

NEW FOREST DISTRICT COUNCIL

LICENSING ACT 2003

APPLICATION: JD Wetherspoon plc, the Six Bells, Lymington

**Decision of the Licensing Sub-Committee hearing held at Appletree Court,
Lyndhurst on Monday 19 March 2012 at 10.00am**

1. Members of the Licensing Sub-Committee

Councillor G C Beck - Chairman
Councillor S Clarke
Councillor J Heron

2. Parties and their Representatives attending the Hearing

JD Wetherspoon plc – Applicant
Mr Connor - Solicitor
Mr Sellars – Architect
Mr Slade – Deputy Operations Director
Mr Winter – Area Manager

Objectors

Mrs Arnold
Cllr Mrs Rostand - representing Col Arnold
Mr Chamberlain
Mr Foreman – representing Mrs Litchfield
Ms MacAlister
Mrs Malcom
Reverend Salisbury
Ms Stanley - representing Mrs I Stanley
Mr Wales-Smith

3. Other Persons attending the Hearing

Observers:

Cllr Mrs Andrews (New Forest District Council)
Cllr Mrs Lewis (New Forest District Council)
Cllr Swain (New Forest District Council)
Cllr England (Lymington & Pennington Town Council)
Cllr Thompson (Lymington & Pennington Town Council)
Cllr White (Lymington & Pennington Town Council)
Miss Arnold
Mrs Profitt
Mr Olsen

4. Parties not attending the Hearing

Objectors:

Mr Callaghan
Mrs Fidmont
Mrs Litchfield – represented by Mr Foreman
Mr & Mrs McWhirter
Mr Richardson
Dr Sparrow
Mrs Stanley – represented by Ms Stanley
Ms Stott
Tanner & Tilley Town Planning Consultants (Colten Care Ltd)
Mr Thornicroft
Ms Witherick

5. Officers attending to assist the Sub-Committee

Grainne O'Rourke – Legal Advisor
Amanda Fairclough – Legal Advisor's Assistant
Melanie Stephens - Clerk

6. Decision of the Sub-Committee

The application is granted on the following terms and conditions.

Licensable activities and times permitted:

L: Late Night Refreshment (indoors only)

Friday 23.00 to 00.00
Saturday 23.00 to 00.00

Non Standard Timings: New Year's Eve: 23:00 to 01:00

M: Supply of Alcohol (on and off premises)

Monday 09.00 to 23.00
Tuesday 09.00 to 23.00
Wednesday 09.00 to 23.00
Thursday 09.00 to 23.00
Friday 09.00 to 00.00
Saturday 09.00 to 00.00
Sunday 09.00 to 23.00

Non Standard Timings: New Year's Eve: 09:00 to 01:00

Hours premises to be open to the public

Monday 08.00 to 23.30
Tuesday 08.00 to 23.30
Wednesday 08.00 to 23.30
Thursday 08.00 to 23.30
Friday 08.00 to 00.30
Saturday 08.00 to 00.30
Sunday 08.00 to 23.30

Non Standard Timings: New Year's Eve: 08:00 to 01:30

Mandatory conditions:

As provided in the Licensing Act 2003

Other conditions:

1. The premises licence holder shall ensure that all staff at the premises have been trained in accordance with the established JB Wetherspoon plc trading procedures. Specifically the premises licence holder shall ensure that all employees are trained in their responsibilities to prevent alcohol being served to anybody who is under the legal age limit or to anyone who appears to be drunk or to anyone who is trying to purchase alcohol on their behalf.
2. The premises licence holder shall ensure that there are sufficient staffing levels including managers to encourage responsible behaviour on the premises at all times and in particular when the premises close to ensure the orderly dispersal of customers.
3. A CCTV system shall be installed, and thereafter maintained, to the satisfaction of the police. The system shall be capable of recording and storing images of evidential quality. As a minimum it will enable surveillance of both internal and external areas of the premises including all entrances and exits.

The CCTV system shall have the capability of allowing immediate viewing of recordings on site and recordings shall be retained securely for a minimum of 30 days and as soon as is reasonably practicable by way of CD/DVD or other equivalent media.

Copies of recordings shall be provided to the police and any other responsible authority, subject to compliance with Data Protection legislation. The precise positions of the cameras shall be agreed with the police.

The system shall display, on any recording, the correct time and date of the recording.

The CCTV system shall be maintained and fully operational throughout the hours that the premises are open for any licensable activity.

4. Non-alcoholic beverages including soft drinks, water, coffee and tea shall be available at all times sale by retail of alcohol is carried out at the premises.

5. The premises licence holder shall ensure that a policy is in place at the premises which requires every individual who appears to be under 21 years of age seeking to purchase or be supplied with alcohol at or from the premises to produce means of identification acceptable to the police proving that individual to be 18 years of age or older (current passport, photo driving licence or PASS accredited photo ID only). If the person seeking alcohol is unable to produce acceptable means of identification, no sale or supply of alcohol will be made to or for that person.

Challenge 21 signage shall be displayed in prominent positions at the premises.

All front of house staff shall be trained in the above proof of age policy. Such training shall be provided not less than every 6 months and written records shall be kept of all training and refresher training.

A record shall be kept of all refusals to serve alcohol.

6. Customers shall not be permitted to take open drinks or food purchased at the premises for consumption outside the front entrance of the premises leading to St Thomas Street. Signage advising customers of this restriction shall be placed adjacent to the front exits of the premises.
7. Signage shall be placed in the rear external terraced area and by all exits to the premises to remind customers of the need to respect the needs of local residents and to leave the premises and their immediate vicinity quietly.
8. There shall be no large screen televised sport at the premises.
9. A telephone number shall be available to local residents, businesses and St Thomas Church so that any issues arising from the operation of the premises can be brought to the attention of management.
10. Signage requesting customers who wish to smoke to do so in the rear external terrace area shall be placed adjacent to the front exits of the premises.
11. Customers shall not be permitted to take open drinks or food into the rear external terrace area of the premises after 21.00.
12. No deliveries or waste collections shall take place outside the hours of 07.00 and 18.00 Monday to Saturday and at no time on Sundays or Public Holidays. The external disposal of bottles, barrels and crates shall not take place other than between the hours of 08.00 and 20.00.
13. Customers shall not be allowed access to the rear outside terrace area after 21.00 except for the area hatched green on the plan attached to the premises licence.
14. Suitable food and non-alcoholic beverages shall be available at all times children are allowed on the premises.

7. Reasons for the Decision

In reaching its decision the Sub-Committee must only have regard to the four licensing objectives, which are:-

- Prevention of crime and disorder
- Public safety
- Prevention of public nuisance
- The protection of children from harm

The Sub-Committee has considered all the representations made to it, both written and oral. These went further than the representations summarised by the Licensing Officer in the “resume of application” part of his covering report. The Sub-Committee noted that there were no outstanding objections from any of the Responsible Authorities. Conditions had been agreed with Trading Standards, the Environment Health Officer and the applicant in advance of the hearing.

Having considered all the representations, the Sub-Committee considers that a grant of the application (as amended by the applicant at the hearing to reflect an 08.00 opening every day instead of 07.00) along with the imposition of conditions as set out above, will promote the licensing objectives.

Whilst objectors were principally concerned with noise and disturbance caused by customers entering and leaving the premises (which are situated in a quiet residential part of the town) particularly during night time hours, the Licensing Sub Committee considers that these fears are unlikely to be realized. The nature of the application (with closing times similar to other licensed premises in the area) and the type of premises that was being proposed by the applicant – ie, a well run pub with emphasis on providing quality food rather than purely alcohol, which would be likely to attract families, would not give rise to, in the Sub-Committee’s view, the problems raised by the objectors. The use of the garden was restricted after 21.00 and customers would not be permitted to take open drinks or food purchased at the premises for consumption outside the front entrance of the premises, thus reducing the likelihood of noise problems arising to the rear and front of the premises. With regard to noise from plant and equipment at the premises, the Sub-Committee noted that there was a condition on the Planning Permission that limited the level of noise emitted from plant and equipment on the premises. It also noted that a scheme to attenuate customer noise breakout to the front of the premises has to be agreed with the local Planning Authority. These issues will help address the concerns of the objectors.

Whilst some issues relating to crime and disorder were raised, for example, urination and the possibility of disorderly conduct if the application was approved, the Sub-Committee felt that the nature of the type of business that would be operating within the premises and the clientele using them, would not result in these types of problems.

Whilst the issue of door staff was raised, the Sub-Committee did not consider this to be an essential requirement which would merit a condition to be imposed on the Licence. They were satisfied that this was not the type of premises that would generate the problems which would give rise to the need for door staff. The applicant explained that they would risk assess the need for door staff and work with the police if door staff were needed, but that they were not proposing dedicated door staff as part of this application.

The Sub-Committee, in coming to its decision, was mindful of the clear commitment verbally given by the applicant of its wish to work with the Church and surrounding community to ensure they co-exist harmoniously alongside one another. In this regard, the Sub-Committee noted that there is no regulated entertainment planned for the premises; that the pub will liaise with the Church over actual delivery times and whether obscured glazing to the premises' windows adjacent to the Church can be agreed to the satisfaction of both parties. Further, the Sub-Committee was also mindful of the reassurance that the applicant offered with regard to the clearing up of litter outside of the premises and along the public pedestrian right of way to the east.

Where the Sub-Committee felt that a condition was necessary to promote the Licensing objectives, they imposed one.

In the event that problems do arise and remain unresolved, the local residents would be able to ask the Licensing Sub-Committee to review the licence.

Date: 19 March 2012

Licensing Sub-Committee Chairman: Cllr G C Beck

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Decision notified to interested parties on