

NEW FOREST DISTRICT COUNCIL

LICENSING ACT 2003

APPLICATION: Fine Food 4 Sail, Bath Road, Lymington

**Decision of the Licensing Sub-Committee hearing held at Appletree Court,
Lyndhurst on Friday, 5 February 2010 at 10.00am**

1. Members of the Licensing Sub-Committee

Councillor G C Beck - Chairman
Councillor Mrs McLean
Councillor S Wade

2. Parties and their Representatives attending the Hearing

My Bayntun – Applicant
Mr Wallsgrove – Solicitors for the Applicant
Mr May – in Support of the Applicant
Mr Thompson – General Manager
Miss Dacre – PR Manager

Objectors:
Mr L & Ms E McEwen
Mrs J Du Cane
Cllr Mrs Rostand – In support of Mrs Du Cane
Mr & Mrs Richards
Mr Sanders, Mrs Sanders and Miss Sanders
Mr R Struzyna
Mr and Mrs W M Walbank
Mr A Daton-Lovett
Mr Gouldie

3. Other Persons attending the Hearing

Miss R Waters – Observer

In support of the Applicant (Observers Only):

Mrs Whitcombe	Mr Richardson
Mr Clements	Miss Allbery-Trencher
Mr Foreman	Mr Brenner
Mr Basham	Miss Dormer
Mr Cardish	

4. Parties not attending the Hearing

Objectors:

Mr and Mrs Phillips
Mr A J McCarthy
Ms K Harris
Mr T Ryan – rep by Mrs Du Cane
Ms C Ryan – rep by Mrs Du Cane
Mr and Mrs Warne – rep by Mrs Du Cane
Mr and Mrs E J Symons
Mrs B B Meredith – rep by Mrs Du Cane
Mr P & Ms L Stockwell
Mrs J Bassett and Mrs N Kimmins
Dr S Fielding & Prof M Whittle
Mrs E Fancourt
Mrs V Ayling

5. Officers attending to assist the Sub-Committee

Edward Williams – Legal Advisor
Melanie Stephens- Clerk

6. Decision of the Sub-Committee

The application is granted on the following terms and conditions.

Licensable activities and times permitted:

M: Supply of Alcohol

Monday 09.00 to 22.30
Tuesday 09.00 to 22.30
Wednesday 09.00 to 22.30
Thursday 09.00 to 22.30
Friday 09.00 to 23.00
Saturday 09.00 to 23.00
Sunday 09.00 to 22.30

Hours premises to be open to the public

Monday 09.00 to 23.30
Tuesday 09.00 to 23.30
Wednesday 09.00 to 23.30
Thursday 09.00 to 23.30
Friday 09.00 to 23.30
Saturday 09.00 to 23.30
Sunday 09.00 to 23.30

Mandatory conditions:

As provided in the Licensing Act 2003

Other conditions:

All conditions on the existing premises licence are to remain in effect including Condition 8.

In addition, the following conditions will apply:

1. The licensee or nominated representative will receive and respond to complaints.
2. The disposal of empty bottles and refuse into outdoor storage receptacles will not take place between the hours of 19.00 and 07.00 hours.
3. Deliveries of consumables will not take place between the hours of 19.00 and 07.00 hours.
4. Waste collection contractors will not collect between the hours of 19.00 and 07.00 hours.
5. Staff will be given appropriate instructions and training to encourage customers to leave the premises quietly and not to loiter in the vicinity of the premises. At each exit point a prominent and clear notice will be displayed to this effect.
6. External doors will be kept closed between the hours of 20.30 and 23.30 hours, except where necessary for access and egress, i.e the doors will not be secured open and will be fitted with self-closers.
7. Speakers will not be positioned outside at any time.
8. No parking is to be permitted in the parking area comprising the front of the premises (fronting Bath Road) after 17.00 hours and signage is to be erected directing patrons to the parking area at the rear of the premises.

7. Reasons for the Decision

The Sub-Committee has carefully considered the application along with the evidence, both written and oral, supplied by the applicant and objectors.

The Sub-Committee acknowledged the large number of objections from local residents and heard evidence that the premises had caused limited public nuisance in the form of noise emanating from the premises and from cars of patrons using the premises.

However, aside from one complaint to a Councillor regarding breach of conditions, there was little evidence to suggest that the scale of the actual public nuisance was significant. The evidence from the objectors suggested that there was some limited nuisance at present but that this was tolerated because it did not impact upon anti-social hours.

Further, the Sub-Committee was of the view that much of the substance of the objections related to concerns about what might happen if the variations to the premises licence were granted. The Sub-Committee has to primarily base its decision on facts and evidence rather than speculation.

The Sub-Committee has also given weight to the absence of objections from any of the Responsible Authorities and the withdrawal of an objection by the Council's Environmental Health Department provided that certain conditions are imposed (which were agreed by the applicant). The Sub-Committee also noted that there were a large number of supporters of the application.

Furthermore, the additional conditions accepted by the applicant should ensure that most of the proposed variations would have a minimal impact on the level of public nuisance.

Accordingly, the Sub-Committee is of the view that, in the main, it has not been demonstrated that (a) the extension of the hours for the sale of alcohol at the premises, (b) the extension of opening hours and (c) the increase in floor area covered by the license, would increase the level of public nuisance (or adversely affect any of the other licensing objectives) within the vicinity of the licensed premises.

However, the Sub-Committee has taken account of the objections and decided to restrict the hours for the sale of alcohol from Sunday to Thursday to protect residents from the possibility of nuisance during anti-social hours during the working week.

Furthermore, the Sub-Committee has refused the application to extend the hours of use of the external area fronting Bath Road because it considered that noise from external areas would have a greater impact upon the local residents.

Accordingly, the Sub-Committee is prepared to grant a variation to premises licence in the terms, and subject to the conditions, set out at section 6 above.

The Sub-Committee reminds all objectors of their entitlement to seek a review of the premises licence in the event that the licensing objectives are prejudiced at some future point or if the conditions are breached. Alternatively, the Council's Environmental Health Department could be contacted with any complaints regarding noise nuisance.

Date: 05 February 2010

Licensing Sub-Committee Chairman: Cllr G C Beck

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Decision notified to interested parties on 9 February 2010