

NEW FOREST DISTRICT COUNCIL

LICENSING ACT 2003

APPLICATION: MAINE RESTAURANT AND BAR, ASHLEY LANE, LYMINGTON

**Decision of the Licensing Sub-Committee hearing held at Appletree Court,
Lyndhurst on Monday, 19 September 2005 at 3.00 p.m.**

1. Members of the Licensing Sub-Committee

Councillor J A G Hutchins - Chairman
Councillor J Penwarden
Councillor P R Woods

2. Parties and their Representatives attending the Hearing

Mr A Hughes-Onslow – Applicant

3. Other Persons attending the Hearing

Mr R Jackson – Objector
Mr J Gray – Solicitor, Lamport Bassitt representing Mr Jackson
Ms M Hunt - Observer

4. Parties not attending the Hearing

Mr E M Kelly
Mrs J J E Welker
Mr & Mrs Windibank

5. Officers attending to assist the Sub-Committee

Ms J Mutlow – Legal Advisor
Mrs M Dunsmore - 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 10.00 to 00.00
 - Tuesday 10.00 to 00.00
 - Wednesday 10.00 to 00.00
 - Thursday 10.00 to 00.00
 - Friday 10.00 to 00.00
 - Saturday 10.00 to 00.00
 - Sunday 10.00 to 00.00

- C. Indoor sporting events:
 - Monday 10.00 to 00.00
 - Tuesday 10.00 to 00.00
 - Wednesday 10.00 to 00.00
 - Thursday 10.00 to 00.00
 - Friday 10.00 to 00.00
 - Saturday 10.00 to 00.00
 - Sunday 10.00 to 00.00

- E. Live music:
 - Monday 10.00 to 00.00
 - Tuesday 10.00 to 00.00
 - Wednesday 10.00 to 00.00
 - Thursday 10.00 to 00.00
 - Friday 10.00 to 00.00
 - Saturday 10.00 to 00.00
 - Sunday 10.00 to 00.00

- F. Recorded music:
 - Monday 10.00 to 00.00
 - Tuesday 10.00 to 00.00
 - Wednesday 10.00 to 00.00
 - Thursday 10.00 to 00.00
 - Friday 10.00 to 00.00
 - Saturday 10.00 to 00.00
 - Sunday 10.00 to 00.00

- H. Anything of a similar description to that falling within E. F. or G.
 - Monday 10.00 to 00.00
 - Tuesday 10.00 to 00.00
 - Wednesday 10.00 to 00.00
 - Thursday 10.00 to 00.00
 - Friday 10.00 to 00.00
 - Saturday 10.00 to 00.00
 - Sunday 10.00 to 00.00

- I. Provision of facilities for making music:
 - Monday 10.00 to 00.00
 - Tuesday 10.00 to 00.00
 - Wednesday 10.00 to 00.00
 - Thursday 10.00 to 00.00
 - Friday 10.00 to 00.00
 - Saturday 10.00 to 00.00
 - Sunday 10.00 to 00.00

J. Provision of facilities for dancing:
Monday 10.00 to 00.00
Tuesday 10.00 to 00.00
Wednesday 10.00 to 00.00
Thursday 10.00 to 00.00
Friday 10.00 to 00.00
Saturday 10.00 to 00.00
Sunday 10.00 to 00.00

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 00.00
Saturday 23.00 to 00.00
Sunday 23.00 to 00.00

M. Supply of alcohol:
Monday 10.00 to 00.00
Tuesday 10.00 to 00.00
Wednesday 10.00 to 00.00
Thursday 10.00 to 00.00
Friday 10.00 to 00.00
Saturday 10.00 to 00.00
Sunday 10.00 to 00.00

Non-standard timings

The licensable activities above will be permitted for an additional 30 minutes until 00.30 hours on the following days:

- Each Friday, Saturday, Sunday and Monday of the Easter, May, Spring/Whitsun and August Bank Holiday weekends
- Christmas Eve
- Boxing Day
- 23 December
- St. Georges Day
- St. Patricks Day
- St. Andrews Day

The permitted hours for New Years Eve/New Years Day will remain unchanged.

Hours premises to be open to the public:

Monday 07.30 to 00.30
Tuesday 07.30 to 00.30
Wednesday 07.30 to 00.30
Thursday 07.30 to 00.30
Friday 07.30 to 00.30
Saturday 07.30 to 00.30
Sunday 07.30 to 00.30

The premises will be permitted to be open for an additional 30 minutes on the days where non-standard timings are permitted, as defined in the section above.

Mandatory conditions:

As provided in the Licensing Act 2003

Other conditions:

1. No off-sales will take place from the premises.
 2. An incidents and refusals book will be maintained.
 3. Staff will be instructed that persons who look under 18 years must be asked for identification before they will be sold alcohol to which they have no entitlement. The only identification that will be accepted will be that approved by PASS, photo driving licences or passports.
 4. Arrangements will be made to ensure that any capacity limit set for the premises can be properly monitored. Information regarding the capacity should be given to an authorised officer on request.
 5. In event that special effects which could pose a risk to those on the premises are proposed, 7 clear days notice will be given to the Council prior to their use (unless previously authorised).
 6. Notices will be displayed at the exits requesting customers to respect the needs of local residents and to leave the premises and the area quietly.
 7. When regulated entertainment is offered the doors and windows will be kept shut save for access and egress.
 8. Noise or vibration shall not emanate from the premises so as to cause nuisance in nearby properties.
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7. Reasons for the Decision

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

In respect of the finish time for the licensable activities the Sub-Committee had particular regard to representations concerning noise nuisance. They accepted that in the past prior to the Applicant taking over the premises there had been occasions where noise had occurred. Against that it noted that there were no current problems and that with the imposition of conditions, the concerns relevant to the licensing objectives could be adequately addressed.

They further noted that no objections to the application for increased opening hours and further licensable activities had been made by the Environmental Health Department. They also considered that should problems occur in the future then these could be dealt with under existing regimes such as the Environmental Protection Act or the review powers under the Licensing Act 2003.

The Sub-Committee considered that the condition relating to the installation of double-glazing prior to regulated entertainment being provided, suggested by the objectors was too onerous and unnecessary in order to promote the licensing objectives. It further took the view that in order to comply with condition 8 above, that the Applicant would be required to take appropriate action to comply with that condition and this, along with the other conditions imposed would adequately promote the prevention of public nuisance.

The Sub-Committee also considered the proposed condition relating to door supervision at non - private events. Again it was not considered that this should be imposed as a condition of the licence as at the current time there was nothing to suggest that such a condition was necessary to promote the licensing objectives.

Date: 19 September 2005

Licensing Sub-Committee Chairman: Cllr J A G Hutchins

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Decision noted to interested parties on 21 September 2005