

Gloucester City Council

Meeting:	Licensing Sub-Committee	Date: 26 November 2014
Subject:	Application under Section 34 of the Licensing Act 2003 by Wotton Hall Club Limited to vary the Premises licence for Wotton Hall Club, 138 Barnwood Road, Gloucester, GL4 3JS	
Report Of:	Gill Ragon – Head of Public Protection	
Wards Affected:	Barnwood	
Contact Officer:	Darren Mountford – Senior Licensing and Markets officer Email: Darren.mountford@Gloucester.gov.uk Tel: 396240	
Appendices:	<ol style="list-style-type: none">1. Copy of application form Wotton Hall Club2. Plan showing layout of premises3. Location plan4. Copy of current Premise Licence5. Copy of the representation from local residents6. Copy of the representation from Responsible Authority (Environmental Protection)7. Report from Acoustic Associates Worcestershire8. Sections 3, 4, 5, 6 and 7.2 of Gloucester City Council’s Statement of Licensing Policy9. Procedure for Licensing Sub Committee	

FOR GENERAL RELEASE

1.0 Purpose of Report

- 1.1 To consider an application by Wotton Hall Social Club to vary an existing Premises Licence in respect of Wotton Hall Club, 138 Barnwood Road, Gloucester, GL4 3JS. A copy of the application is attached in **Appendix 1**.

2.0 Recommendation

- 2.1 That members:

- (a) Consider the variation application, any relevant representations, the Licensing Objectives, the Council’s Statement of Licensing Policy and National Guidance (Section 182).
- (b) Determine the following steps it considers necessary for the promotion of the licensing objectives:

- Grant the application as applied for,
- Modify the conditions of the licence, by altering or omitting or adding to them,
- Reject the whole or part of the application.

3.0 Background

3.1 On 10th October 2014, the Licensing Team received an application from Wotton Hall Club Limited, to vary their existing Premises Licence.

3.2 The application contained all the requisite documentation including the fee and a plan of the premises. The plan is attached in **Appendix 2**.

3.3 It can be confirmed that the application has been advertised (A4 notice displayed on site and a Public Notice placed in the local newspaper) and that the application has been served on all Responsible Authorities.

3.4 A location plan is attached in **Appendix 3**

3.4 The applicant is applying to vary the following licensable activities:-

Licensable Activity	Current Licence	Variation Application
Retail Sale of alcohol	Fridays, Saturdays and Sundays 11:00 to 23:30	Fridays and Saturdays 10:00 to 01:00 Sundays 10:00 to 23:30
Indoor Sporting Event	Fridays, Saturdays and Sundays 11:00 to 23:30	Fridays and Saturdays 10:00 to 01:00 Sundays 10:00 to 23:30
Live Music	Fridays, Saturdays and Sundays 11:00 to 23:45	Fridays and Saturdays 10:00 to 01:00 Sundays 10:00 to 23:30
Recorded Music	Fridays, Saturdays and Sundays 11:00 to 23:45	Fridays and Saturdays 10:00 to 01:00 Sundays 10:00 to 23:30
Performance of dance	Fridays, Saturdays and Sundays 11:00 to 23:45	Fridays and Saturdays 10:00 to 01:00 Sundays 10:00 to 23:30
Anything of a similar description	Fridays, Saturdays and Sundays 11:00 to 23:45	Fridays and Saturdays 10:00 to 01:00 Sundays 10:00 to 23:30

- Adding a new provision of regulated entertainment of boxing and wrestling on:

Fridays and Saturdays 10:00 to 01:00
Sundays 10:00 to 23:30

- **Also adding the Provision of late night refreshment on :**

Fridays and Saturdays 23:00 to 01:00
Sundays 23:00 to 23:30

- **To include the following additional conditions :-**

- **That power cut-off switches are to be installed on fire exit doors.**
- **The club have offered a condition that a traffic light system is to be installed which will be located behind the bar and if the noise levels are too high (noise levels will be set by Gloucester City Council's Environmental Protection Team) the power will be switched off.**

3.5 Wotton Hall Club has a Premise Licence. A copy of the current Premise Licence is attached in **Appendix 4**.

4.0 Representations

4.1 During the consultation period, the variation application has resulted in eight representations from local residents (Other Persons) within the meaning of the Act.

4.2 The representations are centred around on noise emanating from the premises, anti-social behaviour, disturbance from vehicles using the car park attached to the club, litter, smells from the Indian restaurant and breaches to licensing conditions. The representations are attached in **Appendix 5**.

4.3 One representation from a Responsible Authority (Environmental Protection) has been received. If the following conditions are attached to the licence then Environmental Protection would recommend approval:

- *The licence Holder will control the sound levels of the music/entertainment. A noise limiting device including cut out must be fitted so that all live amplified music including vocals and recorded music is channelled through the devices(s). The maximum noise levels will be set by agreement with Gloucester City Council and reviewed from time to time as appropriate.*
- *Power cut off switches shall be installed on fire exit doors.*

This is attached in **Appendix 6**.

4.4 The Local Authority has deemed the representations relevant under the Licensing Objective:-

- The Prevention of Public Nuisance

4.5 On receipt of the representations enquiries were made with The Police and Environmental Protection to see if any complaints had been received against Wotton Hall Social Club.

4.6 The Police confirmed that they would not be objecting to the variation application but had received the following complaints:-

- 6th July 2014 noise complaint at 00:23 hours
- 22nd Sept 2014 noise complaint on deliveries during unsociable hours.
- One incident of minor disorder within the last 12 months.

The Police also state that prior to the above complaints the premises has had very few reports in respect of Crime and Disorder.

4.7 Environmental Protection confirmed that only one noise complaint in relation to the club in recent years has been received. The nature of the complaint was the noise emanating from the club. This was on 9th July 2014.

4.8 A telephone call to the Licensing Team was also made by a local resident on 14th July 2014 stating that residents were having problems with music emanating through windows and doors and people urinating up against the fence of their property.

4.9 After receiving this complaint a Licensing and Enforcement Officer visited the premises and reported the following:

- Saturday 19th July 2014 – 22:00 – 22:30 – All quiet no issues, doors and windows closed.
- Friday 22nd August 2014 – 22:00 – 22:30 – All quiet no issues.
- Friday 5th September 2014 – 23:15 – 23:45 – This was the date of a TEN application that had been refused due to the club exceeding their quota of 12 within a calendar a year. All music was off by 23:45. There was one rowdy group that decided to break out into a singing contest at approx 23:30 whilst waiting for a Taxi.

No further visits have taken place since 5th September 2014 as no further complaints have been received to the Licensing Team.

4.10 It has been suggested within some of the representations contained in appendix 5 that the club has breached its licensing conditions on numerous occasions giving dates of when this happened.

4.11 I can confirm that a Temporary Event Notice was in place authorising licensable activities for the following dates:-

- 15th February 2014
- 29th March 2014
- 10th May 2014
- 5th July 2014
- 20th September 2014
- 27th September 2014
- 4th October 2014

A Temporary Event Notice was not in place for the following dates:-

- 25th May 2014
- 26th July 2014
- 29th August 2014

4.12 Wotton Hall Club has provided a report from Acoustic Associates Worcestershire dated 26th August 2014. Members attention is drawn to page six of the report under conclusions. The full report is attached in **Appendix 7**.

4.13 The applicant and those who have made representations have been given Notice of Hearing in accordance with the Licensing Act 2003 (Hearings) Regulations 2005.

5.0 Financial Implications

5.1 There are no direct financial implications associated with this report.

6.0 Legal Implications

6.1 The Licensing and Enforcement Sub-Committee is asked to determine this application with a view to promotion of the Licensing Objectives which are:

- The prevention of Crime and Disorder
- Public Safety
- The prevention of Public Nuisance
- The protection of Children from Harm

6.2 In making its decision, the Sub-Committee is also obliged to have regard to national guidance (Section 182) and the Council's own Licensing Policy. Members attention is drawn to Sections 3, 4, 5 and 6 of Gloucester City Council's Licensing Policy statement which outline the authority's policy with regard to the licensing objectives and Section 7.2 that refers specifically to the licensing hours. This is attached in **Appendix 8**.

6.3 The Sub-Committee must also have regard to the representations made and the evidence it hears and also be satisfied that:-

- the application is properly made
- the application has given proper notice.
- The applicant has satisfied the advertising requirements.

6.4 The Sub-Committee has powers to decide on either of the options set in paragraph 2.1 (b) of this report

6.5 The Sub-Committee has powers adjourn or carry forward the hearing to additional; specified dates.

6.6 For the purposes of determining an application, a "relevant representation" means a representation which:

- (a) Is relevant to one or more of the licensing objectives.
- (b) Is made by a responsible authority or other persons within the prescribed period.
- (c) Has not been withdrawn

(d) If having been made by a person who is not a responsible authority, that they are not in the opinion of the Licensing Authority frivolous or vexatious.

6.7 In deciding what action, if any, it should take, the Sub-Committee Members must direct their minds to the causes and concerns which the relevant representations identify. Any action should generally be directed to these causes and should always be no more than is a necessary and proportionate response. In particular, any detrimental financial impact of the Sub-Committee decision must be necessary and proportionate.

6.8 The Sub-Committee is required to have regard to the most up to date version of the Home Secretary's Guidance when making its decision. However the Guidance does not cover every possible situation, so long as Guidance has been followed properly and reason carefully understood, the Sub-Committee may depart from it if they have to do so. Full reasons must be given for any departure from the Home Secretary's Guidance.

6.9 Following the case of Daniel Thwaites v Wirral Borough Magistrates Court 2008 The Sub-Committee needs to avoid:

- Speculating of what might happen in the absence of evidence that harm would or could happen.
- Not paying attention to Government Guidance where failing to follow it requires good reasons to be given.
- Modifying Imposing conditions that do not promote the licensing objectives.

6.10 Where the Sub-Committee determines an application it must notify the following of its decision, and the reasons for it :

- The applicant.
- The 'other person' who made the relevant representations.
- The 'responsible authority' who made the relevant representation.

6.11 The Sub-Committee has its own procedure for determining applications which are attached to the report as **Appendix 9**.

6.12 In considering the application, the Sub-Committee is solely performing the role of the Licensing Authority. The Sub-Committee sits in a quasi-judicial capacity and must act impartially. It must offer a fair and unbiased hearing of the application

6.13 There is a right of appeal to the Magistrates Court.

7.0 Risk & Opportunity Management Implications

7.1 There is a right of appeal to the Magistrates Court for both the applicant and 'Other Persons'. Costs may be awarded against the Council on successful appeal if the Council has not acted reasonably.

10.0 People Impact Assessment (PIA):

- 10.1 The Screening Stage considered risks to licence holders in the areas of gender, disability, age, ethnicity, religion, sexual orientation or community cohesion.
- 10.2 The PIA Screening Stage was completed and did not identify any potential or actual negative impact, therefore a full PIA was not required.

11.0 Other Corporate Implications

Community Safety

- 11.1 None at this stage

Sustainability

- 11.2 None at this stage

Staffing & Trade Union

- 11.3 None at this stage

Background Papers : Gloucester City Council Licensing Hearing Procedure

Published Papers : Licensing Act 2003
Licensing Act 2003 (Hearings) Regulations 2005 Gloucester City Council Licensing Policy Statement Home Secretary (Home Office) Guidance issued under section 182 of the Licensing Act 2003 (June 2014) and Daniel Thwaites v Wirral Borough Magistrates Court (2008)