

## **LICENSING SUB – COMMITTEE**

17 August 2005

Report of City Secretary and Solicitor

Contact Officer: John Myall. Tel No: 01962 848443

Application to Vary the Premises Licence for:

**The Fox and Hounds  
Peach Hill Lane  
Crawley  
Winchester**

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**Part A.****1. Application****Applicant:** Peter Airey and Katherine Elizabeth Airey**Premises:** The Fox and Hounds, Crawley**Conversion of the Existing Licence/s.**

The conversion of the existing licence(s) was granted under delegated powers on 9 August 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</b> <b>1900 to 2230</b>
<b>New Year's Eve</b>	<b>1000 to 2300 1 January</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, late night refreshment and regulated entertainment.

The application is also to remove all embedded restrictions inherent in the Licensing Act 1964, The Cinematograph (Safety) Regulation 1955 and the Children and Young Persons Act 1933.

Notice of the application was displayed outside of the premises for a period of 28 days until 21 July 2005, and advertised in the Mid Hants Observer on 29 June 2005.

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

**1 Regulated Entertainment (B,C,E,F,H,I,J)**

Films, Indoor sporting events,

***Sunday to Saturday*** ***0700 to 2330***

Live Music, Recorded Music (indoors and outdoors) Karaoke, DJ, Comperes for Quiz, Comedians (amplified)

***Sunday to Saturday***                      ***1200 to 2330***

Facilities for Making Music (Stage, Microphone, DJ Console, Piano)

***Sunday to Saturday***                      ***0700 to 0000***

Facilities for Dancing

***Sunday to Saturday***                      ***1200 to 0000***

2      **Late Night Refreshment (L)**

***Sunday to Saturday***                      ***2300 to 0030***

3      **Supply of Alcohol (M)**

***Sunday to Thursday***                      ***0700 to 0000***

***Friday and Saturday***                      ***0700 to 0100***

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

***Sunday to Thursday***                      ***0700 to 0030***

***Friday and Saturday***                      ***0700 to 0130***

The above times to be extended by one hour on Sunday and Monday Bank Holiday weekends, Christmas Eve and Boxing Day.

The original application was also for up to 30 other "Event Days" from 0700 to 0100 at Licence Holder's discretion. For events on Fridays and Saturdays, however, the hours sought cover this. The applicants have consulted the Police and would limit the extensions to 12 per year, giving 14 days notice to the Licensing Authority and the Police, with the Police having an absolute power of veto for the events.

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

**Designated Premises Supervisor**

***Peter Airey***

**Steps to promote the Licensing Objectives**

Please see Section Q Appendix 1

**Removal of Embedded Restrictions**

The Licensing Act 1964, The Cinematograph (Safety) Regulations 1955 and the Children and Young Persons Act 1933.

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) Section 168 Licensing Act 1964 - 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).
- (d) The Cinematograph (Safety) Regulations 1955 might apply in certain situations to these premises, but are largely aimed at premises designed and operated as cinemas.
- (e) The Children and Young Persons Act 1933 relates to the prohibition of giving alcohol to a child under 5 years, children employed on licensed premises and tobacco sales to children.

### **Notice of Hearing**

Notices of the hearing were sent to all Parties on 2 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 Nuisance and 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 Mr & Mrs D Barnard
- 1 Mrs A Bayford
- 1 Mr D Beer
- 1 Mr & Mrs P Bolger
- 1 Mr D Carey
- 1 Mrs F Coulson
- 1 Mr & Mrs A Davie
- 1 Ms W Davis
- 1 Mr R Davis
- 1 Mr & Mrs P Ely
- 1 Mr A Fincham
- 1 Mr F Fratter (Crawley Parish Council)
- 1 Mr & Mrs R George
- 1 Mr A Lowe
- 1 Ms K Lowe
- 1 Mr & Mrs J Mitchell
- 1 Mr J Newman
- 1 Ms V Parker
- 1 Mr & Mrs J Pickering
- 1 Mr K Suckling
- 1 Mr K Wren
- 1 Ms I Henderson
- 1 Ms C Huby

#### **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. The Sub Committee may wish to consider whether conditions should be attached regarding the "Event Days" as specified at A. 1. 4 above.

(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 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** **0700 to 0030**
  - (ii) **Friday and Saturday** **0700 to 0130**
2. The hours the premises may be used for the sale of alcohol shall be:
  - (i) **Sunday to Thursday** **0700 to 0000**
  - (ii) **Friday and Saturday** **0700 to 0100**
3. The hours the premises may be used for regulated entertainment shall be:
  - (i) **Sunday to Saturday** **0700 to 2330**  
Films, Indoor sporting events,
  - (ii) **Sunday to Saturday** **1200 to 2330**  
Live Music, Recorded Music (indoors and outdoors)  
Karaoke, DJ, Comperes for Quiz, Comedians (amplified)
  - (iii) **Sunday to Saturday** **1200 to 0000**  
Facilities for Dancing
4. The hours the premises may be used the provision of late night refreshment shall be:
  - (i) **Sunday to Saturday** **2300 to 0030**

**15. NOTE – additional wording may be required if longer hours on New Years’ Eve, Bank Holidays, and “event days” are permitted.]]**

**All Licensing Objectives**

[Dealt with in relevant sections below].

**Crime and Disorder**

1. There will be a 30 minute “wind down” period at the end of the sale of alcohol, during which time access to the toilets shall be maintained and non-alcoholic refreshment provided.
2. A personal licence holder shall be present on the premises at all times when they are open for trading.
3. All staff shall receive guidance on the Licensing Act 2003 and drugs awareness training as part of their induction.
4. Hot food and/or drink shall be provided up until 30 minutes before the closure of the premises.
5. Staff shall be present when the premises are closed to disperse customers from the premises to ensure they do not linger and cause public nuisance.
6. [Not less than ten working days’ notice shall be given to the Police before any day when the Licensee wishes to open the premises outside the operating hours set out above, in accordance with the provisions of condition [5] (Operating Hours) above.

**Public Safety**

1. The number of persons allowed at any function shall not exceed 100.
2. The number of persons allowed on the premises shall not at any time exceed 150 persons.
3. The Licensee shall employ suitable methods of recording the number of persons on the premises, such methods to be agreed with the Police and the Licensing Authority.

**Public Nuisance**

1. 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.
2. 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.

3. 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.
4. 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.
5. All live and recorded music inside the premises shall cease promptly at 2330.
6. All live and recorded music in the garden shall cease prior to 2300 when the garden will be closed.
7. All kitchen extractor filters will be cleaned at least once a week.

### **Protection of Children**

1. The premises shall adopt and implement the Hampshire Constabulary's Challenge 21 Scheme.

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

1. The embedded restrictions included in the provisions of the Licensing Act 1964, the Children and Young Persons Act 1933 and the Cinematograph (Safety) Regulations 1955 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 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.
- 2 Periodic inspection certificates should be kept on the premises for the emergency lighting, fire fighting equipment, and fire alarm and detection system.
- 3 Copies of fire test results on any fabrics should be held on the premises for inspection if required.
- 4 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 Peter Airey and Katherine Elizabeth Airey
2. Representations by Responsible Authorities
  - 2.1 The Director of Communities
3. Representations by Interested Parties
  - 3.1 Mr & Mrs D Barnard
  - 3.2 Mrs A Bayford
  - 3.3 Mr D Beer
  - 3.4 Mr & Mrs P Bolger
  - 3.5 Mr D Carey
  - 3.6 Mrs F Coulson
  - 3.7 Mr & Mrs A Davie
  - 3.8 Ms W Davis
  - 3.9 Mr R Davis
  - 3.10 Mr & Mrs P Ely
  - 3.11 Mr A Fincham
  - 3.12 Mr F Fratter (Crawley Parish Council)
  - 3.13 Mr & Mrs R George
  - 3.14 Mr A Lowe
  - 3.15 Ms K Lowe
  - 3.16 Mr & Mrs J Mitchell
  - 3.17 Mr J Newman
  - 3.18 Ms V Parker
  - 3.19 Mr & Mrs J Pickering
  - 3.20 Mr K Suckling
  - 3.21 Mr K Wren
  - 3.22 Ms I Henderson
  - 3.23 Ms C Huby
4. Map of premises location.