



COMMITTEE TITLE: Licensing Sub-Committee

DATE 2 August 2023

REPORT TITLE:	Application to Vary a Premises Licence – Licensing Act 2003 <i>The Lounge Wine Bar, Clifton House, 40 High Street, Ingatestone CM4 9EE</i>
REPORT OF:	Dave Leonard – Licensing Officer

1. REPORT SUMMARY

This report is to determine an application from Mr Michael Bell, director of The Wine Lounge Ltd., that has been received to vary the premises licence at ***The Lounge Wine Bar, Clifton House, 40 High Street, Ingatestone CM4 9EE***. The Licensing Office has received representations against the application from Brentwood Council’s Environmental Health Officer and Essex Police’s Licensing Officer as consulting responsible authorities. Fifteen Other Persons from ten households, together with a representative from the Ingatestone & Fryerning Parish Council, have also made representations opposing the application whilst a further thirteen valid representations have been received in support of the application.

2. RECOMMENDATIONS

That the Sub Committee:

Considers this report and appendices together with any oral submissions at the hearing and determines the application in line with the options open to the sub-committee under the Licensing Act 2003: The options available are:

- i) To grant the application in full on the terms and conditions contained in the operating schedule along with any applicable mandatory conditions;
- ii) To grant the application, modified to such extent as considered appropriate in order to satisfy any relevant representations and to promote the licensing objectives; or
- iii) To refuse the application in whole or in part

3.0 REASONS FOR RECOMMENDATIONS

3.1 These are the options available to the Sub-Committee under the Licensing Act 2003.

4.0 OTHER OPTIONS CONSIDERED

4.1 In line with the Licensing Act 2003 there are no other options to be considered.

5.0 BACKGROUND INFORMATION

5.1 An authorisation is required in respect of any premises where it is intended to conduct one or more of the four licensable activities, these being:

- Sale of alcohol
- Supply of alcohol (in respect of a club)
- Regulated Entertainment
- Provision of Late-Night Refreshment

5.2 An appropriate authorisation is either, a premises licence, a club premises certificate or a Temporary Event Notice.

5.3 Licence holders are required, when offering any licensable activity, to ensure that they promote the licensing objectives at all times. The operating schedule of the application contains details of the activities applied for and the control measures that the applicant will have in place in order to promote these objectives. Such measures will, where appropriate, be converted into enforceable conditions on any licence issued.

5.4 The four licensing objectives are;

- Prevention of crime and disorder
- Prevention of public nuisance
- Public safety
- Protection of children from harm

5.5 Any representation must be able to demonstrate that on the balance of probability the application in its current form will fail to adequately promote one or more of the licensing objectives. No other matters may be considered.

The Application

- 5.6 An application from Mr Michael Bell, director of The Wine Lounge Ltd., was received on 1 June 2023 to vary the premises licence at **The Lounge Wine Bar, Clifton House, 40 High Street, Ingatestone CM4 9EE**. A copy of the application and amended premises plan is attached at **Appendix 1**.
- 5.7 This premise is a coffee shop and wine bar. A copy of the current premises licence together with a set of OS Street Maps and images to better identify the location are attached at **Appendix 2**.
- 5.8 The application is seeking the following amendments to the current licence;
- Amend the layout of the premises plan to include an additional licenced area and reflect the cosmetic changes.
 - To remove Annex 2, Condition 5 "There will be a maximum capacity of 24 people in the shop at any one time"
 - To increase the sale of alcohol by one hour to 2200hrs on Sunday-Wednesday and 2300hrs Thursday-Saturday.
 - To increase licensable activity by one additional hour on each Bank Holiday weekend Friday & Saturday till 0000hrs & Sunday 2300hrs, Christmas Eve to 0030hrs and New Year's Eve to 0100hrs
 - To add Live Music from 1900hrs-2230hrs on Friday & Saturday
 - To add Recorded Music 0800hrs-2200hrs on Sunday-Wednesday and 0800hrs-2300hrs on Thursday-Saturday
 - with one additional hour on each Bank Holiday weekend Friday & Saturday till 0000hrs, Sun 2300hrs, Christmas Eve to 0030hrs & New Year's Eve to 0100hrs
 - To add Late Night Refreshment from 2300hrs-2330hrs on Thursday-Saturday
 - with the following non-standard timings of one additional hour on each Bank Holiday weekend Friday & Saturday to 0030hrs and Sunday to 2330hrs, Christmas Eve to 0100hrs and New Year's Eve to 0130hrs
 - to extend the supply of alcohol from 0800hrs-2200hrs on Sunday-Wednesday and 0800hrs-2300hrs on Thursday-Saturday
 - with one additional hour on each Bank Holiday weekend Friday & Saturday till 0000hrs, Sun 2300hrs, Christmas Eve to 0030hrs & New Years Eve to 0100hr
- 5.9 In addressing the promotion of the four licensing objectives, the applicant has made undertakings within the operating schedule of the application that will be to be attached as the following conditions on any subsequently issued premises licence. Where an undertaking has by agreement been replaced by a condition agreed with a Responsible Authority the originally proposed operating schedule condition has not been included:

- (a) The premises will actively support and promote the "Ask for Angela" campaign or similar.
- (b) A Dispersal Policy shall be operated to eliminate any nuisance when customers leaving the premises.
- (c) Music shall be monitored at all times to ensure that it does not cause a nuisance to the local residents.
- (d) The area around the premises must be maintained to be clean and litter free at all times.

5.10 Two representations have been received from the Responsible Authorities. Mr Allan Wright makes a representation on behalf of Brentwood Council's Environmental Health team and Essex Police Licensing Officer, Mr Simon Barnes' representation makes recommendations that complement the applicant's undertakings and are agreed by all parties.

5.11 The Environmental Health Officer, Mr Allan Wright, is mindful of residential properties at the rear in Clifton Terrace and Woodland Close which is adjacent to the rear yard/car park area. Mr Wright makes representation on the grounds that the application contains insufficient information to demonstrate that the licensing objective of prevention of public nuisance will be achieved. He contends that, with lower ambient noise levels, the impact of noise from customers outside the premises & in the rear courtyard /garden area will likely increase and noise from the premises itself (including amplified music) and from vehicles leaving/collecting customers is likely to be more significant than under the present opening hours. He also points out that the Lounge Wine Bar has only recently opened and the Environmental Health team has already received complaints relating to noise although it has not yet been possible to adequately monitor the alleged noise pollution.

Mr Wright makes the following observations and recommends that conditions be attached to address them:

1. The hours requested for the premises to be open to the public are considered likely to result in disturbance to residents near the premises.
2. The proposed hours for the provision of facilities for live and recorded music are also considered likely to result in disturbance and should be restricted, especially with regard to the courtyard/garden area.
3. Use of the rear courtyard/garden area should be time restricted and sound proofing measures introduced.

Mr. Wright's representation is attached at **Appendix 3**.

5.12 Essex Police Licensing Officer, Mr Simon Barnes, also makes representation on the grounds that, if granted, as per the conditions the application currently sets out, the prevention of crime & disorder and public nuisance objective of the Licensing Act 2003 is likely to be undermined.

Mr Barnes has consulted with the applicant & reached agreement that the following recommendations are to be attached as conditions on the premises licence should it be granted;

1. The premises shall have installed and maintain a closed-circuit television surveillance (CCTV) system which at all times complies with the below requirements:
 - a. CCTV will be provided in the form of a recordable system, capable of providing pictures of evidential quality {in all lighting conditions} particularly facial recognition;
 - b. CCTV cameras shall cover all entrances, exits and the areas where alcohol sales take place;
 - c. Equipment must be maintained in good working order, be correctly time and date stamped, recordings must be kept in good working order and kept for a minimum period of 31 days;
 - d. Upon the reasonable request of the police or licensing authority staff, within 48 hours viewable copies of recordings will be provided.

2. Signs must be displayed at all entrances {and exits} advising customers that CCTV is operating at the premises and shall be a minimum size of 200 x148mm and clearly legible at all times when the premises conducts licensable activities.

3. An incident log shall be kept at the premises and made immediately available to police or licensing authority staff upon reasonable request. The log must be completed as soon as is possible and within any case within 4 hours of the occurrence and shall record the following:
 - a. all crimes reported to the venue
 - b. all ejections of patrons
 - c. any complaints received concerning crime and disorder
 - d. any incidents of disorder
 - e. any faults in a CCTV system, searching equipment or scanning equipment mandated as a condition of the licence

The incident log shall either be electronic or maintained in a bound document with individually numbered pages and be retained for at least {12} months from the date of the last entry.

4. A refusals record shall be maintained at the premises that details all refusals to sell alcohol. Each entry shall, as a minimum, record the date and time of the refusal and the name of the staff member refusing the sale.

All entries must be made as soon as possible and in any event within 4 hours of the refusal and the record must be made immediately available to police trading standards or licensing authority staff upon reasonable request. The refusals record shall be either electronic or maintained in a bound document and retained for at least 12 months from the date of the last entry.

5. A Challenge 25 scheme shall be operated, whereby any person who appears to be under the age of 25 years of age is required to produce on request an item which meets the mandatory age verification requirement (photo, name, date of birth and either a holographic mark or ultraviolet feature) and is either a:
 - a. Proof of age card bearing the PASS Hologram;
 - b. Photocard driving licence;
 - c. Passport; or
 - d. Ministry of Defence Identity Card.
6. The premises shall clearly display signs at each point of sale and in areas where alcohol is displayed advising customers that a 'Challenge 25' policy is in force. At the point of sale such signs shall be a minimum size of 200x 148mm.
7. Customers shall not enter or leave the premises by the external exit in the area marked "Garden area" in the premises plan at any time, except in the event of an emergency.
8. All staff engaged in the sale or supply of alcohol on the premises shall have received training in relation to the protection of children from harm (including under-age sales), how to recognise drunkenness and the duty not to serve drunk persons. Refresher training shall be carried out at least every six months. Training records shall be kept on the premises (or otherwise be accessible on the premises) for a minimum of 12 months and made immediately available to police, trading standards or licensing authority staff upon reasonable request.

Mr Barnes' representation, together with the agreement to attach these conditions, is also attached at **Appendix 3**.

- 5.13 Ingatestone & Fryerning Parish Council's Planning & Highway Committee have made a representation on the grounds of the prevention of public nuisance. They have cited the close proximity of residential premises, the impact of extended hours and the playing of music could lead to anti-social behaviour & is of great concern to neighbours. Reference is also made to the small open area at the rear of the shop. The Parish Council's representation is attached at **Appendix 4**.
- 5.14 A further fifteen representations from ten households against the application have been received from Other Persons. The concerns raised by local residents primarily relate to the use of the outside area at the rear of the premises and the noise nuisance generated, particularly to the residents of Clifton Terrace where this area backs on to. The proposed extended hours and increased capacity together with the inclusion of the playing of live and recorded music has led to concerns of the potential for increased anti-social behaviour & noise nuisance being caused. This concern extends to the noise levels and disturbance caused upon patrons leaving the premises at the later hour in the evening. These representations are attached at **Appendix 4**.

- 5.15 There were also thirteen valid representations received in support of the application with many claiming the venue enhances the High Street and citing that the Ingatestone & Fryerning Community Centre almost directly opposite is considerably larger and operates later and without any cause for complaint. These representations have also been attached at **Appendix 4**.

Statement of Licensing Policy

- 5.16 The following Brentwood Borough Council Statement of Licensing Policy control measures relate to the prevention of public nuisance state:

22.1 Licensed premises have a significant potential to impact adversely on communities through public nuisances that arise from their operation. The Licensing Authority wishes to maintain and protect the amenity of residents and other businesses from the consequence of the operation of licensed premises whilst recognising the valuable cultural, social and business importance that such premises provide.

22.2 The Licensing Authority intends to interpret “public nuisance” in its widest sense, and takes it to include such issues as noise, light, odour, litter and anti-social behaviour, where these matters impact on those living, working or otherwise engaged in normal activity in an area.

22.5 Applicants will be expected to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to prevent public nuisance, relevant to the individual style and characteristics of their premises and events.

22.6 When addressing the issue of prevention of public nuisance, the applicant must demonstrate that those factors that impact on the likelihood of public nuisance have been considered. These may include-

- (a) The location of premises & proximity to residential and other noise sensitive premises, such as hospitals, hospices & places of worship*
- (b) The hours of opening, particularly between 23.00 and 07.00.*
- (c) The nature of activities to be provided, including whether those activities are of a temporary or permanent nature and whether they are to be held inside or outside premises.*
- (d) The design and layout of premises and in particular the presence of*
- (e) The occupancy capacity of the premises.*
- (f) The availability of public transport.*
- (g) A 'wind down period' between the end of the licensable activities and closure of the premises.*
- (h) A last admission time.*

Relevant Sections of the Secretary of State's Guidance

5.17 The following sections of the guidance may be relevant to this application:

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. E.g., premises with close proximity to of the licensing objectives, and where there are no known concerns, acknowledge 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 this in their application.

7.0 LEGAL IMPLICATIONS

Conditions may be attached to the grant of any licence, the hours or activities may be amended as appropriate, or in some cases the application may be refused. However, any action taken must be appropriate and relevant to promotion of the licensing objectives having considered the full details of the application and representations including testimony from any interested party present at the hearing.

The justification behind any decision to grant or refuse a licence application or the attachment of conditions, or variation of terms applied for must be recorded and given to the applicant and any person that has made representation.

There is a right of appeal to Magistrates Court by any person or party aggrieved by any decision made by the Sub-Committee.

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10.0 ENGAGEMENT/CONSULTATION

The application has been consulted on in accordance with the requirements of the Licensing Act 2003.

Officers from the Licensing Authority have made checks on the display of public notices and in a local newspaper and are satisfied that these requirements have been met

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APPENDICES

- Appendix 1 - Application Form & Supporting Statement
- Appendix 2 - Current Premises Licence, OS Street Plans & Images
- Appendix 3 - Representations from Responsible Authorities
 - Mr Allan Wright - Environmental Health Officer
 - Mr Simon Barnes - Essex Police Licensing Office
- Appendix 4 - Representations from Other Parties (For & Against)