

LICENSING SUB – COMMITTEE

13 September 2005.

Report of City Secretary and Solicitor

Contact Officer: John Myall. Tel No: 01962 848443

Application to Vary the Premises Licence for:

The Mead End, 22 Mead End Road, Denmead

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Part A.**1. Application****Applicant:** Joseph Arnot Nicol and Yvonne Margaret Nicol**Premises:** The Mead End**Conversion of the Existing Licence/s.**

The conversion of the existing licence(s) was granted under delegated powers on 2 September 2005. All existing conditions imposed on the Public Entertainment Licence are transferred to the Premises Licence.

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 has the benefit of a Supper Hour Certificate allowing the sale of alcohol, with a meal, for a further hour at the terminal hour and between 1500 and 1900 on Christmas Day.

The premises hold a Public Entertainment Licence permitting music, singing and dancing:

Monday to Saturday	1200 to 2300
Sunday	1200 to 2230

There are conditions attached to this licence which are shown in the application in Appendix 1.

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.

Notice of the application was displayed outside of the premises for a period of 28 days until 18 August 2005, and advertised in the News on 4 August 2005.

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

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

Indoor Sports, Live Music, Recorded Music, Quiz Comperes, Comedians, Karaoke, Dancing

Monday to Friday ***1100 to 0000***

Friday and Saturday ***1100 to 0100***

Sunday ***1100 to 2330***

2 **Late Night Refreshment (L)**

Monday to Friday ***2300 to 0000***

Friday and Saturday ***2300 to 0100***

Sunday ***2300 to 2330***

3 **Supply of Alcohol (M)**

Monday to Friday ***1100 to 0000***

Friday and Saturday ***1100 to 0100***

Sunday ***1100 to 2330***

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

Monday to Friday ***1100 to 0030***

Friday and Saturday ***1100 to 0130***

Sunday ***1100 to 0000***

5. ***New Year's Eve*** ***1100 to closing 1 January***

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

Designated Premises Supervisor

Joseph Arnott Nicol

Steps to promote the Licensing Objectives

Please see Section Q Appendix 1

Notice of Hearing

Notices of the hearing were sent to all Parties on 29 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

1. Mr and Mrs Collins
2. Ms Michelle Callow
3. Mr and Mrs Jennings
4. Mr John Stevens
5. Ms S McIntosh
6. Mr L McQueen and Ms G Wood
7. Mr B Johnston
8. Mr and Mrs Birrell

The representations refer to noise and disturbance from the premises under the existing licences and concerns for the potential for it to increase if the hours for licensable activities are extended.

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 pollution from the premises and disturbance from patrons 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)	Monday to Friday	1100 to 0030
(ii)	Friday and Saturday	1100 to 0130
(iii)	Sunday	1100 to 0000
(iv)	New Year's Eve	1100 to 0030/0130 1 January
2. The hours the premises may be used for the sale of alcohol shall be:

(i)	Monday to Friday	1100 to 0000
(ii)	Friday and Saturday	1100 to 0100
(iii)	Sunday	1100 to 2330
(iv)	New Year's Eve	1100 to 0000/ 0100 1 January
3. The hours the premises may be used for regulated entertainment shall be:

(i)	Monday to Friday	1100 to 0000
(ii)	Friday and Saturday	1100 to 0100
(iii)	Sunday	1100 to 2330
(iv)	New Year's Eve	1100 to 0000/ 0100 1 January

4. The hours the premises may be used the provision of late night refreshment shall be:
- | | | |
|-------|----------------------------|-------------------------------------|
| (i) | Monday to Friday | 2300 to 0000 |
| (ii) | Friday and Saturday | 2300 to 0100 |
| (iii) | Sunday | 2300 to 2330 |
| (iv) | New Year's Eve | 2300 to 0000/ 0100 1 January |

All Licensing Objectives

These conditions reflect the operating schedule (as modified by the applicant following discussions with the Director of Communities). Some of these conditions were included in the Public Entertainment Licence. As the variation application did not include an application to remove the remaining PEL conditions, these other PEL conditions will remain and be included in the Premises Licence once it is issued.

Crime and Disorder

1. A CCTV system shall be maintained and in operation at all times that the premises are used for licensable activities. The tapes shall be retained for 30 days and be made available to the Police or Authorised Officers on request.

Public Safety

None

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. Regulated entertainment shall be restricted to the inside of the premises.
5. 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

None.

Embedded Restrictions

1. The provisions of the Licensing Act 1964, The Cinematograph (Safety) Regulations 1955, the Children and Young Persons Act 1933 and the Local Government (Miscellaneous Provisions) Act 1982 shall 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 JA & YM Nicol
2. Representations by Interested Parties
3. Map of premises location.