

NEW FOREST DISTRICT COUNCIL

LICENSING ACT 2003

HOBURNE BASHLEY, SWAY ROAD, NEW MILTON

Decision of the Licensing Sub-Committee hearing held at Appletree Court, Lyndhurst on Monday 12th September 2005 at 9 am.

1. Members of the Licensing Sub-Committee

Cllr R C H Hale – Chairman
Cllr D Harrison
Cllr P R Woods

2. Parties and their Representatives attending the Hearing

David Campbell – Solicitor for the applicant
John Beaton – Applicant
Nick Putnam - Applicant

3. Other Persons attending the Hearing

Stephen Stone – EHO
Andy Freeman - EHO

4. Parties not attending the Hearing

Mr & Mrs G Wood
Mr Glyde – who has withdrawn his objection

5. Officers attending to assist the Sub-Committee

Ms J Mutlow – Legal Advisor
Ms K Mason – Committee Administrator

6. Decision of the Sub-Committee

The application is granted on the following terms and conditions.

Licensable activities and times permitted:

- A. Plays
 - Monday 10.00 to 01.30
 - Tuesday 10.00 to 01.30
 - Wednesday 10.00 to 01.30
 - Thursday 10.00 to 01.30
 - Friday 10.00 to 01.30
 - Saturday 10.00 to 01.30
 - Sunday 10.00 to 01.30

- B. Films:
 - Monday 10.00 to 01.30
 - Tuesday 10.00 to 01.30
 - Wednesday 10.00 to 01.30
 - Thursday 10.00 to 01.30
 - Friday 10.00 to 01.30
 - Saturday 10.00 to 01.30
 - Sunday 10.00 to 01.30

- C. Indoor sporting events:
 - Monday 10.00 to 01.30
 - Tuesday 10.00 to 01.30
 - Wednesday 10.00 to 01.30
 - Thursday 10.00 to 01.30
 - Friday 10.00 to 01.30
 - Saturday 10.00 to 01.30
 - Sunday 10.00 to 01.30

- D. Boxing or wrestling entertainment
 - Monday 10.00 to 01.30
 - Tuesday 10.00 to 01.30
 - Wednesday 10.00 to 01.30
 - Thursday 10.00 to 01.30
 - Friday 10.00 to 01.30
 - Saturday 10.00 to 01.30
 - Sunday 10.00 to 01.30

- E. Live music:
 - Monday 10.00 to 01.30
 - Tuesday 10.00 to 01.30
 - Wednesday 10.00 to 01.30
 - Thursday 10.00 to 01.30
 - Friday 10.00 to 01.30
 - Saturday 10.00 to 01.30
 - Sunday 10.00 to 01.30

- F. Recorded music
 - Monday 10.00 to 01.30
 - Tuesday 10.00 to 01.30
 - Wednesday 10.00 to 01.30
 - Thursday 10.00 to 01.30
 - Friday 10.00 to 01.30
 - Saturday 10.00 to 01.30
 - Sunday 10.00 to 01.30

- G. Performances of dance
 - Monday 10.00 to 01.30
 - Tuesday 10.00 to 01.30
 - Wednesday 10.00 to 01.30
 - Thursday 10.00 to 01.30
 - Friday 10.00 to 01.30
 - Saturday 10.00 to 01.30
 - Sunday 10.00 to 01.30

- H. Anything of a similar description to that falling within E. F. and G
 - Monday 10.00 to 01.30
 - Tuesday 10.00 to 01.30
 - Wednesday 10.00 to 01.30
 - Thursday 10.00 to 01.30
 - Friday 10.00 to 01.30
 - Saturday 10.00 to 01.30
 - Sunday 10.00 to 01.30

- I. Provision of facilities for making music:
 - Monday 10.00 to 01.30
 - Tuesday 10.00 to 01.30
 - Wednesday 10.00 to 01.30
 - Thursday 10.00 to 01.30
 - Friday 10.00 to 01.30
 - Saturday 10.00 to 01.30
 - Sunday 10.00 to 01.30

- J. Provision of facilities for dancing
 - Monday 10.00 to 01.30
 - Tuesday 10.00 to 01.30
 - Wednesday 10.00 to 01.30
 - Thursday 10.00 to 01.30
 - Friday 10.00 to 01.30
 - Saturday 10.00 to 01.30
 - Sunday 10.00 to 01.30

- L. Late night refreshment:
 - Monday 23.00 to 01.30
 - Tuesday 23.00 to 01.30
 - Wednesday 23.00 to 01.30
 - Thursday 23.00 to 01.30
 - Friday 23.00 to 01.30
 - Saturday 23.00 to 01.30
 - Sunday 23.00 to 01.30

- M. Supply of alcohol:
Monday 10.00 to 01.30
Tuesday 10.00 to 01.30
Wednesday 10.00 to 01.30
Thursday 10.00 to 01.30
Friday 10.00 to 01.30
Saturday 10.00 to 01.30
Sunday 10.00 to 01.30

Non-standard timings

This licence permits the licensable activity at Section M. above (supply of alcohol) between 01.30 hours on New Years Day until 06.00 hours on 2nd January.

Hours premises to be open to the public

- Monday 06.00 to 02.00
Tuesday 06.00 to 02.00
Wednesday 06.00 to 02.00
Thursday 06.00 to 02.00
Friday 06.00 to 02.00
Saturday 06.00 to 02.00
Sunday 06.00 to 02.00

The premises is permitted to remain open to the public between 01.30 hours on New Years Day until 06.00 hours on 2nd January.

Mandatory conditions:

As provided in the Licensing Act 2003

Other conditions:

1. No live music shall be permitted outdoors at any time.
2. Where outdoor events involve recorded music, the recorded music shall cease at 22.00 hours.
3. Noise from recorded music played outdoors shall be barely audible* at any time at the site boundary, as marked in red on the plan that will be attached to the licence.
4. The Licensing Authority shall be notified at least 28 days prior to any of the licensable activities referred to at Section D. above taking place

*"Barely audible" means that the noise level is so low that distinct tunes, lyrics, musical instruments and any base beat cannot be recognised.

7. Reasons for the Decision

The Sub-Committee carefully considered the evidence supplied by the parties.

The Sub-Committee considered the objections relating to potential noise nuisance carefully but noted that, whilst concerns were raised, these could be adequately dealt with by the imposition of conditions.

The Sub-Committee considered that conditions should be imposed requiring measures to ameliorate noise, as set out in the decision and were satisfied that these conditions will overcome the concerns of the objectors. It also took the view that due to the nature of the

Applicant's business there was an element of self-regulation in that clearly it would not be in the Applicant's interests to cause nuisance to its own residents and this, in itself would encourage the promotion of the licensing objective relating to the prevention of public nuisance.

Should a statutory nuisance be established in the future then clearly action may be considered under the Environmental Protection Act, or a review of the licence may be requested under the Licensing Act, as appropriate.

In these circumstances, the Sub-Committee was of the view that granting the application for variation was not inconsistent with the licensing objectives, subject to the conditions imposed in the decision.

There were no relevant representations made in respect of the application to remove embedded restrictions, standard and special conditions and limitations under existing licenses and therefore these restrictions will be removed and this part of the application granted.

Finally, the Sub-Committee wanted it to be noted that they were impressed with the fact that the business run by the applicant appeared to be well-managed and further noted that there was no history of complaints relating to this premises.

Date 12th September 2005

Licensing Sub-Committee Chairman: Cllr Hale

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Decision noted to interested parties on 14 September 2005