



RESTRICTED

G89

Page 1 of 4

Bell

Form for representations/objections from Hampshire Constabulary

Before completing this form, please refer to FPP 07001 (Licensing (Licensing Act 2003))

Hampshire Constabulary is a responsible authority and wish to make a ~~representation~~ under the Licensing Act 2003, regarding the:

<input type="checkbox"/>	1: New Premises licence/club prem certificate	Representation within 28 days
<input checked="" type="checkbox"/>	2: Variation of premises licence/club prem certificate	Representation within 28 days
<input type="checkbox"/>	3: Minor variation of premises licence/club prem certificate	Representation within 10 days
<input type="checkbox"/>	4: Variation of DPS	Object within 14 days
<input type="checkbox"/>	5: Transfer of premises licence	Object within 14 days
<input type="checkbox"/>	6: Standard temporary event notice	Object within 3 working days
<input type="checkbox"/>	7: Late temporary event notice	Object with 3 working days
<input type="checkbox"/>	8: Application for a personal licence	Object within 14 days
<input type="checkbox"/>	9: Provisional statement	Representation within 28 days
<input type="checkbox"/>	10: Ancillary sales notice	Object within 3 working days
<input type="checkbox"/>	11: Interim authority notice	Object within 2 working days

Name of Applicant:	Star Pubs and Bars Ltd
Name of Proposed DPS:	

Details of relevant conviction (Personal Licence Applications ONLY)

Postal address of premises:	The Fusion Inn (TBK The Sail Inn Queen Street Lymington
Postcode:	SO41 9NG

Details of responsible authority applicant

Mr <input type="checkbox"/> Mrs <input type="checkbox"/> Miss <input type="checkbox"/> Ms <input type="checkbox"/> Other title / Rank:	Constable
Surname: CONWAY	First Names: SHARON
Current postal address	POLICE LICENSING, CIVIC CENTRE, SOUTHAMPTON, HAMPSHIRE, UK, SO14 7LY
Postcode:	SO14 7LY
Daytime telephone number:	02380478373
E-mail address: (optional)	licensing@hampshire.pnn.police.uk

Hampshire Constabulary is a responsible authority and the applicant has the delegated authority of the Chief Officer of Police in respect of his responsibilities under the Licensing Act 2003

RESTRICTED

**Form for representations/objections
from Hampshire Constabulary**

This application to object relates to the following licensing objective(s)

- | | | |
|---|-------------------------------------|--|
| 1) The prevention of crime and disorder | <input checked="" type="checkbox"/> | <i>Please select
one or more
boxes</i> |
| 2) Public safety | <input type="checkbox"/> | |
| 3) The prevention of public nuisance | <input checked="" type="checkbox"/> | |
| 4) The protection of children from harm | <input type="checkbox"/> | |

Please state the ground(s) for -representation-:

On behalf of the Chief Officer of Police for Hampshire Constabulary, I am making representations to the application to vary conditions for the premises licence at:
The Fusion Inn (aka Sail Inn)
Queen Street
Lymington
SO41 9NG

Hampshire Constabulary are not opposed to the change in the licensing plan submitted with the application, or point 8 - the removal of existing non-standard timings.

Hampshire Constabulary are opposed to the amendments to regulated entertainment that fall outside of the Live Music Act 2012 and Deregulation Act 2015, and the changes requested to the current conditions (point 9).

The Fusion Inn currently benefits from a premises licence authorising the sale of alcohol until 0200 on a Friday and Saturday. The current conditions were agreed with the applicant at the time of that variation to support the licensing objectives.

The Fusion Inn is presently the latest opening premises in Lymington, and as such requires conditions and an appropriate operating schedule which reflect the client base and authorised hours.

The nature of the town is such that customers for The Fusion Inn have used other local licensed premises for the early part of their evening. Due to the authorised hours, The Fusion Inn has defaulted to being the 'end-destination' venue. This has brought problems with noise, both from regulated entertainment and the general noise of customer outside the venue.

The customer noise is made up of a number of factors, including:

- noise of customers attending the premises, being attracted by the late hours
- noise of customers being refused entry due to intoxication
- noise of those customers who have been asked to leave / ejected and refuse to do so
- noise on dispersal at the end of the night
- noise from the smoking area.

This noise is exacerbated by the close proximity of residential premises, and the narrowness of the road.

It is appreciated that the Licensing Act 2003 is not a mechanism for the general control of anti-social behaviour by individuals once they are away from that premises. However, the public nuisance noted is predominantly directly outside and within the control of the venue.

During the last year of trading, 2016, The Fusion had a number of changes in management. This led



Form for representations/objections from Hampshire Constabulary

to a considerable drop in standards, increasing crime, disorder and public nuisance. Over the course of the year, the various DPS's were spoken to at length about compliance with the conditions, the impact the business was having on local residents, and improvements that could be made.

Throughout November 2016, efforts were being made to address the continuing issues. This included work to reduce the last entry time from midnight to 2300hrs. At the time of closing, the last entry time was 23:30, the DPS reporting that this step was assisting in reducing issues after midnight.

Other steps, including the use of Body Worn Video recording (BWV) by staff, particularly security staff, restricting the numbers of customers outside, increasing due diligence training as examples, were being discussed.

Before any formal enforcement action took place, the premises closed, and has been closed since.

Of note, immediately following the closure of The Fusion Inn, the customer base moved to a nearby premises which, at the time, had a late premises licence with no conditions. The problems seen at The Fusion migrated to that premises, the eventual decision by that premises licence holder was to reduce the terminal hour for the sale of alcohol to midnight.

A late-trading premises licence in Lymington must have strong conditions in place, and a robust management to enforce those conditions in order to promote the licensing objectives.

Whilst the application has outlined a concept of increasing the food offering, and the current DPS has some 30 years experience, to remove the current conditions whilst retaining the authorised licensable hours will undermine the licensing objectives detrimentally.

Reducing the other due diligence aspects, such as the age verification policy and training, will also have a negative impact on the licensing objectives.

Annex A provides information on some of the police licensing attendance to The Fusion Inn during 2016.

It is an offence, under section 158 of the Licensing Act 2003 to make a false statement in or in connection with this representation

Police recommendations (including any conditions)

The variation is not granted as requested.

Conditions relating to the following should remain in place as a minimum:

- conditions relating to SIA staffing provisions
- last entry and re-entry times
- control over consumption of alcohol outside after 2300hrs
- Challenge 25 age verification policy
- due diligence training to remain at 6 months
- obligations and direction for staff to be active in dispersal and noise nuisance prevention (points 48 & 49)
- conditions relating to regulated entertainment to remain as recommended by Environmental Health.



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G89
Page 4 of 4

**Form for representations/objections
from Hampshire Constabulary**

Signature of Officer Completing

Name	<u>SHARON CONWAY</u>	Collar Number:	<u>22237</u>
Signature:	<u>S Conway</u>	Date:	<u>30/04/2019</u>

Signature of Authorising Officer

Name	<u>Sgt Julian Ainsworth</u>	Collar Number:	<u>1878</u>
Signature:	<u>J Ainsworth</u>	Date:	<u>01/05/19</u>

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Occurrence enquiry log entry report

Version ba1ee10546b59b12842f37c6d2ea07fb7f24d34b (2018/06/16)

Hampshire Constabulary

Occurrence: 44080333114 Z Prem Licence (Management Occurrence) ***MASTER LICENSING RECORD for Fusion Inn (Sail Inn) , Lymington*** Please record all visits on reports tab. All incidents related to the premises should be raised as a occurrences then linked to this master record

Task status: All

Log type: All

Valid as of 30/04/2019 10:00:31
Printed by #22237 CONWAY, S.

Occurrence	Ref #	Type	Entry time	Event time	Author	Link	Task
44080333114	1	Enquiry log	31/03/2016 11:32		#22237 CONWAY, S.	No	

Attendance to Fusion Inn 0205hrs BST 27/03/16 (0105hrs GMT). Email sent to Env Health and NPT.

Dispersal was witnessed, as the DPS had erred on the side of caution and closed as he could not see the BST condition on his premises licence allowing for the extra hour. The DPS reported that Saturday night was busier than anticipated, and this had contributed to the noise, as there was a mixture of people leaving and smoking. The no reentry time had been moved to 0045hrs to try and aid dispersal.

Once dispersal had finished, I was invited into the premises. Once staff had finished clearing, they were allowed to have alcohol from the pub. The DPS confirmed that he was paying for the drinks as a staff benefit. Advice was provided that this constitutes a sale, therefore alcohol for staff needs to be set aside (appropriated) within the licensable hours.

Env Health have updated that they have spoken with the DPS, and provided advice at this time. They will continue to monitor

All

I popped down to Lymington early Sunday morning just after 0100am 27/03, just to see how things are.

Log entry:

Unfortunately there may be some complaints of noise from the neighbours of the Fusion, and from what I witnessed, tonight at least the complaints will be totally justified.

The DPS was spoken to and told that he needs to get the smoking area to the front under control (this has spread and seems to take up the majority of the front of the building), as well as the dispersal of customers.

The DPS had erred on the side of caution due to the clocks going forward and shut at 0100GMT / 0200 BST, which was fine. Unfortunately the bar was really busy with young adults who were intent on singing, shouting and chanting on leaving, and standing right outside the pub (and the neighbours' windows) to do this. The other issue was that there was only 3 SIA staff on duty (2 plus 1 from The Kings Arms from 0100). Two were inside clearing people out, leaving only one to try and disperse, which to begin with was very ineffective and ended with him just stood in the doorway.

To be fair, once all three staff were available to disperse, there was movement and a bit of shouting from customers not wanting to move. SIA did move down the road and monitor the whole section while people were waiting for taxis, and I did see a couple of interventions as well. Everyone was gone by 0145hrs.

In all, not good. The DPS was adamant that tonight's dispersal was unusually loud, as he was unexpectedly busy.

Occurrence enquiry log entry report

Version ba1ee10546b59b12842f37c6d2ea07fb7f24d34b (2018/06/16)

Hampshire Constabulary

Occurrence: 44080333114 Z Prem Licence (Management Occurrence) ***MASTER LICENSING RECORD for Fusion Inn (Sail Inn) , Lymington*** Please record all visits on reports tab. All incidents related to the premises should be raised as a occurrences then linked to this master record

Task status: All

Log type: All

Valid as of 30/04/2019 10:01:24
Printed by #22237 CONWAY, S.

Occurrence	Ref #	Type	Entry time	Event time	Author	Link	Task
44080333114	2	Enquiry log	17/04/2016 04:04		#22237 CONWAY, S.	No	

Area attended to monitor due to noise complaints from a neighbour. Premises monitored from close to the complainants address.

15/04/16 - 16/04 - monitored from 0005-0045 - general hubbub of conversation from people in the smoking area to the front. Not much pedestrian traffic away from other premises or to the takeaway noted
16/04/16-17/04/16 - monitored from 0030-0140. Again it was general hubbub and conversation noise from the smoking area. Some people were louder when leaving the premises, more noticeable once they reached St Thomas' street (closer to the complainant). Some noise was created by people who did not seem to, or cannot confirm to be customers from Fusion. Occasional conversation noise could be heard from different directions, but the majority of the conversational noise came from the direction of The Fusion.

Log entry:

A couple of groups were of particular attention -
0030 - group came from Thomas Street to the takeaway, causing another group to chant
0035 - group came from takeaway side of street, crossing back over, singing loudly
0130 - group leaving the Fusion were talking / singing loudly as they walked away from premises.

Also of note, the closure of the smoking area at 0115hrs noticeably reduced the amount of conversation noise that could be heard in the area.

Occurrence enquiry log entry report

Version ba1ee10546b59b12842f37c6d2ea07fb7f24d34b (2018/06/16)

Hampshire Constabulary

Occurrence: 44080333114 Z Prem Licence (Management Occurrence) ***MASTER LICENSING RECORD for Fusion Inn (Sail Inn) , Lymington*** Please record all visits on reports tab. All incidents related to the premises should be raised as a occurrences then linked to this master record

Task status: All

Log type: All

Valid as of 30/04/2019 10:03:55
Printed by #22237 CONWAY, S.

Occurrence	Ref #	Type	Entry time	Event time	Author	Link	Task
44080333114	20	Enquiry log	17/11/2016 07:46		#22237 CONWAY, S.	No	T1601426600 Follow up Closed

Premises was attended 12/11/16. 2245hrs

DPS was present and spoken to re assault 08/11/16 - DPS advised that the offender was a regular, but had not been served prior to the assault, On being served, the male became aggressive, so the male was refused and ejection made. During this, the male headbutted the DPS. DPS has provided a statement and CCTV, and is supporting the investigation.

Incident book seen - this is being completed on a daily basis. The above incident is recorded. Refusals log in use

2 SIA present at time of attendance, approx 20 customers. BWV is not worn
3 members of staff seen, plus the DPS.

Log entry:

DPS has reduced the last entry time to 2330hrs for the last two weekends. he has reported that this change has seen reduced issues after midnight, and is a step which will be maintained.

No alcohol promotions. The premises is still wet led, but they will be providing food imminently, awaiting a new gas meter.

NPT are aware of premises.

DPS is intending to remain at the premises for the near future. He also reported that he has maintained contact with local neighbours.

NFDC have also reported that complaints re ASB and noise have reduced of late.

Christa Ferguson

From: Conway, Sharon <sharon.conway@hampshire.pnn.police.uk>
Sent: 13 May 2019 16:13
To: 'George Domleo'
Cc: Arran Harmer; Christa Ferguson
Subject: RE: Variation application The Sail Inn

Hello George

Thank you for the update.

The position from Hampshire Constabulary remains the same as my representation, particularly if the authorised hours are to remain the same.

At this stage, I believe the conditions should remain as per the current premises licence, so I will not be withdrawing the representation.

Kind regards
Sharon

PC 22237 Sharon Conway
Licensing & Alcohol Harm Reduction Team
Southampton Central Neighbourhood Police Office
Southampton City Council
Civic Centre
Southampton
SO14 7LY

☎ 101 ext 4724005 ☎ 023 80478373 ☎ 07917077576

✉ force.licensing@hampshire.pnn.police.uk ✉ sharon.conway@hampshire.pnn.police.uk

www.hampshire.police.uk

From: George Domleo [mailto:George.Domleo@flintbishop.co.uk]
Sent: 13 May 2019 14:12
To: Christa Ferguson <Christa.Ferguson@NFDC.GOV.UK>
Cc: Karen Wardle <Karen.Wardle@NFDC.GOV.UK>; Amanda Wilson <Amanda.Wilson@NFDC.gov.uk>; Arran.Harmer@NFDC.gov.uk; Conway, Sharon <sharon.conway@hampshire.pnn.police.uk>
Subject: RE: Variation application The Sail Inn

Hello Christa

Following on from the emails on this matter and whilst I wait for our client to respond to me regarding postponing the hearing date, please find below a list of conditions which we wish to propose and add to our application:-

1. Door staff shall be employed at the premises on Friday and Saturday whenever the premises trade after 01.00. Door staff shall commence no later than 23.00 and will remain on duty until 30 minutes after the premises are closed to the public to aid with the dispersal of customers
2. No new customers shall be permitted entry to the premises after midnight. Re-admission to existing customers to retrieve personal belongings and those who have gone outside to smoke is permitted

3. No customers shall be allowed to use any external area of the premises after 23.00 hours, except for customers permitted to temporarily leave the premises to smoke in the external area to the front of the premises. No drinks shall be permitted to be taken into the external area after this time
4. A Challenge 25 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport or proof of age card with the PASS Hologram
5. Full training shall be provided to all staff involved in the sale of alcohol on commencement of employment relating to prevention of underage sales of alcohol, proxy sales of alcohol to underage persons and sales of alcohol to a person who is drunk. Refresher training shall be provided at regular intervals – at least every 6 months. Records detailing the training provided shall be kept on the premises for a minimum of 12 months and be made available for production upon request by the Police and other officers of Responsible Authorities

These conditions have been offered in response to the points raised by the Police and Environmental Health in their representations and hopefully address their initial concerns.

Sharon & Arran – FYI and are you both now happy to withdraw your representations?

Any queries please do give me a call.

Kind regards

George

George Domleo
Solicitor
Licensing

DD 01332 226192 ext: 258
F 01332 207 601
DX 729320 DERBY 24

Flint Bishop LLP St. Michael's Court, St. Michael's Lane, Derby, DE1 3HQ



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Please consider the environment before printing this e-mail.

Christa Ferguson

From: Arran Harmer
Sent: 07 May 2019 14:12
To: Licensing e-mail address
Cc: 'George Domleo'
Subject: FW: Variation to Premises Licence- The Fusion Inn (Sail Inn)

Dear Licensing

Further to my email (below), I have not heard anything further from the applicant to address my concerns; therefore, I wish to formally object to this application on the basis that it will undermine the Prevention of Public Nuisance licensing objective.

I will update you if/when I hear back from the applicant and if any agreement can be reached.

Regards

Arran Harmer
 Environmental Health Officer
 Environmental Protection | Environmental & Regulation
 New Forest District Council
 Tel: 023 8028 5588 | Admin: 023 8028 5411 (option 2)
arran.harmer@nfdc.gov.uk
newforest.gov.uk

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From: Arran Harmer
Sent: 15 April 2019 16:01
To: 'aubrey.taylor@starpubs.co.uk'
Cc: 'George Domleo'; Christa Ferguson; Peter Donelan; 'Conway, Sharon'; 'force.licensing@hampshire.pnn.police.uk'; Rachel Higgins
Subject: Variation to Premises Licence- The Fusion Inn (Sail Inn)

Dear Mr Taylor

Thank you for your time earlier today to discuss the variation to the premises licence with myself, Christa Ferguson (Licensing Manager) and Peter Donelan (Licensing Enforcement Officer). I have provided a summary of the key points we discussed below.

As you are aware, this department has significant concerns over the removal of key conditions from the licence (relating to the Prevention of Public Nuisance) and the extension of some licensable activities (mostly in relation to live and recorded music).

There is a considerable history of issues associated with the premises arising from music and people noise causing a nuisance to the surrounding area, which has culminated in several abatement notices (in respect of statutory nuisance) being served on previously licensee's.

I would stress that the majority of the current conditions and timings on the premises license have come about as a result of issues identified and significant consultation between all parties to mitigate any impact.

In terms of music noise, it has been highlighted on a number of occasions that the premises is not suitable for regular late night live and/or recorded music as it is structurally attached to a neighbouring property.

Historically, a noise limiter has been employed to control noise being transmitted through the structure of the building as this cannot be effectively monitored by staff; however, even with the use of a noise limiter certain elements of live music (bass frequencies: drums, bass guitar etc.) have proven to be very difficult to control given the nature of the premises- hence the restrictions on the terminal hour and frequency of such activities. Regulated entertainment on a very limited basis (i.e. live music ceasing at 23:00hrs and recorded music every other Saturday) has been acceptable in the past; however, increasing the timings and frequency of such music, especially without the aid of a noise limiter will undoubtedly cause nuisance.

Similarly, due to the very close proximity of the rear garden to a number of residential properties (several metres), the use of the area beyond 23:00hrs (even if just for smoking) is likely to cause problems. Smokers are currently directed to the front of the premises after 23:00hrs to minimise nuisance.

In terms of people noise, again, there is a history of issues associated with people out the front of the premises and large numbers of people congregating on the street/ in the road, especially after other pubs in the vicinity have emptied out. I believe I'm correct in saying that the Fusion Inn currently has the latest licence in Lymington and is therefore naturally attractive to receiving an influx of customers late at night, which has historically been very difficult to manage and has brought about extensive issues- hence the conditions relating to door staff and last entry. Since the closure of the Fusion Inn, this very issue was recently observed at The Borough Arms in Lymington which at the time had the latest licence. The removal of the conditions relating to door staff, re-entry of patrons late at night and restrictions on those using the front of the premises to smoke etc. will undoubtedly result in issues associated with crime & disorder/ public nuisance by virtue of the opening hours and location.

In light of the above, the application in its current format is likely to undermine the licensing objectives and is therefore not acceptable to Environmental Health.

There is scope to vary the licence, however, suitable controls in relation to the key points outlined above must form part of any granted licence.

Following our meeting, you advised that you may wish to reconsider the opening hours (a midnight closing time was mooted) as this may help address several of the above issues.

Once you have a clearer idea of the changes you wish to make in light of the concerns raised, please advise our licensing team accordingly so we may assess the application further.

I have copied the Police into this email in case they wish to add anything at this stage.

In the meantime, I am happy to discuss the situation further should you need.

Yours sincerely

Arran Harmer
Environmental Health Officer
Environmental Protection | Environmental & Regulation
New Forest District Council
Tel: 023 8028 5588 | Admin: 023 8028 5411 (option 2)
arran.harmer@nfdc.gov.uk
newforest.gov.uk



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Christa Ferguson

From: Arran Harmer
Sent: 13 May 2019 15:37
To: 'George Domleo'
Cc: sharon.conway@hampshire.pnn.police.uk; Christa Ferguson
Subject: RE: Variation application The Sail Inn

Dear George

Thank you for your email.

Could you confirm whether the suggested conditions are intended to supplement or replace those accompanying the initial application listed in box D under the heading Prevention of Public Nuisance (numbered 7-13)?

Assuming that these conditions are intended to supplement the conditions initially suggested, they go a little way towards allaying my concerns; however, they do not adequately address the issue of music noise emanating from the premises. As such, I would like to see the following conditions retained from the existing premises licensing:

36. All music noise emanating from the premises, whilst it may be audible shall be so low that distinct tunes, lyrics, musical instruments and any bass beat cannot be recognised at the boundary of all noise sensitive premises.

For these purposes, noise sensitive premises shall include premises used for residential purposes, hospitals or similar institutions, educational establishments (when in use), places of worship (during recognised times and days of worship) and any other premises used for any other purpose likely to be affected by music noise .

39. The noise limiting device installed shall be retained and maintained in good working order and all amplified regulated entertainment shall be channelled through the device and shall not exceed a noise level determined by Environmental Health Officers from New Forest District Council . The maximum noise level set by Environmental Health Officers from New Forest District Council shall be reviewed as required by Environmental Health Officers from New Forest District Council.

40. The noise limiting device shall be sealed to avoid tampering

In addition to the above, I have concerns relating to the provision of live music until midnight on Friday and Saturday nights. Previous experience from has shown that it is very difficult to control live music from this premises (especially that which is amplified or contains drums or bass) given the proximity to nearby properties. Therefore, it would be sensible to retain controls relating to the restriction of live music; namely:

- Live music shall only take place indoors (condition 30); and
- Live music shall only take place on two occasions per week (Box E); and
- cease at 23:00hrs Monday to Sunday

I would be grateful if you would confirm that you are agreeable to retaining the above conditions and restrictions, so that I may withdraw my representation.

Yours sincerely

Arran Harmer

Environmental Health Officer
Environmental Protection | Environmental & Regulation
New Forest District Council
Tel: **023 8028 5588** | Admin: **023 8028 5411**
arran.harmer@nfdc.gov.uk
newforest.gov.uk



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From: George Domleo [mailto:George.Domleo@flintbishop.co.uk]
Sent: 13 May 2019 14:12
To: Christa Ferguson
Cc: Karen Wardle; Amanda Wilson; Arran Harmer; sharon.conway@hampshire.pnn.police.uk
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These conditions have been offered in response to the points raised by the Police and Environmental Health in their representations and hopefully address their initial concerns.

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Any queries please do give me a call.

Kind regards

George