

LICENSING SUB – COMMITTEE

19 September 2005

Report of City Secretary and Solicitor

Contact Officer: John Myall. Tel No: 01962 848443

Application to Vary the Premises Licence for:

**Fulflood Arms
28 Cheriton Road
Winchester**

Part A. Report *Buff*

- 1 Application**
- 2 Responsible Authorities**
- 3 Interested Parties**
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Part A.**1. Application****Applicant:** Greene King Brewing & Retailing Ltd**Premises:** Fulflood Arms**Conversion of the Existing Licence/s.**

The conversion of the existing licence(s) was granted under delegated powers on 8 September 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 not hold a Public Entertainment Licence allowing music, singing and dancing from 2000 to 2230 on no more than two Sundays per month.

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.

Notice of the application was displayed outside of the premises for a period of 28 days until 24 August 2005, and advertised in the Hampshire Chronicle on 5 August 2005.

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

1	Regulated Entertainment (E,F,H)	
	Live and Recorded Music, karaoke	
	<i>Friday and Saturday</i>	<i>1900 to 2330</i>
	<i>Sunday</i>	<i>1900 to 2300</i>
	<i>Bank Holidays</i>	<i>1100 to 0100</i>
2	Supply of Alcohol (M)	
	<i>Monday to Thursday</i>	<i>1100 to 2300</i>
	<i>Friday and Saturday</i>	<i>1100 to 0100</i>

	<i>Sunday</i>	<i>1200 to 2300</i>
	<i>Christmas Eve, Easter Sunday and Bank Holidays</i>	<i>1100 to 0100</i>
3	Hours Premises Open To The Public (O)	
	<i>Monday to Thursday</i>	<i>1100 to 2320</i>
	<i>Friday and Saturday</i>	<i>1100 to 0120</i>
	<i>Sunday</i>	<i>1200 to 2320</i>
	<i>Christmas Eve, Easter Sunday and Bank Holidays</i>	<i>1100 to 0120</i>

The above times may be extended to coincide with any special event or sporting event shown on TV, by one hour before and after the event.

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

Designated Premises Supervisor

Lee Cooper

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 1 September 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 Director of Communities makes representations regarding noise from the premises and recommends a condition to address the Public Nuisance objective. He also makes recommendations that the applicant should consider regarding Public Safety which could be added as informatives, but would not be enforceable as conditions. These are shown at Appendix 2.1

Hampshire Constabulary

The Police make representations regarding public nuisance and that hours for regulated entertainment should be restricted to 2300 on Fridays and Saturdays and alcohol to 0000 at weekends. These are shown at Appendix 2.2

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 Licensing Authority has received 84 letters of representation regarding this application. The main concerns are the noise which currently emanates from the premises and the potential for more noise disturbance at later times.

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 Operating Schedule and the Council's Licensing Policy.

(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 and 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 having regard to the observations of the Director of Communities, the Police 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 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)	<i>Monday to Thursday</i>	<i>1100 to 2320</i>
(ii)	<i>Friday and Saturday</i>	<i>1100 to 0120</i>
(iii)	<i>Sunday</i>	<i>1200 to 2320</i>
(iv)	<i>Christmas Eve, Easter Sunday and Bank Holidays</i>	<i>1100 to 0120</i>

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

(i)	<i>Monday to Thursday</i>	<i>1100 to 2300</i>
(ii)	<i>Friday and Saturday</i>	<i>1100 to 0100</i>
(iii)	<i>Sunday</i>	<i>1200 to 2300</i>
(iv)	<i>Christmas Eve, Easter Sunday and Bank Holidays</i>	<i>1100 to 0100</i>

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

- | | | |
|-------|-----------------------------------|----------------------------|
| (i) | <i>Friday and Saturday</i> | <i>1900 to 2330</i> |
| (ii) | <i>Sunday</i> | <i>1900 to 2300</i> |
| (iii) | <i>Bank Holidays</i> | <i>1100 to 0100</i> |

All Licensing Objectives

[Dealt with in relevant sections below].

Crime and Disorder

1. All staff shall be trained to monitor all trading areas and report any suspicious incidents, criminal activity or disorder.
2. The premises shall be a member of a local Pubwatch scheme if available

Public Safety

1. There shall be no consumption of drinks from bottles in the outside drinking areas.

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.
6. The outside seating areas shall be vacated no later than 2300.
7. The licence holder shall commission a noise impact assessment of the licensable activities. No live music events shall take place until this is carried out to the satisfaction of the Licensing Authority.

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, 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. 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 Greene King Brewing & Retailing Ltd
2. Representations by Responsible Authorities
 - 2.1 The Director of Communities
 - 2.2 Hampshire Constabulary
3. Representations by Interested Parties
4. Map of premises location.