

LICENSING SUB – COMMITTEE21 September 2005.Report of City Secretary and Solicitor

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Application to Vary the Premises Licence for:

**Prince of Wales
High Street
Shirrell Heath**

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Part A.**1. Application****Applicant:** Greene King Brewing & Retailing Ltd**Premises:** Prince of Wales**Conversion of the Existing Licence/s.**

The conversion of the existing licence(s) was granted under delegated powers on 14 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 has the benefit of a Supper Hour Certificate allowing the sale and consumption of alcohol for persons taking table meals, for a further hour at the terminal hour, with 30 minutes "drinking up time", and between 1500 and 1900 on Christmas Day. The meals must be taken in a part of the premises usually set apart for the purpose, and the alcohol is ancillary to the meal.

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, late night refreshment and regulated entertainment.

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.

Notice of the application was displayed outside of the premises for a period of 28 days until 27 August 2005, and advertised in the Hampshire Chronicle.

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

1 Regulated Entertainment (E,F,H)

Live Music
Thursday to Saturday 2000 to 2300
Sunday 1200 to 2230

Recorded Music
No more than 12 occasions per year for special occasions.
Ad Hoc basis on Bank Holidays

2 **Late Night Refreshment (L)**

Sunday to Saturday 2300 to 0000

3 **Supply of Alcohol (M)**

Sunday to Thursday 1100 to 2300

Friday and Saturday 1100 to 0000

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

Sunday to Saturday 1100 to 2330

Alcohol may only be sold to persons taking a table meal after 2300.

[The above times amended by email 140905]

The above times to be extended to 0000 on Christmas Eve, Bank Holidays, and Bank Holiday weekends.

The above times to be extended to coincide with any special sporting event, by one hour before and 30 minutes after the event.

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

Designated Premises Supervisor

Lorraine Elizabeth Castle.

Steps to promote the Licensing Objectives

Please see Section Q Appendix 1

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:-

- (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 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

There are no representations from the Director, however, after consultation with the applicant conditions have been added to reflect the operating schedule.

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

Letters of representation have been received from 22 persons. They are concerned for the potential for noise pollution and nuisance from persons leaving the premises. These representations can be seen at Appendix 2.

1	Rev.	Shotlander	
2	Mrs.	Shotlander	
3	Mr.	Bevan	
4	Mr & Mrs	Paice	
5	Mr.	Goodall	
6	Mrs.	Ramage	
7	Mr & Mrs.	Bramley	
8	Mrs.	Wills	
9	Dr.	Bond	
10	Mr	Bond	
11	Mr.	Goode	
12	Mrs.	Rogers	
13	Mr	Page	
14	Mr. & Mrs	Gould	
15	Mr & Mrs	Waller	
16	Mr.	Mason	Shedfield Parish Council
17	Mr & Mrs	Gunter	
18	Canon	Phillips	
19	Mr & Mrs	Longcroft	
20	Mr & Mrs	Yeoman	
21	Mr & Mrs	Lillywhite	
22	Mr & Mrs	Donnan	

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 representations 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 and the Operating Schedule.

(Licensing Policy B3, B4)

Public Nuisance

The Sub-Committee should consider any necessary conditions to prevent public nuisance caused by noise and light pollution from 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 Council's Licensing Policy and the Operating Schedule.

(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 Saturday** **1100 to 0030**

The premises shall only remain open after 2330 hours for persons taking a table meal except on Friday and Saturday; Christmas Eve, Bank Holidays, and Bank Holiday weekends.

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

(i) **Sunday to Thursday** **1100 to 2300**

(ii) **Friday and Saturday** **1100 to 0000**

Alcohol shall only be sold after 2300 except to persons taking a table meal and the alcohol is ancillary to that meal.

The above hours may be extended by one hour before, and 30 minutes after, any Nationally recognised event of major TV sporting event. Such extensions to be notified to the Police and the Licensing Authority not less than 10 working days before the event. The Police shall have the power to veto the event.

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

Live Music

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

(ii) **Sunday** **1200 to 2230**

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. The Police shall have the power to veto the event.***
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, 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 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.

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.

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 Interested Parties
3. Map of premises location.