

LICENSING SUB-COMMITTEE**21 September 2005**Attendance:

Councillors:

Allgood (Chairman) (P)

Lipscomb (P)

Sutton (P)

1. WONDERFUL CHINESE TAKEAWAY, 6 BRIDGE STREET, WINCHESTER

(Report LR.158 refers)

The Sub-Committee met to consider an application by Yukai Chen for the grant of a Premises Licence for late night refreshment. The details of the proposed Premises Licence were as set out in the report.

The Licensing and Registration Manager explained that under Section 17 of the Licensing Act 2003, takeaway premises selling hot food and drink after 11.00 pm now required a Premises Licence. An element of the application before the Sub-Committee was for the provision of late night refreshments up to 1.00 am.

No parties were present at the meeting, and in considering the proposals to vary the Premises Licence the Sub-Committee referred to a letter from an interested party (Ms. K Durham who could not be present at the meeting) as set out in the appendix to the report. In summary, this referred to issues related to the potential harm that could be caused through public nuisance and crime and disorder that the extended hours might pose. The Sub-Committee also noted that no representations had been received from the Responsible Authorities. The Sub-Committee also took into consideration the written response in reply to the letter of objection to the application from Mr Chen, the applicant.

In his closing remarks the Chairman stated that in reaching its decision, the Sub-Committee had given careful consideration to all the issues raised regarding the application as set out in the report. The Sub-Committee agreed to approve the application as set out in the report.

RESOLVED:

That the application be granted, subject to:

Mandatory Conditions

There are no mandatory conditions which apply to this application.

Additional Conditions

Operating Hours

1. The hours the premises may open for other than Licensable Activities shall be:

(i) Sunday to Thursday 1700 to 0000

(ii) Friday and Saturday 1700 to 0100

(There is no restriction on hours within the requirements of the Planning Permission of the premises)

2. The hours the premises may be used the provision of late night refreshment shall be:

(i) Sunday to Thursday 2300 to 0000

(ii) Friday and Saturday 2300 to 0100

(There is no restriction on hours within the requirements of the Planning Permission of the premises)

All Licensing Objectives

(Dealt with in relevant sections below).

Crime and Disorder

1. No person who appears to be drunk and disorderly shall be permitted on the premises.

Public Safety

1. No more than fifteen customers shall be permitted within the premises at any one time.

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 minimise disturbance to local residents.
2. Rubbish bins shall be provided by the premises for the use of its customers.
3. 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. Children shall not be permitted on the premises after 2300 except accompanied by an adult.

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.

2. **THE RAILWAY INN, 3 ST PAUL'S HILL, WINCHESTER**
(Report LR155 refers)

The Sub-Committee met to consider an application by Eldridge Pope & Co. Ltd for the 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. The details of the proposed variations were set out in the report.

The application was 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.

The parties (in accordance with the Licensing Act 2003 (Hearings) Regulations 2005) present at the hearing were: Mr F Eynon (one of the joint Licence Holders for the premise and representing the applicant, Eldridge Pope & Co. Ltd).

In considering the proposals to vary the Premises Licence, the Sub-Committee referred to a letter from an interested party (Mr Hartley-Raven) as set out in the appendix to the report. In summary, this letter referred to issues related to the potential harm caused through public nuisance and crime and disorder that the extended hours might pose. The Sub-Committee also noted that no representations had been received from the Responsible Authorities.

At the conclusion of his presentation, the Licensing Registration Manager advised that correction was required to the proposed conditions on page nine and ten of the report, which referred to operating hours on Sundays and New Year's Eve and also issues of public safety, which were taken into consideration by the Sub-Committee in its deliberation of the application.

Mr F Eynon spoke on the application. In summary he stated that the premise had made application to the Justices for a Special Hours Certificate until 1.00, pm but following refusal, a Special Hours Certificate until midnight had been granted, though this was not acknowledged within page five of the appendices referring to existing licences. The Licensing and Registration Manager accepted that this Special Hours

Certificate was valid and should be taken into consideration by the Sub-Committee in its deliberations, and the applicant was asked that a copy of the Special Hours Certificate be submitted to the local licensing authority for its records.

In addition, Mr Eynon stated that he had discussed the application with Mrs S Blazdell from the Directorate of Communities and had agreed that live music would be limited till midnight, as was presently the case. He added, in response to comments raised by Mr Hartley-Raven's letter of objection, that the Hampshire Constabulary had no objection to the application; that the premises were soundproofed so as not to cause public nuisance, and that security staff were employed directly by the premises to prevent crime and disorder. Mr Eynon was agreeable to the deletion of New Year's Eve from the operating hours as these would not be used by the applicant.

The Sub-Committee also took into consideration written representation in objection to the application from Mr Hartley-Raven, who could not be present at the meeting.

In his closing remarks the Chairman stated that in reaching its decision, the Sub-Committee had given careful consideration to all the issues raised regarding the application, including those set out in the report and matters raised during the hearing. The Sub-Committee agreed to approve the application as set out in the report, with the following amendments as set out in bold below.

RESOLVED:

That the application be granted, subject to:

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.

Additional Conditions

Operating Hours

1. The hours the premises may open for other than Licensable Activities shall be:
 - (i) **Sundays to Thursdays** 1000 to 0030
 - (ii) **Fridays and Saturdays** 1000 to 0130
2. The hours the premises may be used for the sale of alcohol shall be:

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|------|------------------------------|--------------|
| (i) | Sundays to Thursdays | 1000 to 0000 |
| (ii) | Fridays and Saturdays | 1000 to 0100 |
3. The hours the premises may be used for regulated entertainment shall be:
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|-----|-----------------------------|--------------|
| (i) | Sundays to Saturdays | 1000 to 0000 |
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4. The hours the premises may be used the provision of late night refreshment shall be:
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|------|------------------------------|--------------|
| (i) | Sundays to Thursdays | 2300 to 0000 |
| (ii) | Fridays and Saturdays | 2300 to 0100 |

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. No drinks in open containers shall be removed from the premises except for consumption in any exterior area provided for that purpose.

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. All persons leaving the premises after 11.00 pm shall be directed to leave the premises via the exit from the Public Bar into St Paul's Hill. The exit doors from the Function Room into Railway Inn car park must remain available for use but shall only be used after 11.00 pm in the event of an emergency.
3. The Beer Garden shall close at 2300
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.
5. The staff shall supervise bands loading out to minimise noise.
6. Regulated entertainment shall be restricted to the inside of the premises.

7. 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

1. The premises shall adopt and implement the Hampshire Constabulary's Challenge 21 Scheme.
2. Under 18s shall only allowed on the premises on designated nights in the music bar. Under 18s shall not be permitted in other areas.

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 conditions included in the Premises Licence from the conversion of the former public entertainment licence (issued under the Local Government (Miscellaneous Provisions) Act 1982) 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.
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.

3. **PRINCE OF WALES, HIGH STREET, SHIRRELL HEATH** (Report LR135 refers)

The Sub-Committee met to consider an application by Greene King Brewing & Retailing Ltd for the variation of the Premises Licence during the transitional period under Schedule 8, paragraph 7(b) of the Licensing Act 2003 by extending the hours when the premises are open to the public for the sale of alcohol, late night

refreshment and regulated entertainment. The details of the proposed variations were as set out in the report.

The application was also to remove all embedded restrictions in the Licensing Act 1964, the Cinematograph (Safety) Regulations 1955 and the Children and Young Persons Act 1933.

Parties (in accordance with the Licensing Act 2003 (Hearings) Regulations 2005) present at the hearing were: A legal representative of the applicant (Greene King Brewing & Retailing Ltd), Ms L Castle (a joint licensee), Mr I Skinner (the premises' chef) and three local residents.

In considering the proposals to vary the Premises Licence, the Sub-Committee referred to 22 letters from interested parties as set out in the appendices to the report. In summary, these referred to issues relating to the potential harm caused through public nuisance, crime and disorder that the extended hours might pose. The Sub-Committee also noted that no representations had been received from the Responsible Authorities.

The Chairman stated that the Sub-Committee had been e-mailed after the closing time for representations by Councillor Goodall, a Ward Member. Councillor Goodall had also written in objection to the application in a private capacity as a local resident and his letter was attached as an appendix to the report. The Chairman stated that the late representation in the e-mail would not be taken into consideration and had not influenced the Sub-Committee in any way. This statement was accepted by the legal representative on behalf of Greene King Brewing & Retailing Ltd.

The legal representative on behalf of Greene King Brewing & Retailing Ltd stated that he had a number of representations from local residents that were in support of the application, some of which were in response to points raised in the written objections received, but had been submitted after the closing date for representations. The City Secretary and Solicitor advised the Sub-Committee that these could only be taken into account if there were no objections from other interested parties. Following a request by the Chairman of the other interested parties present at the meeting whether the letters submitted by the applicant should be taken into consideration, there were objections from those present to this taking place and therefore they were not admitted.

At the conclusion of his presentation the Licensing and Registration Manager advised on a number of corrections to the report and these were taken into consideration by the Sub-Committee during its deliberations. These included a Supper Hours Certificate allowing alcohol to be served to patrons taking a table meal to 0030 (but did not include patrons drinking at the bar).

Mrs Shotlander (a neighbour to the premises) spoke in objection to the application. In summary, she referred to excessive noise emanating from the premises due to loud music. The objection to the noise included a live band using an outside marquee on 23 July 2005 and noise caused by patrons leaving the premises up to 1.30 am. The behaviour of patrons using foul language and using neighbouring gardens as toilets, traffic and parking in the High Street impacting public safety, and the unwillingness of the licensee to accept responsibility for the behaviour of patrons either on or off the premises also caused concern. She added that issues over noise had been reported to the City Council and the premises had been visited by the Director of Communities and the City Secretary and Solicitor, who had spoken with the licensee, but no measurement of noise from the premises had been undertaken by the City Council.

Mr Paice spoke as a neighbour to the premises in objection to the application. He stated that his premises were only twelve feet away from the public house. He had complained on three occasions about noise emanating from the premises and the foul language of patrons. He also referred to the occasion of the outside marquee and live music on 23rd July 2005 and the public nuisance that this had caused. The music from inside the premises caused vibration, which was increased in the summer months when doors and windows were kept open. His garden had been used as a toilet by patrons and when he had approached one of the joint licensees they had paid no attention to his complaints.

Mr Longcroft spoke as a neighbour to the premises in objection to the application. He reiterated the points on noise levels, which were overbearing. He too referred to the foul language of patrons and inconsiderate actions by patrons leaving the premises at closing time, which could be as late as 1.00 am. He had complained to the City Council's Director of Communities about noise levels after the occasion of the live group and the marquee in the garden of the public house on 23rd July 2005. He commented that he had lived in the village for twenty-nine years and there had been no problems with behaviour or noise from the public house until the last six months.

Mr Donnan spoke as a neighbour to the premises in objection to the application. He commented that in the last six months neighbours had been plagued with loud music, loutish behaviour of patrons and problems caused by the parking of cars. The peace and quiet of the village had been disturbed and there was little respect for people living nearby. The thumping vibration from the base of the music was particularly irritating.

The legal representative of Greene King Brewing & Retailing Ltd spoke in support of the application. In summary he stated that it was not the applicant's objective to create a night club type venue which would cause disturbance. Over the last few weeks music had been played inside the premises only and it had been accepted by objectors that the situation had improved. It was the objective of the applicant to be a community public house and not a destination venue. The emphasis would be on food-based activity to enjoy quality food. Mrs Castle, a joint licensee, stated she was not aware of the anti-social behaviour of patrons as action would have been taken to control their behaviour. Notices would be put up in the public house advising patrons to respect local residents and verbal announcements would be made to the same effect. The applicant was willing for a condition to be placed on the garden area that it be closed at a certain time to reduce disturbance to neighbours. The incident referred to of parking in the road was isolated as there was usually sufficient capacity within the car park for patrons. The incident on 23rd July 2005 had been properly licensed and could have been objected to by neighbours if they had chosen to do so.

In response to points raised, the Licensing and Registration Manager clarified that under the Operating Hours Condition – Recorded Music (III), wording could be added that if the Hampshire Constabulary objected to the licence, the local authority shall have the power to veto an event. However, from 24th November 2005, twelve events could be held per annum for a ninety-six hour period to which the Police could only object under crime and disorder grounds. The applicant could also apply for a temporary licence for an outside event, for example in a marquee, but the Police did have the powers to veto such an event.

During questions of the applicant, the Sub-Committee noted that the premises were taking steps to install air conditioning and smoke filters in order that doors and windows could be kept closed.

The Sub-Committee retired to deliberate in camera.

In his closing remarks the Chairman stated that in reaching its decision, the Sub-Committee had given careful consideration to all the issues raised regarding the application, including those set out in the report and matters raised during the hearing. The Sub-Committee agreed to approve the application as set out in the report, with the following amendments as set out in bold below.

The Sub-Committee agreed to include an additional condition under public nuisance that activity in the premise's garden should stop after 9.30 pm and that the licensee should take more responsibility to monitor behaviour of patrons on the premises and at the site's boundary to have regard to people leaving the premises, including written and verbal informatives to patrons on their behaviour.

RESOLVED:

That the application be granted, subject to:

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.

Operating Hours

1. The hours the premises may open for other than Licensable Activities shall be:

(i)	<i>Sunday to Saturday</i>	<i>1100 to 0030</i>
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The premises shall only remain open after 2330 hours for persons taking a table meal except on Friday and Saturday and **Christmas Eve**.

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

(i)	<i>Sunday to Thursday</i>	<i>1100 to 2300</i>
(ii)	<i>Friday and Saturday</i>	<i>1100 to 0000</i>

Alcohol shall only be sold after 2300 except to persons taking a table meal and the alcohol is ancillary to that meal **except on Friday and Saturday and Christmas Eve**.

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

Live Music

- (i) *Thursday to Saturday* *2000 to 2300*

Recorded Music

- (i) *Recorded music may be played on an Ad Hoc basis on Bank Holidays within the times specified above, and occasionally during the day on Bank Holidays.*
- (ii) *Recorded music may also be played on no more than 12 occasions per year for special occasions.*
- (iii) *The Licence Holder or his nominee shall notify the Police and the Licensing authority not less than 10 working days before the event. **If the Police object the Licensing Authority shall have the power to veto the event.***
- (iv) **The Licensee shall install a noise limiter for prerecorded music to be approved by the Director of Community Services.**
4. The hours the premises may be used the provision of late night refreshment shall be:

- (i) *Sunday to Saturday* *2300 to 0000*

All Licensing Objectives

(Dealt with in relevant sections below).

Crime and Disorder

1. All external walkways and car parking areas shall be illuminated during the hours of darkness up to 30 minutes after the premises close.
2. All staff shall maintain a close watch on the trading area and behaviour of customers at all times and shall either a) take appropriate action where needed or b) report concerns to their manager (where they are not authorised to deal personally with an issue).

Public Safety

None.

Public Nuisance

1. Whilst music is being played as part of regulated entertainment, one of the licensees 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 **and the Licensee shall exercise personal responsibility to ensure that this is carried out.**

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 minimise disturbance to local residents and the **Licensee shall take a positive role in this process.**
4. Regulated entertainment shall be restricted to the inside of the premises.
5. All external doors and windows must be kept closed other than for access and egress, in all rooms when events involving amplified music or speech are taking place.
6. **No activity shall take place in the garden after 2130.**

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 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.
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.

The meeting commenced at 1.00 pm and concluded at 3.40 pm.

Chairman