

LICENSING SUB – COMMITTEE

22 September 2005

Report of City Secretary and Solicitor

Contact Officer: John Myall. Tel No: 01962 848443

Application to Vary the Premises Licence for:

**The Wine Bar and Bistro
 6-8 High Street
 Bishops Waltham
 Hampshire**

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Part A.**1. Application****Applicant:** Stephen Anthony Brookwell**Premises:** The Wine Bar and Bistro**Conversion of the Existing Licences.**

The conversion of the existing licences was granted under delegated powers on 13 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 have the benefit of a Public Entertainment Licence.

The application refers to a Supper Hours Certificate, although a copy of this has not been included. The converted premises licence therefore only refers to the standard permitted hours as set out above. If a Supper Hours Certificate was in existence and had been included in the application, this would have permitted the sale of alcohol with a meal for an extra hour: that is until midnight on a weekday and until 11.30 pm on Sundays.

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. The application also seeks to remove the restrictions in the Supper Hours Certificate (the need for alcohol sales under the Certificate to be ancillary to food provision), although as noted above the converted licence does not refer to this, as the Certificate was not included in the application. If the hours sought are granted, this issue would be dealt with in any event.

Removal of Embedded Restrictions

The application is also to remove the restrictions in the Public Entertainment Licence relating to adult entertainment

Notice of Application

Notice of the application was displayed outside of the premises for a period of 28 days until 26 August 2005, and advertised in the Southern Daily Echo on 8 August 2005.

The Operating Schedule, copied at Appendix 1 (as amended by letter dated 9 September 2005 from Moore and Blatch, also included in Appendix 1), proposes the Relevant Licensable Activities as:

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

Live music (E)

<i>Sunday, Monday and Wednesday</i>	<i>0730 to 2330</i>
<i>Tuesday</i>	<i>0730 to 0000</i>
<i>Thursday, Friday and Saturday</i>	<i>0730 to 0100</i>
<i>New Years Eve</i>	<i>0730 to 2330 1 January</i> <i>or 0000/0100 2 January *</i>

Recorded Music (F)

<i>Sunday to Saturday</i>	<i>0730 to 0130</i>
<i>New Years Eve</i>	<i>0730 to 2330 1 January</i> <i>or 0000/0100 2 January *</i>

Performance of Dance, and Facilities for making Music/Dancing (G,I,J)

<i>Sunday to Saturday</i>	<i>0730 to 0100</i>
<i>New Years Eve</i>	<i>0730 to 2330 1 January</i> <i>or 0000/0100 2 January *</i>

2 Late Night Refreshment (L)

<i>Monday to Sunday</i>	<i>2300 to 0130</i>
<i>New Years Eve</i>	<i>2330 1 January</i> <i>or 0000/0100 2 January *</i>

3 Sale of Alcohol (M)

<i>Every Day</i>	<i>1000 to 0100</i>
<i>New Years Eve</i>	<i>1000 to 0100 2 January</i>

4. Hours Premises Open To The Public (O)

<i>Every Day</i>	<i>0730 to 0130</i>
<i>New Years Eve</i>	<i>0730 to 2330 1 January</i> <i>or 0000/0100 2 January *</i>

* The application seeks to retain the "36 hour extension" which is included in the converted Premises Licence as a result of deregulation orders in 2002, which extends permitted hours from the end of permitted hours on New Year's Eve, to the start of permitted hours on New Year's Day. This therefore allows premises to open continuously from 11.00 on 31 December (10.00 in Hampshire), past the normal closing time on that day, through the start of normal permitted on 1 January, and through to the end of permitted hours on 1 January (2 January if a special hours certificate is in force).

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

Designated Premises Supervisor

Stephen Anthony Brookwell

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 relating to conditions governing adult entertainment converted across into the Premises Licence under grandfather rights.

Notice of Hearing

Notices of the hearing were sent to all Parties on 7 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. Stephen Fowler
2. Mrs. Ann C. Green and Mary E. Bates

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 Council's Licensing Policy and the operating schedule.

(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 pollution from the premises having regard to the Operating Schedule, the Council's Licensing Policy 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)	Every Day	0730 to 0130
(ii)	New Years Eve	0730 to 0130 2 January

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

(i)	Every Day	1000 to 0100
(ii)	New Years Eve	1000 to 0100 2 January

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

Live music

(i)	Sunday, Monday and Wednesday	0730 to 2330
(ii)	Tuesday	0730 to 0000
(iii)	Thursday, Friday and Saturday	0730 to 0100
(iv)	New Years Eve	0730 to 2330 1 January or 0000/0100 2 January

Recorded Music

- | | | |
|------|----------------------------------|---|
| (i) | <i>Sunday to Saturday</i> | <i>0730 to 0130</i> |
| (ii) | <i>New Years Eve</i> | <i>0730 to 2330 1 January
or 0000/0100 2 January</i> |

Performance of Dance, and Facilities for making Music/Dancing

- | | | |
|------|----------------------------------|--------------------------------------|
| (i) | <i>Sunday to Saturday</i> | <i>0730 to 0100</i> |
| (ii) | <i>New Years Eve</i> | <i>0730 to 0100 2 January</i> |

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

- | | | |
|------|--------------------------------|--------------------------------------|
| (i) | <i>Monday to Sunday</i> | <i>2300 to 0130</i> |
| (ii) | <i>New Years Eve</i> | <i>2300 to 0130 1 January</i> |

No drink or hot food shall be served on any outside tables connected with the premises after 2300.

All Licensing Objectives

[Dealt with in relevant sections below].

Crime and Disorder

- The premises shall have a CCTV system installed covering the entrances and exits, the bar area and any dance floor or other area where crowds congregate in a standing position. The CCTV system shall be maintained to an acceptable level and records available to the Police on request.

Public Safety

None

Public Nuisance

- 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.
- 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, except for access and egress, 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. Children shall be accompanied by an adult at all times.
3. Any adult entertainment on the premises shall be a ticket-only private event and block out blinds or curtains shall be fitted on all windows whilst these events are taking place

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 Stephen Anthony Brookwell
2. Representations by Interested Parties
3. Map of premises location.