

FOR DECISION  
WARD(S): Bishops Waltham

**LICENSING SUB – COMMITTEE**

14 JULY 2005

**REPORT OF CITY SECRETARY AND SOLICITOR**

Contact Officer: John Myall. Tel No: 01962 848443

Application to Convert and Vary the Premises Licence for:

***The Priory Inn, Winchester Road, Bishops Waltham***

RECENT REFERENCES

None

**Part**

- A. Application**
- B. Relevant Representations**
- C. Observations**
- D. Conditions**
- E. Other Considerations**
- F. Appendices**

## A. Application

**Applicant: Sandra Patricia Rees and Julian Brian Blackman**

**Premises: The Priory Inn, Winchester Road, Bishops Waltham**

### **Application for Conversion and Variation.**

This application is to convert the current Justices and Public Entertainment Licences under the Transitional Provisions contained in Schedule 8 of the Licensing Act 2003 ("*Grandfather Rights*").

The application is also for variation of the Premises Licence during the Transitional Period under Schedule 8 paragraph 7(b) of the Licensing Act 2003; to extend the hours for the sale of alcohol and regulated entertainment, add the provision of late night refreshment and to extend the hours the premises is open for other than licensable activities.

The application is also to remove all embedded restrictions inherent in the Licensing Act 1964 and to remove all conditions imposed by the Public Entertainment Licence except any which are reflected in the Licensing Objectives.

Notice of the application was displayed outside of the premises for a period of 28 days until 23 June 2005, and advertised in the Daily Echo on 3 June 2005.

The current permitted hours for both the sale of alcohol and public entertainment are;

Monday to Saturday	1100 to 2300
Sunday	1200 to 2230

The Operating Schedule, copied at Appendix 1, proposes the Relevant Licensable Activities as:

### ***Application for Variation***

1. The hours the premises may open for **plays** shall be:
  - (i) Sunday to Thursday 0730 – 0030
  - (ii) Friday and Saturday 0730 – 0130
  - (ii) New Years Eve 0730 – 0130 2 January
  
2. The hours the premises may open for **films** shall be:
  - (i) Sunday to Thursday 0730 – 0030
  - (ii) Friday and Saturday 0730 – 0130
  - (ii) New Years Eve 0730 – 0130 2 January

3. The hours the premises may open for **indoor sporting events** shall be:
  - (i) Sunday to Thursday 0730 – 0030
  - (ii) Friday and Saturday 0730 – 0130
  - (ii) New Years Eve 0730 – 0130 2 January
4. The hours the premises may open for **live and recorded music** shall be:
  - (i) Sunday to Saturday 0730 to 0000  
(as amended by letter 24 May 2005)
5. The hours the premises may open for **the performance of dance** shall be:
  - (i) Sunday to Thursday 1000 - 2330
  - (ii) Friday and Saturday 1000 - 0000
6. The hours the premises may open for **entertainment of a similar description** (quiz comperes, comedians, amplified) shall be:
  - (i) Sunday to Thursday 1000 - 2330
  - (ii) Friday and Saturday 1000 - 0000
8. The hours the premises may open for **provision of facilities for dancing** shall be:
  - (i) Sunday to Thursday 0800 - 0030
  - (ii) Friday and Saturday 0800 – 0130
  - (ii) New Years Eve 0730 – 0130 2 January
9. The hours the premises may open for **late night refreshment** shall be:
  - (i) Sunday to Thursday 2300 - 0030
  - (ii) Friday and Saturday 2300 - 0130
  - (iii) New Years Eve 2300 - 0500 1 January
  - (iv) New Years Day 2300 - 0500 2 January
10. The hours the premises may open for the **sale of alcohol** shall be:
  - (i) Sunday to Thursday 1000 - 0000
  - (ii) Friday and Saturday 1000 - 2400
  - (ii) New Years Eve 1000 – 0100 2 January

11. The hours the premises may open for **other than Licensable Activities** shall be:
- |       |                     |                       |
|-------|---------------------|-----------------------|
| (i)   | Sunday to Thursday  | 0730 - 0030           |
| (ii)  | Friday and Saturday | 0730 - 0130           |
| (iii) | New Years Eve       | 0730 - 0130 2 January |

Designated Premises Supervisor:

***Julian Brian Blackman***  
***The Priory Inn***  
***Bishops Waltham***

Steps to promote the Licensing Objectives:

1. **General**

The types of Regulated Entertainment proposed reinstate and then enhance the normal pub entertainments that were previously unregulated with the benefit to enhance the local facilities for social entertainment and reduce the focus on alcohol.

No new steps have been identified by risk assessment in relation to the four Licensing Objectives, except as below.

The applicant has considered the Council's Licensing Policy in preparing the application.

2. **Crime and Disorder**

Providing a 30 minute wind down period after the end of alcohol sales will promote this objective as the last drink will be consumed less quickly, with access to the pub toilets and the provision of non-alcoholic refreshment during this period.

All staff will receive drugs awareness training as part of their induction.

3. **Public Safety**

The risk assessment identifies no risk of overcrowding.

A fireproof container will be used to collect smoking debris.



#### 4. **Public Nuisance**

Notices will be fixed adjacent to each exit, reminding departing customers to respect the neighbours by leaving the premises quietly.

In a letter dated 24 May 2005, the applicant reduced the hours for live and recorded music and offered the following to promote the Public Nuisance Objective:

- (i) To ensure that all windows are closed on the Victoria Road side of the pub when music is playing.
- (ii) To liaise with local taxi firms and agree that they do not sound their horns late at night.
- (iii) The licensee or one of the senior staff will check outside periodically for noise when music is playing.
- (iv) Prominent and clear notices at exits reminding patrons to leave quietly.
- (v) Staff trained to encourage patrons to leave quietly and not to loiter in the vicinity of the premises.

#### 5. **Protection of Children from Harm**

The restrictions set out in the Licensing Act 2003 will apply.

Where adult entertainment takes place, access to those areas will be restricted to those over 18.

Where age restricted films are shown, children below that age will be restricted.

Staff will be briefed regarding acceptable methods of proof of age, and action if they suspect it is invalid.

In an email dated 22 June 2005 from the applicants' agent, the following was added to this objective:

The adult entertainment requested at section N of the form should be subject to the further conditions that whenever such entertainment is provided

- (i) no under 18 year old customers will be permitted
- (i) no staff under 18 may be employed in that area
- (ii) curtains will be fully drawn so that no activity is visible from outside the premises
- (iii) no flyers or advertisements will be shown outside the premises that may cause offence to the public

(Appendix 1)

**B. Relevant Representations****Responsible Authorities**

All of the Responsible Authorities have been served with a copy of the application and the following representations have been received:

***Hampshire Constabulary***

The Police have concerns over the application to remove the embedded restrictions arising from the Cinematograph (Safety) Regulations 1955 and the Children and Young Persons Act 1933. This part of the application has now been withdrawn.

They also raise concerns over the removal of the conditions attached to the current Public Entertainment licence.

They do not make representations over the extended hours, but feel there is insufficient information contained in the Licensing Objectives.

More details are required regarding the "Adult Entertainment." However, since then the applicant has submitted revised objectives (see A.5 (i) to (iv) above).

( Appendix 2.1)

***Hampshire Fire and Rescue Service (Fire Authority)***

None received.

***Child Protection Team***

None received.

***Director of Communities (Health and Safety Enforcing Authority, Local Authority for Pollution/Health)***

The Director of Health has made representations regarding the live music, recorded music, opening hours and the potential for noise nuisance from persons leaving the premises in the early hours.

(Appendix 2.2)

***Director of Development (Local Planning Authority)***

None received.

***Head of Safety Standards (Weights and Measures Authority)***

None received.

**Interested Parties**

1. Mrs D Quiney
2. Residents, Victoria Road, Winchester Road and others (petition)
3. Mrs M Marrs
4. Mrs D Lanham
5. Mr & Mrs W Teal
6. Mr & Mrs S Spinner
7. Mrs G Pereira
8. Dr & Mrs M Mitchelmore
9. Mr A Sanderson
10. Mr C Caws
11. Mrs B Blunt
12. Ms J Barnacle
13. Mr & Mrs M Barker
14. Mrs F Ramsay
15. Ms C Baker & Mr A Horwill
16. Ms C Scarr
17. Mr S Donnelly
18. Mr D Bray
19. Mr D Stevenson

These representations cover existing disturbance from the premises, persons leaving, parking problems and the potential for exacerbating these problems with the increased opening hours and alcohol sales. (Please note that since some of these representations were made, the applicant has amended the application for all music to end at 0000 every day.)

(Appendix 3.1 to 3.19)

### C. Observations

The Sub-Committee is obliged to determine this application with a view to promoting the Licensing Objectives:

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

In making its decision, the Sub-Committee is also obliged to have regard to the National Guidance and the Council's Licensing Policy.

The Sub-Committee must have regard to all of the representations.

The application comprises both an application to convert, and an application to vary. As the Police have not served a notice under paragraph 3(3) of Schedule 8 to the Licensing Act 2003, the application to convert must be granted in any event.

In respect of the application to vary, the Sub-Committee must take such of the following steps it considers necessary to promote the Licensing Objectives:

1. Grant the application, **OR**
2. Modify the conditions of the licence by alteration, omission or addition, **OR**
3. Reject the whole or part of the application.

Decisions made under 2 or 3 above must actually be necessary to promote the Licensing Objectives.

Observations on representations:

#### **Terminal hours.**

The Sub-Committee should take account of the National Guidance and the Council's Licensing Policy with regard to terminal hours and take such steps as it considers necessary to promote the Licensing Objectives having regard to the representations made by the Director of Communities and interested parties.

(Licensing Policy A8)

#### **Crime and Disorder**

The Sub-Committee should consider any necessary conditions to prevent crime and public disorder relating to the premises having regard to the representations made by interested parties.

(Licensing Policy 1.6, 2.11, 2.17)

#### **Public Safety**

The Sub-Committee should consider whether this is directly attributable to the premises and consider any necessary conditions relating to public safety having regard to the observations of the Director of Communities.

(Licensing Policy B3, B4)



### **Public Nuisance**

The Sub-Committee should consider any necessary conditions to prevent public nuisance caused by noise pollution from the premises, and disturbance from customers leaving the premises having regard to the observations of the Director of Communities.

(Licensing Policy Section C)

### **Protection of Children**

The Sub-Committee should consider any necessary conditions for the protection of children from harm, having regard to the observations of the Police.

(Licensing Policy D6, D7)

### **Human Rights**

It is considered that Articles 6 (right to a fair trial) 8 (right to respect for private and family life) and Article 1 of the First Protocol (right to peaceable enjoyment of possessions) may be relevant. As there is a right of appeal to the Magistrates' Court, it is considered that there would be no infringement of Article 6. Article 8 is relevant, insofar as the nearby residents could claim that this right would be infringed by disturbance from customers. This should be balanced against the applicants' right to use of their premises under Article 1 of the First Protocol. Interference with these rights is permitted, where this interference is lawful, necessary in a democratic society, and proportionate. Likewise, the residents may argue that their rights under Article 1 of the First Protocol would be infringed. If conditions are imposed, there should be no interference with any convention rights. To the extent that any interference may occur, it would be justifiable in a democratic society, and proportionate.

### **Removal of Embedded Restrictions**

1. Remove the embedded restrictions inherent in the Licensing Act 1964:
  - 1.1 Relates to *Permitted Hours* which are replaced by the Operating Schedule. (Ss 59, 60, 63, 67A, 68, 70, 74, 76 Licensing Act 1964)
  - 1.2 Relates to *Off Sales* – Alcohol sold in open containers. (S 164 Licensing Act 1964)
  - 1.3 Relates to *Children under 14 in a bar without a Children's' Certificate*. Replaced by the Licensing Act 2003. (Ss 168, 171, 201 Licensing Act 1964)

### **Removal of Public Entertainment Licence Conditions**

1. Relates to the conditions shown in Schedule 1 of Winchester City Council's conditions attached to the Public Entertainment Licence issued under the Local Government (Miscellaneous provisions) Act 1982, and the additional conditions that:

2. The maximum number of persons permitted to be admitted to the premises whilst in use for the purposes of the licence shall not exceed 50 in the lounge bar and 100 in the public bar. (Recommended by Director of Communities that the maximum should be 60 in each bar)
3. The main door and any windows facing Victoria Road should be kept closed when music is being played as part of the licence. (Replaced in operating schedule)
4. The licensee is reminded to comply with the licence conditions and end promptly at 2300 hours. (Replaced in operating schedule)

## **D. Conditions**

### ***Mandatory Conditions***

1. that no alcohol is supplied where there is no duly licensed Designated Premises Supervisor for the premises;
2. that alcohol is only supplied by or with the authority of a personal licence holder;
3. that where individuals are required on premises to carry out security activities, they are licensed by the Security Industry Authority.

### ***Possible Conditions***

If the application is granted, the Sub-Committee may wish to consider the following conditions to reflect the Operating Schedule:

#### ***Application to Convert***

1. The hours the premises may open for the sale of alcohol and Public Entertainment shall be:
 

(i)	Monday to Saturday	1100 – 2300
(ii)	Sunday	1200 – 2230
2. The hours the premises may open for other than Licensable Activities shall be:
 

(i)	Monday to Saturday	1100 – 2320
(ii)	Sunday	1200 – 2250

#### ***Application for Variation***

1. The hours the premises may open for **plays** shall be:
 

(i)	Sunday to Thursday	0730 – 0030
(ii)	Friday and Saturday	0730 – 0130
(ii)	New Years Eve	0730 – 0130 2 January

2. The hours the premises may open for **films** shall be:
- (i) Sunday to Thursday 0730 – 0030
  - (ii) Friday and Saturday 0730 – 0130
  - (ii) New Years Eve 0730 – 0130 2 January
3. The hours the premises may open for **indoor sporting events** shall be:
- (i) Sunday to Thursday 0730 – 0030
  - (ii) Friday and Saturday 0730 – 0130
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4. The hours the premises may open for **live and recorded music** shall be:
- (i) Sunday to Saturday 0730 to 0000  
(as amended by letter 24 May 2005)
5. The hours the premises may open for **the performance of dance** shall be:
- (i) Sunday to Thursday 1000 - 2330
  - (ii) Friday and Saturday 1000 - 0000
6. The hours the premises may open for **entertainment of a similar description** (quiz comperes, comedians, amplified) shall be:
- (i) Sunday to Thursday 1000 - 2330
  - (ii) Friday and Saturday 1000 - 0000
8. The hours the premises may open for **provision of facilities for dancing** shall be:
- (i) Sunday to Thursday 0800 - 0030
  - (ii) Friday and Saturday 0800 – 0130
  - (ii) New Years Eve 0730 – 0130 2 January
9. The hours the premises may open for **late night refreshment** shall be:
- (i) Sunday to Thursday 2300 - 0030
  - (ii) Friday and Saturday 2300 - 0130
  - (iii) New Years Eve 2300 - 0500 1 January
  - (iv) New Years Day 2300 - 0500 2 January

10. The hours the premises may open for the **sale of alcohol** shall be:
- (i) Sunday to Thursday 1000 - 0000
  - (ii) Friday and Saturday 1000 - 2400
  - (ii) New Years Eve 1000 – 0100 2 January
11. The hours the premises may open for **other than Licensable Activities** shall be:
- (i) Sunday to Thursday 0730 - 0030
  - (ii) Friday and Saturday 0730 - 0130
  - (iii) New Years Eve 0730 - 0130 2 January

### ***Crime and Disorder***

1. There will be a 30 minute wind down period at the end of the sale of alcohol.
2. All staff will receive drugs awareness training as part of their induction.

### ***Public Safety***

None

### ***Public Nuisance***

1. All doors and windows on the elevation facing Victoria Road that are capable of being opened directly to the outside of the premises shall not be kept open whilst the premises are in use for the purposes of regulated entertainment.
2. Whilst music is being played as part of regulated entertainment, the licensee or appointed member of staff shall check periodically that noise levels are acceptable. Such monitoring shall be carried out at the boundary of the premises to ensure that local residents are not likely to be disturbed.
3. Prominent, clear notices shall be displayed at all exits requesting customers to respect the needs of local residents, to leave the premises and the area quietly.
4. 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 so as to minimize disturbance to local residents.

### ***Protection of Children***

1. Whenever entertainment of an adult nature is provided, no customer under the age of 18 years shall be permitted in the area used for such purposes.
2. Whenever entertainment of an adult nature is provided, no staff under the age of 18 years shall be permitted in the area used for such purposes.

3. Whenever entertainment of an adult nature is provided, all curtains in the area used for such purposes will remain closed so that no activity can be viewed from outside that area.
4. Whenever entertainment of an adult nature is provided, no advertisements which may cause offence shall be displayed outside the premises.

**E. Other Considerations**

**Corporate Strategy (Relevance To:)**

1. This report covers issues which affect the Community Safety, Economic Prosperity, and Cultural and Leisure Opportunities of the Corporate Strategy.

**Resource Implications**

1. None



**F. Appendices**

1. Application by Sandra Patricia Rees and Julian Brian Blackman
2. Representations by Responsible Authorities
  - 2.1 Hampshire Constabulary
  - 2.2 Director of Health and Housing
3. Representations by Interested Parties
  - 3.1. Mrs D Quiney
  - 3.2. Residents, Victoria Road, Winchester Road and others (petition)
  - 3.3. Mrs M Marrs
  - 3.4. Mrs D Lanham
  - 3.5. Mr & Mrs W Teal
  - 3.6. Mr & Mrs S Spinner
  - 3.7. Mrs G Pereira
  - 3.8. Dr & Mrs M Mitchelmore
  - 3.9. Mr A Sanderson
  - 3.10. Mr C Caws
  - 3.11. Mrs B Blunt
  - 3.12. Ms J Barnacle
  - 3.13. Mr & Mrs M Barker
  - 3.14. Mrs F Ramsay
  - 3.15. Ms C Baker & Mr A Horwill
  - 3.16. Ms C Scarr
  - 3.17. Mr S Donnelly
  - 3.18. Mr D Bray
  - 3.19. Mr D Stevenson
4. Map of premises location.