

**LICENSING SUB – COMMITTEE**21 September 2005Report of City Secretary and Solicitor

Contact Officer: John Myall. Tel No: 01962 848443

Application to Vary the Premises Licence for:

**The Old Market Inn  
34 The Square  
Winchester**

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**Part A.****1. Application****Applicant:** The Dolphin (Romsey) Limited**Premises:** The Old Market Inn**Conversion of the Existing Licence/s.**

The conversion of the existing licence(s) was granted under delegated powers on 13 September 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 and regulated entertainment.

Notice of the application was displayed outside of the premises for a period of 28 days until 29 August 2005, and advertised in the Hampshire Chronicle on 29 July 2005

The Operating Schedule, amended by letter 13 September 2005, copied at Appendix 1, proposes the Relevant Licensable Activities as:

**1 Regulated Entertainment (E,F,I)**

Live Music, Recorded music including juke box and Karaoke

***Sunday to Thursday 0900 to 0000***

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

***[1900 to 2300 for karaoke]***

**2 Supply of Alcohol (M)**

***Sunday to Thursday 1000 to 0000***

***Friday and Saturday 1000 to 0100***

***New Years Eve 1000 to 0200 New Years Day***

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

*Sunday to Thursday*                      *1000 to 0030*

*Friday and Saturday*                      *1000 to 0130*

*New Years Eve*                      *1000 to 0230 New Years Day*

*The above times to be extended for 1 extra hour on Christmas Eve, Public Holidays, Bank Holiday weekends and other notable days.*

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

**Designated Premises Supervisor**

*Salvatore la Gumina*

**Steps to promote the Licensing Objectives**

Please see Section Q Appendix 1

**Embedded Restrictions**

There is no application 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 Hearing**

Notices of the hearing were sent to all Parties on 6 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 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 Safety.

(Appendix 2.1)

#### **Hampshire Constabulary**

The representations from Hampshire Constabulary recommend conditions to address the Public Nuisance, Public Safety and Crime and Disorder objectives.

(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**

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 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 observations of the Director of Communities, the Police and the Council's Licensing Policy. 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 pollution from the premises having regard to the observations of the Director of Communities and the Police and the Council's Licensing Policy

(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)	<b><i>Sunday to Thursday</i></b>	<b><i>1000 to 0030</i></b>
(ii)	<b><i>Friday and Saturday</i></b>	<b><i>1000 to 0130</i></b>
(iii)	<b><i>New Years Eve</i></b>	<b><i>1000 to 0230 New Years Day</i></b>
2. The hours the premises may be used for the sale of alcohol shall be:
 

(i)	<b><i>Sunday to Thursday</i></b>	<b><i>1000 to 0000</i></b>
(ii)	<b><i>Friday and Saturday</i></b>	<b><i>1000 to 0100</i></b>
(iii)	<b><i>New Years Eve</i></b>	<b><i>1000 to 0200 New Years Day</i></b>
3. The hours the premises may be used for regulated entertainment shall be:
 

(i)	<b><i>Sunday to Thursday</i></b>	<b><i>0900 to 0000</i></b>
(ii)	<b><i>Friday and Saturday</i></b>	<b><i>0900 to 0100</i></b>
(iii)	<b><i>New Years Eve</i></b>	<b><i>0900 to 0200 New Years Day</i></b>

***[The above times to be extended by one hour on Christmas Eve, Public Holidays, Bank Holiday weekends and other notable days]***



## **All Licensing Objectives**

[Dealt with in relevant sections below].

### **Crime and Disorder**

1. A CCTV system shall be installed to the satisfaction of the Police with recording facilities, maintained to an acceptable standard. The recordings shall be retained for a period of 30 days and be made available upon request by the Police.
2. The premises shall be a member of a local Pubwatch scheme if available
3. Where the premises are open for music and alcohol until 0100 or later SIA registered door staff shall be on duty. All door staff shall wear high visibility jackets and name badges.

### **Public Safety**

1. There shall be a maximum occupancy of 200 persons on the premises including performers and staff.

### **Public Nuisance**

1. 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.
2. Regulated entertainment shall be restricted to the inside of the premises.
3. No regulated entertainment shall take place on the premises after 2300 until a full acoustic survey has been undertaken and any remedial works completed to the Licensing Authority's written satisfaction.
4. Karaoke performances shall cease at 2300.

### **Protection of Children**

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

### ***Embedded Restrictions***

1. The provisions of the Licensing Act 1964, The Cinematograph (Safety) Regulations 1955 and the Children and Young Persons Act 1933 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 The Dolphin (Romsey) Limited
2. Representations by Responsible Authorities
  - 2.1 The Director of Communities
  - 2.2 Hampshire Constabulary
3. Map of premises location.