

NEW FOREST DISTRICT COUNCIL

LICENSING ACT 2003

APPLICATION: The White Hart, Milford Road, Pennington

**Decision of the Licensing Sub-Committee hearing held at Appletree Court,
Lyndhurst on 5 September 2005.**

1. Members of the Licensing Sub-Committee

Cllr Hoy – Chairman
Cllr Puttock
Cllr Walmsley

2. Parties and their Representatives attending the Hearing

Mr Treacey – applicant
Mr. Cooley – applicants' agent
Mrs Donovan – designated premises supervisor

Objectors:

Mrs Carter
Ms. Olga Dixon
Mr. A McRobbie
Mr Seager
Mrs. Seager
Mrs. S Seward

3. Other Persons attending the Hearing

Mr and Mrs White

4. Parties not attending the Hearing

Ms. C Hughes
Mr. & Mrs. P King
Mr. C. Erne
Mr A W Cook
Mrs C Hughes
Mr and Mrs Paterson (represented by Mr Seager)
Mr P Towersey (represented by Mrs R Carter)
Mr A and Mrs J Carter

Not confirmed as either attending or not attending:

Mr M Elliott

5. Officers attending to assist the Sub-Committee

Ms J Mutlow – Legal Advisor
Miss J Debnam - Clerk

6. Decision of the Sub-Committee

The application is granted on the following terms and conditions.

Licensable activities and times permitted:

- B. 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 00.30
Saturday 07.00 to 00.30
Sunday 07.00 to 23.30
- C. 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 00.30
Saturday 07.00 to 00.30
Sunday 07.00 to 23.30
- E. Live music:
Monday 11.00 to 23.30
Tuesday 11.00 to 23.30
Wednesday 11.00 to 23.30
Thursday 11.00 to 23.30
Friday 11.00 to 00.30
Saturday 11.00 to 00.30
Sunday 11.00 to 23.30
- F. 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 00.30
Saturday 07.00 to 00.30
Sunday 07.00 to 23.30
- G. Performance of dance:
Monday 11.00 to 23.30
Tuesday 11.00 to 23.30
Wednesday 11.00 to 23.30
Thursday 11.00 to 23.30
Friday 11.00 to 00.30
Saturday 11.00 to 00.30
Sunday 11.00 to 23.30

- H. Anything of a similar description to that falling within E. F. or G.
Monday 11.00 to 23.30
Tuesday 11.00 to 23.30
Wednesday 11.00 to 23.30
Thursday 11.00 to 23.30
Friday 11.00 to 00.30
Saturday 11.00 to 00.30
Sunday 11.00 to 23.30
- I. Provision of facilities for making music:
Monday 11.00 to 23.30
Tuesday 11.00 to 23.30
Wednesday 11.00 to 23.30
Thursday 11.00 to 23.30
Friday 11.00 to 00.30
Saturday 11.00 to 00.30
Sunday 11.00 to 23.30
- J. Provision of facilities for dancing:
Monday 11.00 to 23.30
Tuesday 11.00 to 23.30
Wednesday 11.00 to 23.30
Thursday 11.00 to 23.30
Friday 11.00 to 00.30
Saturday 11.00 to 00.30
Sunday 11.00 to 23.30
- L. 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 01.00
Saturday 23.00 to 01.00
Sunday 23.00 to 00.00
- M. Supply of alcohol:
Monday 10.00 to 23.30
Tuesday 10.00 to 23.30
Wednesday 10.00 to 23.30
Thursday 10.00 to 23.30
Friday 10.00 to 00.30
Saturday 10.00 to 00.30
Sunday 10.00 to 23.00

Non-standard timings for licensable activities

The licensable activities above shall be permitted for a further additional hour beyond the standard opening times on the following days:

- Each Friday, Saturday and Sunday of the Easter, May, Spring/Whitsun and August Bank Holiday weekends.
- Christmas Eve.

In addition the licensable activities above shall be permitted for a further additional hour beyond the standard opening times on 12 additional days per annum.

The permitted hours for New Years Eve/ New Years Day will be 07.00 hours on New Years Eve to 01.00 hours on 2nd 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 01.00
Saturday 07.00 to 01.00
Sunday 07.00 to 00.00

Non-standard hours that premises open to the public

The premises shall be permitted to be open to the public for a further additional hour beyond the standard opening times on the following days:

- Each Friday, Saturday and Sunday of the Easter, May, Spring/Whitsun and August Bank Holiday weekends.
- Christmas Eve.

The premises shall be permitted to be open to the public for a further additional hour beyond the standard opening times on 12 additional days per annum.

The permitted hours for New Years Eve/ New Years Day will be 07.00 hours on New Years Eve to 01.00 hours on 2nd January.

Mandatory conditions:

As provided in the Licensing Act 2003

Other conditions:

1. The Licensee or his/her nominated representative shall receive and respond to complaints throughout the duration of any regulated entertainment.
2. All external doors and windows shall be kept closed, other than for the purposes of access and egress, when events involving live and or amplified music (including amplified speech) are taking place.
3. The licensable activities at sections B. E. F. G.H. I. and J. above shall cease at 22.00 when they are taking place outdoors.
4. After 23.00 hours music and noise emanating from inside the premises shall be inaudible at the boundary of all noise sensitive premises*.
5. Prior to 23.00 hours, music and noise emanating from the premises (both outdoors and indoors) if audible, shall be at such a level that distinct tunes, lyrics, musical instruments and any base beat cannot be recognised at the boundary of all noise sensitive premises*.

* For the purposes of conditions 4 and 5 above, 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 the music noise.

7. Reasons for the Decision

The Sub-Committee carefully considered the evidence, both written and oral, supplied by the parties and in particular the amendments to the application submitted by the Applicant.

In respect of the finish time for the licensable activities the Sub-Committee had particular regard to representations concerning noise nuisance. They accepted that at present there are occasions where noise occurs. However, they noted that no objections to the application for increased opening hours had been made by the Environmental Health Department or the Police.

The Sub-Committee considered that permitting a slightly longer period for licensable activities would be consistent with the new licensing regime, in particular in light of the fact that the Applicant indicated that his application for extended hours was intended to allow him extra flexibility rather than in order to allow him to open later on each and every night. However, as the premises was in a residential area the Sub-Committee considered that the hours permitted were reasonable in balancing the concerns of residents against allowing greater flexibility to the Applicant.

However, permitting an extension of the hours during which the sale of alcohol (and other licensable activities excluding late night refreshment) is permitted beyond 23.30 during the working week (with a working day to follow) would not be likely to promote the licensing objectives relating to the prevention of public nuisance. It is for this reason that when there is a working day the next day, licensable activities will cease at 23.30 with closing a half hour later.

On Fridays and Saturdays, the Sub-Committee considers that the public nuisance effect of noise would not be so significant until slightly later, as Fridays and Saturdays are not followed by a normal working day.

The question of erection of a marquee was raised by the Objectors who were concerned that this may lead to an increase in activities and associated noise in the garden of the premises. The Sub-Committee took the view that the condition requiring the cessation of all activities involving music by 22.00 hours would ameliorate the concerns raised. Additionally, the erection of any such structure would be subject to the existing planning regime in any event.

There were no relevant representations made in respect of that part of the application to remove the embedded restrictions as set out in the application and therefore this part of the application is granted.

Date 6 September 2005

Licensing Sub-Committee Chairman: Cllr J M Hoy

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Decision noted to interested parties on 8 September 2005