



NOTICE OF MEETING

LICENSING SUB-COMMITTEE

MONDAY, 16 MAY 2022 AT 2PM

COUNCIL CHAMBER - THE GUILDHALL, PORTSMOUTH

Telephone enquiries to Democratic Services 023 9283 4060

Email: Democratic@Portsmouthcc.gov.uk

If any member of the public wishing to attend the meeting has access requirements, please notify the contact named above.

Information with regard to public access due to Covid precautions

- Following the government announcement 'Living with COVID-19' made on 21 February and the end of universal free testing from 1st April, attendees are no longer required to undertake an asymptomatic/ lateral flow test within 48 hours of the meeting however we still encourage attendees to follow the PH precautions we have followed over the last two years to protect themselves and others including vaccination and taking a lateral flow test should they wish.
- We strongly recommend that attendees should be double vaccinated and have received a booster.
- If symptomatic we encourage you not to attend the meeting but to stay at home. Updated government guidance from 1 April advises people with a respiratory infection, a high temperature and who feel unwell, to stay at home and avoid contact with other people, until they feel well enough to resume normal activities and they no longer have a high temperature. From 1 April, anyone with a positive COVID-19 test result is being advised to follow this guidance for five days, which is the period when you are most infectious.
- We encourage all attendees to wear a face covering while moving around crowded areas of the Guildhall.
- Although not a legal requirement, attendees are strongly encouraged to keep a social distance and take opportunities to prevent the spread of infection by following the 'hands, face, space' and 'catch it, kill it, bin it' advice that also protects us from other winter viruses.
- Hand sanitiser is provided at the entrance and throughout the Guildhall. All attendees are encouraged to make use of hand sanitiser on entry to the Guildhall.
- Those not participating in the meeting and wish to view proceedings are encouraged to do so remotely via the livestream link.

Committee Members Councillors Claire Udy (Chair), Scott Payter-Harris (Vice Chair), Dave Ashmore, Kimberly Barrett, Hannah Brent, Stuart Brown, Tom Coles, Jason Fazackarley, Charlotte Gerada, Ian Holder, George Madgwick, Lee Mason, Robert New, Benedict Swann and Daniel Wemyss.

The panel today consists of: Councillors Scott Payter-Harris, Dave Ashmore and George Madgwick

The reserve member is Councillor Daniel Wemyss.

(NB This agenda should be retained for future reference with the minutes of this meeting).

Please note that the agenda, minutes and non-exempt reports are available to view online on the Portsmouth City Council website: www.portsmouth.gov.uk

Licensing Sub Committee meetings are digitally recorded.

A G E N D A

- 1 **Appointment of Chair.**
- 2 **Declarations of Members' Interests.**
- 3 **Licensing Act 2003 - Application for variation of a premises licence Marmion House, 89 Marmion Road, Southsea, PO5 2AX (Pages 5 - 42)**

Purpose

The purpose of this report is for the committee to consider an application for the variation of a premises licence pursuant to section 35 of the Licensing Act 2003.

The matter has been referred to the committee for determination following receipt of one relevant representation form the owner of the premises.

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| Members of the public are now permitted to use both audio visual recording devices and social media during this meeting, on the understanding that it neither disrupts the meeting or records those stating explicitly that they do not wish to be recorded. Guidance on the use of devices at meetings open to the public is available on the council's website and posters on the wall of the meeting's venue. |
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Coronavirus Risk Assessment for the Council Chamber, Guildhall

Date: 1 April 2022 (based on Living safely with respiratory infections, including COVID-19, 1 April 2022)

Review date: Ongoing

Author: Lynda Martin, Corporate Health and Safety Manager, Portsmouth City Council

Coronavirus Risk Assessment for the Council Chamber, Guildhall

| | | | | | | | |
|---|---|------------------------------|----------------------------|--------------|--------------|-------------------|---------------------|
| Manager's Name and Job Title completing Risk Assessment: | Lynda Martin Corporate Health and Safety Manager | Risk Assessment Dept: | Corporate Services | Date: | 1 April 2022 | Signature: | <i>Lynda Martin</i> |
| | | Location: | Council Chamber, Guildhall | | | | |

| Hazard | Who could be harmed and how | All controls required | How controls will be checked | Confirmed all in place or further action required |
|--|----------------------------------|---|---|---|
| Risk of exposure to Covid-19 virus - Ventilation | Staff, contractors and attendees | <ul style="list-style-type: none"> There are no longer capacity limits for the Guildhall Chamber. We encourage all attendees to wear a face covering when moving around crowded areas of the Guildhall and the council chamber. The mechanical ventilation system works efficiently and the South Special Rooms Supply and Extract fans are fully operational during times when the Council Chamber is in use. Pedestal fans - positioned in each of the wing areas and along the back wall behind the pillars, maximum speed and modulation setting. | Staff will ensure ventilation system and fans are operational. | In place |
| Risk of transmission of virus - Risk mitigation | Staff, contractors and attendees | <p>The Guildhall has the following measures in place:</p> <ul style="list-style-type: none"> Face Coverings – as per government guidance, we encourage you to continue to wear a face covering whilst in the venue & crowded places especially when walking around the building. Enhanced Sanitisation & Cleaning – we will carry out enhanced cleaning procedures between meetings and we encourage you to sanitise your hands on entry and regularly throughout your visit at the sanitisation points provided. | The Guildhall Trust and PCC Facilities Team to implement and monitor. | In place |
| Risk of transmission of virus - Hygiene and Prevention | | <ul style="list-style-type: none"> Updated government guidance from 1 April advises people with a respiratory infection, a high temperature and who feel unwell, to stay at home and avoid contact with other people, until they feel well enough to resume normal activities and they no longer have a high temperature. From 1 April, anyone with a positive COVID-19 test result is being advised to follow this guidance for five days, which is the period when you are most infectious. Although not a legal requirement attendees are strongly encouraged to keep a social distance and take opportunities to prevent the spread of infection by following the 'hands, face, space' and 'catch it, kill it, bin it' advice that also protects us from other winter viruses. Wash hands for 20 seconds using soap and water or hand sanitiser. Maintain good hygiene particularly when entering or leaving. Hand sanitiser and wipes will be located in the meeting room. No refreshments will be provided. Attendees should bring their own water bottles/drinks. All attendees should bring and use their own pens/stationery. Attendees are no longer required to undertake an asymptomatic/ lateral flow test within 48 hours of the meeting however we still encourage attendees to follow the Public Health precautions we have followed over the last two years to protect themselves and others including vaccination and taking a lateral flow test should they wish. It is strongly recommended that attendees should be double vaccinated and have received a booster. | The Guildhall Trust and PCC Facilities Team to implement and monitor. | In place |
| Financial Risk | Staff, contractors and attendees | <ul style="list-style-type: none"> The council meeting may need to be cancelled at short notice if the Covid-19 situation changes due to local outbreaks, local sustained community transmission, or a serious and imminent threat to public health. Technology in place to move to virtual council meeting if required and permitted by legislation. | Financial commitments minimised wherever possible. | In place |

Agenda Item 3

REPORT TO: LICENSING SUB-COMMITTEE

16 May 2022

REPORT BY: LICENSING MANAGER

REPORT AUTHOR: DEREK STONE

**Licensing Act 2003 - Application for variation of a premises licence -
Marmion House, 89 Marmion Road, Southsea, PO5 2AX**

1. PURPOSE OF REPORT

The purpose of this report is for the committee to consider an application for the variation of a premises licence pursuant to section 35 of the Licensing Act 2003 ("the Act").

The matter has been referred to the committee for determination following receipt of one relevant representation from the owner of the premises above (other person). Further detail about the representation received is shown at paragraph 4 below.

2. THE APPLICATION AND PROPOSED VARIED OPERATING SCHEDULE

The variation application has been submitted on behalf of Marmion House Limited and relates to premises known as Marmion House and situated at 89 Marmion Road, Southsea, PO5 2AX.

The proposed licensable changes to the current authorisation are as follows:

The initial application requested alcohol sales until midnight Monday to Sunday plus off sales. After consultation, these hours were reduced by the applicant requesting alcohol sales to commence at 10:00 daily and cease at 22:30 Sunday to Thursday and 23:00 Friday and Saturday.

The applicant has detailed in the operating schedule the steps intended to support and promote the licensing objectives. These can be found in the redacted application form attached as **appendix A**.

The current premises licence permits alcohol sales from 12:00 to 21:30 on Sunday and 12:00 to 22:00 Monday to Saturday.

The current licence is attached as **appendix B**

The updated statutory guidance¹ gives general advice about the steps to promote the licensing objectives as follows:

***Paragraph 8.42** "Applicants are, in particular, expected to obtain sufficient information to enable them to demonstrate, when setting out the steps they propose to take to promote the licensing objectives, that they understand: the layout of the local area and physical environment including crime and disorder hotspots, proximity to residential premises and proximity to areas where children may congregate;*

¹ Revised Statutory Guidance issued by the Home Office

any risk posed to the local area by the applicants' proposed licensable activities; and any local initiatives (for example, local crime reduction initiatives or voluntary schemes including local taxi-marshalling schemes, street pastors and other schemes) which may help to mitigate potential risks."

Paragraph 8.43 *"Applicants are expected to include positive proposals in their application on how they will manage any potential risks. Where specific policies apply in the area (for example, a cumulative impact policy), applicants are also expected to demonstrate an understanding of how the policy impacts on their application; any measures they will take to mitigate the impact; and why they consider the application should be an exception to the policy."*

Paragraph 8.44 *"It is expected that enquiries about the locality will assist applicants when determining the steps that are appropriate for the promotion of the licensing objectives. For example, premises with close proximity to residential premises should consider what effect this will have on their smoking, noise management and dispersal policies to ensure the promotion of the public nuisance objective. Applicants must consider all factors which may be relevant to the promotion of the licensing objectives, and where there are no known concerns, acknowledge this in their application."*

Paragraph 8.47 *"Applicants are expected to provide licensing authorities with sufficient information in this section to determine the extent to which their proposed steps are appropriate to promote the licensing objectives in the local area. Applications must not be based on providing a set of standard conditions to promote the licensing objectives and applicants are expected to make it clear why the steps they are proposing are appropriate for the premises."*

Paragraph 8.50 *"Where a premises licence holder wishes to amend the licence, the 2003 Act in most cases permits an application to vary to be made rather than requiring an application for a new premises licence. The process to be followed will depend on the nature of the variation and its potential impact on the licensing objectives. Applications to vary can be made electronically via GOV.UK or by means of the licensing authority's own electronic facility following the procedures set out in Chapter 8 above."*

3. BACKGROUND INFORMATION

The provisions relating to the variation of a premises licence are contained within part 3 of the Licensing Act 2003 and associated statutory regulations.

Public notice has been given by way of press notice, a premises notice and local ward councillors have been notified of the application. There are no germane grounds for the committee to reject the application for non-compliance with the prescribed advertising requirements.

4. REPRESENTATIONS BY RESPONSIBLE AUTHORITIES AND OTHER PERSONS

There are no representations from any of the responsible authorities.

The one representation received from Helen Fage is regarding the potential for noise

that might affect her tenants above the premises.

This representation is attached at **Appendix C**

The statutory guidance states:

Paragraph 9.11 *"Responsible authorities under the 2003 Act are automatically notified of all new applications. While all responsible authorities may make representations regarding applications for licences and club premises certificates and full variation applications, it is the responsibility of each responsible authority to determine when they have appropriate grounds to do so."*

Paragraph 9.12 *"Each responsible authority will be an expert in their respective field, and in some cases it is likely that a particular responsible authority will be the licensing authority's main source of advice in relation to a particular licensing objective. For example, the police have a key role in managing the night-time economy and should have good working relationships with those operating in their local area⁵. The police should usually therefore be the licensing authority's main source of advice on matters relating to the promotion of the crime and disorder licensing objective. However, any responsible authority under the 2003 Act may make representations with regard to any of the licensing objectives if they have evidence to support such representations. Licensing authorities must therefore consider all relevant representations from responsible authorities carefully, even where the reason for a particular responsible authority's interest or expertise in the promotion of a particular objective may not be immediately apparent. However, it remains incumbent on all responsible authorities to ensure that their representations can withstand the scrutiny to which they would be subject at a hearing".*

5. POLICY AND STATUTORY CONSIDERATIONS

When determining the variation application, the committee must have regard to:

- Promotion of the licensing objectives which are;
 - Prevention of crime and disorder
 - Public safety
 - Prevention of public nuisance
 - Protection of children from harm
- The Licensing Act 2003;
- The adopted Statement of Licensing Policy;
- Judgments of the High Court, (your legal adviser will give you guidance should this become necessary);

- The current statutory guidance² issued by the Home Secretary in accordance with section 182 of the Act;
- The representations, including supporting information, presented by all the parties; and
- The human rights of all the parties concerned to ensure both a fair and balanced hearing
- The public sector equality duty requiring public bodies to have due regard to the need to:
 - Eliminate unlawful discrimination, harassment, victimisation and any other conduct prohibited by the Act;
 - Advance equality of opportunity between people who share protected characteristic and people who do not share it; and
 - Foster good relations between people who share a protected characteristic and people who do not share it. The protected characteristics are as follows:
 - I) age, ii) disability, iii) gender reassignment, iv) pregnancy and maternity v) race - this includes ethnic or national origins, colour or nationality, vi) religion or belief - this includes lack of belief, vii) sex and viii) sexual orientation.

Statement of Licensing Policy

The Statement of Licensing Policy lays down a general approach to the determination of licensing applications and any such application will be considered on its individual merits. Equally, any person permitted by the Act to make relevant representations to the Committee will have those representations considered on their individual merit.

The Committee should consider the fundamental principles set out in its policy, particularly paragraphs 4.7 and 4.8 which are reproduced below:

- 4.7** *Whether or not incidents can be regarded as being “in the vicinity” of licensed premises is a question of fact and will depend on the particular circumstances of the case. In cases of dispute, the question will ultimately be decided by the courts. In addressing this matter, the Licensing Authority will primarily focus on the direct impact of the activities taking place at the licensed premises on members of the public living, working or engaged in normal activity in the area concerned.*
- 4.8** *Licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from the licensed premises and, therefore, beyond the direct control of the individual, club or business holding the licence, certificate or authorisation concerned. Nonetheless, it is a key aspect of such control and licensing law will always be part of the overall approach to the management of the evening and night-time*

² Revised statutory guidance issued by the Home Office

economy in town and city centres.

The Committee should also have regard to paragraphs 7.1 to 7.5 in relation to such circumstances where it may be appropriate to consider the imposition of conditions on a premises licence.

Statutory Guidance

The updated statutory guidance issued by the Home Secretary in accordance with section 182 of the Act refers to the consideration of applications for the grant or variation of premises licences in Chapter 9.

Members may wish to consider the following extracts from the statutory guidance when determining this application:

Paragraph 9.37 " As a matter of practice, licensing authorities should seek to focus the hearing on the steps considered appropriate to promote the particular licensing objective or objectives that have given rise to the specific representation and avoid straying into undisputed areas. A responsible authority or other person may choose to rely on their written representation. They may not add further representations to those disclosed to the applicant prior to the hearing, but they may expand on their existing representation and should be allowed sufficient time to do so, within reasonable and practicable limits".

Paragraph 9.42 "*Licensing authorities are best placed to determine what actions are appropriate for the promotion of the licensing objectives in their areas. All licensing determinations should be considered on a case-by-case basis. They should take into account any representations or objections that have been received from responsible authorities or other persons, and representations made by the applicant or premises user as the case may be.*"

Paragraph 9.43 "*The authority's determination should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve.*"

Paragraph 9.44 "*Determination of whether an action or step is appropriate for the promotion of the licensing objectives requires an assessment of what action or step would be suitable to achieve that end. While this does not therefore require a licensing authority to decide that no lesser step will achieve the aim, the authority should aim to consider the potential burden that the condition would impose on the premises licence holder (such as the financial burden due to restrictions on licensable activities) as well as the potential benefit in terms of the promotion of the licensing objectives. However, it is imperative that the authority ensures that the factors which form the basis of its determination are limited to consideration of the promotion of the objectives and nothing outside those parameters. As with the consideration of licence variations, the*

licensing authority should consider wider issues such as other conditions already in place to mitigate potential negative impact on the promotion of the licensing objectives and the track record of the business. Further advice on determining what is appropriate when imposing conditions on a licence or certificate is provided in Chapter 10. The licensing authority is expected to come to its determination based on an assessment of the evidence on both the risks and benefits either for or against making the determination."

Paragraph 10.8 *"The licensing authority may not impose any conditions unless its discretion has been exercised following receipt of relevant representations and it is satisfied as a result of a hearing (unless all parties agree a hearing is not necessary) that it is appropriate to impose conditions to promote one or more of the four licensing objectives. In order to promote the crime prevention licensing objective conditions may be included that are aimed at preventing illegal working in licensed premises. This provision also applies to minor variations."*

Paragraph 10.9 *"It is possible that in some cases no additional conditions will be appropriate to promote the licensing objectives."*

Paragraph 10.13 *"The Government acknowledges that different licensing strategies may be appropriate for the promotion of the licensing objectives in different areas. The 2003 Act gives the licensing authority power to make decisions about the hours during which premises can conduct licensable activities as part of the implementation of its licensing policy statement. Licensing authorities are best placed to make decisions about appropriate opening hours in their areas based on their local knowledge and in consultation with responsible authorities. However, licensing authorities must always consider each application and must not impose predetermined licensed opening hours, without giving individual consideration to the merits of each application."*

Paragraph 10.14 *"Where there are objections to an application to extend the hours during which licensable activities are to be carried on and the licensing authority determines that this would undermine the licensing objectives, it may reject the application or grant it with appropriate conditions and/or different hours from those requested."*

Members are reminded about the review provisions contained in chapter 11 of the guidance and, in particular:

Paragraph 11.1 *"The proceedings set out in the 2003 Act for reviewing premises licences and club premises certificates represent a key protection for the community where problems associated with the licensing objectives occur after the grant or variation of a premises licence or club premises certificate."*

Paragraph 11.2 *"At any stage, following the grant of a premises licence or club premises certificate, a responsible authority, or any other person, may ask the licensing authority to review the licence or certificate because of a matter arising at the premises in connection with any of the four licensing objectives."*

Determination of an application

Where an application to vary a premises licence has been made in accordance with section 34 of the Act and where relevant representations have been made, the licensing authority must hold a hearing to consider them, unless the applicant, each person who has made representations and the licensing authority agree that a hearing is unnecessary.

After having regard to the representations, the Committee may take such steps, if any, as it considers appropriate for the promotion of the licensing objectives which are:

- To modify the conditions of the licence
- To reject the whole or part of the application

And for this purpose the conditions of the licence are modified if any of them is altered or omitted or any new condition is added.

In discharging its duty in accordance with the above, the Committee may vary a premises licence so that it has effect subject to different conditions in respect of:

- different parts of the premises concerned;
- different licensable activities.

Members are reminded of their obligation to give reasons for any decision(s) reached by further reference from the statutory guidance as follows:

Paragraph 13.10 *"It is important that a licensing authority should give comprehensive reasons for its decisions in anticipation of any appeals. Failure to give adequate reasons could itself give rise to grounds for an appeal. It is particularly important that reasons should also address the extent to which the decision has been made with regard to the licensing authority's statement of policy and this Guidance. Reasons should be promulgated to all the parties of any process which might give rise to an appeal under the terms of the 2003 Act."*

A copy of the Statement of Licensing Policy, current statutory guidance and the Act has been supplied to each of the Members' Rooms and further copies will be available for reference at the hearing.

6. APPEALS

Schedule 5, part 1, of the Act sets out the appeal provisions in relation to the determination of an application to vary a premises licence.

Where the Licensing Authority rejects (in whole or in part) an application, the applicant may appeal against the decision to the Magistrates' Court.

Should the committee grant (in whole or in part) an application, the applicant may appeal against any decision to modify the conditions of the licence.

Where a person who made relevant representations in relation to the application contends that:

- a) that any variation made ought not to have been made, or
- b) that, on varying the licence, the Licensing Authority ought not to have modified the conditions of the licence, or ought to have modified them in a different way, under section 4(a) of that section,

He may appeal against the decision.

7. APPENDICES

- A. Copy of the redacted application for the variation of the premises licence together with a schedule of proposed changes to the licence conditions if necessary
- B. Copy of the current premises licence
- C. Copies of the redacted representation received

THE COMMITTEE IS REQUESTED TO DETERMINE THE VARIATION APPLICATION



For Licensing Manager
And on behalf of Head of Service

Appendix A

[Insert name and address of relevant licensing authority and its reference number (optional).]

Application to vary a premises licence under the Licensing Act 2003

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form. If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary.

You may wish to keep a copy of the completed form for your records.

I/We MARMION HOUSE LTD

(Insert name(s) of applicant)

being the premises licence holder, apply to vary a premises licence under section 34 of the Licensing Act 2003 for the premises described in Part 1 below

Premises licence number 19/03014/LAPREM

Part 1 – Premises Details

Postal address of premises or, if none, Ordnance Survey map reference or description

MARMION HOUSE
89 MARMION RD - 60A VICTORIA RD SOUTH

Post town PORTSMOUTH

Postcode PO5 2AX

Telephone number at premises (if any) [REDACTED]

Non-domestic rateable value of premises [REDACTED]

Part 2 – Applicant details

Daytime contact telephone number [REDACTED]

E-mail address (optional) [REDACTED]

Current postal address if different from premises address

Post town

Postcode

Part 3 - Variation

Please tick as appropriate

Do you want the proposed variation to have effect as soon as possible?

 Yes No

If not, from what date do you want the variation to take effect?

| DD | MM | YYYY |
|----|----|------|
| | | |

Please describe briefly the nature of the proposed variation (Please see guidance note 1)

- * Extend the sale of alcohol to be able to start at 11am and finish at midnight. Mon-Sunday
- * Extend late night refreshment until midnight each day.
- * To be able to play recorded music from 10am until midnight - Mon-Sunday.
- * To allow the possibility of live music from 11am until midnight Mon-Sunday.
- * To be able to sell alcohol as a take-away option.

If your proposed variation would mean that 5,000 or more people are expected to attend the premises at any one time, please state the number expected to attend:

Part 4 Operating Schedule

Please complete those parts of the Operating Schedule below which would be subject to change if this application to vary is successful.

Provision of regulated entertainment

Please tick all that apply

- a) plays (if ticking yes, fill in box A)
- b) films (if ticking yes, fill in box B)
- c) indoor sporting events (if ticking yes, fill in box C)
- d) boxing or wrestling entertainment (if ticking yes, fill in box D)
- e) live music (if ticking yes, fill in box E)
- f) recorded music (if ticking yes, fill in box F)
- g) performances of dance (if ticking yes, fill in box G)
- h) anything of a similar description to that falling within (e), (f) or (g) (if ticking yes, fill in box H)

Provision of late night refreshment (if ticking yes, fill in box I)

Sale by retail of alcohol (if ticking yes, fill in box J)

In all cases complete boxes K, L and M

E

| Live music Standard days and timings (please read guidance note 6) | | | Will the performance of live music take place indoors or outdoors or both – please tick (please read guidance note 2) | Indoors | <input checked="" type="checkbox"/> |
|--|-------|--------|--|----------|-------------------------------------|
| Day | Start | Finish | | Outdoors | <input type="checkbox"/> |
| Mon | 11:00 | 00:00 | Please give further details here (please read guidance note 3) | Both | <input type="checkbox"/> |
| Tue | 11:00 | 00:00 | | | |
| Wed | 11:00 | 00:00 | State any seasonal variations for the performance of live music (please read guidance note 4) | | |
| Thur | 11:00 | 00:00 | | | |
| Fri | 11:00 | 00:00 | Non standard timings. Where you intend to use the premises for the performance of live music at different times to those listed in the column on the left, please list (please read guidance note 5) | | |
| Sat | 11:00 | 00:00 | | | |
| Sun | 11:00 | 00:00 | | | |

F

| | | | | | |
|--|-------|--------|--|----------|-------------------------------------|
| Recorded music Standard days and timings (please read guidance note 6) | | | Will the playing of recorded music take place indoors or outdoors or both – please tick (please read guidance note 2) | Indoors | <input checked="" type="checkbox"/> |
| | | | | Outdoors | <input type="checkbox"/> |
| | | | | Both | <input type="checkbox"/> |
| Day | Start | Finish | Please give further details here (please read guidance note 3) | | |
| Mon | 10:00 | 00:00 | | | |
| Tue | 10:00 | 00:00 | State any seasonal variations for the playing of recorded music (please read guidance note 4) | | |
| Wed | 10:00 | 00:00 | | | |
| Thur | 10:00 | 00:00 | Non standard timings. Where you intend to use the premises for the playing of recorded music at different times to those listed in the column on the left, please list (please read guidance note 5) | | |
| Fri | 10:00 | 00:00 | | | |
| Sat | 10:00 | 00:00 | | | |
| Sun | 10:00 | 00:00 | | | |

I

| Late night refreshment Standard days and timings (please read guidance note 6) | | | Will the provision of late night refreshment take place indoors or outdoors or both – please tick (please read guidance note 2) | Indoors | <input checked="" type="checkbox"/> |
|--|-------|--------|--|----------|-------------------------------------|
| | | | | Outdoors | <input type="checkbox"/> |
| | | | | Both | <input type="checkbox"/> |
| Day | Start | Finish | | | |
| Mon | 10:00 | 00:00 | Please give further details here (please read guidance note 3) | | |
| Tue | 10:00 | 00:00 | | | |
| Wed | 10:00 | 00:00 | State any seasonal variations for the provision of late night refreshment (please read guidance note 4) | | |
| Thur | 10:00 | 00:00 | | | |
| Fri | 10:00 | 00:00 | Non standard timings. Where you intend to use the premises for the provision of late night refreshment at different times, to those listed in the column on the left, please list (please read guidance note 5) | | |
| Sat | 10:00 | 00:00 | | | |
| Sun | 10:00 | 00:00 | | | |
| | | | | | |

J

| | | | | | |
|--|--------------|---------------|---|------------------|-------------------------------------|
| Supply of alcohol Standard days and timings (please read guidance note 6) | | | Will the supply of alcohol be for consumption – please tick (please read guidance note 7) | On the premises | <input type="checkbox"/> |
| | | | | Off the premises | <input type="checkbox"/> |
| | | | | Both | <input checked="" type="checkbox"/> |
| Day | Start | Finish | State any seasonal variations for the supply of alcohol (please read guidance note 4) | | |
| Mon | 10:00 | 00:00 | | | |
| Tue | 10:00 | 00:00 | | | |
| Wed | 10:00 | 00:00 | | | |
| Thur | 10:00 | 00:00 | | | |
| Fri | 10:00 | 00:00 | | | |
| Sat | 10:00 | 00:00 | | | |
| Day | Start | Finish | Non-standard timings. Where you intend to use the premises for the supply of alcohol at different times to those listed in the column on the left, please list (please read guidance note 5) | | |
| Sun | 10:00 | 00:00 | | | |

K

Please highlight any adult entertainment or services, activities, other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children (please read guidance note 8).

None

L

| Hours premises are open to the public Standard days and timings (please read guidance note 6) | | | State any seasonal variations (please read guidance note 4) |
|--|-------|--------|--|
| Day | Start | Finish | |
| Mon | 00:00 | 00:00 | |
| | | | |
| Tue | 10:00 | 00:00 | |
| | | | |
| Wed | 10:00 | 00:00 | |
| | | | |
| Thur | 10:00 | 00:00 | |
| | | | |
| Fri | 10:00 | 00:00 | |
| | | | |
| Sat | 10:00 | 00:00 | |
| | | | |
| Sun | 10:00 | 00:00 | |
| | | | |

Non standard timings. Where you intend the premises to be open to the public at different times from those listed in the column on the left, please list (please read guidance note 5)

Please identify those conditions currently imposed on the licence which you believe could be removed as a consequence of the proposed variation you are seeking.

Please tick as appropriate

- I have enclosed the premises licence
- I have enclosed the relevant part of the premises licence

If you have not ticked one of these boxes, please fill in reasons for not including the licence or part of it below

Reasons why I have not enclosed the premises licence or relevant part of premises licence.

M

Describe any additional steps you intend to take to promote the four licensing objectives as a result of the proposed variation:

a) General – all four licensing objectives (b, c, d and e) (please read guidance note 9)

All our staff are trained in all 4 objectives.
They are advised of licensing laws in writing before they are allowed to sell/serve alcohol. Training is provided on premise specific policies relevant to the operation of the restaurant.
We keep a record of the date & name of the person trained. Since we have opened we have had no issues or complaints from any residents regarding issues that could arise from the sale of alcohol or the playing of recorded music.

b) The prevention of crime and disorder

- * An alarm system is installed to protect the business when closed or empty.
- * Private areas are locked whilst the premises is open & closed.
- * CCTV has been installed and can be monitored on our mobiles from home.
- * Will continue not to run any drinks promotion.
- * Team training is given on the effects of alcohol; how to spot early signs of drunkenness & they are given the knowledge & confidence to deal with a potential drunken patron & when to cut off serving.

c) Public safety

- * We comply with all statutory fire safety controls & training is given to staff (we recently had an external company check that we were compliant and any issues have been actioned).
- * We comply with food safety regulations.
- * We have disabled facilities i.e. toilet & ramp.
- * Training is given on main causes of injuries.

d) The prevention of public nuisance

- * We have insulated correctly to ensure minimal disturbance to the flat upstairs & have had no complaints thus far.
- * Low level music - we only play background music & live music will be played occasionally if allowed.
- * Glass bins will continue to be emptied inside to ensure not to disturb neighbours.
- * We plan to keep last orders to 10pm Tues - Thurs unless busy & Fri & Sunday to 11pm again unless busy or have a function. If approved these new variations will give us flexibility for our customers.

e) The protection of children from harm

- * We are a very family friendly establishment.
- * So far we have not had to refuse anyone as we do not attract an underage element plus in the evening we are 95% diners with the odd regular that pops in for a quick drink.

Checklist:

Please tick to indicate agreement

- I have made or enclosed payment of the fee.
- I have sent copies of this application and the plan to responsible authorities and others where applicable.
- I understand that I must now advertise my application.
- I have enclosed the premises licence or relevant part of it or explanation.
- I understand that if I do not comply with the above requirements my application will be rejected.

IT IS AN OFFENCE, LIABLE ON SUMMARY CONVICTION TO A FINE NOT EXCEEDING LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003, TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION.

Part 5 – Signatures (please read guidance note 10)

Signature of applicant (the current premises licence holder) or applicant’s solicitor or other duly authorised agent (please read guidance note 11). If signing on behalf of the applicant, please state in what capacity.

| | |
|-----------|-------------------|
| Signature | [REDACTED] |
| Date | 28/1/22 17/3/2022 |
| Capacity | Director / owner. |

Where the premises licence is jointly held, signature of 2nd applicant (the current premises licence holder) or 2nd applicant’s solicitor or other authorised agent (please read guidance note 12). If signing on behalf of the applicant, please state in what capacity.

| | |
|-----------|--|
| Signature | |
| Date | |
| Capacity | |

Contact name (where not previously given) and address for correspondence associated with this application (please read guidance note 13)

| | | | |
|---|--|-----------|--|
| | | | |
| Post town | | Post code | |
| Telephone number (if any) | | | |
| If you would prefer us to correspond with you by e-mail, your e-mail address (optional) | | | |

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PREMISES LICENCE

Licensing Act 2003

Part 1 – Premises Details

Postal address of premises, or if none, ordnance survey map reference or description

Address: Marmion House
89 Marmion Road
Southsea
PO5 2AX

Map Ref (E) : 464707
Map Ref (N): 98820
UPRN: 001775053768

Telephone

Where the licence is time limited the dates

This licence is **NOT** time limited

Licensable activities authorised by the licence

▶ Sale by retail of alcohol

The times the licence authorises the carrying out of licensable activities

▶ Sale by retail of alcohol
Sunday 12:00 until 21:30
Monday to Saturday 12:00 until 22:00

The opening hours of the premises

▶ Sunday 09:00 until 22:00
▶ Monday to Saturday 09:00 until 22:30

Where the licence authorises supplies of alcohol whether these are on and / or off supplies

Alcohol is supplied for consumption **on** the premises

Part 2

Name, (registered) address, telephone number and email (where relevant) of holder of premises licence

Name: Marmion House Limited

Address: 63 Castle Road
Southsea
PO5 3AY

Telephone:

Email:

Registered number of holder, for example company number, charity number (where applicable)

10879093

Name, address and telephone number of designated premises supervisor where the premises licence authorises the supply of alcohol

Name: Ms Jasmine Ryan

Address:



Telephone:

Email:

Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises the supply of alcohol

Personal Licence No: LAPERS/6379

Issuing Authority: Portsmouth City Council

Granted by Portsmouth City Council, as licensing authority pursuant to the Licensing Act 2003 as amended and regulations made thereunder

Date Licence granted: 30 July 2019

Date last amended: 30 July 2019

Type: New



Signed on behalf of the Head of Service
(Authorised Officer)

Portsmouth City Council will process your personal information in accordance with data protection law. The personal details provided by you will be used for licensing service purposes. Your details will be held on a database and where the law allows, may be shared with other departments within the council to update details they hold about you. The council may also be required to disclose personal information to third parties (such as Police, Department for Work and Pensions or for the National Fraud Initiative) for the purposes of preventing or detecting crime or apprehending or prosecuting offenders.

For further information about how the Council collects and uses personal information please visit our website: <https://www.portsmouth.gov.uk/ext/the-council/data-protection-privacy-notice>

Annex 1 – Mandatory Conditions

01 No supply of alcohol may be made under the premises licence:

- (a) at a time when there is no designated premises supervisor in respect of the premises licence, or
- (b) at a time when the designated premises supervisor does not hold a personal licence or his/her personal licence is suspended.

02 Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

03 (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises:

(a) games or other activities which require or encourage, or are designed to require or encourage, individuals to:

(i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or

(ii) drink as much alcohol as possible (whether within a time limit or otherwise);

(b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;

(c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;

(d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;

(e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).

04 The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.

05 (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.

(2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.

(3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either:

- (a) a holographic mark, or
- (b) an ultraviolet feature.

06 The responsible person must ensure that:

(a) Where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures:

- (i) beer or cider: 1/2 pint;
- (ii) gin, rum, vodka or whisky: 25ml or 35 ml; and
- (iii) still wine in a glass: 125 ml;

(b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and

(c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

07 (1) A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

(2) For the purposes of the condition set out in paragraph 1

(a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;

(b) "permitted price" is the price found by applying the formula -

$$P = D + (D \times V)$$

where -

(i) P is the permitted price,

(ii) D is the rate of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and

(iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;

(c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence -

(i) the holder of the premises licence,

(ii) the designated premises supervisor (if any) in respect of such a licence, or
(iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;

(d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and

(e) "valued added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.

(3) Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

(4) (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.

(2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

-- END --

Annex 2 – Conditions consistent with the operating schedule

01 All staff involved in the sale of alcohol must receive comprehensive training in relation to the sale of alcohol. No member of staff shall be permitted to sell alcohol until such time as they have successfully completed this training. Training shall cover:

Sale of alcohol to persons under 18
Challenge 25 and acceptable forms of Identification
Signs of Drunkenness
Refusal register and when/how to use
The Licensing Objectives

This training shall be documented and records kept on the premises. Police and the Licensing Authority shall have access to an individual's training records upon request.

02 CCTV is installed on the premises.

03 The premises shall operate a Challenge 25 age verification policy.

04 The premises shall operate a refusals log. This shall be in paper or digital copy and shall be made available to Police or the Licensing Authority immediately upon request.

05 A notice will be displayed asking customers to leave the premises quietly and respect the neighbours.

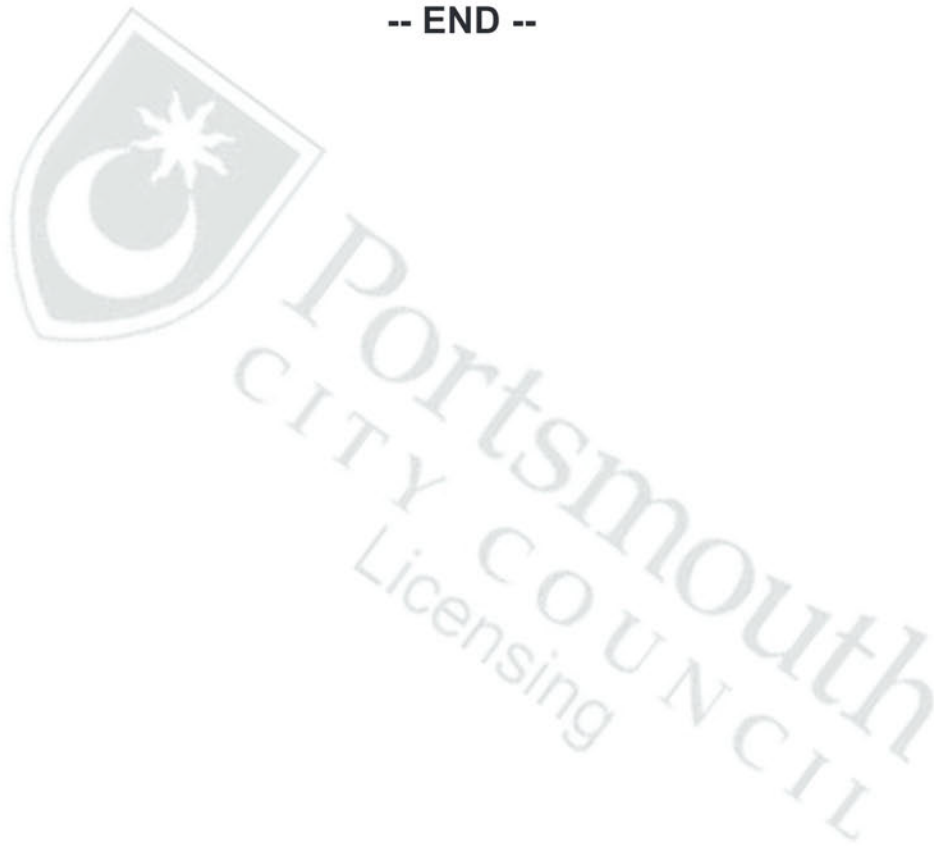
-- END --

Annex 3 – Conditions attached after a hearing by the licensing authority

01 Amplified noise will terminate at 22:00 hours.

02 A noise limiting device will be installed at the premises.

-- END --



Annex 4 – Premises and location plan

Premises Plan(s)

These will either be shown below or attached as a separate part of the premises licence authorisation.



Location Plan: 89 Marmion Road Southsea



REPRODUCED FROM THE ORDNANCE SURVEY MAPPING WITH PERMISSION OF THE CONTROLLER OF HER MAJESTY'S STATIONERY OFFICE © CROWN COPYRIGHT. UNAUTHORISED REPRODUCTION INFRINGES CROWN COPYRIGHT AND MAY LEAD TO PROSECUTION OR CIVIL PROCEEDINGS. LICENCE AGREEMENT NUMBER LA100019671- PORTSMOUTH CITY COUNCIL

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Appendix C

From: helen fage

Sent: 31 March 2022 03:26

To: Judith Smyth

Subject: Re: Application to vary Premises Licence - Marmion House, 89 Marmion Road - 22/01482/LAPREM

Dear Judith,

Melissa very kindly forwarded on your email to me as I always seem to be left out of the loop, although my property at 60d, Victoria Road South is the nearest and most affected by Marmion House. Shouldn't the neighbours be notified of any changes as they are the ones affected? I haven't seen any notices about the extended licence application.

I would like to object to any increase in extended hours at Marmion House. I think everyone (including planning) just assumes that 60d is above/adjacent to part of Marmion House. In fact two of the bedrooms are partly inside Marmion House!

I attach some pictures to show what I mean. Directly outside the window of one room and the patio doors of another is the flat roof. This means the walls and floors below the window and doors are inside Marmion house. The picture taken inside Marmion house while it was being renovated shows a doorway. The room the other side of this door is a bedroom!

I have spent several thousand pounds putting in soundproofing in these rooms, but I can still hear quite clearly people talking, laughing and clattering about below.

Any licence extension is just going to cause additional disturbance, lack of sleep and enjoyment to us. It's fairly bad as it is.

Please let me know where I can see a copy of the application and to formally object by letter or in person.

Many thanks,

Kind regards,

Helen

Dear Helen

Councillor Judith Smyth has forwarded your email to me.

The licence holder has since amended the application as follows:-

Sale of alcohol, Sunday to Thursday until 22:30

Friday and Saturday until 23:00

The application is advertised on the premises by way of an A3 blue notice which is up as my colleague has taken a photo of it.

I did have 3 representations but they have now been withdrawn as a result of the reduction in hours.

However if you wish to make a representation it must be based on the four licensing objectives which are:

Prevention of Crime and Disorder

Public safety

Prevention of public nuisance

Protection of children from harm

Can you also provide your address.

Thank you

Regards

Debbie Robson

Senior Licensing Officer

From: helen fage

Sent: 18 April 2022 21:29

To: Robson, Debra

Subject: Re: Application to vary Premises Licence - Marmion House, 89 Marmion Road - 22/01482/LAPREM

Dear Debbie,

I've just found my reply to you sitting in "drafts" which I was convinced I'd sent, so apologies.

I will still be objecting to the application due to the noise disturbance to the occupants of the flat adjacent and above 89, Marmion Road.

You asked for my address which is 41, Victoria Road North, PO5 1PW. My son Matthew now lives at 60d Victoria Road South.

Kind regards,

Helen

Dear Sir/Madam,

I would like to object to any increase in licence extended hours at Marmion House.

In the application under d) The prevention of public nuisance it states that "they have insulated correctly to ensure minimal disturbance to the flat upstairs and have had no complaints thus far"

This is incorrect. On two occasions I have requested a return visit from the engineer who proposed what sound proof insulation Marmion House should install, as it didn't appear to be sufficient. These requests have been ignored so I have now spent several thousand pounds of my own money trying to better insulate my property, although I can still clearly hear the noises from below which will only be exacerbated through an extension of the licence.

The statement that glass bins will continue to be emptied inside the building to ensure neighbours aren't disturbed. They disturb these neighbours.

I believe it is assumed that 60d (my property) is above/adjacent to part of Marmion House. In fact, two of the bedrooms are partly inside Marmion House;

I have attached some pictures to highlight. Directly outside the window of one of the rooms and from the patio doors of another is the flat roof. This means the walls and floors below the window and doors are inside Marmion house. The picture taken inside Marmion house while it was being renovated shows a doorway. This door leads directly into one of my bedrooms.

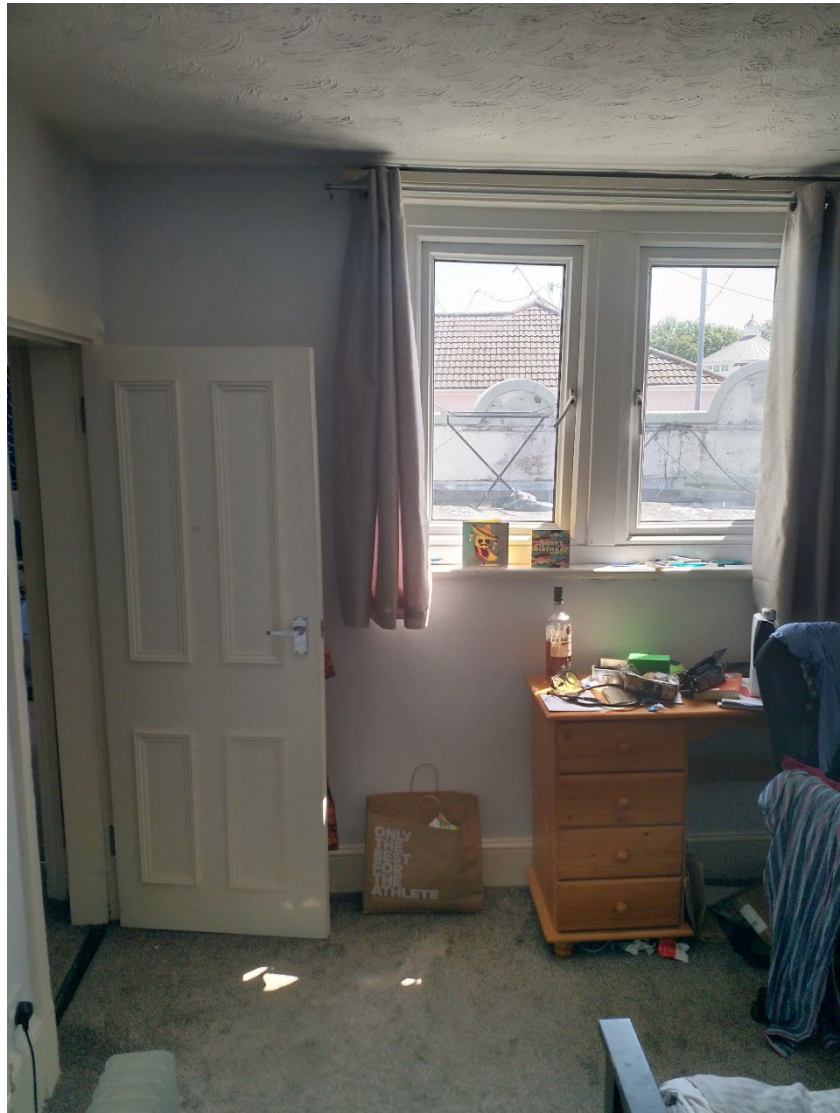
Having had a furniture store below us for over 20 years, a 56 cover, busy, loud restaurant was never thought to be an approved alternative.

Any licence extension is just going to cause additional disturbance to what is a residential area. There would be noise until midnight Friday and Saturday nights if the licence was increased to 11pm, and Sunday night we'd be disturbed until 11.30pm. Functions and Live music would also not be appropriate for this area either, and will have a negative impact on my right to a peaceful existence.

Kind regards,

Helen Fage









From: Stone, Derek

Sent: 20 April 2022 20:25

To: Helen Fage

Cc: Robson, Debra

Subject: Application to vary Premises Licence - Marmion House, 89 Marmion Road - 22/01482/LAPREM

Dear Helen

Thank you for raising your concerns regarding this application.

Yours is the only representation received against this application and as a result this variation application must now be referred to a Licensing Sub-Committee for determination, unless you indicate that you wish to withdraw your representation in which case, the application will be granted as applied for which will be as follows:

Alcohol sales from 10:00 to 22:30 closing at 23:00 Sunday to Thursday and 10:00 to 23:00 Friday and Saturday closing at 23:30 (Not as originally applied for which was midnight)

I need to establish that you are willing to attend this hearing and address the panel once a date has been set which must be within 20 working days so before the 18th May at the latest.

Before you make any decision can I take this opportunity to explain the review procedure as set out under the Statutory Guidance as follows

Paragraph 11.1 *"The proceedings set out in the 2003 Act for reviewing premises licences and club premises certificates represent a key protection for the community where problems associated with the licensing objectives occur after the grant or variation of a premises licence or club premises certificate."*

Paragraph 11.2 *"At any stage, following the grant of a premises licence or club premises certificate, a responsible authority, or any other person, may ask the licensing authority to review the licence or certificate because of a matter arising at the premises in connection with any of the four licensing objectives."*

This I hope may give you some reassurance that if as a result of this application being granted and noise does occur, there are things in place to address those concerns.

Additionally our Public Protection Department who deal with statutory noise complaints and noise nuisance can step in where noise is proven and evidenced. They have additional powers with regard to noise complaints and have their own enforcement powers.

If however you are not satisfied that there are sufficient safeguarding provisions in place either under the Licensing Act or through Public Protection, then the application will be determined by the Licensing Sub-Committee which consists of three Councillors who are appointed to the Licensing Committee panel.

The hearing will be held in public in the Council Chambers and broadcast live as a public meeting.

Five days prior to the hearing all papers and your representation will be made public.

If you do wish this matter to proceed to hearing please confirm this and indicate any dates that you have to avoid, which subject to the panels availability we will try and accommodate.

If you can advise me by way of return e mail I would be really appreciate it.

If this matter is to proceed to a hearing you will receive a 'Notice of Hearing' inviting you to attend and address the panel once a date has been set.

I look forward to hearing from you

Kind regards

Derek

From: helen fage
Sent: 21 April 2022 12:37
To: Stone,Derek
Subject: Re: Application to vary Premises Licence - Marmion House, 89 Marmion Road - 22/01482/LAPREM

Dear Derek,

Thank you for your email.

I still wish to object to this licensing extension application.

Unfortunately, due to holiday obligations my husband and I can only attend a hearing on May 9th or 10th within your suggested timescale.

I will send additional information backing up my objection, shortly.

Thank you,

Kind regards,

Helen

From: Stone, Derek
Sent: 21 April 2022 12:48
To: helen fage
Cc: Robson, Debra <
Subject: RE: Application to vary Premises Licence - Marmion House, 89 Marmion Road - 22/01482/LAPREM

Dear Helen

All noted

With the local elections and with the possibility of losing potentially one or two of the existing Licensing Councillors we might struggle to get the 9th or the 10th but I have asked the department who arrange these hearings if these dates are possible.

If not, rest assured that your written representations will be seen by the panel in advance of the hearing and the fact that you are unable to attend in person carries no less weight that if you are in attendance.

If you can send the additional information to Debra who is copied in to this e mail she will make sure it is all logged and recorded

Kind regards

Derek