinary working hours (i.e. evenings and weekends). Therefore, this argument is non-existent. The premises currently operate the existing beer garden without any complaint.

2.19 The use of the extended premises will cause cigarette smoke to infiltrate areas where persons are working in the vicinity.

The outside area used will be significantly increased and made more appealing to patrons with a new open metal slat and foliage design. At 3m from windows it will be impossible to avoid drifting cigarette smoke.

Cigarette smoke will not infiltrate the areas where persons are working. This has not been an issue raised to date, and smokers are permitted to use any part of the external areas. Furthermore, the new area screens the nearest properties from cigarette smoke.

2.20 The use of refuse bins adjacent to neighbouring property will cause malodours to infiltrate areas where persons are working in the vicinity.

There is already an existing bin store provided to the right hand side of the car park entrance from the station yard and there is very little evidence of the new area being formerly used as a bin area.

I have reviewed the plan again and can see the bin store. Our client has confirmed that the bin store identified on the proposed licensing plan has always been in place. There is no proposal to change or relocate this, it has just been shown on the plan for indicative purposes. In light of this, unless there is evidence to the contrary, we don't feel that concerns of malodours are justified or appropriate, considering our client has operated in this way for some time without issue.

After further correspondence disputing their evidence.

Our client has reconsidered the location of the bin store. The bin store is now proposed to be positioned away from the neighbouring residents/offices, and closer to the premises. Please see attached plan for your reference.

The 'proposed' bin store appears to be the as per existing location which is positioned away from the neighbour's windows and we are satisfied that this part of the representation is no longer a concern.

2.21 The late provision of unlicensable activities involving amplified music will cause noise nuisance and disturbance to nearby residents.

Noise will affect the extended area, especially as the existing sound barrier provided by a wall and close boarded fence will be dismantled. Whilst the existing area has not given rise to complaints, it does not necessarily follow that an extended outside area, accommodating more people and used under recently varied opening hours, will not worsen the situation.

The application applied for is for the extension to the beer garden and licensing of the bar servery only. Therefore, concerns of use of deregulated entertainment in the areas currently permitted are not relevant to this application.

2.22 The variation to the premises licence made under 16/01560/LAPRE1 extended hours for licensable activities on Friday and Saturday nights from 08.00 – 02.00. Representations were withdrawn after reduction from 3am (closure at 3.30am) and noise management measures. The pub has only been operating under the new licence for 5 months and it is perhaps too early to decide if any additional noise is being reported.

2.23 A planning application submitted for the change of use of the car park to an outside bar and new seating area has been withdrawn and remains undetermined following objections from a resident, occupants of two neighbouring offices (one used for music and maths tuition) and issues raised by Chichester District Environmental Management Team.

2.24 In respect of the licensing application for the outside bar serving within the extended area we maintain our representation over the prevention of public nuisance for the reasons given in paragraphs 2.13, 2.14 and 2.16. No measures have been applied to eliminate the nuisance issues.

3. Background Papers

3.1 Summary of complaints history – None.

It is perhaps noteworthy that the premises licence has only recently varied its hours of activities.

3.2 Letter to Licensing Officer dated 6 March 2017.

Subject: 17/00196/LAPRE2 - Application for Variation of Premises Licence under the Licensing Act 2003

Premises: The Foundry 1 Southgate Chichester West Sussex PO19 8DH

Having examined the above application and operating schedule, as the responsible authority for the control of public nuisance, I make the following representations with regard to the application as I consider the proposals will not meet the licensing objectives on the following grounds:

Prevention of public nuisance

1. The use of the extended premises will cause noise disturbance to persons working in the vicinity.
2. The use of the extended premises will cause cigarette smoke to infiltrate areas where persons are working in the vicinity.
3. The use of refuse bins adjacent to neighbouring property will cause malodours to infiltrate areas where persons are working in the vicinity.
4. The late evening and night time use of the extended premises will result in noise nuisance to occupants of nearby residential properties.

In light of the above, and given the design and potential use of the proposed outdoors area I do not see sufficient scope for amendment by mitigation measures before any hearing to determine this application.

Tim Horne
Principal Environmental Health Officer