

From: Power, Daniel
Sent: 19 April 2023 12:02
To: Licensing Bull, Andrea
Cc: Captain Takeout
Subject: Environmental Health, Consideration of Premises Licence Full Variation - 23/00321/LAPVAR

Afternoon Team,

23/00321/LAPVAR

Application for a Premises Licence Full Variation – The Garden, High Street, Cowes, PO31 7RR

I've reviewed the above application which includes formalising the use of the outside parts as well as the upper floor of the aforesaid premises, whilst considering the potential effect in respect of the promotion of key licensing objectives, most notably, the prevention of public nuisance. I understand the application does not include any amendments to the hours of licensable activity.

You'll note that I had previously, objected to a Minor Variation Application referenced **23/00243/LAPVAM**, which I understand was withdrawn by the applicant, as a result of the Environmental Health Department receiving several noise complaints concerning the aforementioned premises (**23/00321/COMNOI & 23/00492/COMNOI**), accordingly, I had considered it necessary to assess the complaints received, so as to determine whether the use of the outdoor parts/first floor potentially undermine the prevention of public nuisance objective.

To date, I've undertaken several subjective assessments in respect of the noise from the outdoor garden parts, these occurred on 17th & 31st March 2023, during the latter observation, I had intended to make use of sound level monitoring equipment to review the general ambient noise levels whilst located within close proximity to neighbouring residential receptors at Crown Court, Sun Hill, Cowes, PO31 7HZ.

However, the monitoring was unsuccessful given a party was in flow at a neighbouring residential dwelling at the time. The people noise/recorded music would have undermined the reading at this time. In response, I had arranged a follow up assessment on 14th April 2023, however, the weather conditions were considered as likely to impede any assessment. Consequently, whilst I appreciate the use of the garden may have been at limited capacity given the time of year and variable weather conditions during my subjective assessment's and I plan to make use of sound level monitoring shortly, I consider it appropriate to condition the use of the external licensable areas as a result of this application.

In determining it appropriate to offer conditions, I've undertaken a premises risk assessment with reference to the application, this is in line with the 'Good Practice Guide on the Control of Noise from Places of Entertainment' - Institute of Acoustics & Institute of Licensing (December 2016) You'll note that as a result of applying the conditions outlined below, the risk, in this case of noise disturbance, is reduced. However, the conditions, have been considered necessary as a result of sensitive residential receptors being susceptible to sharp variations in patron noise as the evening progresses.

Accordingly, as a means of ensuring the promotion of key licensing objectives, most notably, the prevention of public nuisance I've suggested the following conditions are added;

Proposed Conditions;

1. ***The use of the external area referred to as the 'garden area' hereby permitted and marked 'XX' on the accompanying plan, shall be open to customers between the following times only:***

Sunday-Thursday –09:00 until 21:00hrs

Fri/Saturday –09:00 until 22:00hrs

2. ***The use of the external area referred to as the 'upper garden area' hereby permitted and marked 'XX' on the accompanying plan, shall be open to customers between the following times only:***

09:00 until 21:00hrs Daily

- 3. The service of food and drink intended for consumption on the outside parts of the premises, is to occur where patrons are seated at tables.**
- 4. Signs shall be prominently displayed in the outside areas reminding patrons there are residents living nearby and instructing them to respect the neighbours and to conduct their behaviour accordingly.**

I've discussed the proposed conditions with the applicant and whilst Mr Anselm has suggested agreeing to Conditions 2 to 4, the applicant is concerned by the potential for Condition 1 to impede trade, accordingly, I offered to vary the times above from my initial suggestion of; **Sunday – Thursday 09:00 until 20:00hrs & Friday/Saturday 09:00 until 21:00hrs**. However, any further variation from the amended Condition 1 in my opinion disrupts a balance between promoting business activity and protecting local residents from noise disturbance. Please note that I've copied the applicant into my discussions as a means of confirming our call, whilst Mr Anselm is welcome to comment on any inaccuracies in my formal response to the licensing authority.

Accordingly, whilst its unfortunate that I've been not been able to agree upon the proposed conditions in their entirety and thus, I'm prepared to attend any subsequent committee to advocate these, I consider this necessary to achieve an appropriate balance between what is considered the reasonable use of the high street i.e. a degree of customer noise emanating from hospitality venues and ensuring neighbouring residential receptors are provided a degree of protection in respect of noise control.

Kind Regards

Dan

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