

## **LICENSING SUB – COMMITTEE**

16 August 2005 at 2pm

Report of City Secretary and Solicitor

Contact Officer: John Myall. Tel No: 01962 848443

Application to Vary the Premises Licence for:

**Cart and Horses  
London Road  
Kings Worthy  
Winchester**

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**Part A.**

**1. Application**

**Applicant:** Greene King Brewing & Retailing Ltd

**Premises:** Cart and Horses, Kings Worthy

**Conversion of the Existing Licence/s.**

The conversion of the existing licence(s) was granted under delegated powers on 20 July 2005

The current permitted hours are;

<b>Monday to Saturday</b>	<b>1000 to 2300</b>
<b>Sunday and Good Friday</b>	<b>1200 to 2230</b>
<b>Christmas Day</b>	<b>1200 to 1500 1900 to 2230</b>

The premises do not hold a Public Entertainment Licence.

**Application for Variation.**

The application is 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 when the premises are open to the public, for the sale of alcohol and regulated entertainment.

The application is also to remove all embedded restrictions inherent in Section 168 of the Licensing Act 1964.

Notice of the application was displayed outside of the premises for a period of 28 days until 21 July 2005, and advertised in the Hampshire Chronicle on 1 July 2005.

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

- 1 Regulated Entertainment (E,F,H)**  
Live and recorded music, DJ and karaoke  
***1800 to 2300 every day.***
- 2 Late Night Refreshment (L)**  
***2300 to 0000 Friday and Saturday***
- 3 Supply of Alcohol (M)**  
***1000 to 2300 Sunday to Thursday***

**1000 to 0000 Friday and Saturday**

4. **Hours Premises Open To The Public (O)**

**1000 to 2330 Sunday to Thursday**  
**1000 to 0030 Friday and Saturday**

The above times to be extended by one hour on Public Holidays, Bank Holiday weekends and other notable days.

Other times to coincide with any special sporting event, with 7 days prior notice to Police.

*(The above letters in brackets refer to the relevant sections of the application form)*

**Designated Premises Supervisor**

***Martin Longley***

**Steps to promote the Licensing Objectives**

Please see Section Q Appendix 1

**Removal of Embedded Restrictions**

The application includes an application to remove the embedded restrictions inherent in Section 168 of the Licensing Act 1964. In respect of these premises, these relate to the following matters:-

- (a) Permitted hours (limitation of sale of alcohol to the standard permitted hours for licensed premises under the 1964 Act).
- (b) Children prohibited from bars (Note that Section 145 Licensing Act 2003 restricts unaccompanied children in premises supplying alcohol).
- (c) Children's Certificates (Section 168A(1) of the 1964 Act (as amended)) provides for children's certificates to be issued, allowing children into designated areas of licensed premises. No Children's Certificate submitted with this application).

**Notice of Hearing**

Notices of the hearing were sent to all Parties on 1 August 2005.

## **Relevant Representations**

### **2. Responsible Authorities**

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

#### **Director of Communities**

The representations from the Director of Communities recommend conditions to address the Public Nuisance objective. He also makes recommendations that the applicant should consider regarding Public Safety.

(Appendix 2.1)

#### **Hampshire Constabulary**

No representations received.

#### **Hampshire Fire and Rescue Service**

No representations received.

#### **Child Protection Team**

No representations received.

#### **Director of Development**

No representations received.

#### **Head of Safety Standards**

No representations received.

**3. Interested Parties**

1. Ms J New
2. Ms J Rogers
3. Mr & Mrs D Conroy

#### **4. 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 Sub-Committee must take such of the following steps it considers necessary to promote the Licensing Objectives:

1. Grant the application as per the application, or
2. Modify the conditions of the licence by alteration 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.

#### **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.

(Licensing Policy A8)

#### **Licensing Objectives.**

##### 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 observations of the interested parties.

(Licensing Policy 1.6, 2.11, 2.17)

##### Public Safety

The Sub-Committee should consider any necessary conditions relating to public safety having regard to the observations of the Director of Communities. It is suggested that any of the recommendations of the Director of Communities which are not included as conditions in the Premises licence should be added as informatives in any event.

(Licensing Policy B3, B4)

### Public Nuisance

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

(Licensing Policy Section C)

### Protection of Children

The Sub-Committee should consider any necessary conditions for the Protection of Children having regard to the Operating Schedule.

(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.

## 5. Conditions

### Mandatory Conditions

Under the Licensing Act 2003, the following conditions must be imposed on the Premises Licence in any event:-

1. No supply of alcohol may be made under the Premises Licence (a) at a time when there is no designated premises supervisor in respect of the premises licence, or (b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.
2. Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.
3. Where individuals are required on premises to carry out security activities, they must be 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:

#### Operating Hours

1. The hours the premises may open for other than Licensable Activities shall be:

- (i) **Sunday to Thursday** 1000 to 2330  
**(outside areas 1000 to 2330)**
- (ii) **Friday and Saturday** 1000 to 0030  
**(outside areas 1000 to 2330)**

2. The hours the premises may be used for the sale of alcohol shall be:

- (i) **Sunday to Thursday** 1000 to 2300
- (ii) **Friday and Saturday** 1000 to 0000  
**(outside areas 1000 to 2330)**
- (ii) **New Years Eve** 1000 – 0000 2 January  
**(outside areas 1000 to 2330)**

3. The hours the premises may be used for regulated entertainment shall be:

- (i) Live and recorded music, DJ and karaoke  
**Sunday to Saturday** 1800 to 2300 **Inside only**



4. The hours the premises may be used the provision of late night refreshment shall be:
  - (i) **2300 to 0000 Friday and Saturday Inside only**
5. The outside areas of the premises shall not be used after 2300.

#### All Licensing Objectives

[Dealt with in relevant sections below].

#### Crime and Disorder

1. All external walkways and car parking areas shall be illuminated during the hours of darkness up to 30 minutes after the premises close.
2. Before they first commence their duties at the premises, all staff shall be trained to deal with a) illegal activities and conflict management b) dealing with customers when service is refused on the basis of drunkenness.
3. A written policy for sensible consumption of alcohol shall be adopted and all staff shall be trained in the implementation of the policy before the premises are used for the purposes of this Licence.
4. The premises shall be a member of a local Pubwatch scheme if available
5. Before the premises are first used for the purpose of this licence, a suitable system shall be installed to summon Police assistance in the event of an emergency or other appropriate event occurring (Advance Protection System).

#### Public Safety

1. All staff shall maintain a close watch on the trading area and behaviour of customers at all times and shall either a) take appropriate action where needed or b) report concerns to their manager (where they are not authorised to deal personally with an issue).

#### Public Nuisance

1. No regulated entertainment shall take place outside the premises (other than background music which shall cease at 2100).
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 shall 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.

5. All regulated entertainment with the exception of recorded music shall cease promptly at 2300.
6. Regulated entertainment shall be restricted to the inside of the premises.
7. All doors and windows 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.

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

1. The premises shall adopt and implement the Hampshire Constabulary's Challenge 21 Scheme.
2. No children shall be permitted to be on the premises after 2200.
3. Children shall only be permitted in the dining area unless it is necessary to pass from one part of the premises to another.

### ***Removal of Embedded Restrictions***

1. The provisions of Section 168 Licensing Act 1964 shall not apply.

### **Informatives**

The following measures are recommended to the Licensee, but are not being suggested as conditions, and would not be enforceable under the Licensing Act. In many cases, however, they may be requirements under other legislation.

1. The Licensee is advised to establish the acceptable occupancy for the premises in accordance with fire safety legislation.
2. All doors on escape routes should be free from fastenings, or if fitted should only be simple fastenings that can be readily operated from the side approached by people making an escape. The operation of these fastenings should be without the use of a key and without having to manipulate more than one mechanism.
3. Periodic inspection certificates should be kept on the premises for the emergency lighting, fire fighting equipment, and fire alarm and detection system.
4. Copies of fire test results on any fabrics should be held on the premises for inspection if required.
5. If the premises are not fitted with a fire alarm and detection system then a written procedure for raising the alarm should be kept on the premises.

## **6. Other Considerations**

### **Corporate Strategy (Relevance To:)**

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

### **Resource Implications**

None

### **Appendices**

1. Application by Greene King Brewing & Retailing Ltd
2. Representations by Responsible Authorities
  - 2.1 The Director of Communities
3. Representations by Interested Parties
  - 3.1 Ms J Rogers
  - 3.2 Mr & Mrs D Conroy
  - 3.3 Ms J M New
4. Map of premises location.

## Appendices - labels

Appendix 1

Appendix 2.1

Appendix 2.2

Appendix 3.1

Appendix 3.2

Appendix 3.3

Appendix 3.4

Appendix 3.4