

LICENSING SUB – COMMITTEE

6 September 2005

Report of City Secretary and Solicitor

Contact Officer: John Myall. Tel No: 01962 848443

Application to Vary the Premises Licence for:

**Wykeham Arms
Kingsgate street
Winchester**

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Part A.**1. Application****Applicant:** George Gale & Co Ltd**Premises:** Wykeham Arms**Conversion of the Existing Licence/s.**

The conversion of the existing licence(s) was granted under delegated powers on 26 August 2005.

The current permitted hours are;

Monday to Saturday	1000 to 2300
Sunday and Good Friday	1200 to 2230
Christmas Day	1200 to 1500 1900 to 2230
New Year's Eve	1000 to 2300 1 January

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, regulated entertainment and late night refreshment.

The application is also to remove all embedded restrictions inherent in the Licensing Act 1964, The Cinematograph (Safety) Regulations 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 11 August 2005, and advertised in the Hampshire Chronicle on 13 July 2005.

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

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

Video and Amusement Machines, pub games, within the opening hours, live and recorded music until 2300.

2 Late Night Refreshment (L)

From 2300 to 0500 every day.

3 Supply of Alcohol (M)

From 0700 every day until 0000 Sunday to Thursday and 0100 Friday and Saturday.

The supply of alcohol will be available to residents and their guests at all times.

4. Hours Premises Open To The Public (O)

From 0700 every day until 0100 Sunday to Thursday and 0200 Friday and Saturday.

The above times to be extended to 0200 on Bank Holiday weekends, Christmas Eve and Boxing day. New Year's Eve until 0200 2 January each year.

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

Designated Premises Supervisor

Peter Rodney Barham Miller

Steps to promote the Licensing Objectives

Please see Section Q Appendix 1

Removal of Embedded Restrictions

The application is also to remove all embedded restrictions inherent in 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:-

Removal of Embedded Restrictions

The application includes an application to remove the embedded restrictions inherent in 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 would not apply to these premises.
- (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 19 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.

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

The Council received 42 letters of representation from interested parties regarding this application which are attached at Appendix 2.

The interested parties are concerned about the potential for noise from the regulated entertainment and disturbance from persons leaving the premises at night.

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 Council's Licensing Policy.

(Licensing Policy B3, B4)

Public Nuisance

The Sub-Committee should consider any necessary conditions to prevent public nuisance caused by noise from the premises and disturbance from persons leaving the premises, having regard to the representations of 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 and the Council's Licensing Policy.

(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 0100**
 - (ii) **Friday and Saturday** **0700 to 0200**
 - (iii) **New Years Eve** **0700 – 0200 (2 January)**
 - (iv) **Friday, Saturday, Sunday, Monday of Bank Holiday weekends
Christmas Eve and Boxing Day** **0700 to 0200**
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**
 - (iii) **New Years Eve** **0700 – 0100 (2 January)**
 - (v) **Friday, Saturday, Sunday, Monday of Bank Holiday weekends
Christmas Eve and Boxing Day** **0700 to 0100**

The supply of alcohol may be available at all times to residents and their guests.

3. The hours the premises may be used for regulated entertainment shall be:
- (i) ***Sunday to Thursday*** ***0700 to 0100***
 - (ii) ***Friday and Saturday*** ***0700 to 0200***
 - (iii) ***New Years Eve*** ***0700 – 0200 (2 January)***
 - (vi) ***Friday, Saturday, Sunday, Monday of Bank Holiday weekends
Christmas Eve and Boxing Day*** ***0700 to 0200***
4. The hours the premises may be used the provision of late night refreshment shall be:
- (i) ***Sunday to Saturday*** ***2300 to 0500***

All Licensing Objectives

[Dealt with in relevant sections below].

Crime and Disorder

1. All staff shall be trained in the requirements of the Licensing Act 2003 and receive drugs awareness training as part of their induction.
2. All staff shall be trained in crime prevention methods.
3. There shall be a 60 minute “wind down period” after the end of alcohol sales.

Public Safety

None

Public Nuisance

1. Live music shall cease at 2300 except on Friday, Saturday, Sunday, Monday of Bank Holiday weekends, Christmas Eve and Boxing Day.
2. All amplified music and karaoke shall cease at 2300.
3. Regulated entertainment shall be restricted to the inside of the premises.
4. 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.

Protection of Children

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

Removal of Embedded Restrictions

1. The provisions of the Licensing Act 1964, The Cinematograph (Safety) Regulations 1955 and the Children and Young Persons Act 1933 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. As a rough guide and taken from their exits widths shown in the plans alone, the recommended maximum capacity is 90 people in the bar and 30 in the dining area.
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. Maintained emergency lighting should be provided over exits.
6. The door from the street into the garden should be changed to open in the direction of escape. Emergency lighting should be provided in this area.

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 George Gale & Co Ltd
2. Representations by Responsible Authorities
 - 2.1 Hampshire Constabulary
3. Representations by Interested Parties
4. Map of premises location.