

NEW FOREST DISTRICT COUNCIL

LICENSING ACT 2003

APPLICATION: MAYFLOWER, KINGS SALTERN ROAD, LYMINGTON

**Decision of the Licensing Sub-Committee hearing held at Appletree Court,
Lyndhurst on Monday, 1 August 2005**

1. Members of the Licensing Sub-Committee

Cllr R C H Hale - Chairman
Cllr G C Beck
Cllr Mrs B Smith

2. Parties and their Representatives attending the Hearing

Mr C Troup - Applicant (represented by Rob May)
Mr D & Mrs J Brett - Objectors (represented by Cllr Ault)
Mr. D & Mrs. J Brett - Objectors (represented by Cllr Ault)
Mr. A C & Mrs. P Clark - Objectors (represented by Cllr Ault)
Mr. I & Mrs. G Davis - Objectors (represented by Cllr Ault)
Mr. I Dunne - Objector
Mr. J Pearce - Objector (represented by Cllr Ault)
Mrs. C Perse - Objector
Mr. & Mrs. E Symons - Objectors (represented by Cllr Ault)

3. Other Persons attending the Hearing

Cllr K F Ault (representing the objectors indicated in paragraphs 2 and 4)

4. Parties not attending the Hearing

Mr. T & Mrs. C Chisman - Objectors (represented by Cllr Ault)
Mr. & Mrs. O J Dunne - Objectors (represented by Ian Davis)
Mrs. O Grant - Objector (represented by Cllr Ault)
Mr. N Round-Turner - Objector
Mr. R & Mrs. S Sayer - Objectors (represented by Cllr Ault)
Mrs. P Thompson - Objector
Mr. C Thompson - Objector
Mrs. J Vernon-Jackson - Objector

5. Officers attending to assist the Sub-Committee

Grainne O'Rourke - Head of Legal and Democratic Services
Kate Mason - Committee Administrator

6. Decision of the Sub-Committee

Licensable activities and times permitted:

Films:

Monday 07.00 to 23.30
Tuesday 07.00 to 23.30
Wednesday 07.00 to 23.30
Thursday 07.00 to 23.30
Friday 07.00 to 00.00
Saturday 07.00 to 00.00
Sunday 07.00 to 23.30

Indoor sporting events:

Monday 07.00 to 23.30
Tuesday 07.00 to 23.30
Wednesday 07.00 to 23.30
Thursday 07.00 to 23.30
Friday 07.00 to 00.00
Saturday 07.00 to 00.00
Sunday 07.00 to 23.30

Live music:

Monday 07.00 to 23.30
Tuesday 07.00 to 23.30
Wednesday 07.00 to 23.30
Thursday 07.00 to 23.30
Friday 07.00 to 00.00
Saturday 07.00 to 00.00
Sunday 07.00 to 23.30

Recorded music:

Monday 07.00 to 23.30
Tuesday 07.00 to 23.30
Wednesday 07.00 to 23.30
Thursday 07.00 to 23.30
Friday 07.00 to 00.00
Saturday 07.00 to 00.00
Sunday 07.00 to 23.30

Anything of a similar description to live or recorded music:

Monday 07.00 to 23.30
Tuesday 07.00 to 23.30
Wednesday 07.00 to 23.30
Thursday 07.00 to 23.30
Friday 07.00 to 00.00
Saturday 07.00 to 00.00
Sunday 07.00 to 23.30

Provision of facilities for making music:

Monday 07.00 to 23.30
Tuesday 07.00 to 23.30
Wednesday 07.00 to 23.30
Thursday 07.00 to 23.30
Friday 07.00 to 00.00
Saturday 07.00 to 00.00
Sunday 07.00 to 23.30

Provision of facilities for dancing:

Monday 07.00 to 23.30
Tuesday 07.00 to 23.30
Wednesday 07.00 to 23.30
Thursday 07.00 to 23.30
Friday 07.00 to 00.00
Saturday 07.00 to 00.00
Sunday 07.00 to 23.30

Provision of facilities for entertainment of a similar description to making music or dancing:

Monday 07.00 to 23.30
Tuesday 07.00 to 23.30
Wednesday 07.00 to 23.30
Thursday 07.00 to 23.30
Friday 07.00 to 00.00
Saturday 07.00 to 00.00
Sunday 07.00 to 23.30

Late night refreshment:

Monday 23.00 to 00.00
Tuesday 23.00 to 00.00
Wednesday 23.00 to 00.00
Thursday 23.00 to 00.00
Friday 23.00 to 00.30
Saturday 23.00 to 00.30
Sunday 23.00 to 00.00

Supply of alcohol:

Monday 07.00 to 23.30
Tuesday 07.00 to 23.30
Wednesday 07.00 to 23.30
Thursday 07.00 to 23.30
Friday 07.00 to 00.00
Saturday 07.00 to 00.00
Sunday 07.00 to 23.30

Non-standard hours:

The licensable activities listed above shall be permitted for one further hour on the following days:

Christmas Eve, and

Boxing Day, and

up to 15 other days in any 12 month period provided (in respect of those other days)

- (a) the applicant notifies the police and the licensing authorities details of the proposed activities on each occasion at least 10 days before the day in question, and
- (b) the police do not veto the activity for the additional period

except that, subject to (a) and (b) above, where a specific day is a Sunday preceding a bank holiday Monday, the licensable activities shall be permitted one hour thirty minutes beyond standard hours

The licensable activities listed above shall be permitted from 07.00 on New Year's Eve to 01.30 on 2 January

Hours premises to be open to the public

Monday 07.00 to 00.00
Tuesday 07.00 to 00.00
Wednesday 07.00 to 00.00
Thursday 07.00 to 00.00
Friday 07.00 to 00.30
Saturday 07.00 to 00.30
Sunday 07.00 to 00.00

The premises are permitted to be open until 30 minutes after the end of the time permitted for the sale of alcohol the following days:

Christmas Eve, and

Boxing Day, and

up to 15 other days in any 12 month period as provided above.

The premises are also permitted to be open from 07.00 on New Year's Eve to 01.30 on 2 January

Mandatory conditions:

As provided in the Licensing Act 2003

Other conditions:

Any music (live or recorded) or amplified speech outside the enclosed building (including the garden) will end at or before 21.00 from Sunday to Thursday inclusive (subject to the following paragraph).

Any music (live or recorded) or amplified speech outside the enclosed building (including the garden) will end at or before 23.00 on Fridays or Saturdays, or any of the days listed under non-standard hours above which are followed by a Saturday, Sunday or public holiday.

No part of the premises outside the enclosed building (including the garden) shall be used after 23.30 on any day.

All external doors and windows will be kept closed, except as required for access and egress, after 23.00 when events involving live or amplified music (including amplified speech) are taking place inside the building.

The designated premises supervisor or his/her nominated deputy shall be present on the premises every day from 23.00 until the premises close to respond to any complaints.

No drinks may be taken from the designated trade garden in open containers.

Notices shall be displayed in prominent positions within and outside the premises requiring patrons to leave quietly and respect local residents.

7. Reasons for the Decision

The Sub-Committee carefully considered the evidence, both written and oral, supplied by the parties.

In respect of the standard finish time for the various licensable activities, the Sub-Committee had particular regard to representations concerning noise nuisance at closing time. They accepted that at present there are regular occasions where noise occurs outside the pub building, both of people and traffic, and some antisocial behaviour, occur at or shortly after "turn out" time.

On the one hand, they considered that permitting some extension of the period during which licensable activities can be carried on would enable customers to emerge from the premises at a more gradual rate. It is considered this would reduce the concentrated effect of noise or other unwanted behaviour likely to arise when numbers of people leave the premises at the same time, which would promote the licensing objective relating to the prevention of public nuisance. A condition placed on the licence requiring patrons to be reminded of the need to respect local residents might also have some effect in ameliorating noise. However, if licensable activities, in particular the supply of alcohol, continued into the small hours of the morning, the Sub-Committee is of the view that noise would be likely to persist until an unacceptably late hour. Even a few noisy customers leaving the premises in the small hours would be likely to generate an unacceptable level of noise, given the proximity of the premises to a residential area, at a time at which many residents would be trying to sleep. It considers there are no conditions that could be placed on the licence that would have the effect of overcoming this. In these circumstances the Sub-Committee considers that permitting an extension of the hours during which the sale of alcohol is permitted beyond 23.30, at least during the working week, with closing time half an hour later, would not be likely to promote the licensing objectives relating to prevention of public nuisance and, to a lesser extent, prevention of crime and disorder. On Fridays and Saturdays the Sub-Committee considers that the public nuisance effect of noise at "turning out" time would not be so significant until slightly later, as they are not followed by working or school days.

Concerning representations relating to noise from the premises during licensing hours, the Sub-Committee is of the view that conditions can be imposed on the licence requiring measures to ameliorate noise, as set out in the decision. They noted that, should a statutory nuisance in the future be established, action can be taken under the Environmental Protection Act.

Regarding the original application for 30 “event days” a year, plus extended opening at bank holidays, the Sub-Committee noted that, if this were granted, extensions could apply during the working week almost once a week. While some occasional extensions might not constitute a public nuisance, the Sub-Committee considered that regular noise, ie more often than once a fortnight, would do so. The Sub-Committee therefore considered that “event days” and bank holiday extensions together should be limited to 15 in a twelve month period.

Concerning closing time, the Sub-Committee considered that cessation of all licensable activities half an hour before closing, except for provision of non-alcoholic late night refreshment, would be conducive to encouraging a relaxed wind down period, which could in turn encourage patrons to leave the premises quietly.

The Sub-Committee also noted that objectors had made the point that granting an extension of hours meant the premises would have the potential to draw people from other public houses that close earlier. However in the absence of any evidence that this would be the case the Sub-Committee do not feel they can base a decision to restrict opening hours to those currently applying on what is essentially speculation.

There were no relevant representations made in respect of the application to remove embedded restrictions placed on the licence by virtue of the Licensing Act 1964, the Cinematograph (Safety) regulations 1955 and the Children and Young Persons Act 1933. This part of the application is therefore granted.

Date 1 August 2005

Licensing Sub-Committee Chairman - Cllr R C H Hale

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Decision noted to interested parties on 2 August 2005