

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

Contact Officer: John Myall. Tel No: 01962 848443

Application to Vary the Premises Licence for:

**The Railway Inn
3 St. Pauls Hill
Winchester**

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| Part A. | Report | <i>Buff</i> |
| 1 | Application | |
| 2 | Responsible Authorities | |
| 3 | Interested Parties | |
| 4 | Observations | |
| 5 | Conditions | |
| 6 | Other Considerations | |
| Part B. | Appendices | |
| Appendix 1 | Application | <i>White</i> |
| Appendix 2 | Representations from Interested Parties | <i>Cream</i> |
| Appendix 3 | Other Appendices | <i>White</i> |

Part A.**1. Application****Applicant:** Eldridge Pope and Company Limited**Premises:** The Railway Inn**Conversion of the Existing Licence.**

The conversion of the existing licences was granted under delegated powers on 12 September 2005

The current permitted hours are (public entertainment hours in brackets);

| | |
|---------------------------|--|
| Monday to Thursday | 1000 to 2300 (1100 to 2300) |
| Friday to Saturday | 1000 to 2300 (1100 to 0000) |
| Sunday | 1200 to 2230 (1200 to 1500 and 1900 to 2230) |
| Christmas Day | 1200 to 1500 (not permitted) 1900 to 2230 (not permitted) |
| New Year's Eve | 1000 to 2300 1 January (as above) |
| Good Friday | 1200 to 2230 (not permitted) |

The premises have the benefit of 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.

Removal of Embedded Restrictions

The application seeks the removal of all embedded restrictions inherent in the Licensing Act 1964, The Cinematograph (Safety) Regulations 1955 and the Children and Young Persons Act 1933.

The application is also to remove the conditions attached to the Public Entertainment licence.

Notice of the application was displayed outside of the premises for a period of 28 days until 28 August 2005, and advertised in the Southern Daily Echo on 29 July 2005.

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

1 Regulated Entertainment (E,F,H,I,J)

Live and recorded music, disc jockey, occasional entertainer, plus facilities for dance

Mondays to Thursdays ***1000 to 0000***

Fridays and Saturdays ***1000 to 0000***

Sundays ***1200 to 2230***

New Years Eve ***1000 to 1000 New Years Day***
[Amended by letter 17 August 2005]

2 Late Night Refreshment (L)

Mondays to Thursdays ***2300 to 0000***

Fridays and Saturdays ***2300 to 0100***

New Years Eve ***2300 to 0500 New Years Day***

3 Supply of Alcohol (M)

Mondays to Thursdays ***1000 to 0000***

Fridays and Saturdays ***1000 to 0100***

Sundays ***1200 to 2230***

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

4. Hours Premises Open To The Public (O)

Monday to Thursdays ***1000 to 0030***

Friday and Saturday ***1000 to 0130***

Sundays ***1200 to 2300***

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

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

Designated Premises Supervisor

Frederick Owen Eynon

Steps to promote the Licensing Objectives

Please see Section Q Appendix 1

Removal of 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, and the Local Government (Miscellaneous Provisions) act 1982.

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.
- (f) Conditions relating to hours, occupancy levels and safety.

The application also seeks the removal of all conditions in the public entertainment licence, attached as part of the application in Appendix 1.

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

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. Bruce Hartley-Raven

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 interested parties 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 Council's Licensing Policy and 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>(i)</i> | <i>Mondays to Thursdays</i> | <i>1000 to 0030</i> |
| <i>(ii)</i> | <i>Fridays and Saturdays</i> | <i>1000 to 0130</i> |
| <i>(iii)</i> | <i>Sundays</i> | <i>1200 to 2300</i> |
| <i>(iv)</i> | <i>New Years Eve</i> | <i>1000 to 1000 New Years Day</i> |
2. The hours the premises may be used for the sale of alcohol shall be:

| | | |
|-------------|-------------------------------------|--------------------------------------|
| <i>(i)</i> | <i>Mondays to Thursdays</i> | <i>1000 to 0000</i> |
| <i>(ii)</i> | <i>Fridays and Saturdays</i> | <i>1000 to 0100</i> |
| <i>(ii)</i> | <i>Sundays</i> | <i>1200 to 2230</i> |
| <i>(iv)</i> | <i>New Years Eve</i> | <i>1000to1000NewYears Day</i> |
3. The hours the premises may be used for regulated entertainment shall be:

| | | |
|--------------|------------------------------------|--|
| <i>(i)</i> | <i>Mondays to Saturdays</i> | <i>1000 to 0000</i> |
| <i>(ii)</i> | <i>Sundays</i> | <i>1200 to 2230</i> |
| <i>(iii)</i> | <i>New Years Eve</i> | <i>1000 to 1000 New Years Day</i> |

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

- | | | |
|--------------|-------------------------------------|--|
| <i>(i)</i> | <i>Mondays to Thursdays</i> | <i>2300 to 0000</i> |
| <i>(ii)</i> | <i>Fridays and Saturdays</i> | <i>2300 to 0100</i> |
| <i>(iii)</i> | <i>New Years Eve</i> | <i>2300 to 0500 New Years Day</i> |

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 Safety

[Note: The applicant has stated that they would comply with all aspects of the current PEL, however, they have applied to remove the conditions under Schedule 8, Paragraph 6 of the Licensing Act 2003. The Sub Committee may wish to consider if any or all of those conditions should be retained.]

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.

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.

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 Eldridge Pope and Company Limited
2. Representations by Interested Parties
3. Map of premises location.