

NEW FOREST DISTRICT COUNCIL

LICENSING ACT 2003

APPLICATION: Queen's Head, The Cross, Burley

**Decision of the Licensing Sub-Committee hearing held at Appletree Court,
Lyndhurst on Monday, 26 September 2005.**

1. Members of the Licensing Sub-Committee

Councillor Hale – Chairman
Councillor Puttock
Councillor Walmsley

2. Parties and their Representatives attending the Hearing

John Simpson, Greene King Ltd – Applicant
Dawn Needs - Licencee

Objectors:

Mr M Andrews
Mrs T Brooks
Mrs G Brown
Mr P Coveney
Dr & Mrs G Downes
Mrs M Edwards
Mr P Greenhalgh
Mr C Hobbs
Mr Kendall
Rev Diane Webster representing Dr Roy Webster
Mr & Mrs Westerhoff
Mrs J Wilde
Mr & Mrs R Williams
Ms S Lawrence
Ms C Mcdowell
Mr R Clarke representing Mrs Wright & Mr Royles
Mr Weinel
Mr Pentland

3. Other Persons attending the Hearing

Ms. V Fletcher – Environmental Health Department

4. Parties not attending the Hearing

Mr R & Mrs W Hutchings
Mr T Weir & Ms C Le Bas
Capt A C Wray
Mr P & Mrs M Hall
Mr P Russell
Revd R & Mrs A Beesley
Mr M Salt
Mrs J E Richards
Mr G H J Tucker
Ms E A Sandeman
Mrs F M Trafford
Dr S L Smith
Ms A Allen
Ms G Botterell
Mr A Hignett
Ms S Trotter
Mr I Bennett
Mr S J F Burnett
A R Parker
Ms I Dixon
Mrs G Brown
Ms J N Walker
Mrs J R Kuhle
Mr & Mrs J Wyatt
Mrs A M Powell
Ms S Mandeville
Mr P A Holdsworth
Mr P J Kimber
Mr D M Clarke
Mr J H Pink
Mr B Forsyth
Dr J Watkins
Mr W N Wright
Mr I Royles
Mrs N Shutler
Mr G & Mrs J Kendall

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:

- E. Live music**:
Monday 18.00 to 23.00
Tuesday 18.00 to 23.00
Wednesday 18.00 to 23.00
Thursday 18.00 to 23.00
Friday 18.00 to 23.00
Saturday 18.00 to 23.00
Sunday 18.00 to 23.00

- F. Recorded music**:
Monday 18.00 to 23.00
Tuesday 18.00 to 23.00
Wednesday 18.00 to 23.00
Thursday 18.00 to 23.00
Friday 18.00 to 23.00
Saturday 18.00 to 23.00
Sunday 18.00 to 23.00
- H. Anything of a similar description to that falling within E, F or H (KARAOKE/DJ)**:
Monday 18.00 to 23.00
Tuesday 18.00 to 23.00
Wednesday 18.00 to 23.00
Thursday 18.00 to 23.00
Friday 18.00 to 23.00
Saturday 18.00 to 23.00
Sunday 18.00 to 23.00

**NOTE: The licensable activities mentioned at sections E, F, and H, above shall be restricted to 2 occasions in total per calendar month. These occasions shall terminate at or before 23.00 hours. Such licensable activities will only be permitted inside the building. Each occasion must be notified to the Licensing Authority in writing at least 7 days in advance of it taking place.

- L. Late night refreshment:
Friday 23.00 to 00.00
Saturday 23.00 to 00.00
- M. Supply of alcohol:
Monday 11.00 to 23.00
Tuesday 11.00 to 23.00
Wednesday 11.00 to 23.00
Thursday 11.00 to 23.00
Friday 11.00 to 00.00
Saturday 11.00 to 00.00
Sunday 11.00 to 23.00

Non-standard timings:

Only the licensable activities listed at sections L, and M, above (late night refreshment/supply of alcohol) shall be permitted for a further additional hour on the following days:

- Each Sunday of the Spring (Whitsun) and August Bank Holiday weekends.
- Good Friday.
- Each Saturday and Sunday of the Easter Bank Holiday weekend.
- Christmas Eve.

Hours premises to be open to the public

- 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

The premises are permitted to be open for a further additional hour on the following days:

- Each Sunday of the Spring (Whitsun) and August Bank Holiday weekends.
- Good Friday.
- Each Saturday and Sunday of the Easter Bank Holiday weekend.
- Christmas Eve.

This is in line with the non-standard timings permitted above.

Mandatory conditions:

As provided in the Licensing Act 2003

Other conditions:

1. Notices shall be displayed in prominent positions within and outside the premises requiring patrons to leave quietly and respect local residents.
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. All glasses and other receptacles for the containment of alcohol being used by patrons outside the premises will be removed by 23.00 hours and no external drinking will be permitted after 23.00 hours.
4. No music of any description will be permitted outside the building.
5. No person under 18 will be permitted to enter or remain on the premises after 22.00 hours.
6. The licensable activities mentioned at sections E. F. and H. above shall be restricted to 2 occasions in total per calendar month and shall terminate at or before 23.00 hours. Each occasion must be notified to the Licensing Authority in writing at least 7 days in advance of it taking place.
7. None of the licensable activities permitted at E. F. and H. above shall be permitted outdoors.
8. Entry to the premises will not be permitted after 23.00 hours.
9. Between 23.00 and 00.00 hours the supply of alcohol will only be permitted to be supplied to those taking a table meal.
10. After 23.00 hours any noise emanating from the premises shall be inaudible at the boundary of all noise sensitive* premises, as marked on the plan that will be attached to the licence.
11. Prior to 23.00 hours, music and noise emanating from the premises, if audible, will be kept to a volume that is acceptable to the residents of nearby noise sensitive* premises, as marked on the plan that will be attached to the licence.

* For the purposes of conditions 10 and 11 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 also the further restrictions to be applied to regulate entertainment suggested by the Applicant at the hearing.

In respect of the finish time for the licensable activities the Sub-Committee paid close attention to the objections raised and considered the representations to be very well presented, although it was only at liberty to consider those points raised that directly related to the promotion of the 4 licensing objectives.

Against those representations they noted that no objections to the application for increased opening hours had been made by the Police and furthermore that subject to the Applicant agreeing to certain conditions the Environmental Health Department did not raise any objections to the variation.

Whilst taking on board those objections, the Sub-Committee had to consider whether concerns could adequately be dealt with by way of conditions and furthermore were mindful of the fact that they had no power to restrict the hours that the premises already had the benefit of. In this instance the Applicant already has the benefit of a certificate under s68 of the Licensing Act 1964 which permits the sale or supply of intoxicating liquor until 00.00 hours on Fridays and Saturdays, in so far as it is ancillary to a meal. The Sub-Committee therefore has no power to restrict this further.

However, against that, the Applicant has not applied to remove the restriction that such supply of alcohol shall occur only when ancillary to a table meal, so that restriction will remain, and the supply of alcohol between 23.00 and 00.00 hours on Fridays and Saturdays will be permitted only as ancillary to a meal and not to any person who walks in off the street. The nature of later sales of alcohol will also be restricted by conditions 9 and 10.

The limitation on the later supply of alcohol being restricted to those having table meals will also apply to the 6 days on which the supply of alcohol is permitted for one further hour.

In relation to the seasonal variations applied for the Sub-Committee considered that permitting an extension of the hours during which the supply of alcohol was permitted, beyond 23.00 hours, on days, which were ordinarily followed by a working day, would not be likely to promote the licensing objectives relating to the prevention of public nuisance. It was for this reason that when there is usually a working day the next day the seasonal variation was not permitted. Any further events that require an extension may be sought by way of a Temporary Event Notices.

On Fridays and Saturdays, the Sub-Committee considered that the public nuisance effect of noise at 'turning out' time would be less significant as they are not followed by a working day, but in any event its hands were tied for the reasons given above.

The Sub-Committee also considered that the concerns raised about noise from music could be adequately dealt with by the imposition of the conditions suggested by the Environmental Protection Officer and should problems occur then interested parties or responsible authorities had the option to apply for a review of the licence. Additionally, there were other statutory regimes, such as the Environmental Protection Act that could be invoked should a statutory nuisance occur in due course.

Date: 26.09.05

Licensing Sub-Committee Chairman: Cllr R C H Hale

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Decision noted to interested parties on 27 September 2005

