

NEW FOREST DISTRICT COUNCIL

LICENSING ACT 2003

APPLICATION: TESTWOOD HOTEL, SALISBURY ROAD, TOTTON

**Decision of the Licensing Sub-Committee hearing held at Lyndhurst
Community Centre, Lyndhurst on Wednesday, 28 September 2005 at 9.00 am.**

1. Members of the Licensing Sub-Committee

Cllr G C Beck – Chairman
Cllr Mrs B Smith
Cllr G M Walmsley

2. Parties and their Representatives attending the Hearing

Applicant:
Mr. G Mansfield – Greene King Brewing & Retailing Ltd
Mr. W Peters – Licencee

Objectors

Mr D and Mrs. C M Robins
Mr. A and Mrs. E Rankin
Mrs. V Oxford

3. Other Persons attending the Hearing

None

4. Parties not attending the Hearing

Mr. M and Mrs. J Williams
Ms. B Nelson
Mr. J and Ms. L Cauley
Ms. J Houselander and Ms. S Cannon
Mr. and Mrs. G Eldridge and Ms. M Simmons
Mr. and Mrs. A Sharma
Mr. R Denton
Mr. D and Mrs. M Lee
L. White
Mr. A Russell
Mr. A King
Ms. T Travers
Ms. L Judge
Mrs. R M Wilder
Mr. A K and Mrs. V J Catlin

5. Officers attending to assist the Sub-Committee

Ms G O'Rourke – Legal Advisor
Ms 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 or F
 - 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

- L. Late night refreshment:
 - Friday 23:00 to 00:00
 - Saturday 23:00 to 00:00

- M. Supply of alcohol: on and off the premises
 - 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 hours:

Each of the licensable activities mentioned in E, F, H, L and M above shall be permitted for a further additional hour on the following days:

Christmas Eve, Christmas Day, each Sunday preceding the Spring and August Bank Holidays, Good Friday, Easter Saturday, Easter Sunday and on a further 12 occasions in any 12 month period provided 1 weeks prior notice is given to the Licensing Authority and the Police (in respect of the said 12 occasions in any 12 month period).

The licensable activities listed above shall be permitted from the commencement of permitted hours on New Year's Eve to the end of permitted hours on New Year's Day.

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 (the morning following)
Saturday 11.00 to 00.30 (the morning following)
Sunday 11.00 to 23.30

The premises are permitted to be open for a further 30 minutes after the end of the permitted time in respect of those licensable activities on the days listed under the heading 'Non-standard hours' above.

The premises are also permitted to be open from the commencement of permitted hours on New Year's Eve to 30 minutes after the end of permitted hours for the supply of alcohol on New Year's Day.

Mandatory conditions:

As provided in the Licensing Act 2003

Other conditions:

1. The Licence holder or nominated representative shall receive and respond to complaints throughout the duration of the regulated entertainment.
2. Prior to 23:00, music and noise emanating from the premises whilst audible, is so low that distinct tunes, lyrics, musical instruments and any base beat cannot be recognised at the boundary of all noise sensitive premises.

(Noise sensitive premises includes premises used for residential purposes, hospitals or similar institutions, educational establishments (when in use), or places of worship (during recognised times and days of worship) or any premises used for any other purpose likely to be affected by the music noise).
3. Notices shall be displayed in prominent positions within and outside the premises requiring patrons to leave quietly and respect local residents.
4. There shall be no use of the pub garden after 22:30 hours on Monday to Thursday and Sunday's.
5. There shall be no use of the pub garden after 23:00 hours on Friday's and Saturday's.
6. All lights in the rear garden shall be positioned so that they are not directly illuminating surrounding residential properties.

7. Reasons for the Decision

The Sub-Committee carefully considered the representations both written and oral.

The Sub-Committee was mindful of the fact that during the working week, (where there is a normal working day the next day), as far as the sale of alcohol was concerned the applicant was not asking for anything more in the evening than that which they currently enjoyed, with the exception of half an hour extra on Sunday's. It was only on Friday and Saturday evenings that an extra hour was requested for the supply of alcohol. The Sub-Committee considered allowing an extra hour on these days as well as an additional half an hour drinking up time when there was not a normal working day the next day would result in a more measured and gradual exit from the premises. This would in turn decrease the potential for public nuisance to neighbouring properties.

In respect of the other licensable activities, the Sub-Committee did not consider the times requested to be unreasonable.

In respect of the seasonal restrictions, the Sub-Committee was prepared to allow an extra hour for licensable activities to take place on those days where there was not normally a working day the next day. However, to allow some flexibility, the Sub-Committee decided that the applicant could have an extra hour on 12 further occasions in any 12 month period provided the requisite notice is given to the Police and the Licensing Authority. They considered this would not be inconsistent with the licensing objectives.

The Sub-Committee were mindful of the objectors' representations about noise and (to a lesser extent crime and disorder) and felt that conditions could be imposed on the licence to promote the licensing objectives and alleviate their concerns. With regard to the restriction on the use of the pub garden, whilst the applicant offered that no use be made of the garden after 21:30, the Sub-Committee considered that despite the best intentions of the licensee, the restriction offered may well prove to be unreasonable and unrealistic. Instead they thought that a restriction to the effect that no use is to be made of the garden after 22:30 hours on Monday to Thursday and Sundays and after 23:00 on Friday's and Saturday's was more reasonable and realistic. In any event, if surrounding properties do suffer from noise problems they can ask the Council's Environmental Health department to consider their complaint or alternatively ask the Licensing Authority for a review of the licence.

The Sub-Committee were happy to grant the remainder of the application in the terms set out.

Date 28 September 2005

Licensing Sub-Committee Chairman: Cllr G C Beck

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Decision noted to interested parties on 30 September 2005