

## **LICENSING SUB – COMMITTEE**

1400 Thursday 25 August 2005

Report of City Secretary and Solicitor

Contact Officer: John Myall. Tel No: 01962 848443

Application to Vary the Premises Licence for:

**Old Gaolhouse  
Jewry Street  
Winchester**

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**Part A.****1. Application****Applicant:** JD Wetherspoon Plc**Premises:** Old Gaolhouse  
11 Jewry Street  
Winchester**Conversion of the Existing Licence/s.**

The conversion of the existing licence(s) was granted under delegated powers on 15 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 for the sale of alcohol, extend the hours when the premises are open to the public and increase the hours for late night refreshment.

The application is also to remove certain embedded restrictions inherent in the Licensing Act 1964 with regard to allowing accompanied children in the bar and allowing credit sales.

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

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

**1 Late Night Refreshment (L)**

<b><i>Sunday to Thursday</i></b>	<b><i>2300 to 0030</i></b>
<b><i>Friday and Saturday</i></b>	<b><i>2300 to 0100</i></b>

2 **Supply of Alcohol (M)**

***Sunday to Thursday*** ***0900 to 0030***

***Friday and Saturday*** ***0900 to 0100***

***Additional hours as shown below:***

On Christmas Eve until 2.00 am

On Boxing Day until 2.00 am

For an additional hour to the finish times on the following days:-

Burns Night - 25 January

Australia Day - 26 January

St David's Day - 1 March

St Patrick's Day - 17 March

St George's Day - 23 April

St Andrew's Day - 30 November

For an additional 30 minutes to the finish times on the following days:-

Thursday immediately preceding Good Friday

Sunday immediately preceding a Bank Holiday Monday

From 6.00 am until the beginning of the standard hours **or** until 3.00 am as follows:-

On no more than 12 occasions per calendar year. These extensions for the supply of alcohol can only take place if at least 7 days notice is provided to the Police and the Licensing Authority and **only** if the Police give their consent.

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

***Sunday to Thursday*** ***0700 to 0130***

***Friday and Saturday*** ***0700 to 0200***

In line with the hours mentioned under non standard timings in Box M of the application plus an additional hour.

For an additional hour on the morning of the day the clocks go forward (in order to negate the effect of the change from British Summer Time to Greenwich Mean Time).

Notwithstanding these usual opening times, the premises, in accordance with the converted right, may choose to open to the public at any time for non-licensable activities/purposes.

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

**Designated Premises Supervisor**

***Mark Stevens***

**Steps to promote the Licensing Objectives**

Please see Section Q Appendix 1

**Removal of Embedded Restrictions**

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

1. To remove the restrictions and effects of Section 168, 168A and Section 171 Licensing Act 1964 so as to allow the provisions under the Licensing Act 2003 to apply in relation to children.
2. To remove the restrictions relating to permitted hours as set out in Section 60 Licensing Act 1964 with the exception of New Years Eve.
3. To remove the restriction on consumption of alcohol as set out in Section 63(1) Licensing Act 1964 (ie drinking up time).
4. To remove the restrictions on credit sales imposed by Section 166 Licensing Act.

**Notice of Hearing**

Notices of the hearing were sent to all Parties on 9 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**

No representations received, however certain recommendations have been made, for the information of the applicant, regarding Public Safety.

**Hampshire Constabulary**

The Police make representations regarding the 12 extensions per year, credit sales and door supervision.

**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**

None

#### **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 Police.

(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 operating schedule.

(Licensing Policy B3, B4)

### Public Nuisance

The Sub-Committee should consider any necessary conditions to prevent public nuisance having regard to the operating schedule.

(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.







**Protection of Children**

1. Children shall vacate the bar no later than 2100 hours on any day unless they are eating a table meal, in which case they shall vacate the bar no later than 2130 hours.
2. The premises shall adopt and implement the Hampshire Constabulary's Challenge 21 Scheme.

***Removal of Embedded Restrictions***

1. The provisions of Sections 60, 63(1), 168, 168A and 171 of the 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. The recommended maximum occupancy is 300 persons.
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 JD Wetherspoon Plc.
2. Representations by Responsible Authorities
  - 2.1 Director of Communities
  - 2.2 Hampshire Constabulary
3. Map of premises location.